*** § 2320. Enforcement and penalties; where prior approval is not required.** (a) The superintendent may as often as he deems it expedient examine any insurer or rate service organization to ascertain whether its rating and underwriting practices are in accordance with law. Rate service organizations which make or file rates, whether or not advisory, shall be examined at least once in every five years pursuant to the provisions of this chapter applicable to the examination of insurers. Filed reports on examinations shall be available for public inspection at the department.

(b) (1) If the superintendent determines after a hearing that any rate used by an insurer does not comply with the applicable provisions of this article, he shall order that the rate be disapproved, and the order may include provision for premium adjustment. The order may also require that, for such period of time as the superintendent may determine, subsequent rate filings of the insurer subject to subsection (a) of section two thousand three hundred five of this article shall not become effective unless the filings are made in accordance with the provisions of subsection (b) of such section.

(2) The superintendent may, upon fifteen days prior written notice:

(A) order the suspension, prospectively, of a rate used by an insurer and reimpose the last previous rate in effect; or

(B) order the suspension, prospectively, of a rate used by an insurer and determine an adjusted rate that complies with the standards set forth in this article.

In any such event, the insurer may within that same fifteen day period make a written request for a hearing, in which event the superintendent may establish an interim rate by reimposing the last previous rate in effect or determining an adjusted rate pursuant to subparagraphs (A) and (B), respectively, of this paragraph. This interim rate shall remain effective pending the close of the hearing, which shall be held within fifteen days of the insurer's request. Within fifteen days after the close of the hearing, the superintendent shall determine the rate that complies with the standards set forth in this article based upon the hearing record, and the rate so determined shall apply prospectively for a period not to exceed one year.

(3) At any such hearing, the insurer shall have the burden of justifying the rate in question. All such determinations of the

superintendent shall be on the basis of findings of fact and conclusions. Nothing in this subsection shall preclude the superintendent from determining that the last previous rate in effect or the rate filed by the insurer or rate service organization complies with the standards set forth in this article. Nothing in this subsection shall preclude the insurer or a rate service organization from making or modifying any rate filing at any time.

(c) If the superintendent, after notice and hearing, finds that any insurer, rate service organization or other person has violated the applicable provisions of this article, he shall order the payment of a penalty. The issuance, procurement or negotiation of a single policy of insurance shall be deemed a separate offense. A penalty not to exceed one thousand dollars may be imposed for each such offense. A further penalty not to exceed two thousand five hundred dollars may be imposed for each offense in which the superintendent finds that there was a knowing violation, provided that a minumum penalty of at least twenty-five thousand dollars shall be imposed regardless of the number of such knowing offenses.

(d) This section shall be applicable to kinds of insurance or insurance activities the rates for which are not subject to prior approval and which are subject to this article.

* NB Expires July 1, 2026