

EXISTS WITHIN A MARKET, AND SHALL GIVE A RULING TO THAT EFFECT. ALL INSURERS OPERATING WITHIN SUCH MARKET SHALL HAVE THE BURDEN OF ESTABLISHING THAT A REASONABLE DEGREE OF COMPETITION EXISTS WITHIN THAT MARKET. THE COMMISSIONER SHALL CONSIDER ALL RELEVANT FACTORS IN DETERMINING THE COMPETITIVENESS OF A MARKET, INCLUDING:

(I) THE NUMBER OF INSURERS ACTIVELY ENGAGED IN PROVIDING COVERAGE;

(II) MARKET SHARES;

(III) CHANGES IN MARKET SHARES; AND

(IV) EASE OF ENTRY.

(2) IF THE COMMISSIONER DETERMINES THAT A REASONABLE DEGREE OF COMPETITION DOES NOT EXIST IN A MARKET, ANY INSURER DESIGNATED BY THE COMMISSIONER SHALL HAVE THE BURDEN OF JUSTIFYING ITS RATE IN SUCH MARKET.

(3) ALL DETERMINATIONS MADE BY THE COMMISSIONER SHALL BE ON THE BASIS OF FINDINGS OF FACT AND CONCLUSIONS OF LAW.

(4) IF THE COMMISSIONER DISAPPROVES A RATE, THE DISAPPROVAL SHALL TAKE EFFECT NOT LESS THAN 15 DAYS AFTER ITS ORDER AND THE LAST PREVIOUS RATE IN EFFECT FOR THE INSURER SHALL BE REIMPOSED FOR A PERIOD OF 1 YEAR UNLESS THE COMMISSIONER APPROVES A RATE UNDER SUBSECTION (D) OR SUBSECTION (E) OF THIS SECTION.

(D) WITHIN 1 YEAR AFTER THE EFFECTIVE DATE OF A DISAPPROVAL ORDER NO RATE ADOPTED TO REPLACE ONE DISAPPROVED UNDER SUCH ORDER MAY BE USED UNTIL IT HAS BEEN FILED WITH THE COMMISSIONER AND NOT DISAPPROVED WITHIN 30 DAYS THEREAFTER.

(E) 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 THE INSURER'S REQUEST SPECIFY INTERIM RATES FOR THE INSURER THAT ARE HIGH ENOUGH TO PROTECT THE INTERESTS OF ALL PARTIES AND MAY ORDER THAT A SPECIFIED PORTION OF THE PREMIUMS BE PLACED IN A SPECIAL RESERVE ESTABLISHED BY INSURER. WHEN NEW RATES BECOME LEGALLY EFFECTIVE, THE COMMISSIONER SHALL ORDER THE SPECIALLY RESERVED FUNDS OR ANY OVERCHARGE IN THE INTERIM RATES TO BE DISTRIBUTED APPROPRIATELY, EXCEPT THAT REFUNDS TO POLICYHOLDERS THAT ARE MINIMAL MAY NOT BE REQUIRED.

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(A) THE COMMISSIONER MAY BY ORDER REQUIRE THAT A PARTICULAR INSURER FILE ANY OR ALL OF THE INSURER'S RATES AND SUPPLEMENTARY RATE INFORMATION 30 DAYS PRIOR TO THEIR EFFECTIVE DATE, IF THE COMMISSIONER FINDS AFTER A HEARING THAT THE PROTECTION OF THE INTERESTS OF ITS INSURED AND THE PUBLIC IN THIS STATE REQUIRES