

HOUSE BILL No. 5000

September 24, 2013, Introduced by Reps. Talabi, Durhal, Schor, Banks, Robinson, Knezek, Stanley, LaVoy, Santana, Singh, Nathan, Dillon, Kosowski, Roberts, Tlaib, Lipton and Oakes and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2027, 2111, and 2151 (MCL 500.2027, 500.2111, and 500.2151), section 2027 as amended by 1998 PA 26, section 2111 as amended by 2012 PA 441, and section 2151 as added by 2012 PA 165, and by adding section 2027a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2027. Unfair methods of competition and unfair or
2 deceptive acts or practices in the business of insurance include:
3 (a) Refusing to insure, ~~or~~ refusing to continue to insure, or
4 limiting the amount of coverage available to an individual or risk
5 because of any of the following:
6 (i) Race, color, creed, marital status, sex, or national
7 origin, except that marital status may be used to classify

1 individuals or risks for the purpose of insuring family units.

2 (ii) The residence, age, disability, or lawful occupation of
3 the individual or the location of the risk, unless there is a
4 reasonable relationship between the residence, age, disability, or
5 lawful occupation of the individual or the location of the risk and
6 the extent of the risk or the coverage issued or to be issued, but
7 subject to subparagraph (iii) **AND SECTION 2027A**. This section ~~shall~~
8 **DOES** not prohibit an insurer from specializing in or limiting its
9 transactions of insurance to certain occupational groups, types, or
10 risks as approved by the ~~commissioner of insurance~~. **DIRECTOR**. The
11 ~~commissioner~~ **DIRECTOR** shall approve the specialization for an
12 insurer licensed to do business in this state and whose articles of
13 incorporation contained a provision on July 1, 1976, requiring that
14 specialization.

15 (iii) For property insurance, the location of the risk, unless
16 there is a statistically significant relationship between the
17 location of the risk and a risk of loss due to fire within the area
18 in which the insured property is located. As used in this
19 subparagraph, "area" means a single zip code number under the
20 zoning improvement plan of the United States postal service.

21 (b) Refusing to insure or refusing to continue to insure an
22 individual or risk solely because the insured or applicant was
23 previously denied insurance coverage by an insurer.

24 (c) Charging a different rate for the same coverage based on
25 sex, marital status, age, residence, location of risk, disability,
26 or lawful occupation of the risk unless the rate differential is
27 based on sound actuarial principles, a reasonable classification

1 system, and is related to the actual and credible loss statistics
2 or, **FOR NEW COVERAGES**, reasonably anticipated experience, ~~in the~~
3 ~~ease of new coverages. This~~ **BUT SUBJECT TO SECTION 2027A. EXCEPT AS**
4 **PROVIDED IN SECTION 2027A, THIS** subdivision ~~shall~~ **DOES** not apply if
5 the rate has previously been approved by the ~~commissioner~~ **DIRECTOR**.

6 **SEC. 2027A. (1) IT IS AN UNFAIR METHOD OF COMPETITION AND AN**
7 **UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSURANCE**
8 **FOR AN AUTOMOBILE INSURER TO REFUSE TO INSURE, REFUSE TO CONTINUE**
9 **TO INSURE, LIMIT THE AMOUNT OF COVERAGE AVAILABLE, OR CHARGE A**
10 **DIFFERENT RATE OR PREMIUM FOR THE SAME COVERAGE BASED ON ANY OF THE**
11 **FOLLOWING FOR AN INSURED OR APPLICANT:**

12 (A) **EMPLOYMENT.**

13 (B) **TRADE.**

14 (C) **BUSINESS.**

15 (D) **OCCUPATION.**

16 (E) **PROFESSION.**

17 (F) **EDUCATION LEVEL.**

18 (G) **CREDIT HISTORY OR LACK OF CREDIT HISTORY.**

19 (2) **SUBSECTION (1) (A) TO (F) DOES NOT PROHIBIT A DISCOUNT**
20 **BASED ON EXPENSE SAVINGS RELATED TO GROUP, BLANKET, OR FRANCHISE**
21 **AUTOMOBILE INSURANCE.**

22 **Sec. 2111. (1)** Notwithstanding any provision of this act or
23 this chapter to the contrary, classifications and territorial base
24 rates used by an insurer in this state with respect to automobile
25 insurance or home insurance shall conform to the applicable
26 requirements of this section.

27 (2) Classifications established under this section for

1 automobile insurance shall be based only on 1 or more of the
2 following factors, which shall be applied by an insurer on a
3 uniform basis throughout this state:

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

5 (i) Either the age of the driver; the length of driving
6 experience; or the number of years licensed to operate a motor
7 vehicle.

8 (ii) Driver primacy, based on the proportionate use of each
9 vehicle insured under the policy by individual drivers insured or
10 to be insured under the policy.

