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INSURANCE CODE - INS

DIVISION 1. GENERAL RULES GOVERNING INSURANCE [100 - 1879.8] (*Division 1 enacted by Stats. 1935, Ch. 145.*)

PART 2. THE BUSINESS OF INSURANCE [680 - 1879.8] (*Part 2 enacted by Stats. 1935, Ch. 145.*)

CHAPTER 9. Rates and Rating and Other Organizations [1850.4 - 1861.16] (*Chapter 9 added by Stats. 1947, Ch. 805.*)

ARTICLE 10. [Reduction and Control of Insurance Rates] [1861.01 - 1861.16] (*Article 10 added November 8, 1988, by initiative Proposition 103, Sec. 3.*)

1861.01. Insurance Rate Rollback. (a) For any coverage for a policy for automobile and any other form of insurance subject to this chapter issued or renewed on or after November 8, 1988, every insurer shall reduce its charges to levels which are at least 20% less than the charges for the same coverage which were in effect on November 8, 1987.

(b) Between November 8, 1988, and November 8, 1989, rates and premiums reduced pursuant to subdivision (a) may be only increased if the commissioner finds, after a hearing, that an insurer is substantially threatened with insolvency.

(c) Commencing November 8, 1989, insurance rates subject to this chapter must be approved by the commissioner prior to their use.

(d) For those who apply for an automobile insurance policy for the first time on or after November 8, 1988, the rate shall be 20% less than the rate which was in effect on November 8, 1987, for similarly situated risks.

(e) Any separate affiliate of an insurer, established on or after November 8, 1987, shall be subject to the provisions of this section and shall reduce its charges to levels which are at least 20% less than the insurer's charges in effect on that date.

(*Added November 8, 1988, by initiative Proposition 103.*)

1861.02. (a) Rates and premiums for an automobile insurance policy, as described in subdivision (a) of Section 660, shall be determined by application of the following factors in decreasing order of importance:

(1) The insured's driving safety record.

(2) The number of miles he or she drives annually.

(3) The number of years of driving experience the insured has had.

(4) Those other factors that the commissioner may adopt by regulation and that have a substantial relationship to the risk of loss. The regulations shall set forth the respective weight to be given each factor in determining automobile rates and premiums. Notwithstanding any other provision of law, the use of any criterion without approval shall constitute unfair discrimination.

(b) (1) Every person who meets the criteria of Section 1861.025 shall be qualified to purchase a Good Driver Discount policy from the insurer of his or her choice. An insurer shall not refuse to offer and sell a Good Driver Discount policy to any person who meets the standards of this subdivision.

(2) The rate charged for a Good Driver Discount policy shall comply with subdivision (a) and shall be at least 20 percent below the rate the insured would otherwise have been charged for the same coverage. Rates for Good Driver Discount policies shall be approved pursuant to this article.

(3) (A) This subdivision shall not prevent a reciprocal insurer, organized prior to November 8, 1988, by a motor club holding a certificate of authority under Chapter 2 (commencing with Section 12160) of Part 5 of Division 2, and that requires membership in the motor club as a condition precedent to applying for insurance from requiring membership in the motor club as a condition precedent to obtaining insurance described in this subdivision.

(B) This subdivision shall not prevent an insurer that requires membership in a specified voluntary, nonprofit organization, which was in existence prior to November 8, 1988, as a condition precedent to applying for insurance issued to or through those membership groups, including franchise groups, from requiring that membership as a condition to applying for the coverage offered to members of the group, provided that it or an affiliate also offers and sells coverage to those who are not members of those membership groups.

(C) However, all of the following conditions shall be applicable to the insurance authorized by subparagraphs (A) and (B):

(i) Membership, if conditioned, is conditioned only on timely payment of membership dues and other bona fide criteria not based upon driving record or insurance, provided that membership in a motor club may not be based on residence in any area within the state.

(ii) Membership dues are paid solely for and in consideration of the membership and membership benefits and bear a reasonable relationship to the benefits provided. The amount of the dues shall not depend on whether the member purchases insurance offered by the membership organization. None of those membership dues or any portion thereof shall be transferred by the membership organization to the insurer, or any affiliate of the insurer, attorney-in-fact, subsidiary, or holding company thereof, provided that this provision shall not prevent any bona fide transaction between the membership organization and those entities.

(iii) Membership provides bona fide services or benefits in addition to the right to apply for insurance. Those services shall be reasonably available to all members within each class of membership.

