

HOUSE BILL NO. 4601

March 25, 2021, Introduced by Reps. Aiyash, Hammoud, Camilleri, Cavanagh, Brabec, Hood, Weiss, Breen, Young, Tyrone Carter, Hope, Scott, Brixie and Yancey and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2105, 2111, 2151, and 2162 (MCL 500.2105, 500.2111, 500.2151, and 500.2162), sections 2105, 2111, and 2151 as amended and section 2162 as added by 2019 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2105. (1) A policy of automobile insurance or home
- 2 insurance must not be offered, bound, made, issued, delivered or
- 3 renewed in this state unless the policy conforms to this chapter.

1 (2) Except as otherwise expressly provided in subsection (4)
 2 and this chapter, this chapter does not apply to insurance written
 3 on a group, franchise, blanket policy, or similar basis that offers
 4 home insurance or automobile insurance to all members of the group,
 5 franchise plan, or blanket coverage who are eligible persons.

6 (3) For purposes of this section, a group plan includes a
 7 franchise plan, and, except as provided in subsection (4), is
 8 exempt from this chapter if the group meets all of the following
 9 criteria:

10 (a) Individuals in the group share a common enterprise or an
 11 economic or social affinity or relationship.

12 (b) The group was not created for the purposes of obtaining
 13 insurance.

14 (c) Membership in the group is not conditioned on the purchase
 15 of insurance.

16 (d) The individual members of the group can be specifically
 17 identified.

18 (e) Any other criteria as prescribed by a rule promulgated by
 19 the director under the administrative procedures act of 1969, 1969
 20 PA 306, MCL 24.201 to 24.328.

21 (4) An insurer, including, but not limited to, an insurer that
 22 writes insurance as described in subsection (2), shall not
 23 establish or maintain rates or rating classifications for
 24 automobile insurance based on a factor that is not allowed, or that
 25 is prohibited, under section 2111. This subsection does not
 26 prohibit a group discount offered to a group based on the losses or
 27 expenses, or both, of the group but does prohibit group membership
 28 based on home ownership or ~~postal-zone~~ **territory**.

29 (5) The amendments to this chapter made by ~~the amendatory act~~

1 ~~that added this subsection~~ **2019 PA 21** apply to an insurer exempted
 2 from any of the requirements of this chapter under section 2129.

3 (6) The amendments to this chapter made by ~~the amendatory act~~
 4 ~~that added this subsection~~ **2019 PA 21** apply beginning July 1, 2020.

5 Sec. 2111. (1) Notwithstanding any provision of this act or
 6 this chapter to the contrary, classifications and territorial base
 7 rates used by an insurer in this state with respect to automobile
 8 insurance or home insurance must conform to the applicable
 9 requirements of this section.

10 (2) Classifications established under this section for
 11 automobile insurance must be based only on 1 or more of the
 12 following factors, which must be applied by an insurer on a uniform
 13 basis throughout this state:

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

15 (i) Either the age of the driver; the length of driving
 16 experience; or the number of years licensed to operate a motor
 17 vehicle.

18 (ii) Driver primacy, based on the proportionate use of each
 19 vehicle insured under the policy by individual drivers insured or
 20 to be insured under the policy.

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

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

23 (v) Vehicle characteristics, features, and options, such as
 24 engine displacement, ability of the vehicle and its equipment to
 25 protect passengers from injury, and other similar items, including
 26 vehicle make and model.

27 (vi) Daily or weekly commuting mileage.

28 (vii) Number of cars insured by the insurer or number of
 29 licensed operators in the household. However, number of licensed

1 operators must not be used as an indirect measure of marital
2 status.

3 (viii) Amount of insurance.

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

6 (i) Earned income.

7 (ii) Number of dependents of income earners insured under the
8 policy.

9 (iii) Coordination of benefits.

10 (iv) Use of a safety belt.

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

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

17 (ii) Vehicle make and model.

18 (iii) Vehicle design characteristics related to vehicle
19 damageability.

20 (iv) Vehicle characteristics relating to automobile theft
21 prevention devices.

22 (d) With respect to all automobile insurance coverage other
23 than comprehensive, successful completion by the individual driver
24 or drivers insured under the policy of an accident prevention
25 education course that meets the following criteria:

26 (i) The course must include a minimum of 8 hours of classroom
27 instruction.

28 (ii) The course must include, but not be limited to, a review
29 of all of the following:

- 1 (A) The effects of aging on driving behavior.
- 2 (B) The shapes, colors, and types of road signs.
- 3 (C) The effects of alcohol and medication on driving.
- 4 (D) The laws relating to the proper use of a motor vehicle.
- 5 (E) Accident prevention measures.
- 6 (F) The benefits of safety belts and child restraints.
- 7 (G) Major driving hazards.
- 8 (H) Interaction with other highway users, such as
- 9 motorcyclists, bicyclists, and pedestrians.

