

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR



CATHERINE P. AWAKUNI COLÓN
DIRECTOR

GORDON I. ITO
INSURANCE COMMISSIONER

STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
P. O. BOX 3614
HONOLULU, HAWAII 96811-3614
335 MERCHANT STREET, ROOM 213
HONOLULU, HAWAII 96813
PHONE NO: (808) 586-2790
FAX NO: (808) 586-2806
cca.hawaii.gov/ins

MEMORANDUM 2016-2R

DATE: June 1, 2016
TO: All Insurers Writing Hurricane Coverage in Hawaii
FROM: Gordon I. Ito, Insurance Commissioner 
RE: Data Call Worksheet

Memorandum 2016-2R is requiring all insurers writing residential hurricane coverage in Hawaii to complete and submit a data call worksheet to the Insurance Division. The purpose of the data call worksheet is to assess whether rates filed by any insurer writing residential hurricane coverage in the Hawaii, from 2001 to the present time, are in compliance with Article 14, chapter 431, Hawaii Revised Statutes (“HRS”), and are not excessive, inadequate, or unfairly discriminatory.

Insurers writing residential hurricane coverage in Hawaii, as well as insurers that are not currently writing but may previously have written residential hurricane coverage anytime between 2001 to the present time, are to complete and submit the data call worksheet to the Rate and Policy Analysis Branch by June 30, 2016. A sample blank data call worksheet is attached as exhibit “A”. The data call worksheet may be accessed in electronic format on the Insurance Division website at <http://cca.hawaii.gov/ins/commissioners-memorandum-2016/>, and the completed worksheet may be emailed to: rpadatacall@dcca.hawaii.gov. If preferred, a hard copy may be filled out and returned to the State of Hawaii, Department of Commerce and Consumer Affairs, Insurance Division, 335 Merchant Street, Room 213, Honolulu, Hawaii, 96813.

The Commissioner may exercise his authority to investigate adequacy of rates, and compliance of the same, pursuant to sections 431:2-201, 431:2-208, and 431:14-103.3(a), HRS. Information disclosed in the worksheet shall be confidential and not subject to disclosure pursuant to section 431:2D-114, HRS.

Questions may be directed to Colin M. Hayashida, Insurance Rate and Policy Analysis Manager, at (808) 586-2790.

Section 431:2-201 provides:

§431:2-201 General powers and duties. (a) The commissioner shall have the authority expressly conferred upon the commissioner by or reasonably implied from the provisions of this code.

(b) The commissioner shall execute the commissioner's duties and shall enforce this code.

(c) The commissioner may:

(1) Make reasonable rules for effectuating any provision of this code, except those relating to the commissioner's appointment, qualifications, or compensation. The commissioner shall adopt rules to effectuate article 10C of chapter 431, subject to the approval of the governor's office and the requirements of chapter 91;

(2) Conduct examinations and investigations to determine whether any person has violated any provision of this code or to secure information useful in the lawful administration of any provision;

(3) Require applicants to provide fingerprints and pay a fee to allow the commissioner to make a determination of license eligibility after obtaining state and national criminal history record checks from the Hawaii criminal justice data center and the Federal Bureau of Investigation; and

(4) Require, upon reasonable notice, that insurers report any claims information the commissioner may deem necessary to protect the public interest.

Section 431:2-208, HRS, provides:

§431:2-208 Access to records. (a) Every person and its officers, employees, and representatives subject to investigation or examination by the commissioner, shall produce and make freely accessible to the commissioner the accounts, records, documents, and files in the person's possession or control relating to the subject of the investigation or examination, and shall otherwise facilitate the investigation or examination.

(b) If the commissioner finds the accounts to be inadequate, improperly kept, or improperly posted, the commissioner may employ experts to rewrite, post, or balance the accounts at the expense of the person being examined, if the person has failed to correct the accounting records after the commissioner has given the person written notice and a reasonable opportunity to do so.

(c) An insurer or licensee shall issue a written response with reasonable promptness, in no case more than fifteen working days, to any written inquiry made by the commissioner regarding a claim, consumer complaint, or sales or marketing practice. The response shall be more than an acknowledgment that the commissioner's communication has been received, and shall adequately address the concerns stated in the communication.

Section 431:2D-114, HRS provides:

§431:2D-114] Data calls. Whether through market analysis, market conduct action, or in response to another regulatory request, any information provided in response to a data call from the commissioner or the commissioner's designee, shall be treated as confidential and privileged. It shall not be subject to subpoena and shall not be subject to discovery or admissible in evidence in any private civil action. No waiver of privilege or confidentiality shall occur as a result of responding to a data call.

Section 431:14-103.3(a), HRS, provides:

§431:14-103.3 Rate adjustment mandates. (a) Except as otherwise provided by law, the commissioner may mandate insurers to submit new filings for any type of insurance under section 431:14-102 when the commissioner has actuarially sound information that current rates may be excessive, inadequate, or unfairly discriminatory.

(b) Insurers shall submit the new rate filings within one hundred twenty days of the commissioner's mandate.