

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW  
YORK  
TITLE 11. INSURANCE DEPARTMENT  
CHAPTER V. RATES AND RATING ORGANIZATIONS  
SUBCHAPTER B. COMMERCIAL AND INDUSTRIAL RISKS  
PART 154. PRIVATE PASSENGER MOTOR VEHICLE INSURANCE MULTI-TIER PROGRAMS

Text is current through April 30, 2002, and annotations are current through April 1, 2002.

**Section 154.0 Introduction and purpose.**

(a) Section 2349 of the Insurance Law, effective May 28, 1995, pursuant to chapter 9 of the Laws of 1995, and further amended by chapter 287 of the Laws of 1995, signed into law by Governor George E. Pataki on July 26, 1995 and also effective May 28, 1995, explicitly permits insurers in the voluntary private passenger motor vehicle authorized insurance market to establish multi-tier programs that encourage depopulation of the New York Automobile Insurance Plan (AIP). A multi-tier program is one in which there is more than one rate level or tier in the same company, and associated with each rate level or tier there is a complete rating system. The placement of insureds in the various rating tiers is based on underwriting rules.

(b) The purpose of this Part is to establish the rules that each insurer's multi-tier program shall comply with as mandated by section 2349. These rules encompass, among other items, the placement and rating of insured in the various tiers, and the application of sections 2349 and 3425 with regard to multi-tier program nonrenewals.

**Section 154.1 General rules governing multi-tier programs.**

(a) Each multi-tier program shall be filed with the superintendent for approval. The rating systems associated with the various rate levels shall comply with all existing statutes and regulations governing private passenger motor vehicle insurance in this state. A policy of private passenger motor vehicle insurance for the purpose of this Part shall mean a covered policy of automobile insurance, as defined in section 3425 of the Insurance Law, providing liability or physical damage insurance or both. The various required private passenger motor vehicle premium credits and surcharges shall be part of, and applied to insureds in, each and every rating tier. Such credits and surcharges may vary by tier.

(b) Each multi-tier program filing shall contain a general overview of the insurer's business plan that considers:

(1) the insurer's multi-tier marketing objectives (e.g., appointing producers, or directly soliciting business, in territories with higher than average AIP populations);

(2) the insurer's multi-tier underwriting objectives (e.g., changes in underwriting guidelines that will enable the insurer to offer coverage to risks that previously did not meet the insurer's underwriting guidelines); and

(3) the interaction of the previous two paragraphs with the various Insurance Department initiatives to depopulate the AIP (e.g., the territorial credit program).

(c) Each multi-tier program filing shall contain a detailed explanation of the rate differential between tiers, and the maximum increase that can result at any one time from moving insureds from lower rated tiers to higher rated tiers (i.e., from tiers with lower premiums to tiers with higher premiums).

(d) Each multi-tier program filing shall contain a territorial rate comparison between the rates in the filed program and the rates in the AIP. This comparison shall display, by territory, the insurer's combined liability rates (\$25,000/50,000 residual bodily injury, \$10,000 property damage liability, \$50,000 personal injury protection, and \$25,000/50,000 uninsured motorists) or a comparable combined single limit, for an adult male, age 35, in the highest rated tier and the corresponding rate package in the AIP; and the insurer's liability plus physical damage rates (\$200 deductible comprehensive plus \$200 deductible collision) for an adult male, age 35, in the highest rated tier and the corresponding rate packages in the AIP. The superintendent may request additional rate comparisons.

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(e) A sample notice of the insurer's intent to uptier, which complies with section 154.4(a) of this Part, shall be included with each insurer's multi-tier program filing.

(f) A sample disclosure notice that clearly explains the insurer's multi-tier program, which complies with section 154.4(b) of this Part, shall be included with each insurer's multi-tier program filing.

(g) Each insurer shall maintain premium and loss statistics by tier. Such statistics shall be made available to the superintendent upon request.

(h) The superintendent may disapprove any multi-tier program that results in rates that fail to comply with any provision of the Insurance Law.

#### **Section 154.2 Multi-tier program underwriting rules.**

(a)

(1) The underwriting rules governing initial tier placement for qualifying applicants (i.e., applicants the insurer has decided to write) shall be, to the extent feasible, mutually exclusive per tier and shall be objective and shall not be applied so as to result in a rate that would violate article 23.

