WEST VIRGINIA CODE CHAPTER 33 ARTICLE 20

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§33-20-1. Purpose and interpretation of article.

The purpose of this article is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this article. Nothing in this article is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. This article shall be liberally interpreted to carry into effect the provisions of this section.

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§33-20-2. Scope of article.

(a) This article applies to fire, marine, casualty and surety insurance on risks or operations in this state.

(b) This article does not apply:

(1) To reinsurance, other than joint reinsurance to the extent stated in section eleven of this article;

(2) To life or accident and sickness insurance;

(3) To insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity or other risks commonly insured under marine, as distinguished from inland marine, insurance policies;

(4) To insurance against loss of or damage to aircraft, including their accessories and equipment, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance or use of aircraft;

(5) To malpractice insurance insofar as the provisions of this article directly conflict and thereby are supplanted by article twenty-b of this chapter.

(c) If any kind of insurance, subdivision or combination thereof, or type of coverage, is subject to both the provisions of this article expressly applicable to casualty and surety insurance and to those expressly applicable to fire and marine insurance, the commissioner may apply to filings made for such kind of insurance the provisions of this article which are in his or her judgment most suitable.

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§33-20-3. Ratemaking.

All rates shall be made in accordance with the following provisions:

(a) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state and to all other relevant factors within and outside this state.

(b) Rates may not be excessive, inadequate or unfairly discriminatory.

(c) Rates for casualty and surety insurance to which this article applies shall also be subject to the following provisions:

(1) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(2) Risks shall be grouped by classifications and by territorial areas for the establishment of rates and minimum premiums. Classification of rates shall be modified to produce rates for individual risks in a territorial area in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses: Provided, That such standards shall include the establishment of at least seven territorial rate areas within the state: Provided, however, That such territorial rate established by any insurer or group of insurers may differ from those of other insurers or group of insurers.

(3) Due consideration shall be given to such factors as expense, management, individual experience, underwriting judgment, degree or nature of hazard or any other reasonable considerations, provided such factors apply to all risks under the same or substantially the same circumstances or conditions.

(d) Rates for fire and marine insurance to which this article applies shall also be subject to the following provisions:

(1) Manual, minimum, class rates, rating schedules or rating plans shall be made and adopted, except in the case of specific inland marine rates on risks specially rated.

(2) Due consideration shall be given to the conflagration hazard and in the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is

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available.

(e) Rates for title insurance to which this article applies shall also be subject to the following provisions:

(1) Title insurance rates shall be reasonable and adequate for the class of risks to which they apply. Rates may not be unfairly discriminatory between risks involving essentially the same hazards and expense elements. The rates may be fixed in an amount sufficient to furnish a reasonable margin for profit after provisions to account for: (i) Probable losses as indicated by experience within and without this state; (ii) exposure to loss under policies; (iii) allocations to reserves; (iv) costs participating insurance; (v) operating costs; and (vi) other items of expense fairly attributable to the operation of a title insurance business.

(2) (A) Policies may be grouped into classes for the establishment of rates. A title insurance policy that is unusually hazardous to the title insurance company because of an alleged defect or irregularity in the title insured or because of uncertainty regarding the proper interpretation or application of the law involved may be classified separately according to the facts of each case.

(B) Title insurance companies shall file separate rate schedules for commercial and noncommercial risks. The Insurance Commissioner shall promulgate rules regarding the requirements of this subsection which shall give due consideration to the nature of commercial transactions and the need for greater protections for consumers in noncommercial transactions.

(3) Title insurance rates may not include charges for abstracting, record searching, certificates regarding the record title, escrow services, closing services and other related services that may be offered or furnished or the cost and expenses of examinations of titles.

(f) Except to the extent necessary to meet the provisions of subdivisions (b) and (c) of this section, uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

(g) Rates made in accordance with this section may be used subject to the provisions of this article.

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§33-20-4. Rate filings.

(a) (1) Every insurer shall file with the commissioner every manual of classifications, territorial rate areas established pursuant to §33-20-3(c)(2) of this code, rules, and rates, every rating plan, and every modification of any of the foregoing which it proposes to use for casualty insurance to which this article applies.

