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AMENDMENT TO THE RULE FOR ESTABLISHMENT OF CONDITIONS AND PROCEDURES FOR PUBLIC INSPECTION AND COPYING OF INFORMATION AND OFFICIAL RECORDS OF THE INTERSTATE INSURANCE PRODUCT REGULATION COMMISSION

Purpose

In order to increase transparency in the review process to expand consumer protection and achieve consistency within the Rule, the rule for establishment of conditions and procedures for public inspection and copying of information and official records of the interstate insurance product regulation commission shall be amended as follows (new language is underlined, deleted language is struck through):

§ 102. Definitions.

(h) “Trade Secret” means any information, which may include, but is not limited to, a formula, pattern, compilation, program, device, method, technique or process, insurance actuarial formulas, statistics, supporting data, assumptions, underwriting guidelines, ***Innovative Product***, and credit scoring methodologies, that: a) derive independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from their disclosure or use, and b) are the subject of efforts that are reasonable under the circumstances to maintain their secrecy. ***An Innovative Product means a substantive and unique product design, construction and/or feature that is not currently approved for use in any state in which the filer does business, that the filer has demonstrated to the satisfaction of the Commission is likely to bestow a significant competitive advantage on the filer, and that otherwise satisfies the definition of Trade Secret set forth in this subsection (h). Technical changes such as a revision, modification or enhancement to an existing form, rider, or endorsement shall not be considered an Innovative Product. An Innovative Product shall become a Public Record upon approval of the filing.***

§ 103. Request for Access to Official Records.

....

(b) The following Records are not public and shall be exempt from inspection, examination and copying:

....

~~(11) Product filings that are pending approval, have been disapproved, or are withdrawn.~~ ***Product filings that the filer designates as an Innovative Product if the Commission determines that the filing is not an Innovative Product, and the filing is withdrawn before it is approved or***

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disapproved.

(c) All requests for access to Commission records shall be in writing and be sent or delivered by mail, electronic mail, hand-delivery or facsimile transmission. The Commission shall not accept verbal ~~or electronic mail~~ requests. All requests shall include:

....

§ 104. Response to Request for Public Records.

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(b) If a request is denied, in whole or in part, because it seeks Records that are not Public Records, the Custodian of Records shall send notice to the Requestor of the denial in writing within ten (10) working days of receipt of the request (or any longer period if extended pursuant to ~~Section 4~~ subsection (a) of this section) and the Requestor may appeal the denial as provided in ~~Article VII~~ Section 107 of this Rule. The notice of denial shall contain the following information:

(1) A description of the Record or portions of the Record to which access is denied provided the description does not disclose information exempt from disclosure.

(2) Identification of the category or categories that makes the Record exempt from disclosure under ~~Article III, Section 2~~ Section 103(b) of this Rule.

....

§ 105. Applicable Fees and Charges.

(a) Upon a request for a copy or certified copy of Public Records, the Commission shall prepare an invoice reflecting the applicable charge based on the total number of copies and any special service charges within the time provided in ~~Article IV, Section 1~~ Section 104(a) of this Rule.

....

§ 107. Appeals of Determination.

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(c) A notice of appeal must state the specific reasons upon which the Requestor asserts that a Record or any portion thereof qualifies as a Public Record, or upon which an Insurer claims the information qualifies as a Trade Secret. A notice of

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appeal that fails to comply with this requirement shall be dismissed for lack of specificity, but may be refiled within the period described in ~~Section 2~~ subsection (b) of this section. If a notice of appeal is not timely filed, the determination of the Custodian of Records shall be final and binding on the Requestor and the Insurer, as applicable.

....

(f) The Appeals Committee shall issue a written decision within sixty (60) calendar days of the mailing date of the notice of appeal, unless it has provided an Insurer with an opportunity to respond to a dispute involving Insurer's trade secret or it has requested oral testimony under ~~Section 5 of this Article~~ subsection (e) of this section, in which case it shall issue a final determination within sixty (60) calendar days after receipt of the Insurer's response or receipt of the transcript of oral testimony, whichever is later. The decision shall include a narrative explaining the basis of its decision.

....

Adoption and Effective Date

This Amendment was adopted by the Commission pursuant to the procedures set forth in the Rule for Adoption, Amendment and Repeal of Rules for the Interstate Insurance Product Regulation Commission. This amendment was adopted on _____ and is effective on _____ on a prospective basis to filings submitted on or after the effective date and shall apply to public access requests made on or after _____.