

# MAINE STATE LEGISLATURE

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1 SECOND REGULAR SESSION  
2

3 ONE HUNDRED AND TENTH LEGISLATURE  
4

5 **Legislative Document**

**No. 1981**

6  
7 H. P. 2017 House of Representatives, February 12, 1982  
Submitted by the Joint Standing Committee on Business  
Legislation pursuant to Joint Rule 18. Approved by Legislative Council  
June 4, 1981.

8 Reported by Representative Brannigan of Portland from the  
Committee on Business Legislation and printed under Joint Rule No. 18.  
EDWIN H. PERT, Clerk

9  
10 STATE OF MAINE  
11

12 IN THE YEAR OF OUR LORD  
13 NINETEEN HUNDRED AND EIGHTY-TWO  
14

15 **AN ACT to Promote Competitive Pricing**  
16 **in Workers' Compensation Insurance.**  
17

18 Be it enacted by the People of the State of Maine as follows:

19 **Sec. 1. 39 MRSA §22, as amended by PL 1981, c. 471,**  
20 **§§1 and 2, is repealed and the following enacted in its**  
21 **place:**

22 **§22. Approval of insurance policies**

23 **Every insurance company issuing workers' compensation**  
24 **insurance policies covering the payment of compensation and**  
25 **benefits provided for in this Act shall file with the Super-**  
26 **intendent of Insurance a copy of the form of the policies**  
27 **and no policy may be issued until he has approved the form.**

28 **Sec. 2. 39 MRSA §§22-B to 22-M are enacted to read:**

1 §22-B. Definitions

2 As used in this section and sections 22-C to 22-M,  
3 unless the context otherwise indicates, the following terms  
4 have the following meanings.

5 1. Advisory organization. "Advisory organization"  
6 means any entity which either has 2 or more member insurers  
7 or is controlled either directly or indirectly by 2 or more  
8 insurers and which assists insurers in rate-making related  
9 activities. Two or more insurers having a common ownership  
10 or operating in this State under common management or con-  
11 trol constitute a single insurer for the purpose of this  
12 definition.

13 2. Base premium. "Base premium" means the amount of  
14 premium which an employer would pay for insurance derived by  
15 applying rates to an exposure base prior to the application  
16 of any merit rating or discount factors.

17 3. Classification plan; classification. "Classifica-  
18 tion plan" or "classification" means the plan, system or  
19 arrangement for rating insurance policyholders.

20 4. Market. "Market" means any reasonable grouping or  
21 classification of employers.

22 5. Merit rating. "Merit rating" means a system or  
23 form of rating by which the base premium is modified on the  
24 basis of loss experience or other factors which are reason-  
25 ably related to loss or risk of loss and which may be  
26 reasonably affected by the action or activities of the  
27 insured. The sensitivity of a merit rating system to loss  
28 experience may vary by the size of risk. Merit rating shall  
29 include both prospective and retrospective methods for modi-  
30 fying the base premium.

31 6. Pure premium. "Pure premium" means the loss cost  
32 for each unit of exposure plus the loss adjustment expense  
33 directly allocated to the settlement of specific losses.

34 7. Rating plan. "Rating plan" means every manual and  
35 every other rule, including discount factors and merit  
36 rating, necessary for the calculation of an insured's pre-  
37 mium from an insurer's rates. An insurer may choose to  
38 adopt for use the rating plan of the advisory organization  
39 in which it maintains membership.

40 8. Superintendent. "Superintendent" means the Super-  
41 intendent of Insurance.

1           9. Supplementary rate information. "Supplementary  
2 rate information" includes any manual or plan or rates,  
3 classification, rating rule and any other similar informa-  
4 tion needed to determine the applicable rate in effect or to  
5 be in effect.

6           10. Supporting information. "Supporting information"  
7 means:

8           A. The experience and judgment of the filer and the  
9 experience or data of other insurers or organizations  
10 relied upon by the filer;

11           B. The interpretation of any statistical data relied  
12 upon by the filer; and

13           C. The descriptions of methods used in making the  
14 rates and other similar information required to be  
15 filed by the superintendent.