Any insurer that violates clause (i), (ii), or (iii) shall be subject to the penalties set forth in Section 1861.14.

(c) The absence of prior automobile insurance coverage, in and of itself, shall not be a criterion for determining eligibility for a Good Driver Discount policy, or generally for automobile rates, premiums, or insurability.

(d) An insurer may refuse to sell a Good Driver Discount policy insuring a motorcycle unless all named insureds have been licensed to drive a motorcycle for the previous three years.

(e) This section shall become operative on November 8, 1989. The commissioner shall adopt regulations implementing this section and insurers may submit applications pursuant to this article which comply with those regulations prior to that date, provided that no such application shall be approved prior to that date.

(Amended by Stats. 2015, Ch. 348, Sec. 14. (AB 1515) Effective January 1, 2016. Note: This section was added on Nov. 8, 1988, by initiative Prop. 103.)

1861.025. A person is qualified to purchase a Good Driver Discount policy if he or she meets all of the following criteria:

(a) He or she has been licensed to drive a motor vehicle for the previous three years.

(b) During the previous three years, he or she has not done any of the following:

(1) Had more than one violation point count determined as provided by subdivision (a), (b), (c), (d), (f), or (j) of, or paragraph (1) of subdivision (i) of, Section 12810 of the Vehicle Code, but subject to the following modifications:

(A) For the purposes of this section, the driver of a motor vehicle involved in an accident for which he or she was principally at fault that resulted only in damage to property shall receive one violation point count, in addition to any other violation points that may be imposed for this accident.

(B) If, under Section 488 or 488.5, an insurer is prohibited from increasing the premium on a policy on account of a violation, that violation shall not be included in determining the point count of the person.

(C) If a violation is required to be reported under Section 1816 of the Vehicle Code, or under Section 784 of the Welfare and Institutions Code, or any other provision requiring the reporting of a violation by a minor, the violation shall be included for the purposes of this section in determining the point count in the same manner as is applicable to adult violations.

(2) Had more than one dismissal pursuant to Section 1803.5 of the Vehicle Code that was not made confidential pursuant to Section 1808.7 of the Vehicle Code, in the 36-month period for violations that would have resulted in the imposition of more than one violation point count under paragraph (1) if the complaint had not been dismissed.

(3) Was the driver of a motor vehicle involved in an accident that resulted in bodily injury or in the death of any person and was principally at fault. The commissioner shall adopt regulations setting guidelines to be used by insurers for the determination of fault for the purposes of this paragraph and paragraph (1).

(c) During the period commencing on January 1, 1999, or the date 10 years prior to the date of application for the issuance or renewal of the Good Driver Discount policy, whichever is later, and ending on the date of the application for the issuance or renewal of the Good Driver Discount policy, he or she has not been convicted of a violation of Section 23140, 23152, or 23153 of the Vehicle Code, a felony violation of Section 23550 or 23566, or former Section 23175 or, as those sections read on January 1, 1999, of the Vehicle Code, or a violation of Section 191.5 or subdivision (a) of Section 192.5 of the Penal Code.

(d) Any person who claims that he or she meets the criteria of subdivisions (a), (b), and (c) based entirely or partially on a driver's license and driving experience acquired anywhere other than in the United States or Canada is rebuttably presumed to be qualified to purchase a Good Driver Discount policy if he or she has been licensed to drive in the United States or Canada for at least the previous 18 months and meets the criteria of subdivisions (a), (b), and (c) for that period.

(Amended by Stats. 2015, Ch. 348, Sec. 15. (AB 1515) Effective January 1, 2016.)

1861.03. (a) The business of insurance shall be subject to the laws of California applicable to any other business, including, but not limited to, civil rights laws (Sections 51 to 53, inclusive, of the Civil Code), and the antitrust and unfair business practices laws (Parts 2 (commencing with Section 16600) and 3 (commencing with Section 17500) of Division 7 of the Business and Professions Code).

(b) Nothing in this section shall be construed to prohibit (1) any agreement to collect, compile and disseminate historical data on paid claims or reserves for reported claims, provided such data is contemporaneously transmitted to the commissioner, (2) participation in any joint arrangement established by statute or the commissioner to assure availability of insurance, (3) any agent or broker, representing one or more insurers, from obtaining from any insurer it represents information relative to the premium for any policy or risk to be underwritten by that insurer, (4) any agent or broker from disclosing to an insurer it represents any quoted rate or charge offered by another insurer represented by that agent or broker for the purpose of negotiating a lower rate, charge, or term from the insurer to whom the disclosure is made, or (5) any agents, brokers, or insurers from utilizing or participating with multiple insurers or reinsurers for underwriting a single risk or group of risks.

