

# HOUSE BILL No. 4664

April 25, 2007, Introduced by Reps. Young, Cushingberry, Melton, Johnson and Cheeks and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending sections 2021, 2105, 2106, 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,  
500.2108, 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 by 1982 PA 7, sections 2111, 2118,  
and 2930 as amended by 2002 PA 492, section 2120 as amended by 1984  
PA 350, section 2236 as amended by 2002 PA 664, section 2400 as

amended by 1982 PA 8, section 2406 as amended by 1993 PA 200, section 2436 as amended by 1982 PA 7, section 2458 as amended by 1988 PA 262, section 3020 as amended by 2006 PA 106, 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 own~~  
4       ~~rates,~~ within a reasonable time after receiving written request  
5       therefor and upon payment of ~~such~~ **A** reasonable charge as it may  
6       make, to furnish to ~~any~~ **AN** insured affected by a rate made by it,  
7       or to the **INSURED'S** authorized representative, ~~of such insured,~~ all  
8       pertinent information to ~~such~~ **THE** rate.

9       **SEC. 2026A. (1) IT IS AN UNFAIR METHOD OF COMPETITION AND AN**  
10      **UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSURANCE**  
11      **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 SECTION**  
16      **IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT LESS THAN**  
17      **1 YEAR OR MORE THAN 5 YEARS, OR A FINE OF NOT MORE THAN \$50,000.00,**  
18      **OR BOTH, AND IN ADDITION, THE INSURER IS SUBJECT TO THE CERTIFICATE**  
19      **OF AUTHORITY REVOCATION PROCEEDINGS OF THIS 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 AGAINST  
5        IMMEDIATE IRREPARABLE HARM, ACTUAL DAMAGES SUSTAINED BY REASON OF A  
6        VIOLATION OF THIS CHAPTER, AND, AS DETERMINED BY THE COURT,  
7        INTEREST ON THE DAMAGES FROM THE DATE OF THE COMPLAINT, TAXABLE  
8        COSTS, AND REASONABLE ATTORNEY'S FEES. THIS REMEDY IS IN ADDITION  
9        TO ANY OTHER REMEDY AND PENALTY PROVISIONS PROVIDED BY THIS  
10       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, AGENCY,  
16       OR DEPARTMENT, OR TO A CORPORATION, PARTNERSHIP, INDIVIDUAL  
17       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 home  
26       insurance shall **NOT** be offered, bound, made, issued, delivered, or  
27       renewed in this state on and after January 1, 1981, except in

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

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

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

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

24 **SEC. 2107A. (1) BY NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE**  
25 **DATE OF THIS SECTION AND ANNUALLY THEREAFTER, EACH INSURER SUBJECT**  
26 **TO THIS CHAPTER SHALL FILE BASE RATES FOR AUTOMOBILE INSURANCE AND**  
27 **SHALL MAKE FILINGS THAT CONFORM TO THIS ACT AS AMENDED BY THE 2007**

1 AMENDATORY ACT THAT ADDED THIS SECTION.

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

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

8 (A) LOWERS THE PRICE OF THE COVERAGE.

9 (B) IS IN RESPONSE TO A RULING OR DECISION BY THE  
10 COMMISSIONER, THE COURT, OR A HEARING OFFICER.

11 (4) A RULE CHANGE OR OTHER CHANGE FILED WITH THE COMMISSIONER  
12 THAT RESULTS IN A CHANGE IN THE COST OF COVERAGE IS CONSIDERED A  
13 REVISION IN A RATE FILING UNDER THIS SECTION.

14 (5) 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 IS SUBJECT  
17 TO REVIEW UNDER THIS CHAPTER IN THE SAME MANNER AS AN ORIGINAL  
18 FILING MADE UNDER THIS CHAPTER.

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

1 maintain rates in effect for all eligible persons meeting the  
2 underwriting criteria of the insurer.

3 (2) ~~An~~ **EXCEPT FOR FILINGS CONCERNING RATES, AN** insurer may  
4 satisfy its obligation to make filings ~~under subsection (1)~~ by  
5 becoming a member of, or a subscriber to, a **LICENSED** rating  
6 organization ~~licensed under chapter 24 or chapter 26 which~~ **THAT**  
7 makes ~~these~~ filings, and by filing with the commissioner a copy of  
8 its authorization of the rating organization to make ~~these~~ filings  
9 on its behalf. Nothing contained in this chapter shall be construed  
10 as requiring any insurer to become a member of or a subscriber to  
11 any rating organization. Insurers may file and use deviations from  
12 filings made on their behalf, which deviations ~~shall be~~ **ARE** subject  
13 to the provisions of this chapter.

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

17 (4) Each filing shall include information that supports the  
18 filing with respect to the requirements of section 2109 **OR 2109A,**  
19 **AS APPLICABLE.** The information may include 1 or more of the  
20 following:

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

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

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

26 (d) Any other relevant information.

27 (5) A filing and any accompanying information shall be open to

1 public inspection upon filing.

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

5 Sec. 2109. (1) All rates for ~~automobile insurance and home~~  
6 insurance shall be made in accordance with the following  
7 provisions:

8 (a) Rates shall not be excessive, inadequate, or unfairly  
9 discriminatory. A rate shall not be held to be excessive unless the  
10 rate is unreasonably high for the insurance coverage provided and a  
11 reasonable degree of competition does not exist for the insurance  
12 to which the rate is applicable.

13 (b) A rate shall not be held to be inadequate unless the rate  
14 is unreasonably low for the insurance coverage provided and the  
15 continued use of the rate endangers the solvency of the insurer; or  
16 unless the rate is unreasonably low for the insurance provided and  
17 the use of the rate has or will have the effect of destroying  
18 competition among insurers, creating a monopoly, or causing a kind  
19 of insurance to be unavailable to a significant number of  
20 applicants who are in good faith entitled to procure that insurance  
21 through ordinary methods.

22 (c) A rate for a coverage is unfairly discriminatory in  
23 relation to another rate for the same coverage if the differential  
24 between the rates is not reasonably justified by differences in  
25 losses, expenses, or both, or by differences in the uncertainty of  
26 loss, for the individuals or risks to which the rates apply. A  
27 reasonable justification shall be supported by a reasonable

1 classification system; by sound actuarial principles when  
2 applicable; and by actual and credible loss and expense statistics  
3 or, in the case of new coverages and classifications, by reasonably  
4 anticipated loss and expense experience. A rate is not unfairly  
5 discriminatory because it reflects differences in expenses for  
6 individuals or risks with similar anticipated losses, or because it  
7 reflects differences in losses for individuals or risks with  
8 similar expenses.

9 (2) A determination concerning the existence of a reasonable  
10 degree of competition with respect to subsection (1)(a) shall take  
11 into account a reasonable spectrum of relevant economic tests,  
12 including the number of insurers actively engaged in writing the  
13 insurance in question, the present availability of such insurance  
14 compared to its availability in comparable past periods, the  
15 underwriting return of that insurance over a period of time  
16 sufficient to assure reliability in relation to the risk associated  
17 with that insurance, and the difficulty encountered by new insurers  
18 in entering the market in order to compete for the writing of that  
19 insurance.

20 **SEC. 2109A. (1) ALL RATES FOR AUTOMOBILE INSURANCE SHALL BE**  
21 **REVIEWED BY THE COMMISSIONER BY EXAMINING THE INSURER'S REPORT**  
22 **PREPARED PURSUANT TO SECTION 2128 AND SHALL BE MADE IN ACCORDANCE**  
23 **WITH TOTAL RETURN RATING AND THE FOLLOWING PROVISIONS:**

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



1 (B) A RATE SHALL NOT BE HELD TO BE INADEQUATE UNLESS THE RATE,  
2 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 USE  
6 OF THE RATE HAS OR WILL HAVE THE EFFECT OF DESTROYING COMPETITION  
7 AMONG INSURERS, CREATING A MONOPOLY, OR CAUSING A KIND OF INSURANCE  
8 TO BE UNAVAILABLE TO A SIGNIFICANT NUMBER OF APPLICANTS WHO ARE IN  
9 GOOD FAITH ENTITLED TO PROCURE THAT INSURANCE THROUGH ORDINARY  
10 METHODS.

11 (C) A RATE FOR A COVERAGE IS UNFAIRLY DISCRIMINATORY IN  
12 RELATION TO ANOTHER RATE FOR THE SAME COVERAGE IF THE DIFFERENTIAL  
13 BETWEEN THE RATES IS NOT REASONABLY JUSTIFIED BY DIFFERENCES IN  
14 LOSSES, EXPENSES, OR BOTH, OR BY DIFFERENCES IN THE UNCERTAINTY OF  
15 LOSS, FOR THE INDIVIDUALS OR RISKS TO WHICH THE RATES APPLY. A  
16 REASONABLE JUSTIFICATION SHALL BE SUPPORTED BY A REASONABLE  
17 CLASSIFICATION SYSTEM; BY SOUND ACTUARIAL PRINCIPLES WHEN  
18 APPLICABLE; AND BY ACTUAL AND CREDIBLE LOSS AND EXPENSE STATISTICS  
19 OR, IN THE CASE OF NEW COVERAGES AND CLASSIFICATIONS, BY REASONABLY  
20 ANTICIPATED LOSS AND EXPENSE EXPERIENCE. A RATE IS NOT UNFAIRLY  
21 DISCRIMINATORY BECAUSE IT REFLECTS DIFFERENCES IN EXPENSES FOR  
22 INDIVIDUALS OR RISKS WITH SIMILAR ANTICIPATED LOSSES, OR BECAUSE IT  
23 REFLECTS DIFFERENCES IN LOSSES FOR INDIVIDUALS OR RISKS WITH  
24 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 TO  
4 FILE THE DATA REQUIRED BY SECTION 2128. THE COMMISSIONER SHALL NOT  
5 APPROVE A RATE INCREASE IF THE COMMISSIONER FINDS THE INSURER'S  
6 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 OR  
10 ARE IN THE PROCESS OF BEING LITIGATED AND OF AMOUNTS RESERVED TO BE  
11 USED FOR THOSE EXPENSES. THE COMMISSIONER SHALL NOT APPROVE A RATE  
12 IF THE ADMINISTRATIVE COSTS ASSOCIATED WITH THE LITIGATION OF FIRST  
13 PARTY CLAIMS EXCEED 1% OF THE ADMINISTRATIVE COSTS ASSOCIATED WITH  
14 THE LITIGATION OF THIRD PARTY CLAIMS. EACH AUTOMOBILE INSURANCE  
15 INSURER'S TOTAL ADMINISTRATIVE EXPENSES SHALL BE ALLOCATED TO EACH  
16 TERRITORY ACCORDING TO THE INSURER'S PROPORTIONATE SHARE OF PREMIUM  
17 WRITTEN IN EACH TERRITORY. EACH PREMIUM CHARGED WITHIN EACH  
18 TERRITORY SHALL CONTAIN AN EQUAL SHARE OF THE ADMINISTRATIVE  
19 EXPENSE FOR THE TERRITORY. RATES SHALL BE FILED AND CHARGED UNDER  
20 THIS SECTION SO THAT EACH AUTOMOBILE INSURANCE PREMIUM INCLUDES AN  
21 EQUAL SHARE OF EACH INSURER'S OVERALL ADMINISTRATIVE EXPENSE.

22 SEC. 2109B. (1) IF THE COMMISSIONER DETERMINES THAT ANY PERSON  
23 OR ORGANIZATION HAS VIOLATED THE AUTOMOBILE RATE-MAKING OR  
24 UNDERWRITING PROVISIONS OF THIS CHAPTER, THE COMMISSIONER MAY ISSUE  
25 A CEASE AND DESIST ORDER AND ORDER THE PERSON OR ORGANIZATION TO  
26 PAY A CIVIL FINE OF NOT MORE THAN \$500.00 FOR EACH VIOLATION AND A  
27 CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR EACH WILLFUL VIOLATION. A

1 DEFAULT IN THE PAYMENT OF A CIVIL FINE UNDER THIS SECTION MAY BE  
2 REMEDIED BY ANY MEANS AUTHORIZED UNDER THE REVISED JUDICATURE ACT  
3 OF 1961, 1961 PA 236, MCL 600.101 TO 600.9947. A CIVIL FINE  
4 COLLECTED PURSUANT TO THIS SUBSECTION SHALL BE USED FOR THE  
5 OPERATION OF THE AUTOMOBILE INSURANCE DATA COLLECTION AGENCY  
6 CREATED IN SECTION 2128E.

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

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

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

1 of assessments under this ~~code~~ **ACT**; to assessments under this ~~code~~  
 2 **ACT**; to underwriting practice and judgment; and to all other  
 3 relevant factors within and outside this state.

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

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

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

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

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

25 (i) Either the age of the driver; the length of driving  
 26 experience; or the number of years licensed to operate a motor  
 27 vehicle.