(2) Every insurer shall file with the commissioner, except as to inland marine risks which, by general custom of the business, are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule, or rating plan and every other rating rule and every modification of any of the foregoing which it proposes to use for fire and marine insurance to which this article applies. Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(3) Subject to §33-20-4(a)(4) and §33-20-4(a)(5) of this code and the requirements for ratemaking in §33-20-3 of this code, the following commercial lines insurance coverages are exempt from rate-filing requirements under this article with respect to every manual, minimum, class rate, rating schedule, or rating plans, and every other rating rule and modification of any of the foregoing, whether the insurance coverage is endorsed to, or otherwise made part of, another kind of insurance policy or sold as a stand-alone policy:

(A) Surety and fidelity;

(B) Commercial inland marine;

(C) Boiler and machinery;

(D) Environmental impairment or pollution liability;

(E) Kidnap and ransom;

(F) Political risk or expropriation;

(G) Excess and umbrella liability;

(H) Directors' and officers' liability;

(I) Fiduciary liability;

(J) Employment practices liability;

(K) Errors and omission other than medical malpractice;

(L) Professional liability other than medical malpractice;

(M) Media liability;

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(N) Commercial lines travel risk, including accidental death and dismemberment;

(O) Product liability, product recall, and completed operations;

(P) Cybersecurity, including first and third-party commercial lines coverage for losses arising out of or relating to data privacy breach, network security, computer viruses, and similar exposures;

(Q) Highly protected commercial property;

(R) All commercial lines insurance coverages not excluded under §33-20-4(a)(4) of this code when purchased by a commercial policyholder with aggregate annual commercial insurance premiums of $25,000 or more excluding premiums for the types of insurance excluded under §33-20-4(a)(4) of this code; and

(S) Any other commercial lines insurance coverage or risk that the commissioner may, by order, exempt from rate filing and approval requirements in order to promote enhanced competition or to more effectively use the resources of the department that might otherwise be used to review commercial lines filings or because the commissioner does not consider the filing and approval requirements to be necessary or desirable for the protection of the public.

(4) The exemptions from rate filing requirements in §33-20-4(a)(3) of this code are not applicable to the following kinds of commercial insurance:

(A) Workers' compensation;

(B) Medical malpractice liability;

(C) Nonfleet commercial automobile liability policies covering four or fewer vehicles;

(D) Any coverage issued by an assigned risk or residual market plan pursuant to §33-20-15 of this code, §33-20A-1 et seq. of this code, or the Mine Subsidence Insurance Fund created pursuant to §33-30-1 et seq. of this code.

(5) The commissioner may temporarily reinstate, for a period of no longer than one year, the requirement for rate filings for a specific insurance coverage set forth in §33-20-4(a)(3) of this code if, after a hearing, the commissioner makes a finding of fact that a reasonable degree of competition does not exist for that specific type of insurance coverage. The finding of fact by the commissioner must specify the relevant tests used to determine whether a lack of a reasonable degree of competition exists and the results thereof. In the absence of such findings of fact by the commissioner, a competitive market is presumed to exist.

(b) Every filing shall state the proposed effective date and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports the filing and the commissioner does not have sufficient

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information to determine whether the filing meets the requirements of this article, he or she shall require the insurer to furnish the information upon which it supports the filing and in that event the waiting period shall commence as of the date the information is furnished. The information furnished in support of a filing may include: (1) The experience or judgment of the insurer or rating organization making the filing; (2) the experience or judgment of the insurer or rating organization in the territorial rate areas established by §33-20-3(c)(2) of this code; (3) its interpretation of any statistical data it relies upon; (4) the experience of other insurers or rating organizations; or (5) any other relevant factors. A filing and any supporting information is open to public inspection as soon as the filing is received by the commissioner. Any interested party may file a brief with the commissioner supporting his or her position concerning the filing. Any person or organization may file with the commissioner a signed statement declaring and supporting his or her or its position concerning the filing. Upon receipt of the statement prior to the effective date of the filing, the commissioner shall mail or deliver a copy of the statement to the filer, which may file a reply as it may desire to make. This section is not applicable to any memorandum or statement of any kind by any employee of the commissioner.

