

SUBSTITUTE FOR
HOUSE BILL NO. 4993

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2106, 2108, 2109, 2110, 2114, and 2127 (MCL
500.2106, 500.2108, 500.2109, 500.2110, 500.2114, and 500.2127) and
by adding section 2109a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2106. Except as specifically provided in this chapter,
2 the provisions of chapter 24 and chapter 26 ~~shall~~**DO** not apply to
3 automobile insurance and home insurance. ~~An~~**UNTIL JANUARY 1, 2009,**
4 **AN** insurer may use rates for automobile insurance or home insurance
5 as soon as those rates are filed. **BEGINNING JANUARY 1, 2009,**
6 **AUTOMOBILE INSURANCE RATES ARE SUBJECT TO SECTION 2109A.** To the
7 extent that other provisions of this ~~code~~**ACT** are inconsistent with
8 the provisions of this chapter, this chapter ~~shall govern~~**GOVERNS**

1 with respect to automobile insurance and home insurance.

2 Sec. 2108. (1) ~~On the effective date thereof, each~~ **EACH**
3 insurer shall file with the commissioner every manual of
4 classification, every manual of rules and rates, every rating plan,
5 and every modification of a manual of classification, manual of
6 rules and rates, or a rating plan ~~which~~ **THAT** it proposes to use for
7 automobile insurance and home insurance. Each filing shall state
8 the character and extent of the coverage contemplated. Each insurer
9 subject to this chapter who maintains rates in any part of this
10 state shall at all times maintain rates in effect for all eligible
11 persons meeting the underwriting criteria of the insurer.

12 (2) An insurer may satisfy its obligation to make filings
13 under subsection (1) by becoming a member of, or a subscriber to, a
14 rating organization licensed under chapter 24 or chapter 26 which
15 makes those filings, and by filing with the commissioner a copy of
16 its authorization of the rating organization to make those filings
17 on its behalf. Nothing contained in this chapter shall be construed
18 as requiring any insurer to become a member of or a subscriber to
19 any rating organization. Insurers may file and use deviations from
20 filings made on their behalf, which deviations shall be subject to
21 the provisions of this chapter.

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

25 (4) Each filing shall include information that supports the
26 filing with respect to the requirements of ~~section~~ **SECTIONS** 2109
27 **AND 2109A**. The information may include 1 or more of the following:

1 (a) The experience or judgment of the insurer or rating
2 organization making the filing.

3 (b) The interpretation of the insurer or rating organization
4 of any statistical data it relies upon.

5 (c) The experience of other insurers or rating organizations.

6 (d) Any other relevant information.

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

9 (6) An insurer shall not make, issue, or renew a contract or
10 policy except in accordance with filings ~~which~~**THAT** are in effect
11 for the insurer pursuant to this chapter.

12 Sec. 2109. (1) All rates for automobile insurance and home
13 insurance shall be made in accordance with the following
14 provisions:

15 (a) Rates shall not be excessive, inadequate, or unfairly
16 discriminatory. A rate shall not be held to be excessive unless the
17 rate is unreasonably high for the insurance coverage provided and a
18 reasonable degree of competition does not exist for the insurance
19 to which the rate is applicable. **EFFECTIVE JANUARY 1, 2009,**
20 **AUTOMOBILE INSURANCE RATES ARE ALSO SUBJECT TO SECTION 2109A.**

21 (b) A rate shall not be held to be inadequate unless the rate
22 is unreasonably low for the insurance coverage provided and the
23 continued use of the rate endangers the solvency of the insurer; or
24 unless the rate is unreasonably low for the insurance provided and
25 the use of the rate has or will have the effect of destroying
26 competition among insurers, creating a monopoly, or causing a kind
27 of insurance to be unavailable to a significant number of

1 applicants who are in good faith entitled to procure that insurance
2 through ordinary methods.

3 (c) A rate for a coverage is unfairly discriminatory in
4 relation to another rate for the same coverage if the differential
5 between the rates is not reasonably justified by differences in
6 losses, expenses, or both, or by differences in the uncertainty of
7 loss, for the individuals or risks to which the rates apply. A
8 reasonable justification shall be supported by a reasonable
9 classification system; by sound actuarial principles when
10 applicable; and by actual and credible loss and expense statistics
11 or, in the case of new coverages and classifications, by reasonably
12 anticipated loss and expense experience. A rate is not unfairly
13 discriminatory because it reflects differences in expenses for
14 individuals or risks with similar anticipated losses, or because it
15 reflects differences in losses for individuals or risks with
16 similar expenses.