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

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

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

6           (v) Vehicle characteristics, features, and options, such as  
7 engine displacement, ability of vehicle and its equipment to  
8 protect passengers from injury and other similar items, including  
9 vehicle make and model.

10          (vi) Daily or weekly commuting mileage.

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

15          (viii) Amount of insurance.

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

18           (i) Earned income.

19           (ii) Number of dependents of income earners insured under the  
20 policy.

21           (iii) Coordination of benefits.

22           (iv) Use of a safety belt.

23          (v) **THE WAIVER OF COVERAGE FOR WORK LOSS BENEFITS UNDER**  
24 **SECTION 3107.**

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

27           (i) The anticipated cost of vehicle repairs or replacement,

1 which may be measured by age, price, cost new, or value of the  
2 insured automobile, and other factors directly relating to that  
3 anticipated cost.

4 (ii) Vehicle make and model.

5 (iii) Vehicle design characteristics related to vehicle  
6 damageability.

7 (iv) Vehicle characteristics relating to automobile theft  
8 prevention devices.

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

13 (i) The course shall include a minimum of 8 hours of classroom  
14 instruction.

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

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

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

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

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

21 (E) Accident prevention measures.

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

23 (G) Major driving hazards.

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

26 (3) Each insurer shall establish a secondary or merit rating  
27 plan for automobile insurance, other than comprehensive coverage. A

1 secondary or merit rating plan required under this subsection shall  
2 provide for premium surcharges for any or all coverages for  
3 automobile insurance, other than comprehensive coverage, based upon  
4 any or all of the following, when that information becomes  
5 available to the insurer:

6 (a) Substantially at-fault accidents.

7 (b) Convictions for, determinations of responsibility for  
8 civil infractions for, or findings of responsibility in probate  
9 court for civil infractions for, violations under chapter VI of the  
10 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750.

11 However, beginning ~~90 days after the effective date of this~~  
12 ~~sentence~~ **MAY 28, 1996**, an insured shall not be merit rated for a  
13 civil infraction under chapter VI of the Michigan vehicle code,  
14 1949 PA 300, MCL 257.601 to 257.750, for a period of time longer  
15 than that which the secretary of state's office carries points for  
16 that infraction on the insured's motor vehicle record.

17 (4) An insurer shall not establish or maintain rates or rating  
18 classifications for automobile insurance based upon sex or marital  
19 status.

20 (5) Notwithstanding other provisions of this chapter,  
21 automobile insurance risks ~~may~~ **SHALL** be grouped by territory **AS**  
22 **PRESCRIBED BY THE COMMISSIONER. THE COMMISSIONER SHALL ESTABLISH**  
23 **UNIFORM TERRITORIAL RATING TO BE USED BY ALL AUTOMOBILE INSURANCE**  
24 **INSURERS DOING BUSINESS IN THIS STATE. TERRITORIAL BOUNDARIES SHALL**  
25 **BE BASED UPON OBJECTIVE CRITERIA, INCLUDING TRAFFIC PATTERNS, AND**  
26 **SHALL BE RELATED TO THE DRIVING ENVIRONMENT INCLUDING, BUT NOT**  
27 **LIMITED TO, DENSITY OF TRAFFIC, REGULARITY OF TRAFFIC FLOW, TRAFFIC**

1 ROUTE SIZE, AND TYPES OF ROADWAY. A TERRITORY SHALL NOT INCLUDE  
2 LESS THAN 1 COUNTY AND MAY INCLUDE MORE THAN 1 COUNTY. AN INSURER  
3 SHALL NOT CHARGE A TERRITORIAL BASE RATE FOR AN AUTOMOBILE  
4 INSURANCE POLICY UNLESS THE TERRITORIAL RATING SCHEME USED BY THE  
5 INSURER HAS BEEN APPROVED BY THE COMMISSIONER. AN INSURER SHALL  
6 ESTABLISH 1 ACTUARIALLY SOUND BASE RATE FOR EACH PRESCRIBED  
7 TERRITORY, WHICH BASE RATE SHALL BE APPROVED BY THE COMMISSIONER  
8 PURSUANT TO THIS CHAPTER.

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

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

25 (a) Amount and types of coverage.

26 (b) Security and safety devices, including locks, smoke  
27 detectors, and similar, related devices.



1 (c) Repairable structural defects reasonably related to risk.

2 (d) Fire protection class.

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

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

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

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

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

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

17 (9) An insurer may utilize factors in addition to those  
18 specified in this section, if the commissioner finds, after a  
19 hearing held pursuant to the administrative procedures act of 1969,  
20 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage  
21 innovation, would encourage insureds to minimize the risks of loss  
22 from hazards insured against, and would be consistent with the  
23 purposes of this chapter.

24 **SEC. 2111C. (1) BY NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE**  
25 **DATE OF THIS SECTION, EACH AUTOMOBILE INSURANCE INSURER SHALL FILE**  
26 **BASE RATES FOR AUTOMOBILE INSURANCE THAT CONFORM TO THIS ACT AS**  
27 **AMENDED BY THE 2007 AMENDATORY ACT THAT ADDED THIS SECTION AND, FOR**

1 EACH UNIFORM TERRITORY, REFLECT A REDUCTION THAT IS AT LEAST AN  
2 OVERALL 20% REDUCTION FROM THE AGGREGATE RATES PREVIOUSLY CHARGED  
3 IN THE TERRITORY BY THE 10 AUTOMOBILE INSURANCE INSURERS HAVING THE  
4 GREATEST MARKET SHARE IN THE STATE BASED ON RATES IN EFFECT AS OF  
5 MAY 1, 2006. THE COMMISSIONER SHALL REQUIRE A RATE REDUCTION TO  
6 THIS LEVEL UNLESS THE INSURER, AFTER CONFORMING FULLY WITH ALL OF  
7 THE PROVISIONS OF THIS ACT, CAN DEMONSTRATE THAT A DIFFERENT RATE  
8 LEVEL IS ACTUARIALLY ESSENTIAL PURSUANT TO SECTION 2109A.

9 (2) BY NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF THIS  
10 SECTION, EACH AUTOMOBILE INSURANCE INSURER WHO DID NOT WRITE  
11 AUTOMOBILE INSURANCE IN THIS STATE ON MAY 1, 2006 SHALL FILE BASE  
12 RATES FOR AUTOMOBILE INSURANCE THAT DO NOT EXCEED THE WEIGHTED  
13 AVERAGE OF THE BASE RATES FILED ON MAY 1, 2006 BY THE 10 LARGEST  
14 AUTOMOBILE INSURANCE INSURERS BY MARKET SHARE.

15 (3) ASSESSMENTS FOR THE MICHIGAN CATASTROPHIC CLAIMS  
16 ASSOCIATION, AUTOMOBILE THEFT PREVENTION AUTHORITY, AND THE  
17 MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL NOT BE  
18 CONSIDERED IN ACHIEVING THE REDUCTION REQUIRED BY SUBSECTIONS (1)  
19 AND (2).

20 Sec. 2114. (1) A person ~~or organization~~ aggrieved with respect  
21 to any filing ~~which~~ THAT is in effect and ~~which~~ THAT affects the  
22 person ~~or organization~~ may make written application to the  
23 commissioner for a hearing on the filing. However, the insurer or  
24 rating organization ~~which~~ THAT made the filing shall not be  
25 authorized to proceed under this subsection. The application shall  
26 specify the grounds to be relied upon by the applicant. If the  
27 commissioner finds that the application is made in good faith, that

1 the applicant would be so aggrieved if the grounds specified are  
2 established, or that the grounds specified otherwise justify  
3 holding a hearing, the commissioner, not more than 30 days after  
4 receipt of the application, shall hold a hearing in accordance with  
5 ~~Act No. 306 of the Public Acts of 1969, as amended~~ **THE**  
6 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**  
7 **24.328**, upon not less than 10 days' written notice to the  
8 applicant, the insurer, and the rating organization ~~which~~ **THAT** made  
9 the filing.

10 (2) If after hearing initiated under subsection (1) or upon  
11 the commissioner's own motion pursuant to ~~Act No. 306 of the Public~~  
12 ~~Acts of 1969, as amended~~ **THE ADMINISTRATIVE PROCEDURES ACT OF 1969,**  
13 **1969 PA 306, MCL 24.201 TO 24.328**, the commissioner finds that a  
14 filing does not meet the requirements of sections 2109, ~~and 2109A,~~  
15 **OR 2111, AS APPLICABLE**, the commissioner shall issue an order  
16 stating the specific reasons for that finding. The order shall  
17 state when, within a reasonable time after issuance of the order,  
18 the filing shall be considered no longer effective. A copy of the  
19 order shall be sent to the applicant, if any, and to each insurer  
20 and rating organization subject to the order. The order shall not  
21 affect a contract or policy made or issued before the date the  
22 filing becomes ineffective, as indicated in the commissioner's  
23 order.

24 Sec. 2118. (1) As a condition of maintaining its certificate  
25 of authority, an insurer shall not refuse to insure, refuse to  
26 continue to insure, or limit coverage available to an eligible  
27 person for automobile insurance, except in accordance with

1 underwriting rules established pursuant to this section and  
2 sections 2119 and 2120.

3 (2) The underwriting rules that an insurer may establish for  
4 automobile insurance shall be based only on the following:

5 (a) Criteria identical to the standards set forth in section  
6 2103(1).

7 (b) The insurance eligibility point accumulation in excess of  
8 the amounts established by section 2103(1) of a member of the  
9 household of the eligible person insured or to be insured, if the  
10 member of the household usually accounts for 10% or more of the use  
11 of a vehicle insured or to be insured. For purposes of this  
12 subdivision, a person who is the principal driver for 1 automobile  
13 insurance policy shall be rebuttably presumed not to usually  
14 account for more than 10% of the use of other vehicles of the  
15 household not insured under the policy of that person.

16 (c) With respect to a vehicle insured or to be insured,  
17 substantial modifications from the vehicle's original manufactured  
18 state for purposes of increasing the speed or acceleration  
19 capabilities of the vehicle.

20 ~~—— (d) Failure by the person to provide proof that insurance~~  
21 ~~required by section 3101 was maintained in force with respect to~~  
22 ~~any vehicle which was both owned by the person and driven or moved~~  
23 ~~by the person or by a member of the household of the person during~~  
24 ~~the 6 month period immediately preceding application. Such proof~~  
25 ~~shall take the form of a certification by the person on a form~~  
26 ~~provided by the insurer that the vehicle was not driven or moved~~  
27 ~~without maintaining the insurance required by section 3101 during~~

1 ~~the 6 month period immediately preceding application.~~

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

4 (i) The vehicle is of limited production or of custom  
5 manufacture.

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

8 (iii) The vehicle represents exposure to extraordinary expense  
9 for repair or replacement under comprehensive or collision  
10 coverage.

11 (E) ~~(f)~~ Use of a vehicle insured or to be insured for  
12 transportation of passengers for hire, for rental purposes, or for  
13 commercial purposes. Rules under this subdivision shall not be  
14 based on the use of a vehicle for volunteer or charitable purposes  
15 or for which reimbursement for normal operating expenses is  
16 received.

17 (F) ~~(g)~~ Payment of a minimum deposit at the time of  
18 application or renewal, not to exceed the smallest deposit required  
19 under an extended payment or premium finance plan customarily used  
20 by the insurer.

21 (G) ~~(h)~~ For purposes of requiring comprehensive deductibles of  
22 not more than \$150.00, or of refusing to insure if the person  
23 refuses to accept a required deductible, the claim experience of  
24 the person with respect to comprehensive coverage.

25 (H) ~~(i)~~ Total abstinence from the consumption of alcoholic  
26 beverages except ~~when~~ **IF** such beverages are consumed as part of a  
27 religious ceremony. However, an insurer shall not utilize an

1 underwriting rule based on this subdivision unless the insurer has  
2 been authorized to transact automobile insurance in this state  
3 prior to January 1, 1981, and has consistently utilized such an  
4 underwriting rule as part of the insurer's automobile insurance  
5 underwriting since being authorized to transact automobile  
6 insurance in this state.

7 (I) ~~(j)~~ One or more incidents involving a threat, harassment,  
8 or physical assault by the insured or applicant for insurance on an  
9 insurer employee, agent, or agent employee while acting within the  
10 scope of his or her employment so long as a report of the incident  
11 was filed with an appropriate law enforcement agency.

12 Sec. 2120. (1) Affiliated insurers may establish underwriting  
13 rules so that each affiliate will provide automobile insurance only  
14 to certain eligible persons. This subsection shall apply only if an  
15 eligible person can obtain automobile insurance from 1 of the  
16 affiliates. The underwriting rules shall be in compliance with this  
17 section ~~, section~~ **AND SECTIONS** 2118 ~~, and section~~ 2119.