(c) (1) Notwithstanding any other provision of law, a notice of cancellation or nonrenewal of a policy for automobile insurance shall be effective only if it is based on one or more of the following reasons: (A) nonpayment of premium; (B) fraud or material misrepresentation affecting the policy or insured; (C) a substantial increase in the hazard insured against.

(2) This subdivision shall not prevent a reciprocal insurer, organized prior to November 8, 1988, by a motor club holding a certificate of authority under Chapter 2 (commencing with Section 12160) of Part 5 of Division 2, and which requires membership in the motor club as a condition precedent to applying for insurance, from issuing an effective notice of nonrenewal based solely on the failure of the insured to maintain membership in the motor club. This subdivision shall also not prevent an insurer which issues private passenger automobile coverage to members of groups that were in existence prior to November 8, 1988, whether membership, franchise, or otherwise, and to those who are not members of groups from issuing an effective notice of nonrenewal for coverage provided to the insured as a member of the group based solely on the failure of the insured to maintain that membership if (i) the insurer offers to renew the coverage to the insured on a nongroup basis, or (ii) to transfer the coverage to an affiliated insurer. The rates charged by the insurer or affiliated insurer shall have been adopted pursuant to this article. However, all of the following conditions shall be applicable to that insurance:

(A) Membership, if conditioned, is conditioned only on timely payment of membership dues and other bona fide criteria not based upon driving record or insurance, provided that membership in a motor club may not be based on residence in any area within the state.

(B) Membership dues are paid solely for and in consideration of the membership and membership benefits and bear a reasonable relationship to the benefits provided. The amount of the dues shall not depend on whether the member purchases insurance offered by the membership organization. None of those membership dues or any portion thereof shall be transferred by the membership organization to the insurer, or any affiliate of the insurer, attorney-in-fact, subsidiary, or holding company thereof, provided that this provision shall not prevent any bona fide transaction between the membership organization and those entities.

(C) Membership provides bona fide services or benefits in addition to the right to apply for insurance. Those services shall be reasonably available to all members within each class of membership.

Any insurer that violates subparagraphs (A), (B), or (C) shall be subject to the penalties set forth in Section 1861.14.

(Amended by Stats. 2018, Ch. 776, Sec. 13. (AB 3250) Effective January 1, 2019. Note: This section was added on Nov. 8, 1988, by initiative Prop. 103.)

1861.04. Full Disclosure of Insurance Information. (a) Upon request, and for a reasonable fee to cover costs, the commissioner shall provide consumers with a comparison of the rate in effect for each personal line of insurance for every insurer.

(Added November 8, 1988, by initiative Proposition 103.)

1861.05. Approval of Insurance Rates. (a) No rate shall be approved or remain in effect which is excessive, inadequate, unfairly discriminatory or otherwise in violation of this chapter. In considering whether a rate is excessive, inadequate or unfairly discriminatory, no consideration shall be given to the degree of competition and the commissioner shall consider whether the rate mathematically reflects the insurance company's investment income.

(b) Every insurer which desires to change any rate shall file a complete rate application with the commissioner. A complete rate application shall include all data referred to in Sections 1857.7, 1857.9, 1857.15, and 1864 and such other information as the commissioner may require. The applicant shall have the burden of proving that the requested rate change is justified and meets the requirements of this article.

(c) The commissioner shall notify the public of any application by an insurer for a rate change. The application shall be deemed approved sixty days after public notice unless (1) a consumer or his or her representative requests a hearing within forty-five days of public notice and the commissioner grants the hearing, or determines not to grant the hearing and issues written findings in support of that decision, or (2) the commissioner on his or her own motion determines to hold a hearing, or (3) the proposed rate adjustment exceeds 7% of the then applicable rate for personal lines or 15% for commercial lines, in which case the commissioner must hold a hearing upon a timely request. In any event, a rate change application shall be deemed approved 180 days after the rate application is received by the commissioner (A) unless that application has been disapproved by a final order of the commissioner subsequent to a hearing, or (B) extraordinary circumstances exist. For purposes of this section, "received" means the date delivered to the department.

(d) For purposes of this section, extraordinary circumstances include the following:

(1) Rate change application hearings commenced during the 180-day period provided by subdivision (c). If a hearing is commenced during the 180-day period, the rate change application shall be deemed approved upon expiration of the 180-day period or 60 days after the close of the record of the hearing, whichever is later, unless disapproved prior to that date.

