

Allstate wins round over rate increase

by *Houston-Chronicle*

AUSTIN — Allstate has persuaded a judge to temporarily block efforts by state regulators to keep the company from immediately increasing homeowners' insurance rates statewide.

Allstate filed for its rate increase on Monday, making it effective immediately. Texas Insurance Commissioner Mike Geeslin issued an order halting the rate increase.

But Allstate won a temporary restraining order against Geeslin on Thursday from state District Judge John Dietz on the grounds that state law requires the insurance commissioner to give a company 20 days' notice before blocking or lowering a rate that already is in effect.

Dietz has set a hearing for Sept. 6.

"We're very disappointed by the decision with the court," said John Greeley, a spokesman for the Texas Department of Insurance.

Rod Bordelon of the Office of Public Insurance Council said a key issue in the hearing will be the timing of Allstate's rate increase. He said it was effective at one minute after midnight on Monday, but the company did not file its rate increase with the insurance department until some 10 hours later.

Bordelon said the commission does not have to hold a hearing before a rate takes effect. Bordelon said he will argue in court that his office and the commissioner should have had the day Monday to consider Allstate's rate increase.

Allstate set a rate increase of 5.9 percent with an average 2.1 percent on top of that for homeowners in some coastal counties where customers can buy windstorm insurance as well. The rate affects new and renewal policies.

'Ongoing dialogue'

Allstate spokesman Bill Mellander said the company decided it could implement its rate immediately because it had filed for a 6.9 percent increase in June and then withdrew it in July. He said the insurance department had had plenty of time to consider why Allstate needed a rate increase. "From our perspective, we've been involved in an ongoing dialogue" with insurance regulators, Mellander said. "We felt strongly that their questions had been addressed."

Mellander said Allstate needed the rate increase to maintain the capital needed to pay claims in a catastrophe.

But Bordelon said the company implemented the rate immediately because "they knew very well this was going to be disapproved."

Bordelon said this is the first time in Texas a company has implemented its rates on the same day as the filing. He said usually companies give notice of a planned rate increase that the commissioner can review.

Texas in 2003 adopted a "file and use" insurance rate system that allows companies to file a rate and then use it pending review by the state insurance commissioner.

Most companies do not immediately implement the rates, Bordelon said, because they face the prospect of having to make refunds and pay penalties if the rate is declined.

Only 16 states require prior approval before an insurance company can raise rates, according to the National Association of Mutual Insurance Companies. Thirty-one states, including Texas, have variations of the "file and use" regulatory system. The remaining three have other types of systems.

Florida was using the system last year when insurance companies attempted to push through major rate increases in part because of losses suffered from eight hurricanes in the state in the previous year.

Most companies gave the state insurance commissioner months to consider their rate increases. But one company, Florida Peninsula Insurance Co., implemented an immediate 91 percent rate increase in June 2006. Insurance Commissioner Kevin McCarty in October rolled the rate back to 59 percent and ordered the company to make refunds.

Changes in Florida

Because of the state insurance crisis, the Florida Legislature overhauled its insurance system earlier this year and replaced the "file and use" system with one in which companies have to get prior approval before raising rates, said Jonathon Kees, a spokesman for McCarty. Bob Detlefsen, vice president for public policy at the National Association of Mutual Insurance Companies, said it is unusual for an insurance company to make a new rate take effect immediately.

He said the system is supposed to create greater flexibility in the market.

"The theory behind file and use was to make it easier for insurers to change their rates faster — both up and down," Detlefsen said.

Detlefsen said both Texas and Florida are known to be aggressive regulatory states in holding the line on rate increases.

"Maybe Allstate is trying to call the insurance commissioner's bluff," Detlefsen said.

State Sen. Troy Fraser, R-Horseshoe Bay, was a major player in creating the current regulatory scheme in Texas. He said the state law should give Geeslin enough power to block unnecessary rate increases.

"Senate Bill 14 very clearly gave the insurance department the ability to reject a rate they think is not warranted," Fraser said.

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