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Insurers given help to hike car rates

'Flex-rating' re-established

State lawmakers hastily passed legislation that would restore auto insurers' ability to raise or lower rates, by an average of up to 5 percent, without seeking prior permission from regulators.

The bill, which has not been signed by the governor, would reestablish "flex-rating" in the state, returning a system that expired seven years ago in which insurers could freely adjust their prices to a limited extent to meet changing conditions. Anything over that limit would still have to be approved by the state in advance.

The legislation passed the Senate, 47-14, Tuesday afternoon, and cleared the floor of the state Assembly, 90-32, just hours before lawmakers adjourned.

However, accusations of a lack of transparency have already led to denunciation by consumer advocates, who complain that they were caught completely unaware by the back-room negotiations and sudden appearance of the legislation over the weekend. Consumer Federation of America learned of its imminent passage Saturday morning, and notified others.

"We were shocked to see the legislature move these bills in just a couple days without providing consumer organizations a chance to make their case as to why these bills are not in the public interest," said Charles Bell, programs director for Yonkers-based Consumers Union, the nonprofit publisher of Consumer Reports magazine.

"If it's such a good idea, why don't they do it with hearings and such? Why do they have to sneak it in with legislation that hasn't gone through a process," agreed J. Robert Hunter, director of insurance for the Consumer Federation of America, and former Texas insurance commissioner. "This could really hurt people and they're slapping it through."

Spokesmen for the New York State Department of Insurance and Gov. Paterson declined to comment on their positions.

The bills are widely supported by the insurance industry, which has fought since 2001 to regain price flexibility. That's when squabbling between the Democratic-controlled Assembly and Republican-led Senate allowed a flex-rating system with a 7 percent range to expire.

"The industry's been looking for this change for quite a few years," said Jill Muratori, a lobbyist in Albany for the Independent Insurance Agents and Brokers of New York.

The new legislation would establish a narrower band, which falls short of industry goals. But it would also make that system permanent, so insurers wouldn't have to lobby for renewal. Supporters note that many other states already have flex-rating for auto insurance.

"It's a baby step in the right direction," said Ellen Melchionni, president of the New York Insurance Association, which represents insurers. "It's not as broad as I would have hoped, but I understand the challenge. It's an election year."

In fact, though, insurers claim that flex-rating would allow for increased competition and faster introduction of new products, which in turn would drive companies to lower rates for consumers. That's because they say the system is so onerous now that companies have left the market, reducing the number of participants.

Currently, approval for any rate change can often take months — Melchionni cited one carrier that applied in January for a 4 percent rate cut that hasn't been approved. As a result, when companies do apply for changes, they seek bigger rate hikes and smaller rate cuts than they might need simply because it's too hard to get approvals.

"This will be a good thing for consumers and businesses," Melchionni said. "When we had flex-rating, we had more companies writing auto business then and rates were lower. When you don't let the market determine the rates, it stifles competition."

The legislation would, however, limit companies to two rate increases within a 12- month period, with no limits on decreases.

In addition, the legislation would make permanent the state's homowners insurer-of-last- resort, known as the New York Property Insurance Underwriting Association (NYPIUA), so that consumers in coastal areas would continue to have a backup source of coverage if they couldn't get it directly from an insurer.

Created in 1968, NYPIUA is an association of insurers that is funded by them but directly underwrites the policies, unlike an "assigned-risk" pool where high-risk consumers are "assigned" to an insurer. If losses are high in a given year, insurers — not taxpayers — must pony up more money. The program will expire this month.

"This is a package deal. It's a very fair, balanced package," Melchionni said.

But the bill is opposed by consumer advocates, who say the new authority would hurt consumers, not help them. A recent report by Consumer Federation of America found that rates rose much more slowly over the last 20 years in states with prior approval than those with full competition or even flex-rating.

"The bill would add insult to injury for New Yorkers who are already paying among the highest auto insurance rates in the country," the advocacy groups said in a memo.

CFA's Hunter noted that the 5 percent band is only an average. So some consumers or regions of the state could experience double-digit rate hikes, as long as the rest of the customers do well-enough to keep the average change in the range.

"It's bad for consumers when insurance commissioners don't regulate the price," he said. "You can't use an average to explain what might happen."

And while they back the renewal of NYPIUA, they say it shouldn't come at the expense of auto insurance customers.