(2) Rate change applications that are not approved or disapproved within the 180-day period provided by subdivision (c) as a result of a judicial proceeding directly involving the application and initiated by the applicant or an intervenor. During the pendency of the judicial proceedings, the 180-day period is tolled, except that in no event shall the commissioner have less than 30 days after conclusion of the judicial proceedings to approve or disapprove the application. Notwithstanding any other provision of law, nothing shall preclude the commissioner from disapproving an application without a hearing if a stay is in effect barring the commissioner from holding a hearing within the 180-day period.

(3) The hearing has been continued pursuant to Section 11524 of the Government Code. The 180-day period provided by subdivision (c) shall be tolled during any period in which a hearing is continued pursuant to Section 11524 of the Government Code. A continuance pursuant to Section 11524 of the Government Code shall be decided on a case by case basis. If the hearing is commenced or continued during the 180-day period, the rate change application shall be deemed approved upon the expiration of the 180-day period or 100 days after the case is submitted, whichever is later, unless disapproved prior to that date.

(Amended by Stats. 1993, Ch. 646, Sec. 1. Effective October 1, 1993. Applicable as prescribed by Stats. 1992, Ch. 1257, Sec. 3, as amended by Sec. 2 of Ch. 646. Note: This section was added on Nov. 8, 1988, by initiative Prop. 103.)

1861.055. (a) The commissioner shall adopt regulations governing hearings required by subdivision (c) of Section 1861.05 on or before 120 days after the enactment of this section. Those regulations shall, at the minimum, include timelines for scheduling and commencing hearings, and procedures to prevent delays in commencing or continuing hearings without good cause.

(b) The sole remedy for failure by the commissioner to adopt the regulations required by subdivision (a) within the prescribed period or to abide by those regulations once adopted shall be a writ of mandate by any aggrieved party in a court of competent jurisdiction to compel the commissioner to adopt those regulations, or commence or resume hearings.

(c) Nothing in this section shall preclude the commissioner from commencing hearings required by subdivision (c) of Section 1861.05 prior to adopting the regulations required by this section.

(d) The administrative law judge shall render a decision within 30 days of the closing of the record in the proceeding.

(Added by Stats. 1990, Ch. 1583, Sec. 1. Effective September 30, 1990.)

1861.06. Public notice required by this article shall be made through distribution to the news media and to any member of the public who requests placement on a mailing list for that purpose.

(Added November 8, 1988, by initiative Proposition 103.)

1861.07. All information provided to the commissioner pursuant to this article shall be available for public inspection, and the provisions of Section 7929.000 of the Government Code and Section 1857.9 of the Insurance Code shall not apply thereto.

(Amended by Stats. 2021, Ch. 615, Sec. 306. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Sec. 463 of Stats. 2021, Ch. 615.)

1861.08. Hearings shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that:

(a) Hearings shall be conducted by administrative law judges for purposes of Sections 11512 and 11517, chosen under Section 11502 or appointed by the commissioner.

(b) Hearings are commenced by a filing of a notice in lieu of Sections 11503 and 11504.

(c) The commissioner shall adopt, amend, or reject a decision only under Section 11518.5 and subdivisions (b), (c), and (e) of Section 11517 and solely on the basis of the record as provided in Section 11425.50 of the Government Code.

(d) Notwithstanding Section 11501, Section 11430.30 and subdivision (b) of Section 11430.70 shall not apply in these hearings.

(e) Discovery shall be liberally construed and disputes determined by the administrative law judge as provided in Section 11507.7 of the Government Code.

(Amended by Stats. 1996, Ch. 390, Sec. 10. Effective August 19, 1996. Operative July 1, 1997, by Sec. 11 of Ch. 390. Note: This section was added on Nov. 8, 1988, by initiative Prop. 103.)

1861.09. Judicial review shall be in accordance with Section 1858.6. For purposes of judicial review, a decision to hold a hearing is not a final order or decision; however, a decision not to hold a hearing is final.

(Added November 8, 1988, by initiative Proposition 103.)

1861.10. Consumer Participation. (a) Any person may initiate or intervene in any proceeding permitted or established pursuant to this chapter, challenge any action of the commissioner under this article, and enforce any provision of this article.