18 (2) An insurer may establish separate rating plans so that  
19 certain eligible persons are provided automobile insurance under 1  
20 rating plan and other eligible persons are provided automobile  
21 insurance under another rating plan. This subsection shall apply  
22 only if all eligible persons can obtain automobile insurance under  
23 a rating plan of the insurer. Underwriting rules consistent with  
24 this section ~~, section~~ **AND SECTIONS** 2118 ~~, and section~~ 2119 shall  
25 be established to define the rating plan applicable to each  
26 eligible person.

27 (3) Underwriting rules under this section shall be based only

1 on the following:

2 (a) With respect to a vehicle insured or to be insured,  
3 substantial modifications from the vehicle's original manufactured  
4 state for purposes of increasing the speed or acceleration  
5 capabilities of the vehicle.

6 ~~—— (b) Failure of the person to provide proof that insurance~~  
7 ~~required by section 3101 was maintained in force with respect to~~  
8 ~~any vehicle owned and operated by the person or by a member of the~~  
9 ~~household of the person during the 6 month period immediately~~  
10 ~~preceding application or renewal of the policy. Such proof shall~~  
11 ~~take the form of a certification by the person that the required~~  
12 ~~insurance was maintained in force for the 6 month period with~~  
13 ~~respect to such vehicle.~~

14 (B) ~~(e)~~ For purposes of insuring persons who have refused a  
15 deductible lawfully required under section ~~2118(2)(h)~~ **2118(2)(G)**,  
16 the claim experience of the person with respect to comprehensive  
17 coverage.

18 (d) Refusal of the person to pay a minimum deposit required  
19 under section ~~2118(2)(g)~~ **2118(2)(F)**.

20 (e) A person's insurance eligibility point accumulation under  
21 section 2103(1)(h), or the total insurance eligibility point  
22 accumulation of all persons who account for 10% or more of the use  
23 of 1 or more vehicles insured or to be insured under the policy.

24 (f) The type of vehicle insured or to be insured as provided  
25 in section ~~2118(2)(e)~~ **2118(2)(D)**.

26 Sec. 2127. The commissioner may by rule prospectively require  
27 insurers, rating organizations, and advisory organizations to

1 collect and report data ~~only~~ to the extent necessary to monitor and  
2 evaluate the automobile and home insurance markets in this state.  
3 The commissioner shall authorize the use of sampling techniques in  
4 each instance where sampling is practicable and consistent with the  
5 purposes for which the data are to be collected and reported. **RULES**  
6 **PROMULGATED UNDER THIS SECTION ARE IN ADDITION TO, AND DO NOT**  
7 **REPLACE, THE REPORTING REQUIREMENTS IN SECTION 2128.**

8 **SEC. 2128. ON OR BEFORE APRIL 1 OF EACH YEAR, EACH INSURER WHO**  
9 **ISSUES AUTOMOBILE INSURANCE IN THIS STATE SHALL FILE WITH THE**  
10 **COMMISSIONER AND WITH THE AUTOMOBILE INSURANCE DATA COLLECTION**  
11 **AGENCY CREATED IN SECTION 2128E ON FORMS PRESCRIBED BY THE**  
12 **AUTOMOBILE INSURANCE DATA COLLECTION AGENCY, THE FOLLOWING**  
13 **AUTOMOBILE INSURANCE DATA, BY TERRITORY, FOR THE PRIOR CALENDAR**  
14 **YEAR:**

15 **(A) WITH RESPECT TO PERSONAL PROTECTION INSURANCE COVERAGE:**

16 **(i) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE**  
17 **BENEFITS FOR WHICH PAYMENT IS MADE.**

18 **(ii) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE**  
19 **BENEFITS THAT ARE CLOSED WITHOUT PAYMENT.**

20 **(iii) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE**  
21 **BENEFITS THAT INVOLVE SOME FORM OF LITIGATION AND ARE CLOSED**  
22 **WITHOUT PAYMENT.**

23 **(iv) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE**  
24 **BENEFITS THAT INVOLVE LITIGATION AND FOR WHICH PAYMENT IS MADE**  
25 **AFTER LITIGATION COMMENCES, INCLUDING THE LENGTH OF TIME BETWEEN**  
26 **THE FILING OF THE CLAIM AND THE FIRST PAYMENT.**

27 **(v) THE AMOUNT OF INTEREST CHARGES PAID ON CLAIMS FOR PERSONAL**



1 PROTECTION INSURANCE BENEFITS AND THE NUMBER OF CASES FOR WHICH  
2 INTEREST CHARGES HAVE BEEN PAID.

3 (vi) THE LITIGATION COSTS FOR CLAIMS FOR PERSONAL PROTECTION  
4 INSURANCE BENEFITS.

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

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

8 (ix) THE NUMBER OF CASES WHERE ATTORNEY FEES ARE PAID, THE  
9 TOTAL AMOUNT OF ATTORNEY FEES PAID, AND THE AMOUNT OF ATTORNEY FEES  
10 PAID FOR EACH CASE WHERE FEES WERE PAID.

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

12 (i) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY TORT  
13 CLAIMS CLOSED BY PAYMENT TO THE CLAIMANT BEFORE THE COMMENCEMENT OF  
14 LITIGATION AND A BREAKDOWN OF HOW MANY OF THESE CLAIMS WERE DEATH  
15 THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION THRESHOLD  
16 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT THRESHOLD CLAIMS.

17 (ii) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY TORT  
18 CLAIM LAWSUITS FILED, AND A BREAKDOWN OF HOW MANY WERE FILED FOR  
19 DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION  
20 THRESHOLD CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT THRESHOLD  
21 CLAIMS.

22 (iii) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY TORT  
23 CLAIMS CLOSED BY PAYMENT TO THE CLAIMANT AFTER THE COMMENCEMENT OF  
24 LITIGATION AND A BREAKDOWN OF HOW MANY OF THESE CLAIMS WERE DEATH  
25 THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION THRESHOLD  
26 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT THRESHOLD CLAIMS.

27 (iv) THE DOLLAR AMOUNT PAID TO CLAIMANTS TO SETTLE THIRD PARTY

1 AUTOMOBILE BODILY INJURY TORT CLAIMS BEFORE AND AFTER LITIGATION  
2 HAD BEEN COMMENCED AND A BREAKDOWN OF THE DOLLAR AMOUNTS PAID FOR  
3 DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION  
4 THRESHOLD CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT THRESHOLD  
5 CLAIMS.

6 (v) THE NUMBER AND DOLLAR AMOUNT PAID OR RESERVED FOR ALL  
7 BODILY INJURY CLAIMS SET UP OR OPENED, INDICATING THE NUMBER AND  
8 DOLLAR AMOUNT OF RESERVES FOR CLAIMS REMAINING OPEN AT THE END OF  
9 THE REPORTING PERIOD.

10 SEC. 2128A. EACH AUTOMOBILE INSURANCE INSURER WRITING  
11 AUTOMOBILE INSURANCE IN THIS STATE SHALL FILE ANNUALLY ON OR BEFORE  
12 APRIL 1 WITH THE COMMISSIONER A CERTIFIED AUDIT OF THE INSURER'S  
13 BOOKS AND RECORDS PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC  
14 ACCOUNTANT.

15 SEC. 2128B. (1) ON OR BEFORE JANUARY 15, 2009 AND EVERY 2  
16 YEARS THEREAFTER, THE COMMISSIONER SHALL ISSUE A PRELIMINARY REPORT  
17 DETAILING THE STATE OF COMPETITION OR AVAILABILITY IN THE  
18 AUTOMOBILE INSURANCE MARKET ON A STATEWIDE BASIS AND DELINEATING  
19 SPECIFIC CLASSIFICATIONS, KINDS OR TYPES OF INSURANCE, IF ANY,  
20 WHERE COMPETITION OR AVAILABILITY DOES NOT EXIST AND SHALL HOLD A  
21 PUBLIC HEARING ON THE REPORT. THE REPORT SHALL BE BASED ON RELEVANT  
22 ECONOMIC TESTS, INCLUDING, BUT NOT LIMITED TO, THOSE IN SUBSECTION  
23 (3). THE FINDINGS IN THE REPORT SHALL NOT BE BASED ON ANY SINGLE  
24 MEASURE OF COMPETITION, BUT APPROPRIATE WEIGHT SHALL BE GIVEN TO  
25 ALL MEASURES OF COMPETITION. THE REPORT SHALL INCLUDE A  
26 CERTIFICATION OF WHETHER OR NOT COMPETITION OR AVAILABILITY EXISTS.  
27 A PERSON WHO DISAGREES WITH THE REPORT AND FINDINGS OF THE

1 COMMISSIONER MAY REQUEST A CONTESTED HEARING PURSUANT TO THE  
2 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO  
3 24.328, NOT LATER THAN 60 DAYS AFTER ISSUANCE OF THE PRELIMINARY  
4 REPORT.

5 (2) ON OR BEFORE AUGUST 1, 2009 AND EVERY 2 YEARS THEREAFTER,  
6 THE COMMISSIONER SHALL ISSUE A FINAL REPORT THAT SHALL INCLUDE A  
7 FINAL CERTIFICATION OF WHETHER OR NOT A REASONABLE DEGREE OF  
8 COMPETITION OR AVAILABILITY EXISTS IN THE AUTOMOBILE INSURANCE  
9 MARKET ON A STATEWIDE BASIS AND IF COMPETITION OR AVAILABILITY DOES  
10 NOT EXIST, A PLAN TO CREATE COMPETITION OR AVAILABILITY. THE FINAL  
11 REPORT AND CERTIFICATION SHALL BE SUPPORTED BY SUBSTANTIAL  
12 EVIDENCE.

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

16 (A) THE EXTENT TO WHICH ANY INSURER CONTROLS THE AUTOMOBILE  
17 INSURANCE MARKET OR ANY PORTION OF THAT MARKET. WITH RESPECT TO  
18 COMPETITION ON A STATEWIDE BASIS, AN INSURER SHALL NOT BE  
19 CONSIDERED TO CONTROL THE AUTOMOBILE INSURANCE MARKET UNLESS IT HAS  
20 MORE THAN A 15% MARKET SHARE.

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

24 (C) THE DISPARITY AMONG AUTOMOBILE INSURANCE RATES AND  
25 CLASSIFICATIONS TO THE EXTENT THAT SUCH CLASSIFICATIONS RESULT IN  
26 RATE DIFFERENTIALS.

27 (D) THE AVAILABILITY OF AUTOMOBILE INSURANCE TO INDIVIDUALS IN

1 ALL GEOGRAPHIC AREAS OF THE STATE.

2 (E) THE RESIDUAL MARKET SHARE.

3 (F) THE OVERALL RATE LEVEL.

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

5 (4) A PLAN TO CREATE COMPETITION OR AVAILABILITY SHALL ONLY  
6 RELATE TO THOSE GEOGRAPHIC AREAS, CLASSIFICATIONS, OR KINDS OR  
7 TYPES OF RISKS WHERE COMPETITION OR AVAILABILITY HAS BEEN CERTIFIED  
8 NOT TO EXIST. THE PLAN MAY INCLUDE METHODS DESIGNED TO CREATE  
9 COMPETITION OR AVAILABILITY AS THE COMMISSIONER CONSIDERS  
10 NECESSARY, AND MAY PROVIDE FOR THE COMMISSIONER TO DO 1 OR MORE OF  
11 THE FOLLOWING:

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

14 (B) MODIFY THE RATE APPROVAL PROCESS IN A MANNER TO INCREASE  
15 COMPETITION OR AVAILABILITY WHILE AT THE SAME TIME PROVIDING FOR  
16 REASONABLY TIMELY RATE APPROVALS. MODIFICATIONS UNDER THIS  
17 SUBDIVISION SHALL NOT AFFECT THE REQUIREMENTS OF SECTIONS 2106 AND  
18 2107A.

19 (C) ORDER EXCESS PROFITS REGULATION. EXCESS PROFITS REGULATION  
20 AUTHORIZED BY THIS SUBDIVISION SHALL BE BASED UPON RULES  
21 PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,  
22 1969 PA 306, MCL 24.201 TO 24.328. EXCESS PROFITS SHALL INCLUDE  
23 BOTH UNDERWRITING PROFITS AND ALL AFTER-TAX INVESTMENT OR  
24 INVESTMENT PROFIT OR LOSS FROM UNEARNED PREMIUMS AND LOSS RESERVES  
25 ATTRIBUTABLE TO AUTOMOBILE INSURANCE. THE COMMISSIONER, PURSUANT TO  
26 EXCESS PROFITS REGULATION, MAY ESTABLISH FORMS FOR THE REPORTING OF  
27 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 THEIR  
3 CERTIFICATE OF AUTHORITY. THE ORDER SETTING THE RATES SHALL TAKE  
4 EFFECT NOT LESS THAN 90 DAYS OR MORE THAN 150 DAYS AFTER THE ORDER  
5 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 GOVERNMENT.

