

HOUSE BILL No. 5998

September 12, 1990, Introduced by Rep. Brown and referred to the Committee on Insurance.

A bill to amend sections 2109, 2110, 2111a, 2114, 2403, and 3157 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

section 2111a as added by Act No. 10 of the Public Acts of 1986 and section 2403 as amended by Act No. 173 of the Public Acts of 1986, being sections 500.2109, 500.2110, 500.2111a, 500.2114, 500.2403, and 500.3157 of the Michigan Compiled Laws; to add sections 2111e, 2140, 2142, 2403a, and 3107b; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2109, 2110, 2111a, 2114, 2403, and 3157
2 of Act No. 218 of the Public Acts of 1956, section 2111a as added
3 by Act No. 10 of the Public Acts of 1986 and section 2403 as
4 amended by Act No. 173 of the Public Acts of 1986, being sections

1 500.2109, 500.2110, 500.2111a, 500.2114, 500.2403, and 500.3157
2 of the Michigan Compiled Laws, are amended and sections 2111e,
3 2140, 2142, 2403a, and 3107b are added to read as follows:

4 Sec. 2109. ~~---~~ All rates for automobile insurance and
5 home insurance shall be made in accordance with the following
6 provisions:

7 (a) Rates shall not be excessive, inadequate, or unfairly
8 discriminatory. A rate shall not be held to be excessive unless
9 the rate is unreasonably high for the insurance coverage
10 provided. ~~and a reasonable degree of competition does not exist~~
11 ~~for the insurance to which the rate is applicable.~~

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

21 (c) A rate for a coverage is unfairly discriminatory in
22 relation to another rate for the same coverage if the differen-
23 tial between the rates is not reasonably justified by differences
24 in losses, expenses, or both, or by differences in the uncer-
25 tainty of loss, for the individuals or risks to which the rates
26 apply. A reasonable justification shall be supported by a
27 reasonable classification system; by sound actuarial principles

1 when applicable; and by actual and credible loss and expense
2 statistics or, in the case of new coverages and classifications,
3 by reasonably anticipated loss and expense experience. A rate is
4 not unfairly discriminatory because it reflects differences in
5 expenses for individuals or risks with similar anticipated
6 losses, or because it reflects differences in losses for individ-
7 uals or risks with similar expenses.

8 ~~(2) A determination concerning the existence of a reason-~~
9 ~~able degree of competition with respect to subsection (1)(a)~~
10 ~~shall take into account a reasonable spectrum of relevant eco-~~
11 ~~nomic tests, including the number of insurers actively engaged in~~
12 ~~writing the insurance in question, the present availability of~~
13 ~~such insurance compared to its availability in comparable past~~
14 ~~periods, the underwriting return of that insurance over a period~~
15 ~~of time sufficient to assure reliability in relation to the risk~~
16 ~~associated with that insurance, and the difficulty encountered by~~
17 ~~new insurers in entering the market in order to compete for the~~
18 ~~writing of that insurance.~~

19 Sec. 2110. (1) In developing and evaluating rates pursuant
20 to the standards prescribed in section 2109, due consideration
21 shall be given to past and prospective loss experience within and
22 outside this state, to catastrophe hazards, if any; to a reason-
23 able margin for underwriting profit and contingencies; to divi-
24 dends, savings, or unabsorbed premium deposits allowed or
25 returned by insurers to their policyholders, members, or sub-
26 scribers; to past and prospective expenses, both countrywide and
27 those specially applicable to this state exclusive of assessments

1 under this code; to assessments under this code; to underwriting
2 practice and judgment; and to all other relevant factors within
3 and outside this state. IN DETERMINING THE REASONABLENESS OF THE
4 MARGIN FOR UNDERWRITING PROFIT AND CONTINGENCIES FOR AUTOMOBILE
5 INSURANCE, CONSIDERATION SHALL BE GIVEN TO INVESTMENT INCOME
6 EARNED ON LOSS RESERVES, INVESTMENT INCOME EARNED ON UNEARNED
7 PREMIUM RESERVES, AND INVESTMENT INCOME EARNED ON THAT PORTION OF
8 CAPITAL AND SURPLUS ATTRIBUTABLE TO AUTOMOBILE INSURANCE, AS WELL
9 AS THE FACTORS USED TO DETERMINE THE AMOUNT OF THE RESERVES.

