

HOUSE BILL No. 4912

June 8, 1989, Introduced by Reps. Saunders, Joe Young, Sr., Clack, Watkins, Kosteva, Nye, Gire, Kilpatrick, Wallace, Gubow, Owen, Murphy, Emerson, DeMars, Terrell, Varga, Stupak, Webb, Stallworth, Berman, Scott, Keith, Hunter, Hart, Pitoniak, Ostling, Perry Bullard, Leland, Joe Young, Jr., Porreca, Spaniola, Jondahl, Hollister, Bennane, Barns, Bankes and Runco and referred to the Committee on Insurance.

A bill to amend sections 202, 2021, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2114, 2127, 2236, 2400, 2406, 2430, 2436, 2438, 2458, 2462, 2472, 2600, 2606, 2608, 2616, 2628, 2630, 2636, 2652, 2654, 2664, 2930, 3020, 3321, and 3340 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

section 2021 as added and sections 2406 and 2436 as amended by Act No. 7 of the Public Acts of 1982, section 2111 as amended by Act No. 150 of the Public Acts of 1987, section 2236 as amended by Act No. 52 of the Public Acts of 1987, section 2400 as amended by Act No. 8 of the Public Acts of 1982, section 2458 as amended by Act No. 262 of the Public Acts of 1988, section 3020 as amended by Act No. 168 of the Public Acts of 1987, and section 3340 as amended by Act No. 10 of the Public Acts of 1986, being sections 500.202, 500.2021, 500.2105, 500.2106, 500.2107,

500.2108, 500.2109, 500.2110, 500.2111, 500.2114, 500.2127, 500.2236, 500.2400, 500.2406, 500.2430, 500.2436, 500.2438, 500.2458, 500.2462, 500.2472, 500.2600, 500.2606, 500.2608, 500.2616, 500.2628, 500.2630, 500.2636, 500.2652, 500.2654, 500.2664, 500.2930, 500.3020, 500.3321, and 500.3340 of the Michigan Compiled Laws; to add sections 2026a, 2094, 2103a, 2106a, 2106b, 2106c, 2106d, 2107a, 2107b, 2109a, 2111d, 2128, 2128a, 2128b, 2128c, and 2128d; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 202, 2021, 2105, 2106, 2107, 2108,
2 2109, 2110, 2111, 2114, 2127, 2236, 2400, 2406, 2430, 2436, 2438,
3 2458, 2462, 2472, 2600, 2606, 2608, 2616, 2628, 2630, 2636, 2652,
4 2654, 2664, 2930, 3020, 3321, and 3340 of Act No. 218 of the
5 Public Acts of 1956, section 2021 as added and sections 2406 and
6 2436 as amended by Act No. 7 of the Public Acts of 1982, section
7 2111 as amended by Act No. 150 of the Public Acts of 1987, sec-
8 tion 2236 as amended by Act No. 52 of the Public Acts of 1987,
9 section 2400 as amended by Act No. 8 of the Public Acts of 1982,
10 section 2458 as amended by Act No. 262 of the Public Acts of
11 1988, section 3020 as amended by Act No. 168 of the Public Acts
12 of 1987, and section 3340 as amended by Act No. 10 of the Public
13 Acts of 1986, being sections 500.202, 500.2021, 500.2105,
14 500.2106, 500.2107, 500.2108, 500.2109, 500.2110, 500.2111,
15 500.2114, 500.2127, 500.2236, 500.2400, 500.2406, 500.2430,
16 500.2436, 500.2438, 500.2458, 500.2462, 500.2472, 500.2600,
17 500.2606, 500.2608, 500.2616, 500.2628, 500.2630, 500.2636,

1 500.2652, 500.2654, 500.2664, 500.2930, 500.3020, 500.3321, and
2 500.3340 of the Michigan Compiled Laws, are amended and sections
3 2026a, 2094, 2103a, 2106a, 2106b, 2106c, 2106d, 2107a, 2107b,
4 2109a, 2111d, 2128, 2128a, 2128b, 2128c, and 2128d are added to
5 read as follows:

6 Sec. 202. (1) The chief officer of the ~~department~~
7 INSURANCE BUREAU shall be known as the commissioner of
8 insurance. He OR SHE shall ~~be~~ MEET ALL OF THE FOLLOWING
9 REQUIREMENTS:

10 (A) BE a citizen of this state. ~~, shall have his~~

11 (B) HOLD office at the seat of government. ~~, shall~~
12 ~~personally~~

13 (C) PERSONALLY superintend the duties of his OR HER office.
14 ~~, and shall not~~

15 (D) NOT be a stockholder or directly or indirectly connected
16 with the management of affairs of any insurer ~~. He~~ DURING THE
17 PERIOD BEGINNING 10 YEARS BEFORE HE OR SHE ASSUMES THE OFFICE OF
18 COMMISSIONER AND ENDING 10 YEARS AFTER HE OR SHE LEAVES THE
19 OFFICE.

20 (2) THE INSURANCE COMMISSIONER shall be appointed by the
21 governor for a term of 4 years by and with the ADVICE AND consent
22 of the senate.

23 (3) ~~(2)~~ Whenever a vacancy occurs in the office of
24 commissioner, ~~by reason of death, removal, or otherwise,~~ the
25 governor shall fill ~~such~~ THE vacancy by appointment, by and
26 with the advice and consent of the senate, if in session.

1 Sec. 2021. An unfair method of competition and an unfair or
2 deceptive act or practice in the business of insurance includes
3 failure by ~~a rating organization and~~ an insurer ~~which makes~~
4 ~~its own rates,~~ within a reasonable time after receiving written
5 request therefor and upon payment of ~~such~~ A reasonable charge
6 as it may make, to furnish to ~~any~~ AN insured affected by a rate
7 made by it, or to the INSURED'S authorized representative, ~~of~~
8 ~~such insured,~~ all pertinent information to ~~such~~ THE rate.

9 SEC. 2026A. (1) IT IS AN UNFAIR METHOD OF COMPETITION AND
10 AN UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSUR-
11 ANCE FOR A PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURER OR THE
12 INSURER'S AGENT TO SOLICIT, OFFER, PAY, OR RECEIVE A KICKBACK OR
13 BRIBE IN CONNECTION WITH THE PROCESS OF ADJUSTING, RESOLVING,
14 DENYING, OR LITIGATING A CLAIM FOR AUTOMOTIVE REPAIR.

15 (2) AN INSURER OR AN INSURER'S AGENT WHO VIOLATES THIS SEC-
16 TION IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
17 LESS THAN 1 YEAR OR MORE THAN 5 YEARS, OR A FINE OF NOT MORE THAN
18 \$50,000.00, OR BOTH, AND IN ADDITION, THE INSURER IS SUBJECT TO
19 THE CERTIFICATE OF AUTHORITY REVOCATION PROCEEDINGS OF THIS
20 CHAPTER.

21 SEC. 2094. AN INDIVIDUAL THREATENED WITH INJURY OR INJURED
22 DIRECTLY OR INDIRECTLY BY A VIOLATION BY A PRIVATE PASSENGER NON-
23 FLEET AUTOMOBILE INSURER OF ANY PROVISION OF THIS CHAPTER APPLI-
24 CABLE TO THAT INSURER MAY BRING AN ACTION FOR APPROPRIATE INJUNC-
25 TIVE OR OTHER EQUITABLE RELIEF AGAINST IMMEDIATE IRREPARABLE
26 HARM, ACTUAL DAMAGES SUSTAINED BY REASON OF A VIOLATION OF THIS
27 CHAPTER, AND, AS DETERMINED BY THE COURT, INTEREST ON THE DAMAGES

1 FROM THE DATE OF THE COMPLAINT, TAXABLE COSTS, AND REASONABLE
2 ATTORNEY'S FEES. THIS REMEDY IS IN ADDITION TO THE OTHER REMEDY
3 AND PENALTY PROVISIONS PROVIDED BY THIS CHAPTER.

4 SEC. 2103A. AS USED IN THIS CHAPTER:

5 (A) "GROUP AUTOMOBILE INSURANCE" MEANS AUTOMOBILE INSURANCE
6 COVERING NOT LESS THAN 25 EMPLOYEES OR MEMBERS, WITH OR WITHOUT
7 THEIR ELIGIBLE DEPENDENTS, WRITTEN UNDER A MASTER POLICY ISSUED
8 TO A GOVERNMENTAL CORPORATION, UNIT, AGENCY, OR DEPARTMENT THERE-
9 OF, OR TO A CORPORATION, PARTNERSHIP, INDIVIDUAL EMPLOYER, OR AN
10 ASSOCIATION, UPON APPLICATION OF AN EXECUTIVE OFFICER OR TRUSTEE
11 OF THE ASSOCIATION HAVING A CONSTITUTION OR BYLAWS, AND FORMED IN
12 GOOD FAITH FOR PURPOSES OTHER THAN THAT OF OBTAINING INSURANCE
13 WHERE OFFICERS, MEMBERS, EMPLOYEES, CLASSES, OR DEPARTMENTS
14 THEREOF MAY BE INSURED FOR THEIR INDIVIDUAL BENEFIT.

15 (B) "PARTICIPATING AUTOMOBILE REPAIR BUSINESS" MEANS AN
16 AUTOMOBILE REPAIR BUSINESS THAT PROVIDES AUTOMOBILE REPAIR SERV-
17 ICES TO MEMBERS OF A GROUP AUTOMOBILE INSURANCE POLICY PURSUANT
18 TO A CONTRACT WITH A GROUP AUTOMOBILE INSURANCE INSURER ENTERED
19 INTO PURSUANT TO SECTION 2106A.

20 (C) "TOTAL RETURN RATING" MEANS THE CONSIDERATION OF TOTAL
21 REVENUE AND AVAILABLE ASSETS OF THE INSURER, INCLUDING, BUT NOT
22 LIMITED TO, INVESTMENT INCOME, CAPITAL AND SURPLUS, UNDERWRITING
23 AND OPERATING PROFITS, PREMIUM REVENUE, AND ALL OTHER RESERVES.

24 Sec. 2105. (1) ~~No~~ A policy of automobile insurance or
25 home insurance shall NOT be offered, bound, made, issued, deliv-
26 ered or renewed in this state on and after January 1, 1981,
27 except in conformity with this chapter. This chapter shall not

1 apply to policies of automobile insurance or home insurance
2 offered, bound, made, issued, delivered or renewed in this state
3 before January 1, 1981.

4 (2) This chapter shall not apply to insurance written on a
5 group, franchise, blanket policy, or similar basis which offers
6 home insurance ~~or automobile insurance~~ to all members of the
7 group, franchise plan, or blanket coverage who are eligible
8 persons.

9 Sec. 2106. Except as specifically provided in this chap-
10 ter, the provisions of chapter 24 and chapter 26 shall not apply
11 to automobile insurance and home insurance. An insurer may use
12 rates for ~~automobile insurance or~~ home insurance as soon as
13 those rates are filed. AN INSURER SHALL NOT USE RATES FOR AUTO-
14 MOBILE INSURANCE UNTIL THOSE RATES HAVE BEEN APPROVED BY THE
15 COMMISSIONER. To the extent that other provisions of this code
16 are inconsistent with the provisions of this chapter, this chap-
17 ter shall govern with respect to automobile insurance and home
18 insurance.

19 SEC. 2106A. (1) TO BE AUTHORIZED TO WRITE GROUP AUTOMOBILE
20 INSURANCE IN THIS STATE, AN INSURER SHALL:

21 (A) FOLLOW ALL FILING, REPORTING, AND OTHER APPLICABLE PRO-
22 VISIONS REQUIRED BY THIS ACT OF PRIVATE PASSENGER NONFLEET AUTO-
23 MOBILE INSURERS AND MEET THE PAID-IN CAPITAL OR SURPLUS OR ASSETS
24 REQUIREMENTS OF SECTION 408.

25 (B) HAVE A BOARD OF DIRECTORS COMPOSED OF NOT LESS THAN 1/3
26 PUBLIC MEMBERS WITH NO FINANCIAL INTEREST IN THE AREAS OF
27 INSURANCE, HEALTH CARE, OR AUTOMOBILE REPAIR.

1 (C) CONTRACT WITH AUTOMOBILE REPAIR BUSINESSES FOR SPECIFIC
2 PRICES FOR REPAIR SERVICES. CONTRACTUAL RELATIONSHIPS SHALL BE
3 FORMED IN SUFFICIENT QUANTITY IN A GEOGRAPHIC AREA AS DETERMINED
4 BY THE COMMISSIONER TO ENABLE ADEQUATE SERVICES TO BE PROVIDED TO
5 ALL OF THE GROUP'S MEMBERS.

6 (D) CONTRACT WITH THE APPROPRIATE BUSINESSES TO ENABLE THE
7 APPLICANT INSURER TO PROVIDE TO GROUP MEMBERS AT COST AUTOMOBILE
8 THEFT PREVENTION DEVICES. A GROUP MEMBER WHO PURCHASES AN
9 APPROVED AUTOMOBILE THEFT PREVENTION DEVICE SHALL RECEIVE A PRE-
10 MIUM DISCOUNT AS PROVIDED IN SECTION 2111(3)(A).

11 (E) EMPLOY SUFFICIENT CASE MANAGEMENT CONSULTANTS, AS DETER-
12 MINED BY THE COMMISSIONER, TO ENABLE THE APPLICANT INSURER TO
13 PROVIDE ADEQUATE SERVICES TO ALL OF THE GROUP'S MEMBERS. AS USED
14 IN THIS SUBDIVISION, CASE MANAGEMENT INCLUDES ENSURING THAT A
15 GROUP MEMBER IS OFFERED MEDICAL AND SPECIAL NEEDS TREATMENT AND
16 THAT ONGOING PAIN CONTROL AND HOME CARE IS AVAILABLE IF
17 NECESSARY.

18 (F) PROVIDE A QUARTERLY NEWSLETTER TO EACH GROUP MEMBER.
19 THE NEWSLETTER SHALL PROMOTE RISK MANAGEMENT.

20 (G) WRITE INSURANCE IN AT LEAST 1 COUNTY. A GROUP AUTOMO-
21 BILE INSURER MAY WRITE INSURANCE IN MORE THAN 1 COUNTY IF EACH
22 COUNTY WHERE GROUP AUTOMOBILE INSURANCE IS WRITTEN BY THE INSURER
23 IS CONTIGUOUS TO AT LEAST 1 OTHER COUNTY WHERE GROUP AUTOMOBILE
24 INSURANCE IS WRITTEN BY THE INSURER.

25 (2) THE COMMISSIONER SHALL APPROVE THE AUTHORITY OF AN
26 APPLICANT TO TRANSACT GROUP PRIVATE PASSENGER NONFLEET AUTOMOBILE

1 INSURANCE IN THIS STATE IF THE APPLICANT MEETS THE REQUIREMENTS
2 OF SUBSECTION (1).

3 SEC. 2106B. A GROUP AUTOMOBILE INSURANCE MEMBER WHO DOES
4 NOT USE A PARTICIPATING AUTOMOBILE REPAIR BUSINESS FOR AUTOMOBILE
5 REPAIR SERVICES RENDERED PURSUANT TO A GROUP AUTOMOBILE INSURANCE
6 POLICY FOR A COVERED AUTOMOBILE THAT WAS DAMAGED WITHIN THE SERV-
7 ICE AREA COVERED BY THE INSURER SHALL PAY 20% OF THE COST OF THE
8 REPAIR SERVICES.

