



## **PROPOSITION 103**

### **What is it and why do we care?**

Proposition 103—the Reduction and Control of Insurance Rates Act—was adopted by 51.2% of voters in 1988. It was written by Harvey Rosenfield from the Foundation for Consumer and Taxpayer Rights, which is known today as Consumer Watchdog. The Act created the position of elected Insurance Commissioner (IC), and required that the California Department of Insurance (CDI) give prior approval for automobile, homeowners, and casualty insurance rates. Prior to Proposition 103, insurance companies did not have to file rates with CDI. High auto insurance rates were the major focus of the initiative at the time.

#### **Key Elements:**

- Upon implementation, required insurers to lower rates by 20%.
- Requires property/casualty insurance rates to be approved by the IC prior to use.
- Specifies that no rate shall be approved that is “excessive, inadequate, unfairly discriminatory or otherwise in violation of the Act.”
- Establishes a defined process for rate approvals.
- Requires all information submitted as part of a rate application to be available for public inspection. (Proprietary information rules do not apply)
- Established criteria that insurers must use to determine auto good driver discount rates.

#### **The Rate Approval Process:**

- Step 1—The insurer files a “complete” rate application with CDI, and the insurer has the burden of proving that the requested rate change is justified. The CDI can specify it does not find an application complete and send it back to the insurer before the clock for approval begins.
- Step 2—The IC makes the rate change request public.
  - The rate change is deemed approved 60 days after public notice **unless**:
    - A consumer within 45 days requests a hearing and the request is granted by the IC.
    - The IC decides to hold a hearing on the rate application.

- **The rate request exceeds 7%, in which case the IC must hold a hearing upon a timely request.**
- A rate change application of more than 7% shall be deemed approved 180 days after receipt by the IC **unless**:
  - It has been disapproved by the IC subsequent to a hearing.
  - The IC must hold a hearing upon a timely request.
  - Or “**extraordinary circumstances**” exist. Extraordinary circumstances include:
    - Commencement of a rate hearing within the 180 days; the rate will be deemed approved 60 days after the close of the hearing unless the IC has taken other action.
    - **Rate change applications that are not approved during the 180 day period as a result of a judicial proceeding initiated by the applicant or an intervenor.** The 180 day clock is tolled during the pendency of the proceeding, but the IC has **no less than** 30 days after the end of the proceeding to approve or disapprove the application. There is no time limit for how long the judicial hearing process may last.

#### **The Hearing / Intervenor Process:**

- Overseen by an administrative law judge.
- Discovery “liberally construed”
- Allows any person to initiate or intervene in any proceeding, and awards “reasonable witness and advocacy fees and expenses” to any person who demonstrates they “represent the interests of consumers” and they have “made a substantial contribution to adoption of any order, regulation or decision by the IC or a court”. **When in a rate application hearing, these fees are paid by the applicant.**
- The CDI determines intervenor eligibility by regulation.

#### **Implications for legislative action to remedy the Homeowners’ Insurance market crisis in 2023:**

- Any legislation that amends/changes Proposition 103 language must be found to be “in furtherance of” its intent and faces a 2/3 vote threshold.
- Consumer Watchdog routinely sues—often successfully—to block any legislation that changes any elements of Proposition 103.
- Any major (or even not so major) changes to its provisions must be done through the initiative process.