



HOUSE BILL No. 5155

December 2, 1999, Introduced by Reps. Hale, Bogardus, Hardman, Clark, Garza, Bovin, Daniels, Thomas, Stallworth, Quarles, Rison, Brewer, Vaughn, Prusi, Scott, LaForge, Jamnick, Schermesser, DeHart, Basham, Clarke, Price, Kelly, Wojno, Hansen, Gielegem, Neumann, Brater, Martinez, Reeves, Dennis, Rivet, Tesanovich, Kilpatrick and Lemmons and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2021, 2105, 2106, 2107, 2108, 2109, 2110,
2111, 2114, 2118, 2120, 2127, 2236, 2400, 2406, 2430, 2436, 2438,
2458, 2462, 2472, 2600, 2606, 2608, 2616, 2628, 2630, 2636, 2652,
2654, 2664, 2930, 3020, 3321, and 3340 (MCL 500.2021, 500.2105,
500.2106, 500.2107, 500.2108, 500.2109, 500.2110, 500.2111,
500.2114, 500.2118, 500.2120, 500.2127, 500.2236, 500.2400,
500.2406, 500.2430, 500.2436, 500.2438, 500.2458, 500.2462,
500.2472, 500.2600, 500.2606, 500.2608, 500.2616, 500.2628,
500.2630, 500.2636, 500.2652, 500.2654, 500.2664, 500.2930,
500.3020, 500.3321, and 500.3340), section 2021 as added and sec-
tion 2436 as amended by 1982 PA 7, section 2111 as amended by
1996 PA 98, section 2118 as amended by 1988 PA 43, section 2120
as amended by 1984 PA 350, sections 2236 and 2406 as amended by

1993 PA 200, section 2400 as amended by 1982 PA 8, section 2458 as amended by 1988 PA 262, section 3020 as amended by 1998 PA 410, and section 3340 as amended by 1986 PA 10, and by adding sections 2026a, 2094, 2103a, 2106a, 2107a, 2109a, 2109b, 2111c, 2128, 2128a, 2128b, 2128c, 2128d, 2128e, 2128f, and 3105a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2021. An unfair method of competition and an unfair or
2 deceptive act or practice in the business of insurance includes
3 failure by a rating organization and an insurer ~~which makes its~~
4 ~~own rates,~~ within a reasonable time after receiving written
5 request therefor and upon payment of ~~such~~ A reasonable charge
6 as it may make, to furnish to ~~any~~ AN insured affected by a rate
7 made by it, or to the INSURED'S authorized representative, ~~of~~
8 ~~such insured,~~ all pertinent information to ~~such~~ THE rate.

9 SEC. 2026A. (1) IT IS AN UNFAIR METHOD OF COMPETITION AND
10 AN UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSUR-
11 ANCE FOR A PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURER OR THE
12 INSURER'S AGENT TO SOLICIT, OFFER, PAY, OR RECEIVE A KICKBACK OR
13 BRIBE IN CONNECTION WITH THE PROCESS OF ADJUSTING, RESOLVING,
14 DENYING, OR LITIGATING A CLAIM FOR AUTOMOTIVE REPAIR.

15 (2) AN INSURER OR AN INSURER'S AGENT WHO VIOLATES THIS SEC-
16 TION IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
17 LESS THAN 1 YEAR OR MORE THAN 5 YEARS, OR A FINE OF NOT MORE THAN
18 \$50,000.00, OR BOTH, AND IN ADDITION, THE INSURER IS SUBJECT TO
19 THE CERTIFICATE OF AUTHORITY REVOCATION PROCEEDINGS OF THIS
20 CHAPTER.

1 SEC. 2094. AN INDIVIDUAL THREATENED WITH INJURY OR INJURED
2 DIRECTLY OR INDIRECTLY BY A PRIVATE PASSENGER NONFLEET AUTOMOBILE
3 INSURER'S VIOLATION OF ANY PROVISION OF THIS CHAPTER MAY BRING AN
4 ACTION FOR APPROPRIATE INJUNCTIVE OR OTHER EQUITABLE RELIEF
5 AGAINST IMMEDIATE IRREPARABLE HARM, ACTUAL DAMAGES SUSTAINED BY
6 REASON OF A VIOLATION OF THIS CHAPTER, AND, AS DETERMINED BY THE
7 COURT, INTEREST ON THE DAMAGES FROM THE DATE OF THE COMPLAINT,
8 TAXABLE COSTS, AND REASONABLE ATTORNEY'S FEES. THIS REMEDY IS IN
9 ADDITION TO ANY OTHER REMEDY AND PENALTY PROVISIONS PROVIDED BY
10 THIS CHAPTER.

11 SEC. 2103A. AS USED IN THIS CHAPTER:

12 (A) "GROUP AUTOMOBILE INSURANCE" MEANS AUTOMOBILE INSURANCE
13 COVERING NOT LESS THAN 25 ELIGIBLE EMPLOYEES OR MEMBERS, WITH OR
14 WITHOUT THEIR ELIGIBLE DEPENDENTS, WRITTEN UNDER A MASTER POLICY
15 ISSUED TO AND ENDORSED BY A GOVERNMENTAL CORPORATION, UNIT,
16 AGENCY, OR DEPARTMENT, OR TO A CORPORATION, PARTNERSHIP, INDIVID-
17 UAL EMPLOYER, OR AN ASSOCIATION, UPON APPLICATION OF AN EXECUTIVE
18 OFFICER OR TRUSTEE OF THE ASSOCIATION HAVING A CONSTITUTION OR
19 BYLAWS, AND FORMED IN GOOD FAITH FOR PURPOSES OTHER THAN THAT OF
20 OBTAINING INSURANCE.

21 (B) "TOTAL RETURN RATING" MEANS THE CONSIDERATION OF TOTAL
22 REVENUE AND AVAILABLE ASSETS OF THE INSURER, INCLUDING, BUT NOT
23 LIMITED TO, INVESTMENT INCOME, CAPITAL AND SURPLUS, UNDERWRITING
24 AND OPERATING PROFITS, PREMIUM REVENUE, AND ALL OTHER RESERVES.

25 Sec. 2105. (1) ~~No~~ A policy of automobile insurance or
26 home insurance shall NOT be offered, bound, made, issued,
27 delivered or renewed in this state on and after January 1, 1981,

1 except in conformity with this chapter. This chapter ~~shall~~
2 DOES not apply to policies of automobile insurance or home insur-
3 ance offered, bound, made, issued, delivered or renewed in this
4 state before January 1, 1981.

5 (2) This chapter ~~shall~~ DOES not apply to insurance written
6 on a group, franchise, ~~blanket policy,~~ or similar basis ~~which~~
7 THAT offers home insurance ~~or automobile insurance~~ to all mem-
8 bers of the group, franchise plan, or blanket coverage who are
9 eligible persons.

10 Sec. 2106. Except as specifically provided in this chapter,
11 the provisions of chapter 24 and chapter 26 ~~shall~~ DO not apply
12 to automobile insurance and home insurance. An insurer may use
13 rates for ~~automobile insurance or~~ home insurance as soon as
14 those rates are filed. AN INSURER SHALL NOT USE RATES FOR AUTO-
15 MOBILE INSURANCE UNTIL THOSE RATES HAVE BEEN APPROVED BY THE
16 COMMISSIONER. To the extent that other provisions of this ~~code~~
17 ACT are inconsistent with the provisions of this chapter, this
18 chapter ~~shall govern~~ GOVERNS with respect to automobile insur-
19 ance and home insurance.

20 SEC. 2106A. TO BE AUTHORIZED TO WRITE GROUP AUTOMOBILE
21 INSURANCE IN THIS STATE, AN INSURER SHALL OFFER THE GROUP COVER-
22 AGE TO EVERY ELIGIBLE PERSON IN THE GROUP IN A UNIFORM MANNER AND
23 SHALL FOLLOW THE RATE-MAKING, UNDERWRITING, AND OTHER APPLICABLE
24 PROVISIONS OF THIS ACT.

25 Sec. 2107. (1) On or before September 1, 1980, each insurer
26 subject to this chapter shall make filings in accordance with
27 this chapter for ~~automobile insurance,~~ home insurance ~~, or~~

1 ~~both,~~ to be effective not later than January 1, 1981 ~~nor~~ OR
2 earlier than November 1, 1980.

3 (2) With regard to a filing submitted under subsection (1),
4 the commissioner shall conduct a review of the filing on an
5 informal basis, and a dispute with regard to that filing shall
6 not be considered a contested case under ~~Act No. 306 of the~~
7 ~~Public Acts of 1969, as amended~~ THE ADMINISTRATIVE PROCEDURES
8 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328. A filing not
9 disapproved within 60 days after its submission shall be consid-
10 ered approved.

11 (3) A filing approved or considered approved under subsec-
12 tion (2) ~~shall be~~ IS exempt from any further proceedings what-
13 soever under this chapter until July 1, 1981.

14 (4) If a filing is disapproved under subsection (2), the
15 insurer, within 30 days of the order of disapproval, shall make a
16 revised filing with the commissioner. The revised filing shall
17 take effect on January 1, 1981 and ~~shall be~~ IS subject to
18 review under this chapter on or after January 1, 1981 in the same
19 manner as subsequent filings made under this chapter.

20 SEC. 2107A. (1) BY NOT LATER THAN 1 YEAR AFTER THE EFFEC-
21 TIVE DATE OF THIS SECTION AND ANNUALLY THEREAFTER, EACH INSURER
22 SUBJECT TO THIS CHAPTER SHALL FILE BASE RATES FOR AUTOMOBILE
23 INSURANCE AND SHALL MAKE FILINGS THAT CONFORM TO THIS ACT AS
24 AMENDED BY THE 1999 AMENDATORY ACT THAT ADDED THIS SECTION.

25 (2) THE COMMISSIONER SHALL REVIEW A FILING SUBMITTED UNDER
26 SUBSECTION (1) AND SHALL APPROVE OR DISAPPROVE THE FILING WITHIN
27 60 DAYS AFTER ITS SUBMISSION.

1 (3) A FILING APPROVED UNDER SUBSECTION (2) SHALL NOT BE
2 REVISED FOR 12 MONTHS AFTER THE EFFECTIVE DATE OF THE FILING
3 UNLESS THE REVISION MEETS EITHER OF THE FOLLOWING:

4 (A) LOWERS THE PRICE OF THE COVERAGE.

5 (B) IS IN RESPONSE TO A RULING OR DECISION BY THE COMMIS-
6 SIONER, THE COURT, OR A HEARING OFFICER.

7 (4) A RULE CHANGE OR OTHER CHANGE FILED WITH THE COMMIS-
8 SIONER THAT RESULTS IN A CHANGE IN THE COST OF COVERAGE IS CON-
9 SIDERED A REVISION IN A RATE FILING UNDER THIS SECTION.

10 (5) IF A FILING IS DISAPPROVED UNDER SUBSECTION (2), THE
11 INSURER, WITHIN 30 DAYS OF THE ORDER OF DISAPPROVAL, SHALL MAKE A
12 REVISED FILING WITH THE COMMISSIONER. THE REVISED FILING IS
13 SUBJECT TO REVIEW UNDER THIS CHAPTER IN THE SAME MANNER AS AN
14 ORIGINAL FILING MADE UNDER THIS CHAPTER.

15 Sec. 2108. (1) ~~On~~ EXCEPT AS PROVIDED IN SECTION 2107A, ON
16 the effective date thereof, each insurer shall file with the com-
17 missioner every manual of classification, every manual of rules
18 and rates, every rating plan, and every modification of a manual
19 of classification, manual of rules and rates, or a rating plan
20 ~~which~~ THAT it proposes to use for automobile insurance and home
21 insurance. Each filing shall state the character and extent of
22 the coverage contemplated. Each insurer subject to this chapter
23 who maintains rates in any part of this state shall at all times
24 maintain rates in effect for all eligible persons meeting the
25 underwriting criteria of the insurer.

26 (2) ~~An~~ EXCEPT FOR FILINGS CONCERNING RATES, AN insurer may
27 satisfy its obligation to make filings ~~under subsection (1)~~ by

1 becoming a member of, or a subscriber to, a LICENSED rating
2 organization ~~licensed under chapter 24 or chapter 26 which~~ THAT
3 makes ~~those~~ filings, and by filing with the commissioner a copy
4 of its authorization of the rating organization to make ~~those~~
5 filings on its behalf. Nothing contained in this chapter shall
6 be construed as requiring any insurer to become a member of or a
7 subscriber to any rating organization. Insurers may file and use
8 deviations from filings made on their behalf, which deviations
9 ~~shall be~~ ARE subject to the provisions of this chapter.

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

14 (4) Each filing shall include information that supports the
15 filing with respect to the requirements of ~~section~~ SECTIONS
16 2109 AND 2109A. The information may include 1 or more of the
17 following:

18 (a) The experience or judgment of the insurer ~~or rating~~
19 ~~organization~~ making the filing.

20 (b) The interpretation of the insurer ~~or rating~~
21 ~~organization~~ of any statistical data it relies upon.

22 (c) The experience of other insurers. ~~or rating~~
23 ~~organizations.~~

24 (d) Any other relevant information.

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

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

4 Sec. 2109. (1) 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 provided
10 and a reasonable degree of competition does not exist for the
11 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 insurance
16 provided and the use of the rate has or will have the effect of
17 destroying competition among insurers, creating a monopoly, or
18 causing a kind of insurance to be unavailable to a significant
19 number of applicants who are in good faith entitled to procure
20 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 reasonable
9 degree of competition with respect to subsection (1)(a) shall
10 take into account a reasonable spectrum of relevant economic
11 tests, including the number of insurers actively engaged in writ-
12 ing the insurance in question, the present availability of such
13 insurance compared to its availability in comparable past peri-
14 ods, the underwriting return of that insurance over a period of
15 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. 2109A. (1) ALL RATES FOR AUTOMOBILE INSURANCE SHALL BE
20 REVIEWED BY THE COMMISSIONER BY EXAMINING THE INSURER'S REPORT
21 PREPARED PURSUANT TO SECTION 2128 AND SHALL BE MADE IN ACCORDANCE
22 WITH TOTAL RETURN RATING AND THE FOLLOWING PROVISIONS:

23 (A) RATES SHALL NOT BE EXCESSIVE, INADEQUATE, OR UNFAIRLY
24 DISCRIMINATORY. A RATE SHALL NOT BE APPROVED BY THE COMMISSIONER
25 UNLESS IT IS ACTUARIALLY JUSTIFIED BASED UPON THE INFORMATION
26 RECEIVED PURSUANT TO SECTION 2128.

1 (B) A RATE SHALL NOT BE HELD TO BE INADEQUATE UNLESS THE
2 RATE, AFTER CONSIDERATION OF INVESTMENT INCOME AND SURPLUS, IS
3 UNREASONABLY LOW FOR THE INSURANCE COVERAGE PROVIDED AND IS
4 INSUFFICIENT TO SUSTAIN PROJECTED LOSSES AND EXPENSES; OR UNLESS
5 THE RATE IS UNREASONABLY LOW FOR THE INSURANCE PROVIDED AND THE
6 USE OF THE RATE HAS OR WILL HAVE THE EFFECT OF DESTROYING COMPE-
7 TITION AMONG INSURERS, CREATING A MONOPOLY, OR CAUSING A KIND OF
8 INSURANCE TO BE UNAVAILABLE TO A SIGNIFICANT NUMBER OF APPLICANTS
9 WHO ARE IN GOOD FAITH ENTITLED TO PROCURE THAT INSURANCE THROUGH
10 ORDINARY METHODS.

11 (C) A RATE FOR A COVERAGE IS UNFAIRLY DISCRIMINATORY IN
12 RELATION TO ANOTHER RATE FOR THE SAME COVERAGE IF THE DIFFEREN-
13 TIAL BETWEEN THE RATES IS NOT REASONABLY JUSTIFIED BY DIFFERENCES
14 IN LOSSES, EXPENSES, OR BOTH, OR BY DIFFERENCES IN THE UNCER-
15 TAINTY OF LOSS, FOR THE INDIVIDUALS OR RISKS TO WHICH THE RATES
16 APPLY. A REASONABLE JUSTIFICATION SHALL BE SUPPORTED BY A REA-
17 SONABLE CLASSIFICATION SYSTEM; BY SOUND ACTUARIAL PRINCIPLES WHEN
18 APPLICABLE; AND BY ACTUAL AND CREDIBLE LOSS AND EXPENSE STATIS-
19 TICS OR, IN THE CASE OF NEW COVERAGES AND CLASSIFICATIONS, BY
20 REASONABLY ANTICIPATED LOSS AND EXPENSE EXPERIENCE. A RATE IS
21 NOT UNFAIRLY DISCRIMINATORY BECAUSE IT REFLECTS DIFFERENCES IN
22 EXPENSES FOR INDIVIDUALS OR RISKS WITH SIMILAR ANTICIPATED
23 LOSSES, OR BECAUSE IT REFLECTS DIFFERENCES IN LOSSES FOR INDIVID-
24 UALS OR RISKS WITH SIMILAR EXPENSES.

