

1 11 NCAC 10 .0602 is amended as published in 33:04 NCR 337 as follows:

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3 **11 NCAC 10 .0602 CONSENT TO RATE PROCEDURES: RATE BUREAU COVERAGES**

4 (a) ~~An initial (first time) application to effect consent to rate on a specific risk of coverage subject to Article 36 of~~  
5 ~~G.S. 58, in excess of the rate promulgated by the North Carolina Rate Bureau, shall contain the following:~~Insurers  
6 may charge a premium in excess of that promulgated by the North Carolina Rate Bureau by instituting a consent to  
7 rate procedure that meets the requirements of G.S. 58-36-30(b), (b1) and this rule.

8 ~~(1) a description of the insurance proposed, including primary and excess limits, the amount of~~  
9 ~~coverage, the property insured, the deductible, and any other factor used for rating, where~~  
10 ~~applicable;~~

11 ~~(2) the rate and premium that would be charged without application of consent to rate;~~

12 ~~(3) the proposed rate and premium;~~

13 ~~(4) the percent increase. The rate to be charged shall be presumed reasonable if it does not exceed 250~~  
14 ~~percent of the rate that would be charged without application of consent to rate. Any proposed rate~~  
15 ~~in excess of 250 percent must be explained fully and shall be subject to review and approval of the~~  
16 ~~Commissioner pursuant to G.S. 58-36-30(b). (This is not required for and does not apply to nonfleet~~  
17 ~~private passenger motor vehicle physical damage insurance);~~

18 ~~(5) a statement that the rate charged does not exceed the rate that would be applicable if the applicant~~  
19 ~~had been charged 550 percent of the rate with no Safe Driver Incentive Plan points. Any proposed~~  
20 ~~rate in excess of 550 percent must be explained fully, submitted individually, and shall be subject~~  
21 ~~to review and approval of the Commissioner pursuant to G.S. 58-36-30(b). (This is required for~~  
22 ~~nonfleet private passenger motor vehicle physical damage insurance only);~~

23 ~~(6) the names and addresses of the insurer, the writing agent, and the insured;~~

24 ~~(7) the effective date of the proposed rate;~~

25 ~~(8) the policy period;~~

26 ~~(9) the policy number; and~~

27 ~~(10) a letter signed by the insured acknowledging and consenting to the proposed rate. If coverage for~~  
28 ~~the specific risk written on consent to rate is available through a residual market (FAIR Plan, Beach~~  
29 ~~Plan, North Carolina Reinsurance Facility, North Carolina Workers Compensation Insurance Plan),~~  
30 ~~a statement signed by the insured acknowledging that fact must also be executed.~~

31 (b) ~~A letter signed by each insured acknowledging and consenting to the proposed rate shall be retained in the insurer's~~  
32 ~~office and be made available to the Commissioner upon request.~~Residential Property With Not More than Four  
33 Housing Units:

34 (1) The premium to be charged against loss to residential property with not more than four housing  
35 units shall be presumed reasonable if it does not exceed 250 percent of the premium based upon the  
36 approved rates in North Carolina.

1           (2) Any proposed premium in excess of 250 percent of the premium based upon the approved rates in  
2           North Carolina shall be filed with the Commissioner for his review and approval in accordance with  
3           the procedures set forth in G.S. 58-36-30(a).

4           (c) All records generated under G.S. 58-36-30(b), (b1) and this Rule shall be maintained in accordance with the  
5           requirements of Title 11, Chapter 19, Section .0100 of the North Carolina Administrative Code.