12 (5) THE REPORTS AND CERTIFICATIONS REQUIRED UNDER SUBSECTIONS  
13 (1) AND (2) SHALL BE FORWARDED TO THE GOVERNOR, THE CLERK OF THE  
14 HOUSE, THE SECRETARY OF THE SENATE, AND ALL THE MEMBERS OF THE  
15 HOUSE OF REPRESENTATIVES AND SENATE STANDING COMMITTEES ON  
16 INSURANCE ISSUES.

17 SEC. 2128C. (1) EACH INSURER WRITING 7% OR MORE OF THE  
18 AUTOMOBILE INSURANCE IN THIS STATE SHALL GEOGRAPHICALLY MARKET  
19 AUTOMOBILE INSURANCE PROPORTIONATE TO THE NUMBER OF REGISTERED  
20 VEHICLES IN EACH AREA OF THE STATE. BEGINNING 1 YEAR AFTER THE  
21 EFFECTIVE DATE OF THIS SECTION, EACH INSURER WRITING 7% OR MORE OF  
22 THE AUTOMOBILE INSURANCE IN THIS STATE SHALL SUBMIT ANNUALLY TO THE  
23 COMMISSIONER A MARKETING PLAN INDICATING THE NUMBER OF AGENTS THAT  
24 MARKET FOR THE INSURER AND THE LOCATION OF THEIR OFFICES. THE  
25 COMMISSIONER SHALL DETERMINE THE ADEQUACY OF EACH INSURER'S  
26 MARKETING PLAN AND APPROVE OR DISAPPROVE THE PLAN WITHIN 30 DAYS  
27 AFTER THE COMMISSIONER'S RECEIPT OF THE PLAN.

1           (2) IF THE COMMISSIONER, AFTER REVIEWING AN AUTOMOBILE  
2 INSURER'S MARKETING PLAN, FINDS THE PLAN IS NOT IN COMPLIANCE WITH  
3 SUBSECTION (1), THE COMMISSIONER SHALL NOTIFY THE INSURER IN  
4 WRITING OF THE INSURER'S FAILURE TO COMPLY WITH THE LAW, SHALL  
5 RECOMMEND REVISIONS TO THE INSURER'S PLAN, AND SHALL REQUIRE THAT A  
6 REVISED PLAN BE RESUBMITTED WITHIN 30 DAYS. THE COMMISSIONER SHALL  
7 APPROVE OR DISAPPROVE AN INSURER'S REVISIONS TO THE PLAN WITHIN 30  
8 DAYS AFTER THE COMMISSIONER'S RECEIPT OF THE REVISED PLAN.

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

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

21           (5) THE COMMISSIONER SHALL NOTIFY EACH AUTOMOBILE INSURANCE  
22 INSURER LICENSED IN THIS STATE OF THE MARKETING PLAN FILING  
23 REQUIREMENT.

24           SEC. 2128D. (1) IF THE COMMISSIONER FINDS, AFTER A HEARING  
25 HELD PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA  
26 306, MCL 24.201 TO 24.328, THAT ACCESS TO A REASONABLY COMPETITIVE  
27 AND CONVENIENT AUTOMOBILE INSURANCE MARKET IN THIS STATE IS LACKING

1 FOR CERTAIN CONSUMERS, THE COMMISSIONER MAY ORDER THE MICHIGAN  
2 AUTOMOBILE INSURANCE PLACEMENT FACILITY TO DEVELOP A MARKET ACCESS  
3 PLAN, SUBJECT TO THE COMMISSIONER'S APPROVAL, TO ASSURE THAT THOSE  
4 CONSUMERS HAVE REASONABLE AND CONVENIENT ACCESS TO THE MICHIGAN  
5 AUTOMOBILE INSURANCE PLACEMENT FACILITY AND COMPETITIVE INSURANCE  
6 MARKETS IN THIS STATE.

7 (2) IF A MARKET ACCESS PLAN UNDER SUBSECTION (1) IS NOT  
8 SUBMITTED WITHIN 30 DAYS AFTER THE DATE OF THE COMMISSIONER'S  
9 ORDER, OR IF THE PLAN DOES NOT MEET THE COMMISSIONER'S APPROVAL,  
10 THE COMMISSIONER SHALL DEVELOP A MARKET ACCESS PLAN AND ORDER ITS  
11 IMPLEMENTATION BY THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT  
12 FACILITY UNTIL SUCH TIME THAT A PLAN ESTABLISHED BY THE MICHIGAN  
13 AUTOMOBILE INSURANCE PLACEMENT FACILITY IS APPROVED BY THE  
14 COMMISSIONER.

15 SEC. 2128E. (1) THERE IS CREATED AN AUTOMOBILE INSURANCE DATA  
16 COLLECTION AGENCY TO ADMINISTER THE AUTOMOBILE INSURANCE DATA  
17 COLLECTION REQUIREMENTS OF THIS ACT. THE GOVERNING BOARD OF THE  
18 AUTOMOBILE INSURANCE DATA COLLECTION AGENCY SHALL BE COMPOSED OF  
19 THE COMMISSIONER AND 8 MEMBERS APPOINTED BY THE COMMISSIONER AS  
20 FOLLOWS:

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

24 (B) TWO PERSONS WHO REPRESENT THE GENERAL PUBLIC OF THIS  
25 STATE.

26 (C) ONE PERSON WHO IS A LICENSED MEDICAL PROFESSIONAL IN THIS  
27 STATE AND WHO DOES NOT OWN ANY PORTION OF AN AUTOMOBILE INSURANCE

1 INSURER OR MANAGE DIRECTLY OR INDIRECTLY AN AUTOMOBILE INSURANCE  
2 INSURER'S AFFAIRS.

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

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

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

12 (2) A MEMBER OF THE GOVERNING BOARD OF THE AUTOMOBILE  
13 INSURANCE DATA COLLECTION AGENCY SHALL SERVE FOR A TERM OF 2 YEARS.

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

17 (A) PRESCRIBE RATE FILING FORMS AND DATA COLLECTION FORMS AND  
18 ESTABLISH UNIFORM DATA REPORTING REQUIREMENTS NECESSARY TO SATISFY  
19 THE PROVISIONS OF THIS CHAPTER.

20 (B) ANALYZE REPORTED DATA, ANALYZE AUTOMOBILE INSURANCE  
21 INSURERS' RATE-MAKING DATA, AND REPORT THESE FINDINGS TO THE  
22 COMMISSIONER, AND COLLECT AND ANALYZE OTHER PERTINENT DATA AT THE  
23 COMMISSIONER'S REQUEST.

24 (C) PREPARE REPORTS ON AUTOMOBILE INSURANCE AS REQUESTED BY  
25 THE COMMISSIONER.

26 (D) ESTABLISH UNIFORM CLASSIFICATION SYMBOLS OR OTHER UNIFORM  
27 DESIGNATIONS FOR USE BY AUTOMOBILE INSURANCE INSURERS TO ESTABLISH



1 RISK ASSOCIATED WITH EACH TYPE OF VEHICLE TO BE INSURED.

2 (E) IN A UNIFORM MANNER, GATHER ALL DATA NECESSARY TO  
3 ACCOMPLISH TOTAL RETURN RATE-MAKING. INFORMATION SHALL BE GATHERED  
4 THAT ENABLES THE COMMISSIONER TO ASSESS AN INSURER'S ACTUAL LOSS  
5 EXPERIENCE, LEVEL OF PROFIT, INTEREST INCOME, METHOD FOR ASSESSING  
6 ANTICIPATED LOSSES, PARTICULAR APPLICATION OF LOSS TREND FACTORS,  
7 PURE PREMIUM, FREQUENCY OF LOSSES BASED ON THE NUMBER OF VEHICLES  
8 INSURED, AND THE LOSS COSTS AND FREQUENCY OF LOSSES ASSOCIATED WITH  
9 THE COMPONENT PARTS OF EACH ASPECT OF COVERAGE, INCLUDING, BUT NOT  
10 LIMITED TO, MEDICAL, WAGE-LOSS, REPLACEMENT SERVICES, SURVIVORS  
11 BENEFITS, DEATH BENEFIT, COLLISION COVERAGE, COMPREHENSIVE COVERAGE  
12 WITH THEFT REPORTED AS A SEPARATE COMPONENT, BODILY INJURY OR  
13 LIABILITY COVERAGE REPORTED BY POLICY LIMITS, PROPERTY PROTECTION,  
14 AND ALL OTHER BENEFITS BEING MARKETED BY THE INSURER.

15 (F) GATHER DETAILED DATA ABOUT INSURERS' ADMINISTRATIVE  
16 EXPENSES AND THEIR RELATIONSHIP TO THE PREMIUM CHARGED, INCLUDING  
17 COSTS FOR EACH TYPE OF LITIGATION ASSOCIATED WITH AUTOMOBILE  
18 INSURANCE CLAIMS RESOLUTION, SALARIES, FRINGE BENEFITS,  
19 COMMISSIONS, AND COSTS ASSOCIATED WITH OVERHEAD AND OTHER FIXED  
20 COSTS.

21 (G) REQUIRE EACH INSURER TO LIST THE ITEMS THAT ARE USED TO  
22 COMPOSE A BASE RATE AND REQUIRE EACH INSURER TO EXPLAIN THE  
23 APPLICATIONS OF BASE RATES.

24 (H) ESTABLISH FORMS TO ENABLE THE COLLECTION OF DATA  
25 SUFFICIENT TO PERMIT THE COMMISSIONER TO DETERMINE THAT ALL ASPECTS  
26 OF AUTOMOBILE INSURANCE RATE-MAKING ARE ACTUARIALLY SOUND AND THAT  
27 AUTOMOBILE INSURANCE RATES ARE NOT EXCESSIVE OR DISCRIMINATORY.

1 (I) REQUIRE THE REPORTING OF ALL AUTOMOBILE INSURANCE CLAIMS  
2 COSTS AND THE FREQUENCY OF EACH TYPE OF LOSS AND PROVIDE THE  
3 COMMISSIONER WITH THIS DATA.

4 (J) COLLECT ALL AUTOMOBILE INSURANCE RATE-MAKING DATA AND  
5 EVALUATE THIS DATA BY DETERMINING ITS ACTUARIAL SOUNDNESS AND BY  
6 MAKING COMPARISONS BASED ON STATEWIDE UNIFORM RATING TERRITORIES AS  
7 ESTABLISHED BY THIS ACT.

8 (K) ENSURE THAT ALL NECESSARY DATA ARE COLLECTED AND ANALYZED  
9 IN A MANNER THAT COMPLIES WITH THE PROVISIONS OF THIS CHAPTER.

10 (L) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, DESIGNATE 1  
11 ADVISORY ORGANIZATION FOR THE PURPOSE OF IMPLEMENTING ITS DATA  
12 COLLECTION PLAN AND THE COMPILATION OF RATE-MAKING AND OTHER  
13 FINANCIAL DATA FROM AUTOMOBILE INSURANCE INSURERS. THE DESIGNATED  
14 ADVISORY ORGANIZATION SHALL REPORT ITS FINDINGS TO THE AUTOMOBILE  
15 INSURANCE DATA COLLECTION AGENCY, WHICH SHALL REPORT TO THE  
16 COMMISSIONER.

17 (M) REPORT TO THE COMMISSIONER ANY KNOWN VIOLATION OF THIS  
18 ACT.

19 (N) COMPLETE ANY OTHER TASK REQUIRED TO SATISFY THE PROVISIONS  
20 OF THIS ACT AS REQUESTED BY THE COMMISSIONER.

21 (4) THE COMMISSIONER SHALL MAKE RECOMMENDATIONS TO THE  
22 LEGISLATURE ANNUALLY REGARDING THE ADEQUACY OF STATUTORY  
23 UNDERWRITING AND RATE-MAKING PROVISIONS BASED UPON THE INFORMATION  
24 GATHERED AND ANALYZED BY THE AUTOMOBILE INSURANCE DATA COLLECTION  
25 AGENCY AND ANY OTHER INFORMATION THAT THE COMMISSIONER CONSIDERS  
26 APPROPRIATE.

27 SEC. 2128F. (1) ON OR BEFORE APRIL 1, 2008, AND ON OR BEFORE

1 EACH APRIL 1 THEREAFTER, EACH INSURER ENGAGED IN WRITING INSURANCE  
2 COVERAGES THAT PROVIDE THE SECURITY REQUIRED BY SECTION 3101(1)  
3 WITHIN THIS STATE, AS A CONDITION OF ITS AUTHORITY TO TRANSACT  
4 INSURANCE IN THIS STATE, SHALL PAY TO THE AUTOMOBILE INSURANCE DATA  
5 COLLECTION AGENCY AN ASSESSMENT EQUAL TO \$1.00 MULTIPLIED BY THE  
6 INSURER'S TOTAL EARNED CAR YEARS OF INSURANCE PROVIDING THE  
7 SECURITY REQUIRED BY SECTION 3101(1) WRITTEN IN THIS STATE DURING  
8 THE IMMEDIATELY PRECEDING CALENDAR YEAR.