25 (2) THE COMMISSIONER SHALL NOT APPROVE A RATE INCREASE FOR
26 AUTOMOBILE INSURANCE UNLESS THE COMMISSIONER DETERMINES THAT THE
27 DATA RECEIVED FROM THE REPORT PREPARED PURSUANT TO SECTION 2128

1 JUSTIFIES A RATE INCREASE. THE COMMISSIONER SHALL NOT APPROVE A
2 RATE INCREASE BY EXAMINING ACTUARIAL DATA FROM A LINE OTHER THAN
3 THE INSURER'S AUTOMOBILE INSURANCE LINE OR IF THE INSURER FAILS
4 TO FILE THE DATA REQUIRED BY SECTION 2128. THE COMMISSIONER
5 SHALL NOT APPROVE A RATE INCREASE IF THE COMMISSIONER FINDS THE
6 INSURER'S ADMINISTRATIVE EXPENSES TO BE EXCESSIVE.

7 (3) EACH INSURER SHALL SUBMIT ANNUALLY TO THE COMMISSIONER A
8 COMPLETE BREAKDOWN OF LITIGATION COSTS ASSOCIATED WITH FIRST AND
9 THIRD PARTY AUTOMOBILE INSURANCE CLAIMS THAT HAVE BEEN RECEIVED
10 OR ARE IN THE PROCESS OF BEING LITIGATED AND OF AMOUNTS RESERVED
11 TO BE USED FOR THOSE EXPENSES. THE COMMISSIONER SHALL NOT
12 APPROVE A RATE IF THE ADMINISTRATIVE COSTS ASSOCIATED WITH THE
13 LITIGATION OF FIRST PARTY CLAIMS EXCEED 1% OF THE ADMINISTRATIVE
14 COSTS ASSOCIATED WITH THE LITIGATION OF THIRD PARTY CLAIMS. EACH
15 AUTOMOBILE INSURANCE INSURER'S TOTAL ADMINISTRATIVE EXPENSES
16 SHALL BE ALLOCATED TO EACH TERRITORY ACCORDING TO THE INSURER'S
17 PROPORTIONATE SHARE OF PREMIUM WRITTEN IN EACH TERRITORY. EACH
18 PREMIUM CHARGED WITHIN EACH TERRITORY SHALL CONTAIN AN EQUAL
19 SHARE OF THE ADMINISTRATIVE EXPENSE FOR THE TERRITORY. RATES
20 SHALL BE FILED AND CHARGED UNDER THIS SECTION SO THAT EACH AUTO-
21 MOBILE INSURANCE PREMIUM INCLUDES AN EQUAL SHARE OF EACH
22 INSURER'S OVERALL ADMINISTRATIVE EXPENSE.

23 SEC. 2109B. (1) IF THE COMMISSIONER DETERMINES THAT ANY
24 PERSON OR ORGANIZATION HAS VIOLATED THE AUTOMOBILE RATE-MAKING OR
25 UNDERWRITING PROVISIONS OF THIS CHAPTER, THE COMMISSIONER MAY
26 ISSUE A CEASE AND DESIST ORDER AND ORDER THE PERSON OR
27 ORGANIZATION TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00 FOR

1 EACH VIOLATION AND A CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR
2 EACH WILLFUL VIOLATION. A DEFAULT IN THE PAYMENT OF A CIVIL FINE
3 UNDER THIS SECTION MAY BE REMEDIED BY ANY MEANS AUTHORIZED UNDER
4 THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.101 TO
5 600.9948. A CIVIL FINE COLLECTED PURSUANT TO THIS SUBSECTION
6 SHALL BE USED FOR THE OPERATION OF THE AUTOMOBILE INSURANCE DATA
7 COLLECTION AGENCY CREATED IN SECTION 2128E.

8 (2) IF THE COMMISSIONER FINDS THAT A VIOLATION OF THE AUTO-
9 MOBILE RATE-MAKING OR UNDERWRITING PROVISIONS OF THIS CHAPTER HAS
10 OCCURRED AND THAT THE VIOLATION HAS RESULTED IN AN INCREASE IN
11 AUTOMOBILE INSURANCE PREMIUMS OR A DECREASE IN BENEFITS, THE COM-
12 MISSIONER SHALL ORDER THE INSURER TO RETURN THE PREMIUM OR THE
13 AMOUNT OF BENEFITS THAT SHOULD HAVE BEEN PAID, ALONG WITH AN
14 INTEREST CHARGE OF 12% PER ANNUM TO BE APPLIED FROM THE TIME THE
15 PREMIUM WAS COLLECTED OR THE BENEFIT WAS DUE OR WOULD HAVE BEEN
16 DUE TO THE CONSUMER.

17 (3) THE COMMISSIONER MAY SUSPEND THE LICENSE OF AN INSURER
18 THAT FAILS TO COMPLY WITH THE COMMISSIONER'S ORDER TO CORRECT A
19 VIOLATION OF THIS CHAPTER.

20 Sec. 2110. (1) In developing and evaluating rates pursuant
21 to the standards prescribed in ~~section~~ SECTIONS 2109 AND 2109A,
22 due consideration shall be given to past and prospective loss
23 experience within and outside this state, to catastrophe hazards,
24 if any; to a reasonable margin for underwriting profit and con-
25 tingencies; to dividends, savings, or unabsorbed premium deposits
26 allowed or returned by insurers to their policyholders, members,
27 or subscribers; to past and prospective expenses, both

1 countrywide and those specially applicable to this state
2 exclusive of assessments under this ~~code~~ ACT; to assessments
3 under this ~~code~~ ACT; to underwriting practice and judgment; and
4 to all other relevant factors within and outside this state.

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

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

15 Sec. 2111. (1) Notwithstanding any provision of this act
16 and this chapter to the contrary, classifications and territorial
17 base rates used by any insurer in this state with respect to
18 ~~automobile insurance or~~ home insurance AND CLASSIFICATIONS USED
19 BY AN INSURER WITH RESPECT TO AUTOMOBILE INSURANCE shall conform
20 to the applicable requirements of this section.

21 (2) Classifications established pursuant to this section for
22 automobile insurance shall be based only upon 1 or more of the
23 following factors, which shall be applied by an insurer on a uni-
24 form basis throughout the state:

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

1 (i) Either the age of the driver; the length of driving
2 experience; or the number of years licensed to operate a motor
3 vehicle.

4 (ii) Driver primacy, based upon the proportionate use of
5 each vehicle insured under the policy by individual drivers
6 insured or to be insured under the policy.

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

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

9 (v) Vehicle characteristics, features, and options, such as
10 engine displacement, ability of vehicle and its equipment to pro-
11 tect passengers from injury and other similar items, including
12 vehicle make and model.

13 (vi) Daily or weekly commuting mileage.

14 (vii) Number of cars insured by the insurer or number of
15 licensed operators in the household. However, number of licensed
16 operators shall not be used as an indirect measure of marital
17 status.

18 (viii) Amount of insurance.

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

21 (i) Earned income.

22 (ii) Number of dependents of income earners insured under
23 the policy.

24 (iii) Coordination of benefits.

25 (iv) Use of a safety belt.

26 (v) THE WAIVER OF COVERAGE FOR WORK LOSS BENEFITS UNDER
27 SECTION 3107.

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

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

7 (ii) Vehicle make and model.

8 (iii) Vehicle design characteristics related to vehicle
9 damageability.

10 (iv) Vehicle characteristics relating to automobile theft
11 prevention devices.

12 (d) With respect to all automobile insurance coverage other
13 than comprehensive, successful completion by the individual
14 driver or drivers insured under the policy of an accident preven-
15 tion education course that meets the following criteria:

16 (i) The course shall include a minimum of 8 hours of class-
17 room instruction.

18 (ii) The course shall include, but not be limited to, a
19 review of all of the following:

20 (A) The effects of aging on driving behavior.

21 (B) The shapes, colors, and types of road signs.

22 (C) The effects of alcohol and medication on driving.

23 (D) The laws relating to the proper use of a motor vehicle.

24 (E) Accident prevention measures.

25 (F) The benefits of safety belts and child restraints.

26 (G) Major driving hazards.

1 (H) Interaction with other highway users such as
2 motorcyclists, bicyclists, and pedestrians.

3 (3) Each insurer shall establish a secondary or merit rating
4 plan for automobile insurance, other than comprehensive
5 coverage. A secondary or merit rating plan required under this
6 subsection shall provide for premium surcharges for any or all
7 coverages for automobile insurance, other than comprehensive cov-
8 erage, based upon any or all of the following, when that informa-
9 tion becomes available to the insurer:

10 (a) Substantially at-fault accidents.

11 (b) Convictions for, determinations of responsibility for
12 civil infractions for, or findings of responsibility in probate
13 court for civil infractions for, violations under chapter VI of
14 ~~Act No. 300 of the Public Acts of 1949, being sections 257.601~~
15 ~~to 257.750 of the Michigan Compiled Laws~~ THE MICHIGAN VEHICLE
16 CODE, 1949 PA 300, MCL 257.601 TO 257.750. However, beginning 90
17 days after the effective date of this sentence, an insured shall
18 not be merit rated for a civil infraction under chapter VI of
19 ~~Act No. 300 of the Public Acts of 1949~~ THE MICHIGAN VEHICLE
20 CODE, 1949 PA 300, MCL 257.601 TO 257.750, for a period of time
21 longer than that which the secretary of state's office carries
22 points for that infraction on the insured's motor vehicle
23 record.

24 (4) An insurer shall not establish or maintain rates or
25 rating classifications for automobile insurance based upon sex or
26 marital status.

1 (5) Notwithstanding other provisions of this chapter,
2 automobile insurance risks ~~may~~ SHALL be grouped by territory AS
3 PRESCRIBED BY THE COMMISSIONER. THE COMMISSIONER SHALL ESTABLISH
4 UNIFORM TERRITORIAL RATING TO BE USED BY ALL AUTOMOBILE INSURANCE
5 INSURERS DOING BUSINESS IN THE STATE. TERRITORIAL BOUNDARIES
6 SHALL BE BASED ON OBJECTIVE CRITERIA, INCLUDING TRAFFIC PATTERNS,
7 AND SHALL BE RELATED TO THE DRIVING ENVIRONMENT INCLUDING, BUT
8 NOT LIMITED TO, DENSITY OF TRAFFIC, REGULARITY OF TRAFFIC FLOW,
9 TRAFFIC ROUTE SIZE, AND TYPES OF ROADWAY. A TERRITORY SHALL NOT
10 INCLUDE LESS THAN 1 COUNTY AND MAY INCLUDE MORE THAN 1 COUNTY.
11 AN INSURER SHALL NOT CHARGE A TERRITORIAL BASE RATE FOR AN AUTO-
12 MOBILE INSURANCE POLICY UNLESS THE TERRITORIAL RATING SCHEME USED
13 BY THE INSURER HAS BEEN APPROVED BY THE COMMISSIONER. AN INSURER
14 SHALL ESTABLISH 1 ACTUARIALLY SOUND BASE RATE FOR EACH PRESCRIBED
15 TERRITORY WHICH BASE RATE SHALL BE APPROVED BY THE COMMISSIONER
16 PURSUANT TO THIS CHAPTER.

17 (6) This section shall not be construed as limiting insurers
18 or rating organizations from establishing and maintaining statis-
19 tical reporting territories. This section shall not be construed
20 to prohibit an insurer from establishing or maintaining, for
21 automobile insurance, a premium discount plan for senior citizens
22 in this state who are 65 years of age or older, if the plan is
23 uniformly applied by the insurer throughout this state. If an
24 insurer has not established and maintained a premium discount
25 plan for senior citizens, the insurer shall offer reduced premium
26 rates to senior citizens in this state who are 65 years of age or

1 older and who drive less than 3,000 miles per year, regardless of
2 statistical data.

3 (7) Classifications established pursuant to this section for
4 home insurance other than inland marine insurance provided by
5 policy floaters or endorsements shall be based only upon 1 or
6 more of the following factors:

7 (a) Amount and types of coverage.

8 (b) Security and safety devices, including locks, smoke
9 detectors, and similar, related devices.

10 (c) Repairable structural defects reasonably related to
11 risk.

12 (d) Fire protection class.

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

15 (f) Loss experience of the insured, based upon prior claims
16 attributable to factors under the control of the insured that
17 have been paid by an insurer.

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

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

20 (i) Availability of law enforcement or crime prevention
21 services.

22 (8) Notwithstanding other provisions of this chapter, home
23 insurance risks may be grouped by territory.

24 (9) An insurer may utilize factors in addition to those
25 specified in this section, if the commissioner finds, after a
26 hearing held pursuant to the administrative procedures act of
27 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~

1 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ 1969 PA 306, MCL
2 24.201 TO 24.328, that the factors would encourage innovation,
3 would encourage insureds to minimize the risks of loss from haz-
4 ards insured against, and would be consistent with the purposes
5 of this chapter.

6 (10) The commissioner shall report in writing to the senate
7 and house of representatives standing committees of insurance
8 issues by January 1, 2000 of the effect that the amendatory act
9 that added this subsection has had on automobile and home insur-
10 ance premiums in this state.

11 SEC. 2111C. (1) BY NOT LATER THAN 1 YEAR AFTER THE EFFEC-
12 TIVE DATE OF THIS SECTION, EACH AUTOMOBILE INSURANCE INSURER
13 SHALL FILE BASE RATES FOR AUTOMOBILE INSURANCE THAT CONFORM TO
14 THIS ACT AS AMENDED BY THE 1999 AMENDATORY ACT THAT ADDED THIS
15 SECTION AND, FOR EACH UNIFORM TERRITORY, REFLECT A REDUCTION THAT
16 IS AT LEAST AN OVERALL 20% REDUCTION FROM THE AGGREGATE RATES
17 PREVIOUSLY CHARGED IN THE TERRITORY BY THE 10 AUTOMOBILE INSUR-
18 ANCE INSURERS HAVING THE GREATEST MARKET SHARE IN THE STATE BASED
19 ON RATES IN EFFECT AS OF MAY 1, 1998. THE COMMISSIONER SHALL
20 REQUIRE A RATE REDUCTION TO THIS LEVEL UNLESS THE INSURER, AFTER
21 CONFORMING FULLY WITH ALL OF THE PROVISIONS OF THIS ACT, CAN
22 DEMONSTRATE THAT A DIFFERENT RATE LEVEL IS ACTUARIALLY ESSENTIAL
23 PURSUANT TO SECTION 2109A.

24 (2) BY NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF
25 THIS SECTION, EACH AUTOMOBILE INSURANCE INSURER WHO DID NOT WRITE
26 AUTOMOBILE INSURANCE IN THIS STATE ON MAY 1, 1998 SHALL FILE BASE
27 RATES FOR AUTOMOBILE INSURANCE THAT DO NOT EXCEED THE WEIGHTED

1 AVERAGE OF THE BASE RATES FILED ON MAY 1, 1998 BY THE 10 LARGEST
2 AUTOMOBILE INSURANCE INSURERS BY MARKET SHARE.

3 (3) ASSESSMENTS FOR THE MICHIGAN CATASTROPHIC CLAIMS ASSOCI-
4 ATION, AUTOMOBILE THEFT PREVENTION AUTHORITY, AND THE MICHIGAN
5 AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL NOT BE CONSIDERED
6 IN ACHIEVING THE REDUCTION REQUIRED BY SUBSECTIONS (1) AND (2).

