

HOUSE BILL No. 4048

January 22, 2009, Introduced by Rep. Bettie Scott and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 2111 (MCL 500.2111), as amended by 2002 PA 492.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2111. (1) Notwithstanding any provision of this act and
2 this chapter to the contrary, classifications and territorial base
3 rates used by any insurer in this state with respect to automobile
4 insurance or home insurance shall conform to the applicable
5 requirements of this section.

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

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

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

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

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

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

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

13 (vi) Daily or weekly commuting mileage.

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

18 (viii) Amount of insurance.

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

21 (i) Earned income.

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

24 (iii) Coordination of benefits.

25 (iv) Use of a safety belt.

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

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

5 (ii) Vehicle make and model.

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

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

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

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

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

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

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

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

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

22 (E) Accident prevention measures.

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

24 (G) Major driving hazards.

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

27 (3) Each insurer shall establish a secondary or merit rating

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

7 (a) Substantially at-fault accidents.

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

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

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

21 (5) Notwithstanding other provisions of this chapter,
22 automobile insurance risks ~~may~~ **SHALL** be grouped by territory- **AND**
23 **TERRITORIAL BASE RATES FOR COVERAGES SHALL BE ESTABLISHED AS**
24 **FOLLOWS:**

25 **(A) AN INSURER SHALL NOT BE LIMITED AS TO THE NUMBER OF**
26 **TERRITORIES EMPLOYED IN ITS RATING PLAN. HOWEVER, AN INSURER SHALL**
27 **NOT EMPLOY MORE THAN 20 DIFFERENT TERRITORIAL BASE RATES FOR AN**

1 AUTOMOBILE INSURANCE COVERAGE. A TERRITORIAL BASE RATE MAY BE MADE
2 APPLICABLE IN 1 OR MORE TERRITORIES CONTAINED IN THE RATING PLAN OF
3 THE INSURER.

4 (B) AN INSURER SHALL NOT EMPLOY A TERRITORIAL BASE RATE FOR AN
5 AUTOMOBILE INSURANCE PACKAGE POLICY THAT IS LESS THAN 45% OF THE
6 HIGHEST TERRITORIAL BASE RATE FOR THE SAME POLICY, ALL OTHER RATING
7 CLASSIFICATIONS BEING THE SAME.

8 (C) AN INSURER SHALL NOT EMPLOY A TERRITORIAL BASE RATE IN A
9 TERRITORY FOR AN AUTOMOBILE INSURANCE PACKAGE POLICY THAT IS LESS
10 THAN 90% OF THE TERRITORIAL BASE RATE EMPLOYED IN ANY ADJACENT
11 TERRITORY FOR THE SAME POLICY, ALL OTHER RATING CLASSIFICATIONS
12 BEING THE SAME.

13 (6) AN INSURER MAY ELECT AT ANY TIME TO EXEMPT ITSELF FROM THE
14 REQUIREMENTS OF SUBSECTION (5) BY FILING FOR AN EXEMPTION WITH THE
15 COMMISSIONER. AN INSURER ELECTING THIS EXEMPTION SHALL INITIALLY
16 FILE A RATING PLAN IN WHICH NO TERRITORIAL BASE RATE FOR AN
17 AUTOMOBILE INSURANCE PACKAGE POLICY IS LESS THAN 45% OF THE HIGHEST
18 TERRITORIAL BASE RATE FOR THE SAME POLICY, ALL OTHER RATING
19 CLASSIFICATIONS BEING THE SAME. FIVE YEARS FROM THE DATE OF THE
20 INITIAL FILING, THE INSURER SHALL BE PROHIBITED FROM USING A RATING
21 PLAN IN WHICH ANY TERRITORIAL BASE RATE FOR AN AUTOMOBILE INSURANCE
22 PACKAGE POLICY WILL BE LESS THAN 67% OF THE HIGHEST TERRITORIAL
23 BASE RATE FOR THAT SAME POLICY, ALL OTHER RATING CLASSIFICATIONS
24 BEING THE SAME. AN INSURER'S ELECTION OF AN EXEMPTION UNDER THIS
25 SUBSECTION IS PERMANENT, FINAL, AND NOT SUBJECT TO CHANGE.

