

HOUSE BILL NO. 6000

April 12, 2022, Introduced by Reps. Hood, Rabhi, Rogers, Cavanagh, Stone, Bezotte, Sneller, Steckloff, Weiss, Tyrone Carter, Brabec, Cynthia Johnson, O'Neal, Thanedar, Koleszar, LaGrand, Neeley, Sowerby, Hope, Brixie, Aiyash, Pohutsky, Breen, Haadsma, Cherry, Morse, Lasinski, Puri, Green, Peterson, Young and Jones and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2106, 2108, 2109, 2110, 2115, and 2127 (MCL
500.2106, 500.2108, 500.2109, 500.2110, 500.2115, and 500.2127),
sections 2106 and 2108 as amended by 2019 PA 21 and section 2115 as
amended by 1980 PA 461, and by adding section 2109a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2106. (1) Except as specifically provided in this
2 chapter, chapter 24 and chapter 26 do not apply to automobile

1 insurance and home insurance.

2 (2) ~~Subject to section 2108(6), an~~ **An** insurer shall file rates
3 with the department for approval in compliance with this act.

4 (3) An insurer may use rates for home insurance as soon as
5 those rates are filed.

6 (4) To the extent that other provisions of this act are
7 inconsistent with this chapter, this chapter governs with respect
8 to automobile insurance and home insurance.

9 Sec. 2108. (1) On the effective date of a manual of
10 classification, manual of rules and rates, rating plan, or
11 modification of a manual of classification, manual of rules and
12 rates, or rating plan that an insurer proposes to use for home
13 insurance, the insurer shall file the manual or plan with the
14 director. For automobile insurance, an insurer shall file a manual
15 or plan described in this subsection in accordance with ~~subsection~~
16 ~~(6).~~ **section 2109a**. Each filing under this subsection must state
17 the character and extent of the coverage contemplated. An insurer
18 that is subject to this chapter and that maintains rates in any
19 part of this state shall at all times maintain rates in effect for
20 all eligible persons meeting the underwriting criteria of the
21 insurer.

22 (2) An insurer may satisfy its obligation to make filings
23 under subsection (1) by becoming a member of, or a subscriber to, a
24 rating organization licensed under chapter 24 or chapter 26 that
25 makes the filings, and by filing with the director a copy of its
26 authorization of the rating organization to make the filings on its
27 behalf. This chapter does not require an insurer to become a member
28 of or a subscriber to a rating organization. An insurer may file
29 and use deviations from filings made on its behalf. The deviations

1 are subject to this chapter.

2 (3) A filing under this section must be accompanied by a
3 certification by or on behalf of the insurer that, to the best of
4 the insurer's information and belief, the filing conforms to the
5 requirements of this chapter.

6 (4) A filing under this section must include information that
7 supports the filing with respect to the requirements of section
8 2109 **or 2109a, as applicable**. The information may include 1 or more
9 of the following:

10 (a) The experience or judgment of the insurer or rating
11 organization making the filing.

12 (b) The interpretation of the insurer or rating organization
13 of any statistical data it relies on.

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

15 (d) Any other relevant information.

16 (5) ~~Except~~ **For home insurance, except** as otherwise provided in
17 this subsection, the department shall make a filing under this
18 section and any accompanying information open to public inspection
19 on filing. An insurer or a rating organization filing on the
20 insurer's behalf may designate information included in the filing
21 or any accompanying information as a trade secret. The insurer or
22 the rating organization filing on behalf of the insurer shall
23 demonstrate to the director that the designated information is a
24 trade secret. If the director determines that the information is a
25 trade secret, the information is not subject to public inspection
26 and is exempt from disclosure under the freedom of information act,
27 1976 PA 442, MCL 15.231 to 15.246. As used in this subsection,
28 "trade secret" means that term as defined in section 2 of the
29 uniform trade secrets act, 1998 PA 448, MCL 445.1902. However,

trade secret does not include filings and information accompanying filings under this section that were subject to public inspection before January 11, 2016.