7 Sec. 2114. (1) A person or organization aggrieved with
8 respect to any filing ~~which~~ THAT is in effect and ~~which~~ THAT
9 affects the person or organization may make written application
10 to the commissioner for a hearing on the filing. However, the
11 insurer or rating organization ~~which~~ THAT made the filing shall
12 not be authorized to proceed under this subsection. The applica-
13 tion shall specify the grounds to be relied upon by the
14 applicant. If the commissioner finds that the application is
15 made in good faith, that the applicant would be so aggrieved if
16 the grounds specified are established, or that the grounds speci-
17 fied otherwise justify holding a hearing, the commissioner, not
18 more than 30 days after receipt of the application, shall hold a
19 hearing in accordance with ~~Act No. 306 of the Public Acts of~~
20 ~~1969, as amended~~ THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969
21 PA 306, MCL 24.201 TO 24.328, upon not less than 10 days' written
22 notice to the applicant, the insurer, and the rating organization
23 which made the filing.

24 (2) If after hearing initiated under subsection (1) or upon
25 the commissioner's own motion pursuant to ~~Act No. 306 of the~~
26 ~~Public Acts of 1969, as amended~~ THE ADMINISTRATIVE PROCEDURES
27 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, the commissioner

1 finds that a filing does not meet the requirements of sections
2 2109, 2109A, and 2111, the commissioner shall issue an order
3 stating the specific reasons for that finding. The order shall
4 state when, within a reasonable time after issuance of the order,
5 the filing shall be considered no longer effective. A copy of
6 the order shall be sent to the applicant, if any, and to each
7 insurer and rating organization subject to the order. The order
8 shall not affect a contract or policy made or issued before the
9 date the filing becomes ineffective, as indicated in the
10 commissioner's order.

11 Sec. 2118. (1) As a condition of maintaining its certifi-
12 cate of authority, an insurer shall not refuse to insure, refuse
13 to continue to insure, or limit coverage available to an eligible
14 person for automobile insurance, except in accordance with under-
15 writing rules established pursuant to this section and sections
16 2119 and 2120.

17 (2) The underwriting rules ~~which~~ THAT an insurer may
18 establish for automobile insurance shall be based only on the
19 following:

20 (a) Criteria identical to the standards set forth in section
21 2103(1).

22 (b) The insurance eligibility point accumulation in excess
23 of the amounts established by section 2103(1) of a member of the
24 household of the eligible person insured or to be insured, if the
25 member of the household usually accounts for 10% or more of the
26 use of a vehicle insured or to be insured. For purposes of this
27 subdivision, a person who is the principal driver for 1

1 automobile insurance policy shall be rebuttably presumed not to
2 usually account for more than 10% of the use of other vehicles of
3 the household not insured under the policy of that person.

4 (c) With respect to a vehicle insured or to be insured, sub-
5 stantial modifications from the vehicle's original manufactured
6 state for purposes of increasing the speed or acceleration capa-
7 bilities of the vehicle.

8 ~~(d) Failure by the person to provide proof that insurance~~
9 ~~required by section 3101 was maintained in force with respect to~~
10 ~~any vehicle which was both owned by the person and driven or~~
11 ~~moved by the person or by a member of the household of the person~~
12 ~~during the 6-month period immediately preceding application.~~
13 ~~Such proof shall take the form of a certification by the person~~
14 ~~on a form provided by the insurer that the vehicle was not driven~~
15 ~~or moved without maintaining the insurance required by section~~
16 ~~3101 during the 6-month period immediately preceding~~
17 ~~application.~~

18 (D) ~~(e)~~ Type of vehicle insured or to be insured, based on
19 1 of the following, without regard to the age of the vehicle:

20 (i) The vehicle is of limited production or of custom
21 manufacture.

22 (ii) The insurer does not have a rate lawfully in effect for
23 the type of vehicle.

24 (iii) The vehicle represents exposure to extraordinary
25 expense for repair or replacement under comprehensive or colli-
26 sion coverage.

1 (E) ~~(f)~~ Use of a vehicle insured or to be insured for
2 transportation of passengers for hire, for rental purposes, or
3 for commercial purposes. Rules under this subdivision shall not
4 be based on the use of a vehicle for volunteer or charitable pur-
5 poses or for which reimbursement for normal operating expenses is
6 received.

7 (F) ~~(g)~~ Payment of a minimum deposit at the time of appli-
8 cation or renewal, not to exceed the smallest deposit required
9 under an extended payment or premium finance plan customarily
10 used by the insurer.

11 (G) ~~(h)~~ For purposes of requiring comprehensive deducti-
12 bles of not more than \$150.00, or of refusing to insure if the
13 person refuses to accept a required deductible, the claim
14 experience of the person with respect to comprehensive coverage.

15 (H) ~~(i)~~ Total abstinence from the consumption of alcoholic
16 beverages except ~~when~~ IF such beverages are consumed as part of
17 a religious ceremony. However, an insurer shall not utilize an
18 underwriting rule based on this subdivision unless the insurer
19 has been authorized to transact automobile insurance in this
20 state prior to January 1, 1981, and has consistently utilized
21 such an underwriting rule as part of the insurer's automobile
22 insurance underwriting since being authorized to transact automo-
23 bile insurance in this state.

24 Sec. 2120. (1) Affiliated insurers may establish underwrit-
25 ing rules so that each affiliate will provide automobile insur-
26 ance only to certain eligible persons. This subsection shall
27 apply only if an eligible person can obtain automobile insurance

1 from 1 of the affiliates. The underwriting rules shall be in
2 compliance with this section ~~, section~~ AND SECTIONS 2118 ~~,~~
3 and ~~section~~ 2119.

4 (2) An insurer may establish separate rating plans so that
5 certain eligible persons are provided automobile insurance under
6 1 rating plan and other eligible persons are provided automobile
7 insurance under another rating plan. This subsection shall apply
8 only if all eligible persons can obtain automobile insurance
9 under a rating plan of the insurer. Underwriting rules consis-
10 tent with this section ~~, section~~ AND SECTIONS 2118 ~~,~~ and
11 ~~section~~ 2119 shall be established to define the rating plan
12 applicable to each eligible person.

13 (3) Underwriting rules under this section shall be based
14 only on the following:

15 (a) With respect to a vehicle insured or to be insured, sub-
16 stantial modifications from the vehicle's original manufactured
17 state for purposes of increasing the speed or acceleration capa-
18 bilities of the vehicle.

19 ~~-(b) Failure of the person to provide proof that insurance~~
20 ~~required by section 3101 was maintained in force with respect to~~
21 ~~any vehicle owned and operated by the person or by a member of~~
22 ~~the household of the person during the 6-month period immediately~~
23 ~~preceding application or renewal of the policy. Such proof shall~~
24 ~~take the form of a certification by the person that the required~~
25 ~~insurance was maintained in force for the 6-month period with~~
26 ~~respect to such vehicle.~~

1 (B) ~~(c)~~ For purposes of insuring persons who have refused
2 a deductible lawfully required under section ~~2118(2)(h)~~
3 2118(2)(G), the claim experience of the person with respect to
4 comprehensive coverage.

5 (C) ~~(d)~~ Refusal of the person to pay a minimum deposit
6 required under section ~~2118(2)(g)~~ 2118(2)(F).

7 (D) ~~(e)~~ A person's insurance eligibility point accumula-
8 tion under section 2103(1)(h), or the total insurance eligibility
9 point accumulation of all persons who account for 10% or more of
10 the use of 1 or more vehicles insured or to be insured under the
11 policy.

12 (E) ~~(f)~~ The type of vehicle insured or to be insured as
13 provided in section ~~2118(2)(e)~~ 2118(2)(D).

14 Sec. 2127. The commissioner may by rule prospectively
15 require insurers, rating organizations, and advisory organiza-
16 tions to collect and report data ~~only~~ to the extent necessary
17 to monitor and evaluate the automobile and home insurance markets
18 in this state. The commissioner shall authorize the use of sam-
19 pling techniques in each instance where sampling is practicable
20 and consistent with the purposes for which the data, by county,
21 are to be collected and reported. RULES PROMULGATED PURSUANT TO
22 THIS SECTION ARE IN ADDITION TO, AND DO NOT REPLACE, THE REPORT-
23 ING REQUIREMENTS IN SECTION 2128.

24 SEC. 2128. BY APRIL 1 OF EACH YEAR, EACH INSURER WHO ISSUES
25 AUTOMOBILE INSURANCE IN THIS STATE SHALL FILE WITH THE COMMIS-
26 SIONER AND WITH THE AUTOMOBILE INSURANCE DATA COLLECTION AGENCY
27 CREATED IN SECTION 2128E ON FORMS PRESCRIBED BY THE AUTOMOBILE

1 INSURANCE DATA COLLECTION AGENCY, THE FOLLOWING AUTOMOBILE
2 INSURANCE DATA, BY TERRITORY, FOR THE PRIOR CALENDAR YEAR:

3 (A) WITH RESPECT TO PERSONAL PROTECTION INSURANCE COVERAGE:

4 (i) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
5 BENEFITS FOR WHICH PAYMENT IS MADE.

6 (ii) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
7 BENEFITS THAT ARE CLOSED WITHOUT PAYMENT.

8 (iii) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
9 BENEFITS THAT INVOLVE SOME FORM OF LITIGATION AND ARE CLOSED
10 WITHOUT PAYMENT.

11 (iv) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
12 BENEFITS THAT INVOLVE LITIGATION AND FOR WHICH PAYMENT IS MADE
13 AFTER LITIGATION COMMENCES, INCLUDING THE LENGTH OF TIME BETWEEN
14 THE FILING OF THE CLAIM AND THE FIRST PAYMENT.

15 (v) THE AMOUNT OF INTEREST CHARGES PAID ON CLAIMS FOR PER-
16 SONAL PROTECTION INSURANCE BENEFITS AND THE NUMBER OF CASES FOR
17 WHICH INTEREST CHARGES HAVE BEEN PAID.

18 (vi) THE LITIGATION COSTS FOR CLAIMS FOR PERSONAL PROTECTION
19 INSURANCE BENEFITS.

20 (vii) THE NUMBER OF CASES GOING TO VERDICT AND THE AMOUNT OF
21 THE VERDICT IN THOSE CASES WHERE AN AWARD IS MADE.

22 (viii) THE NUMBER OF VERDICTS OF NO CAUSE OF ACTION.

23 (ix) THE NUMBER OF CASES WHERE ATTORNEY FEES ARE PAID, THE
24 TOTAL AMOUNT OF ATTORNEY FEES PAID, AND THE AMOUNT OF ATTORNEY
25 FEES PAID FOR EACH CASE WHERE FEES WERE PAID.

26 (B) WITH RESPECT TO PROPERTY PROTECTION INSURANCE COVERAGE:

1 (i) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY TORT
2 CLAIMS CLOSED BY PAYMENT TO THE CLAIMANT BEFORE THE COMMENCEMENT
3 OF LITIGATION AND A BREAKDOWN OF HOW MANY OF THESE CLAIMS WERE
4 DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION
5 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

6 (ii) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY TORT
7 CLAIM LAWSUITS FILED, AND A BREAKDOWN OF HOW MANY WERE FILED FOR
8 DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION
9 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

10 (iii) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY
11 TORT CLAIMS CLOSED BY PAYMENT TO THE CLAIMANT AFTER THE COMMENCE-
12 MENT OF LITIGATION AND A BREAKDOWN OF HOW MANY OF THESE CLAIMS
13 WERE DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION
14 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

15 (iv) THE DOLLAR AMOUNT PAID TO CLAIMANTS TO SETTLE THIRD
16 PARTY AUTOMOBILE BODILY INJURY TORT CLAIMS BEFORE AND AFTER LITI-
17 GATION HAD BEEN COMMENCED AND A BREAKDOWN OF THE DOLLAR AMOUNTS
18 PAID FOR DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNC-
19 TION CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

20 (v) THE NUMBER AND DOLLAR AMOUNT PAID OR RESERVED FOR ALL
21 BODILY INJURY CLAIMS SET UP OR OPENED, INDICATING THE NUMBER AND
22 DOLLAR AMOUNT OF RESERVES FOR CLAIMS REMAINING OPEN AT THE END OF
23 THE REPORTING PERIOD.

24 SEC. 2128A. EACH AUTOMOBILE INSURANCE INSURER WRITING AUTO-
25 MOBILE INSURANCE IN THIS STATE SHALL FILE ANNUALLY BY APRIL 1
26 WITH THE COMMISSIONER A CERTIFIED AUDIT OF THE INSURER'S BOOKS

1 AND RECORDS PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC
2 ACCOUNTANT.

3 SEC. 2128B. (1) BY JANUARY 15, 2001 AND EVERY 2 YEARS
4 THEREAFTER, THE COMMISSIONER SHALL ISSUE A PRELIMINARY REPORT
5 DETAILING THE STATE OF COMPETITION OR AVAILABILITY IN THE AUTOMO-
6 BILE INSURANCE MARKET ON A STATEWIDE BASIS AND DELINEATING SPE-
7 CIFIC CLASSIFICATIONS, KINDS OR TYPES OF INSURANCE, IF ANY, WHERE
8 COMPETITION OR AVAILABILITY DOES NOT EXIST AND SHALL HOLD A
9 PUBLIC HEARING ON THE REPORT. THE REPORT SHALL BE BASED ON RELE-
10 VANT ECONOMIC TESTS, INCLUDING BUT NOT LIMITED TO THOSE IN SUB-
11 SECTION (3). THE FINDINGS IN THE REPORT SHALL NOT BE BASED ON
12 ANY SINGLE MEASURE OF COMPETITION, BUT APPROPRIATE WEIGHT SHALL
13 BE GIVEN TO ALL MEASURES OF COMPETITION. THE REPORT SHALL
14 INCLUDE A CERTIFICATION OF WHETHER OR NOT COMPETITION OR AVAIL-
15 ABILITY EXISTS. A PERSON WHO DISAGREES WITH THE REPORT AND FIND-
16 INGS OF THE COMMISSIONER MAY REQUEST A CONTESTED HEARING PURSUANT
17 TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
18 24.201 TO 24.328, NOT LATER THAN 60 DAYS AFTER ISSUANCE OF THE
19 TENTATIVE REPORT.

20 (2) BY AUGUST 1, 2001 AND EVERY 2 YEARS THEREAFTER, THE COM-
21 MISSIONER SHALL ISSUE A FINAL REPORT THAT SHALL INCLUDE A FINAL
22 CERTIFICATION OF WHETHER OR NOT A REASONABLE DEGREE OF COMPETI-
23 TION OR AVAILABILITY EXISTS IN THE AUTOMOBILE INSURANCE MARKET ON
24 A STATEWIDE BASIS AND IF COMPETITION OR AVAILABILITY DOES NOT
25 EXIST, A PLAN TO CREATE COMPETITION OR AVAILABILITY. THE FINAL
26 REPORT AND CERTIFICATION SHALL BE SUPPORTED BY SUBSTANTIAL
27 EVIDENCE.

1 (3) FOR PURPOSES OF DETERMINING WHETHER COMPETITION OR
2 AVAILABILITY EXISTS IN THE AUTOMOBILE INSURANCE MARKET, ALL OF
3 THE FOLLOWING SHALL BE CONSIDERED BY THE COMMISSIONER:

4 (A) THE EXTENT TO WHICH ANY INSURER CONTROLS THE AUTOMOBILE
5 INSURANCE MARKET OR ANY PORTION OF THAT MARKET. WITH RESPECT TO
6 COMPETITION ON A STATEWIDE BASIS, AN INSURER SHALL NOT BE CONSID-
7 ERED TO CONTROL THE AUTOMOBILE INSURANCE MARKET UNLESS IT HAS
8 MORE THAN A 15% MARKET SHARE.

9 (B) WHETHER THE TOTAL NUMBER OF INSURERS WRITING AUTOMOBILE
10 INSURANCE IN THIS STATE IS SUFFICIENT TO PROVIDE MULTIPLE OPTIONS
11 AND ADEQUATE SERVICE TO INDIVIDUALS.

12 (C) THE DISPARITY AMONG AUTOMOBILE INSURANCE RATES AND CLAS-
13 SIFICATIONS TO THE EXTENT THAT SUCH CLASSIFICATIONS RESULT IN
14 RATE DIFFERENTIALS.

15 (D) THE AVAILABILITY OF AUTOMOBILE INSURANCE TO INDIVIDUALS
16 IN ALL GEOGRAPHIC AREAS OF THE STATE.

17 (E) THE RESIDUAL MARKET SHARE.

18 (F) THE OVERALL RATE LEVEL.

19 (G) ANY OTHER FACTORS THE COMMISSIONER CONSIDERS RELEVANT.

