

Part 2 Approval of Forms

31A-21-201 Filing of forms.

- (1)
 - (a) Except as exempted under Subsections 31A-21-101(2) through (6), a form may not be used, sold, or offered for sale until the form is filed with the commissioner.
 - (b) A form is considered filed with the commissioner when the commissioner receives:
 - (i) the form;
 - (ii) the applicable filing fee as prescribed under Section 31A-3-103; and
 - (iii) the applicable transmittal forms as required by the commissioner.
- (2) In filing a form for use in this state the insurer is responsible for assuring that the form is in compliance with this title and rules adopted by the commissioner.
- (3)
 - (a) The commissioner may prohibit the use of a form at any time upon a finding that:
 - (i) the form:
 - (A) is inequitable;
 - (B) is unfairly discriminatory;
 - (C) is misleading;
 - (D) is deceptive;
 - (E) is obscure;
 - (F) is unfair;
 - (G) encourages misrepresentation; or
 - (H) is not in the public interest;
 - (ii) the form provides benefits or contains another provision that endangers the solidity of the insurer;
 - (iii) except an application required by Section 31A-22-635, the form is an insurance policy or application for an insurance policy that fails to conspicuously, as defined by rule, provide:
 - (A) the exact name of the insurer;
 - (B) the state of domicile of the insurer filing the insurance policy or application for the insurance policy; and
 - (C) for a life insurance and annuity insurance policy only, the address of the administrative office of the insurer filing the insurance policy or application for the insurance policy;
 - (iv) the form violates a statute or a rule adopted by the commissioner; or
 - (v) the form is otherwise contrary to law.
 - (b) Subsection (3)(a)(iii) does not apply to an endorsement to an insurance policy.
 - (c)
 - (i) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may order that, on or before a date not less than 15 days after the order, the use of the form be discontinued.
 - (ii) Once use of a form is prohibited, the form may not be used until appropriate changes are filed with and reviewed by the commissioner.
 - (iii) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may require the insurer to disclose contract deficiencies to the existing policyholders.
 - (d) If the commissioner prohibits use of a form under this Subsection (3), the prohibition shall:
 - (i) be in writing;

- (ii) constitute an order; and
 - (iii) state the reasons for the prohibition.
- (4)
- (a) If, after a hearing, the commissioner determines that it is in the public interest, the commissioner may require by rule or order that a form be subject to the commissioner's approval before its use.
 - (b) The rule or order described in Subsection (4)(a) shall prescribe the filing procedures for a form if the procedures are different from the procedures stated in this section.
 - (c) The type of form that under Subsection (4)(a) the commissioner may require approval of before use includes:
 - (i) a form for a particular class of insurance;
 - (ii) a form for a specific line of insurance;
 - (iii) a specific type of form; or
 - (iv) a form for a specific market segment.
- (5)
- (a) An insurer shall maintain a complete and accurate record of the following for the time period described in Subsection (5)(b):
 - (i) a form:
 - (A) filed under this section for use; or
 - (B) that is in use; and
 - (ii) a document filed under this section with a form described in Subsection (5)(a)(i).
 - (b) The insurer shall maintain a record required under Subsection (5)(a) for the balance of the current year, plus five years from:
 - (i) the last day on which the form is used; or
 - (ii) the last day an insurance policy that is issued using the form is in effect.

Amended by Chapter 10, 2010 General Session

31A-21-202 Explicit approval required.

- (1) The following clauses are disapproved unless the commissioner gives them explicit approval:
 - (a) clauses requiring more expeditious notice of loss or proof of loss than is required by Section 31A-21-312 or rules adopted under that section; and
 - (b) a schedule of reinstatement fees under Section 31A-22-608, if made a part of the policy. This type of schedule need not be included in the policy but may be given approval as a separate document specifically made applicable to particular classes of policies and incorporated in the policy by reference.
- (2) If an insurer fails to obtain explicit approval from the commissioner for the clauses specified in Subsection (1), the clauses are void.

Amended by Chapter 204, 1986 General Session

31A-21-203 Authorized clauses for insurance forms.

- (1) The commissioner may not adopt mandatory uniform clauses. However, the commissioner may adopt authorized clauses by rule upon a finding that:
 - (a) price or coverage competition is ineffective because diversity in language or content makes comparison difficult;
 - (b) provision of language, content, or form of specific clauses is necessary to provide certainty of meaning to those clauses;

- (c) regulation of policy forms would be more effective or litigation would be substantially reduced if there were increased standardization of certain clauses; or
 - (d) reasonable minimum standards of insurance protection are needed for policies to serve a useful purpose.
- (2) Any rule creating an authorized clause may prescribe that to be treated as an authorized clause there shall be verbatim or substantial adherence to prescribed language, that certain standards or criteria shall be met, or that certain drafting principles shall be followed. The rules may also permit liberalization of prescribed language. A rule may prescribe verbatim adherence only after the commissioner has made a finding that substantial adherence to the prescribed language is not sufficient and that liberalization of prescribed language will frustrate the purposes of the prescription. If an insurer uses authorized clauses as part of filed forms, the commissioner may only disapprove those clauses under Section 31A-21-201 upon a finding that improper combination of clauses makes them violate the criteria of Section 31A-21-201.

Enacted by Chapter 242, 1985 General Session