Property and Casualty - Auto Bulletins

Pension Bulletins

Monitoring and Enforcement Bulletins

Licensing Changes Bulletins

Bulletins by Sector

Bulletin

No. A-03/99

Property & Casualty

- Auto

Rate and risk classification system approval and hearing process

To the attention of all insurance companies licensed to transact automobile insurance in Ontario

With this bulletin, the Financial Services Commission of Ontario (FSCO) is providing an update on the rate filing approval and hearing process under the *Insurance Act* (the Act). Together with changes to the *Act*, the creation of FSCO and the Financial Services Tribunal (FST), have affected the process. Bulletin No. A-6/98 issued by the Ontario Insurance Commission on March 20, 1998, outlined the process that was applicable prior to the establishment of FSCO on July 1, 1998.

An insurer that wants to change its rates or risk classification system must file an appropriate application with the Superintendent. The application initiates the approval process, and the insurer remains the applicant throughout the approval (and hearing, if any) process.

FSCO staff review the application to determine whether the proposed rates and risk classification system satisfies the statutory tests set out in the Act. The statutory tests have not changed with the creation of FSCO.

The statutory tests for rates are set out in subsections 412(6)(a) and (c) of the Act:

(6) The Superintendent shall refuse to approve an application under section 410 if he or she considers that,

a. the proposed risk classification system or rates are not just and reasonable in the circumstances; ...

c. the proposed rates would impair the solvency of the applicant or are excessive in relation to the financial circumstances of the insurer.

For risk classification systems, subsections 416(6)(a) and (b) are relevant:

(6) The Superintendent shall refuse to approve an application under section 410 if he or she considers that,

a. the proposed risk classification system or rates are not just and reasonable in the circumstances;
b. the proposed risk classification system is not reasonably predictive of risk or does not distinguish fairly between risks; ...

In addition, both rates and risk classification system applications permit the Superintendent to direct a hearing for public interest considerations, subsection 412(5):

(5) The Superintendent shall not approve the application if a hearing is required by the regulations or if the Superintendent considers that it is in the public interest for the Tribunal to hold a hearing on the application.

Where the Superintendent has not approved an application, the insurer/applicant, has the right to appeal the decision of the Superintendent to the FST. The insurer has 15 days after receiving the notification from the Superintendent to make this appeal [subsection 412.1(1)].

In summary, the process for approving or denying an application is as follows:

1. The applicant files its rates and/or risk classification system application with FSCO.
2. Staff of FSCO's Automobile Insurance Analysis Division review the application. First they review the application for completeness - timelines under the Act do not start to run until the staff has determined the date that the filing is complete. If an application is not complete, the applicant will be notified as to what information is missing. Staff then review within the statutory time frame any changes proposed to ensure

that the resulting rates and risk classification system meet the statutory standards. Requests for additional information may be made to the insurer throughout the review to assist staff in its review as to whether the application should be approved.

3. Once FSCO staff have reviewed the application, the Superintendent will then determine whether the application can be approved based on the requirements set out in the Act.

4. If all statutory tests have been met, and the Superintendent believes there is no public interest reason for holding a hearing, the application is approved.

5. a) If the Superintendent is not satisfied that all statutory tests have been met, the applicant is notified that the application is not approved.

   b) If the Superintendent is of the view that it is in the public interest that there should be a hearing on some or all of the issues in the application, the applicant is notified that the application is not approved.

6. The applicant may appeal the Superintendent's decision (under number 5 above) to the FST. The appeal must be filed in writing within 15 days after notification by the Superintendent that the application has not been approved.

In the event of a hearing, the hearing process would be governed by the Act, the Financial Services Commission of Ontario Act, 1997 and the FST Interim Rules of Procedure. The FST may then approve or refuse to approve the application, or may vary the risk classification system or rates. Also, the approval may be subject to the conditions or restrictions that the FST considers appropriate in the circumstances [subsection 412.1(2)].

For More Information

Questions about this bulletin should be directed to your rate analyst in FSCO's Automobile Insurance Analysis Division.

Dina Palozzi

Chief Executive Officer and

Superintendent of Financial Services

July 9, 1999

Last Modified: 10/5/2005 4:34:06 PM

Financial Services Commission of Ontario
5160 Yonge Street
Toronto, ON M2N 6L9
1-800-668-0128
(416) 250-7250