10 (2) The systems of expense provisions included in the rates
11 for use by ~~any~~ AN insurer or group of insurers may differ from
12 those of other insurers or groups of insurers to reflect the
13 requirements of the operating methods of the insurer or group
14 with respect to any kind of insurance ~~—~~ or with respect to any
15 subdivision or combination thereof for which subdivision or com-
16 bination separate expense provisions are applicable.

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

20 Sec. 2111a. (1) Except as otherwise provided in this sec-
21 tion, before April 1, 1986, an insurer shall not charge a terri-
22 torial base rate for an automobile insurance package policy in a
23 territory within an urban area ~~which~~ THAT exceeds the territo-
24 rial base rate ~~which~~ THAT would have been charged by the
25 Michigan automobile insurance placement facility in that terri-
26 tory using the weighted average of the base rates charged in each
27 facility territory by the 5 largest insurer groups, determined by

1 voluntary net direct automobile insurance car years written in
2 the state for the calendar year ending December 31, 1984 as
3 reported to the statistical agent, and based upon the data used
4 by the facility to determine the facility rates ~~which~~ THAT were
5 effective January 1, 1986. However, this subsection does not
6 require an insurer to reduce its territorial base rates within an
7 urban area ~~which~~ THAT are in effect on ~~the effective date of~~
8 ~~this section~~ FEBRUARY 28, 1986.

9 (2) On and after April 1, 1986, except as otherwise provided
10 in subsection (3), an insurer shall not increase in any 12-month
11 period the rates for automobile insurance package policies in
12 territories within an urban area by an amount ~~which~~ THAT is
13 greater than 4% plus the consumer price index. The insurer may
14 redefine rating territories for automobile insurance package pol-
15 icies in an urban area; however, such redefinition, at the time
16 of the redefinition, shall not result in a weighted average rate
17 in the urban area which is greater than the weighted average rate
18 in the urban area without redefinition of the territories. The
19 insurer shall not use more than 6 territories within an urban
20 area. The sum of the percentage increases for an insurer in a
21 12-month period as permitted under this subsection shall be less
22 than or equal to 4% plus the consumer price index and each per-
23 centage increase shall be computed in accordance with the
24 following:

25 The difference between the total written premium at the
26 proposed rates minus the total written premium at

1 current rates, divided by total written premium at
2 current rates, and multiplied by 100.

3 (3) On and after February 1, 1988, an insurer may elect to
4 be subject to the limitations provided in this subsection instead
5 of the limitations provided in subsection (2). An insurer elect-
6 ing to be subject to this subsection shall not increase the rates
7 for automobile insurance package policies in territories within
8 an urban area by a percentage ~~which~~ THAT is greater than the
9 insurer's nonurban average percentage increase, which nonurban
10 average percentage increase shall be reduced by the sum of the
11 percentage increases made by the insurer under subsection (2)
12 during the 12 months immediately preceding the date of the filing
13 of the proposed increase pursuant to this subsection. The
14 insurer may redefine rating territories for automobile insurance
15 package policies in an urban area; however, such redefinition, at
16 the time of the redefinition, shall not result in a weighted
17 average rate in the urban area ~~which~~ THAT is greater than the
18 weighted average rate in the urban area without redefinition of
19 the territories. The insurer shall not use more than 6 territo-
20 ries within an urban area. An insurer ~~which~~ THAT elects to be
21 subject to the limitation under this subsection shall remain
22 subject to this subsection.

23 (4) Any rate filing for automobile insurance package poli-
24 cies made after December 15, 1985 shall not be modified, changed,
25 or altered for a period of 6 months after the effective date of
26 ~~such~~ THE filing UNLESS THE MODIFICATION, CHANGE, OR ALTERATION
27 IS SOLELY FOR A REDUCTION IN RATES FOR ALL RATING CELLS AFFECTED

1 BY THE FILING. This subsection shall not prohibit an insurer
2 from making rate filings at any time that only provide changes to
3 rates based upon assessments levied against insurers pursuant to
4 section 3104 or 3330. Such rate filings shall not be considered
5 rate filings for purposes of this subsection.