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

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

13 (v) Vehicle characteristics, features, and options, such as
14 engine displacement, ability of the vehicle and its equipment to
15 protect passengers from injury, and other similar items, including
16 vehicle make and model.

17 (vi) Daily or weekly commuting mileage.

18 (vii) Number of cars insured by the insurer or number of
19 licensed operators in the household. However, number of licensed
20 operators shall not be used as an indirect measure of marital
21 status.

22 (viii) Amount of insurance.

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

25 (i) Earned income.

26 (ii) Number of dependents of income earners insured under the
27 policy.

1 (iii) Coordination of benefits.

2 (iv) Use of a safety belt.

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

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

9 (ii) Vehicle make and model.

10 (iii) Vehicle design characteristics related to vehicle
11 damageability.

12 (iv) Vehicle characteristics relating to automobile theft
13 prevention devices.

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

18 (i) The course shall include a minimum of 8 hours of classroom
19 instruction.

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

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

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

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

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

26 (E) Accident prevention measures.

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

1 (G) Major driving hazards.

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

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

11 (a) Substantially at-fault accidents.

12 (b) Convictions for, determinations of responsibility for
13 civil infractions for, or findings of responsibility in probate
14 court for civil infractions for violations under chapter VI of the
15 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750.
16 However, an insured shall not be merit rated for a civil infraction
17 under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL
18 257.601 to 257.750, for a period of time longer than that which the
19 secretary of state's office carries points for that infraction on
20 the insured's motor vehicle record.

21 (4) An insurer shall not establish or maintain rates or rating
22 classifications for automobile insurance based on sex or marital
23 status.

24 (5) ~~Notwithstanding other provisions of this chapter, AN~~
25 **INSURER SHALL NOT ESTABLISH OR MAINTAIN RATES OR RATING**
26 **CLASSIFICATIONS FOR** automobile insurance ~~risks may be grouped by~~
27 **BASED ON THE** territory **IN WHICH THE INSURED RESIDES OR WORKS.**

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

12 (7) Classifications established under this section for home
13 insurance other than inland marine insurance provided by policy
14 floaters or endorsements shall be based only on 1 or more of the
15 following factors:

16 (a) Amount and types of coverage.

17 (b) Security and safety devices, including locks, smoke
18 detectors, and similar, related devices.

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

20 (d) Fire protection class.

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

23 (f) Loss experience of the insured, based on prior claims
24 attributable to factors under the control of the insured that have
25 been paid by an insurer. An insured's failure, after written notice
26 from the insurer, to correct a physical condition that presents a
27 risk of repeated loss shall be considered a factor under the

1 control of the insured for purposes of this subdivision.

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

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

4 (i) Availability of law enforcement or crime prevention
5 services.

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

8 (9) An insurer may use factors in addition to those permitted
9 by this section for insurance if the plan is consistent with the
10 purposes of this act and reflects reasonably anticipated reductions
11 or increases in losses or expenses.

12 Sec. 2151. As used in this chapter:

13 (a) "Adverse action" means an increase in any charge for, or a
14 reduction or other adverse or unfavorable change in the terms of
15 coverage or amount of, any personal insurance, existing or applied
16 for.

17 (b) "Consumer reporting agency" means any person ~~which,~~ **THAT,**
18 for monetary fees or dues or on a cooperative nonprofit basis,
19 regularly engages in whole or in part in the practice of assembling
20 or evaluating consumer credit information or other information on
21 consumers for the purpose of furnishing consumer reports to third
22 parties.

23 (c) "Credit information" means any credit-related information
24 derived from a credit report, found on a credit report itself, or
25 provided on an application for personal insurance. Information that
26 is not credit-related ~~shall~~ **IS** not ~~be considered~~ credit
27 information, regardless of whether it is contained in a credit

1 report or in an application, or is used to calculate an insurance
2 score.

3 (d) "Credit report" means any written, oral, or other
4 communication of information by a consumer reporting agency bearing
5 on a consumer's credit worthiness, credit standing, or credit
6 capacity that is used or expected to be used or collected in whole
7 or in part for the purpose of serving as a factor in the rating of
8 personal insurance.

9 (e) "Insurance score" means a number or rating that is derived
10 from an algorithm, computer application, model, or other process
11 that is based in whole or in part on credit information for the
12 purposes of predicting the future insurance loss exposure of an
13 individual applicant or insured.

14 (f) "Personal insurance" means property/casualty insurance
15 written for personal, family, or household use, including
16 ~~automobile~~, home, motorcycle, mobile home, noncommercial dwelling
17 fire, boat, personal watercraft, snowmobile, and recreational
18 vehicle, whether written on an individual, group, franchise,
19 blanket policy, or similar basis. **PERSONAL INSURANCE DOES NOT**
20 **INCLUDE AUTOMOBILE INSURANCE.**