16 §22-C. Competitive market

17           A competitive market is presumed to exist unless the  
18 superintendent, after a hearing, determines that a reason-  
19 able degree of competition does not exist in the market and  
20 the superintendent issues a ruling to that effect. Such a  
21 rule shall expire no later than one year after issue, unless  
22 the superintendent renews the rule after a hearing and a  
23 finding as to the continued lack of a reasonable degree of  
24 competition. In determining whether a reasonable degree of  
25 competition exists, the superintendent shall consider rele-  
26 vant tests of workable competition pertaining to market  
27 structure, market performance and market conduct and the  
28 practical opportunities available to consumers in the market  
29 to acquire pricing and other consumer information, and to  
30 compare and obtain insurance from competing insurers. These  
31 tests may include, but are not limited to, the following:  
32 Size and number of firms actively engaged in the market;  
33 market shares and changes in market shares of firms; ease of  
34 entry and exit from a given market; underwriting restric-  
35 tion; whether profitability for companies generally in the  
36 market segment is unreasonably high; availability of con-  
37 sumer information concerning the product and sales outlets  
38 or other sales mechanisms; and efforts of insurers to pro-  
39 vide consumer information. The determination of competition  
40 involves the interaction of the various tests and the weight  
41 given to specific tests depends upon the particular situa-  
42 tion and pattern of test results.

43 §22-D. Rates' standards

1       1. General. Rates shall not be excessive, inadequate  
2 or unfairly discriminatory.

3       2. Excessiveness. No premium is excessive in a com-  
4 petitive market. A rate in a noncompetitive market is  
5 excessive if the expected underwriting profit, together with  
6 expected income from invested reserves for the market in  
7 question, that would accrue to an insurer, would be unrea-  
8 sonably high in relation to the risk undertaken by the  
9 insurer in transacting the business, or if expenses are  
10 unreasonably high in relation to the services rendered.

11       3. Inadequacy. Rates are inadequate if, together with  
12 the investment income associated with an insurer's workers'  
13 compensation insurance business, they are clearly insuffi-  
14 cient to sustain projected losses and expenses of the  
15 insurer and if their continued use could lead to an insol-  
16 vent situation for the insurer, or if their use destroys or  
17 lessens competition or is likely to destroy or lessen compe-  
18 tition.

19       4. Unfair discrimination. Rates are unfairly discrim-  
20 inatory if differentials for insureds fail to reasonably  
21 reflect the differences in expected losses and expenses to  
22 the insurer attributable to the insureds. Rates are not  
23 unfairly discriminatory solely because different premiums  
24 result for insureds with like loss exposures but different  
25 expense factors, or like expense factors but different loss  
26 exposures, provided that rates reflect the differences with  
27 reasonable accuracy.

28 §22-E. Filing of rates and other rating information

29       1. Use and file. In a competitive market, every  
30 insurer shall file with the superintendent all rates and  
31 supplementary rate information which are to be used in this  
32 State. The rates and supplementary rate information shall  
33 be filed not later than 15 days after the effective date.

34       2. File and use. Rates and other rating information  
35 shall be filed and used as follows.

36       A. In a competitive market, if the superintendent  
37 finds, after a hearing, that an insurer's rates require  
38 closer supervision because of the insurer's financial  
39 condition or unfairly discriminatory rating practices,  
40 the insurer shall file with the superintendent at least  
41 30 days before the effective date, all such rates and  
42 such supplementary rate information and supporting  
43 information as prescribed by the superintendent. Upon

1 application by the filer, the superintendent may  
2 authorize an earlier effective date.

3 B. In a noncompetitive market, every insurer shall  
4 file with the superintendent all rates for that market.  
5 These rates, supplementary rate information and sup-  
6 porting information required by the superintendent  
7 shall be filed at least 30 days before the effective  
8 date. Upon application by the filer, the superinten-  
9 dent may authorize an earlier effective date.