6 (5) As used in this section:

7 (a) "Consumer price index" means the annual average percent-
8 tage increase in the Detroit consumer price index for all items
9 for the prior 12-month period as reported by the United States
10 department of labor and as certified by the commissioner.

11 (b) "Nonurban average percentage increase" means the percent-
12 tage increase of an insurer's weighted average rate outside of an
13 urban area, if any, which is obtained by dividing the weighted
14 average of the proposed rates of the insurer outside an urban
15 area by the highest weighted average rate of the insurer outside
16 an urban area on file with the commissioner during the 6 months
17 immediately preceding the date of the filing of the proposed
18 increase, subtracting 1 from this quotient, and multiplying the
19 difference by 100. The weights used in obtaining the weighted
20 averages in this subdivision shall be the written car years of
21 the insurer in each rating territory. If a negative percentage
22 is calculated under this subdivision, there shall be no nonurban
23 average percentage increase under this subdivision.

24 (c) "Urban area" means the area within the boundaries of a
25 city in this state which has a population of 1,000,000 or more as
26 determined by the latest of each succeeding federal decennial
27 census and includes any city located wholly within the boundaries

1 of a city in this state which has a population of 1,000,000 or
2 more as determined by the latest of each succeeding federal
3 decennial census.

4 (6) This section is repealed effective July 1, 1991.

5 SEC. 2111E. BY JANUARY 1, 1991, EACH INSURER TRANSACTING
6 AUTOMOBILE INSURANCE IN THIS STATE SHALL FILE BASE RATES FOR
7 AUTOMOBILE INSURANCE THAT ARE REDUCED TO THE BASE RATES IN EFFECT
8 IN THIS STATE FOR THAT INSURER ON FEBRUARY 1, 1990 FOR PERSONAL
9 AND PROPERTY PROTECTION AND RESIDUAL LIABILITY COVERAGE PLUS AN
10 ADDITIONAL AMOUNT THAT WOULD RESULT IN A REDUCTION FOR PERSONAL
11 AND PROPERTY PROTECTION AND RESIDUAL LIABILITY COVERAGE OF NOT
12 LESS THAN 20%. BASE RATES FOR COVERAGES OTHER THAN PERSONAL AND
13 PROPERTY PROTECTION AND RESIDUAL LIABILITY COVERAGE SHALL NOT BE
14 INCREASED TO COMPENSATE FOR THE REDUCTIONS REQUIRED BY THIS
15 SECTION. BASE RATES FOR PERSONAL AND PROPERTY PROTECTION AND
16 RESIDUAL LIABILITY COVERAGE SHALL NOT BE INCREASED BEFORE
17 JANUARY 1, 1992. ASSESSMENTS FOR THE MICHIGAN CATASTROPHIC
18 CLAIMS ASSOCIATION, PROPERTY CASUALTY GUARANTY ASSOCIATION,
19 ASSIGNED CLAIMS FACILITY, AUTOMOBILE THEFT PREVENTION AUTHORITY,
20 AND THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL
21 NOT BE CONSIDERED IN ACHIEVING THE REDUCTIONS REQUIRED BY THIS
22 SECTION.

23 Sec. 2114. (1) A person or organization aggrieved with
24 respect to any filing ~~which is in effect and which~~ THAT HAS
25 BEEN MADE AND THAT affects the person or organization, OTHER THAN
26 THE INSURER OR RATING ORGANIZATION THAT MADE THE FILING, may make
27 written application to the commissioner for a hearing on the

1 filing. ~~However, the insurer or rating organization which made~~
2 ~~the filing shall not be authorized to proceed under this~~
3 ~~subsection.~~ The application shall specify the grounds to be
4 relied upon by the applicant. If the commissioner finds that the
5 application is made in good faith, that the applicant would be so
6 aggrieved if the grounds specified are established, or that the
7 grounds specified otherwise justify holding a hearing, the com-
8 missioner, not more than 30 days after receipt of the applica-
9 tion, shall hold a hearing in accordance with THE ADMINISTRATIVE
10 PROCEDURES ACT OF 1969, Act No. 306 of the Public Acts of 1969,
11 as amended, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
12 COMPILED LAWS, upon not less than 10 days' written notice to the
13 applicant, the insurer, and the rating organization ~~which~~ THAT
14 made the filing.

