

**TITLE 13 INSURANCE**  
**CHAPTER 8 INSURANCE POLICIES AND RATES**  
**PART 7 NONCOMPETITIVE AND REVERSE COMPETITIVE MARKETS**

**13.8.3.1 ISSUING AGENCY:** New Mexico Public Regulation Commission Insurance Division.

**13.8.3.2 SCOPE:** This rule applies to all kinds and lines of insurance that are subject to the Insurance Rate Regulation Law.

**13.8.3.3 STATUTORY AUTHORITY:** Sections 4 and 5 of SB483.

**13.8.3.4 DURATION:** The determination of noncompetitive markets in this rule expires September 1, 2010. The determination of reverse competitive markets in this rule is permanent.

**13.8.3.5 EFFECTIVE DATE:** September 1, 2007.

**13.8.3.6 OBJECTIVE:** The purpose of this rule is to implement Sections 4 and 5 of SB483.

**13.8.3.7 DEFINITIONS:** The definitions are those given in the Insurance Rate Regulation Law [as revised by SB483].

**13.8.3.8 NONCOMPETITIVE MARKETS:** Pursuant to [Section 4 of Senate Bill 483], the Superintendent finds that the following markets lack a reasonable degree of competition and that these markets are therefore subject to the filing and prior approval requirements of Paragraph B of 59A-17-9 as revised by SB483:

1. farmowners multiple peril, due to the concentration of market share within a relatively small number of competitors as well as the increasing dominance of its largest writer;
2. medical professional liability, due to its concentration of market share among relatively few competitors as well as the increasing dominance in recent years of its largest writer;
3. credit, due to its concentration of market share among relatively few competitors; and
4. mortgage guaranty, due to the dominance of market share maintained by two competitors, the infrequent entry and exit of competitors, and the relatively low number of competitors for the market's premium volume.

**13.8.3.9 REVERSE COMPETITIVE MARKETS:**

**A.** An insurance product is reverse competitive and subject to the filing and prior approval requirements of Paragraph B of 59A-17-9 [as revised by SB483] whenever its placement with insurers is determined primarily or exclusively by parties other than the policyholders, regardless of whether the Superintendent has issued a finding regarding the reverse competitiveness of the market in which the product is sold, filed or

accounted. An insurer shall know which of its products are reverse competitive and shall file such products in accordance with Paragraph B of 59A-17-9 [as revised by SB483].

**B.** The Superintendent finds that the following are likely indicators of a reverse competitive market:

1. insurance products sold or solicited in point-of-sale conjunction with purchases of consumer goods;
2. insurance products sold or solicited by individuals other than professional insurance agents;
3. products that insurers market primarily to parties other than prospective policyholders or to the parties that will pay the premium;
4. low loss ratios;
5. high commission ratios.

**C.** The Superintendent finds the following types of insurance products to be among those that are reverse competitive: all types of force-placed or creditor-placed insurance; credit life; credit disability; credit involuntary unemployment; credit family leave; credit property (single or dual interest); collateral protection; non-filing insurance; credit card credit; guaranteed asset protection (GAP); debt cancellation; debt suspension.

**D.** If the Superintendent finds, after notice and hearing, that an insurer has issued a reverse competitive insurance product whose rates have not received the prior approval of the Superintendent, the insurer shall be in violation of Paragraphs D and E of Section 59A-17-33 [as revised by SB483] for the entire time period that the unapproved rates have been in effect.

**13.8.3.10 TRANSITIONAL REQUIREMENTS:** All rates and rate-related rules in the noncompetitive markets or reverse competitive markets described herein that have not been previously filed with and obtained the prior approval of the Superintendent shall not be used on or after September 1, 2007 unless or until they are filed and approved pursuant to Paragraph B of 59A-17-9 as revised by SB483.