10 3. Manuals and guides. Every insurer shall file with  
11 the superintendent all rating manuals and underwriting rules  
12 or guides which it uses in this State not later than 15 days  
13 after those manuals, rules or guides become effective.  
14 These manuals, rules or guidelines must be adhered to until  
15 amended. This subsection shall not prohibit the use of  
16 underwriting judgment provided that such underwriting judg-  
17 ment may not be inconsistent with rules or guides on file.

18 4. Form of filing. Rates filed pursuant to this  
19 section shall be filed in the form and manner prescribed by  
20 the superintendent.

21 5. Incomplete filing. For a noncompetitive market,  
22 whenever a filing is not accompanied by such information as  
23 the superintendent has required under this section, the  
24 superintendent shall so inform the insurer as soon as pos-  
25 sible and the filing shall not be deemed to be made until  
26 the information is furnished.

27 6. Public inspection. All rates, supplementary rate  
28 information and any supporting information for risks filed  
29 under this section shall, as soon as filed, be open to  
30 public inspection at any reasonable time. Copies may be  
31 obtained by any person on request and upon payment of a  
32 reasonable charge.

33 For purposes of this section, assigned risk pools, and  
34 for a period of 2 years following the effective date of this  
35 Act, workers' compensation insurance, operates in a non-  
36 competitive market.

37 §22-F. Disapproval of rates

38 1. Timing of disapproval. The superintendent may dis-  
39 approve rates:

40 A. At any time subsequent to the effective date; or

1 B. Before the effective date if the rate was subject  
2 to prefiling.

3 A rate for the assigned risk plan in which insurers are  
4 mandated by law to participate shall not become effective  
5 until approved by the superintendent.

6 2. Bases of disapproval. The superintendent may dis-  
7 approve a rate if:

8 A. The insurer fails to comply with the filing re-  
9 quirements; or

10 B. In a competitive market, he finds that the rate is  
11 inadequate or unfairly discriminatory.

12 The superintendent shall disapprove a rate for use in a non-  
13 competitive market if he finds that the rate is excessive,  
14 inadequate or unfairly discriminatory.

15 3. Disapproval procedure. The procedure for disap-  
16 proval is as follows.

17 A. If the superintendent finds that a reasonable  
18 degree of competition does not exist in the market, he  
19 may require that the insurers in that market file sup-  
20 porting information in support of existing rates. If  
21 the superintendent believes that the rates may violate  
22 any of the requirements of sections 22-B to 22-M, he  
23 shall call a hearing prior to any disapproval.

24 B. If the superintendent believes that rates in a com-  
25 petitive market violate the inadequacy or unfair dis-  
26 crimination standard or any other applicable require-  
27 ment of sections 22-B to 22-M, he may require that the  
28 insurers in that market file supporting information in  
29 support of existing rates. If after reviewing the sup-  
30 porting rate information, the superintendent continues  
31 to believe that the rates may violate these require-  
32 ments, he shall call a hearing prior to any disap-  
33 proval.

34 C. The superintendent may disapprove, without a hear-  
35 ing, prefiled rates that have not become effective.  
36 The insurer whose rates have been disapproved shall be  
37 given a hearing upon a written request made within 30  
38 days after the disapproval order.

39 Every insurer or advisory organization shall provide within  
40 this State reasonable means whereby any person aggrieved by

1 the application of its rating system may be heard on written  
2 request to review the manner in which the rating system has  
3 been applied in connection with the insurance afforded or  
4 offered. If the insurer or advisory organization fails to  
5 grant or reject the request within 30 days, the applicant  
6 may proceed in the same manner as if the application has  
7 been rejected. Any party affected by the action of the  
8 insurer or advisory organization on that request, may within  
9 30 days after written notice of the action, appeal to the  
10 superintendent, who, after a hearing held upon not less than  
11 10 days' written notice to the appellant and to the insurer  
12 or advisory organization, may affirm, modify or reverse the  
13 action.