15 (2) If after hearing initiated under subsection (1) or upon
16 the commissioner's own motion pursuant to Act No. 306 of the
17 Public Acts of 1969, as amended, the commissioner finds that a
18 filing does not meet the requirements of ~~sections 2109 and 2111~~
19 THIS CHAPTER, the commissioner shall issue an order stating the
20 specific reasons for that finding AND MAY ORDER FINES AND PENAL-
21 TIES AS PROVIDED IN SECTION 2140. The order shall state when,
22 within a reasonable time after issuance of the order, the filing
23 shall be considered no longer effective. IF WARRANTED, THE COM-
24 MISSIONER MAY ORDER THE INSURER TO RETURN TO ITS POLICYHOLDERS
25 ANY PAYMENTS COLLECTED IN EXCESS OF THE PREMIUM PAYMENTS TO WHICH
26 THE INSURER IS ENTITLED PLUS INTEREST CALCULATED AT 6-MONTH
27 INTERVALS FROM THE DATE THE FIRST EXCESS PREMIUM PAYMENT WAS

1 RECEIVED AT A RATE OF INTEREST EQUAL TO 1% PLUS THE AVERAGE
2 INTEREST RATE PAID AT AUCTIONS OF 5-YEAR UNITED STATES TREASURY
3 NOTES DURING THE 6 MONTHS IMMEDIATELY PRECEDING JULY 1 AND
4 JANUARY 1, AS CERTIFIED BY THE STATE TREASURER, AND COMPOUNDED
5 ANNUALLY. A copy of the order shall be sent to the applicant, if
6 any, and to each insurer and rating organization subject to the
7 order. The order shall not affect a contract or policy made or
8 issued before the date the filing becomes ineffective, as indi-
9 cated in the commissioner's order.

10 SEC. 2140. (1) SUBJECT TO SUBSECTION (3), IF THE COMMIS-
11 SIONER FINDS THAT A PERSON OR ORGANIZATION HAS VIOLATED A PROVI-
12 SION OF THIS CHAPTER, PREVIOUS TO THE DATE OF HIS OR HER FINDING,
13 THE COMMISSIONER MAY IMPOSE A CIVIL FINE OF NOT MORE THAN
14 \$1,000.00 FOR EACH VIOLATION, AND IF THE VIOLATION IS WILLFUL, A
15 CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR EACH VIOLATION. A
16 CIVIL FINE SHALL NOT BE IMPOSED FOR AN OFFENSE THAT WAS COMMITTED
17 MORE THAN 12 MONTHS PRIOR TO THE DATE OF THE COMMISSIONER'S
18 FINDINGS. A FINE COLLECTED UNDER THIS SUBSECTION SHALL BE TURNED
19 OVER TO THE STATE TREASURER AND CREDITED TO THE GENERAL FUND OF
20 THE STATE.

21 (2) THE COMMISSIONER MAY SUSPEND THE LICENSE OF A RATING
22 ORGANIZATION OR INSURER THAT FAILS TO COMPLY WITH AN ORDER OF THE
23 COMMISSIONER WITHIN THE TIME SPECIFIED BY THE ORDER, OR ANY
24 EXTENSION OF THE ORDER THAT THE COMMISSIONER MAY GRANT, BUT THE
25 SUSPENSION SHALL NOT AFFECT THE VALIDITY OR CONTINUED EFFECTIVE-
26 NESS OF RATES PREVIOUSLY FILED AND EFFECTIVE. THE COMMISSIONER
27 SHALL NOT SUSPEND THE LICENSE OF A RATING ORGANIZATION OR INSURER

1 FOR FAILURE TO COMPLY WITH AN ORDER UNTIL THE TIME PRESCRIBED FOR
2 AN APPEAL FROM THE ORDER HAS EXPIRED, OR, IF AN APPEAL HAS BEEN
3 TAKEN, UNTIL THE ORDER HAS BEEN AFFIRMED. THE COMMISSIONER MAY
4 DETERMINE WHEN A SUSPENSION OF LICENSE SHALL BECOME EFFECTIVE,
5 AND THE SUSPENSION SHALL REMAIN IN EFFECT FOR THE PERIOD FIXED BY
6 HIM OR HER, UNLESS HE OR SHE MODIFIES OR RESCINDS THE SUSPENSION,
7 OR UNTIL THE ORDER UPON WHICH THE SUSPENSION IS BASED IS MODI-
8 FIED, RESCINDED, OR REVERSED.