20 (4) A PLAN TO CREATE COMPETITION OR AVAILABILITY SHALL ONLY
21 RELATE TO THOSE GEOGRAPHIC AREAS, CLASSIFICATIONS, OR KINDS OR
22 TYPES OF RISKS WHERE COMPETITION OR AVAILABILITY HAS BEEN CERTI-
23 FIED NOT TO EXIST. THE PLAN MAY INCLUDE METHODS DESIGNED TO
24 CREATE COMPETITION OR AVAILABILITY AS THE COMMISSIONER CONSIDERS
25 NECESSARY, AND MAY PROVIDE FOR THE COMMISSIONER TO DO 1 OR MORE
26 OF THE FOLLOWING:

1 (A) AUTHORIZE, BY ORDER, JOINT UNDERWRITING ACTIVITIES IN A
2 MANNER SPECIFIED IN THE COMMISSIONER'S ORDER.

3 (B) MODIFY THE RATE APPROVAL PROCESS IN A MANNER TO INCREASE
4 COMPETITION OR AVAILABILITY WHILE AT THE SAME TIME PROVIDING FOR
5 REASONABLY TIMELY RATE APPROVALS. MODIFICATIONS UNDER THIS SUB-
6 DIVISION SHALL NOT AFFECT THE REQUIREMENTS OF SECTIONS 2106 AND
7 2107A.

8 (C) ORDER EXCESS PROFITS REGULATION. EXCESS PROFITS REGULA-
9 TION AUTHORIZED BY THIS SUBDIVISION SHALL BE BASED UPON RULES
10 PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
11 1969, 1969 PA 306, MCL 24.201 TO 24.328. EXCESS PROFITS SHALL
12 INCLUDE BOTH UNDERWRITING PROFITS AND ALL AFTER-TAX INVESTMENT OR
13 INVESTMENT PROFIT OR LOSS FROM UNEARNED PREMIUMS AND LOSS
14 RESERVES ATTRIBUTABLE TO AUTOMOBILE INSURANCE. THE COMMISSIONER,
15 PURSUANT TO EXCESS PROFITS REGULATION, MAY ESTABLISH FORMS FOR
16 THE REPORTING OF FINANCIAL DATA BY THE INSURER.

17 (D) ESTABLISH AND REQUIRE AUTOMOBILE INSURANCE RATES, BY
18 ORDER, THAT INSURERS SHALL USE AS A CONDITION OF MAINTAINING
19 THEIR CERTIFICATE OF AUTHORITY. THE ORDER SETTING THE RATES
20 SHALL TAKE EFFECT NOT LESS THAN 90 DAYS OR MORE THAN 150 DAYS
21 AFTER THE ORDER IS ISSUED.

22 (E) ESTABLISH AND IMPLEMENT A PLAN TO ASSIST IN INFORMING
23 CONSUMERS OF HOW TO OBTAIN AUTOMOBILE INSURANCE AT THE MOST
24 FAVORABLE RATES AND HOW TO OBTAIN BENEFITS FOR WHICH THEY ARE
25 ELIGIBLE. THE PLAN MAY INCLUDE THE USE OF TOLL-FREE TELEPHONE
26 NUMBERS FOR USE BY AUTOMOBILE INSURANCE CONSUMERS AND MAY PROVIDE

1 FOR THE DISTRIBUTION OF INFORMATION TO LOCAL UNITS OF
2 GOVERNMENT.

3 (5) THE REPORTS AND CERTIFICATIONS REQUIRED UNDER SUBSEC-
4 TIONS (1) AND (2) SHALL BE FORWARDED TO THE GOVERNOR, THE CLERK
5 OF THE HOUSE, THE SECRETARY OF THE SENATE, AND ALL THE MEMBERS OF
6 THE HOUSE OF REPRESENTATIVES AND SENATE STANDING COMMITTEES ON
7 INSURANCE ISSUES.

8 SEC. 2128C. (1) EACH INSURER WRITING 7% OR MORE OF THE
9 AUTOMOBILE INSURANCE IN THIS STATE SHALL GEOGRAPHICALLY MARKET
10 AUTOMOBILE INSURANCE PROPORTIONATE TO THE NUMBER OF REGISTERED
11 VEHICLES IN EACH AREA OF THE STATE. BEGINNING 1 YEAR AFTER THE
12 EFFECTIVE DATE OF THIS SECTION, EACH INSURER WRITING 7% OR MORE
13 OF THE AUTOMOBILE INSURANCE IN THIS STATE SHALL SUBMIT ANNUALLY
14 TO THE COMMISSIONER A MARKETING PLAN INDICATING THE NUMBER OF
15 AGENTS THAT MARKET FOR THE INSURER AND THE LOCATION OF THEIR
16 OFFICES. THE COMMISSIONER SHALL DETERMINE THE ADEQUACY OF EACH
17 INSURER'S MARKETING PLAN.

18 (2) IF THE COMMISSIONER, AFTER REVIEWING AN AUTOMOBILE
19 INSURER'S MARKETING PLAN, FINDS THE PLAN IS NOT IN COMPLIANCE
20 WITH SUBSECTION (1), THE COMMISSIONER SHALL NOTIFY THE INSURER IN
21 WRITING OF THE INSURER'S FAILURE TO COMPLY WITH THE LAW, SHALL
22 RECOMMEND REVISIONS TO THE INSURER'S PLAN, AND SHALL REQUIRE THAT
23 A REVISED PLAN BE RESUBMITTED WITHIN 30 DAYS. THE COMMISSIONER
24 SHALL APPROVE OR DISAPPROVE AN INSURER'S MARKETING PLAN OR REVI-
25 SIONS TO THE PLAN WITHIN 30 DAYS AFTER THE COMMISSIONER'S RECEIPT
26 OF THE PLAN OR THE REVISED PLAN.

1 (3) IF THE COMMISSIONER FINDS THAT AN AUTOMOBILE INSURANCE
2 INSURER HAS WILLFULLY VIOLATED THE PROVISIONS OF THIS SECTION,
3 THE COMMISSIONER MAY SUSPEND OR REVOKE THE INSURER'S LICENSE TO
4 DO BUSINESS AND MAY ORDER THE INSURER TO PAY A CIVIL FINE OF NOT
5 MORE THAN \$10,000.00 FOR EACH VIOLATION.

6 (4) IF THE COMMISSIONER FINDS THAT AN AUTOMOBILE INSURANCE
7 INSURER HAS FAILED TO FILE A MARKETING PLAN COMPLYING WITH THIS
8 SECTION, HAS FAILED TO REVISE A PLAN PURSUANT TO THE
9 COMMISSIONER'S FINDING, OR HAS CONSISTENTLY FAILED TO SUBMIT AN
10 ACCEPTABLE MARKETING PLAN, THE COMMISSIONER MAY SUSPEND OR REVOKE
11 THE INSURER'S LICENSE TO DO BUSINESS AND MAY ORDER THE INSURER TO
12 PAY A CIVIL FINE OF NOT MORE THAN \$2,000.00 FOR EACH OCCURRENCE.

13 (5) THE COMMISSIONER SHALL NOTIFY EACH AUTOMOBILE INSURANCE
14 INSURER LICENSED IN THIS STATE OF THE MARKETING PLAN FILING
15 REQUIREMENT.

16 SEC. 2128D. (1) IF THE COMMISSIONER FINDS, AFTER A HEARING
17 HELD PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969
18 PA 306, MCL 24.201 TO 24.328, THAT ACCESS TO A REASONABLY COMPET-
19 ITIVE AND CONVENIENT AUTOMOBILE INSURANCE MARKET IN THIS STATE IS
20 LACKING FOR CERTAIN CONSUMERS, THE COMMISSIONER MAY ORDER THE
21 MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY TO DEVELOP A
22 MARKET ACCESS PLAN, SUBJECT TO THE COMMISSIONER'S APPROVAL, TO
23 ASSURE THAT THOSE CONSUMERS HAVE REASONABLE AND CONVENIENT ACCESS
24 TO THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY AND COM-
25 PETITIVE INSURANCE MARKETS IN THIS STATE.

26 (2) IF A MARKET ACCESS PLAN UNDER SUBSECTION (1) IS NOT
27 SUBMITTED WITHIN 30 DAYS AFTER THE DATE OF THE COMMISSIONER'S

1 ORDER, OR IF THE PLAN DOES NOT MEET THE COMMISSIONER'S APPROVAL,
2 THE COMMISSIONER SHALL DEVELOP A MARKET ACCESS PLAN AND ORDER ITS
3 IMPLEMENTATION BY THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT
4 FACILITY UNTIL SUCH TIME THAT A PLAN ESTABLISHED BY THE MICHIGAN
5 AUTOMOBILE INSURANCE PLACEMENT FACILITY IS APPROVED BY THE
6 COMMISSIONER.

7 SEC. 2128E. (1) THERE IS CREATED AN AUTOMOBILE INSURANCE
8 DATA COLLECTION AGENCY TO EFFECTUATE THE AUTOMOBILE INSURANCE
9 DATA COLLECTION REQUIREMENTS OF THIS ACT. THE GOVERNING BOARD OF
10 THE AUTOMOBILE INSURANCE DATA COLLECTION AGENCY SHALL BE COMPOSED
11 OF THE COMMISSIONER AND 8 MEMBERS APPOINTED BY THE COMMISSIONER
12 AS FOLLOWS:

13 (A) TWO PERSONS WHO REPRESENT A PRIVATE AUTOMOBILE INSURANCE
14 INSURER NOT HOLDING MORE THAN 15% OF THE STATE'S OVERALL MARKET
15 SHARE AT THE TIME ITS REPRESENTATIVE SERVES ON THE BOARD.

16 (B) TWO PERSONS WHO REPRESENT THE GENERAL PUBLIC OF THIS
17 STATE.

18 (C) ONE PERSON WHO IS A LICENSED MEDICAL PROFESSIONAL IN
19 THIS STATE AND WHO DOES NOT OWN ANY PORTION OF AN AUTOMOBILE
20 INSURANCE INSURER OR MANAGE DIRECTLY OR INDIRECTLY AN AUTOMOBILE
21 INSURANCE INSURER'S AFFAIRS.

22 (D) ONE PERSON WHO IS A LICENSED ATTORNEY IN THIS STATE, WHO
23 DOES NOT OWN ANY PORTION OF AN AUTOMOBILE INSURANCE INSURER OR
24 MANAGE DIRECTLY OR INDIRECTLY AN AUTOMOBILE INSURANCE INSURER'S
25 AFFAIRS, AND WHO HAS AT LEAST 5 YEARS OF EXPERIENCE IN AUTOMOBILE
26 ACCIDENT RELATED LITIGATION.

1 (E) ONE PERSON WHO IS AN INDEPENDENT INSURANCE AGENT.

2 (F) ONE PERSON WHO HAS AT LEAST 10 YEARS OF DATA PROCESSING
3 EXPERIENCE IN A COMBINATION OF HARDWARE ACQUISITION AND SOFTWARE
4 DEVELOPMENT.

5 (2) A MEMBER OF THE GOVERNING BOARD OF THE AUTOMOBILE INSUR-
6 ANCE DATA COLLECTION AGENCY SHALL SERVE FOR A TERM OF 2 YEARS.

7 (3) THE AUTOMOBILE INSURANCE DATA COLLECTION AGENCY, UNDER
8 THE DIRECTION AND CONTROL OF THE COMMISSIONER AND SUBJECT TO THE
9 COMMISSIONER'S APPROVAL, SHALL HAVE THE FOLLOWING DUTIES:

10 (A) PRESCRIBE RATE FILING FORMS AND DATA COLLECTION FORMS
11 AND ESTABLISH UNIFORM DATA REPORTING REQUIREMENTS NECESSARY TO
12 SATISFY THE PROVISIONS OF THIS CHAPTER.

13 (B) ANALYZE REPORTED DATA, ANALYZE AUTOMOBILE INSURANCE
14 INSURERS' RATE-MAKING DATA, AND REPORT THESE FINDINGS TO THE COM-
15 MISSIONER, AND COLLECT AND ANALYZE OTHER PERTINENT DATA AT THE
16 COMMISSIONER'S REQUEST.

17 (C) PREPARE REPORTS ON AUTOMOBILE INSURANCE AS REQUESTED BY
18 THE COMMISSIONER.

19 (D) ESTABLISH UNIFORM CLASSIFICATION SYMBOLS OR OTHER UNI-
20 FORM DESIGNATIONS FOR USE BY AUTOMOBILE INSURANCE INSURERS TO
21 ESTABLISH RISK ASSOCIATED WITH EACH TYPE OF VEHICLE TO BE
22 INSURED.

23 (E) IN A UNIFORM MANNER GATHER ALL DATA NECESSARY TO ACCOM-
24 PLISH TOTAL RETURN RATE-MAKING. INFORMATION SHALL BE GATHERED
25 THAT ENABLES THE COMMISSIONER TO ASSESS AN INSURER'S ACTUAL LOSS
26 EXPERIENCE, LEVEL OF PROFIT, INTEREST INCOME, METHOD FOR
27 ASSESSING ANTICIPATED LOSSES, PARTICULAR APPLICATION OF LOSS

1 TREND FACTORS, PURE PREMIUM, FREQUENCY OF LOSSES BASED ON THE
2 NUMBER OF VEHICLES INSURED, AND THE LOSS COSTS AND FREQUENCY OF
3 LOSSES ASSOCIATED WITH THE COMPONENT PARTS OF EACH ASPECT OF COV-
4 ERAGE, INCLUDING, BUT NOT LIMITED TO, MEDICAL, WAGE-LOSS,
5 REPLACEMENT SERVICES, SURVIVORS BENEFITS, DEATH BENEFIT, COLLI-
6 SION COVERAGE, COMPREHENSIVE COVERAGE WITH THEFT REPORTED AS A
7 SEPARATE COMPONENT, BODILY INJURY OR LIABILITY COVERAGE REPORTED
8 BY POLICY LIMITS, PROPERTY PROTECTION, AND ALL OTHER BENEFITS
9 BEING MARKETED BY THE INSURER.

10 (F) GATHER DETAILED DATA ABOUT INSURERS' ADMINISTRATIVE
11 EXPENSES AND THEIR RELATIONSHIP TO THE PREMIUM CHARGED, INCLUDING
12 COSTS FOR EACH TYPE OF LITIGATION ASSOCIATED WITH AUTOMOBILE
13 INSURANCE CLAIMS RESOLUTION, SALARIES, FRINGE BENEFITS, COMMIS-
14 SIONS, AND COSTS ASSOCIATED WITH OVERHEAD AND OTHER FIXED COSTS.

15 (G) REQUIRE EACH INSURER TO LIST THE ITEMS THAT ARE USED TO
16 COMPOSE A BASE RATE AND REQUIRE EACH INSURER TO EXPLAIN THE
17 APPLICATIONS OF BASE RATES.

18 (H) ESTABLISH FORMS TO ENABLE THE COLLECTION OF DATA SUFFI-
19 CIENT TO PERMIT THE COMMISSIONER TO DETERMINE, WITH CERTAINTY,
20 THAT ALL ASPECTS OF AUTOMOBILE INSURANCE RATE-MAKING ARE ACTUARI-
21 ALLY SOUND AND THAT AUTOMOBILE INSURANCE RATES ARE NOT EXCESSIVE
22 OR DISCRIMINATORY.

23 (I) REQUIRE THE REPORTING OF ALL AUTOMOBILE INSURANCE CLAIMS
24 COSTS AND THE FREQUENCY OF EACH TYPE OF LOSS AND PROVIDE THE COM-
25 MISSIONER WITH THIS DATA.

26 (J) COLLECT ALL AUTOMOBILE INSURANCE RATE-MAKING DATA AND
27 EVALUATE THIS DATA BY DETERMINING ITS ACTUARIAL SOUNDNESS AND BY

1 MAKING COMPARISONS BASED ON STATEWIDE UNIFORM RATING TERRITORIES
2 AS ESTABLISHED BY THIS ACT.

3 (K) ENSURE THAT ALL NECESSARY DATA ARE COLLECTED AND ANA-
4 LYZED IN A MANNER THAT COMPLIES WITH THE PROVISIONS OF THIS
5 CHAPTER.

6 (L) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, DESIGNATE 1
7 ADVISORY ORGANIZATION FOR THE PURPOSE OF IMPLEMENTING ITS DATA
8 COLLECTION PLAN AND THE COMPILATION OF RATE-MAKING AND OTHER
9 FINANCIAL DATA FROM AUTOMOBILE INSURANCE INSURERS. THE DESIG-
10 NATED ADVISORY ORGANIZATION SHALL REPORT ITS FINDINGS TO THE
11 AUTOMOBILE INSURANCE DATA COLLECTION AGENCY, WHICH SHALL REPORT
12 TO THE COMMISSIONER.

