

Act No. 88
Public Acts of 1990
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**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Brown, Middaugh, Johnson, Wartner, Weeks, Varga, Palamara, Clack, Dutko,
Rocca, Stallworth, Runco and Van Singel

ENROLLED HOUSE BILL No. 4159

AN ACT to amend section 2111 of Act No. 218 of the Public Acts of 1956, entitled as amended "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability, and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state, and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance, and with respect to certain claims against uninsured or self-insured persons; and to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for the conservation, rehabilitation,

or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal certain acts and parts of acts; to repeal certain acts and parts of acts on specific dates; and to provide penalties for the violation of this act," as amended by Act No. 150 of the Public Acts of 1987, being section 500.2111 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 2111 of Act No. 218 of the Public Acts of 1956, as amended by Act No. 150 of the Public Acts of 1987, being section 500.2111 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 2111. (1) Notwithstanding any provision of this code and this chapter to the contrary, classifications and territorial base rates used by any insurer in this state with respect to automobile insurance or home insurance shall conform to the applicable requirements of this section.

(2) Classifications established pursuant to this section for automobile insurance shall be based only upon 1 or more of the following factors, which shall be applied by an insurer on a uniform basis throughout the state:

(a) With respect to all automobile insurance coverages:

(i) Either the age of driver; the length of driving experience; or the number of years licensed to operate a motor vehicle.

(ii) Driver primacy, based upon the proportionate use of each vehicle insured under the policy by individual drivers insured or to be insured under the policy.

(iii) Average miles driven weekly, annually, or both.

(iv) Type of use, such as business, farm, or pleasure use.

(v) Vehicle characteristics, features, and options, such as engine displacement, ability of vehicle and its equipment to protect passengers from injury; and other similar items, including vehicle make and model.

(vi) Daily or weekly commuting mileage.

(vii) Number of cars insured by the insurer or number of licensed operators in the household. However, number of licensed operators shall not be used as an indirect measure of marital status.

(viii) Amount of insurance.

(b) In addition to the factors prescribed in subdivision (a), with respect to personal protection insurance coverage:

(i) Earned income.

(ii) Number of dependents of income earners insured under the policy.

(iii) Coordination of benefits.

(iv) Use of a safety belt.

(c) In addition to the factors prescribed in subdivision (a), with respect to collision and comprehensive coverages:

(i) The anticipated cost of vehicle repairs or replacement, which may be measured by age, price, cost new, or value of the insured automobile, and other factors directly relating to that anticipated cost.

(ii) Vehicle make and model.

(iii) Vehicle design characteristics related to vehicle damageability.

(iv) Vehicle characteristics relating to automobile theft prevention devices.

(d) With respect to all automobile insurance coverage other than comprehensive, successful completion by the individual driver or drivers insured under the policy of an accident prevention education course which meets the following criteria.

(i) The course shall include a minimum of 8 hours of classroom instruction.

(ii) The course shall include, but not be limited to, a review of all of the following:

(A) The effects of aging on driving behavior.

(B) The shapes, colors, and types of road signs.

(C) The effects of alcohol and medication on driving.

- (D) The laws relating to the proper use of a motor vehicle.
- (E) Accident prevention measures.
- (F) The benefits of safety belts and child restraints.
- (G) Major driving hazards.
- (H) Interaction with other highway users such as motorcyclists, bicyclists, and pedestrians.

(3) Before February 1, 1987, each insurer shall establish and maintain premium discount plans pursuant to the following:

(a) Until July 1, 1991, an automobile theft prevention premium discount plan. A premium discount plan required under this subdivision shall provide for a premium discount for automobile comprehensive coverage based upon the installation of an approved automobile theft prevention device. As used in this subdivision, "approved automobile theft prevention device" means a device which is designed to prevent the theft of an insured's automobile and which is approved by the board of directors of the automobile theft prevention authority.

(b) Until July 1, 1991, an automobile safety belt premium discount plan. A premium discount plan required under this subdivision shall provide for a premium discount for automobile personal protection insurance of not less than 20%. A premium discount plan established under this subdivision may require the insured individual to certify in writing that he or she will wear a safety belt while operating the insured motor vehicle in compliance with section 710e of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.710e of the Michigan Compiled Laws, as a condition to receiving the premium discount. If an insured receives a premium discount after providing such certification and is injured while operating a motor vehicle without wearing a safety belt at the time of the injury, an insurer may subsequently deny to such insured the right to participate in any premium discount plan established by the insurer pursuant to this subdivision for a period of 12 months. An insurer which reduces its personal protection insurance rates after December 1, 1985 by not less than 20% and does not increase such rates for a period of 12 months shall be considered to be in compliance with this subdivision.

(4) Each insurer shall establish a secondary or merit rating plan for automobile insurance, other than comprehensive coverage. A secondary or merit rating plan required under this subsection shall provide for premium surcharges for any or all coverages for automobile insurance, other than comprehensive coverage, based upon any or all of the following, when that information becomes available to the insurer:

(a) Substantially at-fault accidents.

(b) Convictions for, determinations of responsibility for civil infractions for, or findings of responsibility in probate court for civil infractions for, violations under chapter VI of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, as amended, being sections 257.601 to 257.750 of the Michigan Compiled Laws.

(5) An insurer shall not establish or maintain rates or rating classifications for automobile insurance based upon sex or marital status.