9 (3) A CIVIL FINE SHALL NOT BE IMPOSED AND A LICENSE SHALL
10 NOT BE SUSPENDED OR REVOKED EXCEPT UPON A WRITTEN ORDER OF THE
11 COMMISSIONER, SPECIFYING THE ALLEGED VIOLATION AND STATING HIS OR
12 HER FINDINGS, MADE AFTER A HEARING HELD UPON NOT LESS THAN 10
13 DAYS' WRITTEN NOTICE TO THE PERSON OR ORGANIZATION. AN ORDER
14 ISSUED BY THE COMMISSIONER PURSUANT TO THIS SECTION SHALL NOT
15 REQUIRE THE PAYMENT OF CIVIL FINES EXCEEDING \$100,000.00.

16 SEC. 2142. (1) AN INSURER OR RATING ORGANIZATION AGGRIEVED
17 BY AN ORDER OR DECISION OF THE COMMISSIONER MADE WITHOUT A HEAR-
18 ING MAY MAKE, WITHIN 30 DAYS AFTER NOTICE OF THE ORDER TO THE
19 INSURER OR ORGANIZATION, WRITTEN REQUEST TO THE COMMISSIONER FOR
20 A HEARING ON THE ORDER OR DECISION. THE COMMISSIONER SHALL HEAR
21 THE PARTY WITHIN 30 DAYS AFTER RECEIPT OF THE REQUEST AND SHALL
22 GIVE NOT LESS THAN 10 DAYS' WRITTEN NOTICE OF THE TIME AND PLACE
23 OF THE HEARING. UPON ISSUING SUCH NOTICE OF HEARING, THE COMMIS-
24 SIONER MAY SUSPEND OR POSTPONE THE EFFECTIVE DATE OF HIS OR HER
25 PREVIOUS ACTION. WITHIN 15 DAYS AFTER THE HEARING, THE COMMIS-
26 SIONER SHALL AFFIRM, REVERSE, OR MODIFY HIS OR HER PREVIOUS
27 ACTION, SPECIFYING HIS OR HER REASONS.

1 (2) AN ORDER OR DECISION OF THE COMMISSIONER SHALL BE
2 SUBJECT TO REVIEW IN ACCORDANCE WITH THE PROVISIONS OF SECTION
3 244, AND AN ORDER OR DECISION APPEALED UNDER THIS SECTION SHALL
4 NOT BECOME EFFECTIVE OR BE ENFORCED PENDING FINAL DISPOSITION OF
5 THE APPEAL.

6 Sec. 2403. (1) All rates shall be made in accordance with
7 this section and all of the following:

8 (a) Due consideration shall be given to past and prospective
9 loss experience within and outside this state; to catastrophe
10 hazards; to a reasonable margin for underwriting profit and con-
11 tingencies; to dividends, savings, or unabsorbed premium deposits
12 allowed or returned by insurers to their policyholders, members,
13 or subscribers; to past and prospective expenses, both country-
14 wide and those specially applicable to this state; to underwrit-
15 ing practice, judgment, and to all other relevant factors within
16 and outside this state. ~~With respect to worker's compensation~~
17 ~~insurance, in~~ IN determining the reasonableness of the margin
18 for underwriting profit and contingencies FOR WORKER'S COMPENSA-
19 TION INSURANCE, consideration shall be given to all after-tax
20 investment profit or loss from unearned premium and loss reserves
21 attributable to worker's compensation insurance, as well as the
22 factors used to determine the amount of reserves. IN DETERMINING
23 THE REASONABLENESS OF THE MARGIN FOR UNDERWRITING PROFIT AND CON-
24 TINGENCIES FOR AUTOMOBILE INSURANCE, CONSIDERATION SHALL BE GIVEN
25 TO INVESTMENT INCOME EARNED ON LOSS RESERVES, INVESTMENT INCOME
26 EARNED ON UNEARNED PREMIUM RESERVES, AND INVESTMENT INCOME EARNED
27 ON THAT PORTION OF CAPITAL AND SURPLUS ATTRIBUTABLE TO AUTOMOBILE