14 4. Orders. If the superintendent disapproves a rate,  
15 the commissioner shall issue an order specifying in what  
16 respects it fails to meet the requirements of sections 22-B  
17 to 22-M, and stating when within a reasonable period there-  
18 after the rate shall be discontinued for any policy issued  
19 or renewed after a date specified in the order. The order  
20 shall be issued within 30 days after the close of the hear-  
21 ing or within such reasonable time extension as the superin-  
22 tendent may fix. The order may include a provision for pre-  
23 mium adjustment for the period after the effective date of  
24 the order for policies in effect on that date.

25 5. Interim rates. Whenever an insurer has no legally  
26 effective rates as a result of the superintendent's disap-  
27 proval of rates or other act, the superintendent shall, on  
28 request of the insurer, specify interim rates for the  
29 insurer that are high enough to protect the interests of all  
30 parties and may order that a specified portion of the pre-  
31 miums be placed in an escrow account approved by him. When  
32 new rates become legally effective, the superintendent shall  
33 order the escrowed funds or any overcharge in the interim  
34 rates to be distributed appropriately, except that refunds  
35 to policyholders that are de minimis shall not be required.

36 §22-G. Licensing advisory organization

37 1. License required. No advisory organization may  
38 provide any service relating to rates under sections 22-B to  
39 22-M, and no insurer may utilize the services of the orga-  
40 nization for those purposes unless the organization has  
41 obtained a license under this section.

42 2. Application; duration. The procedure to apply for  
43 a license and the duration of the license shall be as fol-  
44 lows.



1 A. An advisory organization applying for a license  
2 shall include with its application:

3 (1) A copy of its constitution, charter, articles  
4 of organization, agreement, association or  
5 incorporation, and a copy of its bylaws, plan of  
6 operation and any other rules governing the con-  
7 duct of its business;

8 (2) A list of its members and subscribers;

9 (3) The name and address of one or more residents  
10 of this State upon whom notices, process affecting  
11 it or orders of the superintendent may be served;

12 (4) A statement showing its technical qualifica-  
13 tions for acting in the capacity for which it  
14 seeks a license; and

15 (5) Any other relevant information and documents  
16 that the superintendent may require.

17 B. Every organization which has applied for a license  
18 shall notify the superintendent of every material  
19 change in the facts or in the documents on which its  
20 application was based. Any amendment to a document  
21 filed under this section shall be filed at least 30  
22 days before it becomes effective.

23 C. If the superintendent finds that the applicant and  
24 the natural persons through whom it acts are competent,  
25 trustworthy and technically qualified to provide the  
26 services proposed, and that all requirements of law are  
27 met, he shall issue a license specifying the authorized  
28 activity of the applicant. He shall not issue a li-  
29 cence if the proposed activity would tend to create a  
30 monopoly or to substantially lessen competition in the  
31 market.

32 D. Licenses issued pursuant to this section shall  
33 remain in effect until the licensee withdraws from the  
34 State or until the license is suspended or revoked.  
35 The superintendent may at any time, after a hearing,  
36 revoke or suspend the license of an advisory organiza-  
37 tion which does not comply with the requirements and  
38 standards of sections 22-B to 22-M.

39 §22-H. Anticompetitive conduct

1           1. Monopolization. No insurer or advisory organiza-  
2 tion may attempt to monopolize, combine or conspire with any  
3 other person to monopolize the business of insurance.

4           2. Agreement prohibited. No insurer may agree with  
5 any other insurer or with an advisory organization to adhere  
6 to or to use any rate, rating plan, rating schedule, rating  
7 rule or underwriting rule except as specifically authorized  
8 by this section.

9           3. Trade restraint. No insurer or advisory organiza-  
10 tion may make an agreement with any other insurer, advisory  
11 organization or other person which has the purpose or the  
12 effect of restraining trade unreasonably or of substantially  
13 lessening competition.

14           4. Exemptions. The following exemptions apply to the  
15 provisions of the section.

16           A. The fact that 2 or more insurers, whether or not  
17 members or subscribers of an advisory organization, use  
18 consistently or intermittently, the same rates, rating  
19 plans, rating schedules, rating rules, policy forms,  
20 rate classifications, rate territories, underwriting  
21 rules, surveys or inspections or similar materials is  
22 not sufficient in itself to support a finding that an  
23 agreement exists, and may be used only for the purpose  
24 of supplementing or explaining direct evidence of the  
25 existence of any such agreement.

