

§ 58-37-65. Hearings; review.

(a) Any applicant for a policy from any carrier, any person insured under such a policy, any member of the Facility and any insurance producer duly licensed to write motor vehicle insurance, may request a formal hearing and ruling by the Board of Governors of the Facility on any alleged violation of or failure to comply with the plan of operation or the provisions of this Article or any alleged improper act or ruling of the Facility directly affecting him as to coverage or premium or in the case of a member directly affecting its assessment, and in the case of an insurance producer, any matter affecting his appointment to a carrier or his account therewith. The request for hearing must be made within 15 days after the date of the alleged violation or improper act or ruling. The hearing shall be held within 15 days after the receipt of the request. The hearing may be held by any panel of the Board of Governors consisting of not less than three members thereof, and the ruling of a majority of the panel shall be deemed to be the formal ruling of the Board, unless the full Board on its own motion shall modify or rescind the action of the panel.

(b) Any formal ruling by the Board of Governors may be appealed to the Commissioner by filing notice of appeal with the Facility and Commissioner within 30 days after issuance of the ruling.

(c) The Commissioner shall, after a hearing held on not less than 30 days written notice to the appellant and to the Board, (i) issue an order approving the decision of the Board or (ii) after setting out the findings and conclusions as to how the action of the Board is not in accordance with the plan of operation, the Standard Practice Manual, or other provisions of this Article, direct the Board to reconsider its decision. In the event the Commissioner directs the Board to reconsider its decision and the Board fails to take action in accordance with the plan of operation, the Standard Practice Manual, or other provisions of this Article, the Commissioner may issue an order modifying the action of the Board to the extent necessary to comply with the plan of operation, the Standard Practice Manual, or other provisions of this Article.

No later than 20 days before each hearing, the appellant shall file with the Commissioner or his designated hearing officer and shall serve on the appellee a written statement of his case and any evidence he intends to offer at the hearing. No later than five days before such hearing, the appellee shall file with the Commissioner or his designated hearing officer and shall serve on the appellant a written statement of his case and any evidence he intends to offer at the hearing. Each such hearing shall be recorded and transcribed. The cost of such recording and transcribing shall be borne equally by the appellant and appellee; provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by the other party. Each party shall, on a date determined by the Commissioner or his designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or his designated hearing officer and serve on the other party, a proposed order. The Commissioner or his designated hearing officer shall then issue an order.

(d) Any aggrieved person or organization, any member of the Facility or the Facility may request a public hearing and ruling by the Commissioner on the provisions of the plan of operation, rules, regulations or policy forms approved by the Commissioner. The request for hearing shall specify the matter or matters to be considered. The hearing shall be held within 30 days after receipt of the request. The Commissioner shall give public notice of the hearing and the matter or matters to be considered not less than 15 days in advance of the hearing date.

(e) In any hearing held pursuant to this section by the Board of Governors or the Commissioner, the Board or the Commissioner as the case may be, shall issue a ruling or order within 30 days after the close of the hearing.

(f) All rulings or orders of the Commissioner under this section shall be subject to judicial review as approved in G.S. 58-2-75. (1973, c. 818, s. 1; 1989, c. 424, s. 3; 1989 (Reg. Sess., 1990), c. 1069, s. 17; 2022-46, s. 14(yy).)