1 INSURANCE, AS WELL AS THE FACTORS USED TO DETERMINE THE AMOUNT OF
2 THE RESERVES. With respect to all other kinds of insurance to
3 which this chapter applies, all factors to which due considera-
4 tion is given under this subdivision shall be treated in a manner
5 consistent with the laws of this state ~~which~~ THAT existed on
6 December 28, 1981.

7 (b) The systems of expense provisions included in the rates
8 for use by ~~any~~ AN insurer or group of insurers may differ from
9 those of other insurers or groups of insurers to reflect the
10 requirements of the operating methods of the insurer or group
11 with respect to any kind of insurance ~~—~~ or with respect to
12 ~~any~~ A subdivision or combination thereof for which subdivision
13 or combination separate expense provisions are applicable.

14 (c) Risks may be grouped by classifications for the estab-
15 lishment of rates and minimum premiums. Classification rates may
16 be modified to produce rates for individual risks in accordance
17 with rating plans ~~which~~ THAT measure variations in hazards,
18 expense provisions, or both. The rating plans may measure any
19 differences among risks that may have a probable effect upon
20 losses or expenses as provided for in subdivision (a).

21 (d) Rates shall not be excessive, inadequate, or unfairly
22 discriminatory. A rate shall not be held to be excessive unless
23 the rate is unreasonably high for the insurance coverage
24 provided. ~~and a reasonable degree of competition does not exist~~
25 ~~with respect to the classification, kind, or type of risks to~~
26 ~~which the rate is applicable.~~ Except as otherwise provided in
27 this subdivision, a rate shall not be held to be inadequate

1 unless the rate is unreasonably low for the insurance coverage
2 provided and the continued use of the rate endangers the solvency
3 of the insurer; or unless the rate is unreasonably low for the
4 insurance coverage provided and the use of the rate has or will
5 have the effect of destroying competition among insurers, creat-
6 ing a monopoly, or causing a kind of insurance to be unavailable
7 to a significant number of applicants who are in good faith enti-
8 tled to procure the insurance through ordinary methods. For com-
9 mercial liability insurance a rate shall not be held to be inade-
10 quate unless the rate, after consideration of investment income
11 and marketing programs and underwriting programs, is unreasonably
12 low for the insurance coverage provided and is insufficient to
13 sustain projected losses and expenses; or unless the rate is
14 unreasonably low for the insurance coverage provided and the use
15 of the rate has or will have the effect of destroying competition
16 among insurers, creating a monopoly, or causing a kind of insur-
17 ance to be unavailable to a significant number of applicants who
18 are in good faith entitled to procure the insurance through ordi-
19 nary methods. As used in this subdivision, "commercial liability
20 insurance" means insurance ~~which~~ THAT provides indemnification
21 for commercial, industrial, professional, or business
22 liabilities. A rate for a coverage is unfairly discriminatory in
23 relation to another rate for the same coverage ~~—~~ if the differ-
24 ential between the rates is not reasonably justified by differ-
25 ences in losses, expenses, or both, or by differences in the
26 uncertainty of loss for the individuals or risks to which the
27 rates apply. A reasonable justification shall be supported by a

1 reasonable classification system; by sound actuarial principles
2 ~~when~~ IF applicable; and by actual and credible loss and expense
3 statistics or, in the case of new coverages and classifications,
4 by reasonably anticipated loss and expense experience. A rate is
5 not unfairly discriminatory because the rate reflects differences
6 in expenses for individuals or risks with similar anticipated
7 losses ~~—~~ or because the rate reflects differences in losses for
8 individuals or risks with similar expenses. Rates are not
9 unfairly discriminatory if they are averaged broadly among per-
10 sons insured on a group, franchise, blanket policy, or similar
11 basis.

12 (2) Except to the extent necessary to meet the provisions of
13 subsection (1)(d), uniformity among insurers in any matters
14 within the scope of this section is neither required nor
15 prohibited.