26           B. Two or more insurers under common ownership or  
27 operating under common management or control may act in  
28 concert between or among themselves with respect to  
29 matters authorized under sections 22-B to 22-M, as if  
30 they constituted a single insurer, provided that the  
31 rating plan of such insurers shall be considered to be  
32 a single plan for the purposes of determining unfair  
33 discrimination.

34 §22-1. Prohibited, required and permitted activity for  
35 advisory organizations

36           1. Prohibited activity. In addition to other prohibi-  
37 tions contained in sections 22-B to 22-M, no advisory orga-  
38 nization may:

39           A. Refuse to supply any service for which it is li-  
40 icensed or any data, except for data identifiable to an  
41 individual insurer, to any insurer authorized to do  
42 business in this State which offers to pay the usual  
43 compensation for the service or data;

1 B. Require the purchase of any specific service as a  
2 condition to obtaining any other services sought;

3 C. Participate in the development or distribution of  
4 rates, rating plans or rating rules except as specifi-  
5 cally authorized by sections 22-B to 22-M; or

6 D. Refuse membership to any licensed insurer.

7 2. Required activity. Every advisory organization  
8 shall perform the following:

9 A. File statistical plans, including classification  
10 definitions, amendments to the plans and definitions,  
11 with the superintendent for approval, and assign each  
12 compensation risk written by its members to its  
13 approved classification for reporting purposes;

14 B. Establish requirements for data reporting and moni-  
15 toring methods to maintain a high quality data base;

16 C. Collect, compile, summarize and distribute data  
17 from members or other sources pursuant to a statistical  
18 plan approved by the superintendent;

19 D. Prepare a merit rating plan and calculate any vari-  
20 able factors necessary for the utilization of that  
21 plan. Such a plan may be used by any of its members,  
22 at the option of the member, provided that the applica-  
23 tion of a plan shall not result in rates that are  
24 unfairly discriminatory;

25 E. Provide loss data specific to an insured at a  
26 reasonable cost;

27 F. Distribute information to an insured or interested  
28 party that is filed with the superintendent and is open  
29 to public inspection; and

30 G. Assess its members for operating expenses on a fair  
31 and equitable basis.

32 3. Permitted activity. In addition to any other ac-  
33 tivities not prohibited by sections 22-B to 22-M, any advi-  
34 sory organization may:

35 A. Collect and analyze data in order to investigate,  
36 identify and classify information relating to causes or  
37 prevention of losses;

1 B. Make inspections for the sole purpose of reporting  
2 and maintaining data quality;

3 C. Contract with another advisory organization to ful-  
4 fill any of the requirements of paragraphs A and B;

5 D. Prepare and file with the superintendent a rating  
6 plan for use by any of its members, provided that no  
7 member may be required to use any part of the plan;

8 E. Prepare and distribute pure premium data, adjusted  
9 for loss development and loss trending in accordance  
10 with its statistical plans. For a period of 2 years  
11 following the effective date of sections 22-B to 22-M,  
12 advisory organizations may prepare and distribute rates  
13 including expenses and profits; and

14 F. Prepare and administer an assigned risk plan in ac-  
15 cordance with section 22-L.

16 §22-J. Required and permitted activity for insurers

17 1. Required activity. Each insurer shall perform the  
18 following activities:

19 A. Maintain membership in and report loss experience  
20 data to a licensed advisory organization in accordance  
21 with the statistical plan and rules of the organization  
22 as approved by the superintendent;

23 B. Establish a plan for merit rating which shall be  
24 consistently applied to all insureds, provided that  
25 members of an advisory organization may use merit  
26 rating plans developed by that organization;

27 C. Provide an annual report to the superintendent con-  
28 taining the information and prepared in the form re-  
29 quired by the superintendent;

30 D. Keep a record of the premiums and losses paid under  
31 each workers' compensation policy written in this State  
32 in the form required by the superintendent; and