(c) An insurer may satisfy its obligation to make a filing by becoming a member of, or a subscriber to, a licensed rating organization which makes filings and by authorizing the commissioner to accept filings on its behalf: Provided, That nothing contained in this article shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(d) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this article.

(e) Subject to the exceptions specified in §33-20-4(f), §33-20-4(g) and §33-20-4(h) of this code, each filing shall be on file for a waiting period of 60 days before it becomes effective. Upon written application by an insurer or rating organization, the commissioner may authorize a filing which he or she has reviewed to become effective before the expiration of the waiting period. A filing shall be deemed to meet the requirements of this article unless disapproved by the commissioner within the waiting period.

(f) Any special filing with respect to a surety bond required by law or by court or executive order or by order, rule, or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of this article until the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(g) Specific inland marine rates on risks specially rated by a rating organization shall become effective when filed and shall be deemed to meet the requirements of this article until the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(h) Except as provided in §33-20-4(a)(3) of this code, rates for commercial lines property and

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casualty risks must be filed with the commissioner and the filings need not be approved by the commissioner. The commissioner may request additional information to ensure compliance with applicable statutory standards, but if the commissioner does not disapprove the filing within the initial 30-day period after receipt, the rate filing will become effective upon first usage after filing: Provided, That the commissioner may at any time thereafter, after notice and for cause shown, disapprove any rate filing.

(i) Under legislative rules, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision, or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. These orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make any examination he or she may consider advisable to ascertain whether any rates affected by an order meet the standards set forth in §33-20-3(b) of this code.

(j) Upon the written application of the insured, stating his or her reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risks.

(k) No insurer shall make or issue a contract or policy except in accordance with the filings which are in effect for that insurer as provided in this article. This subsection does not apply to contracts or policies for risks as to which filings are not required.

(l) In instances when an insurer files a request for an increase of automobile liability insurance rates in the amount of 15 percent or more, the Insurance Commissioner shall provide notice of the increase with the Office of the Secretary of State to be filed in the State Register and shall provide interested persons the opportunity to comment on the request up to the time the commissioner approves or disapproves the rate increase.

(m) For purposes of this section, “commercial” means commercial lines as defined in §33-6-8(e)(2) of this code.

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§33-20-4a. Biannual rate filings for certain insurance lines.

On or before July 1, 2005, the Commissioner shall promulgate legislative rules pursuant to article three, chapter twenty-nine-a of this code establishing procedures whereby each insurer providing five percent or more of insurance coverage in this state for private passenger automobile insurance and property insurance obtained for personal or family needs shall biannually submit rate filings required under this section: Provided, That the requirements under this subsection shall terminate on July 1, 2009.

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§33-20-5. Disapproval of filings.

(a) If within the waiting period or any extension thereof as provided in subsection (e) of section four of this article, the commissioner finds that a filing does not meet the requirements of this article, he shall send to the insurer or rating organization which made such filing, written notice of disapproval of such filing specifying therein in what respects he finds such filing fails to meet the requirements of this article and stating that such filing shall not become effective.

(b) If within thirty days after a special surety filing subject to subsection (f) of section four of this article or if within thirty days after a specific inland marine rate on a risk specially rated by a rating organization subject to subsection (g) of section four of this article has become effective, the commissioner finds that such filing does not meet the requirements of this article, he shall send to the rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this article and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

(c) If at any time subsequent to the applicable review period provided for in subsection (a) or (b) of this section, the commissioner finds that a filing does not meet the requirements of this article, he shall, after notice and hearing to every insurer and rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of this article, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(d) Any person or organization aggrieved with respect to any filing which is in effect may demand a hearing thereon. If, after such hearing, the commissioner finds that the filing does not meet the requirements of this article, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of this article, and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(e) Any insurer or rating organization, in respect to any filing made by it which is not approved by the commissioner, may demand a hearing thereon.