(b) The commissioner or a court shall award reasonable advocacy and witness fees and expenses to any person who demonstrates that (1) the person represents the interests of consumers, and, (2) that he or she has made a substantial contribution to the adoption of any order, regulation, or decision by the commissioner or a court. Where such advocacy occurs in response to a rate application, the award shall be paid by the applicant.

(c) All requests for a finding of eligibility to seek compensation and all findings of eligibility, as described in Section 2662.2 of Title 10 of the California Code of Regulations, shall be published on the Department of Insurance Internet Web site during the eligibility period.

(Amended by Stats. 2012, Ch. 100, Sec. 1. (AB 2406) Effective January 1, 2013. Note: This section was added on Nov. 8, 1988, by initiative Prop. 103.)

1861.11. Emergency Authority. In the event that the commissioner finds that (a) insurers have substantially withdrawn from any insurance market covered by this article, including insurance described by Section 660, and (b) a market assistance plan would not be sufficient to make insurance available, the commissioner shall establish a joint underwriting authority in the manner set forth by Section 11891, without the prior creation of a market assistance plan.

(Added November 8, 1988, by initiative Proposition 103.)

1861.12. Group Insurance Plans. Any insurer may issue any insurance coverage on a group plan, without restriction as to the purpose of the group, occupation or type of group. Group insurance rates shall not be considered to be unfairly discriminatory, if they are averaged broadly among persons insured under the group plan.

(Added November 8, 1988, by initiative Proposition 103.)

1861.13. Application. This article shall apply to all insurance on risks or on operations in this state, except those listed in Section 1851.

(Added November 8, 1988, by initiative Proposition 103.)

1861.137. (a) Notwithstanding Section 1861.13, credit insurance shall not be subject to Sections 1861.01 and 1861.05. However, any rate for credit insurance shall be filed with the commissioner before it may be used in this state, and that rate may be used immediately upon filing with the commissioner.

(b) The rates for credit insurance shall not be excessive, inadequate, unfairly discriminatory, or otherwise in violation of this chapter, except Sections 1861.01 and 1861.05.

(Added by Stats. 1990, Ch. 1032, Sec. 4.)

1861.14. Enforcement & Penalties. Violations of this article shall be subject to the penalties set forth in Section 1859.1. In addition to the other penalties provided in this chapter, the commissioner may suspend or revoke, in whole or in part, the certificate of authority of any insurer which fails to comply with the provisions of this article.

(Added November 8, 1988, by initiative Proposition 103.)

1861.15. (a) An insurer issuing policies as described in subdivision (a) of Section 660, shall, as a condition of obtaining and maintaining a certificate of authority to transact the business of insurance in this state, offer to persons who qualify for a good driver discount pursuant to Sections 1861.02 and 1861.025, automobile liability coverage in the minimum financial responsibility coverage amounts specified in subdivision (a) of Section 16056 of the Vehicle Code, and sell that coverage to those who request it.

(b) In soliciting the issuance or renewal of a policy of automobile liability insurance, an insurer, broker, agent, or any other employee of the insurer shall disclose to persons eligible for a good driver discount the minimum financial responsibility coverage amounts required pursuant to Section 16056 of the Vehicle Code, and that the insurer is legally required to furnish coverage in those minimum amounts, if requested.

(c) Nothing in this section shall be construed to affect any obligation imposed on any insurer by law to offer and sell any other kind or amount of insurance.

(d) This section does not apply to any insurer that, on November 7, 1988, did not offer to sell a minimum financial responsibility policy as described in subdivision (a) and that did not write more than 1 percent of the private passenger automobile liability policies in effect on November 7, 1988.

(Added by Stats. 1990, Ch. 1185, Sec. 1. Effective September 24, 1990.)

1861.16. (a) An insurer issuing a policy described in subdivision (a) of Section 660 by or through an insurance agent where a commission is paid, directly or indirectly, to that agent shall, when issuing a policy in the minimum financial responsibility coverage amount as required by Section 1861.15, pay a commission on the same terms and on the same percentage basis to that agent as for any higher amount of policy coverage sold by that agent. In no case shall the percentage amount of commission paid to that agent for a policy of minimum financial responsibility coverage be less than the percentage commission paid to that agent on any higher level of policy coverage issued by that insurer.

