§ 2321. Enforcement and penalties; where prior approval is required. (a) Rate service organizations shall be subject to examination by the superintendent, as often as he may deem it expedient, pursuant to the provisions of this chapter applicable to the examination of insurers. Rate service organizations which make rates, whether or not advisory, shall be examined at least once in every five years.

(b) (1) If the superintendent finds that any rate filing theretofore filed does not comply with the provisions of this article or that such filing provides rates or rules which are inadequate, excessive, unfairly discriminatory, destructive of competition, detrimental to the solvency of the insurer, or otherwise unreasonable, the superintendent may order the filing withdrawn and the rate suspended prospectively upon fifteen days prior written notice to the rate service organization or to the insurer which filed them, provided, however, such rate service organization or insurer may request a hearing, in which case no withdrawal or suspension shall become effective pending the close of the hearing, which shall be held within fifteen days of the request. Within fifteen days after the close of the hearing, the superintendent shall determine an adjusted rate based upon the hearing record deemed to be in compliance with the standards set forth in this article, and the rate so determined shall apply prospectively for a period not to exceed one year.

(2) At any such hearing, the insurer or rate service organization 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) Whenever the superintendent finds, after notice and a hearing, that unfair discrimination exists in the making or in the application of rates made or used by any rate service organization or by any authorized insurer, he may order that the rate service organization or the insurer remove the discrimination; but the same shall not be removed by increasing the rate on any risk affected by the order unless the rate is

approved by the superintendent as reasonable. Before making such order, the superintendent shall give notice to the rate service organization, if any, which made such rate, and to all insurers and other persons which he may deem directly affected thereby. Every rate service organization receiving any such notice shall promptly notify all its members or subscribers who would be affected by the order, and notice to such rate service organization shall be deemed notice to its members or subscribers.

(d) Proceedings pursuant to subsections (b) and (c) hereof may be instituted upon the initiative of the superintendent or upon written application to the superintendent by any aggrieved person or organization, other than a rate service organization, for a hearing, if the superintendent finds that the application is made in good faith and that the grounds otherwise justify holding such a hearing.

(e) Any person, association, corporation or rate service organization wilfully violating the applicable provisions of this article shall, in addition to any other penalty provided by law, be liable to the people of this state for a penalty in an amount not less than twenty-five dollars nor more than one thousand dollars for each offense. If the superintendent finds after notice and hearing, that any authorized insurer, licensed agent or licensed insurance broker has wilfully violated any of the provisions of this article, he may, in lieu of any other penalty provided by law, order the insurer, agent or broker, as the case may be, to pay to the people of this state a penalty in the sum of one hundred dollars, for each offense, and the failure of any such person to pay the penalty within thirty days after the making of the order, unless the order is suspended by a court of competent jurisdiction, shall constitute a violation of the provisions of this chapter. Within the meaning of this subsection, the issuance, procurement or negotiation of each policy of insurance, by an insurer, agent or broker, as the case may be, in willful violation of the provisions of this article shall be deemed a separate offense.

(f) This section shall be applicable to kinds of insurance or insurance activities the rates for which are subject to prior approval and which are subject to this article.