(f) No manual of classifications, rules, rating plans, or any modification of any of the foregoing which establishes standards for measuring variations in hazards or expense provisions, or both, in the case of casualty insurance to which this article applies and no manual, minimum, class rate, rating schedule, rating plan, rating rule, or any modification of any of the foregoing, in the case of fire insurance to which this article applies, and which has been filed pursuant to the requirements of section four of this article, shall be disapproved if

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the rates thereby produced meet the requirements of this article.

(g) If, in the opinion of the commissioner, the rate or form filing made by an insurer is of such import that it will affect the public he may, at his discretion, issue notice to such insurer of a public hearing. The notice of public hearing to the insurer making such form or rate filing shall be made by United States mail at least fifteen days prior to hearing date. Notice to the public shall be given by appropriate publication in a newspaper in the form and manner prescribed by chapter twenty- nine-a of this code. The holding of a public hearing as outlined in this subsection shall have the effect of eliminating the right of the party making such filing to demand a hearing as stated in subsections (d) and (e) of this section.

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§33-20-6. Rating organizations.

(a) A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of casualty insurance or subdivisions thereof, or for such kinds of fire and marine insurance or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith (1) a copy of its Constitution, its articles of agreement or association or its certificates of incorporation, and of its bylaws, rules governing the conduct of its business, (2) a list of its members and subscribers, (3) the name and address of a resident of this state as attorney-in-fact upon whom notices or orders of the commissioner or process affecting such rating organization may be served and (4) a statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its Constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every application shall be granted or denied in whole or in part by the commissioner within sixty days of the date of its filing with him Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner. The fee for the license shall be $100, and the fee shall be in lieu of all other fees, licenses or taxes to which a rating organization might otherwise be subject, all fees so collected to be used for the purposes specified in section thirteen, article three of this chapter. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after notice and hearing, in the event the rating organization ceases to meet the requirements of this article. Every rating organization shall notify the commissioner promptly of every change in (1) its Constitution, its articles of agreement or association or its certificate of incorporation, and its bylaws, rules governing the conduct of its business, (2) its list of members and subscribers and (3) the name and address of the resident of this state designated as attorney-in-fact by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

(b) Subject to rules which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any kind of casualty insurance or subdivision thereof, or for any kind of fire and marine insurance or subdivision or class of risk or a part or combination thereof, or any kind of surety insurance or subdivision thereof, for which it is authorized to act as a rating organization. Notice of proposed changes in such rules shall be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner. If, after notice and hearing, the commissioner finds that the rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation

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shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within thirty days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If, after notice and hearing, the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(c) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(d) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this article is hereby authorized, provided the filings resulting from such cooperation are subject to all the provisions of this article which are applicable to filings generally. The commissioner may review such cooperative activities and practices, and if after a hearing he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such activity or practice.

(e) Any rating organization for casualty, marine or surety insurance may provide for the examination of policies, daily reports, binders, renewal certificates, endorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. The rules shall contain a provision that in the event any insurer does not within sixty days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the commissioner thereof. All information so submitted for examination shall be confidential.

(f) Any rating organization may subscribe for or purchase actuarial, technical or other services, and these services shall be available to all members and subscribers without discrimination.

(g) Any rating organization responsible for establishing fire rate classifications for West Virginia cities, towns, and fire districts shall:

(1) Review a request for classification revision within ninety days after receiving said request in writing from an entity for which the rating organization provides a public fire protection classification. Such written requests for classification revision must be made by the chief official of the city, town or fire district and must outline the specific changes in conditions in the entity that would warrant a classification revision.

(A) If the changed conditions in the entity do not warrant a revision to the applicable

classification, the rating organization must provide the entity with a written response outlining the reasons why such changes in condition will not impact the classification.

(B) If the changed conditions in the entity indicate a potential revision to the applicable classification, the rating organization may request reasonable additional information from the entity. Upon receipt of such information, and upon determination that a classification revision may be indicated, the rating organization must schedule a survey of the entity.

(2) Complete any required survey, analysis, and written evaluation of the entity and develop any applicable classification revision within sixty days after all necessary information about changed conditions has been received in writing by the rating organization from the entity.