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

1 SEC. 2109A. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMOBILE
2 INSURANCE IN THIS STATE SHALL FILE WITH THE COMMISSIONER ANNUALLY
3 ON A DATE TO BE DETERMINED BY THE COMMISSIONER ALL OF THE FOLLOWING
4 INFORMATION:

5 (A) THE TOTAL NUMBER OF NEW CLAIMS THAT WERE SUBMITTED TO THE
6 INSURER WITHIN THE LAST 1-YEAR PERIOD IN EACH OF THE FOLLOWING
7 CATEGORIES:

8 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.

9 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.

10 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.

11 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.

12 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.

13 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

14 (B) FOR EACH CATEGORY OF CLAIMS UNDER SUBDIVISION (A), THE
15 INSURER SHALL ALSO DISCLOSE THE TOTAL AMOUNT PAID BY THE INSURER.
16 IF ANY PORTION OF THE AMOUNT PAID BY THE INSURER WAS REIMBURSED BY
17 THE CATASTROPHIC CLAIMS ASSOCIATION OR OTHER SOURCES, THOSE
18 REIMBURSEMENTS SHALL BE REPORTED BY THE INSURER AND THEN THE TOTAL
19 NET PAYMENTS MADE BY THE INSURER FOR EACH CATEGORY UNDER
20 SUBDIVISION (A) SHALL BE STATED.

21 (C) THE TOTAL AMOUNT PAID BY THE INSURER DURING THE LAST 1-
22 YEAR PERIOD ON CLAIMS THAT WERE SUBMITTED TO THE INSURER PRIOR TO
23 THE LAST 1-YEAR PERIOD IN EACH OF THE FOLLOWING CATEGORIES:

24 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.

25 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.

26 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.

27 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.

1 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.

2 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

3 (D) FOR EACH CATEGORY OF CLAIMS UNDER SUBDIVISION (C), THE
4 INSURER SHALL DISCLOSE THE TOTAL NUMBER OF CLAIMS AND THE TOTAL
5 AMOUNT PAID BY THE INSURER. IF ANY PORTION OF THE AMOUNT PAID BY
6 THE INSURER WAS REIMBURSED BY THE CATASTROPHIC CLAIMS ASSOCIATION
7 OR OTHER SOURCES, THOSE REIMBURSEMENTS SHALL BE REPORTED BY THE
8 INSURER AND THEN THE TOTAL NET PAYMENTS MADE BY THE INSURER FOR
9 EACH CATEGORY UNDER SUBDIVISION (C) SHALL BE STATED.

10 (E) THE TOTAL NUMBER OF NEW LAWSUITS THAT WERE FILED AGAINST
11 THE INSURER OR THE INSURED WITHIN THE LAST 1-YEAR PERIOD IN EACH OF
12 THE FOLLOWING CATEGORIES:

13 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.

14 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.

15 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.

16 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.

17 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.

18 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

19 (F) FOR EACH CATEGORY OF CLAIMS UNDER SUBDIVISION (E), THE
20 INSURER SHALL ALSO DISCLOSE THE TOTAL AMOUNT PAID BY THE INSURER TO
21 SETTLE OR OTHERWISE RESOLVE THOSE LAWSUITS AS WELL AS THE TOTAL
22 AMOUNT PAID BY THE INSURER TO DEFEND THOSE LAWSUITS. IF ANY PORTION
23 OF THE AMOUNT PAID BY THE INSURER WAS REIMBURSED BY THE
24 CATASTROPHIC CLAIMS ASSOCIATION OR OTHER SOURCES, THOSE
25 REIMBURSEMENTS SHALL BE REPORTED BY THE INSURER AND THEN THE TOTAL
26 NET PAYMENTS MADE BY THE INSURER FOR EACH CATEGORY UNDER
27 SUBDIVISION (E) SHALL BE STATED.

1 (G) THE TOTAL AMOUNT PAID BY THE INSURER DURING THE LAST 1-
2 YEAR PERIOD TO SETTLE OR OTHERWISE RESOLVE LAWSUITS THAT WERE FILED
3 AGAINST THE INSURER OR THE INSURED PRIOR TO THE LAST 1-YEAR PERIOD
4 IN EACH OF THE FOLLOWING CATEGORIES:

5 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.

6 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.

7 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.

8 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.

9 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.