~~(6) For automobile insurance, an insurer shall file a manual or plan in accordance with chapter 24, except that the manual or plan must remain on file for a waiting period of 90 days before it becomes effective, which period may not be extended by the director, and the waiting period applies regardless of whether supporting information is required by the director under section 2406(1). Upon written application by the insurer, the director may authorize a filing that he or she has reviewed to become effective before expiration of the waiting period.~~

~~(6) (7)~~ An insurer shall not make, issue, or renew a contract or policy except in accordance with filings that are in effect for the insurer under this chapter.

~~(7) (8)~~ A filing under this chapter must specify that the insurer will not refuse to insure, refuse to continue to insure, or limit the amount of coverage available because of the location of the risk, and that the insurer recognizes those practices to constitute redlining. An insurer shall not engage in redlining as described in this subsection.

Sec. 2109. (1) All rates for ~~automobile insurance and home insurance shall~~ **and, subject to section 2109a, automobile insurance must** be made in accordance with the following provisions:

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

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

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

24 (2) A determination concerning the existence of a reasonable
25 degree of competition with respect to subsection (1)(a) ~~shall~~**must**
26 take into account a reasonable spectrum of relevant economic tests,
27 including the number of insurers actively engaged in writing the
28 insurance in question, the present availability of ~~such~~**the**
29 insurance compared to its availability in comparable past periods,

1 the underwriting return of that insurance over a period of time
2 sufficient to assure reliability in relation to the risk associated
3 with that insurance, and the difficulty encountered by new insurers
4 in entering the market in order to compete for the writing of that
5 insurance.

6 Sec. 2109a. (1) The director shall not approve a rate for
7 automobile insurance or allow an automobile insurance rate to
8 remain in effect if the rate is excessive, inadequate, unfairly
9 discriminatory, or otherwise in violation of this chapter. In
10 considering whether a rate for automobile insurance is excessive,
11 inadequate, or unfairly discriminatory, all of the following apply:

12 (a) The director shall not give consideration to the degree of
13 competition.

14 (b) The director shall consider whether the rate
15 mathematically reflects the insurance company's investment income.

16 (c) The director shall not approve a rate that provides the
17 insurer with a profit that exceeds 8%.

18 (2) Before September 2, 2022, the director shall review the
19 rates for automobile insurance in effect on the effective date of
20 this section to determine whether the rates comply with this
21 chapter. An insurer shall provide to the director any documents or
22 information requested by the director to conduct the review
23 required by this subsection. If the director determines that the
24 rates do not comply with this chapter, the director shall commence
25 a rate making proceeding under subsection (4).

26 (3) If, after the effective date of this section, an insurer
27 wishes to change any rate for automobile insurance in effect on the
28 effective date of this section or established by a previous rate
29 making proceeding under this section, the insurer shall commence a

1 proceeding for rate making under subsection (4).

2 (4) All of the following apply to a rate making proceeding
3 under this section:

4 (a) The proceeding must be conducted as a contested case under
5 chapter 4 of the administrative procedures act of 1969, 1969 PA
6 306, MCL 24.271 to 24.288.

7 (b) Any person may intervene in the proceeding as an
8 interested party.

9 (c) Notwithstanding anything in this act to the contrary, all
10 of the following must be made public as provided in subdivision

11 (d):

12 (i) Notice that the contested case has been commenced.

13 (ii) A notice of a hearing in the contested case.

14 (iii) Any answer filed in the contested case.

15 (iv) All books, records, correspondence, or other documents
16 relating to the rate making and in the control of the insurer or
17 the department. A document to which this subdivision applies must
18 be made public before any hearing in the contested case.

19 (d) To the extent possible, anything required to be made
20 public under subdivision (c) must be made public as follows:

21 (i) By posting on the department website.

22 (ii) By email or mail through the United States Postal Service,
23 as requested, by the department to any person that has requested
24 that the department place them on a list to receive such notices
25 and documents.

26 (iii) By notification to the media by the department.

27 (iv) By making written copies of the notices or documents
28 available at the offices of the department.

29 (v) By posting on the insurer's website.

(vi) By email or mail through the United States Postal Service, as requested, by the insurer to persons insured under the insurer's automobile insurance policies.

(e) The insurer has the burden of proof.

