**South Carolina General Assembly**

124th Session, 2021-2022

**A33, R46, S623**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Gambrell

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Introduced in the Senate on March 2, 2021

Introduced in the House on April 13, 2021

Last Amended on April 7, 2021

Passed by the General Assembly on April 29, 2021

Governor's Action: May 6, 2021, Signed

Summary: Automobile Insurance Filing Limitations

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/2/2021 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h:\sj\20210302.docx))

3/2/2021 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 5](file:///h:\sj\20210302.docx))

3/25/2021 Senate Committee report: Favorable with amendment **Banking and Insurance** ([Senate Journal‑page 6](file:///h:\sj\20210325.docx))

3/26/2021 Scrivener's error corrected

4/7/2021 Senate Committee Amendment Adopted ([Senate Journal‑page 30](file:///h:\sj\20210407.docx))

4/7/2021 Senate Read second time ([Senate Journal‑page 30](file:///h:\sj\20210407.docx))

4/7/2021 Senate Roll call Ayes‑41 Nays‑0 ([Senate Journal‑page 30](file:///h:\sj\20210407.docx))

4/8/2021 Senate Read third time and sent to House ([Senate Journal‑page 29](file:///h:\sj\20210408.docx))

4/13/2021 House Introduced and read first time ([House Journal‑page 10](file:///h:\hj\20210413.docx))

4/13/2021 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 10](file:///h:\hj\20210413.docx))

4/22/2021 House Committee report: Favorable **Labor, Commerce and Industry** ([House Journal‑page 8](file:///h:\hj\20210422.docx))

4/28/2021 House Read second time ([House Journal‑page 19](file:///h:\hj\20210428.docx))

4/28/2021 House Roll call Yeas‑112 Nays‑0 ([House Journal‑page 19](file:///h:\hj\20210428.docx))

4/29/2021 House Read third time and enrolled ([House Journal‑page 4](file:///h:\hj\20210429.docx))

5/6/2021 Signed By Governor

5/4/2021 Ratified R 46

5/13/2021 Effective date 05/06/21

5/13/2021 Act No.  33

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**VERSIONS OF THIS BILL**

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(A33, R46, S623)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 38‑73‑905 SO AS TO ALLOW FOR RATE INCREASES FOR CERTAIN TYPES OF INSURANCE WITHOUT PRIOR APPROVAL; AND TO AMEND SECTION 38‑73‑910, RELATING TO REQUIREMENTS FOR A PREMIUM RATE INCREASE, SO AS TO DIFFERENTIATE THE REQUIREMENTS FOR A PREMIUM RATE INCREASE FOR CERTAIN TYPES OF INSURANCE.**

Be it enacted by the General Assembly of the State of South Carolina:

**Prior approval not required for certain rate changes**

SECTION 1. Article 9, Chapter 73, Title 38 of the 1976 Code is amended by adding:

“Section 38‑73‑905. (A) Overall average rate level increases or decreases, for all coverages combined, of seven percent above or below the insurer’s current rates in effect may take effect without prior approval on a file and use basis with respect to rates for automobile insurance policies as set forth in this section. The seven percent cap does not apply on an individually insured basis. Insurers are limited to two rate increases during any twelve‑month period as set forth in subsections (B) and (C).

(B)(1) Notwithstanding any other provision of this chapter, for any policies governed by this section, filings that produce rate level changes based on the limitation specified in subsection (A) become effective without prior approval; provided, that no more than one rate increase of seven percent above or below the insurer’s current rates in effect may be implemented during any twelve‑month period on a file and use basis. Any other increase request is subject to prior approval. A rate increase may not be implemented until the onset of the new policy period.

(2) A rate increase or decrease falling within the limitation in subsection (A) may become effective no less than thirty days after the date of the filing with the director. The filing is considered to meet the requirements of this chapter unless the director or his designee notifies the insurer that the filing does not comply with this chapter within that thirty‑day time period. If, after the filing becomes effective, the director finds the filing does not comply with the requirements of this chapter, the director shall issue a written order specifying in detail the provisions with which the insurer has not complied and state a reasonable period thereafter in which the filing is considered no longer effective. Any order by the director pursuant to this section that is issued more than thirty days from the date on which the director received the rate filing must be on a prospective basis only and may not affect any contract issued or made before the effective date of the order.