16 SEC. 2403A. BY JANUARY 1, 1991, EACH INSURER TRANSACTING
17 AUTOMOBILE INSURANCE IN THIS STATE SHALL FILE BASE RATES FOR
18 AUTOMOBILE INSURANCE THAT ARE REDUCED TO THE BASE RATES IN EFFECT
19 IN THIS STATE FOR THAT INSURER ON FEBRUARY 1, 1990 FOR PERSONAL
20 AND PROPERTY PROTECTION AND RESIDUAL LIABILITY COVERAGE PLUS AN
21 ADDITIONAL AMOUNT THAT WOULD RESULT IN A REDUCTION FOR PERSONAL
22 AND PROPERTY PROTECTION AND RESIDUAL LIABILITY COVERAGE OF NOT
23 LESS THAN 20%. BASE RATES FOR COVERAGES OTHER THAN PERSONAL AND
24 PROPERTY PROTECTION AND RESIDUAL LIABILITY COVERAGE SHALL NOT BE
25 INCREASED TO COMPENSATE FOR THE REDUCTIONS REQUIRED BY THIS
26 SECTION. BASE RATES FOR PERSONAL AND PROPERTY PROTECTION AND
27 RESIDUAL LIABILITY COVERAGE SHALL NOT BE INCREASED BEFORE

1 JANUARY 1, 1992. ASSESSMENTS FOR THE MICHIGAN CATASTROPHIC
2 CLAIMS ASSOCIATION, PROPERTY CASUALTY GUARANTY ASSOCIATION,
3 ASSIGNED CLAIMS FACILITY, AUTOMOBILE THEFT PREVENTION AUTHORITY,
4 AND THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL
5 NOT BE CONSIDERED IN ACHIEVING THE REDUCTIONS REQUIRED BY THIS
6 SECTION.

7 SEC. 3107B. (1) AS USED IN THIS SECTION:

8 (A) "HEALTH CARE FACILITY" MEANS ALL OF THE FOLLOWING:

9 (i) A FACILITY OR AGENCY LICENSED OR AUTHORIZED UNDER PARTS
10 201 TO 217 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
11 ACTS OF 1978, BEING SECTIONS 333.20101 TO 333.21799E OF THE
12 MICHIGAN COMPILED LAWS, OR A LICENSED PART THEREOF.

13 (ii) A MENTAL HOSPITAL, PSYCHIATRIC HOSPITAL, PSYCHIATRIC
14 UNIT, OR MENTAL RETARDATION FACILITY OPERATED BY THE DEPARTMENT
15 OF MENTAL HEALTH OR CERTIFIED OR LICENSED UNDER THE MENTAL HEALTH
16 CODE, ACT NO. 258 OF THE PUBLIC ACTS OF 1974, BEING SECTIONS
17 330.1001 TO 330.2106 OF THE MICHIGAN COMPILED LAWS.

18 (iii) A FACILITY PROVIDING OUTPATIENT PHYSICAL THERAPY SERV-
19 ICES, INCLUDING SPEECH PATHOLOGY SERVICES.

20 (iv) A KIDNEY DISEASE TREATMENT CENTER, INCLUDING A FREE-
21 STANDING HEMODIALYSIS UNIT.

22 (v) AN ORGANIZED AMBULATORY HEALTH CARE FACILITY.

23 (vi) A TERTIARY HEALTH CARE SERVICE FACILITY.

24 (vii) A SUBSTANCE ABUSE TREATMENT PROGRAM LICENSED UNDER
25 PARTS 61 TO 65 OF ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
26 SECTIONS 333.6101 TO 333.6523 OF THE MICHIGAN COMPILED LAWS.

1 (viii) AN OUTPATIENT PSYCHIATRIC CLINIC.

2 (ix) A HOME HEALTH AGENCY.

3 (B) "HEALTH CARE PROVIDER" MEANS A PERSON LICENSED, CERTI-
4 FIED, OR REGISTERED UNDER PARTS 61 TO 65 OR 161 TO 182 OF ACT
5 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.6101 TO
6 333.6523 AND 333.16101 TO 333.18237 OF THE MICHIGAN COMPILED
7 LAWS.

