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- G. "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to eliminate the effect of differences between current payment or reserve estimates and those that are anticipated to provide actual ultimate loss (including loss adjustment expense) payments.
- H. "Exempt commercial policyholder" means an entity to which specified aspects of rate or form regulation do not apply or have been relaxed in accordance with regulations adopted pursuant to Section 11 of this Act.
- I. "Expenses" means that portion of a rate attributable to acquisition, field supervision, collection expenses, general expenses, taxes, licenses and fees but shall not include loss-adjustment expenses.
- J. "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit or unity modification.
- K. "Insurer" means an insurer as defined in [refer to the general cite for the definition of insurer], except that two (2) or more insurers that are managed by the same persons or entity for the underwriting of individual risks, for the pricing of individual risks, or for the appointment of agents shall, for purposes of this Act, be considered as a single insurer.
- L. "Joint underwriting" means a voluntary arrangement established on an individual-risk basis by which two (2) or more insurers jointly contract to provide insurance coverage for insureds whose property values to be covered or limits of liability to be provided exceed those that a single insurer is able and willing to provide.
- M. "Loss adjustment expense" means the expenses incurred by the insurer in the course of settling claims.
- N. "Trending" means any procedure for projecting losses to the average date of loss, or premiums or exposures to the average date of writing, for the period during which the policies are to be effective.
- O. "Market" means the interaction between buyers and sellers consisting of a product component and a geographic component. A product component consists of identical or readily substitutable products including but not limited to consideration of coverage, policy terms, rate classifications and underwriting. A geographic component is a geographical area in which buyers seek access to the insurance product through sales outlets and other distribution mechanisms. Determination of a geographic component shall consider existing distribution patterns.
- P. "Noncompetitive market" means a market for which there is a ruling in effect pursuant to Section 4 that a reasonable degree of competition does not exist.
- Q. "Personal risk" means homeowners, tenants, private passenger nonfleet automobiles, mobile homes and other property and casualty insurance for personal, family or household needs.

F. Insurance.

Drafting Note—Types of Insurance: Here should be listed (a) other kinds of insurance, if any, and (b) particular types of insurers, if any, to which this Act is not to apply in the state or jurisdiction adopting the Act. The specific exemption of aircraft hull and liability insurance contained in the 1946 NAIC Model Bills is omitted from Section 3 of this Act. A number of states have, since 1946, provided for regulation of aircraft hull and liability insurance rates.

~~to be added to Section 3 of the Act~~

- (b) Classification. Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks 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. No risk classification, however, may be based upon race, creed, national origin or the religion of the insured.
 - (c) Expenses. The expense provisions included in the rates to be used by an insurer shall reflect the operating methods of the insurer and its anticipated expenses.
 - (d) Profits. The rates may contain provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to all investment income attributable to the line of insurance.
- (5) Two (2) or more insurers operating under common underwriting management for a line or kind of insurance or subdivision of a line or kind in this state shall, for that line or kind of insurance or subdivision, be treated as a single insurer for purposes of this section in order to prevent unfair discrimination between similarly situated policyholders.

Drafting Note—Disallowed Expenses in Rates: If a state desires to provide the commissioner with explicit guidance regarding certain categories of expenses that may not be included in insurers' rates, it should consider the following language instead of that provided in Section 5A(4)(c): "Expenses. The expense provisions included in the rates to be used by an insurer shall reflect the reasonable operating methods of the insurer and its reasonable anticipated expenses. Insurers' rates shall not include provisions for disallowed expenses. Disallowed expenses include [insert specific expenses, if any] and any unreasonably incurred expenses as determined by the commissioner." Such expenses may include lobbying expenses; amounts paid by an insurer as damages in a suit against the insurer for bad faith or as fines or penalties for violations of the law; contributions to organizations engaged in legislative advocacy; fees and penalties imposed upon the insurer for civil or criminal violations of the law; fees or penalties paid by the insurer to settle administrative ns engagedr [r

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- D. Whenever an insurer has no legally effective rates as a result of the commissioner's disapproval of rates or other act, the commissioner shall on request of the insurer specify interim rates for the insurer that are high enough to protect the interest of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the commissioner. When the new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are *de minimis* shall not be required.

