

SENATE BILL No. 1025

January 22, 2008, Introduced by Senators BRATER, JACOBS, CLARK-COLEMAN, ANDERSON, THOMAS, GLEASON, SCHAUER, SWITALSKI, BASHAM, HUNTER, CHERRY, SCOTT and CLARKE and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 2403 (MCL 500.2403), as amended by 1993 PA 200.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) Due consideration shall be given to past and prospective
4 loss experience within and outside this state; to catastrophe
5 hazards; to a reasonable margin for underwriting profit and
6 contingencies; to dividends, savings, or unabsorbed premium
7 deposits allowed or returned by insurers to their policyholders,
8 members, or subscribers; to past and prospective expenses, both
9 countrywide and those specially applicable to this state; to
10 underwriting practice, judgment, and to all other relevant factors

1 within and outside this state. For worker's compensation insurance,
2 in determining the reasonableness of the margin for underwriting
3 profit and contingencies, consideration shall be given to all
4 after-tax investment profit or loss from unearned premium and loss
5 reserves attributable to worker's compensation insurance, as well
6 as the factors used to determine the amount of reserves. For all
7 other kinds of insurance to which this chapter applies, all factors
8 to which due consideration is given under this subdivision shall be
9 treated in a manner consistent with the laws of this state that
10 existed on December 28, 1981.

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

18 (c) Risks may be grouped by classifications for the
19 establishment of rates and minimum premiums. Classification rates
20 may be modified to produce rates for individual risks in accordance
21 with rating plans that measure variations in hazards, expense
22 provisions, or both. The rating plans may measure any differences
23 among risks that may have a probable effect upon losses or expenses
24 as provided for in subdivision (a).

25 (d) Rates shall not be excessive, inadequate, or unfairly
26 discriminatory. A rate shall not be held to be excessive unless the
27 rate is unreasonably high for the insurance coverage provided. ~~and~~

1 ~~a reasonable degree of competition does not exist with respect to~~
2 ~~the classification, kind, or type of risks to which the rate is~~
3 ~~applicable.~~ Except as otherwise provided in this subdivision, a
4 rate shall not be held to be inadequate unless the rate is
5 unreasonably low for the insurance coverage provided and the
6 continued use of the rate endangers the solvency of the insurer; or
7 unless the rate is unreasonably low for the insurance coverage
8 provided and the use of the rate has or will have the effect of
9 destroying competition among insurers, creating a monopoly, or
10 causing a kind of insurance to be unavailable to a significant
11 number of applicants who are in good faith entitled to procure the
12 insurance through ordinary methods. For commercial liability
13 insurance a rate shall not be held to be inadequate unless the
14 rate, after consideration of investment income and marketing
15 programs and underwriting programs, is unreasonably low for the
16 insurance coverage provided and is insufficient to sustain
17 projected losses and expenses; or unless the rate is unreasonably
18 low for the insurance coverage provided and the use of the rate has
19 or will have the effect of destroying competition among insurers,
20 creating a monopoly, or causing a kind of insurance to be
21 unavailable to a significant number of applicants who are in good
22 faith entitled to procure the insurance through ordinary methods.
23 As used in this subdivision, "commercial liability insurance" means
24 insurance that provides indemnification for commercial, industrial,
25 professional, or business liabilities. For worker's compensation
26 insurance provided by an insurer that is controlled by a nonprofit
27 health care corporation formed pursuant to the nonprofit health

1 care corporation reform act, ~~Act No. 350 of the Public Acts of~~
2 ~~1980, being sections 550.1101 to 550.1704 of the Michigan Compiled~~
3 ~~Laws 1980 PA 350, MCL 550.1101 TO 550.1704~~, a rate shall not be
4 held to be inadequate unless the rate is unreasonably low for the
5 insurance coverage provided. A rate for a coverage is unfairly
6 discriminatory in relation to another rate for the same coverage,
7 if the differential between the rates is not reasonably justified
8 by differences in losses, expenses, or both, or by differences in
9 the uncertainty of loss for the individuals or risks to which the
10 rates apply. A reasonable justification shall be supported by a
11 reasonable classification system; by sound actuarial principles
12 when applicable; and by actual and credible loss and expense
13 statistics or, in the case of new coverages and classifications, by
14 reasonably anticipated loss and expense experience. A rate is not
15 unfairly discriminatory because the rate reflects differences in
16 expenses for individuals or risks with similar anticipated losses,
17 or because the rate reflects differences in losses for individuals
18 or risks with similar expenses. Rates are not unfairly
19 discriminatory if they are averaged broadly among persons insured
20 on a group, franchise, blanket policy, or similar basis.

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

24 Enacting section 1. This amendatory act does not take effect
25 unless all of the following bills of the 94th Legislature are
26 enacted into law:

27 (a) Senate Bill No. 1023.

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2 (b) Senate Bill No. 1024.

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4 (c) Senate Bill No. 1026.

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