(C) Rate filings for automobile insurance also may be made outside the limitation specified in subsection (A), however those filings are subject to the prior approval of the director. The director shall approve or disapprove these filings in accordance with the provisions of Sections 38‑73‑960 and 38‑73‑990. No more than two rate increases may be implemented during a twelve‑month period. If the two rate increases fall above or below seven percent as specified in subsection (B), the second rate increase request within a twelve‑month period is subject to prior approval. The limitation provided in Section 38‑73‑920 relating to the number of permissible filings within a twelve‑month period does not apply to automobile filings made pursuant to the provisions of this section.

(D) Individual automobile insurance companies and member companies of an affiliated group of automobile insurers may utilize different filed rates for automobile insurance coverages in accordance with rating plans filed with and approved by the director. These rating plans may provide for different rates, rating tiers, and rating plans among affiliated companies. For the purposes of this subsection, an affiliated group of automobile insurers includes a group of automobile insurers under common ownership, management, or control.

(E) The Director of the Department of Insurance or his designee may promulgate regulations to implement the provisions of this section.

(F) This section does not apply to rate or rule filings of insurers who write only exempt commercial policies. Rate or rule filings for exempt commercial policies must comply with the requirements of S.C. Code Ann. Regs. Section 69‑64, Section 38‑73‑920, and other applicable provisions of this title.”

**Notice of hearing as a prerequisite to granting rate increases for certain types of insurance**

SECTION 2. Section 38‑73‑910 of the 1976 Code is amended to read:

“Section 38‑73‑910. (A) This section applies to all types of property and casualty insurance coverage except as set forth in this section. Overall rate level increases or decreases for all property and casualty insurance coverages except for property insurance filings governed by Sections 38‑73‑220 and 38‑73‑260 and automobile insurance filings governed by Section 38‑73‑905 are subject to prior approval as set forth in this section. Every filing must state the proposed effective date and must indicate the type of coverage to which it applies. The director shall approve or disapprove these filings in accordance with the applicable provisions of this chapter.

(B) An increase in the premium rates may not be granted for workers’ compensation insurance, nor for any other line or type of insurance with respect to which the director or his designee has, by order, made a finding that (a) legal or other compulsion upon the part of the insured to purchase the insurance interferes with competition, or (b) under prevailing circumstances there does not exist substantial competition, unless notice is given in all newspapers of general, statewide circulation at least thirty days in advance of the insurer’s proposed effective date of the increase in premium rates. The notice must state the amount of increase, the type and line of coverage, and the proposed effective date and must allow any insured or affected party to request within fifteen days a public hearing upon the propriety of the rate increase request before the Administrative Law Court. A copy of the notice must be sent to the Consumer Advocate.

(C) However, the requirements of public notices and public hearings in this section do not apply to applications for rate increases when the applicant insurer had earned premiums in this State in the previous calendar year of less than two million dollars for the line or type of insurance for which the rate increase is sought or, if the rate increase is sought by a modeling organization, the earned premiums in this State for all members and subscribers of the organization for whom an increase is sought were less than two million dollars for the previous calendar year for the line or type of insurance for which the rate increase is sought. The two million dollars must be increased by a factor equal to the increase in the consumer price index, all items, every three years.

(D) If the director finds that a filing is not in compliance with this chapter, he shall issue a written notice of disapproval in accordance with the provisions of Section 38‑73‑990.

(E) The Director of the Department of Insurance or his designee may promulgate regulations to implement the provisions of this section.

(F) This section does not apply to rate or rule filings of insurers who write only exempt commercial policies. Rate or rule filings for exempt commercial policies must comply with the requirements of S.C. Code Ann. Regs. Section 69‑64, Section 38‑73‑920, and other applicable provisions of this title.”

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 4th day of May, 2021.

Approved the 6th day of May, 2021.

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