10 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

11 (H) FOR EACH CATEGORY OF CLAIMS UNDER SUBDIVISION (G), THE
12 INSURER SHALL ALSO DISCLOSE THE TOTAL NUMBER OF CLAIMS AND THE
13 TOTAL AMOUNT PAID BY THE INSURER TO SETTLE OR OTHERWISE RESOLVE
14 THOSE LAWSUITS, AS WELL AS THE TOTAL AMOUNT PAID BY THE INSURER TO
15 DEFEND THOSE LAWSUITS. IF ANY PORTION OF THE AMOUNT PAID BY THE
16 INSURER WAS REIMBURSED BY THE CATASTROPHIC CLAIMS ASSOCIATION OR
17 OTHER SOURCES, THOSE REIMBURSEMENTS SHALL BE REPORTED BY THE
18 INSURER AND THEN THE TOTAL NET PAYMENTS MADE BY THE INSURER FOR
19 EACH CATEGORY UNDER SUBDIVISION (G) SHALL BE STATED.

20 (I) THE TOTAL PREMIUMS COLLECTED BY THE INSURER DURING THE
21 LAST 1-YEAR PERIOD FOR EACH OF THE FOLLOWING COVERAGES:

22 (i) THE TOTAL PREMIUMS COLLECTED FOR PERSONAL PROTECTION
23 INSURANCE BENEFITS.

24 (ii) THE TOTAL PREMIUMS COLLECTED FOR PROPERTY PROTECTION
25 INSURANCE BENEFITS.

26 (iii) THE TOTAL PREMIUMS COLLECTED FOR RESIDUAL LIABILITY
27 INSURANCE COVERAGE.

1 (iv) THE TOTAL PREMIUMS COLLECTED FOR COLLISION AND
2 COMPREHENSIVE COVERAGE.

3 (v) THE TOTAL PREMIUMS COLLECTED FOR UNINSURED MOTORIST
4 COVERAGE.

5 (vi) THE TOTAL PREMIUMS COLLECTED FOR UNDERINSURED MOTORIST
6 COVERAGE.

7 (J) THE INSURER'S TOTAL NET PROFIT FOR ITS MOST RECENT FISCAL
8 YEAR.

9 (2) ALL INFORMATION DISCLOSED AND FILED WITH THE COMMISSIONER
10 OR REQUIRED BY SUBSECTION (1) SHALL BE CONSIDERED PUBLIC
11 INFORMATION AND SHALL BE MADE AVAILABLE BY THE COMMISSIONER FOR
12 INSPECTION OR PHOTOCOPYING BY ANY PERSON REQUESTING THE
13 INFORMATION, SUBJECT TO REASONABLE CHARGES AND REASONABLE
14 CONDITIONS ESTABLISHED BY THE COMMISSIONER FOR THE RELEASE OF THIS
15 INFORMATION.

16 (3) AN INSURER AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN
17 THIS STATE SHALL NOT INCREASE THE BASE RATES THE INSURER CHARGES
18 FOR PERSONAL PROTECTION INSURANCE BENEFITS, PROPERTY PROTECTION
19 INSURANCE BENEFITS, OR RESIDUAL LIABILITY INSURANCE COVERAGES,
20 UNLESS THE INSURER FIRST DOES EACH OF THE FOLLOWING:

21 (A) THE INSURER FILES ALL DISCLOSURES REQUIRED BY SUBSECTION
22 (1) AND GIVES NOTICE TO THE PUBLIC OF ITS PROPOSED BASE RATE
23 INCREASES PURSUANT TO PROCEDURES ESTABLISHED BY THE COMMISSIONER.

24 (B) THE INSURER JUSTIFIES THE RATE INCREASE BY SUBMITTING A
25 REPORT ENTITLED "RATE INCREASE ANALYSIS" WHICH SETS FORTH, IN PLAIN
26 LANGUAGE, ALL REASONS FOR THE RATE INCREASE, RELIABLE ACTUARIAL
27 SUPPORT FOR THE RATE INCREASE, AND ANY OTHER DOCUMENTATION

1 JUSTIFYING THE RATE INCREASE.

2 (4) AN INSURER MAY, 90 DAYS AFTER SUBMITTING THE FILINGS,
3 DISCLOSURES, AND OTHER INFORMATION REQUIRED BY SUBSECTIONS (1) AND
4 (3), INCREASE ITS RATES FOR PERSONAL PROTECTION INSURANCE BENEFITS,
5 PROPERTY PROTECTION INSURANCE BENEFITS, AND RESIDUAL LIABILITY
6 INSURANCE, UNLESS, DURING THAT 90-DAY PERIOD, 1 OR MORE OF THE
7 FOLLOWING EVENTS OCCUR:

8 (A) THE COMMISSIONER CHALLENGES THE PROPOSED RATE INCREASE.