(3) Advise its participating insurers within sixty days after the revised public fire protection classification has been developed reflecting the changed conditions in the entity.

(4) Have the option to request a reasonable extension of the above described time frames from the Insurance Commissioner if unusual conditions exist including, but not limited to, unusual weather conditions or difficulty in scheduling a mutually convenient survey time.

(5) File the following with the Insurance Commissioner:

(A) Within thirty days of its publication:

(i) A copy of a current list of all classifications established in West Virginia. Such list shall be published on at least a quarterly basis and;

(ii) All changes in established classifications during the previous month. Such list shall be published on a monthly basis.

(B) Within thirty days after being requested by the Insurance Commissioner pursuant to this paragraph, a copy of guidelines used to establish classifications, stating the minimum qualifications, standards and requirements for each classification (classes one through ten).

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§33-20-7. Deviations from filings.

(a) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that:

(1) In the case of casualty and surety insurance to which this article applies any such insurer may make written application to the commissioner for permission to file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a kind of insurance, or for a class of insurance which is found by the commissioner to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a kind of insurance (a) comprised of a group of manual classifications which is treated as a separate unit for rate-making purposes, or (b) for which separate expense provisions are included in the filings of the rating organization. Such application shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to such rating organization; and

(2) In the case of fire and marine insurance to which this article applies any such insurer may make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization. In considering the application for permission to file such deviation the commissioner shall give consideration to the available statistics and the applicable principles for rate making as provided in section three of this article.

(b) The commissioner shall, after notice to such insurer and rating organization, and hearing, unless hearing is waived by such insurer and rating organization, issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective or issue an order denying such application if he finds that the modification is not justified or that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each deviation permitted to be filed shall be effective for a period of one year from the date of such permission unless terminated sooner with the approval of the commissioner.

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§33-20-8. Appeals by members of or subscribers to rating organization.

(a) Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after notice and hearing, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

(b) In the case of casualty and surety insurance to which this article applies, if such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in subdivision (1) of paragraph (c) of section three of this article, from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section three of this article.

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§33-20-9. Information to be furnished insureds; hearings and appeals of insureds.

(a) Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(b) Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after notice and hearing, may affirm or reverse such action.

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§33-20-10. Advisory organizations.

(a) Every group, association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organizations in rate making, by the collection and furnishing of loss or expense statistics, or by the submission of recommendations, but which does not make filings under this article, shall be known as an advisory organization.

(b) Every advisory organization shall file with the commissioner (1) a copy of its Constitution, its articles of agreement or association or its certificate of incorporation and its bylaws, rules and regulations governing its activities, (2) a list of its members, (3) the name and address of a resident of this state as its attorney-in-fact upon whom notices or orders of the commissioner or process may be served, and (4) an agreement that the commissioner may examine such advisory organization in accordance with the provisions of section twelve of this article.

(c) If after notice and hearing the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such act or practice.

(d) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate-making recommendations, furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under paragraph (c) of this section. If the commissioner finds such insurer or rating organization to be in violation of this paragraph he may issue an order requiring the discontinuance of such violation.

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§33-20-11. Joint underwriting or joint reinsurance.

(a) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance, shall be subject to regulation with respect thereto as herein provided, subject, however, with respect to joint underwriting, to all other provisions of this article and, with respect to joint reinsurance, to section twelve of this article.

(b) If after notice and hearing the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of this article, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of this article, and requiring the discontinuance of such activity or practice.

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§33-20-12. Examinations.

(a) The commissioner shall, at least once in five years, make or cause to be made an examination of each rating organization licensed under the provisions of section six of this article and he or she may, as often as he or she may deem it expedient, make or cause to be made an examination of each advisory organization referred to in section ten of this article and of each group, association or other organization referred to in section eleven of this article. The reasonable costs of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed account of such costs. The officers, managers, agents and employees of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents or agreements governing its method of operation. The commissioner shall furnish two copies of the examination report to the organization, group or association examined not less than thirty days prior to filing same in his or her office. If such organization, group or association so requests in writing, within such thirty-day period, the commissioner shall consider the objections, if any, to such report as proposed and shall not file such report until such modifications, if any, have been made therein as the commissioner deems proper. The report when so filed shall be admissible in any action or proceeding brought by the commissioner against the organization, group or association examined, or its officers or agents, and shall be prima facie evidence of the facts stated therein. The commissioner may withhold the report of any such examination for such time as he or she may deem proper.