9 SEC. 2106C. GROUP AUTOMOBILE INSURANCE IS AND SHALL BE
10 TREATED AS A SEPARATE LINE OF INSURANCE. IN APPROVING RATES AND
11 EXAMINING THE FINANCIAL STABILITY OF A GROUP AUTOMOBILE INSURANCE
12 INSURER, THE COMMISSIONER SHALL EXAMINE ACTUARIAL DATA ONLY FOR
13 THE GROUP AUTOMOBILE INSURANCE LINE AND NOT FOR ANY OTHER LINES
14 WRITTEN BY THE INSURER.

15 SEC. 2106D. A GROUP AUTOMOBILE INSURANCE INSURER SHALL
16 ESTABLISH AND MAINTAIN REASONABLE PROCEDURES FOR RECEIVING, PRO-
17 CESSING, AND RESOLVING MEMBER INSURED COMPLAINTS AS TO THE OPERA-
18 TIONS OF THE INSURER. A MEMBER INSURED SHALL NOT BE REQUIRED TO
19 USE THE INSURED'S GRIEVANCE PROCEDURES AND MAY FOLLOW THE PROCE-
20 DURE IN SECTION 2113 OR PROCEED WITH A COURT ACTION.

21 Sec. 2107. (1) On or before September 1, 1980, each
22 insurer subject to this chapter shall make filings in accordance
23 with this chapter for ~~automobile insurance,~~ home insurance ~~or~~
24 ~~or both,~~ to be effective not later than January 1, 1981 ~~nor~~ OR
25 earlier than November 1, 1980.

26 (2) With regard to a filing submitted under subsection (1),
27 the commissioner shall conduct a review of the filing on an

1 informal basis, and a dispute with regard to that filing shall
2 not be considered a contested case under THE ADMINISTRATIVE PRO-
3 CEDURES ACT OF 1969, Act No. 306 of the Public Acts of 1969, as
4 amended, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
5 LAWS. A filing not disapproved within 60 days after its submis-
6 sion shall be considered approved.

7 (3) A filing approved or considered approved under subsec-
8 tion (2) shall be exempt from any further proceedings whatsoever
9 under this chapter until July 1, 1981.

10 (4) If a filing is disapproved under subsection (2), the
11 insurer, within 30 days of the order of disapproval, shall make a
12 revised filing with the commissioner. The revised filing shall
13 take effect on January 1, 1981 and shall be subject to review
14 under this chapter on or after January 1, 1981 in the same manner
15 as subsequent filings made under this chapter.

16 SEC. 2107A. (1) ON OR BEFORE JANUARY 1, 1990, EACH INSURER
17 SUBJECT TO THIS CHAPTER SHALL MAKE FILINGS IN ACCORDANCE WITH
18 THIS CHAPTER FOR AUTOMOBILE INSURANCE.

19 (2) WITH REGARD TO A FILING SUBMITTED UNDER SUBSECTION (1),
20 THE COMMISSIONER SHALL REVIEW THE FILING AND SHALL APPROVE OR
21 DISAPPROVE THE FILING WITHIN 60 DAYS AFTER ITS SUBMISSION.

22 (3) A FILING APPROVED OR CONSIDERED APPROVED UNDER SUBSEC-
23 TION (2) SHALL BE EXEMPT FROM ANY FURTHER PROCEEDINGS WHATSOEVER
24 UNDER THIS CHAPTER UNTIL JANUARY 1, 1991. A RATE FILING FOR AN
25 AUTOMOBILE INSURANCE POLICY SHALL NOT BE MODIFIED, CHANGED, OR
26 ALTERED FOR A PERIOD OF 12 MONTHS AFTER THE EFFECTIVE DATE OF THE
27 FILING.

1 (4) IF A FILING IS DISAPPROVED UNDER SUBSECTION (2), THE
 2 INSURER, WITHIN 30 DAYS OF THE ORDER OF DISAPPROVAL, SHALL MAKE A
 3 REVISED FILING WITH THE COMMISSIONER. THE REVISED FILING SHALL
 4 BE SUBJECT TO REVIEW UNDER THIS CHAPTER IN THE SAME MANNER AS
 5 SUBSEQUENT FILINGS MADE UNDER THIS CHAPTER. AN INSURER SHALL NOT
 6 USE RATES FOR AUTOMOBILE INSURANCE UNTIL APPROVED BY THE
 7 COMMISSIONER.

8 SEC. 2107B. AN AUTOMOBILE INSURER MAY RETURN ALL OR ANY
 9 PORTION OF ITS PREMIUMS TO ITS INSURED.

10 Sec. 2108. (1) On the effective date thereof, each insurer
 11 shall file with the commissioner every manual of classification,
 12 every manual of rules and rates, every rating plan, and every
 13 modification of a manual of classification, manual of rules and
 14 rates, or a rating plan which it proposes to use for automobile
 15 insurance and home insurance. Each filing shall state the char-
 16 acter and extent of the coverage contemplated. Each insurer
 17 subject to this chapter who maintains rates in any part of this
 18 state shall at all times maintain rates in effect for all eligi-
 19 ble persons meeting the underwriting criteria of the insurer.

20 (2) ~~An~~ EXCEPT FOR FILINGS CONCERNING RATES, AN insurer may
 21 satisfy its obligation to make filings ~~under subsection (1)~~ by
 22 becoming a member of, or a subscriber to, a LICENSED rating orga-
 23 nization ~~licensed under chapter 24 or chapter 26~~ which makes
 24 ~~those~~ filings, and by filing with the commissioner a copy of
 25 its authorization of the rating organization to make ~~those~~ fil-
 26 ings on its behalf. Nothing contained in this chapter shall be
 27 construed as requiring any insurer to become a member of or a

1 subscriber to any rating organization. Insurers may file and use
2 deviations from filings made on their behalf, which deviations
3 shall be subject to the provisions of this chapter.

4 (3) Each filing shall be accompanied by a certification by
5 or on behalf of the insurer that, to the best of its information
6 and belief, the filing conforms to the requirements of this
7 chapter.

8 (4) Each filing shall include information that supports the
9 filing with respect to the requirements of ~~section~~ SECTIONS
10 2109 AND 2109A. The information may include 1 or more of the
11 following:

12 (a) The experience or judgment of the insurer ~~or rating~~
13 ~~organization~~ making the filing.

14 (b) The interpretation of the insurer ~~or rating~~
15 ~~organization~~ of any statistical data it relies upon.

16 (c) The experience of other insurers. ~~or rating~~
17 ~~organizations.~~

18 (d) Any other relevant information.

19 (5) A filing and any accompanying information shall be open
20 to public inspection upon filing.

21 (6) An insurer shall not make, issue, or renew a contract or
22 policy except in accordance with filings which are in effect for
23 the insurer pursuant to this chapter.

24 (7) AS A CONDITION OF MAINTAINING ITS CERTIFICATE OF AUTHOR-
25 ITY, AN INSURER SHALL NOT DO ANY OF THE FOLLOWING:

26 (A) HAVE ANY RATES FILED ON ITS BEHALF IN THIS STATE BY A
27 RATING ORGANIZATION.

1 (B) SHARE INFORMATION WITH ANY OTHER INSURER OR RATING
2 ORGANIZATION CONCERNING ESTABLISHING RATES OR RATING SYSTEMS.

3 (C) AGREE WITH ANY OTHER INSURER OR RATING ORGANIZATION TO
4 ADHERE TO OR USE ANY RATE, RATING PLAN, RATING SCHEDULE, RATING
5 RULE, OR UNDERWRITING RULE IN THIS STATE.

6 (D) MAKE AVAILABLE TO ANY OTHER INSURER OR RATING ORGANI-
7 ZATION INFORMATION ON ACTUARIAL PROJECTIONS, TRENDING FACTORS,
8 PROFITS, OR EXPENSES EXCEPT LOSS ADJUSTMENT EXPENSES.

9 Sec. 2109. (1) All rates for ~~automobile insurance and~~
10 home insurance shall be made in accordance with the following
11 provisions:

12 (a) Rates shall not be excessive, inadequate, or unfairly
13 discriminatory. A rate shall not be held to be excessive unless
14 the rate is unreasonably high for the insurance coverage provided
15 and a reasonable degree of competition does not exist for the
16 insurance to which the rate is applicable.

17 (b) A rate shall not be held to be inadequate unless the
18 rate is unreasonably low for the insurance coverage provided and
19 the continued use of the rate endangers the solvency of the
20 insurer; or unless the rate is unreasonably low for the insurance
21 provided and the use of the rate has or will have the effect of
22 destroying competition among insurers, creating a monopoly, or
23 causing a kind of insurance to be unavailable to a significant
24 number of applicants who are in good faith entitled to procure
25 that insurance through ordinary methods.

26 (c) A rate for a coverage is unfairly discriminatory in
27 relation to another rate for the same coverage if the

1 differential between the rates is not reasonably justified by
2 differences in losses, expenses, or both, or by differences in
3 the uncertainty of loss, for the individuals or risks to which
4 the rates apply. A reasonable justification shall be supported
5 by a reasonable classification system; by sound actuarial princi-
6 ples when applicable; and by actual and credible loss and expense
7 statistics or, in the case of new coverages and classifications,
8 by reasonably anticipated loss and expense experience. A rate is
9 not unfairly discriminatory because it reflects differences in
10 expenses for individuals or risks with similar anticipated
11 losses, or because it reflects differences in losses for individ-
12 uals or risks with similar expenses.

13 (2) A determination concerning the existence of a reasonable
14 degree of competition with respect to subsection (1)(a) shall
15 take into account a reasonable spectrum of relevant economic
16 tests, including the number of insurers actively engaged in writ-
17 ing the insurance in question, the present availability of such
18 insurance compared to its availability in comparable past peri-
19 ods, the underwriting return of that insurance over a period of
20 time sufficient to assure reliability in relation to the risk
21 associated with that insurance, and the difficulty encountered by
22 new insurers in entering the market in order to compete for the
23 writing of that insurance.

24 SEC. 2109A. (1) ALL RATES FOR AUTOMOBILE INSURANCE SHALL
25 BE REVIEWED BY THE COMMISSIONER BY EXAMINING THE INSURER'S REPORT
26 PREPARED PURSUANT TO SECTION 2128 AND SHALL BE MADE IN ACCORDANCE
27 WITH TOTAL RETURN RATING AND THE FOLLOWING PROVISIONS:

1 (A) RATES SHALL NOT BE EXCESSIVE, INADEQUATE, OR UNFAIRLY
2 DISCRIMINATORY. A RATE SHALL NOT BE APPROVED BY THE COMMISSIONER
3 UNLESS IT IS ACTUARIALLY JUSTIFIED BASED UPON THE INFORMATION
4 RECEIVED PURSUANT TO SECTION 2128.

5 (B) A RATE SHALL NOT BE HELD TO BE INADEQUATE UNLESS THE
6 RATE, AFTER CONSIDERATION OF INVESTMENT INCOME AND SURPLUS, IS
7 UNREASONABLY LOW FOR THE INSURANCE COVERAGE PROVIDED AND IS
8 INSUFFICIENT TO SUSTAIN PROJECTED LOSSES AND EXPENSES; OR UNLESS
9 THE RATE IS UNREASONABLY LOW FOR THE INSURANCE PROVIDED AND THE
10 USE OF THE RATE HAS OR WILL HAVE THE EFFECT OF DESTROYING COMPE-
11 TITION AMONG INSURERS, CREATING A MONOPOLY, OR CAUSING A KIND OF
12 INSURANCE TO BE UNAVAILABLE TO A SIGNIFICANT NUMBER OF APPLICANTS
13 WHO ARE IN GOOD FAITH ENTITLED TO PROCURE THAT INSURANCE THROUGH
14 ORDINARY METHODS.

15 (C) A RATE FOR A COVERAGE IS UNFAIRLY DISCRIMINATORY IN
16 RELATION TO ANOTHER RATE FOR THE SAME COVERAGE IF THE DIFFEREN-
17 TIAL BETWEEN THE RATES IS NOT REASONABLY JUSTIFIED BY DIFFERENCES
18 IN LOSSES, EXPENSES, OR BOTH, OR BY DIFFERENCES IN THE UNCER-
19 TAINTY OF LOSS, FOR THE INDIVIDUALS OR RISKS TO WHICH THE RATES
20 APPLY. A REASONABLE JUSTIFICATION SHALL BE SUPPORTED BY A REA-
21 SONABLE CLASSIFICATION SYSTEM; BY SOUND ACTUARIAL PRINCIPLES WHEN
22 APPLICABLE; AND BY ACTUAL AND CREDIBLE LOSS AND EXPENSE STATIS-
23 TICS OR, IN THE CASE OF NEW COVERAGES AND CLASSIFICATIONS, BY
24 REASONABLY ANTICIPATED LOSS AND EXPENSE EXPERIENCE. A RATE IS
25 NOT UNFAIRLY DISCRIMINATORY BECAUSE IT REFLECTS DIFFERENCES IN
26 EXPENSES FOR INDIVIDUALS OR RISKS WITH SIMILAR ANTICIPATED

1 LOSSES, OR BECAUSE IT REFLECTS DIFFERENCES IN LOSSES FOR
2 INDIVIDUALS OR RISKS WITH SIMILAR EXPENSES.

3 (2) THE COMMISSIONER SHALL NOT APPROVE A RATE INCREASE FOR
4 AUTOMOBILE INSURANCE UNLESS THE COMMISSIONER DETERMINES THAT THE
5 DATA RECEIVED FROM THE REPORT PREPARED PURSUANT TO SECTION 2128
6 JUSTIFIES A RATE INCREASE. THE COMMISSIONER SHALL NOT APPROVE A
7 RATE INCREASE BY EXAMINING ACTUARIAL DATA FROM A LINE OTHER THAN
8 THE INSURER'S AUTOMOBILE INSURANCE LINE OR IF THE INSURER FAILS
9 TO FILE THE REPORT REQUIRED BY SECTION 2128. THE COMMISSIONER
10 SHALL NOT APPROVE A RATE INCREASE IF THE COMMISSIONER FINDS THE
11 INSURER'S ADMINISTRATIVE EXPENSES TO BE EXCESSIVE.

12 Sec. 2110. (1) In developing and evaluating rates pursuant
13 to the standards prescribed in ~~section~~ SECTIONS 2109 AND 2109A,
14 due consideration shall be given to past and prospective loss
15 experience within and outside this state, to catastrophe hazards,
16 if any; to a reasonable margin for underwriting profit and con-
17 tingencies; to dividends, savings, or unabsorbed premium deposits
18 allowed or returned by insurers to their policyholders, members,
19 or subscribers; to past and prospective expenses, both country-
20 wide and those specially applicable to this state exclusive of
21 assessments under this code; to assessments under this code; to
22 underwriting practice and judgment; and to all other relevant
23 factors within and outside this state.

24 (2) The systems of expense provisions included in the rates
25 for use by any insurer or group of insurers may differ from those
26 of other insurers or groups of insurers to reflect the
27 requirements of the operating methods of the insurer or group

1 with respect to any kind of insurance, or with respect to any
2 subdivision or combination thereof for which subdivision or com-
3 bination separate expense provisions are applicable.

4 (3) Risks may be grouped by classifications for the estab-
5 lishment of rates and minimum premiums. The classifications may
6 measure differences in losses, expenses, or both.

7 Sec. 2111. (1) Notwithstanding any provision of this code
8 and this chapter to the contrary, classifications and territorial
9 base rates used by ~~any~~ AN insurer in this state with respect to
10 ~~automobile insurance or~~ home insurance AND CLASSIFICATIONS USED
11 BY AN INSURER WITH RESPECT TO AUTOMOBILE INSURANCE shall conform
12 to the applicable requirements of this section.