13 (M) REPORT TO THE COMMISSIONER ANY KNOWN VIOLATION OF THIS
14 ACT.

15 (N) COMPLETE ANY OTHER TASK REQUIRED TO SATISFY THE PROVI-
16 SIONS OF THIS ACT AS REQUESTED BY THE COMMISSIONER.

17 (4) THE COMMISSIONER SHALL MAKE RECOMMENDATIONS TO THE LEG-
18 ISLATURE ANNUALLY REGARDING THE ADEQUACY OF STATUTORY UNDERWIT-
19 ING AND RATE-MAKING PROVISIONS BASED UPON THE INFORMATION GATH-
20 ERED AND ANALYZED BY THE AUTOMOBILE INSURANCE DATA COLLECTION
21 AGENCY AND ANY OTHER INFORMATION THAT THE COMMISSIONER CONSIDERS
22 APPROPRIATE.

23 SEC. 2128F. (1) PRIOR TO APRIL 1, 2000, AND PRIOR TO APRIL 1
24 OF EACH YEAR THEREAFTER, EACH INSURER ENGAGED IN WRITING INSUR-
25 ANCE COVERAGES THAT PROVIDE THE SECURITY REQUIRED BY SECTION
26 3101(1) WITHIN THIS STATE, AS A CONDITION OF ITS AUTHORITY TO
27 TRANSACT INSURANCE IN THIS STATE, SHALL PAY TO THE AUTOMOBILE

1 INSURANCE DATA COLLECTION AGENCY AN ASSESSMENT EQUAL TO \$1.00
2 MULTIPLIED BY THE INSURER'S TOTAL EARNED CAR YEARS OF INSURANCE
3 PROVIDING THE SECURITY REQUIRED BY SECTION 3101(1) WRITTEN IN
4 THIS STATE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

5 (2) MONEY RECEIVED PURSUANT TO SUBSECTION (1), AND ALL OTHER
6 MONEY RECEIVED BY THE AUTOMOBILE INSURANCE DATA COLLECTION
7 AGENCY, SHALL BE SEGREGATED AND PLACED IN A FUND TO BE KNOWN AS
8 THE DATA COLLECTION FUND. THE DATA COLLECTION FUND SHALL BE
9 ADMINISTERED BY THE AUTOMOBILE INSURANCE DATA COLLECTION AGENCY.

10 (3) MONEY IN THE DATA COLLECTION FUND SHALL BE USED TO PAY
11 THE COSTS OF ADMINISTRATION OF THE AUTOMOBILE INSURANCE DATA COL-
12 LECTION AGENCY AND SHALL NOT BE CONSIDERED STATE MONEY.

13 Sec. 2236. (1) A basic insurance policy form or annuity
14 contract form shall not be issued or delivered to any person in
15 this state, and an insurance or annuity application form if a
16 written application is required and is to be made a part of the
17 policy or contract, a printed rider or indorsement form or form
18 of renewal certificate, and a group certificate in connection
19 with the policy or contract, shall not be issued or delivered to
20 a person in this state, until a copy of the form is filed with
21 the insurance bureau and approved by the commissioner as conform-
22 ing with the requirements of this act and not inconsistent with
23 the law. Failure of the commissioner to act within 30 days after
24 submittal ~~shall constitute~~ CONSTITUTES approval. All such
25 forms, except policies of disability insurance as defined in
26 section 3400, shall be plainly printed with type size not less
27 than 8-point unless the commissioner determines that portions of

1 such a form printed with type less than 8-point is not deceptive
2 or misleading.

3 (2) ~~An~~ EXCEPT FOR FILINGS CONCERNING RATES, AN insurer may
4 satisfy its obligations to make form filings by becoming a member
5 of, or a subscriber to, a rating organization, licensed under
6 section 2436 or 2630, which makes ~~such~~ FORM filings and by
7 filing with the commissioner a copy of its authorization of the
8 rating organization to make the filings on its behalf. Every
9 member of or subscriber to a rating organization shall adhere to
10 the form filings made on its behalf by the organization except
11 that an insurer may file with the commissioner a substitute form,
12 and thereafter if a subsequent form filing by the rating organi-
13 zation affects the use of the substitute form, the insurer shall
14 review its use and notify the commissioner to withdraw its sub-
15 stitute form.

16 (3) Beginning January 1, 1992, the commissioner shall not
17 approve a form filed pursuant to this section providing for or
18 relating to an insurance policy or an annuity contract for per-
19 sonal, family, or household purposes if the form fails to obtain
20 the readability score or meet the other requirements of this sub-
21 section, as applicable:

22 (a) The readability score for a form for which approval is
23 required by this section shall not be less than 45, as determined
24 by the method provided in subdivisions (b) and (c).

25 (b) The readability score for a form shall be determined as
26 follows:

1 (i) For a form containing not more than 10,000 words, the
2 entire form shall be analyzed. For a form containing more than
3 10,000 words, not less than two 200-word samples per page shall
4 be analyzed instead of the entire form. The samples shall be
5 separated by at least 20 printed lines.

6 (ii) Count the number of words and sentences in the form or
7 samples and divide the total number of words by the total number
8 of sentences. Multiply this quotient by a factor of 1.015.

9 (iii) Count the total number of syllables in the form or
10 samples and divide the total number of syllables by the total
11 number of words. Multiply this quotient by a factor of 84.6. As
12 used in this subparagraph, "syllable" means a unit of spoken lan-
13 guage consisting of 1 or more letters of a word as indicated by
14 an accepted dictionary. If the dictionary shows 2 or more
15 equally acceptable pronunciations of a word, the pronunciation
16 containing fewer syllables may be used.

17 (iv) Add the figures obtained in subparagraphs (ii) and
18 (iii) and subtract this sum from 206.835. The figure obtained
19 equals the readability score for the form.

20 (c) For the purposes of subdivision (b)(ii) and (iii), the
21 following procedures shall be used:

22 (i) A contraction, hyphenated word, or numbers and letters
23 when separated by spaces shall be counted as 1 word.

24 (ii) A unit of words ending with a period, semicolon, or
25 colon, but excluding headings and captions, shall be counted as 1
26 sentence.

1 (d) In determining the readability score, the method
2 provided in subdivisions (b) and (c):

3 (i) Shall be applied to an insurance policy form or an annu-
4 ity contract, together with a rider or indorsement form usually
5 associated with such an insurance policy form or annuity
6 contract.

7 (ii) Shall not be applied to words or phrases that are
8 defined in an insurance policy form, an annuity contract, or
9 riders, indorsements, or group certificates pursuant to an insur-
10 ance policy form or annuity contract.

11 (iii) Shall not be applied to language specifically agreed
12 upon through collective bargaining or required by a collective
13 bargaining agreement.

14 (iv) Shall not be applied to language that is prescribed by
15 state or federal statute or by rules or regulations promulgated
16 pursuant to a state or federal statute.

17 (e) Each form for which approval is required by this section
18 shall contain both of the following:

19 (i) Topical captions.

20 (ii) An identification of exclusions.

21 (f) Each insurance policy and annuity contract that has more
22 than 3,000 words printed on not more than 3 pages of text or that
23 has more than 3 pages of text regardless of the number of words
24 shall contain a table of contents. This subdivision does not
25 apply to indorsements.

26 (g) Each rider or indorsement form that changes coverage
27 shall do all of the following:

1 (i) Contain a properly descriptive title.

2 (ii) Reproduce either the entire paragraph or the provision
3 as changed.

4 (iii) Be accompanied by an explanation of the change.

5 (h) If a computer system approved by the commissioner calcu-
6 lates the readability score of a form as being in compliance with
7 this subsection, the form is considered in compliance with the
8 readability score requirements of this subsection.

9 (4) After January 1, 1992, any change or addition to a
10 policy or annuity contract form for personal, family, or house-
11 hold purposes, whether by indorsement, rider, or otherwise, or a
12 change or addition to a rider or indorsement form to such policy
13 or annuity contract form, which policy or annuity contract form
14 has not been previously approved under subsection (3), shall be
15 submitted for approval pursuant to subsection (3).

16 (5) Upon written notice to the insurer, the commissioner may
17 disapprove, withdraw approval, or prohibit the issuance,
18 advertising, or delivery of any form to any person in this state
19 if it violates any provisions of this act, or contains inconsis-
20 tent, ambiguous, or misleading clauses, or contains exceptions
21 and conditions that unreasonably or deceptively affect the risk
22 purported to be assumed in the general coverage of the policy.
23 The notice shall specify the objectionable provisions or condi-
24 tions and state the reasons for the commissioner's decision. If
25 the form is legally in use by the insurer in this state, the
26 notice shall give the effective date of the commissioner's
27 disapproval, which shall not be less than 30 days ~~subsequent to~~

1 AFTER the mailing or delivery of the notice to the insurer. If
2 the form is not legally in use, then disapproval shall be effec-
3 tive immediately.

4 (6) If a form is disapproved or approval is withdrawn under
5 the provisions of this act, the insurer shall be entitled upon
6 demand to a hearing before the commissioner or a deputy commis-
7 sioner within 30 days after the notice of disapproval or of with-
8 drawal of approval; and after the hearing, the commissioner shall
9 make findings of fact and law, and either affirm, modify, or
10 withdraw his or her original order or decision.

11 (7) Any issuance, use, or delivery by an insurer of any form
12 without the prior approval of the commissioner as required by
13 subsection (1) or after withdrawal of approval as provided by
14 subsection (5) constitutes a separate violation for which the
15 commissioner may order the imposition of a civil penalty of
16 \$25.00 for each offense, but not to exceed the maximum penalty of
17 \$500.00 for any 1 series of offenses relating to any 1 basic
18 policy form, which penalty may be recovered by the attorney gen-
19 eral as provided in section 230.

20 (8) The filing requirements of this section shall not apply
21 to:

22 (a) Insurance against loss of or damage to:

23 (i) Imports, exports, or domestic shipments.

24 (ii) Bridges, tunnels, or other instrumentalities of trans-
25 portation and communication.

26 (iii) Aircraft and attached equipment.

1 (iv) Vessels and watercraft under construction or owned by
2 or used in a business or having a straight-line hull length of
3 more than 24 feet.

4 (b) Insurance against loss resulting from liability, other
5 than worker's compensation or employers' liability arising out of
6 the ownership, maintenance, or use of:

7 (i) Imports, exports, or domestic shipments.

8 (ii) Aircraft and attached equipment.

9 (iii) Vessels and watercraft under construction or owned by
10 or used in a business or having a straight-line hull length of
11 more than 24 feet.

12 (c) Surety bonds other than fidelity bonds.

13 (d) Policies, riders, indorsements, or forms of unique char-
14 acter designed for and used with relation to insurance upon a
15 particular subject, or which relate to the manner of distribution
16 of benefits or to the reservation of rights and benefits under
17 life or disability insurance policies and are used at the request
18 of the individual policyholder, contract holder, or certificate
19 holder. Beginning September 1, 1968, the commissioner by order
20 may exempt from the filing requirements of this section and
21 sections 2242, 3606, and 4430 for so long as he or she considers
22 proper any insurance document or form, except that portion of the
23 document or form that establishes a relationship between group
24 disability insurance and personal protection insurance benefits
25 subject to exclusions or deductibles pursuant to section 3109a,
26 as specified in the order to which this section practicably may
27 not be applied, or the filing and approval of which are

1 considered unnecessary for the protection of the public.

2 Insurance documents or forms providing medical payments or income
3 replacement benefits, except that portion of the document or form
4 that establishes a relationship between group disability insur-
5 ance and personal protection insurance benefits subject to exclu-
6 sions or deductibles pursuant to section 3109a, exempt by order
7 of the commissioner from the filing requirements of this section
8 and sections 2242 and 3606 are considered approved by the commis-
9 sioner for purposes of section 3430.

10 (9) Every order made by the commissioner under the provi-
11 sions of this section ~~shall be~~ IS subject to court review as
12 provided in section 244.

13 Sec. 2400. (1) ~~Except with respect to worker's compensa-~~
14 ~~tion insurance, the~~ THE purpose of this chapter is to promote
15 the public welfare by regulating insurance rates to the end that
16 they shall not be excessive, inadequate, or unfairly discrimina-
17 tory, and to ~~authorize and~~ regulate cooperative action among
18 insurers in rate-making and ~~in other~~ matters within the scope
19 of the insurance code. Nothing in this chapter is intended ~~(1)~~
20 to prohibit or discourage reasonable competition. ~~, or (2) to~~
21 ~~prohibit, or encourage except to the extent necessary to accom-~~
22 ~~plish the aforementioned purpose, uniformity in insurance rates,~~
23 ~~rating systems, rating plans, or practices. (2) With respect to~~
24 ~~worker's compensation insurance, the~~ THE purposes of this chap-
25 ter ~~are~~ ALSO INCLUDE:

1 (a) ~~To protect~~ PROTECTING policyholders and the public
2 against the adverse effects of excessive, inadequate, or unfairly
3 discriminatory rates.

4 (b) ~~To promote~~ PROMOTING price competition among insurers
5 ~~writing worker's compensation insurance~~ so as to encourage
6 rates ~~which~~ THAT will result in the lowest possible rates con-
7 sistent with ~~the~~ benefits ~~established in the worker's disabil-~~
8 ~~ity compensation act of 1969, Act No. 317 of the Public Acts of~~
9 ~~1969, as amended, being sections 418.101 to 418.941 of the~~
10 ~~Michigan Compiled Laws,~~ and with maintaining the solvency of
11 insurers.

12 (c) ~~To provide~~ PROVIDING regulatory controls and other
13 activity in the absence of competition.

14 (d) ~~To improve~~ IMPROVING the availability, fairness, and
15 reliability of ~~worker's compensation~~ insurance.

16 (2) ANTITRUST PROVISIONS IN THIS CHAPTER ARE NOT EXCLUSIVE
17 AND OTHER PROVISIONS PROVIDED BY LAW MAY APPLY.

18 (3) This chapter shall be liberally interpreted to carry
19 into effect the provisions of this section.

20 Sec. 2406. (1) Except for worker's compensation insurance,
21 ~~every~~ EACH insurer shall file with the commissioner every
22 manual of classification, every manual of rules and rates, every
23 rating plan, and every modification of any of the foregoing that
24 it proposes to use. Every ~~such~~ filing shall state the proposed
25 effective date ~~thereof~~ OF THE FILING and shall indicate the
26 character and extent of the coverage contemplated. If a filing
27 is not accompanied by the information upon which the insurer

1 supports the filing, and the commissioner does not have
2 sufficient information to determine whether the filing meets the
3 requirements of this chapter, the commissioner shall within 10
4 days of the filing give written notice to the insurer to furnish
5 the information ~~upon which it~~ THAT supports the filing. The
6 information furnished in support of a filing may include the
7 experience or judgment of the insurer ~~or rating organization~~
8 making the filing, its interpretation of any statistical data it
9 relies upon, the experience of other insurers, ~~or rating~~
10 ~~organizations,~~ or any other relevant factors. A filing and any
11 supporting information shall be open to public inspection after
12 the filing becomes effective.

13 (2) Except for worker's compensation insurance AND FOR FIL-
14 INGS CONCERNING RATES, an insurer may satisfy its obligation to
15 make ~~such~~ filings by becoming a member of, or a subscriber to,
16 a licensed rating organization that makes ~~such~~ filings, and by
17 filing with the commissioner a copy of its authorization of the
18 rating organization to make ~~such~~ filings on its behalf.

19 Nothing contained in this chapter shall be construed as requiring
20 any insurer to become a member of or a subscriber to any rating
21 organization.

22 (3) For worker's compensation insurance in this state the
23 insurer shall file with the commissioner all rates and rating
24 systems. ~~Every insurer that insures worker's compensation in~~
25 ~~this state on the effective date of this subsection shall file~~
26 ~~the rates not later than the effective date of this subsection.~~

1 (4) Except as provided in subsection (3) and as otherwise
2 provided in this subsection, the rates and rating systems for
3 worker's compensation insurance shall be filed not later than the
4 date the rates and rating systems are to be effective. However,
5 if the insurer providing worker's compensation insurance is con-
6 trolled by a nonprofit health care corporation ~~formed pursuant~~
7 ~~to~~ OPERATING UNDER the nonprofit health care corporation reform
8 act, ~~Act No. 350 of the Public Acts of 1980, being~~
9 ~~sections 550.1101 to 550.1704 of the Michigan Compiled Laws 1980~~
10 PA 350, MCL 550.1101 TO 550.1704, the rates and rating systems
11 that it proposes to use shall be filed with the commissioner not
12 less than 45 days before the effective date of the filing. These
13 filings shall be considered to meet the requirements of this
14 chapter unless and until the commissioner disapproves a filing
15 pursuant to section 2418 or 2420.