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7           *History Note:     Authority G.S. 58-2-40(1); 58-36-30(b);*  
8                           *Eff. February 1, 1976;*  
9                           *Readopted Eff. July 11, 1978;*  
10                          *Amended Eff. August 3, 1992; February 1, 1990; January 1, 1989;*  
11                          *Temporary Amendment Eff. November 8, 1996;*  
12                          *Amended Eff. July 1, 1998;*  
13                          *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest ~~January 3, 2017.~~*  
14                          *January 3, 2017;*  
15                          *Amended Eff. December 1, 2018.*  
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## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 10 .0603

**DEADLINE FOR RECEIPT: Wednesday, November 7, 2018**

**PLEASE NOTE:** *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*What is the difference between (b) and (e)? I initially read (b) to apply if the policy itself had lapsed and (e) to apply if the consent to rate increase was revoked, but with the use of "coverage" in "since the termination of coverage" at the end of (e), I'm not sure that's correct. Perhaps this is simply because I'm not familiar with your terminology - please review and clarify.*

*(e) reads a bit awkwardly with the use of "if" in 2 different places. Please consider revising to say something like "If an insured consents to pay a higher premium rate, the consent to rate coverage is subsequently terminated, and the insured and insurer later enter into another agreement, the insurer shall obtain the signature of the insured if three years has elapsed since the termination of the coverage" Please keep in mind that I'm a bit confused by the use of "coverage" here.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, October 24, 2018

11 NCAC 10 .0603 is amended as published in 33:04 NCR 337-338 as follows:

**11 NCAC 10 .0603        CONSENT TO RATE PROCEDURES: COMMERCIAL COVERAGES**

(a) An initial (first time) application to effect consent to rate on a specific risk of coverage subject to Article 40 of G.S. 58, in excess of the rate promulgated by a licensed rating organization or filed by a company on its own behalf shall contain the following:

- (1) a description of the insurance proposed, including primary and excess limits, the amount of coverage, the property insured, the deductible, and any other factor used for rating, where applicable;
- (2) the rate and premium that would be charged without application of consent to rate;
- (3) the proposed rate and premium;
- (4) the percent increase. The rate to be charged shall be presumed reasonable if it does not exceed 250 percent of the rate that would be charged without application of consent to rate. Any proposed rate in excess of 250 percent ~~must be explained fully and~~ is subject to review and approval by the Commissioner pursuant to G.S. 58-40-30(c);
- (5) the names and addresses of the insurer, the writing agent, and the insured;
- (6) the effective date of the proposed rate;
- (7) the policy period;
- (8) the policy number; and
- (9) a letter signed by the insured acknowledging and consenting to the proposed rate. If coverage for the specific risk written on consent to rate is available through a residual market (FAIR Plan, Beach Plan, North Carolina Reinsurance Facility, North Carolina Workers Compensation Insurance Plan), a statement signed by the insured acknowledging that fact must also be executed.

(b) If a policy for which the insured had consented to pay a higher premium rate is reinstated after a lapse, the insurer shall not have to obtain a signed statement from the insured under this Rule for the reinstatement.

(c) After a signed application is obtained by an insurer under this Rule for a policy, all subsequent changes in the policy shall be endorsements for the purposes of G.S. 58-40-30(c).

(d) If a particular kind of coverage is added to a policy by endorsement during the term of the policy and the added coverage is written at a higher rate under G.S. 58-40-30(c) and under this Rule, the insurer shall obtain the signature of the insured under this Rule no later than the next renewal of the policy.

(e) If an insured consents to pay a higher premium rate under G.S. 58-40-30(c) and this Rule and consent to rate coverage is subsequently terminated, if the insured and insurer enter into another agreement under G.S. 58-40-30(c) and this Rule, the insurer does not have to obtain the signature of the insured under this Rule unless three years have elapsed since the termination of the coverage.

~~(b)(f) A letter signed by each insured acknowledging and consenting to the proposed rate shall be retained in the insurer's office and be made available to the Commissioner upon request.~~  
All records generated under G.S. 58-40-30(c)

1 and this Rule shall be maintained in accordance with the requirements of Title 11, Chapter 19, Section .0100 of the  
2 North Carolina Administrative Code.

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4 *History Note:* Authority G.S. 58-2-40(1); 58-40-30(c);  
5 Eff. February 1, 1976;  
6 Readopted Eff. July 11, 1978;  
7 Amended Eff. August 3, 1992; January 1, 1989;  
8 Temporary Amendment Eff. November 8, 1996;  
9 Amended Eff. July 1, 1998;  
10 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~January 3,~~  
11 ~~2017.~~ January 3, 2017.  
12 Amended Eff. December 1, 2018.