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

17 (a) With respect to all automobile insurance coverages:

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

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

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

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

26 (v) Vehicle characteristics, features, and options, such as
27 engine displacement, ability of vehicle and its equipment to

1 protect passengers from injury; and other similar items,
2 including vehicle make and model.

3 (vi) Daily or weekly commuting mileage.

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

8 (viii) Amount of insurance.

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

11 (i) Earned income.

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

14 (iii) Coordination of benefits.

15 (iv) Use of a safety belt.

16 (v) THE WAIVER OF COVERAGE FOR WORK LOSS BENEFITS UNDER
17 SECTION 3107(1)(B) PURSUANT TO SECTION 3107(2).

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

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

24 (ii) Vehicle make and model.

25 (iii) Vehicle design characteristics related to vehicle
26 damageability.

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

3 (d) With respect to all automobile insurance coverage other
4 than comprehensive, successful completion by the individual
5 driver or drivers insured under the policy of an accident preven-
6 tion education course which meets the following criteria: —

7 (i) The course shall include a minimum of 8 hours of class-
8 room instruction.

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

11 (A) The effects of aging on driving behavior.

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

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

14 (D) The laws relating to the proper use of a motor vehicle.

15 (E) Accident prevention measures.

16 (F) The benefits of safety belts and child restraints.

17 (G) Major driving hazards.

18 (H) Interaction with other highway users such as motorcy-
19 clists, bicyclists, and pedestrians.

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

23 (a) ~~An~~ UNTIL JULY 1, 1991, AN automobile theft prevention
24 premium discount plan. A premium discount plan required under
25 this subdivision shall provide for a premium discount for automo-
26 bile comprehensive coverage based upon the installation of an
27 approved automobile theft prevention device. As used in this

1 subdivision, "approved automobile theft prevention device" means
 2 a device which is designed to prevent the theft of an insured's
 3 automobile and which is approved by the board of directors of the
 4 automobile theft prevention authority.

5 (b) ~~An~~ UNTIL JULY 1, 1991, AN automobile safety belt pre-
 6 mium discount plan. A premium discount plan required under this
 7 subdivision shall provide for a premium discount for automobile
 8 personal protection insurance of not less than 20%. A premium
 9 discount plan established pursuant to this subdivision may
 10 require the insured individual to certify in writing that he or
 11 she will wear a safety belt while operating the insured motor
 12 vehicle in compliance with section 710e of the Michigan vehicle
 13 code, Act No. 300 of the Public Acts of 1949, being section
 14 257.710e of the Michigan Compiled Laws, as a condition to receiv-
 15 ing the premium discount. If an insured receives a premium dis-
 16 count after providing such certification and is injured while
 17 operating a motor vehicle without wearing a safety belt at the
 18 time of the injury, an insurer may subsequently deny to ~~such~~
 19 THE insured the right to participate in any premium discount plan
 20 established by the insurer pursuant to this subdivision for a
 21 period of 12 months. An insurer which reduces its personal pro-
 22 tection insurance rates after December 1, 1985 by not less than
 23 20% and does not increase ~~such~~ THOSE rates for a period of 12
 24 months shall be considered to be in compliance with this
 25 subdivision.

26 (c) ~~This subsection shall not apply on and after July 1,~~
 27 ~~1991.~~ A GOOD DRIVER DISCOUNT PLAN. EACH GOOD DRIVER DISCOUNT

1 PLAN SHALL BE FILED WITH THE COMMISSIONER, SHALL BE BASED ON
2 ACTUARIALLY SUPPORTED CRITERIA, AND SHALL BE DESCRIBED IN EACH
3 INSURER'S UNDERWRITING AND RATING PLAN.

4 (4) Each insurer shall establish a secondary or merit rating
5 plan for automobile insurance. A secondary or merit rating plan
6 required under this subsection shall provide for premium sur-
7 charges for any or all coverages for automobile insurance, based
8 upon any or all of the following, when that information becomes
9 available to the insurer:

10 (a) Substantially at-fault accidents.

11 (b) Convictions for, determinations of responsibility for
12 civil infractions for, or findings of responsibility in probate
13 court for civil infractions for, violations under chapter VI of
14 the Michigan vehicle code, Act No. 300 of the Public Acts of
15 1949, as amended, being sections 257.601 to 257.750 of the
16 Michigan Compiled Laws.

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

20 (6) Notwithstanding other provisions of this chapter, auto-
21 mobile insurance risks shall NOT be grouped by territory ~~and~~
22 ~~territorial base rates for coverages shall be established as pro-~~
23 ~~vided in section 2111a and as follows.~~ AND AN INSURER SHALL NOT
24 CHARGE A TERRITORIAL BASE RATE FOR AN AUTOMOBILE INSURANCE
25 POLICY.

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

1 ~~(b) An insurer shall not employ more than 20 different~~
2 ~~territorial base rates for an automobile insurance coverage.~~
3 ~~This subdivision shall not apply from February 28, 1986 to~~
4 ~~June 30, 1991.~~

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

7 ~~(d) An insurer shall not employ a territorial base rate for~~
8 ~~an automobile insurance package policy that is less than 45% of~~
9 ~~the highest territorial base rate for the same policy, all other~~
10 ~~rating classifications being the same. This subdivision shall~~
11 ~~not apply from February 28, 1986 to June 30, 1991.~~

12 ~~(e) An insurer shall not employ a territorial base rate in a~~
13 ~~territory for an automobile insurance package policy that is less~~
14 ~~than 90% of the territorial base rate employed in any adjacent~~
15 ~~territory for the same policy, all other rating classifications~~
16 ~~being the same. This subdivision shall not apply from February~~
17 ~~28, 1986 to June 30, 1991.~~

18 ~~(7) An insurer may elect at any time to exempt itself from~~
19 ~~the requirements of subsection (6) by filing for an exemption~~
20 ~~with the commissioner. An insurer electing this exemption shall~~
21 ~~initially file a rating plan in which no territorial base rate~~
22 ~~for an automobile insurance package policy is less than 45% of~~
23 ~~the highest territorial base rate for the same policy, all other~~
24 ~~rating classifications being the same. Five years from the date~~
25 ~~of the initial filing the insurer shall be prohibited from using~~
26 ~~a rating plan in which any territorial base rate for an~~
27 ~~automobile insurance package policy will be less than 67% of the~~

~~1 highest territorial base rate for that same policy, all other
2 rating classifications being the same. An insurer's election of
3 an exemption under this subsection is permanent, final, and not
4 subject to change. This subsection shall not apply from February
5 28, 1986 to June 30, 1991.~~

~~6 (8) Beginning 1 year after the effective date of this sec-
7 tion, if an insurer can demonstrate to the commissioner, after an
8 opportunity for an evidentiary hearing held pursuant to the
9 administrative procedures act of 1969, Act No. 306 of the Public
10 Acts of 1969, as amended, being sections 24.201 to 24.328 of the
11 Michigan Compiled Laws, that clear and significant financial
12 impairment exists in the geographic territory or territories in
13 question because of the need for an additional territorial base
14 rate, or for a greater variance in the adjacent geographic terri-
15 tory differential contained in subsection (6)(e), the additional
16 territorial base rate, a greater variance, or both, shall be per-
17 mitted for use by the insurer or a licensed rating organization
18 on behalf of that insurer, at such time as the need exists.
19 Evidence shall not include financial impairment resulting from
20 exemptions granted to other insurers. This subsection shall not
21 apply from February 28, 1986 to June 30, 1991.~~

~~22 (9) If the commissioner finds, solely on the evidence
23 presented, that a greater variance in the adjacent geographic
24 territory differential than that authorized under subsection
25 (6)(e) is justified, the increase in variance shall not exceed
26 100% of that authorized under that subsection. If an increase in
27 variance in the adjacent geographic territory differential~~

1 ~~greater than 100% of that authorized under subsection (6)(e) is~~
 2 ~~justified, the commissioner shall require the creation of an~~
 3 ~~additional territorial base rate. This subsection shall not~~
 4 ~~apply from February 28, 1986 to June 30, 1991.~~

5 ~~(10) An exemption granted under subsections (8) and (9)~~
 6 ~~shall be applicable only to the geographic territory or territo-~~
 7 ~~ries in question, and only to the insurer requesting the~~
 8 ~~exemption. This subsection shall not apply from February 28,~~
 9 ~~1986 to June 30, 1991.~~

10 ~~(11) An insurer shall not have more than 5 exemptions in~~
 11 ~~force at any 1 time. For purposes of determining the number of~~
 12 ~~existing exemptions, each additional territorial base rate or~~
 13 ~~each increase in variance in the adjacent geographic territory~~
 14 ~~differential granted, shall be considered to be a separate~~
 15 ~~exemption. This subsection shall not apply from February 28,~~
 16 ~~1986 to June 30, 1991.~~

17 (7) ~~(12)~~ This section shall not be construed as limiting
 18 insurers or rating organizations from establishing and maintain-
 19 ing statistical reporting territories. This section shall not be
 20 construed to prohibit an insurer from establishing or maintain-
 21 ing, for automobile insurance, a premium discount plan for senior
 22 citizens in this state who are 65 years of age or older, if the
 23 plan is uniformly applied by the insurer throughout this state.
 24 If an insurer has not established and maintained ~~such~~ a premium
 25 discount plan for senior citizens, the insurer shall offer
 26 reduced premium rates to senior citizens in this state who are 65

1 years of age or older and who drive less than 3,000 miles per
2 year, regardless of statistical data.

3 (8) ~~(+3)~~ Classifications established pursuant to this sec-
4 tion for home insurance other than inland marine insurance pro-
5 vided by policy floaters or endorsements shall be based only upon
6 1 or more of the following factors:

7 (a) Amount and types of coverage.

8 (b) Security and safety devices, including locks, smoke
9 detectors, and similar, related devices.

10 (c) Repairable structural defects reasonably related to
11 risk.

12 (d) Fire protection class.

13 (e) Construction of structure, based on structure size,
14 building material components, and number of units.

15 (f) Loss experience of the insured, based upon prior claims
16 attributable to factors under the control of the insured which
17 have been paid by an insurer.

18 (g) Use of smoking materials within the structure.

19 (h) Distance of the structure from a fire hydrant.

20 (i) Availability of law enforcement or crime prevention
21 services.

22 (9) ~~(+4)~~ Notwithstanding other provisions of this chapter,
23 home insurance risks shall be grouped by territory, and territo-
24 rial base rates for coverages shall be established as follows:

25 (a) An insurer shall not be limited as to the number of ter-
26 ritories employed in its rating plan. However, an insurer shall
27 not employ more than 3 different territorial base rates for a

1 home insurance coverage. A territorial base rate may be made
2 applicable in 1 or more territories contained in the rating plan
3 of the insurer.

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

8 (c) An insurer shall not employ a territorial base rate for
9 home insurance for renter or tenant policies that is less than
10 65% of the highest territorial base rate for the same policy, all
11 other rating classifications being the same.

12 (10) ~~(15) An insurer shall not utilize factors other than~~
13 ~~those prescribed in this section in establishing classifications~~
14 ~~for automobile insurance and home insurance until January 1,~~
15 ~~1982. However, on and after January 1, 1982, an~~ AN insurer may
16 utilize factors in addition to those specified in this section,
17 if the commissioner finds, after a hearing held pursuant to the
18 administrative procedures act of 1969, Act No. 306 of the Public
19 Acts of 1969, as amended, being sections 24.201 to 24.328 of the
20 Michigan Compiled Laws, that the factors would encourage innova-
21 tion, would encourage insureds to minimize the risks of loss from
22 hazards insured against, and would be consistent with the pur-
23 poses of this chapter.

24 SEC. 2111D. (1) BY JANUARY 1, 1990, EACH INSURER SHALL FILE
25 BASE RATES FOR AUTOMOBILE INSURANCE THAT ARE REDUCED TO THE BASE
26 RATES IN EFFECT IN THIS STATE FOR THAT INSURER ON MAY 1, 1988

1 PLUS AN ADDITIONAL REDUCTION OF NOT LESS THAN 20% OF THE BASE
2 RATE IN EFFECT ON MAY 1, 1988.

3 (2) BY JANUARY 1, 1990, EACH INSURER WHO DID NOT WRITE AUTO-
4 MOBILE INSURANCE IN THIS STATE ON MAY 1, 1988, SHALL FILE BASE
5 RATES FOR AUTOMOBILE INSURANCE THAT DO NOT EXCEED THE WEIGHTED
6 AVERAGE OF THE BASE RATES FILED ON MAY 1, 1988 BY THE 10 LARGEST
7 AUTOMOBILE INSURANCE INSURERS BY MARKET SHARE.

8 (3) ASSESSMENTS FOR THE MICHIGAN CATASTROPHIC CLAIMS ASSOCI-
9 ATION, PROPERTY CASUALTY CLAIMS ASSOCIATION, AUTOMOBILE THEFT
10 PREVENTION AUTHORITY, AND THE MICHIGAN AUTOMOBILE INSURANCE
11 PLACEMENT FACILITY SHALL NOT BE CONSIDERED IN ACHIEVING THE
12 REDUCTION REQUIRED BY SUBSECTIONS (1) AND (2).

13 (4) BY JANUARY 1, 1990, EACH GROUP AUTOMOBILE INSURANCE
14 INSURER WHO HAS WRITTEN ANY AUTOMOBILE INSURANCE IN THIS STATE AT
15 ANY TIME AFTER APRIL 30, 1987, SHALL FILE BASE RATES FOR GROUP
16 AUTOMOBILE INSURANCE AT THE RATE AS PROVIDED IN SUBSECTION (1).

17 (5) BY FEBRUARY 1, 1990, EACH GROUP AUTOMOBILE INSURANCE
18 INSURER WHO DID NOT WRITE AUTOMOBILE INSURANCE IN THIS STATE AT
19 ANY TIME AFTER APRIL 30, 1987, SHALL FILE BASE RATES FOR GROUP
20 AUTOMOBILE INSURANCE THAT DO NOT EXCEED THE WEIGHTED AVERAGE OF
21 THE BASE RATES FILED ON JANUARY 1, 1990 PURSUANT TO SUBSECTION
22 (1) BY THE 10 LARGEST AUTOMOBILE INSURANCE INSURER GROUPS BY
23 MARKET SHARE.

24 Sec. 2114. (1) A person or organization aggrieved with
25 respect to any filing which is in effect and which affects the
26 person or organization may make written application to the
27 commissioner for a hearing on the filing. However, the insurer

1 or rating organization which made the filing shall not be
2 authorized to proceed under this subsection. The application
3 shall specify the grounds to be relied upon by the applicant. If
4 the commissioner finds that the application is made in good
5 faith, that the applicant would be so aggrieved if the grounds
6 specified are established, or that the grounds specified other-
7 wise justify holding a hearing, the commissioner, not more than
8 30 days after receipt of the application, shall hold a hearing in
9 accordance with Act No. 306 of the Public Acts of 1969, as
10 amended, upon not less than 10 days' written notice to the appli-
11 cant, the insurer, and the rating organization which made the
12 filing.

