



Consent to Rate Data Collection & Reporting

Committee on Regulatory and Rate Issues in Insurance

Legislative Research Commission

September 29, 2016

Consent to Rate Purpose

- To enable underwriting and coverage of unique properties
 - Historically significant properties
 - Ex. Blount Street Homes



Consent to Rate

Purpose

- Intended use is for underwriting purposes, not for pricing purposes
- Anecdotal information suggests increasing use of CTR is primarily to obtain premium increases not supported by DOI actuarial review of filings, or comprehensive review during rate hearing process

Consent to Rate

Statutory Basis

GS 58-36-30. Deviations

- (b) Insurers may charge a rate higher than that promulgated by NCRB if:
 - In accordance with adopted rules
 - With knowledge & written consent of insured

Consent to Rate

Procedures

- CTR application form must be filed with DOI and must comply with Administrative Code requirements
 - *11 NCAC 10 .0602 Consent to Rate Procedures: Rate Bureau Coverages*
- Insurers must maintain signed CTR forms



Consent to Rate - Code

11 NCAC 10 .0602 Consent to Rate Procedures: Rate Bureau Coverages

(a) First-time application to effect CTR in excess of NCRB rate must include:

- 1) Description of insurance proposed, coverage, limits, etc.
- 2) Rate & Premium charged without CTR
- 3) Proposed Rate & Premium
- 4) Percent increase (presumed reasonable if $\leq 250\%$ approved rate)
- 5) *Nonfleet private passenger provision (not applicable to homeowners' policies)
- 6) Names and addresses of insurer, agent & insured
- 7) Effective date of proposed rate
- 8) Policy period
- 9) Policy number
- 10) Letter signed by insured consenting to proposed rate
 - If coverage available through residual market (ex. Beach Plan) insured must sign acknowledgment that this other coverage is available

(b) Insurer must retain letters signed by insureds consenting to proposed rates

Consent to Rate – Process

Written Consent – Current

- Law currently requires written consent from insured on initial CTR form
- Initial signature authorizes insurer to raise rates up to 250% of approved rates *in perpetuity*
- No consent from insured required for second or any following rate hikes regardless of amount (up to 250%)
- Policy renewals or endorsements with higher CTR rates must state rates greater than “...those rates that are applicable in the State of North Carolina.”
- ***No written consent by insured and minimal detail for following rate hikes after initial signature on first CTR form***

Consent to Rate – Transparency

Per SL 2016-78 – Effective October 1, 2017

- Initial CTR form and all policy renewals or endorsements with subsequent increases above manual rate shall include, in 14 point type, bolded, and underlined:
- **“NOTICE: THE PREMIUM USING NORTH CAROLINA RATE BUREAU'S APPROVED RATES FOR THE HOMEOWNER'S INSURANCE COVERAGE I APPLIED FOR IS \$_____. THE PREMIUM FOR THIS COVERAGE IS \$_____. THE TOTAL PERCENTAGE INCREASE ABOVE THE APPROVED RATES IS _____%.”**
- 30 days' notice to insureds for all written CTR and policy renewal or endorsement notices



Consent to Rate - Oversight

Property & Casualty Division

- Reviews and approves initial CTR application form for compliance with statute and code requirements

Market Regulation Division

- *Market Conduct Examinations*
 - To monitor statutory and code compliance in:
 - Policyholder treatment, sales, marketing, underwriting and rating, agent appointments and terminations, nonforfeitures general administration, provider relations and delivery systems, utilization management, quality management, provider credentialing, delegated oversight, and claims
- *Market Conduct Analysis*
 - To proactively identify general market disruptions early and to eliminate or limit harm to consumers, policyholders and/or claimants

Actuarial Division

- Annual Beach and Coastal Area Homeowners Data Call

Consent to Rate Confidentiality of Data

Consent to Rate Provision

GS 58-36-30(b1):

- *“Any data obtained by the Commissioner under this subsection is proprietary and confidential and is not a public record under G.S. 132-1 or G.S. 58-2-100.”*

Examination Law - Purpose

Examination Law

GS 58-2-131 through GS 58-2-134

To monitor statutory & code compliance:

- Policyholder treatment, sales, marketing, underwriting and rating, agent appointments and terminations, non-forfeitures general administration, provider relations and delivery systems, utilization management, quality management, provider credentialing, delegated oversight, and claims

Examination Law

Confidentiality of Data

GS 58-2-132. Examination reports.

- “(f) *All working papers, information, documents, and copies thereof produced by, obtained by, or disclosed to the Commissioner or any other person in connection with an examination, market analysis, market conduct action, or financial analysis shall be given confidential treatment, are not subject to subpoena, and shall not be made public by the Commissioner or any other person.*”



Confidentiality/Sharing

GS 58-2-132. Examination reports.

“(g) In order to assist in the performance of the Commissioner's duties, the Commissioner may:”

- *Share information* with regulatory agencies and law enforcement authorities
- *Receive information* from regulatory agencies and law enforcement authorities
- “...*shall maintain as confidential* or privileged any...information...”

“(h) *No waiver of an existing privilege or claim of confidentiality* in the documents, materials, or information *shall occur as a result of disclosure* to the Commissioner under this section *or as a result of sharing as authorized in subsection (g)* of this section.”

Market Conduct Analysis Confidentiality of Data

GS 58-2-240. Market conduct analysis, financial analysis, and related information not public record.

- “(a) Notwithstanding Chapter 132 of the General Statutes, *all market analysis*, documents arising from market conduct action, and financial statement analysis work papers *are confidential, are not open for public inspection...*”
- Permits use of market analysis & documents, “...in furtherance of any regulatory or legal action brought as part of the Commissioner’s official duties.”

Consent to Rate Public Data

Beach and Coastal Area Homeowners Data Call

- Annual Data Call – Report
 - *GS 58-45-71. Report of member companies to COI.*
- Aggregate Industry Data (Yes/No)
- Listed by Insurance Form, Full or Wind X coverage, and Territory
- [http://www.ncdoi.com/ACT/Beach and Coastal Area Homeowners Data Call.aspx#Aggregate Insurance Industry Data](http://www.ncdoi.com/ACT/Beach%20and%20Coastal%20Area%20Homeowners%20Data%20Call.aspx#Aggregate%20Insurance%20Industry%20Data)
- Yes indicates policy written at premium greater than manual rate

Consent to Rate - Concerns

Inadequate Subsequent Consent Procedures

- Initial signature on CTR form authorizes rate hikes in perpetuity (250%)
- No written consent required for rate hikes after first CTR form is signed

Limited Publicly Available CTR Data

- Majority of data collected is kept confidential under law due to confidential nature of market examinations
- *No publicly available overview information on CTR use or rates*

Industry Uses of CTR Forms

- Anecdote indicates a carrier issued CTR forms to a significant number of its NC policyholders proposing same \$1 rate hike for all
- No requirement that CTR rates be based on any actuarial or any other standard, may legally be any arbitrary amount at will of insurer
- Insurers may increase rates on all their policyholders' CTR policies without additional consent
- Consent to initial minor CTR rate authorizes rate hikes of up to 250% of approved rate forever