8 (2) BEGINNING JANUARY 1, 1991 AND CONTINUING UNTIL RULES ARE
9 PROMULGATED UNDER SUBSECTION (3), ALLOWABLE EXPENSES FOR REASON-
10 ABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS INCURRED AS
11 A RESULT OF A MOTOR VEHICLE ACCIDENT SHALL NOT EXCEED THE AMOUNT
12 A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER IS PAID FOR TREAT-
13 MENT, SERVICE, ACCOMMODATION, AND MEDICINE PURSUANT TO SCHEDULES
14 OF MAXIMUM FEES CONTAINED IN R 418.101 TO R 418.2324 OF THE
15 MICHIGAN ADMINISTRATIVE CODE.

16 (3) THE COMMISSIONER, AFTER CONSULTATION WITH THE TASK FORCE
17 CREATED IN SUBSECTION (4), SHALL PROMULGATE RULES PURSUANT TO THE
18 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
19 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
20 COMPILED LAWS, ESTABLISHING SCHEDULES OF MAXIMUM FEES FOR ALLOW-
21 ABLE EXPENSES FOR REASONABLY NECESSARY PRODUCTS, SERVICES, AND
22 ACCOMMODATIONS INCURRED AS A RESULT OF A MOTOR VEHICLE ACCIDENT
23 THAT ARE PAYABLE TO A HEALTH CARE FACILITY OR HEALTH CARE PRO-
24 VIDER FOR TREATMENT, SERVICE, ACCOMMODATION, AND MEDICINE. THE
25 COMMISSIONER SHALL SUBMIT THE PROPOSED RULES FOR PUBLIC HEARING
26 PURSUANT TO ACT NO. 306 OF THE PUBLIC ACTS OF 1969 BY JANUARY 1,
27 1992.

1 (4) THERE IS CREATED A TASK FORCE WITHIN THE DEPARTMENT OF
2 LICENSING AND REGULATION TO ADVISE THE COMMISSIONER ON THE RULES
3 TO BE PROMULGATED UNDER SUBSECTION (3). THE TASK FORCE SHALL
4 CONSIST OF THE FOLLOWING 9 MEMBERS APPOINTED BY THE
5 COMMISSIONER:

6 (A) THREE INSURERS TRANSACTING AUTOMOBILE INSURANCE IN THIS
7 STATE.

8 (B) THREE HEALTH CARE PROVIDERS PROVIDING PRODUCTS, SERV-
9 ICES, OR ACCOMMODATIONS INCURRED AS A RESULT OF A MOTOR VEHICLE
10 ACCIDENT.

11 (C) ONE HEALTH CARE FACILITY PROVIDING PRODUCTS, SERVICES,
12 OR ACCOMMODATIONS INCURRED AS A RESULT OF A MOTOR VEHICLE
13 ACCIDENT.

14 (D) TWO MEMBERS OF THE GENERAL PUBLIC.

15 (5) A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER SHALL BE
16 PAID EITHER ITS USUAL AND CUSTOMARY CHARGE FOR PERSONAL PROTEC-
17 TION INSURANCE BENEFIT TREATMENT, ATTENDANCE, SERVICE, DEVICE, OR
18 MEDICINE PERFORMED OR PROVIDED OR THE MAXIMUM CHARGE ESTABLISHED
19 UNDER SUBSECTION (2) OR (3), WHICHEVER IS LESS.

20 Sec. 3157. ~~A~~ EXCEPT AS PROVIDED IN SECTION 3107B, A phy-
21 sician, hospital, clinic, or other person or institution lawfully
22 rendering treatment to an injured person for an accidental bodily
23 injury covered by personal protection insurance, and a person or
24 institution providing rehabilitative occupational training fol-
25 lowing the injury, may charge a reasonable amount for the prod-
26 ucts, services, and accommodations rendered. The charge shall
27 not exceed the amount the person or institution customarily

1 charges for like products, services, and accommodations in cases
2 not involving insurance.

3 Section 2. Sections 6115 and 6125 of Act No. 218 of the
4 Public Acts of 1956, being sections 500.6115 and 500.6125 of the
5 Michigan Compiled Laws, are repealed.