

SENATE BILL No. 39

January 25, 2005, Introduced by Senator THOMAS and referred to the Committee on
Banking and Financial Institutions.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2106 and 2109 (MCL 500.2106 and 500.2109) and
by adding section 2107a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2106. Except as specifically provided in this chapter,
2 the provisions of chapter 24 and chapter 26 ~~shall~~ **DO** not apply to
3 automobile insurance and home insurance. An insurer ~~may use rates~~
4 ~~for automobile insurance or home insurance as soon as those rates~~
5 ~~are filed~~ **SHALL NOT USE RATES FOR AUTOMOBILE INSURANCE AND HOME**
6 **INSURANCE UNTIL THOSE RATES HAVE BEEN APPROVED BY THE COMMISSIONER.**
7 To the extent that other provisions of this ~~code~~ **ACT** are
8 inconsistent with the provisions of this chapter, this chapter

1 ~~shall govern~~ GOVERNS with respect to automobile insurance and home
2 insurance.

3 SEC. 2107A. (1) BY NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE
4 DATE OF THIS SECTION AND ANNUALLY THEREAFTER, EACH INSURER SUBJECT
5 TO THIS CHAPTER SHALL FILE BASE RATES FOR AUTOMOBILE INSURANCE AND
6 HOME INSURANCE AND SHALL MAKE FILINGS THAT CONFORM TO THIS ACT AS
7 AMENDED BY THE AMENDATORY ACT THAT ADDED THIS SECTION.

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

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

16 Sec. 2109. (1) IF AN AUTOMOBILE INSURER OR HOME INSURER
17 PROPOSES AN INCREASE IN ITS BASE RATES IN A FILING UNDER SECTION
18 2107A, THE INSURER SHALL PROVIDE FACTS TO THE COMMISSIONER THAT
19 WERE RELIED UPON BY THE INSURER TO SUPPORT THE INSURER'S REQUEST
20 FOR AN INCREASE IN BASE RATES. All rates for automobile insurance
21 and home insurance shall be made in accordance with the following
22 provisions:

23 (a) Rates shall not be excessive, inadequate, or unfairly
24 discriminatory. A rate shall not be held to be excessive unless the
25 rate is unreasonably high for the insurance coverage provided and a
26 reasonable degree of competition does not exist for the insurance
27 to which the rate is applicable.

1 (b) A rate shall not be held to be inadequate unless the rate
2 is unreasonably low for the insurance coverage provided and the
3 continued use of the rate endangers the solvency of the insurer; or
4 unless the rate is unreasonably low for the insurance provided and
5 the use of the rate has or will have the effect of destroying
6 competition among insurers, creating a monopoly, or causing a kind
7 of insurance to be unavailable to a significant number of
8 applicants who are in good faith entitled to procure that insurance
9 through ordinary methods.

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

24 (2) A determination concerning the existence of a reasonable
25 degree of competition with respect to subsection (1)(a) shall take
26 into account a reasonable spectrum of relevant economic tests,
27 including the number of insurers actively engaged in writing the

1 insurance in question, the present availability of such insurance
2 compared to its availability in comparable past periods, the
3 underwriting return of that insurance over a period of time
4 sufficient to assure reliability in relation to the risk associated
5 with that insurance, and the difficulty encountered by new insurers
6 in entering the market in order to compete for the writing of that
7 insurance.

8 (3) THE COMMISSIONER SHALL NOT APPROVE A RATE INCREASE FOR
9 AUTOMOBILE INSURANCE OR HOME INSURANCE UNLESS THE COMMISSIONER
10 DETERMINES THAT THE FACTS RECEIVED FROM THE INSURER UNDER
11 SUBSECTION (1) JUSTIFY A RATE INCREASE. THE COMMISSIONER SHALL NOT
12 APPROVE A RATE INCREASE BY EXAMINING ACTUARIAL DATA FROM A LINE
13 OTHER THAN THE INSURER'S AUTOMOBILE INSURANCE LINE OR HOME
14 INSURANCE LINE, AS APPLICABLE, OR IF THE INSURER FAILS TO FILE THE
15 FACTS REQUIRED BY SUBSECTION (1).