(b) In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

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§33-20-13. Rate administration.

(a) Recording the reporting of loss and expense experience. -- The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section three of this article. Such rules and plans may also provide for the recording and reporting of loss and expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating of countrywide experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him and in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available, subject to reasonable rules promulgated by the commissioner, to insurers and rating organizations.

(b) Interchange of rating plan data. -- Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(c) Consultation with other states. -- In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating systems.

WV Legislature

§33-20-14. False or misleading information.

No person or organization shall wilfully withhold information from, or knowingly give false or misleading information to, the commissioner, any statistical agency designated by the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under this article.

WV Legislature

§33-20-15. Assigned risks.

With respect to casualty insurance to which this article applies, agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner.

WV Legislature

§33-20-16. Penalties.

(a) The commissioner may suspend, revoke or refuse to renew the license of any rating organization which violates any provision of this article or chapter or which fails to comply with an order of the commissioner issued pursuant to this chapter, within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

(b) No license shall be suspended or revoked except upon a written order of the commissioner made after notice and hearing. The commissioner shall not suspend or revoke the license of any rating organization for failure to comply with an order of the commissioner until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until such order has been affirmed.

WV Legislature

§33-20-17. Determination of rates on dwellings.

For the purpose of determining the proper premium to be charged for coverage issued upon a dwelling situated in the state, commercial activities conducted by the insured shall not be taken into consideration by the insurer unless conducted within the dwelling.

WV Legislature

§33-20-18. Reduction of premium charges for persons fifty-five years of age or older.

(a) Any rates, rating schedules or rating manuals for the liability, personal injury protection and collision coverages of a motor vehicle insurance policy submitted to or filed with the Insurance Commissioner shall provide for an appropriate reduction in premium charges as to such coverages when the principal operator and spouse on the covered vehicle is an insured who is fifty-five years of age or older and who has successfully completed a motor vehicle accident prevention course approved by the Division of Motor Vehicles. Such reductions of premium rates shall be made in compliance with the provisions of subsections (a) and (b), section three of this article. Any discount used by an insurer shall be presumed appropriate unless credible data demonstrates otherwise.

(b) The premium reduction required by this section shall be effective for an insured and spouse for a three-year period after successful completion of the approved course, except that the insurer may require, as a condition of maintaining the discount, that the insured and spouse:

(1) Not be involved in an accident for which the insured or spouse is at fault;

(2) Not be convicted, plead guilty or nolo contendere to a moving traffic violation, or to a traffic related alcohol or narcotics offense; and

(3) Have maintained a driving record free of violations and liability for accidents for a three-year period prior to course completion.

(c) Upon successfully completing the approved course, each person shall be issued a certificate by the organization offering the course which shall be used to qualify for the premium discount required by this section.

(d) This section shall not apply in the event the approved course is taken as punishment specified by a court or other governmental entity resulting from a moving traffic violation.

(e) An insured shall only be entitled to a discount equal to the greater of the premium reduction required by this section or any discretionary discount offered by insurers to persons fifty-five years of age or older who have not completed the approved motor vehicle accident course and specifically shall not be entitled to more than one discount.

(f) Each participant shall take an approved course every three years to continue to be eligible for the reduction in premiums.

WV Legislature

§33-20-19. Publication of automobile insurance rates.

[Repealed.]

WV Legislature

§33-20-20. Authority of commissioner to promulgate rules and regulations regarding affiliate and subsidiary operating results.

The commissioner may as he deems necessary after notice and hearing promulgate rules and regulations in accordance with chapter twenty-nine-a of this code to define the commissioner's authority to consider the operating results of an insurer's affiliates and subsidiaries in the rate making and solvency determination of that insurer.

WV Legislature