13 (2) If after hearing initiated under subsection (1) or upon
14 the commissioner's own motion pursuant to Act No. 306 of the
15 Public Acts of 1969, as amended, the commissioner finds that a
16 filing does not meet the requirements of sections 2109, 2109A,
17 and 2111, the commissioner shall issue an order stating the spe-
18 cific reasons for that finding. The order shall state when,
19 within a reasonable time after issuance of the order, the filing
20 shall be considered no longer effective. A copy of the order
21 shall be sent to the applicant, if any, and to each insurer and
22 rating organization subject to the order. The order shall not
23 affect a contract or policy made or issued before the date the
24 filing becomes ineffective, as indicated in the commissioner's
25 order.

26 Sec. 2127. The commissioner may by rule prospectively
27 require insurers, rating organizations, and advisory

1 organizations to collect and report data ~~only~~ to the extent
2 necessary to monitor and evaluate the automobile and home insur-
3 ance markets in this state. The commissioner shall authorize the
4 use of sampling techniques in each instance where sampling is
5 practicable and consistent with the purposes for which the data,
6 by county, are to be collected and reported. RULES PROMULGATED
7 PURSUANT TO THIS SECTION ARE IN ADDITION TO, AND DO NOT REPLACE,
8 THE REPORTING REQUIREMENTS IN SECTION 2128.

9 SEC. 2128. EACH INSURER WHO ISSUES AUTOMOBILE INSURANCE IN
10 THIS STATE SHALL FILE WITH THE COMMISSIONER BY JANUARY 1 OF EACH
11 YEAR ON FORMS PRESCRIBED BY THE COMMISSIONER THE FOLLOWING AUTO-
12 MOBILE INSURANCE DATA, BY COUNTY, FOR THE PRIOR CALENDAR YEAR:

13 (A) WITH RESPECT TO PERSONAL PROTECTION INSURANCE COVERAGE:

14 (i) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
15 BENEFITS FOR WHICH PAYMENT IS MADE.

16 (ii) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
17 BENEFITS WHICH ARE CLOSED WITHOUT PAYMENT.

18 (iii) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
19 BENEFITS WHICH INVOLVE SOME FORM OF LITIGATION AND ARE CLOSED
20 WITHOUT PAYMENT.

21 (iv) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
22 BENEFITS WHICH INVOLVE LITIGATION AND FOR WHICH PAYMENT IS MADE
23 AFTER LITIGATION COMMENCES, INCLUDING THE LENGTH OF TIME BETWEEN
24 THE FILING OF THE CLAIM AND THE FIRST PAYMENT.

25 (v) THE AMOUNT OF INTEREST CHARGES PAID ON CLAIMS FOR PER-
26 SONAL PROTECTION INSURANCE BENEFITS AND THE NUMBER OF CASES FOR
27 WHICH INTEREST CHARGES HAVE BEEN PAID.

1 (vi) THE LITIGATION COSTS FOR CLAIMS FOR PERSONAL PROTECTION
2 INSURANCE BENEFITS.

3 (vii) THE NUMBER OF CASES GOING TO VERDICT AND THE AMOUNT OF
4 THE VERDICT FOR THOSE CASES IN WHICH AN AWARD IS MADE.

5 (viii) THE NUMBER OF VERDICTS OF NO CAUSE OF ACTION.

6 (ix) THE NUMBER OF CASES IN WHICH ATTORNEY FEES ARE PAID,
7 THE TOTAL AMOUNT OF ATTORNEY FEES PAID, AND THE AMOUNT OF ATTOR-
8 NEY FEES PAID FOR EACH CASE IN WHICH FEES WERE PAID.

9 (x) THE COST AND FREQUENCY, PER 1,000 INSURED, FOR MEDICAL
10 CLAIMS, WAGE LOSS CLAIMS, DEPENDENT SURVIVOR CLAIMS, AND ALL
11 OTHER CLAIMS, CLASSIFIED ACCORDING TO VEHICLE AGE, VEHICLE CLASS,
12 MILEAGE CLASS, AND DRIVER RECORD. FOR MEDICAL CLAIMS, THIS
13 INFORMATION SHALL ALSO BE COMPILED ACCORDING TO THE INSURED'S AGE
14 AS FOLLOWS: 0-1 YEARS OF AGE; 1-4 YEARS OF AGE; 5-14 YEARS OF
15 AGE; 15-22 YEARS OF AGE; 23-35 YEARS OF AGE; 36-44 YEARS OF AGE;
16 44-59 YEARS OF AGE; 60 AND ABOVE. THE TYPE OF MEDICAL SERVICES
17 SHALL INCLUDE AND BE COMPILED AT A MINIMUM ACCORDING TO THE FOL-
18 LOWING CLASSIFICATIONS: AMBULATORY SERVICES INCLUDING PHYSICIAN,
19 LABORATORY (OFFICE), LABORATORY (INDEPENDENT LABORATORY), RADIOL-
20 OGY (OFFICE), RADIOLOGY (OTHER), OTHER DIAGNOSTIC, AMBULANCE,
21 PHARMACY, DURABLE MEDICAL EQUIPMENT, PROSTHETICS AND ORTHOTICS,
22 DENTAL, VISION, HOME HEALTH, THERAPIES, AND OTHER NONINSTITU-
23 TIONAL SERVICES; AND INSTITUTIONAL MEDICAL SERVICES INCLUDING
24 INPATIENT HOSPITAL (MEDICAL, SURGICAL, AND OTHER), OUTPATIENT
25 HOSPITAL, AND NURSING HOME.

26 (B) WITH RESPECT TO PROPERTY PROTECTION INSURANCE COVERAGE:

1 (i) THE COST AND FREQUENCY, PER 1,000 INSUREDS FOR CLAIMS,
2 CLASSIFIED ACCORDING TO VEHICLE AGE, VEHICLE CLASS, MILEAGE
3 CLASS, AND DRIVER RECORD.

4 (ii) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY TORT
5 CLAIMS CLOSED BY PAYMENT TO THE CLAIMANT BEFORE THE COMMENCEMENT
6 OF LITIGATION AND A BREAKDOWN OF HOW MANY OF THESE CLAIMS WERE
7 DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION
8 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

9 (iii) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY
10 TORT CLAIMS CLOSED BY PAYMENT TO THE CLAIMANT AFTER THE COMMENCE-
11 MENT OF LITIGATION AND A BREAKDOWN OF HOW MANY OF THESE CLAIMS
12 WERE DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION
13 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

14 (iv) THE DOLLAR AMOUNT PAID TO CLAIMANTS TO SETTLE THIRD
15 PARTY AUTOMOBILE BODILY INJURY TORT CLAIMS BEFORE AND AFTER LITI-
16 GATION HAD BEEN COMMENCED AND A BREAKDOWN OF THE DOLLAR AMOUNTS
17 PAID FOR DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNC-
18 TION CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

19 (v) THE NUMBER OF THIRD PARTY LAWSUITS FILED, AND A BREAK-
20 DOWN OF HOW MANY WERE FILED FOR DEATH THRESHOLD CLAIMS, SERIOUS
21 IMPAIRMENT OF BODY FUNCTION CLAIMS, AND PERMANENT SERIOUS DISFIG-
22 UREMENT CLAIMS.

23 (vi) THE NUMBER AND DOLLAR AMOUNT PAID OR RESERVED FOR ALL
24 BODILY INJURY CLAIMS SET UP OR OPENED, INDICATING THE NUMBER AND
25 DOLLAR AMOUNT OF RESERVES FOR CLAIMS REMAINING OPEN AT THE END OF
26 THE REPORTING PERIOD.

1 (C) WITH RESPECT TO RESIDUAL LIABILITY INSURANCE COVERAGE,
2 THE COST AND FREQUENCY, PER 1,000 INSUREDS, BY POLICY LIMITS, FOR
3 CLAIMS, CLASSIFIED ACCORDING TO VEHICLE AGE, VEHICLE CLASS, MILE-
4 AGE CLASS, AND DRIVER RECORD.

5 (D) WITH RESPECT TO COLLISION INSURANCE COVERAGE, THE COST
6 AND FREQUENCY AND APPLICABLE DEDUCTIBLE AMOUNT, PER 1,000
7 INSUREDS, FOR CLAIMS, CLASSIFIED ACCORDING TO VEHICLE AGE, VEHI-
8 CLE CLASS, MILEAGE CLASS, DRIVER RECORD, TYPE OF REPAIR, AND TYPE
9 OF COVERAGE.

10 (E) WITH RESPECT TO COMPREHENSIVE INSURANCE COVERAGE, THE
11 COST AND FREQUENCY, PER 1,000 INSUREDS, FOR CLAIMS FOR STOLEN
12 VEHICLES AND ALL OTHER CLAIMS, CLASSIFIED ACCORDING TO VEHICLE
13 AGE, VEHICLE CLASS, MILEAGE CLASS, AND DRIVER RECORD.

14 (F) WITH RESPECT TO LIMITED PROPERTY DAMAGE, THE COST AND
15 FREQUENCY, PER 1,000 INSUREDS, FOR CLAIMS, CLASSIFIED ACCORDING
16 TO VEHICLE AGE, VEHICLE CLASS, MILEAGE CLASS, AND DRIVER RECORD.

17 (G) WITH RESPECT TO ANY OTHER TYPE OF AUTO COVERAGE, THE
18 COST AND FREQUENCY, PER 1,000 INSUREDS, FOR CLAIMS, CLASSIFIED
19 ACCORDING TO VEHICLE AGE, VEHICLE CLASS, MILEAGE CLASS, AND
20 DRIVER RECORD.

21 (H) THE TOTAL EARNED PREMIUM FOR AUTOMOBILE INSURANCE
22 COVERAGE.

23 (I) THE NET INCOME BEFORE AND AFTER FEDERAL AND STATE
24 TAXES.

25 (J) TOTAL ADMINISTRATIVE AND SELLING EXPENSES INCURRED IN
26 THIS STATE OR ALLOCATED TO THIS STATE.

1 (K) FOR EACH COVERAGE, TOTAL EARNED PREMIUM AND TOTAL
2 INCURRED LOSSES BEFORE AND AFTER FEDERAL AND STATE TAXES AND
3 RESERVES INCLUDING THE INSURER'S RATIONALE FOR THE LEVEL OF
4 RESERVES.

5 SEC. 2128A. EACH AUTOMOBILE INSURANCE INSURER WRITING AUTO-
6 MOBILE INSURANCE IN THIS STATE SHALL FILE ANNUALLY WITH THE COM-
7 MISSIONER A CERTIFIED AUDIT OF THE INSURER'S BOOKS AND RECORDS
8 PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. IN ADDI-
9 TION, THE COMMISSIONER SHALL AUDIT THE BOOKS AND RECORDS OF EACH
10 AUTOMOBILE INSURANCE INSURER WRITING AUTOMOBILE INSURANCE IN THIS
11 STATE.

12 SEC. 2128B. (1) THE COMMISSIONER SHALL HOLD A PUBLIC HEAR-
13 ING AND SHALL ISSUE A TENTATIVE REPORT DETAILING THE STATE OF
14 COMPETITION IN THE AUTOMOBILE INSURANCE MARKET ON A STATEWIDE
15 BASIS AND DELINEATING SPECIFIC CLASSIFICATIONS, KINDS OR TYPES OF
16 INSURANCE, IF ANY, WHERE COMPETITION DOES NOT EXIST BY JANUARY
17 15, 1992 AND EACH YEAR THEREAFTER. THE REPORT SHALL BE BASED ON
18 RELEVANT ECONOMIC TESTS, INCLUDING BUT NOT LIMITED TO THOSE IN
19 SUBSECTION (3). THE FINDINGS IN THE REPORT SHALL NOT BE BASED ON
20 ANY SINGLE MEASURE OF COMPETITION, BUT APPROPRIATE WEIGHT SHALL
21 BE GIVEN TO ALL MEASURES OF COMPETITION. THE REPORT SHALL
22 INCLUDE A CERTIFICATION OF WHETHER OR NOT COMPETITION EXISTS. A
23 PERSON WHO DISAGREES WITH THE REPORT AND FINDINGS OF THE COMMIS-
24 SIONER MAY REQUEST A CONTESTED HEARING PURSUANT TO THE ADMINIS-
25 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS
26 OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED

1 LAWS, NOT LATER THAN 60 DAYS AFTER ISSUANCE OF THE TENTATIVE
2 REPORT.

3 (2) BY AUGUST 1, 1992 AND EACH YEAR THEREAFTER, THE COMMIS-
4 SIONER SHALL ISSUE A FINAL REPORT THAT SHALL INCLUDE A FINAL CER-
5 TIFICATION OF WHETHER OR NOT COMPETITION EXISTS IN THE AUTOMOBILE
6 INSURANCE MARKET. THE FINAL REPORT AND CERTIFICATION SHALL BE
7 SUPPORTED BY SUBSTANTIAL EVIDENCE.

8 (3) FOR PURPOSES OF SUBSECTIONS (1) AND (2), ALL OF THE FOL-
9 LOWING SHALL BE CONSIDERED BY THE COMMISSIONER:

10 (A) THE EXTENT TO WHICH ANY INSURER CONTROLS THE AUTOMOBILE
11 INSURANCE MARKET OR ANY PORTION OF THAT MARKET. WITH RESPECT TO
12 COMPETITION ON A STATEWIDE BASIS, AN INSURER SHALL NOT BE CONSID-
13 ERED TO CONTROL THE AUTOMOBILE INSURANCE MARKET UNLESS IT HAS
14 MORE THAN A 15% MARKET SHARE.

15 (B) WHETHER THE TOTAL NUMBER OF COMPANIES WRITING AUTOMOBILE
16 INSURANCE IN THIS STATE IS SUFFICIENT TO PROVIDE MULTIPLE OPTIONS
17 AND ADEQUATE SERVICE TO INDIVIDUALS.

18 (C) THE DISPARITY AMONG AUTOMOBILE INSURANCE RATES AND CLAS-
19 SIFICATIONS TO THE EXTENT THAT SUCH CLASSIFICATIONS RESULT IN
20 RATE DIFFERENTIALS.

21 (D) THE AVAILABILITY OF AUTOMOBILE INSURANCE TO INDIVIDUALS
22 IN ALL GEOGRAPHIC AREAS OF THE STATE.

23 (E) THE RESIDUAL MARKET SHARE.

24 (F) THE OVERALL RATE LEVEL WHICH MEETS THE REQUIREMENTS IN
25 SECTION 2109A(1).

26 (G) ANY OTHER FACTORS THE COMMISSIONER CONSIDERS RELEVANT.

1 (4) THE REPORTS AND CERTIFICATIONS REQUIRED UNDER
2 SUBSECTIONS (1) AND (2) SHALL BE FORWARDED TO THE GOVERNOR, THE
3 CLERK OF THE HOUSE, THE SECRETARY OF THE SENATE, ALL THE MEMBERS
4 OF THE HOUSE OF REPRESENTATIVES COMMITTEE ON INSURANCE, AND ALL
5 THE MEMBERS OF THE SENATE COMMITTEE ON COMMERCE.

6 (5) NOT LATER THAN 90 DAYS AFTER RECEIPT OF THE FINAL REPORT
7 AND FINAL CERTIFICATION, THE LEGISLATURE, BY CONCURRENT RESOLU-
8 TION, SHALL APPROVE OR DISAPPROVE THE CERTIFICATION BY A MAJORITY
9 ROLL-CALL VOTE IN EACH HOUSE. IF THE CERTIFICATION IS APPROVED,
10 THE COMMISSIONER SHALL PROCEED UNDER SECTION 2128C.

