*** § 2316. Prohibition of anti-competitive behavior.** (a) (1) No insurer or rate service organization shall monopolize or attempt to monopolize, or combine or conspire with any other person or persons to monopolize, in any territory, the business of insurance or any kind, subdivision or class thereof.

(2) No insurer or rate service organization shall agree with any other insurer or rate service organization to charge or adhere to any rate, although insurers and rate service organizations may continue to exchange statistical information.

(3) No insurer or rate service organization shall make any agreement with any other insurer, rate service organization or other person to restrain trade.

(4) No insurer or rate service organization shall make any agreement with any other insurer, rate service organization or other person the effect of which may be substantially to lessen competition in any territory or in any kind, subdivision or class of insurance.

(5) No insurer may acquire or retain any capital stock or assets of, or have any common management with, any other insurer or insurers, if the effect of such acquisition, retention or common management may be substantially to lessen competition in any territory or in any kind, subdivision or class of insurance.

(6) No insurer or rate service organization shall make any agreement with any other insurer or rate service organization to refuse to deal with any person in connection with the sale of insurance.

(7) No rate service organization or member or subscriber thereof shall interfere with the right of any insurer to make its rates independently of such rate service organization or to charge rates different from the rates made by such rate service organization.

(8) No member of or subscriber to a rate service organization shall refuse to do business with, or prohibit or prevent the payment of commissions to, any licensed agent or broker on the ground that such agent or broker does business with an insurer which makes its rates, or any portion thereof, independently of such rate service organization.

(9) Nothing contained in this article shall be construed as requiring any insurer to become a member of or a subscriber to any rate service organization, or as preventing any insurer, while a member of or subscriber to a rate service organization, from making its own rates for

any kind, subdivision or class of insurance, for which it does not elect to authorize the rate service organization to act on its behalf.

(10) Any insurer which is a member of or subscriber to a rate service organization may make its own rates for any kind, subdivision or class of insurance. No rate service organization shall have authority to act on behalf of any insurer which is a member of or subscriber to such rate service organization except as authorized in writing by such member or subscriber, which authority may be supplemented, modified or revoked, in whole or in part, at any time by such member or subscriber at its option.

(11) No rate service organization shall have or adopt any rule or exact any agreement, or formulate or engage in any program, the effect of which would be to require any member, subscriber or other insurer to utilize some or all of its ratings services, or to adhere to its rates, rating plans, rating systems, underwriting rules, or policy forms, or to prevent any insurer from acting independently.

(b) (1) Any rate made in violation of subsection (a) hereof shall be disapproved by the superintendent pursuant to the applicable procedures prescribed in subsection (b) of section two thousand three hundred twenty of this article, and each violator shall be subject to the penalties of subsection (c) of such section.

(2) The superintendent, through the attorney general, and any person injured in his business or property by reason of anything forbidden in subsection (a) hereof, may maintain an action to enjoin any violation of such subsection.

(3) Any person injured in his business or property by reason of anything forbidden in subsection (a) hereof may maintain an action and shall recover threefold the damages sustained by him.

(c) Nothing in this section shall be construed as applying to or prohibiting cooperative action authorized and regulated under this article. Nor shall this section apply to kinds of insurance or insurance activities the rates for which are subject to prior approval pursuant to subsection (b) of section two thousand three hundred five of this article, except that this article shall not be construed as requiring an insurer to become a member of or subscriber to a rate service organization.

* NB Expires July 1, 2026