(b) An agent or representative representing one or more insurers having common ownership or operating in California under common management or control shall offer, and the insurer shall sell, a good driver discount policy to a good driver from an insurer within that common ownership, management, or control group, which offers the lowest rates for that coverage. This requirement applies notwithstanding the underwriting guidelines of any of those insurers or the underwriting guidelines of the common ownership, management, or control group. Nothing in this subdivision shall require an insurer to offer and sell a good driver discount policy that the insurer would otherwise not be required to offer and sell in accordance with paragraph (3) of subdivision (b) of Section 1861.02. As used in this subdivision, "representative" means any person who offers or prepares premium quotations on behalf of either an insurer or any entity acting directly or indirectly on behalf of an insurer. This subdivision shall not be construed to either permit a representative to transact insurance, or to exempt a representative who does transact insurance from the licensing provisions of this code.

(c) (1) Notwithstanding subdivision (b), insurers having common ownership and operating in California under common control are not required to sell good driver discount policies issued by other insurers within the common ownership group if the commissioner determines that the insurers satisfy each of the following conditions:

(A) The business operations of the insurers are independently managed and directed.

(B) The insurers do not jointly develop loss or expense statistics or other data used in ratemaking, or in the preparation of rating systems or rate filings.

(C) The insurers do not jointly maintain or share loss or expense statistics, or other data used in ratemaking or in the preparation of rating systems or rate filings. This condition shall not apply if the data is generally available to the industry through a nonaffiliated third party and is obtained from that third party.

(D) The insurers do not utilize each others' marketing, sales, or underwriting data.

(E) The insurers act independently of each other in determining, filing, and applying base rates, factors, class plans, and underwriting rules, and in the making of insurance policy forms.

(F) The insurers' sales operations are separate.

(G) The insurers' marketing operations are separate.

(H) The insurers' policy service operations are separate.

(2) Notwithstanding Senate Bill 1 of the 2003–04 Regular Session (Chapter 241 of the Statutes of 2003), the federal Gramm-Leach-Bliley Act (Public Law 106-102), and the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 and following), the sharing of information between insurers as described in subparagraphs (A) to (H), inclusive, of paragraph (1) shall be more restrictive than may otherwise be permissible pursuant to those acts.

(d) Except to the extent restricted by subdivision (c) or any regulation adopted to implement subdivision (c), this section shall not be interpreted to restrict the right of an insurer or holding company to use aggregate data of its affiliated insurers having common ownership or operating in California under common control.

(e) Nothing in subdivision (c) is intended to amend, alter, or supersede other sections of this code, or other laws of this state, regarding any right of an insurer or holding company to use aggregate data of its affiliated insurers having common ownership or operating in California under common control.

(f) The commissioner may adopt regulations to implement this section.

(g) An insurer that is required by this section or Section 1861.02 to offer and sell good driver discount policies to good drivers to whom it did not sell those policies prior to November 8, 1988, due to driving safety record or vehicle type may file and, upon the approval of the commissioner, implement an interim rating plan for those applicants until the rating plan required by subdivision (a) of Section 1861.02 is adopted, provided that the insurer has timely filed an automobile insurance rating plan in compliance with subdivision (a) of Section 1861.02, and that plan has not been approved. An insurer may file an interim plan prior to the operative date of subdivision (b).

The commissioner shall notify the public of any application by an insurer for an interim rating plan. The public notice shall meet the requirements of Section 1861.06. The application shall be deemed approved 60 days after public notice unless (1) a consumer or his or her representative requests a hearing within 45 days of public notice and the commissioner grants the hearing, or determines not to grant the hearing and issues written findings in support of that decision, or (2) the commissioner on his or her own motion determines to hold a hearing. If the commissioner grants a request for a hearing or determines on his or her own motion to hold a hearing on the application for an interim rating plan, but does not approve or disapprove the proposed interim rating plan within the later of 30 days from the date the commissioner grants a request or determines to hold the hearing or January 1, 1991, the interim rating plan may be used until the time that the commissioner issues a decision.

If an interim rate or proposed interim rate is greater than the rate ultimately approved, the insurer shall refund to its applicable policyholders, in proportion to the amount of premium paid by each, the difference between the total amount earned and the amount to which the insurer is entitled under the rate ultimately approved, together with interest at the rate of 10 percent per year. In lieu of a refund, the insurer may provide a credit to the policyholder if the amount due is less than three dollars (\$3).

(h) Nothing contained in subdivision (b) or (c) shall be construed to expand, limit, or modify the requirements of subdivision (b) of Section 1861.02.

(i) A violation of this section by any insurer shall subject it to the penalties provided by Section 1861.14.

(Amended by Stats. 2004, Ch. 787, Sec. 1. Effective January 1, 2005.)