Section 8. Policy Form Standards

- A. Policy forms shall not:
 - (1) Contain provisions, exceptions or conditions that are misleading, illusory, inconsistent, ambiguous, deceptive, contrary to public policy, that unreasonably affect the risk purported to be assumed in the general coverage of the policy, or that encourage misrepresentation of the coverage; or
 - (2) Violate or fail to comply with any provision of the insurance code or the laws of this state.
- B. The insurer shall include the following elements in its policy either by placing them in the main policy form or by attaching an endorsement or other contract language to the policy form:
 - (1) A statement that specifies when a policy may be cancelled or nonrenewed and provides at least the following minimum notice in the event of cancellation or nonrenewal of the policy:
 - (a) Ten (10) days advance notice for cancellation because of fraud, misrepresentation or because the insured has failed to pay premium when due. Premium includes any amounts due from the insured in accordance with policy provisions;
 - (b) Thirty (30) days advance notice for cancellation because of nonpayment of premium.

- (1) A declaration or information page that shows the individuals or entities insured and the property to which the insurance applies, if applicable, shows the limit of the insurer's liability for each coverage provided, shows the effective date and time for policy inception and expiration and shows the premium consideration;
- (2) An insuring agreement that clearly states who and what is covered under the policy;
- (3) The conditions under which the coverage will apply;
- (4) Any exclusion where coverage is not applicable;
- (5) Any definitions needed to clarify the intent of the coverage provided in the policy;
- (6) Any other terms, conditions, coverages, exclusions, or definitions that are not covered by (1) through (5).

correspondence relating thereto shall be considered a confidential communication and shall not be made public by the commissioner except as may be compiled by the department in summaries of activity.

- (5) The commissioner may, by regulation, allow commercial policy forms, endorsements and other contract language that is more expansive, and in no respect more restrictive, than that provided by an approved filing otherwise applicable, to be used without prior approval by the commissioner. Any such commercial policy forms, endorsements, and other contract language shall, by regulation, be filed prior to use either (a) in all cases, or (b) to the extent needed to meet regulatory purposes.
- B. Filings of policy forms, endorsements and other contract language shall comply with the following provisions:
- (1) Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective except as provided in Paragraph (2). The waiting period may be extended for an additional period not to exceed thirty (30) days if the commissioner gives written notice within the waiting period to the insurer or advisory organization that made the filing that additional time is needed for the consideration of the filing. Upon written or electronic application by the insurer or advisory organization, the commissioner may authorize a filing to become effective before the expiration of a waiting period. A filing shall be deemed to meet the requirements of the Act unless disapproved by the commissioner within the waiting period or any extension thereof. The operation of the deemer provision shall be suspended during a period of not more than sixty (60) days upon written or electronic notice to the insurer or advisory organization that made the filing that additional information is needed to complete the review of the filing. Failure of the insurer or advisory organization to provide the requested information within sixty (60) days shall be deemed a request to withdraw the filing from further consideration. A filing and any supporting information shall be open to public inspection upon receipt of the filing.
 - (2) The commissioner may by regulation or order suspend or modify the filing requirements of Subsection A or B of this section as to any line or kind of insurance or subdivision or combination of such line or kind of insurance or as to classes of risks for which rating systems or forms cannot practicably be filed before they are used. The commissioner may make an examination if he or she deems it necessary to ascertain whether any policy forms, endorsements and other contract language affected by the regulation or order meet the requirements of Section 8.

manuscript forms be filed for approval. The

- (2) The characteristics of insureds that are likely to avail themselves of regular price comparisons between competing insurers and are likely to study and understand the differences and details of pricing proposals that they receive;
- (3) The characteristics of insureds that are likely to require individually written policies, as contrasted to insureds that can customarily have their coverage needs met through a compilation of forms

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Section 12.

- B. If, after a hearing held under this section, it is determined that the rates charged by an insurer are in excess of the otherwise appropriate rate, such overcharge shall be refunded to the insured.

Section 15. Consumer Information

The commissioner shall utilize, develop or cause to be developed a consumer information system that will provide and disseminate price and other relevant information on a readily available basis to purchasers of homeowners, private passenger nonfleet automobile, or property insurance for personal, family or household needs. The commissioner may utilize, develop or cause to be developed a consumer information system that will provide and disseminate price and other relevant information on a readily available basis to purchasers of insurance for commercial risks and personal risks not otherwise specified in this Act. The activity may be conducted internally within the insurance department, in cooperation with other state insurance departments, through outside contractors and/or in any other

- (e) A biography of the ownership and management of the organization; and
 - (f) Any other relevant information and documents that the commissioner may require.
- (2) Every organization which has applied for a license shall notify the commissioner of every material change in the facts or in the documents on which its application was based. An amendment to a document filed under this section shall be filed at least thirty (30) days before it becomes effective.
- (3) If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy and technically qualified to provide the services proposed, and that all requirements of the law are met; he or she shall issue a license.

