

SUBSTITUTE FOR
HOUSE BILL NO. 4354

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2021, 2108, 2112, 2406, 2458, 2606, and 2652
(MCL 500.2021, 500.2108, 500.2112, 500.2406, 500.2458, 500.2606,
and 500.2652), section 2021 as added by 1982 PA 7, section 2112 as
amended by 2012 PA 454, section 2406 as amended by 1993 PA 200, and
section 2458 as amended by 1988 PA 262.

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~~**THAT** makes
4 its own rates, within a reasonable time after receiving written
5 request ~~therefor~~**FOR THE INFORMATION** and ~~upon~~**ON** payment of ~~such~~**A**
6 reasonable charge, ~~as it may make,~~ to furnish to ~~any~~**AN** insured
7 affected by a rate made by it, or to the **INSURED** authorized

1 representative, ~~of such insured,~~ all pertinent information to such
 2 **THE** rate. **PERTINENT INFORMATION UNDER THIS SECTION DOES NOT INCLUDE**
 3 **INFORMATION THAT IS A TRADE SECRET AS DETERMINED BY THE DIRECTOR**
 4 **UNDER SECTION 2108(5) OR 2406(6).**

5 Sec. 2108. (1) On the effective date ~~thereof, each insurer~~
 6 ~~shall file with the commissioner every~~ **OF A** manual of
 7 classification, ~~every~~ manual of rules and rates, ~~every~~ rating plan,
 8 ~~and every~~ **OR** modification of a manual of classification, manual of
 9 rules and rates, or a rating plan ~~which it~~ **THAT AN INSURER** proposes
 10 to use for automobile insurance ~~and~~ **OR** home insurance, **THE INSURER**
 11 **SHALL FILE THE MANUAL OR PLAN WITH THE DIRECTOR.** Each filing ~~shall~~
 12 **UNDER THIS SUBSECTION MUST** state the character and extent of the
 13 coverage contemplated. ~~Each~~ **AN** insurer **THAT IS** subject to this
 14 chapter ~~who~~ **AND THAT** maintains rates in any part of this state
 15 shall at all times maintain rates in effect for all eligible
 16 persons meeting the underwriting criteria of the insurer.

17 (2) An insurer may satisfy its obligation to make filings
 18 under subsection (1) by becoming a member of, or a subscriber to, a
 19 rating organization licensed under chapter 24 or chapter 26 ~~which~~
 20 **THAT** makes ~~these~~ **THE** filings, and by filing with the ~~commissioner~~
 21 **DIRECTOR** a copy of its authorization of the rating organization to
 22 make ~~these~~ **THE** filings on its behalf. ~~Nothing contained in this~~
 23 **THIS** chapter ~~shall be construed as requiring any~~ **DOES NOT REQUIRE**
 24 **AN** insurer to become a member of or a subscriber to ~~any~~ **A** rating
 25 organization. ~~Insurers~~ **AN INSURER** may file and use deviations from
 26 filings made on ~~their~~ **ITS** behalf. ~~, which~~ **THE** deviations ~~shall be~~
 27 **ARE** subject to ~~the provisions of~~ this chapter.

(3) ~~Each~~ **A** filing ~~shall~~ **UNDER THIS SECTION MUST** be accompanied by a certification by or on behalf of the insurer that, to the best of ~~its~~ **THE INSURER'S** information and belief, the filing conforms to the requirements of this chapter.

(4) ~~Each~~ **A** filing ~~shall~~ **UNDER THIS SECTION MUST** include information that supports the filing with respect to the requirements of section 2109. The information may include 1 or more of the following:

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

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

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

(d) Any other relevant information.

(5) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE DEPARTMENT SHALL MAKE A** filing **UNDER THIS SECTION** and any accompanying information ~~shall be open to public inspection upon~~ **ON** filing. **AN INSURER OR A RATING ORGANIZATION FILING ON THE INSURER'S BEHALF MAY DESIGNATE INFORMATION INCLUDED IN THE FILING OR ANY ACCOMPANYING INFORMATION AS A TRADE SECRET. THE INSURER OR THE RATING ORGANIZATION FILING ON BEHALF OF THE INSURER SHALL DEMONSTRATE TO THE DIRECTOR THAT THE DESIGNATED INFORMATION IS A TRADE SECRET. IF THE DIRECTOR DETERMINES THAT THE INFORMATION IS A TRADE SECRET, THE INFORMATION IS NOT SUBJECT TO PUBLIC INSPECTION AND IS EXEMPT FROM THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. AS USED IN THIS SUBSECTION, "TRADE SECRET" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE UNIFORM TRADE SECRETS ACT,**

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1 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 THE EFFECTIVE DATE OF THE
AMENDATORY ACT THAT ADDED THIS SENTENCE.>>

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~~**UNDER** this chapter.