11 SEC. 2128C. IF THE COMMISSIONER CERTIFIES AND THE LEGISLA-
12 TURE RESOLVES PURSUANT TO SECTION 2128B THAT A REASONABLE DEGREE
13 OF COMPETITION DOES NOT EXIST WITH RESPECT TO THE AUTOMOBILE
14 INSURANCE MARKET ON A STATEWIDE BASIS OR ANY GEOGRAPHIC AREAS,
15 CLASSIFICATIONS, KINDS OR TYPES OF RISK, OR THAT INSURANCE IS
16 UNAVAILABLE TO A SEGMENT OF THE MARKET WHO ARE, IN GOOD FAITH,
17 ENTITLED TO OBTAIN INSURANCE THROUGH ORDINARY MEANS, THE COMMIS-
18 SIONER SHALL CREATE COMPETITION OR AVAILABILITY WHERE IT DOES NOT
19 EXIST. A PLAN FOR COMPETITION OR AVAILABILITY ADOPTED PURSUANT
20 TO THIS SECTION SHALL BE INCLUDED IN A FINAL CERTIFICATION OF
21 NONCOMPETITION UNDER SECTION 2128B. THE PLAN SHALL ONLY RELATE
22 TO THOSE GEOGRAPHIC AREAS, CLASSIFICATIONS, OR KINDS OR TYPES OF
23 RISKS WHERE COMPETITION HAS BEEN CERTIFIED NOT TO EXIST. THE
24 PLAN MAY INCLUDE METHODS DESIGNED TO CREATE COMPETITION OR AVAIL-
25 ABILITY AS THE COMMISSIONER CONSIDERS NECESSARY, AND MAY PROVIDE
26 FOR THE COMMISSIONER TO DO 1 OR MORE OF THE FOLLOWING:

1 (A) AUTHORIZE, BY ORDER, JOINT UNDERWRITING ACTIVITIES IN A
2 MANNER SPECIFIED IN THE COMMISSIONER'S ORDER.

3 (B) MODIFY THE RATE APPROVAL PROCESS IN A MANNER TO INCREASE
4 COMPETITION OR AVAILABILITY WHILE AT THE SAME TIME PROVIDING FOR
5 REASONABLY TIMELY RATE APPROVALS. MODIFICATIONS UNDER THIS SUB-
6 DIVISION SHALL NOT AFFECT THE REQUIREMENTS OF SECTIONS 2106 AND
7 2107A.

8 (C) ORDER EXCESS PROFITS REGULATION. EXCESS PROFITS REGULA-
9 TION AUTHORIZED BY THIS SUBDIVISION SHALL BE BASED UPON RULES
10 PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
11 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
12 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS. EXCESS PROFITS
13 SHALL INCLUDE BOTH UNDERWRITING PROFITS AND ALL AFTER-TAX INVEST-
14 MENT OR INVESTMENT PROFIT OR LOSS FROM UNEARNED PREMIUMS AND LOSS
15 RESERVES ATTRIBUTABLE TO AUTOMOBILE INSURANCE. THE COMMISSIONER,
16 PURSUANT TO EXCESS PROFITS REGULATION, MAY ESTABLISH FORMS FOR
17 THE REPORTING OF FINANCIAL DATA OF THE INSURER.

18 (D) ESTABLISH AND REQUIRE AUTOMOBILE INSURANCE RATES, BY
19 ORDER, WHICH INSURERS MUST USE AS A CONDITION OF MAINTAINING
20 THEIR CERTIFICATE OF AUTHORITY. THE ORDER SETTING THE RATES
21 SHALL TAKE EFFECT NOT LESS THAN 90 DAYS OR MORE THAN 150 DAYS
22 AFTER THE ORDER IS ISSUED.

23 SEC. 2128D. (1) THE COMMISSIONER SHALL ESTABLISH A COMPUT-
24 ERIZED CONSUMER INFORMATION DATA BASE CONTAINING UP-TO-DATE PRE-
25 MIUM AND RATE CHARGES FOR EACH COVERAGE FOR EACH AUTOMOBILE
26 INSURANCE POLICY ISSUED BY AN INSURER IN THIS STATE. UPON
27 REQUEST AND RECEIPT OF A REASONABLE FEE TO COVER COSTS, THE

1 COMMISSIONER SHALL PROVIDE A COMPARISON OF THE RATES IN EFFECT
2 FOR EACH COVERAGE FOR EACH AUTOMOBILE INSURANCE POLICY ISSUED BY
3 AN INSURER IN THIS STATE.

4 (2) THE COMMISSIONER MAY PROMULGATE RULES PURSUANT TO THE
5 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
6 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
7 COMPILED LAWS, TO IMPLEMENT THIS SECTION, INCLUDING A SYSTEM OF
8 FEES AND CHARGES FOR COMPUTER ACCESS AND SERVICES.

9 (3) THE INSURANCE BUREAU COMPUTER INFORMATION FUND IS CRE-
10 ATED IN THE STATE TREASURY AND SHALL BE ADMINISTERED BY THE
11 COMMISSIONER. THE FUND SHALL BE EXPENDED ONLY AS PROVIDED IN
12 THIS SECTION.

13 (4) THE MONEY RECEIVED FROM THE SALE OF ACCESS AND RELATED
14 SERVICES PURSUANT TO THIS SECTION, ALONG WITH OTHER MONEY MADE
15 AVAILABLE FOR SUCH PURPOSES, BY APPROPRIATION OR OTHERWISE, SHALL
16 BE DEPOSITED WITH THE STATE TREASURER AND CREDITED TO THE INSUR-
17 ANCE BUREAU COMPUTER INFORMATION FUND.

18 (5) THE COMMISSIONER SHALL USE THE INSURANCE BUREAU COMPUTER
19 INFORMATION FUND TO PAY FOR ALL OF THE FOLLOWING IF DIRECTLY
20 RELATED TO PROVIDING THE INFORMATION REQUIRED BY THIS SECTION:

21 (A) RESEARCH AND DEVELOPMENT.

22 (B) TRAINING.

23 (C) HARDWARE, SOFTWARE, AND FACILITIES.

24 (D) ACQUISITION OF NECESSARY SUPPORT SERVICES.

25 (E) EDITORIAL AND COMPILATION EXPENSES.

26 Sec. 2236. (1) ~~No~~ A basic insurance policy form or
27 annuity contract form shall NOT be issued or delivered to any

1 person in this state, and ~~no~~ AN application form where a
2 written application is required and is to be made a part of
3 ~~such~~ THE policy or contract, ~~no~~ printed rider or indorsement
4 form or form of renewal certificate, and ~~no~~ group certificate
5 in connection with ~~any such~~ THE policy or contract, shall NOT
6 be issued or delivered to any person in this state, until a copy
7 of the form thereof is filed with the ~~department of~~ insurance
8 BUREAU and approved by the commissioner as conforming with the
9 requirements of this code and not inconsistent with the law.
10 Failure of the commissioner to act within 30 days after submittal
11 shall constitute approval. All such forms, except policies of
12 disability insurance as defined in section 3400, shall be plainly
13 printed with type size not less than 8-point unless the commis-
14 sioner determines that ~~such portions of any such~~ A PORTION OF A
15 form printed with type less than 8-point is not deceptive or
16 misleading.

17 (2) ~~An~~ EXCEPT FOR FILINGS CONCERNING RATES, AN insurer may
18 satisfy its obligations to make form filings by becoming a member
19 of, or a subscriber to, a rating organization, licensed under
20 section 2436 or 2630, which makes such filings and by filing with
21 the commissioner a copy of its authorization of the rating orga-
22 nization to make the filings on its behalf. Every member of or
23 subscriber to a rating organization shall adhere to the form fil-
24 ings made on its behalf by the organization except that any
25 insurer may file with the commissioner a substitute form, and
26 thereafter if a subsequent form filing by the rating organization
27 affects the use of the substitute form, the insurer shall review

1 its use and notify the commissioner to withdraw its substitute
2 form.

3 (3) Upon written notice to the insurer, the commissioner may
4 disapprove, withdraw approval, or prohibit the issuance, adver-
5 tising, or delivery of any form to any person in this state if it
6 violates any provisions of this code, or contains inconsistent,
7 ambiguous, or misleading clauses, or contains exceptions and con-
8 ditions that unreasonably or deceptively affect the risk pur-
9 ported to be assumed in the general coverage of the policy. The
10 notice shall specify the objectionable provisions or conditions
11 and state the reasons for the commissioner's decision. If the
12 form is legally in use by the insurer in this state, the notice
13 shall give the effective date of the commissioner's disapproval,
14 which shall not be less than 30 days subsequent to the mailing or
15 delivery of ~~such~~ THE notice to the insurer. If the form is not
16 legally in use, then disapproval shall be effective ~~forthwith~~
17 IMMEDIATELY.

18 (4) ~~Whenever~~ IF a form is disapproved, or approval is
19 withdrawn under the provisions of this code, the insurer shall be
20 entitled upon demand to a hearing before the commissioner or a
21 deputy commissioner within 30 days of notice of disapproval or of
22 withdrawal of approval. ~~and after~~ AFTER the hearing, the
23 commissioner shall make findings of fact and law, and either
24 affirm, modify, or withdraw his or her original order or
25 decision.

26 (5) Any issuance, use, or delivery by an insurer of ~~any~~ A
27 form without the prior approval of the commissioner as required

1 by subsection (1) or after withdrawal of approval as provided by
2 subsection (3) constitutes a separate violation for which the
3 commissioner may order the imposition of a civil penalty of
4 \$25.00 for each offense, but not to exceed the maximum penalty of
5 \$500.00 for any 1 series of offenses relating to any 1 basic
6 policy form, which penalty may be recovered by the attorney gen-
7 eral as provided in section 230.

8 (6) The filing requirements of this section shall not apply
9 to:

10 (a) Insurance against loss of or damage to:

11 (i) Imports, exports, or domestic shipments.

12 (ii) Bridges, tunnels, or other instrumentalities of trans-
13 portation and communication.

14 (iii) Aircraft and attached equipment.

15 (iv) Vessels and watercraft under construction or owned by
16 or used in a business or having a straight-line hull length of
17 more than 24 feet.

18 (b) Insurance against loss resulting from liability, other
19 than worker's compensation or employers' liability arising out of
20 the ownership, maintenance, or use of:

21 (i) Imports, exports, or domestic shipments.

22 (ii) Aircraft and attached equipment.

23 (iii) Vessels and watercraft under construction or owned by
24 or used in a business or having a straight-line hull length of
25 more than 24 feet.

26 (c) Surety bonds other than fidelity bonds.

1 (d) Policies, riders, indorsements, or forms of unique
2 character designed for and used with relation to insurance upon a
3 particular subject, or which relate to the manner of distribution
4 of benefits or to the reservation of rights and benefits under
5 life or disability insurance policies and are used at the request
6 of the individual policyholder, contract holder, or certificate
7 holder. Beginning September 1, 1968, the commissioner by order
8 may exempt from the filing requirements of this section and sec-
9 tions 2242, 3606, and 4430 for so long as he or she deems proper,
10 any insurance document or form or type thereof, except that por-
11 tion of the document or form that establishes a relationship
12 between group disability insurance and personal protection insur-
13 ance benefits subject to exclusions or deductibles pursuant to
14 section 3109a, as specified in the order to which this section
15 practicably may not be applied, or the filing and approval of
16 which are deemed unnecessary for the protection of the public.
17 Insurance documents or forms providing medical payments or income
18 replacement benefits, except that portion of the document or form
19 that establishes a relationship between group disability insur-
20 ance and personal protection insurance benefits subject to exclu-
21 sions or deductibles pursuant to section 3109a, exempt by order
22 of the commissioner from the filing requirements of this section
23 and sections 2242 and 3606 are deemed approved by the commis-
24 sioner for purposes of section 3430.

25 (7) Every order made by the commissioner under the provi-
26 sions of this section shall be subject to court review as
27 provided in section 244.

1 Sec. 2400. (1) ~~Except with respect to worker's~~
2 ~~compensation insurance, the~~ THE purpose of this chapter is to
3 promote the public welfare by regulating insurance rates to the
4 end that they shall not be excessive, inadequate, or unfairly
5 discriminatory, and to ~~authorize and~~ regulate cooperative
6 action among insurers in rate-making and ~~in other~~ matters
7 within the scope of the insurance code. Nothing in this chapter
8 is intended ~~(1)~~ to prohibit or discourage reasonable
9 competition. ~~, or (2) to prohibit, or encourage except to the~~
10 ~~extent necessary to accomplish the aforementioned purpose, uni-~~
11 ~~formity in insurance rates, rating systems, rating plans, or~~
12 ~~practices. (2) With respect to worker's compensation insurance,~~
13 ~~the~~ THE purposes of this chapter ~~are~~ ALSO INCLUDE:
14 (a) ~~To protect~~ PROTECTING policyholders and the public
15 against the adverse effects of excessive, inadequate, or unfairly
16 discriminatory rates.
17 (b) ~~To promote~~ PROMOTING price competition among insurers
18 ~~writing worker's compensation insurance~~ so as to encourage
19 rates which will result in the lowest possible rates consistent
20 with ~~the~~ benefits ~~established in the worker's disability com-~~
21 ~~pensation act of 1969, Act No. 317 of the Public Acts of 1969, as~~
22 ~~amended, being sections 418.101 to 418.941 of the Michigan~~
23 ~~Compiled Laws,~~ and with maintaining the solvency of insurers.
24 (c) ~~To provide~~ PROVIDING regulatory controls and other
25 activity in the absence of competition.
26 (d) ~~To improve~~ IMPROVING the availability, fairness, and
27 reliability of ~~worker's compensation~~ insurance.

1 (2) ANTITRUST PROVISIONS IN THIS CHAPTER ARE NOT EXCLUSIVE
2 AND OTHER PROVISIONS PROVIDED BY LAW MAY APPLY.

3 (3) This chapter shall be liberally interpreted to carry
4 into effect the provisions of this section.

5 Sec. 2406. (1) Except in regard to worker's compensation
6 insurance, ~~every~~ EACH insurer shall file with the commissioner
7 every manual of classification, every manual of rules and rates,
8 every rating plan, and every modification of any of the foregoing
9 which it proposes to use. Every ~~such~~ filing shall state the
10 proposed effective date ~~thereof~~ OF THE FILING, and shall indi-
11 cate the character and extent of the coverage contemplated.
12 ~~When~~ IF a filing is not accompanied by the information upon
13 which the insurer supports ~~such~~ THE filing, and the commis-
14 sioner does not have sufficient information to determine whether
15 ~~such~~ THE filing meets the requirements of this chapter, the
16 commissioner shall within 10 days of ~~such~~ THE filing give writ-
17 ten notice to ~~such~~ THE insurer to furnish the information upon
18 which it supports ~~such~~ THE filing. The information furnished
19 in support of a filing may include ~~(a)~~ the experience or judg-
20 ment of the insurer ~~or rating organization~~ making the filing,
21 ~~(b)~~ its interpretation of any statistical data it relies upon,
22 ~~(c)~~ the experience of other insurers, ~~or rating~~
23 ~~organizations,~~ or ~~(d)~~ any other relevant factors. A filing
24 and any supporting information shall be open to public inspection
25 after the filing becomes effective.

26 (2) Except in regard to worker's compensation insurance AND
27 FOR FILINGS CONCERNING RATES, an insurer may satisfy its

1 obligation to make ~~such~~ filings by becoming a member of, or a
2 subscriber to, a licensed rating organization which makes ~~such~~
3 filings, and by filing with the commissioner a copy of its autho-
4 rization of the rating organization to make ~~such~~ filings on its
5 behalf. Nothing contained in this chapter shall be construed as
6 requiring any insurer to become a member of or a subscriber to
7 any rating organization.