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- C. No insurer or advisory organization shall make any arrangement with any other insurer, advisory organization, or other person that has the purpose or effect of unreasonably restraining trade or unreasonably lessening competition in the business of insurance.

Section 18. Advisory Organizations and Statistical Agents: Prohibited Activity

In addition to the other prohibitions contained in this Act, except as specifically permitted under Section 19, no advisory organization or statistical agent shall compile or distribute recommendations relating to rates that include expenses (other than loss adjustment expenses) or profit.

Section 19 Advisory Organizations: Permitted Activity

An advisory organization in addition to other activities not prohibited, is authorized, on behalf of its members and subscribers, to:

- A. Develop statistical plans including territorial and class definitions;
- B. Collect statistical data from members, subscribers or any other source;
- C. Prepare, file and distribute prospective loss costs which may include provisions for special assessments;
- D. Prepare, file and distribute factors, calculations or formulas pertaining to classification, territory, increased limits and other variables;
- E. Prepare, file and distribute data for the purpose of determining rates.

- N. For workers' compensation insurance, establish a committee which may include insurance company representatives to review the determination of the rating classification for individual insureds and suggest modifications to the classification system.
- O. Collect, compile and publish past and current prices of individual insurers, provided such information is also made available to the general public at a reasonable cost;
- P. Collect and compile exposure and loss experience for the purpose of individual risk experience ratings;
- Q. File final rates, at the direction of the commissioner, for residual market mechanisms; and
- R. Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

Section 20. Statistical Agents: Permitted Activity

In addition to other activities not prohibited, a statistical agent is authorized, on behalf of its members and subscribers, to:

- A. Develop statistical plans including territorial and class definitions;
- B. Collect statistical data from members, subscribers or any other source;
- C. Distribute information that is required or directed to be filed with the commissioner;
- D. Collect, compile and distribute past and current prices of individual insurers and publish such information;
- E. Collect and compile exposure and loss experience for the purpose of individual risk experience ratings; and
- F. Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

Section 21. Advisory Organizations: Filing Requirements

Every advisory organization shall file with the commissioner for approval every statistical plan, all prospective loss costs, provisions for special assessments and all supplementary rating information, all policy forms, endorsements and other contractual language and every change or amendment or modification of any of the foregoing proposed for use in this state. The filings shall be subject to the provisions of Sections 6, 7, 9 and 10 and other provisions of this Act relating to filings made by insurers.

Section 22. Joint Underwriting, Joint Reinsurance Pool and Residual Market Activities

- A. Notwithstanding Section 16B(1), insurers participating in joint underwriting, joint reinsurance pools or residual market mechanisms may in connecti in d8ng,s6e2 (s)9.P (6)2.2 (t)-2.3 (i)10.v[(P)-5. (rit)-6 (y)-4

Drafting Note: Under the laws of several of the states, reports on examination are not m Tw e ,c,fn ah un6 (,)7 (7 (o)-11.3 (na)-13 (he)-13 (l4(r)- (,)7 (e

Section 31. Appeals

Alternative Section 10. Disapproval of Policy Form Filings

- A. If the commissioner finds that a filing does not meet the requirements of the Act, he or she shall send written or electronic notice of disapproval to the insurer or advisory organization that made the filing specifying in what respects the filing fails to meet the requirements of the Act and stating when the filing shall no longer be effective. If a filing is disapproved by the commissioner, the insurer or advisory organization may request a hearing on the disapproval within thirty (30) days and the commissioner shall schedule that hearing within thirty (30) days of the receipt of the request. The insurer or advisory organization bears the burden of proving compliance with the standards established by this Act.

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Section 12. Monitoring Competition

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- (11) Any other factors the commissioner considers relevant.
- D. The reports and certifications required under Subsections A and B shall be forwarded to the governor and all relevant members of the state legislature and shall be available to the public.
- E. It is rebuttably presumed that competitive markets exist. However, if the commissioner certifies that a reasonable degree of competition does not exist with respect to a form of insurance on a statewide basis or any geographic areas, or that insurance is unavailable to a segment of the market who are, in good faith, entitled to obtain insurance through ordinary means, the commissioner shall take steps to enhance competition or availability where it does not exist. A plan for enhancing competition or availability adopted pursuant to this section shall be included in a final certification of noncompetition. The plan shall only relate to those geographic areas, classifications or kinds of risks where adequate competition has been certified not to exist. The plan may include methods designed to enhance competition or availability that the commissioner considers necessary, and may provide, in addition, such other provisions as the commissioner's order; and
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