5 Sec. 2112. (1) ~~At~~**SUBJECT TO SUBSECTION (3), AT** least
6 annually, in conjunction with a renewal notice, a bill, or other
7 notice of payment due issued to a policyholder in conjunction with
8 an automobile or home insurance contract, an insurer shall send to
9 the policyholder a written notice that all of the following
10 information is available and will be provided to the policyholder
11 on request:

12 (a) A description of the specific rating classifications by
13 which the rates and premiums for the policy have been determined.
14 The notice ~~shall~~**MUST** be of sufficient detail and clarity so that
15 the policyholder can reasonably verify the applicability and
16 accuracy of the rating classifications.

17 (b) A general explanation of the extent to which rates or
18 premiums vary among policyholders on the basis of the rating
19 classifications used by the insurer.

20 (c) Sources and reasonable procedures by which the
21 policyholder can obtain from the insurer additional information
22 sufficient for the policyholder to calculate and confirm the
23 accuracy of his or her specific premium.

24 (d) Relevant information regarding the rights of the
25 policyholder, under sections 2113 and 2114, to appeal the
26 application of the insurer's rating plan in determining his or her
27 premium, to obtain documentation from the insurer regarding the

1 determination of the rate, to appeal the application of the
 2 insurer's underwriting rules to the policyholder, to request an
 3 informal conference with the insurer, and to file with the
 4 ~~commissioner~~**DIRECTOR** a complaint as an aggrieved person.

5 (e) A description of all of the insurer's underwriting rules
 6 based on insurance eligibility points and a description of all of
 7 the underwriting rules of the insurer's affiliates based on
 8 insurance eligibility points.

9 (f) A suggestion that the policyholder contact his or her
 10 agent to determine if he or she is eligible for insurance from an
 11 affiliate of the insurer or under a different rating plan of the
 12 insurer that would provide to the policyholder insurance at a more
 13 favorable premium.

14 (2) In a written notice provided under subsection (1), the
 15 insurer shall provide the policyholder with a telephone number and
 16 an ~~internet~~**INTERNET** address, by either of which the policyholder
 17 may contact the insurer to request the information listed in
 18 subsection (1). On request of the policyholder, the insurer shall
 19 provide the policyholder with the requested information in either a
 20 written or electronic format, as requested by the policyholder.

21 (3) **AN INSURER IS NOT REQUIRED TO PROVIDE INFORMATION TO AN**
 22 **INSURED UNDER THIS SECTION THAT IS A TRADE SECRET AS DETERMINED BY**
 23 **THE DIRECTOR UNDER SECTION 2108(5) OR 2406(6).**

24 Sec. 2406. (1) Except for worker's compensation insurance,
 25 ~~every~~**AN** insurer shall file with the ~~commissioner~~**every**~~every~~**DIRECTOR A**
 26 manual of classification, ~~every~~ manual of rules and rates, ~~every~~
 27 rating plan, ~~and every~~**OR** modification of ~~any of the foregoing~~**A**

1 **MANUAL OF CLASSIFICATION, MANUAL OF RULES AND RATES, OR RATING PLAN**
 2 that ~~it~~**THE INSURER** proposes to use. ~~Every such~~**EACH** filing shall
 3 **UNDER THIS SUBSECTION MUST** state the proposed effective date
 4 ~~thereof~~**OF THE FILING** and ~~shall~~**MUST** indicate the character and
 5 extent of the coverage contemplated. If a filing is not accompanied
 6 by the information ~~upon~~**ON** which the insurer supports the filing,
 7 and the ~~commissioner~~**DIRECTOR** does not have sufficient information
 8 to determine ~~whether~~**IF** the filing meets the requirements of this
 9 chapter, the ~~commissioner~~**DIRECTOR** shall within 10 days of the
 10 filing give written notice to the insurer to furnish the
 11 information ~~upon which it~~**THAT** supports the filing. The information
 12 furnished in support of a filing may include the experience or
 13 judgment of the insurer or rating organization making the filing,
 14 its interpretation of any statistical data it relies ~~upon~~**ON**, the
 15 experience of other insurers or rating organizations, or any other
 16 relevant factors. ~~A~~**EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6),**
 17 **THE DEPARTMENT SHALL MAKE A** filing **UNDER THIS SUBSECTION** and any
 18 supporting information ~~shall be~~ open to public inspection after the
 19 filing becomes effective.

