

PERSON; HOWEVER, THE CONTROL MAY NOT BE PRESUMED TO EXIST WHERE PROXIES HAVE BEEN OBTAINED BY AN OFFICIAL OF SUCH PERSON SOLELY IN CONNECTION WITH VOTING AT ANY MEETING OF THE OWNERS OF SUCH PERSON. THIS PRESUMPTION MAY BE REBUTTED BY ESTABLISHING BY A PREPONDERANCE OF THE EVIDENCE THAT CONTROL DOES NOT EXIST IN FACT. NOTWITHSTANDING THE PRESUMPTION OF CONTROL, THE COMMISSIONER, UPON APPLICATION OF THE INSURANCE COMPANY, MAY DETERMINE THAT THE INSURANCE COMPANY OR COMPANY IS NOT CONTROLLED BY THE PERSON PRESUMED TO CONTROL IT. IN ADDITION, THE COMMISSIONER, AFTER NOTICE AND AN OPPORTUNITY TO BE HEARD, MAY DETERMINE THAT A PERSON NOT PRESUMED TO HAVE CONTROL DOES CONTROL AN INSURANCE COMPANY.

(D) "INSURER" MEANS AN AUTHORIZED INSURER WHICH ISSUES POLICIES COVERED BY THE PROPERTY AND CASUALTY INSURANCE GUARANTY CORPORATION.

(E) "INDEPENDENT CASUALTY ACTUARY" MEANS A CASUALTY ACTUARY WHO IS A MEMBER OF THE AMERICAN ACADEMY OF ACTUARIES AND WHO IS NOT AFFILIATED WITH, AN EMPLOYEE OF, A PRINCIPAL OF, THE DIRECT OR INDIRECT OWNER OF, OR IN ANY WAY CONTROLLED BY THE INSURER OR BROKER.

671.

(A) A CONTROLLED INSURER MAY NOT, WITH RESPECT TO BUSINESS PLACED BY THE CONTROLLING BROKER:

(1) ENGAGE IN A PATTERN OF CHARGING PREMIUMS THAT ARE UNJUSTIFIABLY LOWER THAN THOSE BEING CHARGED BY SUCH INSURER OR OTHER INSURERS FOR SIMILAR RISKS WRITTEN DURING THE SAME PERIOD AND PLACED BY NONCONTROLLING BROKERS. WHEN DETERMINING WHETHER PREMIUMS WERE UNJUSTIFIABLY LOWER THAN THOSE PREVAILING IN THE MARKET, THE COMMISSIONER SHALL TAKE INTO CONSIDERATION APPLICABLE INDUSTRY OR ACTUARIAL STANDARDS AT THE TIME THE BUSINESS WAS WRITTEN; OR

(2) FAIL TO ESTABLISH OR DEVIATE FROM ITS UNDERWRITING PROCEDURES.

(B) THE CONTROLLING BROKER SHALL MAINTAIN RECORDS SUFFICIENT:

(1) TO DEMONSTRATE THAT THE BROKER'S DEALINGS WITH ITS CONTROLLED INSURER WERE FAIR, EQUITABLE, AND IN COMPLIANCE WITH SUBTITLE 32 OF THIS ARTICLE; AND