8 (3) ~~Every~~ EACH insurer with regard to worker's compensa-
9 tion insurance in this state shall file with the commissioner all
10 rates and rating systems. ~~Every insurer that insures worker's~~
11 ~~compensation in this state on the effective date of this subsec-~~
12 ~~tion shall file the rates not later than the effective date of~~
13 ~~this subsection.~~

14 (4) Except as provided in subsection (3), the rates and
15 rating systems regarding worker's compensation insurance shall be
16 filed not later than the date the rates and rating systems are to
17 be effective. These filings shall be considered to meet the
18 requirements of this chapter unless and until the commissioner
19 disapproves a filing pursuant to section 2418.

20 (5) Each filing under subsections (3) and (4) shall be
21 accompanied by a certification by the insurer that, to the best
22 of its information and belief, the filing conforms to the
23 requirements of this chapter.

24 (6) AS A CONDITION OF MAINTAINING ITS CERTIFICATE OF AUTHOR-
25 ITY, AN INSURER SHALL NOT DO ANY OF THE FOLLOWING:

26 (A) HAVE ANY RATES FILED ON ITS BEHALF IN THIS STATE BY A
27 RATING ORGANIZATION.

1 (B) SHARE INFORMATION WITH ANY OTHER INSURER OR RATING
2 ORGANIZATION CONCERNING ESTABLISHING RATES OR RATING SYSTEMS.

3 (C) AGREE WITH ANY OTHER INSURER OR RATING ORGANIZATION TO
4 ADHERE TO OR USE ANY RATE, RATING PLAN, RATING SCHEDULE, RATING
5 RULE, OR UNDERWRITING RULE IN THIS STATE.

6 (D) MAKE AVAILABLE TO ANY OTHER INSURER OR RATING ORGANI-
7 ZATION INFORMATION ON ACTUARIAL PROJECTIONS, TRENDING FACTORS,
8 PROFITS, OR EXPENSES EXCEPT LOSS ADJUSTMENT EXPENSES.

9 Sec. 2430. (1) In lieu of the filing requirements of this
10 chapter and as an alternative method of filing, ~~any~~ AN insurer
11 ~~or rating organization~~ may file with the commissioner ~~any~~ A
12 manual of classification, rules, or rates, any rating plan and
13 every modification of any of the foregoing which it proposes to
14 use, the filing to indicate the character and extent of the cov-
15 erage contemplated. IN LIEU OF THE FILING REQUIREMENTS OF THIS
16 CHAPTER AND AS AN ALTERNATIVE METHOD OF FILING, A RATING ORGANI-
17 ZATION MAY FILE WITH THE COMMISSIONER FOR AN INSURER A MANUAL OF
18 CLASSIFICATION, RULES, AND EVERY MODIFICATION OF ANY OF THE FORE-
19 GOING, THE FILING TO INDICATE THE CHARACTER AND EXTENT OF THE
20 COVERAGE CONTEMPLATED. Every ~~such~~ filing under this section
21 shall state the effective date ~~thereof~~ OF THE FILING, shall
22 take effect on ~~said~~ THAT date, shall not be subject to any
23 waiting period requirements, and shall be deemed to meet the
24 requirements of section 2403 (1) (d). ~~(rate standards)~~. A
25 filing and any supporting information shall be open to public
26 inspection, if the filing is not disapproved.

1 (2) At any time within 15 days from and after the date of
2 ~~any such~~ A filing UNDER SUBSECTION (1), the commissioner may
3 give written notice to the insurer ~~or rating organization~~
4 making ~~such~~ THE filing, specifying in what respect and to what
5 extent he OR SHE contends ~~such~~ THE filing fails to comply with
6 the requirements of section 2403 (1) (d) and fixing a date for
7 hearing not less than 10 days from the date of THE mailing of
8 ~~such~~ THE notice. At ~~such~~ THE hearing the factors specified
9 in section 2406 (1) shall be considered. If the commissioner
10 after hearing finds that the filing does not comply with the pro-
11 visions of this chapter, he OR SHE may issue ~~his~~ AN order
12 determining ~~wherein~~ WHERE and to what extent ~~such~~ THE filing
13 is ~~deemed to be~~ improper and fixing a date, ~~thereafter,~~
14 within a reasonable time, after which ~~such~~ THE filing shall no
15 longer be effective. ~~Any~~ AN order of disapproval under this
16 section must be entered within 30 days of the date of the filing
17 affected.

18 (3) ~~In the event that no~~ IF A notice of hearing ~~shall be~~
19 IS NOT issued within 15 days from the date of ~~any such~~ A filing
20 UNDER SUBSECTION (1), the filing shall be deemed to be approved.
21 If ~~such~~ THE filing ~~shall be~~ IS disapproved, the insuring pro-
22 visions of ~~any~~ A contract or policy issued prior to the time
23 the order becomes effective shall not be affected. But if the
24 commissioner disapproves ~~such~~ THE filing as not being in com-
25 pliance with section 2403 (1) (d), ~~(rate standards),~~ he OR SHE
26 may order an adjustment of the premium to be made with the
27 policyholder either by refund or collection of additional

1 premium, if the amount is substantial and equals or exceeds the
2 cost of making the adjustment. The commissioner may thereafter
3 review any such filing in the manner provided in sections 2418
4 and 2420, but if so reviewed, no adjustment of premium may be
5 ordered. ~~Sections 2406 (2) (filing may be made by rating~~
6 ~~organization), 2408 (1) (commissioner shall review filing as soon~~
7 ~~as reasonably possible), and 2412 (insurer must adhere to~~
8 ~~filing)~~ SECTIONS 2406(2), 2408(1), AND 2412 shall be applicable
9 to filings made under this section.

10 Sec. 2436. (1) A corporation, an association, a partner-
11 ship, or an individual, whether located within or outside this
12 state, may ~~make application to~~ APPLY WITH the commissioner for
13 a license as a rating organization to make ~~rates and~~ insurance
14 contract forms for the kinds of insurance or subdivisions there-
15 of, except for worker's compensation insurance, as are specified
16 in its application and shall file with the application all of the
17 following:

18 (a) A copy of its constitution, its articles of agreement or
19 association, or its certificate of incorporation, and of its
20 bylaws and rules governing the conduct of its business.

21 (b) A list of its members and subscribers.

22 (c) The name and address of a resident of this state upon
23 whom notices or orders of the commissioner or process affecting
24 the rating organization may be served.

25 (d) A statement of its qualifications as a rating
26 organization.

1 (2) If the commissioner finds that the applicant is
2 competent, trustworthy, and otherwise qualified to act as a
3 rating organization and that its constitution, articles of agree-
4 ment or association, or certificate of incorporation, and its
5 bylaws and rules governing the conduct of its business conform to
6 the requirements of law, he or she shall issue a license specify-
7 ing the kinds of insurance or subdivisions thereof for which the
8 applicant is authorized to act as a rating organization. Every
9 application shall be granted or denied in whole or in part by the
10 commissioner within 60 days of the date of its filing with the
11 commissioner.

12 (3) The fee for the license shall be \$25.00 which shall be
13 in lieu of all other fees, licenses, or taxes imposed by the
14 state or any political subdivision of the state.

15 (4) Licenses issued pursuant to this section shall remain in
16 force for 3 years from date of issuance unless suspended or
17 revoked by the commissioner, after hearing upon notice, pursuant
18 to section 2478, ~~in the event~~ IF the rating organization ceases
19 to meet the requirements of this section.

20 (5) Every rating organization shall notify the commissioner
21 promptly of every change in any of the following:

22 (a) Its constitution, its articles of agreement or associa-
23 tion, or its certificate of incorporation, and its bylaws and
24 rules governing the conduct of its business.

25 (b) Its list of members and subscribers.

1 (c) The name and address of the resident of this state
2 designated by it upon whom notices or orders of the commissioner
3 or process affecting the rating organization may be served.

4 Sec. 2438. (1) Subject to REASONABLE rules and regulations
5 ~~which have been~~ approved by the commissioner, ~~as reasonable,~~
6 each rating organization shall permit ~~any~~ AN insurer, not a
7 member, to be a subscriber to its rating services for any kind of
8 insurance or subdivision ~~thereof~~ OF INSURANCE for which it is
9 authorized to act as a rating organization. Notice of proposed
10 changes in ~~such~~ THE rules and regulations shall be given to
11 subscribers. Each rating organization shall furnish its ~~rating~~
12 services without discrimination to its members and subscribers.

13 (2) The reasonableness of any rule or regulation in its
14 application to subscribers, or the refusal of any rating organi-
15 zation to admit an insurer as a subscriber, ~~shall,~~ at the
16 request of ~~any~~ A subscriber or ~~any such~~ insurer, SHALL be
17 reviewed by the commissioner at a hearing held upon at least 10
18 days' written notice to ~~such~~ THE rating organization and to
19 ~~such~~ THE subscriber or insurer. If the commissioner finds that
20 ~~such~~ THE rule or regulation is unreasonable in its application
21 to subscribers, he OR SHE shall order that ~~such~~ THE rule or
22 regulation shall not be applicable to subscribers.

23 (3) If the rating organization fails to grant or reject an
24 insurer's application for subscribership within 30 days after it
25 was made, the insurer may request a review by the commissioner as
26 if the application had been rejected. If the commissioner finds
27 that the insurer has been refused admittance to the rating

1 organization as a subscriber without justification, ~~he~~ THE
2 COMMISSIONER shall order the rating organization to admit the
3 insurer as a subscriber. If ~~he~~ THE COMMISSIONER finds that the
4 action of the rating organization was justified, ~~he~~ THE
5 COMMISSIONER shall make an order affirming its action.

6 Sec. 2458. ~~Every rating organization and every~~ EACH
7 insurer, ~~which makes its own rates shall,~~ within a reasonable
8 time after receiving written request therefor and upon payment of
9 ~~such~~ A reasonable charge as it may make, SHALL furnish to ~~any~~
10 AN insured affected by a rate made by it, or to the INSURED'S
11 authorized representative, ~~of the insured,~~ all pertinent infor-
12 mation as to the rate. ~~Every rating organization and every~~
13 EACH insurer ~~which makes its own rates~~ shall provide within
14 this state reasonable means ~~whereby any~~ FOR A person aggrieved
15 by the application of ~~its~~ THE INSURER'S rating system ~~may~~ TO
16 be heard, in person or by his or her authorized representative,
17 on his or her written request to review the manner in which the
18 rating system has been applied in connection with the insurance
19 afforded to him or her. If the ~~rating organization or~~ insurer
20 fails to grant or reject the request within 30 days after it is
21 made, the applicant may proceed in the same manner as if his or
22 her application had been rejected. ~~Any~~ A party affected by the
23 action of the ~~rating organization or~~ insurer on SUCH A request
24 may APPEAL, within 30 days after written notice of the action,
25 ~~appeal~~ to the commissioner, who, after a hearing held upon not
26 less than 10 days' written notice to the appellant and to the
27 ~~rating organization or~~ insurer, may affirm or reverse the

1 action. A person who requests a hearing before the commissioner
2 pursuant to this section may be represented at the hearing by an
3 attorney. A person, other than an individual, that requests a
4 hearing before the commissioner pursuant to this section may also
5 be represented by an officer or employee of that person. An
6 individual who requests a hearing before the commissioner pursu-
7 ant to this section may also be represented by a relative of the
8 individual.

9 Sec. 2462. (1) Every group, association, or other organi-
10 zation of insurers, whether located within or outside this state,
11 which assists insurers ~~which make their own filings or rating~~
12 ~~organizations~~ in rate making, by the collection and furnishing
13 of loss or expense statistics, ~~or by the submission of~~
14 ~~recommendations,~~ but which does not make filings under this
15 chapter, shall be known as an advisory organization.

16 (2) Every advisory organization shall file with the commis-
17 sioner ALL OF THE FOLLOWING:

18 (a) A copy of its constitution, its articles of agreement or
19 association or its certificate of incorporation and of its
20 bylaws, rules, and regulations governing its activities. ~~—~~

21 (b) A list of its members. ~~—~~

22 (c) The name and address of a resident of this state upon
23 whom notices or orders of the commissioner or process issued at
24 his direction may be served. ~~—, and—~~

25 (d) An agreement that the commissioner may examine ~~such~~
26 THE advisory organization in accordance with the provisions of
27 section 2468.

1 (3) If, after a hearing, the commissioner finds that the
2 furnishing of ~~such~~ information or assistance involves any act
3 or practice which is unfair or unreasonable or otherwise incon-
4 sistent with the provisions of this chapter, he OR SHE may issue
5 a written order specifying in what respects ~~such~~ THE act or
6 practice is unfair or unreasonable or otherwise inconsistent with
7 the provisions of this chapter, and requiring the discontinuance
8 of ~~such~~ THE act or practice.

9 (4) ~~No~~ AN insurer ~~which makes its own filings nor any~~
10 ~~rating organization~~ shall NOT support its filings by statistics
11 ~~or adopt rate making recommendations,~~ furnished to it by an
12 advisory organization which has not complied with this section or
13 with an order of the commissioner involving ~~such~~ THE statistics
14 ~~or recommendations~~ issued under subsection (3). ~~of this~~
15 ~~section.~~ If the commissioner finds ~~such~~ THE insurer ~~or rating~~
16 ~~organization~~ to be in violation of this subsection he OR SHE may
17 issue an order requiring the discontinuance of ~~such~~ THE
18 violation.

19 Sec. 2472. (1) The commissioner shall promulgate reasonable
20 rules and statistical plans, reasonably adapted to each of the
21 rating systems on file with him OR HER, which may be modified
22 from time to time and which shall be used thereafter to the
23 extent applicable to its particular rating system or systems, by
24 each insurer in the recording and reporting of its loss and coun-
25 trywide expense experience, in order that the experience of all
26 insurers may be made available at least annually in ~~such~~ A form
27 and detail as may be necessary to aid ~~him~~ THE COMMISSIONER in

1 determining whether rating systems comply with the standards set
2 forth in section 2403. ~~Such~~ THE rules and plans may also pro-
3 vide for the recording and reporting of expense experience items
4 which are specially applicable to this state and are not suscep-
5 tible of determination by a prorating of countrywide expense
6 experience. In promulgating ~~such~~ rules and plans, the commis-
7 sioner shall give due consideration to the rating systems on file
8 with him OR HER and, in order that ~~such~~ THE rules and plans may
9 be as uniform as is practicable among the several states, to the
10 rules and to the form of the plans used for ~~such~~ rating systems
11 in other states. ~~No~~ AN insurer shall NOT be required to record
12 or report its loss experience on a classification basis that is
13 inconsistent with the rating system filed by it. ~~and no~~ AN
14 insurer shall NOT be required to record or report its loss or
15 expense experience on any basis or statistical plan that differs
16 from that which is regularly employed and maintained in the usual
17 course of ~~such~~ THE insurer's business, or to any rating organi-
18 zation or agency of which it is not a member or subscriber. The
19 commissioner may designate 1 or more rating organizations or
20 other agencies to assist him OR HER in gathering such experience
21 and making compilations thereof, and ~~such~~ THE compilations
22 shall be made available, subject to reasonable rules promulgated
23 by the commissioner, to insurers and rating organizations.

24 (2) Reasonable rules and plans may be promulgated by the
25 commissioner for the interchange of data necessary for the appli-
26 cation of rating plans.

