

HOUSE BILL No. 4838

June 12, 2003, Introduced by Reps. Hunter, Accavitti, Clack, Stallworth, McConico, Tobocman, Waters, Minore, Vagnozzi, Zelenko, Reeves, Plakas, Condino and Hardman and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2128b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2128b. (1) By January 15, 2004 and every 2 years
2 thereafter, the commissioner shall issue a preliminary report
3 detailing the state of competition or availability in the
4 automobile insurance market on a statewide basis and delineating
5 specific classifications, kinds or types of insurance, if any,
6 where competition or availability does not exist and shall hold a
7 public hearing on the report. The report shall be based on
8 relevant economic tests, including but not limited to those in
9 subsection (3). The findings in the report shall not be based on
10 any single measure of competition, but appropriate weight shall
11 be given to all measures of competition. The report shall

1 include a certification of whether or not competition or
2 availability exists. A person who disagrees with the report and
3 findings of the commissioner may request a contested hearing
4 pursuant to the administrative procedures act of 1969, 1969 PA
5 306, MCL 24.201 to 24.328, not later than 60 days after issuance
6 of the tentative report.

7 (2) By August 1, 2004 and every 2 years thereafter, the
8 commissioner shall issue a final report that shall include a
9 final certification of whether or not a reasonable degree of
10 competition or availability exists in the automobile insurance
11 market on a statewide basis and if competition or availability
12 does not exist, a plan to create competition or availability.
13 The final report and certification shall be supported by
14 substantial evidence.

15 (3) For purposes of determining whether competition or
16 availability exists in the automobile insurance market, all of
17 the following shall be considered by the commissioner:

18 (a) The extent to which any insurer controls the automobile
19 insurance market or any portion of that market. With respect to
20 competition on a statewide basis, an insurer shall not be
21 considered to control the automobile insurance market unless it
22 has more than a 15% market share.

23 (b) Whether the total number of insurers writing automobile
24 insurance in this state is sufficient to provide multiple options
25 and adequate service to individuals.

26 (c) The disparity among automobile insurance rates and
27 classifications to the extent that such classifications result in

1 rate differentials.

2 (d) The availability of automobile insurance to individuals
3 in all geographic areas of the state.

4 (e) The residual market share.

5 (f) The overall rate level.

6 (g) Any other factors the commissioner considers relevant.

7 (4) A plan to create competition or availability shall only
8 relate to those geographic areas, classifications, or kinds or
9 types of risks where competition or availability has been
10 certified not to exist. The plan may include methods designed to
11 create competition or availability as the commissioner considers
12 necessary, and may provide for the commissioner to do 1 or more
13 of the following:

14 (a) Authorize, by order, joint underwriting activities in a
15 manner specified in the commissioner's order.

16 (b) Modify the rate approval process in a manner to increase
17 competition or availability while at the same time providing for
18 reasonably timely rate approvals.

19 (c) Order excess profits regulation. Excess profits
20 regulation authorized by this subdivision shall be based upon
21 rules promulgated pursuant to the administrative procedures act
22 of 1969, 1969 PA 306, MCL 24.201 to 24.328. Excess profits shall
23 include both underwriting profits and all after-tax investment or
24 investment profit or loss from unearned premiums and loss
25 reserves attributable to automobile insurance. The commissioner,
26 pursuant to excess profits regulation, may establish forms for
27 the reporting of financial data by the insurer.

1 (d) Establish and require automobile insurance rates, by
2 order, that insurers shall use as a condition of maintaining
3 their certificate of authority. The order setting the rates
4 shall take effect not less than 90 days or more than 150 days
5 after the order is issued.

6 (e) Establish and implement a plan to assist in informing
7 consumers of how to obtain automobile insurance at the most
8 favorable rates and how to obtain benefits for which they are
9 eligible. The plan may include the use of toll-free telephone
10 numbers for use by automobile insurance consumers and may provide
11 for the distribution of information to local units of
12 government.

13 (5) The reports and certifications required under subsections
14 (1) and (2) shall be forwarded to the governor, the clerk of the
15 house, the secretary of the senate, and all the members of the
16 house of representatives and senate standing committees on
17 insurance issues.