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

14 (3) MONEY IN THE DATA COLLECTION FUND SHALL BE USED TO PAY THE  
15 COSTS OF ADMINISTRATION OF THE AUTOMOBILE INSURANCE DATA COLLECTION  
16 AGENCY AND SHALL NOT BE CONSIDERED STATE MONEY.

17 Sec. 2236. (1) A basic insurance policy form or annuity  
18 contract form shall not be issued or delivered to any person in  
19 this state, and an insurance or annuity application form if a  
20 written application is required and is to be made a part of the  
21 policy or contract, a printed rider or indorsement form or form of  
22 renewal certificate, and a group certificate in connection with the  
23 policy or contract, shall not be issued or delivered to a person in  
24 this state, until a copy of the form is filed with ~~the insurance~~  
25 ~~bureau~~ and approved by the commissioner as conforming with the  
26 requirements of this act and not inconsistent with the law. Failure  
27 of the commissioner to act within 30 days after submittal

1 constitutes approval. All such forms, except policies of disability  
2 insurance as defined in section 3400, shall be plainly printed with  
3 type size not less than 8-point unless the commissioner determines  
4 that portions of such a form printed with type less than 8-point is  
5 not deceptive or misleading.

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

19 (3) Beginning January 1, 1992, the commissioner shall not  
20 approve a form filed pursuant to this section providing for or  
21 relating to an insurance policy or an annuity contract for  
22 personal, family, or household purposes if the form fails to obtain  
23 the readability score or meet the other requirements of this  
24 subsection, as applicable:

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

1 (b) The readability score for a form shall be determined as  
2 follows:

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

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

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

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

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

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

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

1 sentence.

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

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

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

11 (iii) Shall not be applied to language specifically agreed upon  
12 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 apply  
25 to indorsements.

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

1 (i) Contain a properly descriptive title.

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

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

5 (h) If a computer system approved by the commissioner  
6 calculates the readability score of a form as being in compliance  
7 with 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 policy  
10 or annuity contract form for personal, family, or household  
11 purposes, whether by indorsement, rider, or otherwise, or a change  
12 or addition to a rider or indorsement form to such policy or  
13 annuity contract form, which policy or annuity contract form has  
14 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 if  
19 it violates any provisions of this act, or contains inconsistent,  
20 ambiguous, or misleading clauses, or contains exceptions and  
21 conditions that unreasonably or deceptively affect the risk  
22 purported to be assumed in the general coverage of the policy. The  
23 notice shall specify the objectionable provisions or conditions and  
24 state the reasons for the commissioner's decision. If the form is  
25 legally in use by the insurer in this state, the notice shall give  
26 the effective date of the commissioner's disapproval, which shall  
27 not be less than 30 days ~~subsequent to~~ **AFTER** the mailing or

1 delivery of the notice to the insurer. If the form is not legally  
2 in use, then disapproval shall be effective immediately.

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

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

19 (8) The filing requirements of this section do not apply to  
20 any of the following:

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

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

23 (ii) Bridges, tunnels, or other instrumentalities of  
24 transportation and communication.

25 (iii) Aircraft and attached equipment.

26 (iv) Vessels and watercraft under construction or owned by or  
27 used in a business or having a straight-line hull length of more



1 than 24 feet.

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

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

6 (ii) Aircraft and attached equipment.

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

10 (c) Surety bonds other than fidelity bonds.

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

1 that portion of the document or form that establishes a  
 2 relationship between group disability insurance and personal  
 3 protection insurance benefits subject to exclusions or deductibles  
 4 pursuant to section 3109a, exempt by order of the commissioner from  
 5 the filing requirements of this section and sections 2242 and 3606  
 6 are considered approved by the commissioner for purposes of section  
 7 3430.

8 (e) Insurance that meets both of the following:

9 (i) Is sold to an exempt commercial policyholder.

10 (ii) Contains a prominent disclaimer that states "This policy  
 11 is exempt from the filing requirements of section 2236 of the  
 12 insurance code of 1956, 1956 PA 218, MCL 500.2236." or words that  
 13 are substantially similar.

14 (9) As used in this section and sections 2401 and 2601,  
 15 "exempt commercial policyholder" means an insured that purchases  
 16 the insurance for other than personal, family, or household  
 17 purposes.

18 (10) Every order made by the commissioner under the provisions  
 19 of this section is subject to court review as provided in section  
 20 244.

21 Sec. 2400. (1) ~~Except with respect to worker's compensation~~  
 22 ~~insurance, the~~ **THE** purpose of this chapter is to promote the public  
 23 welfare by regulating insurance rates to the end that they shall  
 24 not be excessive, inadequate, or unfairly discriminatory, and to  
 25 ~~authorize and regulate cooperative action among insurers in rate-~~  
 26 ~~making and in other matters within the scope of the insurance code~~  
 27 **THIS ACT.** Nothing in this chapter is intended ~~(1)~~ to prohibit or

discourage reasonable competition. ~~, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans, or practices.~~

~~—— (2) With respect to worker's compensation insurance, the~~ **THE** purposes of this chapter are **ALSO INCLUDE THE FOLLOWING:**

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

(b) ~~To promote~~ **PROMOTING** price competition among insurers writing worker's compensation insurance so as to encourage rates which ~~that~~ **THAT** will result in the lowest possible rates consistent with the benefits established in the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws, **PROVIDED** and with maintaining the solvency of insurers.

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

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

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

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

Sec. 2406. (1) Except for worker's compensation insurance, ~~every~~ **EACH** insurer shall file with the commissioner every manual of classification, every manual of rules and rates, every rating plan,

1 and every modification of any of the foregoing that it proposes to  
2 use. ~~Every such~~ **IN ITS** filing, **EACH INSURER** shall state the  
3 proposed effective date ~~thereof~~ **OF THE FILING** and shall indicate  
4 the character and extent of the coverage contemplated. If a filing  
5 is not accompanied by the information upon which the insurer  
6 supports the filing, and the commissioner does not have sufficient  
7 information to determine whether the filing meets the requirements  
8 of this chapter, the commissioner shall within 10 days of the  
9 filing give written notice to the insurer to furnish the  
10 information ~~upon which it~~ **THAT** supports the filing. The information  
11 furnished in support of a filing may include the experience or  
12 judgment of the insurer ~~or rating organization~~ making the filing,  
13 its interpretation of any statistical data it relies upon, the  
14 experience of other insurers, ~~or rating organizations~~, or any other  
15 relevant factors. A filing and any supporting information shall be  
16 open to public inspection after the filing becomes effective.

17 (2) Except for worker's compensation insurance **AND FOR FILINGS**  
18 **CONCERNING RATES**, an insurer may satisfy its obligation to make  
19 ~~such~~ filings by becoming a member of, or a subscriber to, a  
20 licensed rating organization that makes ~~such~~ filings, and by filing  
21 with the commissioner a copy of its authorization of the rating  
22 organization to make ~~such~~ filings on its behalf. Nothing contained  
23 in this chapter shall be construed as requiring any insurer to  
24 become a member of or a subscriber to any rating organization.

25 (3) For worker's compensation insurance in this state the  
26 insurer shall file with the commissioner all rates and rating  
27 systems. ~~Every insurer that insures worker's compensation in this~~

~~state on the effective date of this subsection shall file the rates not later than the effective date of this subsection.~~

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

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

(6) **AS A CONDITION OF MAINTAINING ITS CERTIFICATE OF AUTHORITY, AN INSURER SHALL NOT DO ANY OF THE FOLLOWING:**

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

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

(C) **AGREE WITH ANY OTHER INSURER OR RATING ORGANIZATION TO**

1 ADHERE TO OR USE ANY RATE, RATING PLAN, RATING SCHEDULE, RATING  
2 RULE, OR UNDERWRITING RULE IN THIS STATE.

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

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

24 (2) At any time within ~~15~~ **30** days from and after the date of  
25 ~~any such~~ **A** filing **UNDER SUBSECTION (1)**, the commissioner may give  
26 written notice to the insurer ~~or rating organization~~ making ~~such~~  
27 **THE** filing **OR ON WHOSE BEHALF THE FILING WAS MADE**, specifying in

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

14 (3) ~~In the event that no~~ **IF A** notice of hearing ~~shall be~~ **IS**  
 15 **NOT** issued within ~~15-30~~ days from the date of ~~any such-A~~ filing  
 16 **UNDER SUBSECTION (1)**, the filing shall be ~~deemed~~ **CONSIDERED** to be  
 17 approved. If ~~such-**THE**~~ filing ~~shall be~~ **IS** disapproved, the insuring  
 18 provisions of ~~any-A~~ contract or policy issued ~~prior to~~ **BEFORE** the  
 19 time the order becomes effective shall not be affected. ~~But~~  
 20 **HOWEVER**, if the commissioner disapproves ~~such-A~~ filing as not being  
 21 in compliance with section ~~2403 (1) (d) (rate standards)~~, he  
 22 **2403 (1) (D)**, **THE COMMISSIONER** may order an adjustment of the premium  
 23 to be made with the policyholder either by refund or collection of  
 24 additional premium, if the amount is substantial and equals or  
 25 exceeds the cost of making the adjustment. ~~The~~

26 (4) **AT ANY TIME**, **THE** commissioner may ~~thereafter~~ review ~~any~~  
 27 ~~such-A~~ filing in the manner provided in sections 2418 and 2420. 7

1 ~~but if so reviewed, no~~ **HOWEVER, IF THE COMMISSIONER DISAPPROVES A**  
 2 **FILING PURSUANT TO THAT REVIEW BEYOND THE THIRTIETH DAY AFTER THE**  
 3 **DATE OF FILING, THE COMMISSIONER SHALL NOT ORDER AN** adjustment of  
 4 premium. ~~may be ordered. Sections 2406 (2) (filing may be made by~~  
 5 ~~rating organization), 2408 (1) (commissioner shall review filing as~~  
 6 ~~soon as reasonably possible), and 2412 (insurer must adhere to~~  
 7 ~~filing) shall be~~

8 **(5) SECTIONS 2406(2), 2408(1), AND 2412 ARE** applicable to  
 9 filings made under this section.

10 Sec. 2436. (1) A corporation, an association, a partnership,  
 11 or an individual, whether located within or outside this state, may  
 12 ~~make application to~~ **APPLY WITH** the commissioner for a license as a  
 13 rating organization to make ~~rates and~~ insurance contract forms for  
 14 the kinds of insurance or subdivisions ~~thereof~~ **OF INSURANCE**, except  
 15 for worker's compensation insurance, as are specified in its  
 16 application. ~~and~~ **THE CORPORATION, ASSOCIATION, PARTNERSHIP, OR**  
 17 **INDIVIDUAL** shall file with the application all of the following:

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

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

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

25 (d) A statement of its qualifications as a rating  
 26 organization.

27 (2) If the commissioner finds that the applicant is competent,



1 trustworthy, and otherwise qualified to act as a rating  
 2 organization and that its constitution, articles of agreement or  
 3 association, or certificate of incorporation ~~—~~and its bylaws and  
 4 rules governing the conduct of its business conform to the  
 5 requirements of law, ~~he or she~~ **THE COMMISSIONER** shall issue a  
 6 license specifying the kinds of insurance or subdivisions thereof  
 7 **OF INSURANCE** for which the applicant is authorized to act as a  
 8 rating organization. ~~Every application shall be granted or denied~~  
 9 ~~in whole or in part by the~~ **THE** commissioner, within 60 days of the  
 10 date of its filing, ~~with the commissioner~~ **SHALL GRANT OR DENY THE**  
 11 **APPLICATION IN WHOLE OR IN PART.**

12 (3) The fee for the ~~A~~ license shall be ~~UNDER THIS SECTION IS~~  
 13 \$25.00, which shall be ~~FEE IS~~ in lieu of all other fees, licenses,  
 14 or taxes imposed by the state or any political subdivision of the  
 15 **THIS** state.

16 (4) Licenses issued pursuant to this section shall remain in  
 17 force for 3 years from date of issuance unless suspended or revoked  
 18 by the commissioner, after hearing upon notice, pursuant to section  
 19 2478, ~~in the event~~ **IF** the rating organization ceases to meet the  
 20 requirements of this section.

21 (5) ~~Every~~ **A** rating organization shall notify the commissioner  
 22 promptly of ~~every~~ **A** change in any of the following:

23 (a) Its constitution, its articles of agreement or  
 24 association, or its certificate of incorporation ~~—~~and its bylaws  
 25 and rules governing the conduct of its business.

26 (b) Its list of members and subscribers.

27 (c) The name and address of the resident of this state

1 designated by it upon whom notices or orders of the commissioner or  
2 process affecting the rating organization may be served.