(2) Insurers shall maintain the underwriting rules governing initial tier placement, and a record of all changes thereto, in writing at company offices, and the rules shall be made available to the superintendent upon request. Each insurer shall submit an affirmation under penalty of perjury, signed by an officer of the company, that the underwriting rules exist, are mutually exclusive to the extent feasible, are objective and are not applied so as to result in a rate that would violate article 23. Such affirmation shall be submitted every three years and any time the rules are changed.

(b)

(1) The underwriting rules governing potential movement among the tiers shall be, to the extent feasible, mutually exclusive, shall be objective and shall not be applied so as to result in a rate that would violate article 23.

(2) An insured shall not be moved to a different tier based upon subjective judgment.

(3) The underwriting rules governing tier movement, and any changes thereto, shall be filed with the superintendent as part of an insurer's multi-tier program.

(c) The underwriting rules governing potential tier movement shall permit an insured to be moved to a higher rated tier only upon the end of the required policy period, as defined in section 3425, notwithstanding changes in underlying exposure during the required policy period. Changes in underlying exposure during the required policy period may be reflected in the premium in accordance with the rating

rules of the specific tier. Should a policy become eligible for midterm cancellation for the reasons stated in section 3425(c)(1)(B), in lieu of cancellation an insurer may uptier that policy midterm.

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(d) An insurer shall not move an insured from a lower rated tier to a higher rated tier and simultaneously impose a surcharge on the insured's premium based solely on the same accidents and violations of the insured's driving record.

### **Section 154.3 Application of section 3425 of the Insurance Law.**

(a) The number of policies moved from higher rated tiers to lower rated tiers shall not be considered in the calculation of nonrenewals pursuant to section 3425(f).

(b) At least 30 days, but not more than 60 days, in advance of the end of the required policy period, an insurer shall mail or deliver a notice of intent to uptier to each first named insured that the insurer intends to move to a higher rated tier. Pursuant to section 2349, the number of policies moved from lower rated tiers to higher rated tiers in each of the insurer's rating territories for each calendar year shall be limited to three percent of the total number of private passenger automobile policies in force in that territory at last year-end. The three percent limitation shall be in addition to the two percent limitation provided for in section 3425(f).

(c)

(1) Each insurer shall keep a record of the following, on a territorial basis:

(i) the number of new policies issued;

(ii) the number of policies for which a notice of intent to uptier was issued and which continue after policy expiration;

(iii) the number of policies for which a notice of intent to uptier was issued and do not continue after policy expiration; and

(iv) the number of all other nonrenewals and conditional renewals.

(2) The insurer shall utilize the policy count data required by paragraph (1) of this subdivision to comply with the "two percent" and "three percent" limitations.

(3) The policy count data required by paragraph (1) of this subdivision shall form the basis of the annual statistical reports required pursuant to section 3425(l)(1).

(d) Each multi-tier program filing shall contain an explanation of how the insurer will determine which policies that meet the uptiering criteria in any given territory will be selected if the total number of the policies exceeds the "three percent" limitation.

(e) The "two for one" new business credits provided for in section 3425(f)(2) shall apply to the "two percent" and "three percent" limitations as follows: for every two new policies written, an insurer may either nonrenew one additional policy in excess of the "two percent" limitation, or may "uptier" one additional policy in excess of the "three percent" limitation.

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(f) Each multi-tier program shall provide for an annual review to determine the appropriateness of each insured's tier placement. If, based upon this annual review, the insurer determines that the insured

qualifies for a different tier, then the insured shall be moved to the appropriate tier, provided the movement does not violate the limitations contained in this section.

(g) All other provisions of section 3425 are applicable.

**Section 154.4 Disclosure requirements.**

(a) The notice of intent to uptier shall specify the reasons underlying the insured's placement in the higher rated tier and the premium that will be charged as a result of uptiering.

(b) Upon issuance of the policy or upon the annual policy renewal, the insurer shall mail or deliver a notice to the first named insured, at the address contained in the policy, explaining the multi-tier program. All such notices shall contain the name and a toll free telephone number of a person that the insured may call to obtain a more detailed explanation of the insured's tier assignment.

(c) Every private passenger motor vehicle policy, either on the declarations page or the renewal notice, shall indicate the insured's designated tier.

**Section 154.5 Monitoring requirements.**

Every insurer shall submit a plan for monitoring the effectiveness of its multi-tier program in depopulating the AIP.