16 (5) Each filing under subsections (3) and (4) shall be
17 accompanied by a certification by the insurer that, to the best
18 of its information and belief, the filing conforms to the
19 requirements of this chapter.

20 (6) AS A CONDITION OF MAINTAINING ITS CERTIFICATE OF AUTHOR-
21 ITY, AN INSURER SHALL NOT DO ANY OF THE FOLLOWING:

22 (A) HAVE ANY RATES FILED ON ITS BEHALF IN THIS STATE BY A
23 RATING ORGANIZATION.

24 (B) SHARE INFORMATION WITH ANY OTHER INSURER OR RATING
25 ORGANIZATION CONCERNING ESTABLISHING RATES OR RATING SYSTEMS.

1 (C) AGREE WITH ANY OTHER INSURER OR RATING ORGANIZATION TO
2 ADHERE TO OR USE ANY RATE, RATING PLAN, RATING SCHEDULE, RATING
3 RULE, OR UNDERWRITING RULE IN THIS STATE.

4 (D) MAKE AVAILABLE TO ANY OTHER INSURER OR RATING ORGANIZA-
5 TION INFORMATION ON ACTUARIAL PROJECTIONS, TRENDING FACTORS,
6 PROFITS, OR EXPENSES EXCEPT LOSS ADJUSTMENT EXPENSES.

7 Sec. 2430. (1) In lieu of the filing requirements of this
8 chapter and as an alternative method of filing, ~~any~~ AN insurer
9 ~~or rating organization~~ may file with the commissioner ~~any~~ A
10 manual of classification, rules, or rates, any rating plan and
11 every modification of any of the foregoing ~~which~~ THAT it pro-
12 poses to use, the filing to indicate the character and extent of
13 the coverage contemplated. IN LIEU OF THE FILING REQUIREMENTS OF
14 THIS CHAPTER AND AS AN ALTERNATIVE METHOD OF FILING, A RATING
15 ORGANIZATION MAY FILE WITH THE COMMISSIONER FOR AN INSURER A
16 MANUAL OF CLASSIFICATION, RULES, AND EVERY MODIFICATION OF ANY OF
17 THE FOREGOING, THE FILING TO INDICATE THE CHARACTER AND EXTENT OF
18 THE COVERAGE CONTEMPLATED. Every ~~such~~ filing under this section
19 shall state the effective date ~~thereof~~ OF THE FILING, shall
20 take effect on ~~said~~ THAT date, shall not be subject to any
21 waiting period requirements, and shall be ~~deemed~~ CONSIDERED to
22 meet the requirements of section 2403(1)(d). ~~(rate standards).~~
23 A filing and any supporting information shall be open to public
24 inspection, if the filing is not disapproved.

25 (2) At any time within ~~15~~ 30 days from and after the date
26 of ~~any such~~ A filing UNDER SUBSECTION (1), the commissioner may
27 give written notice to the insurer ~~or rating organization~~

1 making ~~such~~ THE filing, specifying in what respect and to what
2 extent he OR SHE contends ~~such~~ THE filing fails to comply with
3 the requirements of section 2403(1)(d) and fixing a date for
4 hearing not less than 10 days from the date of THE mailing of
5 ~~such~~ THE notice. At ~~such~~ THE hearing, the factors specified
6 in section 2406(1) shall be considered. If the commissioner
7 after hearing finds that the filing does not comply with the pro-
8 visions of this chapter, he OR SHE may issue ~~his~~ AN order
9 determining ~~wherein~~ WHERE and to what extent ~~such~~ THE filing
10 is ~~deemed to be~~ improper and fixing a date, ~~thereafter,~~
11 within a reasonable time, after which ~~such~~ THE filing shall no
12 longer be effective. ~~Any~~ AN order of disapproval under this
13 section must be entered within 30 days of the date of the filing
14 affected.

15 (3) ~~In the event that no~~ IF A notice of hearing ~~shall be~~
16 IS NOT issued within 15 days from the date of ~~any such~~ A filing
17 UNDER SUBSECTION (1), the filing shall be ~~deemed~~ CONSIDERED to
18 be approved. If ~~such~~ THE filing ~~shall be~~ IS disapproved, the
19 insuring provisions of ~~any~~ A contract or policy issued prior to
20 the time the order becomes effective shall not be affected. But
21 if the commissioner disapproves ~~such~~ THE filing as not being in
22 compliance with section 2403(1)(d), ~~(rate standards),~~ he OR SHE
23 may order an adjustment of the premium to be made with the poli-
24 cyholder either by refund or collection of additional premium, if
25 the amount is substantial and equals or exceeds the cost of
26 making the adjustment. The commissioner may thereafter review
27 any such filing in the manner provided in sections 2418 and 2420,

1 but if so reviewed, no adjustment of premium may be ordered.

2 ~~Sections 2406 (2) (filing may be made by rating organization),~~
3 ~~2408 (1) (commissioner shall review filing as soon as reasonably~~
4 ~~possible), and 2412 (insurer must adhere to filing)~~ SECTIONS
5 2406(2), 2408(1), AND 2412 shall be applicable to filings made
6 under this section.

7 Sec. 2436. (1) A corporation, an association, a partner-
8 ship, or an individual, whether located within or outside this
9 state, may ~~make application to~~ APPLY WITH the commissioner for
10 a license as a rating organization to make ~~rates and~~ insurance
11 contract forms for the kinds of insurance or subdivisions there-
12 of, except for worker's compensation insurance, as are specified
13 in its application and shall file with the application all of the
14 following:

15 (a) A copy of its constitution, its articles of agreement or
16 association, or its certificate of incorporation, and of its
17 bylaws and rules governing the conduct of its business.

18 (b) A list of its members and subscribers.

19 (c) The name and address of a resident of this state upon
20 whom notices or orders of the commissioner or process affecting
21 the rating organization may be served.

22 (d) A statement of its qualifications as a rating
23 organization.

24 (2) If the commissioner finds that the applicant is compe-
25 tent, trustworthy, and otherwise qualified to act as a rating
26 organization and that its constitution, articles of agreement or
27 association, or certificate of incorporation, and its bylaws and

1 rules governing the conduct of its business conform to the
2 requirements of law, he or she shall issue a license specifying
3 the kinds of insurance or subdivisions thereof for which the
4 applicant is authorized to act as a rating organization. Every
5 application shall be granted or denied in whole or in part by the
6 commissioner within 60 days of the date of its filing with the
7 commissioner.

8 (3) The fee for the license shall be \$25.00 which shall be
9 in lieu of all other fees, licenses, or taxes imposed by the
10 state or any political subdivision of the state.

11 (4) Licenses issued pursuant to this section shall remain in
12 force for 3 years from date of issuance unless suspended or
13 revoked by the commissioner, after hearing upon notice, pursuant
14 to section 2478, ~~in the event~~ IF the rating organization ceases
15 to meet the requirements of this section.

16 (5) Every rating organization shall notify the commissioner
17 promptly of every change in any of the following:

18 (a) Its constitution, its articles of agreement or associa-
19 tion, or its certificate of incorporation, and its bylaws and
20 rules governing the conduct of its business.

21 (b) Its list of members and subscribers.

22 (c) The name and address of the resident of this state des-
23 ignated by it upon whom notices or orders of the commissioner or
24 process affecting the rating organization may be served.

25 Sec. 2438. (1) Subject to REASONABLE rules and regulations
26 ~~which have been~~ approved by the commissioner, ~~as reasonable,~~
27 each rating organization shall permit ~~any~~ AN insurer, not a

1 member, to be a subscriber to its rating services for any kind of
2 insurance or subdivision ~~thereof~~ OF INSURANCE for which it is
3 authorized to act as a rating organization. Notice of proposed
4 changes in ~~such~~ THE rules and regulations shall be given to
5 subscribers. Each rating organization shall furnish its ~~rating~~
6 services without discrimination to its members and subscribers.

7 (2) The reasonableness of any rule or regulation in its
8 application to subscribers, or the refusal of any rating organi-
9 zation to admit an insurer as a subscriber, ~~shall,~~ at the
10 request of ~~any~~ A subscriber or ~~any such~~ insurer, SHALL be
11 reviewed by the commissioner at a hearing held upon at least 10
12 days' written notice to ~~such~~ THE rating organization and to
13 ~~such~~ THE subscriber or insurer. If the commissioner finds that
14 ~~such~~ THE rule or regulation is unreasonable in its application
15 to subscribers, he OR SHE shall order that ~~such~~ THE rule or
16 regulation shall not be applicable to subscribers.

17 (3) If the rating organization fails to grant or reject an
18 insurer's application for subscribership within 30 days after it
19 was made, the insurer may request a review by the commissioner as
20 if the application had been rejected. If the commissioner finds
21 that the insurer has been refused admittance to the rating organ-
22 ization as a subscriber without justification, ~~he~~ THE
23 COMMISSIONER shall order the rating organization to admit the
24 insurer as a subscriber. If ~~he~~ THE COMMISSIONER finds that the
25 action of the rating organization was justified, ~~he~~ THE
26 COMMISSIONER shall make an order affirming its action.

1 Sec. 2458. ~~Every rating organization and every~~ EACH
2 insurer, ~~which makes its own rates shall,~~ within a reasonable
3 time after receiving written request therefor and upon payment of
4 ~~such~~ A reasonable charge as it may make, SHALL furnish to ~~any~~
5 AN insured affected by a rate made by it, or to the INSURED'S
6 authorized representative, ~~of the insured,~~ all pertinent infor-
7 mation as to the rate. ~~Every rating organization and every~~
8 EACH insurer ~~which makes its own rates~~ shall provide within
9 this state reasonable means ~~whereby any~~ FOR A person aggrieved
10 by the application of ~~its~~ THE INSURER'S rating system ~~may~~ TO
11 be heard, in person or by his or her authorized representative,
12 on his or her written request to review the manner in which the
13 rating system has been applied in connection with the insurance
14 afforded to him or her. If the ~~rating organization or~~ insurer
15 fails to grant or reject the request within 30 days after it is
16 made, the applicant may proceed in the same manner as if his or
17 her application had been rejected. ~~Any~~ A party affected by the
18 action of the ~~rating organization or~~ insurer on SUCH A request
19 may APPEAL, within 30 days after written notice of the action,
20 ~~appeal~~ to the commissioner, who, after a hearing held upon not
21 less than 10 days' written notice to the appellant and to the
22 ~~rating organization or~~ insurer, may affirm or reverse the
23 action. A person who requests a hearing before the commissioner
24 pursuant to this section may be represented at the hearing by an
25 attorney. A person, other than an individual, that requests a
26 hearing before the commissioner pursuant to this section may also
27 be represented by an officer or employee of that person. An

1 individual who requests a hearing before the commissioner
2 pursuant to this section may also be represented by a relative of
3 the individual.

4 Sec. 2462. (1) Every group, association, or other organiza-
5 tion of insurers, whether located within or outside this state,
6 which assists insurers ~~which make their own filings or rating~~
7 ~~organizations~~ in rate making, by the collection and furnishing
8 of loss or expense statistics, ~~or by the submission of~~
9 ~~recommendations,~~ but which does not make filings under this
10 chapter, shall be known as an advisory organization.

11 (2) Every advisory organization shall file with the commis-
12 sioner ALL OF THE FOLLOWING:

13 (a) A copy of its constitution, its articles of agreement or
14 association or its certificate of incorporation and of its
15 bylaws, rules, and regulations governing its activities. ~~—~~

16 (b) A list of its members. ~~—~~

17 (c) The name and address of a resident of this state upon
18 whom notices or orders of the commissioner or process issued at
19 his direction may be served. ~~—, and—~~

20 (d) An agreement that the commissioner may examine ~~such~~
21 THE advisory organization in accordance with the provisions of
22 section 2468.

23 (3) If, after a hearing, the commissioner finds that the
24 furnishing of ~~such~~ information or assistance involves any act
25 or practice ~~which~~ THAT is unfair or unreasonable or otherwise
26 inconsistent with the provisions of this chapter, he OR SHE may
27 issue a written order specifying in what respects ~~such~~ THE act

1 or practice is unfair or unreasonable or otherwise inconsistent
2 with the provisions of this chapter, and requiring the discon-
3 tinuance of ~~such~~ THE act or practice.

4 (4) ~~No~~ AN insurer ~~which makes its own filings nor any~~
5 ~~rating organization~~ shall NOT support its filings by statistics
6 ~~or adopt rate making recommendations,~~ furnished to it by an
7 advisory organization ~~which~~ THAT has not complied with this
8 section or with an order of the commissioner involving ~~such~~ THE
9 statistics ~~or recommendations~~ issued under subsection (3). ~~of~~
10 ~~this section.~~ If the commissioner finds ~~such~~ THE insurer ~~or~~
11 ~~rating organization~~ to be in violation of this subsection he OR
12 SHE may issue an order requiring the discontinuance of ~~such~~ THE
13 violation.

14 Sec. 2472. (1) The commissioner shall promulgate reasonable
15 rules and statistical plans, reasonably adapted to each of the
16 rating systems on file with him OR HER, which may be modified
17 from time to time and which shall be used thereafter to the
18 extent applicable to its particular rating system or systems, by
19 each insurer in the recording and reporting of its loss and coun-
20 trywide expense experience, in order that the experience of all
21 insurers may be made available at least annually in ~~such~~ A form
22 and detail as may be necessary to aid ~~him~~ THE COMMISSIONER in
23 determining whether rating systems comply with the standards set
24 forth in section 2403. ~~Such~~ THE rules and plans may also pro-
25 vide for the recording and reporting of expense experience items
26 ~~which~~ THAT are specially applicable to this state and are not
27 susceptible of determination by a prorating of countrywide

1 expense experience. In promulgating ~~such~~ rules and plans, the
2 commissioner shall give due consideration to the rating systems
3 on file with him OR HER and, in order that ~~such~~ THE rules and
4 plans may be as uniform as is practicable among the several
5 states, to the rules and to the form of the plans used for ~~such~~
6 rating systems in other states. ~~No~~ AN insurer shall NOT be
7 required to record or report its loss experience on a classifica-
8 tion basis that is inconsistent with the rating system filed by
9 it. ~~and no~~ AN insurer shall NOT be required to record or
10 report its loss or expense experience on any basis or statistical
11 plan that differs from that which is regularly employed and main-
12 tained in the usual course of ~~such~~ THE insurer's business, or
13 to any rating organization or agency of which it is not a member
14 or subscriber. The commissioner may designate 1 or more rating
15 organizations or other agencies to assist him OR HER in gathering
16 such experience and making compilations thereof, and ~~such~~ THE
17 compilations shall be made available, subject to reasonable rules
18 promulgated by the commissioner, to insurers and rating
19 organizations.

20 (2) Reasonable rules and plans may be promulgated by the
21 commissioner for the interchange of data necessary for the appli-
22 cation of rating plans.

23 (3) In order to further uniform administration of rate regu-
24 latory laws, the commissioner and ~~every~~ EACH insurer ~~and~~
25 ~~rating organization~~ may exchange information and experience data
26 with insurance supervisory officials ~~, insurers and rating~~
27 ~~organizations~~ in other states and may consult with them with

1 respect to ~~rate making and~~ the application of rating systems.
2 IN ADDITION, EACH INSURER AND EACH RATING ORGANIZATION MAY
3 EXCHANGE HISTORICAL LOSS DATA.

4 Sec. 2600. (1) The purpose of this chapter is to promote
5 the public welfare by regulating insurance rates to the end that
6 they shall not be excessive, inadequate, or unfairly discrimina-
7 tory, and to ~~authorize and~~ regulate cooperative action among
8 insurers in rate making and in other matters within the scope of
9 the insurance code. Nothing in this chapter is intended ~~(1) to~~
10 prohibit or discourage reasonable competition. ~~, or (2) to pro-~~
11 hibit, or encourage except to the extent necessary to accomplish
12 the aforementioned purpose, uniformity in insurance rates, rating
13 systems, rating plans or practices.

