







to provide the requested information within the waiting period or the extension thereof shall be deemed a request to withdraw the filing from further consideration. Failure of the commissioner to act within the waiting period or the extension thereof shall result in the filing being deemed to meet the requirements of the Act. Neither the insurer nor the commissioner may waive the timeliness requirements of the deemer provisions in this section.

- (2) In a noncompetitive market, notwithstanding Paragraph (1), the commissioner may, subject to Section 2, determine that commercial policy forms, endorsements and other contract language and related attachment rules, rates, supplementary rating information and supporting information be filed in accordance with Subsection B(4) of this section.

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- G. Under such rules and regulations as may be adopted, the commissioner may, by written or electronic order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, for which the rates, rating systems or policy forms cannot practicably be filed before they are used. The commissioner may make such examination as deemed advisable to ascertain whether any rates affected by such order meet the standards set forth in [insert rates standards sections of state law] and any forms affected by the order meet the standards set forth in [insert form standards sections of state law].
- H. A rate in excess of that provided by a filing otherwise applicable or a rate with respect to any individual or special risks whose size, classification, degree of exposure to loss, previous loss experience or other relevant factors call for the exercise of sound underwriting judgment in the promulgation of rates may be used on any specific risk and shall be exempt from filing. The commissioner may examine the books and records of the insurer to determine if a pattern or practice of business exists that would indicate that the insurer is avoiding the filing requirements of this Act by extensive use of this section to issue its policies.
- I. Policy forms, endorsements and other contract language unique in character and designed for and used with regard to a particular risk shall be exempt from filing, except that the commissioner may by regulation or order make specific restrictions relating to this exemption. In making a determination, the commissioner shall consider whether the policy forms, endorsements and other contract language otherwise exempt would be likely to meet the requirements of [insert form standards sections of state law] and the extent to which it would be practical to file the forms prior to their use for specific risks.

**Section 4. Form Approval Requirements Applying to Multistate Commercial Risks**

The commissioner shall adopt reasonable regulations to provide that this state's policy form requirements shall apply only to ins...

- (2) Whether the total number of companies writing the form of insurance in this state is sufficient to provide multiple options to the public;
  - (3) The extent to which insurer entries and exits, considered over several years, suggest the presence or lack of entry or exit barriers or both;
  - (4) The degree to which the insurance products offered to consumers are homogenous in nature and, thus, comparable;
  - (5) The availability of insurance coverage in all geographic areas. A review of changes in residual market shares, if applicable, may be used as an indication of availability;
  - (6) The overall rate level which is not excessive, inadequate or unfairly discriminatory;
  - (7) The profitability of each form of insurance over a period of several years;
  - (8) The level of knowledge of market participants and the extent to which comparative pricing information has been made readily available to consumers;
  - (9) The extent to which the market for each type of insurance is growing;
  - (10) The presence of conditions indicating reverse competition; and
  - (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 for the commissioner to do one or more of the following:
- (1) Authorize, by order, joint underwriting activities in a manner specified in the commissioner's order; and
  - (2) Modify the rate approval process in a manner to increase competition or availability, while at the same time providing for reasonably timely rate approvals, including reverting to prior approval of all filings.

Property and Casualty Commercial Rate And Policy Form Model Law  
(Condensed)

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