26 (7) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THE
27 AMENDATORY ACT THAT ADDED THIS SUBSECTION, IF AN INSURER CAN

1 DEMONSTRATE TO THE COMMISSIONER, AFTER AN OPPORTUNITY FOR AN
2 EVIDENTIARY HEARING HELD PURSUANT TO THE ADMINISTRATIVE PROCEDURES
3 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, THAT CLEAR AND
4 SIGNIFICANT FINANCIAL IMPAIRMENT EXISTS IN THE GEOGRAPHIC TERRITORY
5 OR TERRITORIES IN QUESTION BECAUSE OF THE NEED FOR AN ADDITIONAL
6 TERRITORIAL BASE RATE, OR FOR A GREATER VARIANCE IN THE ADJACENT
7 GEOGRAPHIC TERRITORY DIFFERENTIAL CONTAINED IN SUBSECTION (5)(C),
8 THE ADDITIONAL TERRITORIAL BASE RATE OR A GREATER VARIANCE, OR
9 BOTH, SHALL BE PERMITTED FOR USE BY THE INSURER OR A LICENSED
10 RATING ORGANIZATION ON BEHALF OF THAT INSURER, AT SUCH TIME AS THE
11 NEED EXISTS. EVIDENCE SHALL NOT INCLUDE FINANCIAL IMPAIRMENT
12 RESULTING FROM EXEMPTIONS GRANTED TO OTHER INSURERS.

13 (8) IF THE COMMISSIONER FINDS, SOLELY ON THE EVIDENCE
14 PRESENTED, THAT A GREATER VARIANCE IN THE ADJACENT GEOGRAPHIC
15 TERRITORY DIFFERENTIAL THAN THAT AUTHORIZED UNDER SUBSECTION (5)(C)
16 IS JUSTIFIED, THE INCREASE IN VARIANCE SHALL NOT EXCEED 100% OF
17 THAT AUTHORIZED UNDER THAT SUBSECTION. IF AN INCREASE IN VARIANCE
18 IN THE ADJACENT GEOGRAPHIC TERRITORY DIFFERENTIAL GREATER THAN 100%
19 OF THAT AUTHORIZED UNDER SUBSECTION (5)(C) IS JUSTIFIED, THE
20 COMMISSIONER SHALL REQUIRE THE CREATION OF AN ADDITIONAL
21 TERRITORIAL BASE RATE.

22 (9) AN EXEMPTION GRANTED UNDER SUBSECTIONS (7) AND (8) SHALL
23 BE APPLICABLE ONLY TO THE GEOGRAPHIC TERRITORY OR TERRITORIES IN
24 QUESTION AND ONLY TO THE INSURER REQUESTING THE EXEMPTION.

25 (10) AN INSURER SHALL NOT HAVE MORE THAN 5 EXEMPTIONS IN FORCE
26 AT ANY 1 TIME. FOR PURPOSES OF DETERMINING THE NUMBER OF EXISTING
27 EXEMPTIONS, EACH ADDITIONAL TERRITORIAL BASE RATE OR EACH INCREASE

1 IN VARIANCE IN THE ADJACENT GEOGRAPHIC TERRITORY DIFFERENTIAL
2 GRANTED SHALL BE CONSIDERED TO BE A SEPARATE EXEMPTION.

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

15 (12) ~~(7)~~—Classifications established pursuant to this section
16 for home insurance other than inland marine insurance provided by
17 policy floaters or endorsements shall be based only upon 1 or more
18 of the following factors:

19 (a) Amount and types of coverage.

20 (b) Security and safety devices, including locks, smoke
21 detectors, and similar, related devices.

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

23 (d) Fire protection class.

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

26 (f) Loss experience of the insured, based upon prior claims
27 attributable to factors under the control of the insured that have

1 been paid by an insurer. An insured's failure, after written notice
2 from the insurer, to correct a physical condition that presents a
3 risk of repeated loss shall be considered a factor under the
4 control of the insured for purposes of this subdivision.

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

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

7 (i) Availability of law enforcement or crime prevention
8 services.

9 (13) ~~(8)~~—Notwithstanding other provisions of this chapter,
10 home insurance risks may be grouped by territory.

11 (14) ~~(9)~~—An insurer may utilize factors in addition to those
12 specified in this section, if the commissioner finds, after a
13 hearing held pursuant to the administrative procedures act of 1969,
14 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage
15 innovation, would encourage insureds to minimize the risks of loss
16 from hazards insured against, and would be consistent with the
17 purposes of this chapter.