3 Sec. 2438. (1) Subject to **REASONABLE** rules and regulations  
4 ~~which have been approved by the commissioner, as reasonable, each A~~  
5 rating organization shall permit ~~any~~ **AN** insurer, not a member, to  
6 be a subscriber to its ~~rating~~ services for any kind of insurance or  
7 subdivision thereof **OF INSURANCE** for which it is ~~authorized~~  
8 **LICENSED** to act as a rating organization. Notice of proposed  
9 changes in ~~such~~ **THE** rules and regulations shall be given to  
10 subscribers. Each rating organization shall furnish its ~~rating~~  
11 services without discrimination to its members and subscribers.

12 (2) ~~The~~ **AT THE REQUEST OF A SUBSCRIBER OR INSURER, THE**  
13 reasonableness of ~~any~~ **A** rule or regulation in its application to  
14 subscribers ~~, or the refusal of any A rating organization to admit~~  
15 an insurer as a subscriber ~~, shall, at the request of any~~  
16 ~~subscriber or any such insurer,~~ be reviewed by the commissioner at  
17 a hearing held upon at least 10 days' written notice to ~~such~~ **THE**  
18 rating organization and to ~~such~~ **THE REQUESTING** subscriber or  
19 insurer. If the commissioner finds that ~~such~~ **THE** rule or regulation  
20 is unreasonable in its application to subscribers, ~~he~~ **THE**  
21 **COMMISSIONER** shall order that ~~such~~ **THE** rule or regulation ~~shall~~ **IS**  
22 not ~~be~~ applicable to subscribers.

23 (3) If the rating organization fails to grant or reject an  
24 insurer's application for subscribership within 30 days after it  
25 was made, the insurer may request a review by the commissioner as  
26 if the application had been rejected. If the commissioner finds  
27 that the insurer has been refused admittance to the rating

1 organization as a subscriber without justification, ~~he~~**THE**  
 2 **COMMISSIONER** shall order the rating organization to admit the  
 3 insurer as a subscriber. If ~~he~~**THE COMMISSIONER** finds that the  
 4 action of the rating organization was justified, ~~he~~**THE**  
 5 **COMMISSIONER** shall ~~make an order affirming its action~~ **AFFIRMED**.

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

1 before the commissioner pursuant to this section may be represented  
 2 at the hearing by an attorney. A person, other than an individual,  
 3 that requests a hearing before the commissioner pursuant to this  
 4 section may also be represented by an officer or employee of that  
 5 person. An individual who requests a hearing before the  
 6 commissioner pursuant to this section may also be represented by a  
 7 relative of the individual.

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

15       (2) ~~Every~~ **EACH** advisory organization shall file with the  
 16 commissioner **ALL OF THE FOLLOWING**:

17       (a) A copy of its constitution, its articles of agreement or  
 18 association, or its certificate of incorporation and ~~of~~ its bylaws,  
 19 rules, and regulations governing its activities. 7

20       (b) A list of its members. 7

21       (c) The name and address of a resident of this state upon whom  
 22 notices or orders of the commissioner or process issued at ~~his~~ **THE**  
 23 **COMMISSIONER'S** direction may be served. 7 ~~and~~

24       (d) An agreement that the commissioner may examine ~~such~~ **THE**  
 25 advisory organization ~~in accordance with~~ **PURSUANT TO** the provisions  
 26 of section 2468.

27       (3) If, after a hearing, the commissioner finds that the

1 furnishing of ~~such~~ information or assistance involves any act or  
 2 practice ~~which~~ **THAT** is unfair or unreasonable or otherwise  
 3 inconsistent with the provisions of this chapter, ~~he~~ **THE**  
 4 **COMMISSIONER** may issue a written order specifying in what respects  
 5 ~~such~~ **THE** act or practice is unfair or unreasonable or otherwise  
 6 inconsistent with the provisions of this chapter, and requiring the  
 7 discontinuance of ~~such~~ **THE** act or practice.

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

17 Sec. 2472. (1) The commissioner shall promulgate reasonable  
 18 rules and statistical plans, reasonably adapted to each of the  
 19 rating systems on file with him, ~~which~~ **THE COMMISSIONER. THE**  
 20 **COMMISSIONER** may ~~be modified~~ **MODIFY THE RULES AND PLANS** from time  
 21 to time. ~~and which~~ **EACH INSURER** shall ~~be used thereafter~~ **USE THE**  
 22 **RULES AND PLANS AFTER PROMULGATION** to the extent applicable to ~~its~~  
 23 **THE INSURER'S** particular rating system or systems, ~~by each insurer~~  
 24 in the recording and reporting of its loss and countrywide expense  
 25 experience, in order that the experience of all insurers may be  
 26 made available at least annually in ~~such~~ **THE** form and detail ~~as may~~  
 27 ~~be~~ **THAT IS** necessary to aid him ~~THE COMMISSIONER~~ in determining

1 whether rating systems comply with the standards set forth in  
2 section 2403. ~~Such~~**THE** rules and plans may also provide for the  
3 recording and reporting of expense experience items ~~which~~**THAT** are  
4 ~~specially~~**SPECIFICALLY** applicable to this state and are not  
5 susceptible of determination by a prorating of countrywide expense  
6 experience. In promulgating ~~such~~ rules and plans **UNDER THIS**  
7 **SECTION**, the commissioner shall give due consideration to the  
8 rating systems on file with ~~him~~**THE COMMISSIONER** and, in order that  
9 ~~such~~**THE** rules and plans may be as uniform as is practicable among  
10 the several states, to the rules and to the form of the plans used  
11 for ~~such~~ rating systems in other states. ~~No~~**AN** insurer shall **NOT** be  
12 required to record or report its loss experience on a  
13 classification basis that is inconsistent with the rating system  
14 filed by it. ~~and no~~**AN** insurer shall **NOT** be required to record or  
15 report its loss or expense experience on any basis or statistical  
16 plan that differs from that which is regularly employed and  
17 maintained in the usual course of ~~such~~**THE** insurer's business, or  
18 to any rating organization or agency of which it is not a member or  
19 subscriber. The commissioner may designate 1 or more rating  
20 organizations or other agencies to assist ~~him~~ in **THE** gathering ~~such~~  
21 **OF AND MAKING COMPILATIONS OF** experience ~~and making compilations~~  
22 ~~thereof, and such~~**UNDER THIS SECTION. THE COMMISSIONER SHALL MAKE**  
23 ~~compilations shall be made~~**OF EXPERIENCE UNDER THIS SECTION**  
24 available, subject to reasonable rules promulgated by the  
25 commissioner, to insurers and rating organizations.

26 (2) Reasonable rules and plans may be promulgated by the  
27 commissioner for the interchange of data necessary for the

1 application of rating plans.

2 (3) In order to further uniform administration of rate  
 3 regulatory laws, the commissioner and ~~every~~ **EACH** insurer and ~~rating~~  
 4 ~~organization~~ may exchange information and experience data with  
 5 insurance supervisory officials ~~, insurers and rating organizations~~  
 6 in other states and may consult with them with respect to rate  
 7 ~~making and the application of rating systems.~~ **IN ADDITION, EACH**  
 8 **INSURER AND EACH RATING ORGANIZATION MAY EXCHANGE HISTORICAL LOSS**  
 9 **DATA.**

10 Sec. 2600. (1) The purpose of this chapter is to promote the  
 11 public welfare by regulating insurance rates to the end that they  
 12 shall not be excessive, inadequate, or unfairly discriminatory, and  
 13 to ~~authorize and regulate cooperative action among insurers in rate~~  
 14 ~~making and in other matters within the scope of the insurance code~~  
 15 **THIS ACT.** Nothing in this chapter is intended ~~(1) to prohibit or~~  
 16 ~~discourage reasonable competition. , or (2) to prohibit, or~~  
 17 ~~encourage except to the extent necessary to accomplish the~~  
 18 ~~aforementioned purpose, uniformity in insurance rates, rating~~  
 19 ~~systems, rating plans or practices.~~

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

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

26 Sec. 2606. (1) ~~Every~~ **EACH** insurer shall file with the  
 27 commissioner, except as to inland marine risks ~~which~~ **THAT** by

1 general custom of the business are not written according to manual  
 2 rates or rating plans, every manual, minimum, class rate, rating  
 3 schedule or rating plan, and every other rating rule, and every  
 4 modification of any of the foregoing ~~which~~ **THAT** it proposes to use.  
 5 ~~Every such~~ **IN ITS** filing, **EACH INSURER** shall state the proposed  
 6 effective date ~~thereof~~ **OF THE FILING**, and shall indicate the  
 7 character and extent of the coverage contemplated.

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

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

23 ~~—— (4) Specific inland marine rates on risks specially rated,~~  
 24 ~~made by a rating organization, shall be filed with the~~  
 25 ~~commissioner.~~

26 (4) ~~(5) An~~ **EXCEPT FOR FILINGS CONCERNING RATES, AN** insurer may  
 27 satisfy its obligation to make ~~such~~ filings by becoming a member



1 of, or a subscriber to, a licensed rating organization ~~which~~ **THAT**  
 2 makes ~~such~~ filings, and by filing with the commissioner a copy of  
 3 its authorization of the rating organization to make ~~such~~ filings  
 4 on its behalf. Nothing contained in this chapter shall be construed  
 5 as requiring any insurer to become a member of or a subscriber to  
 6 any rating organization.

7 (5) AS A CONDITION OF MAINTAINING ITS CERTIFICATE OF  
 8 AUTHORITY, AN INSURER SHALL NOT DO ANY OF THE FOLLOWING:

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

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

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

16 (D) MAKE AVAILABLE TO ANY OTHER INSURER OR RATING ORGANIZATION  
 17 INFORMATION ON ACTUARIAL PROJECTIONS, TRENDING FACTORS, PROFITS, OR  
 18 EXPENSES EXCEPT LOSS ADJUSTMENT EXPENSES.

19 Sec. 2608. (1) The commissioner shall review filings as soon  
 20 as reasonably possible after they have been made in order to  
 21 determine ~~whether~~ **IF** they meet the requirements of this chapter.

22 (2) ~~Subject to the exception specified in subsection (3) of~~  
 23 ~~this section, each~~ **EACH** filing shall be on file for a waiting  
 24 period of 15 days before it becomes effective, which period may be  
 25 extended by the commissioner for an additional period not to exceed  
 26 15 days if ~~he~~ **THE COMMISSIONER** gives written notice within ~~such~~ **THE**  
 27 waiting period to the insurer or rating organization ~~which~~ **THAT**

made the filing that ~~he~~**THE COMMISSIONER** needs ~~such~~**THE** additional time for the consideration of ~~such~~**THE** filing. Upon written application by ~~such~~**THE** insurer or rating organization, the commissioner may authorize a filing ~~which he~~**THAT THE COMMISSIONER** has reviewed to become effective before the expiration of the waiting period or any extension thereof ~~thereof~~**OF THE WAITING PERIOD**. A filing shall be ~~deemed~~**CONSIDERED** to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof ~~thereof~~**OF THE WAITING PERIOD**.

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

Sec. 2616. ~~(1)~~ If within the waiting period or any extension thereof ~~thereof~~**OF THE WAITING PERIOD** as provided in section 2608(2), the commissioner finds that a filing does not meet the requirements of this chapter, ~~he~~**THE COMMISSIONER** shall send to the insurer or rating organization ~~which~~**THAT** made ~~such~~**THE** filing, written notice of disapproval of ~~such~~**THE** filing specifying ~~therein~~ in what respects ~~he~~**RESPECT THE COMMISSIONER** finds ~~such~~**THE** filing fails to meet the requirements of this chapter and stating that ~~such~~**THE** filing shall not become effective.

~~—— (2) If within 30 days after a specific inland marine rate on a risk specially rated by a rating organization, subject to section 2608 (3) has become effective, the commissioner finds that such filing does not meet the requirements of this chapter, he shall~~

~~send to the rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of this chapter and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.~~

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

(2) At any time within ~~15~~ **30** days from and after the date of

1 ~~any such A~~ filing **UNDER SUBSECTION (1)**, the commissioner may give  
 2 written notice to the insurer ~~or rating organization making such~~  
 3 **THE** filing **OR ON WHOSE BEHALF THE FILING IS MADE**, specifying in  
 4 what respect and to what extent ~~he contends such THE COMMISSIONER~~  
 5 **FINDS THAT THE** filing fails to comply with the requirements of  
 6 ~~subdivision (d) of subsection (1) of section 2603 SECTION~~  
 7 **2603 (1) (D)** and fixing a date for hearing not less than 10 days from  
 8 the date of **THE** mailing of ~~such THE~~ notice. At ~~such THE~~ hearing the  
 9 factors specified in ~~subsection (2) of section 2606 SECTION 2606 (2)~~  
 10 shall be considered. If the commissioner after hearing finds that  
 11 the filing does not comply with the provisions of this chapter, ~~he~~  
 12 **THE COMMISSIONER** may issue ~~his AN~~ order determining ~~wherein IN WHAT~~  
 13 **RESPECT** and to what extent ~~such THE~~ filing is ~~deemed to be~~ improper  
 14 and fixing a date, ~~thereafter,~~ within a reasonable time, after  
 15 which ~~such THE~~ filing shall no longer be effective. ~~Any AN~~ order of  
 16 disapproval under this section must be entered within 30 days of  
 17 the date of the filing affected.