1 11 NCAC 10 .0605 is amended as published in 33:04 NCR 337 as follows:

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3 **11 NCAC 10 .0605        CONSENT TO RATE AUTO LIABILITY COVERAGE**

4 When ~~the~~ consent to rate procedures under G.S. 58-36-30(b) are used to provide motor vehicle liability coverage ~~limits~~  
5 at higher liability limits as required by an excess liability insurer, under G.S. 58-36-30(b), the application to effect  
6 required consent to rate notice shall also show the higher liability limits required by the excess liability insurer, read  
7 as follows:

8        NOTICE: THE PREMIUM THAT WE ARE CHARGING FOR HIGHER LIABILITY LIMITS ON  
9        AUTOMOBILE LIABILITY COVERAGE FOR YOUR COVERED VEHICLE(S) EXCEEDS THE  
10       PREMIUM BASED UPON THE APPROVED RATES IN NORTH CAROLINA, IN ACCORDANCE  
11       WITH G.S. 58-36-30(b).

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14 *History Note:     Authority G.S. 58-2-40(1); 58-36-30(b);*

15        *Eff. February 1, 1996;*

16        *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~January 3,~~*  
17        *~~2017.~~ January 3, 2017;*

18        *Amended Eff. December 1, 2018.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Department of Insurance

RULE CITATION: 11 NCAC 10 .0606

**DEADLINE FOR RECEIPT: Wednesday, November 7, 2018**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*Please repeal this Rule in accordance with 26 NCAC 02C .0108(6)(a)(iii). An example of a properly formatted repeal can be found at <https://www.ncoah.com/rules/examples/Permanent%20Repeal%20for%20Publication%20in%20the%20NCAC.pdf>.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May  
Commission Counsel  
Date submitted to agency: Friday, October 24, 2018

1 11 NCAC 10 .0606 is repealed as published in 33:04 NCR 337 as follows:

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3 ~~11 NCAC 10 .0606~~ — ~~CONSENT TO RATE PROCEDURES~~

4 ~~(a) If a policy for which the insured had consented to pay a higher premium rate is reinstated after a lapse, the insurer~~  
5 ~~shall not have to obtain a signed statement from the insured under this Section for the reinstatement.~~

6 ~~(b) All records generated under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section shall be maintained in~~  
7 ~~accordance with 11 NCAC 19 .0002 and 11 NCAC 19 .0007.~~

8 ~~(c) After a signed application is obtained by an insurer under this Section for a policy, all subsequent changes in the~~  
9 ~~policy shall be endorsements for the purposes of G.S. 58-36-30(b) or G.S. 58-40-30(c).~~

10 ~~(d) If a particular kind of coverage is added to a policy by endorsement during the term of the policy and the added~~  
11 ~~coverage is written at a higher rate under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section, the insurer~~  
12 ~~shall obtain the signature of the insured under Rules .0602 and .0603 of this Section no later than the next renewal of~~  
13 ~~the policy.~~

14 ~~(e) If an insured consents to pay a higher premium rate under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this~~  
15 ~~Section and consent to rate coverage is subsequently terminated, if the insured and insurer enter into another agreement~~  
16 ~~under G.S. 58-36-30(b) or G.S. 58-40-30(c) and under this Section, the insurer does not have to obtain the signature~~  
17 ~~of the insured under Rules .0602 and .0603 of this Section unless three years have elapsed since the termination of the~~  
18 ~~coverage.~~

19  
20 *History Note: Authority G.S. 58-2-40(1); 58-36-30(b); 58-40-30(c);*

21 *Temporary Adoption Eff. November 8, 1996;*

22 *Eff. July 1, 1998;*

23 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. ~~January 3,~~*  
24 *~~2017.~~ January 3, 2017;*

25 *Repealed Eff. December 1, 2018.*