

§2412-A. Large commercial contracts

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Contract of insurance" means a contract of insurance, as defined in section 3, that provides for property or casualty insurance coverages or a combination of property or casualty insurance, excluding workers' compensation, medical malpractice, life, health and disability insurance. [PL 1999, c. 328, §1 (NEW).]

B. "Large commercial policyholder" means an insurance contract holder that is a corporation, partnership, trust, sole proprietorship or other business or public entity and that has certified that it meets:

(1) At least 2 of the following 3 criteria:

- (a) A net worth of \$10,000,000 as certified by a certified public accountant or public accountant authorized to do business in this State;
- (b) Net revenue or sales of \$5,000,000 as certified by a certified public accountant or public accountant authorized to do business in this State; or
- (c) A total of more than 25 employees per individual company or more than 50 employees per holding company; and

(2) The following criteria:

- (a) The use of an employed or retained risk manager to procure insurance. For purposes of this division, "risk manager" means a chartered property and casualty underwriter, a certified insurance counselor, an associate in risk management, a certified risk manager or a licensed insurance consultant; and
- (b) Aggregate property and casualty insurance premiums, excluding workers' compensation, medical malpractice, life, health and disability insurance premiums as follows:
 - (i) Until December 31, 2000, \$90,000;
 - (ii) From January 1, 2001 until December 31, 2001, \$75,000;
 - (iii) From January 1, 2002 until December 31, 2002, \$60,000; and
 - (iv) After January 1, 2003, \$50,000.

"Large commercial policyholder" also includes a nonprofit or public entity with an annual budget or assets of \$25,000,000 or more that meets the criteria listed in subparagraph (2) and a municipality with a population of 20,000 or more that meets the premium criteria listed in subparagraph (2), division (b).

A commercial policyholder that meets the premium criteria listed in subparagraph (2), division (b) but that does not meet 3 of the qualifying criteria listed in either subparagraph (1) or subparagraph (2), division (a) may petition the superintendent for a waiver of the remaining criteria. The superintendent may grant a waiver if the superintendent determines that the applicant for a waiver is sufficiently qualified to act as a large commercial policyholder. [PL 2001, c. 3, §1 (AMD).]
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2. Regulation of policy; establishing rates. The provisions of section 2412, subsections 1 to 5 and subsection 8; sections 2413, 2418, 2421 and 2438 to 2445; and chapter 25, subchapter 1, except for section 2303, subsection 1, paragraph B, as the provisions relate to the filing, approval and fixing of or establishing rates, do not apply to any contract of insurance issued to a large commercial

policyholder pursuant to this section. Section 2004, subsection 4 also does not apply to any contract of insurance issued pursuant to this section to a large commercial policyholder.

[PL 1999, c. 538, §2 (AMD); PL 1999, c. 538, §3 (AFF).]

3. Underwriting files. Notwithstanding subsection 2, an insurer issuing contracts of insurance to large commercial policyholders shall maintain underwriting files; premium, loss and expense statistics; claims files and records; written certification from the large commercial policyholder that it meets the criteria for a large commercial policyholder under subsection 1, paragraph B; and financial and other records with regard to such contracts that are subject to examination by the superintendent. A large commercial policyholder shall annually file a certification as a large commercial policyholder with the insurer.

[PL 1999, c. 328, §1 (NEW).]

4. Disclaimer required. Each policy issued to a large commercial policyholder pursuant to this section must include a disclaimer with language similar to the following:

"The contract provisions, rates and rating plans provided for in this policy are exempt from the filing and approval requirements of the Bureau of Insurance."

[PL 1999, c. 328, §1 (NEW).]

5. Suspension of program by superintendent. If the superintendent finds at any time that a sufficient degree of competition does not exist for a particular line, class or type of insurance, then the superintendent may deem the provisions of this section waived for so long as a sufficient degree of competition does not exist. After waiver by the superintendent, upon the request of 5 or more interested parties, the superintendent, within 45 days of the request, shall hold a hearing at which interested parties may present evidence as to whether a sufficient degree of competition exists for the particular line, class or type of insurance.

[PL 1999, c. 328, §1 (NEW).]

6. Annual report. An insurer that issues policies pursuant to this section shall report annually to the superintendent beginning on February 1, 2001 and continuing until February 1, 2005. The report must be made on a form prescribed by the superintendent and must include information relating to the number of policies issued each year sorted by line of insurance; the number of policies renewed each year sorted by line of insurance; and any other pertinent information required by the superintendent.

[PL 1999, c. 328, §1 (NEW).]

7. Bureau report. On or before March 1, 2005, the superintendent shall report to the joint standing committee of the Legislature have jurisdiction over insurance matters on the effects of this section. The report must contain the superintendent's recommendations as to any changes in the criteria established in this section to qualify as a large commercial policyholder.

[PL 1999, c. 328, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 328, §1 (NEW). PL 1999, c. 538, §§1,2 (AMD). PL 1999, c. 538, §3 (AFF). PL 2001, c. 3, §1 (AMD).

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