14 (2) Conformity with this chapter shall not be ~~deemed to be~~
15 CONSIDERED a violation of section 2075. ~~(compacts to restrain~~
16 ~~competition prohibited)~~ ANTITRUST PROVISIONS ARE NOT EXCLUSIVE
17 AND OTHER PROVISIONS PROVIDED BY LAW MAY APPLY.

18 (3) This chapter shall be liberally interpreted to carry
19 into effect the provisions of this section.

20 Sec. 2606. (1) ~~Every~~ EACH insurer shall file with the
21 commissioner, except as to inland marine risks which by general
22 custom of the business are not written according to manual rates
23 or rating plans, every manual, minimum, class rate, rating sched-
24 ule or rating plan, and every other rating rule, and every modi-
25 fication of any of the foregoing ~~which~~ THAT it proposes to
26 use. Every ~~such~~ filing shall state the proposed effective date

1 ~~thereof~~ OF THE FILING, and shall indicate the character and
2 extent of the coverage contemplated.

3 (2) ~~When~~ IF a filing is not accompanied by the information
4 upon which the insurer supports ~~such~~ THE filing, and the com-
5 missioner does not have sufficient information to determine
6 whether ~~such~~ THE filing meets the requirements of this chapter,
7 ~~he~~ THE COMMISSIONER shall require ~~such~~ THE insurer to furnish
8 the information upon which it supports ~~such~~ THE filing and ~~in~~
9 ~~such event~~ the waiting period shall commence as of the date
10 ~~such~~ THE information is furnished. The information furnished
11 in support of a filing may include ~~(a)~~ the experience or judg-
12 ment of the insurer ~~or rating organization~~ making the filing,
13 ~~(b)~~ its interpretation of any statistical data it relies upon,
14 ~~(c)~~ the experience of other insurers, ~~or rating~~
15 ~~organizations,~~ or ~~(d)~~ any other relevant factors.

16 (3) A filing and any supporting information shall be open to
17 public inspection after the filing becomes effective.

18 ~~(4) Specific inland marine rates on risks specially rated,~~
19 ~~made by a rating organization, shall be filed with the~~
20 ~~commissioner.~~

21 (4) ~~(5) An~~ EXCEPT FOR FILINGS CONCERNING RATES, AN insurer
22 may satisfy its obligation to make ~~such~~ filings by becoming a
23 member of, or a subscriber to, a licensed rating organization
24 ~~which~~ THAT makes ~~such~~ filings, and by filing with the commis-
25 sioner a copy of its authorization of the rating organization to
26 make ~~such~~ filings on its behalf. Nothing contained in this

1 chapter shall be construed as requiring any insurer to become a
2 member of or a subscriber to any rating organization.

3 (5) AS A CONDITION OF MAINTAINING ITS CERTIFICATE OF AUTHOR-
4 ITY, AN INSURER SHALL NOT DO ANY OF THE FOLLOWING:

5 (A) HAVE ANY RATES FILED ON ITS BEHALF IN THIS STATE BY A
6 RATING ORGANIZATION.

7 (B) SHARE INFORMATION WITH ANY OTHER INSURER OR RATING
8 ORGANIZATION CONCERNING ESTABLISHING RATES OR RATING SYSTEMS.

9 (C) AGREE WITH ANY OTHER INSURER OR RATING ORGANIZATION TO
10 ADHERE TO OR USE ANY RATE, RATING PLAN, RATING SCHEDULE, RATING
11 RULE, OR UNDERWRITING RULE IN THIS STATE.

12 (D) MAKE AVAILABLE TO ANY OTHER INSURER OR RATING ORGANIZA-
13 TION INFORMATION ON ACTUARIAL PROJECTIONS, TRENDING FACTORS,
14 PROFITS, OR EXPENSES EXCEPT LOSS ADJUSTMENT EXPENSES.

15 Sec. 2608. (1) The commissioner shall review filings as
16 soon as reasonably possible after they have been made in order to
17 determine whether they meet the requirements of this chapter.

18 (2) ~~Subject to the exception specified in subsection (3) of~~
19 ~~this section, each~~ EACH filing shall be on file for a waiting
20 period of 15 days before it becomes effective, which period may
21 be extended by the commissioner for an additional period not to
22 exceed 15 days if ~~he~~ THE COMMISSIONER gives written notice
23 within ~~such~~ THE waiting period to the insurer or rating organi-
24 zation ~~which~~ THAT made the filing that he OR SHE needs such
25 additional time for the consideration of ~~such~~ THE filing. Upon
26 written application by ~~such~~ THE insurer or rating organization,
27 the commissioner may authorize a filing ~~which~~ THAT he OR SHE

1 has reviewed to become effective before the expiration of the
2 waiting period or any extension ~~thereof~~ OF THE WAITING PERIOD.
3 A filing shall be ~~deemed~~ CONSIDERED to meet the requirements of
4 this chapter unless disapproved by the commissioner within the
5 waiting period or any extension ~~thereof~~ OF THE WAITING PERIOD.

6 ~~(3) Specific inland marine rates on risks specially rated~~
7 ~~by a rating organization shall become effective when filed and~~
8 ~~shall be deemed to meet the requirements of this chapter until~~
9 ~~such time as the commissioner reviews the filing and so long~~
10 ~~thereafter as the filing remains in effect.~~

11 Sec. 2616. ~~(1)~~ If within the waiting period or any exten-
12 sion ~~thereof~~ OF THE WAITING PERIOD as provided in section
13 2608(2), the commissioner finds that a filing does not meet the
14 requirements of this chapter, he OR SHE shall send to the insurer
15 or rating organization ~~which~~ THAT made ~~such~~ THE filing ~~,~~
16 written notice of disapproval of ~~such~~ THE filing specifying
17 ~~therein in what respects he finds such~~ HOW THE filing fails to
18 meet the requirements of this chapter and stating that ~~such~~ THE
19 filing shall not become effective.

20 ~~(2) If within 30 days after a specific inland marine rate~~
21 ~~on a risk specially rated by a rating organization, subject to~~
22 ~~section 2608 (3) has become effective, the commissioner finds~~
23 ~~that such filing does not meet the requirements of this chapter,~~
24 ~~he shall send to the rating organization which made such filing~~
25 ~~written notice of disapproval of such filing specifying therein~~
26 ~~in what respects he finds that such filing fails to meet the~~
27 ~~requirements of this chapter and stating when, within a~~

1 ~~reasonable period thereafter, such filing shall be deemed no~~
2 ~~longer effective. Said disapproval shall not affect any contract~~
3 ~~made or issued prior to the expiration of the period set forth in~~
4 ~~said notice.~~

5 Sec. 2628. (1) In lieu of the filing requirements of this
6 chapter and as an alternative method of filing, ~~any~~ AN insurer
7 ~~or rating organization~~ may file with the commissioner ~~any~~ A
8 manual of classification, rules, or rates, any rating plan and
9 every modification of any of the foregoing ~~which~~ THAT it pro-
10 poses to use, the filing to indicate the character and extent of
11 the coverage contemplated. IN LIEU OF THE FILING REQUIREMENTS OF
12 THIS CHAPTER AND AS AN ALTERNATIVE METHOD OF FILING, A RATING
13 ORGANIZATION MAY FILE WITH THE COMMISSIONER FOR AN INSURER A
14 MANUAL OF CLASSIFICATION, RULES, AND EVERY MODIFICATION OF ANY OF
15 THE FOREGOING, THE FILING TO INDICATE THE CHARACTER AND EXTENT OF
16 THE COVERAGE CONTEMPLATED. Every ~~such~~ filing under this section
17 shall state the effective date ~~thereof~~ OF THE FILING, shall
18 take effect on ~~said~~ THAT date, shall not be subject to any
19 waiting period requirements, and shall be ~~deemed~~ CONSIDERED to
20 meet the requirements of ~~subdivision (d) of subsection (1) of~~
21 ~~section 2603 (rate standards)~~ SECTION 2603(1)(D). A filing and
22 any supporting information shall be open to public inspection, if
23 the filing is not disapproved.

24 (2) At any time within 15 days from and after the date of
25 ~~any such~~ A filing UNDER SUBSECTION (1), the commissioner may
26 give written notice to the insurer ~~or rating organization~~
27 making ~~such~~ THE filing, specifying in what respect and to what

1 extent he OR SHE contends ~~such~~ THE filing fails to comply with
 2 the requirements of ~~subdivision (d) of subsection (1) of section~~
 3 ~~2603~~ SECTION 2603(1)(D) and fixing a date for hearing not less
 4 than 10 days from the date of THE mailing of ~~such~~ THE notice.
 5 At ~~such~~ THE hearing, the factors specified in ~~subsection (2)~~
 6 ~~of section 2606~~ SECTION 2606(2) shall be considered. If the
 7 commissioner after hearing finds that the filing does not comply
 8 with the provisions of this chapter, he OR SHE may issue ~~his~~ AN
 9 order determining ~~wherein~~ WHERE and to what extent ~~such~~ THE
 10 filing is ~~deemed to be~~ improper and fixing a date,
 11 ~~thereafter,~~ within a reasonable time, after which ~~such~~ THE
 12 filing shall no longer be effective. ~~Any~~ AN order of disap-
 13 proval under this section must be entered within 30 days of the
 14 date of the filing affected.

15 (3) ~~In the event that no~~ IF A notice of hearing ~~shall be~~
 16 IS NOT issued within 15 days from the date of ~~any such~~ A filing
 17 UNDER SUBSECTION (1), the filing shall be ~~deemed~~ CONSIDERED to
 18 be approved. If ~~such~~ THE filing ~~shall be~~ IS disapproved, the
 19 insuring provisions of ~~any~~ A contract or policy issued prior to
 20 the time the order becomes effective shall not be affected. But
 21 if the commissioner disapproves ~~such~~ THE filing as not being in
 22 compliance with ~~subdivision (d) of subsection (1) of section~~
 23 ~~2603 (rate standards)~~ SECTION 2603(1)(D), he OR SHE may order an
 24 adjustment of the premium to be made with the policyholder either
 25 by refund or collection of additional premium, if the amount is
 26 substantial and equals or exceeds the cost of making the
 27 adjustment. The commissioner may thereafter review any such

1 filing in the manner provided in sections 2618 and 2620, but if
2 so reviewed, no adjustment of premium may be ordered.

3 ~~Subsection (5) of section 2606 (filing may be made by rating~~
4 ~~organization), subsection (1) of section 2608 (commissioner shall~~
5 ~~review filing as soon as reasonably possible), and 2612 (insurer~~
6 ~~must adhere to filing)~~ SECTIONS 2606(4), 2608(1), AND 2612 shall
7 be applicable to filings made under this section.

8 Sec. 2630. (1) A corporation, an unincorporated associa-
9 tion, a partnership, or an individual, whether located within or
10 outside this state, may ~~make application to~~ APPLY WITH the com-
11 missioner for license as a rating organization to make ~~rates~~
12 ~~and~~ insurance contract forms for ~~such~~ THE kinds of insurance,
13 or subdivision or class of risk or a part or combination thereof
14 as are specified in its application and shall file ~~therewith~~
15 WITH THE APPLICATION ALL OF THE FOLLOWING:

16 (a) A copy of its constitution, its articles of agreement or
17 association or its certificate of incorporation, and ~~of~~ its
18 bylaws and rules governing the conduct of its business.

19 (b) A list of its members and subscribers.

20 (c) The name and address of a resident of this state upon
21 whom notices or orders of the commissioner or process affecting
22 ~~such~~ THE rating organization may be served.

23 (d) A statement of its qualifications as a rating
24 organization.

25 (2) If the commissioner finds that the applicant is compe-
26 tent, trustworthy, and otherwise qualified to act as a rating
27 organization and that its constitution, articles of agreement or

1 association, or certificate of incorporation, and its bylaws and
2 rules governing the conduct of its business conform to the
3 requirements of law, he OR SHE shall issue a license specifying
4 the kinds of insurance, or subdivision or class of risk or part
5 or combination thereof for which the applicant is authorized to
6 act as a rating organization. Every ~~such application~~ APPLICANT
7 shall be granted or denied in whole or in part by the commis-
8 sioner within 60 days of the date of its filing with ~~him~~ THE
9 COMMISSIONER.

10 (3) Licenses issued pursuant to this section shall remain in
11 effect for 3 years unless sooner suspended or revoked by the
12 commissioner.

13 (4) The fee for the license shall be \$25.00.

14 (5) Licenses issued pursuant to this section may be sus-
15 pended or revoked by the commissioner, after hearing upon notice,
16 ~~in the event~~ IF the rating organization ceases to meet the
17 requirements of this section.

18 (6) Every rating organization shall notify the commissioner
19 promptly of every change in ANY OF THE FOLLOWING:

20 (a) ~~its~~ ITS constitution, its articles of agreement or
21 association, or its certificate of incorporation, and its bylaws
22 and rules governing the conduct of its business. ~~,~~

23 (b) ~~its~~ ITS list of members and subscribers. ~~and~~

24 (c) ~~the~~ THE name and address of the resident of this state
25 designated by it upon whom notices or orders of the commissioner
26 or process affecting ~~such~~ THE rating organization may be
27 served.

1 Sec. 2636. (1) Subject to REASONABLE rules and regulations
2 ~~which have been~~ approved by the commissioner, ~~as reasonable,~~
3 each rating organization shall permit ~~any~~ AN insurer, not a
4 member, to be a subscriber to its rating services for any kind of
5 insurance, subdivision, or class of risk or a part or combination
6 thereof for which it is authorized to act as a rating
7 organization. Notice of proposed changes in ~~such~~ THE rules and
8 regulations shall be given to subscribers. Each rating organiza-
9 tion shall furnish its ~~rating~~ services without discrimination
10 to its members and subscribers.

11 (2) The reasonableness of any rule or regulation in its
12 application to subscribers, or the refusal of any rating organi-
13 zation to admit an insurer as a subscriber, ~~shall,~~ at the
14 request of ~~any~~ A subscriber or ~~any such~~ insurer, SHALL be
15 reviewed by the commissioner at a hearing held upon at least 10
16 days' written notice to ~~such~~ THE rating organization and to
17 ~~such~~ THE subscriber or insurer. If the commissioner finds that
18 ~~such~~ THE rule or regulation is unreasonable in its application
19 to subscribers, he OR SHE shall order that ~~such~~ THE rule or
20 regulation shall not be applicable to subscribers.

21 (3) If the rating organization fails to grant or reject an
22 insurer's application for subscribership within 30 days after it
23 was made, the insurer may request a review by the commissioner as
24 if the application had been rejected. If the commissioner finds
25 that the insurer has been refused admittance to the rating organ-
26 ization as a subscriber without justification, ~~he~~ THE
27 COMMISSIONER shall order the rating organization to admit the

1 insurer as a subscriber. If ~~he~~ THE COMMISSIONER finds that the
2 action of the rating organization was justified, ~~he~~ THE
3 COMMISSIONER shall make an order affirming its action.

4 Sec. 2652. ~~Every rating organization and every insurer~~
5 ~~which makes its own rates shall~~ EACH INSURER, within a reason-
6 able time after receiving written request therefor and upon pay-
7 ment of ~~such~~ A reasonable charge as it may make, SHALL furnish
8 to ~~any~~ AN insured affected by a rate made by it, or to the
9 INSURED'S authorized representative, ~~of such insured,~~ all per-
10 tinent information as to ~~such~~ THE rate. ~~Every rating organi-~~
11 ~~zation and every insurer which makes its own rates~~ EACH INSURER
12 shall provide within this state reasonable means ~~whereby any~~
13 FOR A person aggrieved by the application of ~~its~~ THE INSURER'S
14 rating system ~~may~~ TO be heard, in person or by his OR HER
15 authorized representative, on his OR HER written request to
16 review the manner in which ~~such~~ THE rating system has been
17 applied in connection with the insurance afforded him OR HER. If
18 the ~~rating organization or~~ insurer fails to grant or reject
19 ~~such~~ THE request within 30 days after it is made, the applicant
20 may proceed in the same manner as if his OR HER application had
21 been rejected. ~~Any~~ A party affected by the action of ~~such~~
22 ~~rating organization or such~~ AN insurer on such A request may
23 APPEAL, within 30 days after written notice of ~~such~~ THE action,
24 ~~appeal~~ to the commissioner, who, after a hearing held upon not
25 less than 10 days' written notice to the appellant and to ~~such~~
26 ~~rating organization or~~ THE insurer, may affirm or reverse ~~such~~
27 THE action.