1 (3) In order to further uniform administration of rate
 2 regulatory laws, the commissioner and ~~every~~ EACH insurer ~~and~~
 3 ~~rating organization~~ may exchange information and experience data
 4 with insurance supervisory officials ~~, insurers and rating~~
 5 ~~organizations~~ in other states and may consult with them with
 6 respect to ~~rate making and~~ the application of rating systems.
 7 IN ADDITION, EACH INSURER AND EACH RATING ORGANIZATION MAY
 8 EXCHANGE HISTORICAL LOSS DATA.

9 Sec. 2600. (1) The purpose of this chapter is to promote
 10 the public welfare by regulating insurance rates to the end that
 11 they shall not be excessive, inadequate, or unfairly discrimina-
 12 tory, and to ~~authorize and~~ regulate cooperative action among
 13 insurers in rate making and in other matters within the scope of
 14 the insurance code. Nothing in this chapter is intended (1) to
 15 prohibit or discourage reasonable competition. ~~, or (2) to pro-~~
 16 ~~hibit, or encourage except to the extent necessary to accomplish~~
 17 ~~the aforementioned purpose, uniformity in insurance rates, rating~~
 18 ~~systems, rating plans or practices.~~

19 (2) Conformity with this chapter shall not be ~~deemed to be~~
 20 CONSIDERED a violation of section 2075. ~~(compacts to restrain~~
 21 ~~competition prohibited)~~ ANTITRUST PROVISIONS ARE NOT EXCLUSIVE
 22 AND OTHER PROVISIONS PROVIDED BY LAW MAY APPLY.

23 (3) This chapter shall be liberally interpreted to carry
 24 into effect the provisions of this section.

25 Sec. 2606. (1) ~~Every~~ EACH insurer shall file with the
 26 commissioner, except as to inland marine risks which by general
 27 custom of the business are not written according to manual rates

1 or rating plans, every manual, minimum, class rate, rating
2 schedule or rating plan, and every other rating rule, and every
3 modification of any of the foregoing which it proposes to use.
4 Every ~~such~~ filing shall state the proposed effective date
5 ~~thereof~~ OF THE FILING, and shall indicate the character and
6 extent of the coverage contemplated.

7 (2) ~~When~~ IF a filing is not accompanied by the information
8 upon which the insurer supports ~~such~~ THE filing, and the com-
9 missioner does not have sufficient information to determine
10 whether ~~such~~ THE filing meets the requirements of this chapter,
11 ~~he~~ THE COMMISSIONER shall require ~~such~~ THE insurer to furnish
12 the information upon which it supports ~~such~~ THE filing and ~~in~~
13 ~~such event~~ the waiting period shall commence as of the date
14 ~~such~~ THE information is furnished. The information furnished
15 in support of a filing may include ~~(a)~~ the experience or judg-
16 ment of the insurer ~~or rating organization~~ making the filing,
17 ~~(b)~~ its interpretation of any statistical data it relies upon,
18 ~~(c)~~ the experience of other insurers, ~~or rating~~
19 ~~organizations,~~ or ~~(d)~~ any other relevant factors.

20 (3) A filing and any supporting information shall be open to
21 public inspection after the filing becomes effective.

22 ~~(4) Specific inland marine rates on risks specially rated,~~
23 ~~made by a rating organization, shall be filed with the~~
24 ~~commissioner.~~

25 (4) ~~(5) An~~ EXCEPT FOR FILINGS CONCERNING RATES, AN insurer
26 may satisfy its obligation to make ~~such~~ filings by becoming a
27 member of, or a subscriber to, a licensed rating organization

1 which makes ~~such~~ filings, and by filing with the commissioner a
 2 copy of its authorization of the rating organization to make
 3 ~~such~~ filings on its behalf. Nothing contained in this chapter
 4 shall be construed as requiring any insurer to become a member of
 5 or a subscriber to any rating organization.

6 (5) AS A CONDITION OF MAINTAINING ITS CERTIFICATE OF AUTHOR-
 7 ITY, AN INSURER SHALL NOT DO ANY OF THE FOLLOWING:

8 (A) HAVE ANY RATES FILED ON ITS BEHALF IN THIS STATE BY A
 9 RATING ORGANIZATION.

10 (B) SHARE INFORMATION WITH ANY OTHER INSURER OR RATING ORGA-
 11 NIZATION CONCERNING ESTABLISHING RATES OR RATING SYSTEMS.

12 (C) AGREE WITH ANY OTHER INSURER OR RATING ORGANIZATION TO
 13 ADHERE TO OR USE ANY RATE, RATING PLAN, RATING SCHEDULE, RATING
 14 RULE, OR UNDERWRITING RULE IN THIS STATE.

15 (D) MAKE AVAILABLE TO ANY OTHER INSURER OR RATING ORGANI-
 16 ZATION INFORMATION ON ACTUARIAL PROJECTIONS, TRENDING FACTORS,
 17 PROFITS, OR EXPENSES EXCEPT LOSS ADJUSTMENT EXPENSES.

18 Sec. 2608. (1) The commissioner shall review filings as
 19 soon as reasonably possible after they have been made in order to
 20 determine whether they meet the requirements of this chapter.

21 (2) ~~Subject to the exception specified in subsection (3) of~~
 22 ~~this section, each~~ EACH filing shall be on file for a waiting
 23 period of 15 days before it becomes effective, which period may
 24 be extended by the commissioner for an additional period not to
 25 exceed 15 days if ~~he~~ THE COMMISSIONER gives written notice
 26 within ~~such~~ THE waiting period to the insurer or rating
 27 organization which made the filing that he OR SHE needs such

1 additional time for the consideration of ~~such~~ THE filing. Upon
 2 written application by ~~such~~ THE insurer or rating organization,
 3 the commissioner may authorize a filing which he OR SHE has
 4 reviewed to become effective before the expiration of the waiting
 5 period or any extension ~~thereof~~ OF THE WAITING PERIOD. A
 6 filing shall be deemed to meet the requirements of this chapter
 7 unless disapproved by the commissioner within the waiting period
 8 or any extension ~~thereof~~ OF THE WAITING PERIOD.

9 ~~(3) Specific inland marine rates on risks specially rated~~
 10 ~~by a rating organization shall become effective when filed and~~
 11 ~~shall be deemed to meet the requirements of this chapter until~~
 12 ~~such time as the commissioner reviews the filing and so long~~
 13 ~~thereafter as the filing remains in effect.~~

14 Sec. 2616. ~~(+)~~ If within the waiting period or any exten-
 15 sion ~~thereof~~ OF THE WAITING PERIOD as provided in section
 16 2608(2), the commissioner finds that a filing does not meet the
 17 requirements of this chapter, he OR SHE shall send to the insurer
 18 or rating organization which made ~~such~~ THE filing ~~—~~ written
 19 notice of disapproval of ~~such~~ THE filing specifying ~~therein in~~
 20 ~~what respects he finds such~~ HOW THE filing fails to meet the
 21 requirements of this chapter and stating that ~~such~~ THE filing
 22 shall not become effective.

23 ~~(2) If within 30 days after a specific inland marine rate~~
 24 ~~on a risk specially rated by a rating organization, subject to~~
 25 ~~section 2608 (3) has become effective, the commissioner finds~~
 26 ~~that such filing does not meet the requirements of this chapter,~~
 27 ~~he shall send to the rating organization which made such filing~~

1 ~~written notice of disapproval of such filing specifying therein~~
2 ~~in what respects he finds that such filing fails to meet the~~
3 ~~requirements of this chapter and stating when, within a reason-~~
4 ~~able period thereafter, such filing shall be deemed no longer~~
5 ~~effective. Said disapproval shall not affect any contract made~~
6 ~~or issued prior to the expiration of the period set forth in said~~
7 ~~notice.~~

8 Sec. 2628. (1) In lieu of the filing requirements of this
9 chapter and as an alternative method of filing, ~~any~~ AN insurer
10 ~~or rating organization~~ may file with the commissioner ~~any~~ A
11 manual of classification, rules, or rates, any rating plan and
12 every modification of any of the foregoing which it proposes to
13 use, the filing to indicate the character and extent of the cov-
14 erage contemplated. IN LIEU OF THE FILING REQUIREMENTS OF THIS
15 CHAPTER AND AS AN ALTERNATIVE METHOD OF FILING, A RATING ORGANI-
16 ZATION MAY FILE WITH THE COMMISSIONER FOR AN INSURER A MANUAL OF
17 CLASSIFICATION, RULES, AND EVERY MODIFICATION OF ANY OF THE FORE-
18 GOING, THE FILING TO INDICATE THE CHARACTER AND EXTENT OF THE
19 COVERAGE CONTEMPLATED. Every ~~such~~ filing under this section
20 shall state the effective date ~~thereof~~ OF THE FILING, shall
21 take effect on ~~said~~ THAT date, shall not be subject to any
22 waiting period requirements, and shall be deemed to meet the
23 requirements of ~~subdivision (d) of subsection (1) of section~~
24 ~~2603 (rate standards)~~ SECTION 2603(1)(D). A filing and any sup-
25 porting information shall be open to public inspection, if the
26 filing is not disapproved.

1 (2) At any time within 15 days from and after the date of
 2 ~~any such~~ A filing UNDER SUBSECTION (1), the commissioner may
 3 give written notice to the insurer ~~or rating organization~~
 4 making ~~such~~ THE filing, specifying in what respect and to what
 5 extent he OR SHE contends ~~such~~ THE filing fails to comply with
 6 the requirements of ~~subdivision (d) of subsection (1) of section~~
 7 ~~2603~~ SECTION 2603(1)(D) and fixing a date for hearing not less
 8 than 10 days from the date of THE mailing of ~~such~~ THE notice.
 9 At ~~such~~ THE hearing the factors specified in ~~subsection (2) of~~
 10 ~~section 2606~~ SECTION 2606(2) shall be considered. If the com-
 11 missioner after hearing finds that the filing does not comply
 12 with the provisions of this chapter, he OR SHE may issue ~~his~~ AN
 13 order determining ~~wherein~~ WHERE and to what extent ~~such~~ THE
 14 filing is ~~deemed to be~~ improper and fixing a date,
 15 ~~thereafter,~~ within a reasonable time, after which ~~such~~ THE
 16 filing shall no longer be effective. ~~Any~~ AN order of disap-
 17 proval under this section must be entered within 30 days of the
 18 date of the filing affected.

19 (3) ~~In the event that no~~ IF A notice of hearing ~~shall be~~
 20 IS NOT issued within 15 days from the date of ~~any such~~ A filing
 21 UNDER SUBSECTION (1), the filing shall be deemed to be approved.
 22 If ~~such~~ THE filing ~~shall be~~ IS disapproved, the insuring pro-
 23 visions of ~~any~~ A contract or policy issued prior to the time
 24 the order becomes effective shall not be affected. But if the
 25 commissioner disapproves ~~such~~ THE filing as not being in com-
 26 pliance with ~~subdivision (d) of subsection (1) of section 2603~~
 27 ~~(rate standards)~~ SECTION 2603(1)(D), he OR SHE may order an

1 adjustment of the premium to be made with the policyholder either
 2 by refund or collection of additional premium, if the amount is
 3 substantial and equals or exceeds the cost of making the
 4 adjustment. The commissioner may thereafter review any such
 5 filing in the manner provided in sections 2618 and 2620, but if
 6 so reviewed, no adjustment of premium may be ordered.

7 ~~Subsection (5) of section 2606 (filing may be made by rating~~
 8 ~~organization), subsection (1) of section 2608 (commissioner shall~~
 9 ~~review filing as soon as reasonably possible), and 2612 (insurer~~
 10 ~~must adhere to filing)~~ SECTIONS 2606(4), 2608(1), AND 2612 shall
 11 be applicable to filings made under this section.

12 Sec. 2630. (1) A corporation, an unincorporated associa-
 13 tion, a partnership, or an individual, whether located within or
 14 outside this state, may ~~make application to~~ APPLY WITH the com-
 15 missioner for license as a rating organization to make ~~rates~~
 16 ~~and~~ insurance contract forms for ~~such~~ THE kinds of insurance,
 17 or subdivision or class of risk or a part or combination thereof
 18 as are specified in its application and shall file ~~therewith~~
 19 WITH THE APPLICATION ALL OF THE FOLLOWING:

20 (a) A copy of its constitution, its articles of agreement or
 21 association or its certificate of incorporation, and of its
 22 bylaws and rules governing the conduct of its business.

23 (b) A list of its members and subscribers.

24 (c) The name and address of a resident of this state upon
 25 whom notices or orders of the commissioner or process affecting
 26 ~~such~~ THE rating organization may be served.

1 (d) A statement of its qualifications as a rating
2 organization.

3 (2) If the commissioner finds that the applicant is compe-
4 tent, trustworthy and otherwise qualified to act as a rating
5 organization and that its constitution, articles of agreement or
6 association, or certificate of incorporation, and its bylaws and
7 rules governing the conduct of its business conform to the
8 requirements of law, he OR SHE shall issue a license specifying
9 the kinds of insurance, or subdivision or class of risk or part
10 or combination thereof for which the applicant is authorized to
11 act as a rating organization. Every ~~such application~~ APPLICANT
12 shall be granted or denied in whole or in part by the commis-
13 sioner within 60 days of the date of its filing with ~~him~~ THE
14 COMMISSIONER.

15 (3) Licenses issued pursuant to this section shall remain in
16 effect for 3 years unless sooner suspended or revoked by the
17 commissioner.

18 (4) The fee for the license shall be \$25.00.

19 (5) Licenses issued pursuant to this section may be sus-
20 pended or revoked by the commissioner, after hearing upon notice,
21 ~~in the event~~ IF the rating organization ceases to meet the
22 requirements of this section.

23 (6) Every rating organization shall notify the commissioner
24 promptly of every change in ANY OF THE FOLLOWING:

25 (a) ~~its~~ ITS constitution, its articles of agreement or
26 association, or its certificate of incorporation, and its bylaws
27 and rules governing the conduct of its business. —

1 (b) ~~its~~ ITS list of members and subscribers. ~~and~~

2 (c) ~~the~~ THE name and address of the resident of this state
3 designated by it upon whom notices or orders of the commissioner
4 or process affecting ~~such~~ THE rating organization may be
5 served.

6 Sec. 2636. (1) Subject to REASONABLE rules and regulations
7 ~~which have been~~ approved by the commissioner, ~~as reasonable,~~
8 each rating organization shall permit ~~any~~ AN insurer, not a
9 member, to be a subscriber to its rating services for any kind of
10 insurance, subdivision, or class of risk or a part or combination
11 thereof for which it is authorized to act as a rating
12 organization. Notice of proposed changes in ~~such~~ THE rules and
13 regulations shall be given to subscribers. Each rating organi-
14 zation shall furnish its ~~rating~~ services without discrimination
15 to its members and subscribers.

16 (2) The reasonableness of any rule or regulation in its
17 application to subscribers, or the refusal of any rating organi-
18 zation to admit an insurer as a subscriber, ~~shall,~~ at the
19 request of ~~any~~ A subscriber or ~~any such~~ insurer, SHALL be
20 reviewed by the commissioner at a hearing held upon at least 10
21 days' written notice to ~~such~~ THE rating organization and to
22 ~~such~~ THE subscriber or insurer. If the commissioner finds that
23 ~~such~~ THE rule or regulation is unreasonable in its application
24 to subscribers, he OR SHE shall order that ~~such~~ THE rule or
25 regulation shall not be applicable to subscribers.