18 (3) ~~In the event that no IF A~~ notice of hearing shall be ~~IS~~  
 19 **NOT** issued within ~~15 30~~ days from the date of ~~any such A~~ filing  
 20 **UNDER SUBSECTION (1)**, the filing shall be ~~deemed CONSIDERED~~ to be  
 21 approved. If ~~such THE~~ filing shall be ~~IS~~ disapproved, the insuring  
 22 provisions of ~~any A~~ contract or policy issued ~~prior to BEFORE~~ the  
 23 time the order becomes effective shall not be affected. ~~But~~  
 24 **HOWEVER**, if the commissioner disapproves ~~such A~~ filing as not being  
 25 in compliance with ~~subdivision (d) of subsection (1) of section~~  
 26 ~~2603 (rate standards), he SECTION 2603 (1) (D), THE COMMISSIONER~~ may  
 27 order an adjustment of the premium to be made with the policyholder

1 either by refund or collection of additional premium, if the amount  
 2 is substantial and equals or exceeds the cost of making the  
 3 adjustment. The

4 (4) AT ANY TIME, THE commissioner may ~~thereafter~~ review any  
 5 ~~such~~ A filing in the manner provided in sections 2618 and 2620. ~~7~~  
 6 ~~but if so reviewed, no~~ HOWEVER, IF THE COMMISSIONER DISAPPROVES A  
 7 FILING PURSUANT TO THAT REVIEW BEYOND THE THIRTIETH DAY AFTER THE  
 8 DATE OF FILING, THE COMMISSIONER SHALL NOT ORDER AN adjustment of  
 9 premium. ~~may be ordered. Subsection (5) of section 2606 (filing may~~  
 10 ~~be made by rating organization), subsection (1) of section 2608~~  
 11 ~~(commissioner shall review filing as soon as reasonably possible),~~  
 12 ~~and 2612 (insurer must adhere to filing) shall be~~

13 (5) SECTIONS 2606(4), 2608(1), AND 2612 ARE applicable to  
 14 filings made under this section.

15 Sec. 2630. (1) A corporation, an unincorporated association, a  
 16 partnership, or an individual, whether located within or outside  
 17 this state, may ~~make application to~~ APPLY WITH the commissioner for  
 18 license as a rating organization to make ~~rates and~~ insurance  
 19 contract forms for ~~such~~ THE kinds of insurance, ~~or~~ subdivision ~~or~~  
 20 OF INSURANCE, OR class of risk, or a part or combination thereof as  
 21 are specified in its application. ~~and~~ THE CORPORATION, ASSOCIATION,  
 22 PARTNERSHIP, OR INDIVIDUAL shall file ~~therewith~~ WITH THE  
 23 APPLICATION ALL OF THE FOLLOWING:

24 (a) A copy of its constitution, its articles of agreement or  
 25 association, or its certificate of incorporation ~~7~~ and ~~of~~ its  
 26 bylaws and rules governing the conduct of its business.

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

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

4 (d) A statement of its qualifications as a rating  
5 organization.

6 (2) If the commissioner finds that the applicant is competent,  
7 trustworthy, and otherwise qualified to act as a rating  
8 organization and that its constitution, articles of agreement or  
9 association, or certificate of incorporation ~~—~~and its bylaws and  
10 rules governing the conduct of its business conform to the  
11 requirements of law, ~~he~~ **THE COMMISSIONER** shall issue a license  
12 specifying the kinds of insurance, ~~or subdivision or~~ **OF INSURANCE,**  
13 **OR** class of risk, or part or combination thereof for which the  
14 applicant is authorized to act as a rating organization. ~~Every such~~  
15 ~~application shall be granted or denied in whole or in part by the~~  
16 **THE** commissioner, within 60 days of the date of its filing, ~~with~~  
17 ~~him~~ **SHALL GRANT OR DENY THE APPLICATION IN WHOLE OR IN PART.**

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

21 (4) The fee for ~~the~~ **A** license ~~shall be~~ **UNDER THIS SECTION IS**  
22 \$25.00.

23 (5) ~~Licenses~~ **A LICENSE** issued pursuant to this section may be  
24 suspended or revoked by the commissioner, after hearing upon  
25 notice, ~~in the event~~ **IF** the rating organization ceases to meet the  
26 requirements of this section.

27 (6) ~~Every~~ **A** rating organization shall notify the commissioner

1 promptly of ~~every~~**A** change in **ANY OF THE FOLLOWING:**

2 (a) ~~its~~**ITS** constitution, its articles of agreement or  
3 association, or its certificate of incorporation ~~—~~and its bylaws  
4 and rules governing the conduct of its business. ~~—~~

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

6 (c) ~~the~~**THE** name and address of the resident of this state  
7 designated by it upon whom notices or orders of the commissioner or  
8 process affecting ~~such~~**THE** rating organization may be served.

9 Sec. 2636. (1) Subject to **REASONABLE** rules and regulations  
10 ~~which have been approved by the commissioner, as reasonable, each~~**A**  
11 rating organization shall permit ~~any~~**AN** insurer, not a member, to  
12 be a subscriber to its ~~rating~~ services for any kind of insurance,  
13 subdivision **OF INSURANCE**, or class of risk, or a part or  
14 combination thereof for which it is authorized to act as a rating  
15 organization. Notice of proposed changes in ~~such~~**THE** rules and  
16 regulations shall be given to subscribers. Each rating organization  
17 shall furnish its ~~rating~~ services without discrimination to its  
18 members and subscribers.

19 (2) ~~The~~**AT THE REQUEST OF A SUBSCRIBER OR INSURER, THE**  
20 reasonableness of ~~any~~**A** rule or regulation in its application to  
21 subscribers ~~—~~or the refusal of ~~any~~**A** rating organization to admit  
22 an insurer as a subscriber ~~—~~shall ~~—at the request of any~~  
23 ~~subscriber or any such insurer,~~ be reviewed by the commissioner at  
24 a hearing held upon at least 10 days' written notice to ~~such~~**THE**  
25 rating organization and to ~~such~~**THE REQUESTING** subscriber or  
26 insurer. If the commissioner finds that ~~such~~**THE** rule or regulation  
27 is unreasonable in its application to subscribers, ~~he~~**THE**

1 **COMMISSIONER** shall order that ~~such-**THE**~~ rule or regulation ~~shall-**IS**~~  
 2 not ~~be~~-applicable to subscribers.

3 (3) If the rating organization fails to grant or reject an  
 4 insurer's application for subscribership within 30 days after it  
 5 was made, the insurer may request a review by the commissioner as  
 6 if the application had been rejected. If the commissioner finds  
 7 that the insurer has been refused admittance to the rating  
 8 organization as a subscriber without justification, ~~he-**THE**~~  
 9 **COMMISSIONER** shall order the rating organization to admit the  
 10 insurer as a subscriber. If ~~he-**THE**~~ **COMMISSIONER** finds that the  
 11 action of the rating organization was justified, ~~he-**THE**~~  
 12 **COMMISSIONER** shall ~~make an order affirming its action~~ **AFFIRMED**.

13 Sec. 2652. ~~Every rating organization and every insurer which~~  
 14 ~~makes its own rates shall~~ **EACH INSURER**, within a reasonable time  
 15 after receiving written request ~~therefor~~ **FOR THE INFORMATION** and  
 16 upon payment of ~~such-**A**~~ reasonable charge, ~~as it may make,~~ **SHALL**  
 17 furnish to ~~any-**AN**~~ insured affected by a rate made by ~~it-**THE**~~  
 18 **INSURER**, or to the **INSURED'S** authorized representative, ~~of such~~  
 19 ~~insured,~~ all pertinent information as to such rate. ~~Every rating~~  
 20 ~~organization and every insurer which makes its own rates~~ **EACH**  
 21 **INSURER** shall provide within this state reasonable means ~~whereby~~  
 22 ~~any-**FOR A**~~ person aggrieved by the application of ~~its-**THE**~~ **INSURER'S**  
 23 rating system ~~may~~ **TO** be heard, in person or by his **OR HER**  
 24 authorized representative, on his **OR HER** written request to review  
 25 the manner in which ~~such-**THE**~~ rating system has been applied in  
 26 connection with the insurance afforded him **OR HER**. If the ~~rating~~  
 27 ~~organization or insurer fails to grant or reject~~ ~~such-**THE**~~ request



1 within 30 days after it is made, the applicant may proceed in the  
 2 same manner as if his **OR HER** application had been rejected. ~~Any A~~  
 3 party affected by the action of ~~such rating organization or such~~  
 4 **THE** insurer on ~~such THE~~ request may **APPEAL**, within 30 days after  
 5 written notice of ~~such THE~~ action, ~~appeal~~ to the commissioner, who,  
 6 after a hearing held upon not less than 10 days' written notice to  
 7 the appellant and to ~~such rating organization or THE~~ insurer, may  
 8 affirm or reverse ~~such THE~~ action.

9       Sec. 2654. (1) ~~Every A~~ group, association, or other  
 10 organization of insurers, whether located within or outside this  
 11 state, which assists insurers ~~which make their own filings or~~  
 12 ~~rating organizations~~ in rate making, by the collection and  
 13 furnishing of loss or expense statistics, ~~or by the submission of~~  
 14 ~~recommendations~~, but which does not make filings under this  
 15 chapter, shall be known as an advisory organization.

16       (2) ~~Every EACH~~ advisory organization shall file with the  
 17 commissioner **ALL OF THE FOLLOWING**:

18       (a) A copy of its constitution, its articles of agreement or  
 19 association, or its certificate of incorporation and ~~of~~ its bylaws,  
 20 rules, and regulations governing its activities. 7

21       (b) A list of its members. 7

22       (c) The name and address of a resident of this state upon whom  
 23 notices or orders of the commissioner or process issued at ~~his THE~~  
 24 **COMMISSIONER'S** direction may be served. 7 ~~and~~

25       (d) An agreement that the commissioner may examine ~~such THE~~  
 26 advisory organization ~~in accordance with~~ **PURSUANT TO** the provisions  
 27 of section 2662.

1           (3) If, after a hearing, the commissioner finds that the  
2     furnishing of ~~such~~ information or assistance involves any act or  
3     practice ~~which~~ **THAT** is unfair or unreasonable or otherwise  
4     inconsistent with the provisions of this chapter, ~~he~~ **THE**  
5     **COMMISSIONER** may issue a written order specifying in what respects  
6     ~~such~~ **THE** act or practice is unfair or unreasonable or otherwise  
7     inconsistent with the provisions of this chapter, and requiring the  
8     discontinuance of ~~such~~ **THE** act or practice.

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

18           Sec. 2664. (1) The commissioner shall promulgate reasonable  
19    rules and statistical plans, reasonably adapted to each of the  
20    rating systems on file with him, ~~which may be modified from time to~~  
21    ~~time and which shall be used thereafter by each~~ **THE COMMISSIONER.**  
22    **THE COMMISSIONER MAY MODIFY THE RULES AND PLANS FROM TIME TO TIME.**  
23    **EACH** insurer **SHALL USE THE RULES AND PLANS AFTER PROMULGATION TO**  
24    **THE EXTENT APPLICABLE TO THE INSURER'S PARTICULAR RATING SYSTEM OR**  
25    **SYSTEMS** in the recording and reporting of its loss and countrywide  
26    expense experience, in order that the experience of all insurers  
27    may be made available at least annually in ~~such~~ **THE** form and detail

1 ~~as may be~~ **THAT IS** necessary to aid ~~him~~ **THE COMMISSIONER** in  
 2 determining whether rating systems comply with the standards set  
 3 forth in section 2603. ~~Such~~ **THE** rules and plans may also provide  
 4 for the recording and reporting of expense experience items ~~which~~  
 5 **THAT** are ~~specially~~ **SPECIFICALLY** applicable to this state and are  
 6 not susceptible of determination by a prorating of countrywide  
 7 expense experience. In promulgating ~~such~~ rules and plans **UNDER THIS**  
 8 **SECTION**, the commissioner shall give due consideration to the  
 9 rating systems on file with ~~him~~ **THE COMMISSIONER** and, in order that  
 10 ~~such~~ **THE** rules and plans may be as uniform as is practicable among  
 11 the several states, to the rules and to the form of the plans used  
 12 for ~~such~~ rating systems in other states. ~~No~~ **AN** insurer shall **NOT** be  
 13 required to record or report its loss experience on a  
 14 classification basis that is inconsistent with the rating system  
 15 filed by it. The commissioner may designate 1 or more rating  
 16 organizations or other agencies to assist ~~him~~ in **THE** gathering ~~such~~  
 17 **OF AND MAKING COMPILATIONS OF** experience and ~~making compilations~~  
 18 ~~thereof, and such~~ **UNDER THIS SECTION. THE COMMISSIONER SHALL MAKE**  
 19 ~~compilations shall be made~~ **OF EXPERIENCE UNDER THIS SECTION**  
 20 available, subject to reasonable rules promulgated by the  
 21 commissioner, to insurers and rating organizations.

