

HOUSE BILL No. 4993

June 28, 2007, Introduced by Rep. Virgil Smith and referred to the Committee on Insurance.

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, 2008,**
 4 **AN** insurer may use rates for automobile insurance or home insurance
 5 as soon as those rates are filed. **BEGINNING JANUARY 1, 2008,**
 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**
 9 with respect to automobile insurance and home insurance.

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

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

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

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

27 (a) The experience or judgment of the insurer or rating

1 organization making the filing.

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

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

5 (d) Any other relevant information.

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

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

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

14 (a) Rates shall not be excessive, inadequate, or unfairly
15 discriminatory. A rate shall not be held to be excessive unless the
16 rate is unreasonably high for the insurance coverage provided and a
17 reasonable degree of competition does not exist for the insurance
18 to which the rate is applicable. **EFFECTIVE JANUARY 1, 2008,**
19 **AUTOMOBILE INSURANCE RATES ARE ALSO SUBJECT TO SECTION 2109A.**

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

1 through ordinary methods.

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

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

27 **SEC. 2109A. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMOBILE**

1 INSURANCE IN THIS STATE SHALL FILE WITH THE COMMISSIONER ANNUALLY
2 ON A DATE TO BE DETERMINED BY THE COMMISSIONER ALL OF THE FOLLOWING
3 INFORMATION:

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

7 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.

8 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.

9 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.

10 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.

11 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.

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

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

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

23 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.

24 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.

25 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.

26 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.

27 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.

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

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

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

12 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.

13 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.

14 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.

15 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.

16 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.

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

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

27 (G) THE TOTAL AMOUNT PAID BY THE INSURER DURING THE LAST 1-

1 YEAR PERIOD TO SETTLE OR OTHERWISE RESOLVE LAWSUITS THAT WERE FILED
2 AGAINST THE INSURER OR THE INSURED PRIOR TO THE LAST 1-YEAR PERIOD
3 IN EACH OF THE FOLLOWING CATEGORIES:

- 4 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.
- 5 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.
- 6 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.
- 7 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.
- 8 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.
- 9 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

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

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

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

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

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

27 (iv) THE TOTAL PREMIUMS COLLECTED FOR COLLISION AND

1 COMPREHENSIVE COVERAGE.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 Sec. 2114. (1) A person or organization aggrieved with respect
18 to any filing ~~which~~**THAT** is in effect and ~~which~~**THAT** affects the
19 person or organization may make written application to the
20 commissioner for a hearing on the filing. However, the insurer or
21 rating organization ~~which~~**THAT** made the filing shall not be
22 authorized to proceed under this subsection. The application shall
23 specify the grounds to be relied upon by the applicant. If the
24 commissioner finds that the application is made in good faith, that
25 the applicant would be so aggrieved if the grounds specified are
26 established, or that the grounds specified otherwise justify
27 holding a hearing, the commissioner, not more than 30 days after

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

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

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

1 ADDITION TO, AND DO NOT REPLACE, THE RULE AND REPORTING
2 REQUIREMENTS IN SECTION 2109A.