(6) Notwithstanding other provisions of this chapter, automobile insurance risks shall be grouped by territory, and territorial base rates for coverages shall be established as provided in section 2111a and as follows:

(a) An insurer shall not be limited as to the number of territories employed in its rating plan.

(b) Except during the period of time from February 28, 1986 to June 30, 1991, an insurer shall not employ more than 20 different territorial base rates for an automobile insurance coverage.

(c) A territorial base rate may be made applicable in 1 or more territories contained in the rating plan of the insurer.

(d) Except during the period of time from February 28, 1986 to June 30, 1991, an insurer shall not employ a territorial base rate for an automobile insurance package policy that is less than 45% of the highest territorial base rate for the same policy, all other rating classifications being the same.

(e) Except during the period of time from February 28, 1986 to June 30, 1991, an insurer shall not employ a territorial base rate in a territory for an automobile insurance package policy that is less than 90% of the territorial base rate employed in any adjacent territory for the same policy, all other rating classifications being the same.

(7) Except during the period of time from February 28, 1986 to June 30, 1991, an insurer may elect at any time to exempt itself from the requirements of subsection (6) by filing for an exemption with the commissioner. An insurer electing this exemption shall initially file a rating plan in which no territorial base rate for an automobile insurance package policy is less than 45% of the highest territorial base rate for the same policy, all other rating classifications being the same. Five years from the date of the initial filing the insurer shall be prohibited from using a rating plan in which any territorial base rate for an automobile insurance package

policy will be less than 67% of the highest territorial base rate for that same policy, all other rating classifications being the same. An insurer's election of an exemption under this subsection is permanent, final, and not subject to change.

(8) Except during the period of time from February 28, 1986 to June 30, 1991, if an insurer can demonstrate to the commissioner, after an opportunity for an evidentiary hearing held pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, that clear and significant financial impairment exists in the geographic territory or territories in question because of the need for an additional territorial base rate, or for a greater variance in the adjacent geographic territory differential contained in subsection (6)(e), the additional territorial base rate, a greater variance, or both, shall be permitted for use by the insurer or a licensed rating organization on behalf of that insurer, at such time as the need exists. Evidence shall not include financial impairment resulting from exemptions granted to other insurers.

(9) Except during the period of time from February 28, 1986 to June 30, 1991, if the commissioner finds, solely on the evidence presented, that a greater variance in the adjacent geographic territory differential than that authorized under subsection (6)(e) is justified, the increase in variance shall not exceed 100% of that authorized under that subsection. Except during the period of time from February 28, 1986 to June 30, 1991, if an increase in variance in the adjacent geographic territory differential greater than 100% of that authorized under subsection (6)(e) is justified, the commissioner shall require the creation of an additional territorial base rate.

(10) Except during the period of time from February 28, 1986 to June 30, 1991, an exemption granted under subsections (8) and (9) shall be applicable only to the geographic territory or territories in question, and only to the insurer requesting the exemption.

(11) Except during the period of time from February 28, 1986 to June 30, 1991, an insurer shall not have more than 5 exemptions in force at any 1 time. For purposes of determining the number of existing exemptions, each additional territorial base rate or each increase in variance in the adjacent geographic territory differential granted, shall be considered to be a separate exemption.

(12) This section shall not be construed as limiting insurers or rating organizations from establishing and maintaining statistical reporting territories. This section shall not be construed to prohibit an insurer from establishing or maintaining, for automobile insurance, a premium discount plan for senior citizens in this state who are 65 years of age or older, if the plan is uniformly applied by the insurer throughout this state. If an insurer has not established and maintained such a premium discount plan for senior citizens, the insurer shall offer reduced premium rates to senior citizens in this state who are 65 years of age or older and who drive less than 3,000 miles per year, regardless of statistical data.

(13) Classifications established pursuant to this section for home insurance other than inland marine insurance provided by policy floaters or endorsements shall be based only upon 1 or more of the following factors:

- (a) Amount and types of coverage.
- (b) Security and safety devices, including locks, smoke detectors, and similar, related devices.
- (c) Repairable structural defects reasonably related to risk.
- (d) Fire protection class.
- (e) Construction of structure, based on structure size, building material components, and number of units.
- (f) Loss experience of the insured, based upon prior claims attributable to factors under the control of the insured which have been paid by an insurer.
- (g) Use of smoking materials within the structure.
- (h) Distance of the structure from a fire hydrant.
- (i) Availability of law enforcement or crime prevention services.

(14) Notwithstanding other provisions of this chapter, home insurance risks shall be grouped by territory, and territorial base rates for coverages shall be established as follows:

(a) An insurer shall not be limited as to the number of territories employed in its rating plan. However, an insurer shall not employ more than 3 different territorial base rates for a home insurance coverage. A territorial base rate may be made applicable in 1 or more territories contained in the rating plan of the insurer.

(b) An insurer shall not employ a territorial base rate for home insurance for owner-occupied dwelling policies that is less than 70% of the highest territorial base rate for the same policy, all other rating classifications being the same.

(c) An insurer shall not employ a territorial base rate for home insurance for renter or tenant policies that is less than 65% of the highest territorial base rate for the same policy, all other rating classifications being the same.

(15) An insurer shall not utilize factors other than those prescribed in this section in establishing classifications for automobile insurance and home insurance until January 1, 1982. However, on and after January 1, 1982, an insurer may utilize factors in addition to those specified in this section, if the commissioner finds, after a hearing held pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, that the factors would encourage innovation, would encourage insureds to minimize the risks of loss from hazards insured against, and would be consistent with the purposes of this chapter.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.