26 (3) If the rating organization fails to grant or reject an
27 insurer's application for subscribership within 30 days after it

1 was made, the insurer may request a review by the commissioner as
 2 if the application had been rejected. If the commissioner finds
 3 that the insurer has been refused admittance to the rating orga-
 4 nization as a subscriber without justification, ~~he~~ THE
 5 COMMISSIONER shall order the rating organization to admit the
 6 insurer as a subscriber. If ~~he~~ THE COMMISSIONER finds that the
 7 action of the rating organization was justified, ~~he~~ THE
 8 COMMISSIONER shall make an order affirming its action.

9 Sec. 2652. ~~Every rating organization and every insurer~~
 10 ~~which makes its own rates shall~~ EACH INSURER, within a reason-
 11 able time after receiving written request therefor and upon pay-
 12 ment of ~~such~~ A reasonable charge as it may make, SHALL furnish
 13 to ~~any~~ AN insured affected by a rate made by it, or to the
 14 INSURED'S authorized representative, ~~of such insured,~~ all per-
 15 tinent information as to ~~such~~ THE rate. ~~Every rating organi-~~
 16 ~~zation and every insurer which makes its own rates~~ EACH INSURER
 17 shall provide within this state reasonable means ~~whereby any~~
 18 FOR A person aggrieved by the application of ~~its~~ THE INSURER'S
 19 rating system ~~may~~ TO be heard, in person or by his OR HER
 20 authorized representative, on his OR HER written request to
 21 review the manner in which ~~such~~ THE rating system has been
 22 applied in connection with the insurance afforded him OR HER. If
 23 the ~~rating organization or~~ insurer fails to grant or reject
 24 ~~such~~ THE request within 30 days after it is made, the applicant
 25 may proceed in the same manner as if his OR HER application had
 26 been rejected. ~~Any~~ A party affected by the action of ~~such~~
 27 ~~rating organization or such~~ AN insurer on such A request may

1 APPEAL, within 30 days after written notice of ~~such~~ THE action,
 2 ~~appeal~~ to the commissioner, who, after a hearing held upon not
 3 less than 10 days' written notice to the appellant and to ~~such~~
 4 ~~rating organization or~~ THE insurer, may affirm or reverse ~~such~~
 5 THE action.

6 Sec. 2654. (1) Every group, association, or other organi-
 7 zation of insurers, whether located within or outside this state,
 8 which assists insurers ~~which make their own filings or rating~~
 9 ~~organizations~~ in rate making, by the collection and furnishing
 10 of loss or expense statistics, ~~or by the submission of~~
 11 ~~recommendations,~~ but which does not make filings under this
 12 chapter, shall be known as an advisory organization.

13 (2) Every advisory organization shall file with the
 14 commissioner:

15 (a) A copy of its constitution, its articles of agreement or
 16 association or its certificate of incorporation and of its
 17 bylaws, rules and regulations governing its activities. ~~—~~

18 (b) A list of its members. ~~—~~

19 (c) The name and address of a resident of this state upon
 20 whom notices or orders of the commissioner or process issued at
 21 his OR HER direction may be served. ~~—and—~~

22 (d) An agreement that the commissioner may examine ~~such~~
 23 THE advisory organization in accordance with the provisions of
 24 section 2662.

25 (3) If, after a hearing, the commissioner finds that the
 26 furnishing of ~~such~~ information or assistance involves any act
 27 or practice which is unfair or unreasonable or otherwise

1 inconsistent with the provisions of this chapter, he OR SHE may
2 issue a written order specifying in what respects ~~such~~ THE act
3 or practice is unfair or unreasonable or otherwise inconsistent
4 with the provisions of this chapter, and requiring the discon-
5 tinuance of ~~such~~ THE act or practice.

6 (4) ~~No~~ AN insurer ~~which makes its own filings nor any~~
7 ~~rating organization~~ shall NOT support its filings by statistics
8 ~~or adopt rate making recommendations,~~ furnished to it by an
9 advisory organization which has not complied with this section or
10 with an order of the commissioner involving ~~such~~ THE statistics
11 ~~or recommendations~~ issued under subsection (3). ~~of this~~
12 ~~section.~~ If the commissioner finds ~~such~~ THE insurer ~~or rating~~
13 ~~organization~~ to be in violation of this subsection, he OR SHE
14 may issue an order requiring the discontinuance of ~~such~~ THE
15 violation.

16 Sec. 2664. (1) The commissioner shall promulgate reasonable
17 rules and statistical plans, reasonably adapted to each of the
18 rating systems on file with him OR HER, which may be modified
19 from time to time and which shall be used thereafter by each
20 insurer in the recording and reporting of its loss and country-
21 wide expense experience, in order that the experience of all
22 insurers may be made available at least annually in such form and
23 detail as may be necessary to aid ~~him~~ THE COMMISSIONER in
24 determining whether rating systems comply with the standards set
25 forth in section 2603. ~~Such~~ THE rules and plans may also pro-
26 vide for the recording and reporting of expense experience items
27 which are specially applicable to this state and are not

1 susceptible of determination by a prorating of countrywide
 2 expense experience. In promulgating ~~such~~ rules and plans, the
 3 commissioner shall give due consideration to the rating systems
 4 on file with him OR HER and, in order that ~~such~~ THE rules and
 5 plans may be as uniform as is practicable among the several
 6 states, to the rules and to the form of the plans used for ~~such~~
 7 rating systems in other states. ~~No~~ AN insurer shall NOT be
 8 required to record or report its loss experience on a classifica-
 9 tion basis that is inconsistent with the rating system filed by
 10 it. The commissioner may designate 1 or more rating organi-
 11 zations or other agencies to assist him OR HER in gathering such
 12 experience and making compilations thereof, and ~~such~~ THE compi-
 13 lations shall be made available, subject to reasonable rules
 14 promulgated by the commissioner, to insurers and rating
 15 organizations.

16 (2) Reasonable rules and plans may be promulgated by the
 17 commissioner for the interchange of data necessary for the appli-
 18 cation of rating plans.

19 (3) In order to further uniform administration of rate regu-
 20 latory laws, the commissioner and ~~every~~ EACH insurer ~~and~~
 21 ~~rating organization~~ may exchange information and experience data
 22 with insurance supervisory officials ~~, insurers and rating~~
 23 ~~organizations~~ in other states and may consult with them with
 24 respect to ~~rate making and~~ the application of rating systems.
 25 IN ADDITION, EACH INSURER AND EACH RATING ORGANIZATION MAY
 26 EXCHANGE HISTORICAL LOSS DATA.

1 Sec. 2930. ~~(1) The premium for basic property insurance of~~
2 ~~any risk by the pool shall be equal to the rate for identical~~
3 ~~insurance established by the principal rating organization for~~
4 ~~identical insurance within this state plus a uniform surcharge~~
5 ~~approved by the commissioner. (2) The pool shall establish~~
6 ~~rates for any basic property insurance. which is without rates~~
7 ~~established by a principal rating organization or which the pool,~~
8 ~~with the approval of the commissioner, determines should be oth-~~
9 ~~erwise rated in order to better effectuate the purposes of this~~
10 ~~chapter.~~ The pool shall file with the commissioner for his or
11 her approval each rate and each policy form to be issued by it.
12 The pool, acting as agent for participating members, shall file
13 policy forms for basic property insurance to be issued by partic-
14 ipating members under the provisions of this chapter. Rates and
15 policy forms shall be filed in accordance with such provisions of
16 this chapter as the commissioner designates.

17 Sec. 3020. (1) A policy of casualty insurance, except
18 worker's compensation, including all classes of motor vehicle
19 coverage, shall not be issued or delivered in this state by an
20 insurer authorized to do business in this state for which a pre-
21 mium or advance assessment is charged, unless the policy contains
22 the following provisions:

23 (a) That the policy may be canceled at any time at the
24 request of the insured, in which case the insurer shall, upon
25 demand and surrender of the policy, refund the excess of paid
26 premium or assessment above the pro rata rates for the expired
27 time, except as otherwise provided in subsections (2) and (3).

1 (b) That the policy may be canceled at any time by the
2 insurer by mailing to the insured at the insured's address last
3 known to the insurer or an authorized agent of the insurer, with
4 postage fully prepaid, a not less than ~~10~~ 30 days' written
5 notice of cancellation with or without tender of the excess of
6 paid premium or assessment above the pro rata premium for the
7 expired time. The excess, if not tendered, shall be refunded on
8 demand and the notice of cancellation shall state that the excess
9 premium, if not tendered, will be refunded on demand.

10 (c) That the minimum earned premium on any policy canceled
11 pursuant to this subsection, other than automobile insurance as
12 defined in section 2102(2)(a) and (b), shall not be less than 15%
13 of the total premium payable on the policy or \$25.00, whichever
14 is greater.

15 (2) An insurer may file a rule with the commissioner provid-
16 ing for a minimum retention of premium for automobile insurance
17 as defined in section 2102(2)(a) and (b). The rule shall
18 describe the circumstances under which the retention shall be
19 applied and shall set forth the amount to be retained, which
20 shall be subject to the approval of the commissioner. The rule
21 shall include, but need not be limited to, the following
22 provisions:

23 (a) That a minimum retention shall be applied only when the
24 amount exceeds the amount which would have been retained had the
25 policy been canceled on a pro rata basis.

26 (b) That a minimum retention shall not apply to renewal
27 policies.

1 (c) That a minimum retention shall not apply when a policy
2 is canceled for the following reasons:

3 (i) The insured is no longer required to maintain security
4 pursuant to section 3101(1).

5 (ii) The insured has replaced the automobile insurance
6 policy being canceled with an automobile insurance policy from
7 another insurer and provides proof of the replacement coverage to
8 the canceling insurer.

9 (3) An insurer may file a rule with the commissioner provid-
10 ing for a minimum retention of premium for insurance on a motor-
11 cycle, watercraft, off-road vehicle, or snowmobile. The rule
12 shall describe the circumstances under which the retention shall
13 be applied and shall set forth the amount to be retained, which
14 shall be subject to the approval of the commissioner. As used in
15 this subsection:

16 (a) "Motorcycle" means that term as defined in section
17 3101.

18 (b) "Off-road vehicle" means an ORV as defined in section 1
19 of Act No. 319 of the Public Acts of 1975, being section 257.1601
20 of the Michigan Compiled Laws.

21 (c) "Snowmobile" means that term as defined in section 1 of
22 Act No. 74 of the Public Acts of 1968, being section 257.1501 of
23 the Michigan Compiled Laws.

24 (d) "Watercraft" means that term as defined in section 1 of
25 Act No. 160 of the Public Acts of 1976, being section 281.1201 of
26 the Michigan Compiled Laws.

1 (4) Cancellation SHALL NOT BE EFFECTIVE UNTIL AFTER THE
2 NOTICE as prescribed in this section HAS EXPIRED AND THE
3 CANCELLATION shall be without prejudice to any claim originating
4 before the cancellation. The mailing of notice shall be prima
5 facie proof of notice. Delivery of written notice shall be
6 equivalent to mailing.

7 (5) A notice of cancellation, including a cancellation
8 notice under section 3224, shall be accompanied by a statement
9 that the insured shall not operate or permit the operation of the
10 vehicle to which notice of cancellation is applicable, or operate
11 any other vehicle, unless the vehicle is insured as required by
12 law.

13 Sec. 3321. The facility shall provide, with respect to all
14 automobiles not included in section 3320:

15 (a) Only the insurance required by law or required by the
16 commissioner. ~~of insurance.~~ The commissioner may only require
17 insurance for which a rate has been filed by an ~~insurance rating~~
18 ~~organization or~~ insurer, ~~and~~ which rate is in effect, and
19 which the commissioner finds, after a public hearing, to be rea-
20 sonable, necessary, and in the public interest. The temporary
21 provision of insurance may be required pending the public hearing
22 if the commissioner determines it necessary to do so.

23 (b) The equitable distribution of applicants to participat-
24 ing members in accordance with the participation ratios defined
25 in section 3303.

26 Sec. 3340. (1) As agent for participating members, the
27 facility shall file with the commissioner every manual of

1 classification, every manual of rules and rates, every rating
2 plan, and every modification of a manual of classification,
3 manual of rules and rates, or rating plan proposed for use for
4 private passenger nonfleet automobile insurance placed through
5 the facility. The facility may incorporate by reference in its
6 filings other material on file with the commissioner. The clas-
7 sifications, rules, and rates and any amendments thereof shall be
8 subject to prior written approval by the commissioner. Except as
9 provided in this chapter, rates filed by the facility for private
10 passenger nonfleet automobile insurance shall be in accordance
11 with chapter 21 and rates by the facility for all other automo-
12 bile insurance shall be filed in accordance with chapter 24.

13 (2) Every participating member designated to act on behalf
14 of the facility shall be authorized to use the rates and rules
15 approved by the commissioner for use by the facility on business
16 placed through the facility and shall not use other rates for
17 automobile insurance placed through the facility.

18 (3) Laws relating to rating organizations or advisory orga-
19 nizations shall not apply to functions provided for under this
20 section.

21 (4) Private passenger nonfleet automobile rates for the
22 facility shall comply with the following requirements:

23 ~~(a) The territories for the facility shall be defined as~~
24 ~~those of the principal rating organization for the voluntary~~
25 ~~market.~~

26 (A) ~~(b)~~ The base rates for the facility shall be derived
27 from the weighted average of the base rates currently charged ~~in~~

1 ~~each facility territory~~ by the 5 largest insurer groups,
 2 determined by voluntary net direct automobile insurance car years
 3 written in the state for the calendar year ending December 31 of
 4 the second prior year as reported to the statistical agent.

5 ~~(c) The base rates as determined in subdivision (b) in each~~
 6 ~~facility territory shall be modified as follows:~~

7 ~~(i) One hundred percent of the weighted average in each ter-~~
 8 ~~ritory in the highest rated territory or territories in the state~~
 9 ~~within a single political subdivision.~~

10 ~~(ii) From 105% to 125% of the weighted average for all other~~
 11 ~~facility territories, with the highest rated such territories~~
 12 ~~receiving the lowest surcharge and increasing to the highest sur-~~
 13 ~~charge in the lowest rated facility territories in 5 percentage~~
 14 ~~point increments. In no event, however, shall any such rate~~
 15 ~~exceed the rate established in subdivision (i).~~

16 (B) ~~(d)~~ The facility shall adjust its rates at least once
 17 each year or whenever changes in private competitive insurance
 18 market rate levels would produce a change in excess of 5% in the
 19 facility rate. ~~for any facility territory.~~ However, changes
 20 shall not be made more often than quarterly.

21 (C) ~~(e) In the event that~~ IF underwriting losses and
 22 administrative expenses resulting from the operation of the
 23 facility at rates established pursuant to this subsection would
 24 exceed an amount equal to 5% of the net direct private passenger
 25 nonfleet automobile premiums for this state, ~~the~~ levels
 26 ~~specified in subdivision (c)(i) and (ii)~~ shall be

1 proportionately increased in an amount to produce underwriting
2 losses and administrative expenses that do not exceed 5%.

3 Section 2. Sections 122, 2111a, 2111b, 2131, 2446, and 2640
4 of Act No. 218 of the Public Acts of 1956, being sections
5 500.122, 500.2111a, 500.2111b, 500.2131, 500.2446, and 500.2640
6 of the Michigan Compiled Laws, are repealed.

7 Section 3. This amendatory act shall take effect January 1,
8 1990.

9 Section 4. This amendatory act shall not take effect unless
10 Senate Bill No. _____ or House Bill No. 4913 (request
11 no. 03280'89) of the 85th Legislature is enacted into law.