

§ 58-40-45. Disapproval of rates; interim use of rates.

(a) If, after a hearing, the Commissioner disapproves a rate, he must issue an order specifying in what respects the rate fails to meet the requirements of G.S. 58-40-20. If the Commissioner finds a rate to be excessive, he shall order the excess premium, plus interest at a rate determined in the same manner as in G.S. 58-36-25(b) as of the dates such rates were effective for policyholders, to be refunded to those policyholders who have paid the excess premium. If the Commissioner finds a rate to be unfairly discriminatory, he shall order an appropriate adjustment for policyholders who have paid the unfairly discriminatory premium. The order must be issued within 30 business days after the close of the hearing.

(b) Whenever a rate of an insurer is held to be unfairly discriminatory or excessive and the rate is deemed no longer effective by order of the Commissioner issued under subsection (a) of this section, the insurer shall have the option to continue to use the rate for the interim period pending judicial review of the order, provided that the insurer shall place in an escrow account approved by the Commissioner the purported unfairly discriminatory or excessive portion of the premium collected during the interim period. The court, upon a final determination, shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis shall not be required.

(c) No person shall willfully withhold information required by this Article from or knowingly furnish false or misleading information to the Commissioner, any statistical organization designated by the Commissioner, or any insurer, which information will affect the rates, rating plans, loss costs, classifications, or policy forms subject to this Article. (1977, c. 828, s. 2; 1985 (Reg. Sess., 1986), c. 1027, ss. 12, 12.1; 2005-210, s. 6.)