*** § 2350. Flexible rating for nonbusiness automobile insurance policies.** (a) Except as provided in subsection (b) of this section, overall average (for all coverages combined) rate level increases or decreases of five percent above or below the insurer's rates in effect may take effect without prior approval with respect to rates for policies covering losses or liabilities arising out of the ownership of a motor vehicle predominantly used for nonbusiness purposes, including classification plans predominantly consisting of vehicles used for nonbusiness purposes, when a natural person is the named insured under a policy of automobile insurance.

(b) Notwithstanding any other provisions of this article, for any policies governed by this section, filings that produce rate level changes within the limitation specified in subsection (a) of this section shall become effective without prior approval pursuant to subsection (a) of section two thousand three hundred five of this article, provided however (1) that no more than two rate increases the total of which shall not exceed the limitation specified in subsection (a) of this section may be implemented during any twelve month period; and (2) no rate increase within the limitation specified in subsection (a) of this section may be implemented until the onset of the new policy period and unless the insurer, at least thirty but not more than sixty days in advance of the end of the policy period, mails or delivers to the named insured, at the address shown in the policy, a written notice of its intention to change the rate. The specific reason or reasons for the rate change shall be stated in or shall accompany the notice.

(c) The superintendent shall promulgate rules and regulations implementing the provisions of this section.

(d) The superintendent shall monitor the degree and continued existence of competition and the effectiveness of flexible rating in this state on an on-going basis. In doing so, the superintendent shall utilize the following standards or factors:

(1) the standards contained in section two thousand three hundred eight of this article;

(2) existing relevant information, analytical systems and other sources, or rely on some combination thereof;

(3) the number of insurers or group of affiliated insurers actively engaged in providing coverage, taking into account the specialization

traditionally required for insurance in the particular rating territory;

(4) measures of market concentration and changes of market concentration over time, which may include the use of Herfindahl-Hirschman Index (HHI) and the United States Department of Justice merge guidelines for an unconcentrated market ease of entry, and the existence of financial or economical barriers that could prevent new firms from entering the market;

(5) the extent to which any insurer or group of affiliated insurers controls all or a dominant portion of the market has actively sought to prevent competition;

(6) whether the total number of companies writing the line of insurance in this state is sufficient to provide multiple options;

(7) the availability of insurance coverage to consumers;

(8) the opportunities available to consumers in the market to acquire pricing and other consumer information; and

(9) any other factions relevant to inquiry.

Such activities may be conducted internally within the department, in cooperation with other state insurance departments, through outside contractors and/or in any other appropriate manner.

* NB Effective until November 27, 2026

* § 2350. Flexible rating for nonbusiness automobile insurance policies. (a) Except as provided in subsection (b) of this section, overall average (for all coverages combined) rate level decreases of five percent below the insurer's rates in effect may take effect without prior approval with respect to rates for policies covering losses or liabilities arising out of the ownership of a motor vehicle predominantly used for nonbusiness purposes, including classification plans predominantly consisting of vehicles used for nonbusiness purposes, when a natural person is the named insured under a policy of automobile insurance.

(b) Notwithstanding any other provisions of this article, for any policies governed by this section, filings that produce rate level changes within the limitation specified in subsection (a) of this section shall become effective without prior approval pursuant to subsection (a) of section two thousand three hundred five of this article.

(c) The superintendent shall promulgate rules and regulations implementing the provisions of this section.

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(2) existing relevant information, analytical systems and other sources, or rely on some combination thereof;

(3) the number of insurers or group of affiliated insurers actively engaged in providing coverage, taking into account the specialization traditionally required for insurance in the particular rating territory;

(4) measures of market concentration and changes of market concentration over time, which may include the use of Herfindahl-Hirschman Index (HHI) and the United States Department of Justice merge guidelines for an unconcentrated market ease of entry, and the existence of financial or economical barriers that could prevent new firms from entering the market;

(5) the extent to which any insurer or group of affiliated insurers controls all or a dominant portion of the market has actively sought to prevent competition;

(6) whether the total number of companies writing the line of insurance in this state is sufficient to provide multiple options;

(7) the availability of insurance coverage to consumers;

(8) the opportunities available to consumers in the market to acquire pricing and other consumer information; and

(9) any other factions relevant to inquiry.

Such activities may be conducted internally within the department, in cooperation with other state insurance departments, through outside contractors and/or in any other appropriate manner.

* NB Effective November 27, 2026

* NB Repealed May 27, 2030