33 E. Participate as a servicing insurer in an assigned  
34 risk plan in accordance with section 22-L.

35 2. Permitted activity. In addition to any other ac-  
36 tivities not prohibited by sections 22-B to 22-M, insurers  
37 may:

1 A. Through licensed advisory organizations, individu-  
2 ally, or with insurers commonly owned, managed or con-  
3 trolled, conduct research and collect statistics to  
4 investigate, identify and classify information relating  
5 to causes or prevention of losses;

6 B. Develop and use classification plans and rates  
7 based upon any reasonable factors; and

8 C. Develop rules for the assignment of risks to clas-  
9 sifications.

10 §22-K. Examinations

11 1. Right to examine. The superintendent may examine  
12 any insurer, pool, advisory organization or residual market  
13 mechanism as he deems necessary to ascertain compliance with  
14 this Act.

15 2. Records. Every insurer assigned a risk pool, and  
16 an advisory organization shall maintain reasonable records  
17 of the type and kind reasonably adapted to its method of  
18 operation containing its experience or the experience of its  
19 members including the data, statistics or information col-  
20 lected or used by it in its activities. These records shall  
21 be available at all reasonable times to enable the superin-  
22 tendent to determine whether the activities of any advisory  
23 organization, insurer or plan comply with sections 22-B to  
24 22-M. These records shall be maintained in an office within  
25 this State or shall be made available to the superintendent  
26 for examination or inspection at any time upon reasonable  
27 notice.

28 3. Cost. The reasonable cost of an examination made  
29 pursuant to this section shall be paid by the examined party  
30 upon presentation to it of a detailed account of the costs.

31 4. Other status. In lieu of any such examination the  
32 superintendent may accept the report of an examination made  
33 by the insurance supervisory official of another state, pur-  
34 suant to the laws of that state.

35 §22-L. Assigned risk plan

36 1. Administration. The superintendent shall appoint a  
37 licensed advisory organization to administer the assigned  
38 risk plan. The appointed advisory organization shall submit  
39 to the superintendent for approval, a plan and rules for ad-  
40 ministering the assigned risk plan, including a method or

1 formula by which the organization is to be paid for adminis-  
2 trative services.

3       2. Rejection; notice. An insurer that refuses to  
4 write insurance for an applicant shall furnish the applicant  
5 a written notice of refusal and shall file a copy of the  
6 notice of refusal with the advisory organization appointed  
7 pursuant to subsection 1. Servicing insurers designated  
8 pursuant to subsection 3 shall accept and insure any appli-  
9 cant for workers' compensation insurance assigned pursuant  
10 to subsection 3.

11       3. Assignment. An insurer or insurers shall be desig-  
12 nated by the advisory organization, appointed pursuant to  
13 subsection 1, to issue a policy of workers' compensation  
14 insurance to an applicant which has been refused insurance.  
15 A policy shall contain the usual and customary provisions of  
16 workers' compensation insurance policies. In this under-  
17 taking, all insurers doing workers' compensation business in  
18 this State shall be reinsurers among themselves in the  
19 amount which the compensation insurance written in this  
20 State during the preceding calendar year by each insurer  
21 bears to the total compensation insurance written in this  
22 State during that calendar year by all insurers.

23 An insurer that issues a policy pursuant to this section  
24 shall receive an expense allowance which shall be adequate  
25 for services rendered, as approved by the superintendent.

26       4. Assigned risk rates. Insureds served by the work-  
27 ers' compensation insurance assigned risk plan shall be  
28 charged premiums based upon a rating plan, rates and a merit  
29 rating plan adopted by the superintendent by rule. This  
30 rating plan shall include a feature by which rates shall  
31 vary in relation to the number or proportion of insureds in  
32 the assigned risk plan in the preceding calendar year. The  
33 relationship shall be such that assigned risk rates shall  
34 vary upward as the number or proportion of insureds in the  
35 assigned risk plan decreases and downward as the number or  
36 proportion increases. Assigned risk premiums shall not be  
37 lower than the rates generally charged by insurers for the  
38 business.