Sec. 2110. (1) In developing and evaluating rates ~~pursuant to~~ **under** the standards prescribed in section 2109, due consideration shall ~~must~~ be given to past and prospective loss experience ~~within~~ **in** and outside this state, to catastrophe hazards, if any; to a reasonable margin for underwriting profit and contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to past and prospective expenses, both countrywide and those specially applicable to this state exclusive of assessments under this ~~code, act;~~ to assessments under this ~~code, act;~~ to underwriting practice and judgment; and to all other relevant factors ~~within~~ **in** and outside this state.

(2) ~~The~~ **In developing and evaluating rates under the standards prescribed in section 2109, the** systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of the insurer or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable.

(3) ~~Risks~~ **In developing and evaluating rates under the standards prescribed in section 2109, risks** may be grouped by classifications for the establishment of rates and minimum premiums. The classifications may measure differences in losses, expenses, or both.

1 Sec. 2115. (1) If as part of a decision in a proceeding under
 2 section 2114, or in a separate proceeding on the ~~commissioner's~~
 3 **director's** own motion, held pursuant to Act No. 306 of the Public
 4 Acts of 1969, as amended, **under the administrative procedures act**
 5 **of 1969, 1969 PA 306, MCL 24.201 to 24.328**, the ~~commissioner~~
 6 **director** finds that a reasonable degree of competition does not
 7 exist on a statewide basis with respect to ~~automobile insurance or~~
 8 home insurance, the ~~commissioner~~**director** shall by order require
 9 each insurer ~~which~~**that** transacts that type of insurance in this
 10 state to comply with ~~the provisions of~~ chapter 24 or 26, as ~~the~~
 11 ~~case may be,~~ **applicable**, with respect to ~~that the~~ insurance. ~~which~~
 12 ~~was the subject of the commissioner's finding.~~ The order shall ~~must~~
 13 take effect not less than 90 ~~nor~~ **and not** more than 150 days after
 14 the order is issued. On or after the effective date of an order
 15 issued under this subsection, ~~none of the provisions of this~~
 16 chapter ~~shall be applicable~~ **does not apply** to the insurance ~~which~~
 17 **that** was the subject of the order.

18 (2) After an order issued pursuant to ~~under~~ subsection (1) has
 19 been in effect for 1 year, if the ~~commissioner~~**director** has reason
 20 to believe that there would be a reasonable degree of price
 21 competition for the type of insurance affected by the order, or if,
 22 ~~upon~~**on** the petition of an insurer or a resident of this state,
 23 there is a showing that there is reason to believe that there would
 24 be a reasonable degree of price competition for that type of
 25 insurance, the ~~commissioner~~**director** shall hold a hearing pursuant
 26 to Act No. 306 of the Public Acts of 1969, as amended, **under the**
 27 **administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to**
 28 **24.328**, to determine if a reasonable degree of price competition
 29 would exist if the order ~~were no longer~~ **was not** in effect. The

1 hearing ~~shall~~**must** be held ~~upon~~**on** not less than 20 days' written
2 notice to each insurer subject to the order and ~~upon~~**on** not less
3 than 20 days' notice in not ~~less~~**fewer** than 3 newspapers of general
4 circulation ~~within~~**in** this state.

5 (3) If the ~~commissioner~~**director** finds after ~~the~~**a** hearing
6 **under subsection (2)** that a reasonable degree of price competition
7 would exist, the ~~commissioner~~**director** shall by order state when,
8 not less than 90 ~~nor~~**and not** more than 150 days after issuance of a
9 new order, the preceding order will ~~no longer~~**not** be effective. On
10 and after the effective date of an order issued under this
11 subsection, ~~the provisions of this chapter shall be applicable~~
12 **applies** to the type of insurance ~~which~~**that** was the subject of the
13 order.

14 Sec. 2127. (1) The ~~commissioner~~**director** may by rule
15 prospectively require insurers, rating organizations, and advisory
16 organizations to collect and report data only to the extent
17 necessary to monitor and evaluate the automobile and home insurance
18 markets in this state. The ~~commissioner~~**director** shall authorize
19 the use of sampling techniques in each instance where sampling is
20 practicable and consistent with the purposes for which the data are
21 to be collected and reported.

22 (2) **This section does not apply to rate making under section**
23 **2109a.**