10 (3) Each insurer shall establish a secondary or merit rating
 11 plan for automobile insurance, other than comprehensive coverage. A
 12 secondary or merit rating plan required under this subsection must
 13 provide for premium surcharges for all coverages for automobile
 14 insurance, other than comprehensive coverage, based on any of the
 15 following, when that information becomes available to the insurer:

- 16 (a) Substantially at-fault accidents.
- 17 (b) Convictions for, determinations of responsibility for
- 18 civil infractions for, or findings of responsibility in probate
- 19 court for civil infractions for violations under chapter VI of the
- 20 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750.
- 21 However, an insured must not be merit rated for a civil infraction
- 22 under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL
- 23 257.601 to 257.750, for a period of time longer than that which the
- 24 secretary of state's office carries points for that infraction on
- 25 the insured's motor vehicle record.

26 (4) An insurer shall not establish or maintain rates or rating
 27 classifications for automobile insurance based on any of the
 28 following:

- 29 (a) Sex.

- 1 (b) Marital status.
2 (c) Home ownership.
3 (d) Educational level attained.
4 (e) Occupation.
5 (f) The ~~postal zone~~ **territory** in which the insured resides.
6 (g) Credit **information, credit score, or insurance score** as
7 provided in section 2162.

8 **(h) Consumer data or information.**

9 ~~(5) Notwithstanding other provisions of this chapter,~~
10 ~~automobile insurance risks may be grouped by territory.~~

11 **(5)** ~~(6)~~ This section does not limit insurers or rating
12 organizations from establishing and maintaining statistical
13 reporting territories. This section does not prohibit an insurer
14 from establishing or maintaining, for automobile insurance, a
15 premium discount plan for senior citizens in this state who are 65
16 years of age or older, if the plan is uniformly applied by the
17 insurer throughout this state. If an insurer has not established
18 and maintained a premium discount plan for senior citizens, the
19 insurer shall offer reduced premium rates to senior citizens in
20 this state who are 65 years of age or older and who drive less than
21 3,000 miles per year, regardless of statistical data.

22 **(6)** ~~(7)~~ Classifications established under this section for
23 home insurance other than inland marine insurance provided by
24 policy floaters or endorsements must be based only on 1 or more of
25 the following factors:

- 26 (a) Amount and types of coverage.
27 (b) Security and safety devices, including locks, smoke
28 detectors, and similar, related devices.
29 (c) Repairable structural defects reasonably related to risk.

1 (d) Fire protection class.

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

4 (f) Loss experience of the insured, based on prior claims
5 attributable to factors under the control of the insured that have
6 been paid by an insurer. An insured's failure, after written notice
7 from the insurer, to correct a physical condition that presents a
8 risk of repeated loss is a factor under the control of the insured
9 for purposes of this subdivision.

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

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

12 (i) Availability of law enforcement or crime prevention
13 services.

14 ~~(7) (8)~~—Notwithstanding other provisions of this chapter, home
15 insurance risks may be grouped by territory.

16 ~~(8) (9)~~—An insurer may use factors in addition to those
17 permitted by this section for insurance if the plan is consistent
18 with the purposes of this act and reflects reasonably anticipated
19 reductions or increases in losses or expenses.

20 Sec. 2151. As used in this chapter:

21 (a) "Adverse action" means an increase in any charge for, or a
22 reduction or other adverse or unfavorable change in the terms of
23 coverage or amount of, any personal insurance, existing or applied
24 for.

25 (b) "Consumer reporting agency" means any person that, for
26 monetary fees or dues or on a cooperative nonprofit basis,
27 regularly engages in whole or in part in the practice of assembling
28 or evaluating consumer credit information or other information on
29 consumers for the purpose of furnishing consumer reports to third

1 parties.

2 (c) "Credit information" means any credit-related information
3 derived from a credit report, found on a credit report itself, or
4 provided on an application for personal insurance. Information that
5 is not credit-related must not be considered credit information,
6 regardless of whether it is contained in a credit report or in an
7 application, or is used to calculate an insurance score.

8 (d) "Credit report" means any written, oral, or other
9 communication of information by a consumer reporting agency bearing
10 on a consumer's credit worthiness, credit standing, or credit
11 capacity that is used or expected to be used or collected in whole
12 or in part for the purpose of serving as a factor in the rating of
13 personal insurance.

14 (e) "Credit score" means the numerical score ranging from 300
15 to 850 assigned by a consumer reporting agency to measure credit
16 risk and includes FICO credit score.

17 (f) "Insurance score" means a number or rating that is derived
18 from an algorithm, computer application, model, or other process
19 that is based in whole or in part on credit information for the
20 purposes of predicting the future insurance loss exposure of an
21 individual applicant or insured.

22 (g) "Personal insurance" means property/casualty insurance
23 written for personal, family, or household use, including
24 ~~automobile~~, home, motorcycle, mobile home, noncommercial dwelling
25 fire, boat, personal watercraft, snowmobile, and recreational
26 vehicle, whether written on an individual, group, franchise,
27 blanket policy, or similar basis. **Personal insurance does not**
28 **include automobile insurance.**

29 Sec. 2162. An insurer shall not use an individual's **credit**

- 1 **information, credit score, or insurance score** to establish or
- 2 maintain rates or rating classifications for automobile insurance.