#### 39 §22-M. Penalties

40       The superintendent may, if he finds that any person or  
41 organization has violated any provision of this section and  
42 sections 22-B to 22-L, impose a penalty of not more than  
43 \$1,000 for each violation, but if he finds the violation to  
44 be willful, he may impose a penalty of not more than \$10,000

1 for each violation. These penalties may be in addition to  
2 any other penalty provided by law.

3 For purposes of this section, any insurer using a rate  
4 for which the insurer has failed to file the rate, supple-  
5 mentary rate information, underwriting rules or guides or  
6 supporting information, as required by sections 22-B to  
7 22-L, shall have committed a separate violation for each day  
8 that failure continues.

9 The superintendent may suspend or revoke the license of  
10 any advisory organization or insurer which fails to comply  
11 with an order of the superintendent within the time limited  
12 by the order, or any extension thereof which the superinten-  
13 dent may grant.

14 The superintendent may determine when a suspension of  
15 license shall become effective and it shall remain in effect  
16 for the period fixed by him, unless he modifies or rescinds  
17 that suspension or until the order upon which that suspen-  
18 sion is based is modified, rescinded or reversed.

19 No penalty may be imposed and no license may be sus-  
20 pending or revoked except upon a written order of the super-  
21 intendent, stating his findings, made after a hearing.

## 22 STATEMENT OF FACT

23 This bill is designed to promote competitive pricing in  
24 workers' compensation insurance. The bill repeals the  
25 existing statutory language governing the approval of work-  
26 ers' compensation insurance policies and rates by the Super-  
27 intendent of Insurance and replaces it with 13 new and  
28 smaller sections.

29 Title 39, section 22 redeclares the superintendent's  
30 general authority to approve rates and policies and the re-  
31 quirement that all rates and policies be approved before  
32 becoming effective.

33 Section 22-B is a definitional section defining 10  
34 important terms.

35 Section 22-C provides that "competitive market" is pre-  
36 sumed to exist unless the superintendent finds otherwise.  
37 The section suggests tests for determining whether competi-  
38 tion exists.

1 Section 22-D prohibits excessive, inadequate or unfair-  
2 ly discriminatory rates and establishes standards for deter-  
3 mination of those terms.

4 Section 22-E establishes the time and manner of rate  
5 filings in competitive and noncompetitive markets, and cre-  
6 ates a 2-year transition period from a "file and use" method  
7 to a "use and file" method.

8 Section 22-F sets forth the timing, bases and procedure  
9 for disapproval of rates and requires the superintendent to  
10 set rates upon request of an insurer whose rates have been  
11 disapproved.

12 Section 22-G provides for licensing of advisory rating  
13 organizations.

14 Section 22-H prohibits insurers and advisory rating  
15 organizations from monopolizing or restraining trade or  
16 agreeing to use rates or rating plans, except as specifi-  
17 cally authorized.

18 Section 22-I prohibits advisory organizations from  
19 refusing services or membership to insurers and bars their  
20 participation in developing rates or rating plans, except as  
21 specifically authorized. The section also requires such  
22 organizations to file statistical plans for approval, estab-  
23 lish data reporting requirements, collect data and prepare a  
24 merit rating plan, as well as permits such organizations to  
25 collect data, make inspections, file a rating plan, prepare  
26 and distribute full advisory rates for a 2-year transition  
27 period, and then to prepare and distribute pure premium  
28 rates and administer an approved assigned risk plan.

29 Section 22-J requires insurers to be members of and  
30 report loss data to an advisory organization and participate  
31 in an approved assigned risk plan and permits insurers to  
32 develop classification plans and to conduct loss research.

33 Section 22-K permits the superintendent to examine any  
34 insurer or advisory organization, at its expense, and re-  
35 quires insurers and advisory organizations to make records  
36 available to the superintendent.

37 Section 22-L requires the superintendent to appoint an  
38 advisory organization to administer approved assigned risk  
39 plans and provides that rates shall be approved by the  
40 superintendent.



1 Section 22-M provides that any insurer or advisory  
2 organization violating this Act is subject to a civil pen-  
3 alty and license suspension or revocation.

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