

[Mont. Code Ann. § 33-16-201.]

§ 33-16-201. Standards applicable to rates: Rates and Rating Plans

The following standards apply to the making and use of rates pertaining to all classes of insurance to which the provisions of this chapter are applicable:

- (1) (a) Rates may not be excessive or inadequate, and they may not be unfairly discriminatory.
 - (b) A rate may not be held to be excessive unless the rate is unreasonably high for the insurance provided and a reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable.
 - (c) A rate may not be held to be inadequate unless the rate is unreasonably low for the insurance provided and the continued use of the rate endangers the solvency of the insurer using the rate or unless the rate is unreasonably low for the insurance provided and the use of the rate by the insurer has, or if continued will have, the effect of destroying competition or creating a monopoly.
- (2) (a) Consideration must be given, when applicable, to past and prospective loss experience within and outside this state, to revenue and profits from reserves, to conflagration and catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses, both countrywide and those specially applicable to this state, and to all other factors, including judgment factors, considered relevant within and outside this state. In the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during the most recent 5-year period for which experience is available.
 - (b) Consideration may also be given in the making and use of rates to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers.
- (3) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the operating methods of the insurer or group with respect to any kind of insurance or with respect to any subdivision or combination of insurance.
- (4) (a) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for separate risks in accordance with rating plans that establish standards for measuring variations in hazards or expense provisions, or both. The standards may measure any difference among risks that have a probable effect upon losses or expenses. Classifications or modifications of classifications of risks may be established, based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations.
 - (b) Special risk classifications may be established for private passenger automobile policies. Special risk classifications may be based upon favorable aspects of an insured individual's claims history that is 3 years old

or older. Special risk classifications may not be established based on adverse information contained in an insured individual's driving record that is 3 years old or older.

(c) Special risk classifications may be established for commercial automobile policies. Special risk classifications for commercial automobile policies may be based upon favorable aspects of an insured's claims history that is 5 years old or older. Special risk classifications for commercial automobile policies established for an insured's adverse loss experience may not use more than the most recent 5 years of claims history that is available.

(d) Classifications and modifications apply to all risks under the same or substantially the same circumstances or conditions.

(e) As used in subsection (4)(b), "private passenger automobile policy" means an automobile insurance policy issued to individuals or families but does not include policies known as commercial automobile policies.