

March 15, 2007

**S 901. REVISE AUTO INSURANCE RATE FILING APPROVAL.** Filed 3/15/07. *TO REVISE THE AUTOMOBILE LIABILITY INSURANCE RATE FILING REVIEW PROCESS TO INCLUDE THE USE OF A SPECIAL JUDGE FOR RATE FILING CASES.*

Amends requirements governing the North Carolina Rate Bureau's filing of loss costs, rates and plans with the Commissioner of Insurance. Amendments to GS 58-36-15 permit, in the event of a disagreement between the North Carolina Rate Bureau and the Commissioner of Insurance over whether a filing is proper, the appointment of a special judge to hold hearings to resolve the dispute. Makes conforming amendments to other provisions of GS Chapter 58 to recognize the authority and role of the special judge and to establish procedures for hearings. Amends GS 58-2-90 to eliminate the presumption upon appeal that rates fixed and rules, regulations, findings, and determinations of Commissioner are correct. Amended GS 58-36-15(a) provides that rate or loss costs filings may become effective not earlier than 90 days (was, 210 days) from the date the filing is received by the Commissioner. Amended GS 58-36-20 provides that within 30 days of a filing by the Bureau, including the filing of an adjustment in rates or loss costs, or within 30 days of the Bureau's cure of defects in its original filing, the Commissioner may give written notice of a hearing to the Bureau specifying the manner in which the Commissioner contends the filing is, or remains, defective. The notice must specify the rate or loss costs the Commissioner contends are appropriate and the basis for calculating those rates or costs. Along with the notice, the Commissioner must request the appointment of a special judge to conduct a hearing on the issues raised by the Commissioner's notice of hearing. Noncompliance by the Commissioner with the requirements of amended GS 58-36-20 results in approval of the Bureau's filing. New GS 58-36-20(d) directs the special judge to establish timelines and procedures for the hearing. New GS 58-36-20(f) renders provisions of the Administrative Procedures Act applicable to hearings and provides that unless otherwise agreed to by the special judge and the parties, hearings must be conducted in the Superior Court of Wake County. New GS 58-36-20(h) places the burden on the Commissioner to prove the filing is excessive, inadequate, or unfairly discriminatory and requires the special judge to issue a final order containing findings of fact and conclusions of law. Upon concluding that the rates or loss costs are excessive, inadequate, or unfairly discriminatory, the special judge must establish the rates to become effective in lieu of the filing. Amended 58-36-25 provides for appeal of the final order of a special judge to the North Carolina Court of Appeals and sets interest rate for refunds to policyholders at the average of the prime rates of the four largest banking institutions in the State (was, prime rate plus 3%). Enacts new GS 58-36-26 and GS 58-36-27 establishing standards and procedures for Court of Appeals review. Amends GS 58-36-30(a) to permit insurers to file and use rates on coverages cedable to the Reinsurance Facility up to approved Reinsurance Facility rates, without prior approval by the Commissioner. Prohibits the Commissioner from disapproving filings by insurers for downward deviations unless the Commissioner finds that the lower rate impairs the insurer's solvency. Provides that an insurer may terminate a deviation only if it has been in effect for six months before the date of the termination unless the effective rates are changed. Repeals GS 58-36-70, which sets forth current procedures for rate filings and hearings for motor vehicle insurance. Effective October 1, 2007.

**Intro. by Rand.**

GS 58