22 (2) Reasonable rules and plans may be promulgated by the  
 23 commissioner for the interchange of data necessary for the  
 24 application of rating plans.

25 (3) In order to further uniform administration of rate  
 26 regulatory laws, the commissioner and ~~every~~ **EACH** insurer and ~~rating~~  
 27 ~~organization~~ may exchange information and experience data with

1 insurance supervisory officials ~~, insurers and rating organizations~~  
2 in other states and may consult with them with respect to ~~rate~~  
3 ~~making and the application of rating systems.~~ **IN ADDITION, EACH**  
4 **INSURER AND EACH RATING ORGANIZATION MAY EXCHANGE HISTORICAL LOSS**  
5 **DATA.**

6 Sec. 2930. ~~(1) The premium for basic property insurance of any~~  
7 ~~risk by the pool shall be equal to the rate for identical insurance~~  
8 ~~established by a licensed rating organization for identical~~  
9 ~~insurance within this state plus a uniform surcharge approved by~~  
10 ~~the commissioner.~~

11 ~~—— (2) The pool shall establish rates for any basic property~~  
12 ~~insurance. that is without rates established by a licensed rating~~  
13 ~~organization or that the pool, with the approval of the~~  
14 ~~commissioner, determines should be otherwise rated in order to~~  
15 ~~better effectuate the purposes of this chapter.~~ The pool shall file  
16 with the commissioner for his or her approval each rate and each  
17 policy form to be issued by it. The pool, acting as agent for  
18 participating members, shall file policy forms for basic property  
19 insurance to be issued by participating members under the  
20 provisions of this chapter. Rates and policy forms shall be filed  
21 in accordance with this chapter as the commissioner designates.

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

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

6 (b) Except as otherwise provided in subdivision (d), that the  
7 policy may be canceled at any time by the insurer by mailing to the  
8 insured at the insured's address last known to the insurer or an  
9 authorized agent of the insurer, with postage fully prepaid, a not  
10 less than 10 days' written notice of cancellation with or without  
11 tender of the excess of paid premium or assessment above the pro  
12 rata premium for the expired time.

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

18 (d) That an insurer may refuse to renew a malpractice  
19 insurance policy only by mailing to the insured at the insured's  
20 address last known to the insurer or an authorized agent of the  
21 insurer, with postage fully prepaid, a not less than 60 days'  
22 written notice of refusal to renew. As used in this subdivision,  
23 "malpractice insurance" means malpractice insurance as described in  
24 section 624(1)(h).

25 (2) An insurer may file a rule with the commissioner providing  
26 for a minimum retention of premium for automobile insurance as  
27 defined in section 2102(2)(a) and (b). The rule shall describe the

1 circumstances under which the retention is applied and shall set  
2 forth the amount to be retained, which is subject to the approval  
3 of the commissioner. The rule shall include, but need not be  
4 limited to, the following provisions:

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

8 (b) That a minimum retention does not apply to renewal  
9 policies.

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

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

14 (ii) The insured has replaced the automobile insurance policy  
15 being canceled with an automobile insurance policy from another  
16 insurer and provides proof of the replacement coverage to the  
17 canceling insurer.

18 (3) Notwithstanding subsection (1), an insurer may issue a  
19 noncancelable, nonrefundable, 6-month prepaid automobile insurance  
20 policy in order for an insured to meet the registration  
21 requirements of section 227a of the Michigan vehicle code, 1949 PA  
22 300, MCL 257.227a.

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

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

27 (b) "Off-road vehicle" means an ORV as defined in section

1 81101 of the natural resources and environmental protection act,  
2 1994 PA 451, MCL 324.81101.

3 (c) "Snowmobile" means that term as defined in section 82101  
4 of the natural resources and environmental protection act, 1994 PA  
5 451, MCL 324.82101.

6 (d) "Watercraft" means that term as defined in section 80301  
7 of the natural resources and environmental protection act, 1994 PA  
8 451, MCL 324.80301.

9 (5) Cancellation **SHALL NOT BE EFFECTIVE UNTIL AFTER THE NOTICE**  
10 as prescribed in this section ~~is~~ **HAS EXPIRED, AND THE CANCELLATION**  
11 **SHALL BE** without prejudice to any claim originating before the  
12 cancellation. The mailing of notice is prima facie proof of notice.  
13 Delivery of written notice is equivalent to mailing.

14 (6) A notice of cancellation, including a cancellation notice  
15 under section 3224, shall be accompanied by a statement that the  
16 insured shall not operate or permit the operation of the vehicle to  
17 which notice of cancellation is applicable, or operate any other  
18 vehicle, unless the vehicle is insured as required by law.

19 (7) An insurer who wishes to provide for a short rate premium  
20 under subsection (4) shall file with the commissioner pursuant to  
21 chapter 24 or 26 a rule establishing a short rate premium. The rule  
22 shall describe the circumstances under which the short rate is  
23 applied and shall set forth the amount or percentage to be  
24 retained.

25 **SEC. 3105A. AN INSURER LIABLE TO PAY PERSONAL PROTECTION**  
26 **INSURANCE BENEFITS UNDER THIS CHAPTER HAS A DUTY TO DEAL FAIRLY AND**  
27 **IN GOOD FAITH WITH ITS INSURED, ANY PERSON ENTITLED TO RECEIVE**

1 PERSONAL PROTECTION INSURANCE BENEFITS UNDER A POLICY ISSUED TO ITS  
2 INSURED, OR ANY PERSON ENTITLED TO RECEIVE PERSONAL PROTECTION  
3 INSURANCE BENEFITS FROM THE INSURER UNDER THE PROVISIONS OF THIS  
4 CHAPTER. THE DUTY IMPOSED BY THIS SECTION IS CONSIDERED TO INVOLVE  
5 MATTERS OF MENTAL CONCERN AND SOLICITUDE. A BREACH OF THE DUTY TO  
6 DEAL FAIRLY AND IN GOOD FAITH SUBJECTS THE INSURER TO LIABILITY IN  
7 TORT FOR ANY DAMAGES PROXIMATELY ARISING THEREFROM AND FOR PUNITIVE  
8 DAMAGES.

9 Sec. 3321. The facility shall provide **THE FOLLOWING**, with  
10 respect to all automobiles not included in section 3320:

11 (a) Only the insurance required by law or required by the  
12 commissioner. ~~of insurance.~~ The commissioner may only require  
13 insurance for which a rate has been filed by an ~~insurance rating~~  
14 ~~organization or insurer, and~~ which rate is in effect and which the  
15 commissioner finds, after a public hearing, to be reasonable,  
16 necessary, and in the public interest. The temporary provision of  
17 insurance may be required pending the public hearing if the  
18 commissioner determines it necessary to do so.

19 (b) The equitable distribution of applicants to participating  
20 members in accordance with the participation ratios defined in  
21 section 3303.

22 Sec. 3340. (1) As agent for participating members, the  
23 facility shall file with the commissioner every manual of  
24 classification, every manual of rules and rates, every rating plan  
25 and every modification of a manual of classification, manual of  
26 rules and rates, or rating plan proposed for use for private  
27 passenger nonfleet automobile insurance placed through the



1 facility. The facility may incorporate by reference in its filings  
 2 other material on file with the commissioner. The classifications,  
 3 rules, and rates and any amendments ~~thereof shall be~~ **TO THE**  
 4 **CLASSIFICATIONS, RULES, AND RATES ARE** subject to prior written  
 5 approval by the commissioner. Except as provided in this chapter,  
 6 rates filed by the facility for private passenger nonfleet  
 7 automobile insurance shall be in accordance with chapter 21 and  
 8 rates by the facility for all other automobile insurance shall be  
 9 filed in accordance with chapter 24.

10 (2) Every participating member designated to act on behalf of  
 11 the facility ~~shall be~~ **IS** authorized to use the rates and rules  
 12 approved by the commissioner for use by the facility on business  
 13 placed through the facility and shall not use other rates for  
 14 automobile insurance placed through the facility.

15 (3) Laws relating to rating organizations or advisory  
 16 organizations ~~shall not~~ **DO** apply to functions provided for under  
 17 this section.

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

20 ~~—— (a) The territories for the facility shall be defined as those~~  
 21 ~~of the principal rating organization for the voluntary market.~~

22 **(A)** ~~(b)~~ The base rates for the facility shall be derived from  
 23 the weighted average of the base rates currently charged ~~in each~~  
 24 ~~facility territory~~ by the 5 largest insurer groups, determined by  
 25 voluntary net direct automobile insurance car years written in the  
 26 state for the calendar year ending December 31 of the second prior  
 27 year as reported to the statistical agent.

~~1 (c) The base rates as determined in subdivision (b) in each~~  
~~2 facility territory shall be modified as follows:~~

~~3 (i) One hundred percent of the weighted average in each~~  
~~4 territory in the highest rated territory or territories in the~~  
~~5 state within a single political subdivision.~~

~~6 (ii) From 105% to 125% of the weighted average for all other~~  
~~7 facility territories, with the highest rated such territories~~  
~~8 receiving the lowest surcharge and increasing to the highest~~  
~~9 surcharge in the lowest rated facility territories in 5 percentage~~  
~~10 point increments. In no event, however, shall any such rate exceed~~  
~~11 the rate established in subdivision (i).~~

~~12 (B) (d) The facility shall adjust its rates at least once each~~  
~~13 year or whenever changes in private competitive insurance market~~  
~~14 rate levels would produce a change in excess of 5% in the facility~~  
~~15 rate. for any facility territory. However, changes shall not be~~  
~~16 made more often than quarterly.~~

~~17 (C) (e) In the event that IF~~ underwriting losses and  
~~18 administrative expenses resulting from the operation of the~~  
~~19 facility at rates established pursuant to this subsection would~~  
~~20 exceed an amount equal to 5% of the net direct private passenger~~  
~~21 nonfleet automobile premiums for this state, the levels specified~~  
~~22 in subdivision (c) (i) and (ii) shall be proportionately increased in~~  
~~23 an amount to produce underwriting losses and administrative~~  
~~24 expenses that do not exceed 5%.~~

~~25 Enacting section 1. Sections 122, 2107, 2131, 2446, and 2640~~  
~~26 of the insurance code of 1956, 1956 PA 218, MCL 500.122, 500.2107,~~  
~~27 500.2131, 500.2446, and 500.2640, are repealed.~~

1       Enacting section 2. (1) The legislature finds that there  
2 exists in this state an emergency for a significant number of  
3 citizens who are obligated under law to purchase automobile  
4 insurance that has become unaffordable and unavailable. A  
5 substantial number of urban registered vehicles are now without  
6 automobile insurance coverage. While a vehicle is often a necessity  
7 for employment and other essential daily activities, citizens who  
8 drive automobiles without insurance coverage violate criminal law  
9 regardless of the fact that for a substantial number of those  
10 citizens it is impossible to obtain automobile insurance due to the  
11 unaffordability and the unequal availability of that insurance. The  
12 affordability and equal availability of automobile insurance is  
13 essential to the preservation of the state's interest in providing  
14 that its citizens obtain automobile insurance coverage under the  
15 state's compulsory automobile insurance laws. In many areas of the  
16 state, insurers are charging in a subjective and discriminatory  
17 manner unreasonable amounts for coverage. In addition, the  
18 automobile insurance market structure has not resulted in promoting  
19 reasonable competition among insurers, and this has further  
20 contributed to the unaffordability and unavailability of automobile  
21 insurance.

22       (2) It is the purpose of this amendatory act to preserve the  
23 state's interest in providing its citizens with automobile  
24 insurance coverage by relieving the emergency condition of  
25 unaffordable and unequally available automobile insurance; to  
26 provide more stringent regulation of automobile insurance rate-  
27 making and underwriting and to eliminate and prevent arbitrary and

1 discriminatory practices in automobile insurance marketing, rate-  
2 making, and underwriting; to monitor the level of competition in  
3 the automobile insurance market and to enable corrective measures  
4 when necessary to create a healthy, competitive market for  
5 automobile insurance; to examine loss prevention systems, controls,  
6 and costs; to ensure that automobile insurance prices reflect the  
7 actual costs of claims and reasonable expenses; and to eliminate  
8 injustices that have resulted from the compulsory automobile  
9 insurance system.