1 Sec. 2654. (1) Every group, association, or other
2 organization of insurers, whether located within or outside this
3 state, ~~which~~ THAT assists insurers ~~which make their own fil-~~
4 ~~ings or rating organizations~~ in rate making, by the collection
5 and furnishing of loss or expense statistics, ~~or by the submis-~~
6 ~~sion of recommendations,~~ but which does not make filings under
7 this chapter, shall be known as an advisory organization.

8 (2) Every advisory organization shall file with the
9 commissioner:

10 (a) A copy of its constitution, its articles of agreement or
11 association or its certificate of incorporation, and ~~of~~ its
12 bylaws, rules, and regulations governing its activities. ~~,~~

13 (b) A list of its members. ~~,~~

14 (c) The name and address of a resident of this state upon
15 whom notices or orders of the commissioner or process issued at
16 his OR HER direction may be served. ~~, and~~

17 (d) An agreement that the commissioner may examine ~~such~~
18 THE advisory organization in accordance with the provisions of
19 section 2662.

20 (3) If, after a hearing, the commissioner finds that the
21 furnishing of ~~such~~ information or assistance involves any act
22 or practice ~~which~~ THAT is unfair or unreasonable or otherwise
23 inconsistent with the provisions of this chapter, he OR SHE may
24 issue a written order specifying in what respects ~~such~~ THE act
25 or practice is unfair or unreasonable or otherwise inconsistent
26 with the provisions of this chapter, and requiring the
27 discontinuance of ~~such~~ THE act or practice.

1 (4) ~~No~~ AN insurer ~~which makes its own filings nor any~~
2 ~~rating organization~~ shall NOT support its filings by statistics
3 ~~or adopt rate making recommendations,~~ furnished to it by an
4 advisory organization ~~which~~ THAT has not complied with this
5 section or with an order of the commissioner involving ~~such~~ THE
6 statistics ~~or recommendations~~ issued under subsection (3). ~~of~~
7 ~~this section.~~ If the commissioner finds ~~such~~ THE insurer ~~or~~
8 ~~rating organization~~ to be in violation of this subsection, he OR
9 SHE may issue an order requiring the discontinuance of ~~such~~ THE
10 violation.

11 Sec. 2664. (1) The commissioner shall promulgate reasonable
12 rules and statistical plans, reasonably adapted to each of the
13 rating systems on file with him OR HER, which may be modified
14 from time to time and which shall be used thereafter by each
15 insurer in the recording and reporting of its loss and country-
16 wide expense experience, in order that the experience of all
17 insurers may be made available at least annually in such form and
18 detail as may be necessary to aid ~~him~~ THE COMMISSIONER in
19 determining whether rating systems comply with the standards set
20 forth in section 2603. ~~Such~~ THE rules and plans may also pro-
21 vide for the recording and reporting of expense experience items
22 ~~which~~ THAT are specially applicable to this state and are not
23 susceptible of determination by a prorating of countrywide
24 expense experience. In promulgating ~~such~~ rules and plans, the
25 commissioner shall give due consideration to the rating systems
26 on file with him OR HER and, in order that ~~such~~ THE rules and
27 plans may be as uniform as is practicable among the several

1 states, to the rules and to the form of the plans used for ~~such~~
2 rating systems in other states. ~~No~~ AN insurer shall NOT be
3 required to record or report its loss experience on a classifica-
4 tion basis that is inconsistent with the rating system filed by
5 it. The commissioner may designate 1 or more rating organiza-
6 tions or other agencies to assist him OR HER in gathering such
7 experience and making compilations thereof, and ~~such~~ THE compi-
8 lations shall be made available, subject to reasonable rules
9 promulgated by the commissioner, to insurers and rating
10 organizations.

11 (2) Reasonable rules and plans may be promulgated by the
12 commissioner for the interchange of data necessary for the appli-
13 cation of rating plans.

14 (3) In order to further uniform administration of rate regu-
15 latory laws, the commissioner and ~~every~~ EACH insurer ~~and~~
16 ~~rating organization~~ may exchange information and experience data
17 with insurance supervisory officials ~~, insurers and rating~~
18 ~~organizations~~ in other states and may consult with them with
19 respect to ~~rate making and~~ the application of rating systems.
20 IN ADDITION, EACH INSURER AND EACH RATING ORGANIZATION MAY
21 EXCHANGE HISTORICAL LOSS DATA.

22 Sec. 2930. ~~(1) The premium for basic property insurance of~~
23 ~~any risk by the pool shall be equal to the rate for identical~~
24 ~~insurance established by the principal rating organization for~~
25 ~~identical insurance within this state plus a uniform surcharge~~
26 ~~approved by the commissioner.~~ (2) The pool shall establish
27 rates for any basic property insurance. ~~which is without rates~~

~~1 established by a principal rating organization or which the pool,~~
~~2 with the approval of the commissioner, determines should be oth-~~
~~3 erwise rated in order to better effectuate the purposes of this~~
~~4 chapter.~~ The pool shall file with the commissioner for his or
5 her approval each rate and each policy form to be issued by it.
6 The pool, acting as agent for participating members, shall file
7 policy forms for basic property insurance to be issued by partic-
8 ipating members under the provisions of this chapter. Rates and
9 policy forms shall be filed in accordance with such provisions of
10 this chapter as the commissioner designates.

11 Sec. 3020. (1) A policy of casualty insurance, except
12 worker's compensation and mortgage guaranty insurance, including
13 all classes of motor vehicle coverage, shall not be issued or
14 delivered in this state by an insurer authorized to do business
15 in this state for which a premium or advance assessment is
16 charged, unless the policy contains the following provisions:

17 (a) That the policy may be canceled at any time at the
18 request of the insured, in which case the insurer shall refund
19 the excess of paid premium or assessment above the pro rata rates
20 for the expired time, except as otherwise provided in subsections
21 (2), (3), and (4).

22 (b) That the policy may be canceled at any time by the
23 insurer by mailing to the insured at the insured's address last
24 known to the insurer or an authorized agent of the insurer, with
25 postage fully prepaid, a not less than 10 days' written notice of
26 cancellation with or without tender of the excess of paid premium
27 or assessment above the pro rata premium for the expired time.

1 (c) That the minimum earned premium on any policy canceled
2 pursuant to this subsection, other than automobile insurance as
3 defined in section 2102(2)(a) and (b), shall not be less than the
4 pro rata premium for the expired time or \$25.00, whichever is
5 greater.

6 (2) An insurer may file a rule with the commissioner provid-
7 ing for a minimum retention of premium for automobile insurance
8 as defined in section 2102(2)(a) and (b). The rule shall
9 describe the circumstances under which the retention is applied
10 and shall set forth the amount to be retained, which is subject
11 to the approval of the commissioner. The rule shall include, but
12 need not be limited to, the following provisions:

13 (a) That a minimum retention shall be applied only when the
14 amount exceeds the amount that would have been retained had the
15 policy been canceled on a pro rata basis.

16 (b) That a minimum retention does not apply to renewal
17 policies.

18 (c) That a minimum retention does not apply when a policy is
19 canceled for the following reasons:

20 (i) The insured is no longer required to maintain security
21 pursuant to section 3101(1).

22 (ii) The insured has replaced the automobile insurance
23 policy being canceled with an automobile insurance policy from
24 another insurer and provides proof of the replacement coverage to
25 the canceling insurer.

26 (3) Notwithstanding subsection (1), an insurer may issue a
27 noncancelable, nonrefundable, 6-month prepaid automobile

1 insurance policy in order for an insured to meet the registration
2 requirements of section 227a of the Michigan vehicle code, 1949
3 PA 300, MCL 257.227a.

4 (4) An insurer may provide for a short rate premium for
5 insurance on a motorcycle, watercraft, off-road vehicle, or
6 snowmobile. As used in this subsection:

7 (a) "Motorcycle" means that term as defined in section
8 3101.

9 (b) "Off-road vehicle" means an ORV as defined in section
10 81101 of the natural resources and environmental protection act,
11 1994 PA 451, MCL 324.81101.

12 (c) "Snowmobile" means that term as defined in section 82101
13 of the natural resources and environmental protection act, 1994
14 PA 451, MCL 324.82101.

15 (d) "Watercraft" means that term as defined in section 80301
16 of the natural resources and environmental protection act, 1994
17 PA 451, MCL 324.80301.

18 (5) Cancellation SHALL NOT BE EFFECTIVE UNTIL AFTER THE
19 NOTICE as prescribed in this section ~~is~~ HAS EXPIRED, AND THE
20 CANCELLATION SHALL BE without prejudice to any claim originating
21 before the cancellation. The mailing of notice is prima facie
22 proof of notice. Delivery of written notice is equivalent to
23 mailing.

24 (6) A notice of cancellation, including a cancellation
25 notice under section 3224, shall be accompanied by a statement
26 that the insured shall not operate or permit the operation of the
27 vehicle to which notice of cancellation is applicable, or operate

1 any other vehicle, unless the vehicle is insured as required by
2 law.

3 (7) An insurer who wishes to provide for a short rate pre-
4 mium under subsection (4) shall file with the commissioner pursu-
5 ant to chapter 24 or 26 a rule establishing a short rate
6 premium. The rule shall describe the circumstances under which
7 the short rate is applied and shall set forth the amount or per-
8 centage to be retained.

9 SEC. 3105A. AN INSURER LIABLE TO PAY PERSONAL PROTECTION
10 INSURANCE BENEFITS UNDER THIS CHAPTER HAS A DUTY TO DEAL FAIRLY
11 AND IN GOOD FAITH WITH ITS INSURED, ANY PERSON ENTITLED TO
12 RECEIVE PERSONAL PROTECTION INSURANCE BENEFITS UNDER A POLICY
13 ISSUED TO ITS INSURED, OR ANY PERSON ENTITLED TO RECEIVE PERSONAL
14 PROTECTION INSURANCE BENEFITS FROM THE INSURER UNDER THE PROVI-
15 SIONS OF THIS CHAPTER. THE FIDUCIARY DUTY IMPOSED BY THIS SEC-
16 TION IS DEEMED TO INVOLVE MATTERS OF MENTAL CONCERN AND
17 SOLICITUDE. A BREACH OF THE DUTY TO DEAL FAIRLY AND IN GOOD
18 FAITH SUBJECTS THE INSURER TO LIABILITY IN TORT FOR ANY DAMAGES
19 PROXIMATELY ARISING THEREFROM AND FOR PUNITIVE DAMAGES.

20 Sec. 3321. The facility shall provide, with respect to all
21 automobiles not included in section 3320:

22 (a) Only the insurance required by law or required by the
23 commissioner. ~~of insurance.~~ The commissioner may only require
24 insurance for which a rate has been filed by an ~~insurance rating~~
25 ~~organization or~~ insurer, ~~and~~ which rate is in effect, and
26 which the commissioner finds, after a public hearing, to be
27 reasonable, necessary, and in the public interest. The temporary

1 provision of insurance may be required pending the public hearing
2 if the commissioner determines it necessary to do so.

3 (b) The equitable distribution of applicants to participat-
4 ing members in accordance with the participation ratios defined
5 in section 3303.

6 Sec. 3340. (1) As agent for participating members, the
7 facility shall file with the commissioner every manual of classi-
8 fication, every manual of rules and rates, every rating plan, and
9 every modification of a manual of classification, manual of rules
10 and rates, or rating plan proposed for use for private passenger
11 nonfleet automobile insurance placed through the facility. The
12 facility may incorporate by reference in its filings other mate-
13 rial on file with the commissioner. The classifications, rules,
14 and rates and any amendments ~~thereof shall be~~ TO THE CLASSIFI-
15 CATIONS, RULES, AND RATES ARE subject to prior written approval
16 by the commissioner. Except as provided in this chapter, rates
17 filed by the facility for private passenger nonfleet automobile
18 insurance shall be in accordance with chapter 21 and rates by the
19 facility for all other automobile insurance shall be filed in
20 accordance with chapter 24.

21 (2) Every participating member designated to act on behalf
22 of the facility ~~shall be~~ IS authorized to use the rates and
23 rules approved by the commissioner for use by the facility on
24 business placed through the facility and shall not use other
25 rates for automobile insurance placed through the facility.

1 (3) Laws relating to rating organizations or advisory
2 organizations ~~shall~~ DO not apply to functions provided for
3 under this section.

4 (4) Private passenger nonfleet automobile rates for the
5 facility shall comply with the following requirements:

6 ~~(a) The territories for the facility shall be defined as~~
7 ~~those of the principal rating organization for the voluntary~~
8 ~~market.~~

9 (A) ~~(b)~~ The base rates for the facility shall be derived
10 from the weighted average of the base rates currently charged ~~in~~
11 ~~each facility territory~~ by the 5 largest insurer groups, deter-
12 mined by voluntary net direct automobile insurance car years
13 written in the state for the calendar year ending December 31 of
14 the second prior year as reported to the statistical agent.

15 ~~(c) The base rates as determined in subdivision (b) in each~~
16 ~~facility territory shall be modified as follows:~~

17 ~~(i) One hundred percent of the weighted average in each ter-~~
18 ~~ritory in the highest rated territory or territories in the state~~
19 ~~within a single political subdivision.~~

20 ~~(ii) From 105% to 125% of the weighted average for all other~~
21 ~~facility territories, with the highest rated such territories~~
22 ~~receiving the lowest surcharge and increasing to the highest sur-~~
23 ~~charge in the lowest rated facility territories in 5 percentage~~
24 ~~point increments. In no event, however, shall any such rate~~
25 ~~exceed the rate established in subdivision (i).~~

26 (B) ~~(d)~~ The facility shall adjust its rates at least once
27 each year or whenever changes in private competitive insurance

1 market rate levels would produce a change in excess of 5% in the
2 facility rate. ~~for any facility territory.~~ However, changes
3 shall not be made more often than quarterly.

4 (C) ~~(e) In the event that~~ IF underwriting losses and
5 administrative expenses resulting from the operation of the
6 facility at rates established pursuant to this subsection would
7 exceed an amount equal to 5% of the net direct private passenger
8 nonfleet automobile premiums for this state, ~~the~~ levels
9 ~~specified in subdivision (c)(i) and (ii)~~ shall be proportion-
10 ately increased in an amount to produce underwriting losses and
11 administrative expenses that do not exceed 5%.

12 Enacting section 1. Sections 122, 2131, 2446, and 2640 of
13 the insurance code of 1956, 1956 PA 218, MCL 500.122, 500.2131,
14 500.2446, and 500.2640, are repealed.

15 Enacting section 2. (1) The legislature finds that there
16 exists in this state an emergency for a significant number of
17 citizens who are obligated under law to purchase automobile
18 insurance that has become unaffordable and unavailable. A sub-
19 stantial number of urban registered vehicles are now without
20 automobile insurance coverage. While a vehicle is often a neces-
21 sity for employment and other essential daily activities, citi-
22 zens who drive automobiles without insurance coverage violate
23 criminal law regardless of the fact that for a substantial number
24 of those citizens it is impossible to obtain automobile insurance
25 due to the unaffordability and the unequal availability of that
26 insurance. The affordability and equal availability of
27 automobile insurance is essential to the preservation of the

1 state's interest in providing that its citizens obtain automobile
2 insurance coverage under the state's compulsory automobile insur-
3 ance laws. In many areas of the state, insurers are charging in
4 a subjective and discriminatory manner unreasonable amounts for
5 coverage. In addition, the automobile insurance market structure
6 has not resulted in promoting reasonable competition among insur-
7 ers, and this has further contributed to the unaffordability and
8 unavailability of automobile insurance. Five automobile insur-
9 ance insurers control over 60% of the entire state automobile
10 insurance market with 1 of those insurers controlling 23% of the
11 market.

12 (2) It is the purpose of this amendatory act to preserve the
13 state's interest in providing its citizens with automobile insur-
14 ance coverage by relieving the emergency condition of unafford-
15 able and unequally available automobile insurance; to provide
16 more stringent regulation of automobile insurance rate-making and
17 underwriting and to eliminate and prevent arbitrary and discrim-
18 inatory practices in automobile insurance marketing, rate-making,
19 and underwriting; to monitor the level of competition in the
20 automobile insurance market and to enable corrective measures
21 when necessary to create a healthy, competitive market for auto-
22 mobile insurance; to examine loss prevention systems, controls,
23 and costs; to ensure that automobile insurance prices reflect the
24 actual costs of claims and reasonable expenses; and to eliminate
25 injustices that have resulted from the compulsory automobile
26 insurance system.