9 (B) A CHALLENGE TO THE PROPOSED RATE INCREASE HAS BEEN FILED
10 BY AN INTERESTED PERSON WITH THE COMMISSIONER, PURSUANT TO RATE
11 CHALLENGE PROCEDURES ESTABLISHED BY THE COMMISSIONER.

12 (5) IF THE COMMISSIONER OR AN INTERESTED PERSON FILES A
13 CHALLENGE TO AN INSURER'S PROPOSED RATE INCREASE, THE COMMISSIONER
14 SHALL CONVENE A PUBLIC, CONTESTED HEARING, PURSUANT TO RULES AND
15 PROCEDURES PROMULGATED BY THE COMMISSIONER PURSUANT TO THE
16 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
17 24.328, AND SHALL, AFTER THE HEARING, APPROVE THE PROPOSED RATE
18 INCREASE IF THE COMMISSIONER FINDS THAT THE PROPOSED RATE INCREASE
19 IS FAIR AND EQUITABLE IN LIGHT OF THE COMPULSORY INSURANCE SYSTEM
20 ESTABLISHED BY THIS ACT AND THE CONSTITUTIONAL DUE PROCESS
21 PROTECTIONS THAT ARE INHERENT IN AND APPLICABLE TO THE COMPULSORY
22 INSURANCE SYSTEM ESTABLISHED BY THIS ACT.

23 Sec. 2110. (1) In developing and evaluating rates pursuant to
24 the standards prescribed in ~~section~~ SECTIONS 2109 AND 2109A, due
25 consideration shall be given to past and prospective loss
26 experience within and outside this state, to catastrophe hazards,
27 if any; to a reasonable margin for underwriting profit and

1 contingencies; to dividends, savings, or unabsorbed premium
2 deposits allowed or returned by insurers to their policyholders,
3 members, or subscribers; to past and prospective expenses, both
4 countrywide and those specially applicable to this state exclusive
5 of assessments under this ~~code~~ **ACT**; to assessments under this ~~code~~
6 **ACT**; to underwriting practice and judgment; and to all other
7 relevant factors within and outside this state.

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

15 (3) Risks may be grouped by classifications for the
16 establishment of rates and minimum premiums. The classifications
17 may measure differences in losses, expenses, or both.

18 Sec. 2114. (1) A person or organization aggrieved with respect
19 to any filing ~~which~~ **THAT** is in effect and ~~which~~ **THAT** affects the
20 person or organization may make written application to the
21 commissioner for a hearing on the filing. However, the insurer or
22 rating organization ~~which~~ **THAT** made the filing shall not be
23 authorized to proceed under this subsection. The application shall
24 specify the grounds to be relied upon by the applicant. If the
25 commissioner finds that the application is made in good faith, that
26 the applicant would be so aggrieved if the grounds specified are
27 established, or that the grounds specified otherwise justify

1 holding a hearing, the commissioner, not more than 30 days after
2 receipt of the application, shall hold a hearing in accordance with
3 ~~Act No. 306 of the Public Acts of 1969, as amended THE~~
4 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**
5 **24.328**, upon not less than 10 days' written notice to the
6 applicant, the insurer, and the rating organization which made the
7 filing.

8 (2) If after hearing initiated under subsection (1) or upon
9 the commissioner's own motion pursuant to ~~Act No. 306 of the Public~~
10 ~~Acts of 1969, as amended THE ADMINISTRATIVE PROCEDURES ACT OF 1969,~~
11 **1969 PA 306, MCL 24.201 TO 24.328**, the commissioner finds that a
12 filing does not meet the requirements of sections 2109, **2109A**, and
13 2111, the commissioner shall issue an order stating the specific
14 reasons for that finding. The order shall state when, within a
15 reasonable time after issuance of the order, the filing shall be
16 considered no longer effective. A copy of the order shall be sent
17 to the applicant, if any, and to each insurer and rating
18 organization subject to the order. The order shall not affect a
19 contract or policy made or issued before the date the filing
20 becomes ineffective, as indicated in the commissioner's order.

21 Sec. 2127. The commissioner may by rule prospectively require
22 insurers, rating organizations, and advisory organizations to
23 collect and report data ~~only~~ to the extent necessary to monitor and
24 evaluate the automobile and home insurance markets in this state.
25 The commissioner shall authorize the use of sampling techniques in
26 each instance where sampling is practicable and consistent with the
27 purposes for which the data, by county, are to be collected and

1 reported. RULES PROMULGATED PURSUANT TO THIS SECTION ARE IN
2 ADDITION TO, AND DO NOT REPLACE, THE RULE AND REPORTING
3 REQUIREMENTS IN SECTION 2109A.