

**191—28.11(509) Use of rates—direct business only.****28.11(1) As used in this rule:**

“*Earned premiums*” means gross written premiums minus refunds on terminations, with this result adjusted for the change in unearned premium reserve.

“*Experience*” means “earned premiums” and “incurred claims” during the experience period.

“*Experience period*” means the most recent period of time for which experience is reported, but not for a period longer than three full years.

“*Incurred claims*” means total claims paid during the experience period, adjusted for the change in claim reserve.

**28.11(2) Use of prima facie rates.** An insurer that files rates or has rates on file that are not in excess of the prima facie rates shown in rules 28.7(509) and 28.8(509), to the extent adjusted pursuant to rule 28.10(509), may use those rates without further proof of their reasonableness.

**28.11(3) Use of rates higher than prima facie rates.** An insurer may file for approval of and use rates that are higher than the prima facie rates shown in rules 28.7(509) and 28.8(509), to the extent adjusted pursuant to rule 28.10(509), if it can be expected that the use of higher rates will result in a ratio of claims incurred to premiums earned (assuming the use of the higher rates) that is not less than 50 percent for those accounts to which the higher rates apply and that the upward deviations will not result on a statewide basis in that insurer having a ratio of claims incurred to premiums earned less than the expected loss ratio underlying the current prima facie rate developed or adjusted pursuant to rule 28.10(509).

If rates higher than the prima facie rates shown in rules 28.7(509) and 28.8(509), to the extent adjusted pursuant to rule 28.10(509), are filed for approval, the filing shall specify the account to which the rates apply. The rates may be:

- a. Applied uniformly to all accounts of the insurer; or
- b. Applied on an equitable basis approved by the insurance commissioner to only one or more accounts of the insurer for which the experience has been less favorable than expected.

**28.11(4) Approval period of deviated rates.**

a. A deviated rate will be in effect for a period of time not longer than three years based on the most recent three-year experience period. An insurer may file for a new rate before the end of a rate period, but not more often than once during any 12-month period.

b. Notwithstanding the provision of 28.11(2), if an account changes insurers, the rate approved to be used for the account by the prior insurer is the maximum rate that may be used by the succeeding insurer for the remainder of the rate approval period approved for the prior insurer or until a new rate is approved for use on the account, if sooner.

**28.11(5) Use of rates lower than filed rates.** An insurer may at any time use a rate for an account that is lower than its filed rate without notice to the insurance commissioner.