20 (2) Except for worker's compensation insurance, an insurer may
 21 satisfy its obligation to make ~~such~~ filings by becoming a member
 22 of, or a subscriber to, a licensed rating organization that makes
 23 ~~such~~ filings, and by filing with the ~~commissioner~~**DIRECTOR** a copy
 24 of its authorization of the rating organization to make ~~such~~
 25 filings on its behalf. ~~Nothing contained in this~~**THIS** chapter ~~shall~~
 26 ~~be construed as requiring any~~**DOES NOT REQUIRE AN** insurer to become
 27 a member of or a subscriber to ~~any~~**A** rating organization.

1 (3) For worker's compensation insurance in this state, the
2 insurer shall file with the ~~commissioner~~**DIRECTOR** all rates and
3 rating systems. ~~Every insurer that insures worker's compensation in~~
4 ~~this state on the effective date of this subsection shall file the~~
5 ~~rates not later than the effective date of this subsection.~~

6 (4) ~~Except as provided in subsection (3) and as otherwise~~
7 ~~provided in this subsection, the~~**THE** rates and rating systems for
8 worker's compensation insurance shall ~~shall~~**MUST** be filed not later than
9 the date the rates and rating systems are to be effective. ~~However,~~
10 ~~if the insurer providing worker's compensation insurance is~~
11 ~~controlled by a nonprofit health care corporation formed pursuant~~
12 ~~to the nonprofit health care corporation reform act, Act No. 350 of~~
13 ~~the Public Acts of 1980, being sections 550.1101 to 550.1704 of the~~
14 ~~Michigan Compiled Laws, the rates and rating systems that it~~
15 ~~proposes to use shall be filed with the commissioner not less than~~
16 ~~45 days before the effective date of the filing. These filings~~
17 ~~shall be considered to meet~~**A FILING UNDER THIS SUBSECTION MEETS**
18 the requirements of this chapter unless and until the ~~commissioner~~
19 **DIRECTOR** disapproves a filing ~~pursuant to~~**UNDER** section 2418 or
20 2420.

21 (5) ~~Each~~**A** filing under subsections (3) and (4) shall ~~shall~~**MUST** be
22 accompanied by a certification by the insurer that, to the best of
23 ~~its~~**THE INSURER'S** information and belief, the filing conforms to
24 the requirements of this chapter.

25 (6) **AN INSURER OR A RATING ORGANIZATION FILING ON THE**
26 **INSURER'S BEHALF MAY DESIGNATE INFORMATION INCLUDED IN THE FILING**
27 **OR ANY ACCOMPANYING INFORMATION AS A TRADE SECRET. THE INSURER OR**

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1 THE RATING ORGANIZATION FILING ON BEHALF OF THE INSURER SHALL
 2 DEMONSTRATE TO THE DIRECTOR THAT THE DESIGNATED INFORMATION IS A
 3 TRADE SECRET. IF THE DIRECTOR DETERMINES THAT THE INFORMATION IS A
 4 TRADE SECRET, THE INFORMATION IS NOT SUBJECT TO PUBLIC INSPECTION
 5 AND IS EXEMPT FROM THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
 6 15.231 TO 15.246. AS USED IN THIS SUBSECTION, "TRADE SECRET" MEANS
 7 THAT TERM AS DEFINED IN SECTION 2 OF THE UNIFORM TRADE SECRETS ACT,
 8 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 THE EFFECTIVE DATE OF THE
 AMENDATORY ACT THAT ADDED THIS SUBSECTION.>>

9 Sec. 2458. ~~Every~~ EACH rating organization and ~~every~~ insurer
 10 ~~which~~ THAT makes its own rates, ~~shall~~, within a reasonable time
 11 after receiving written request ~~therefor~~ FOR THE INFORMATION and
 12 ~~upon~~ ON payment of ~~such~~ A reasonable charge, ~~as it may make~~, SHALL
 13 furnish to ~~any~~ AN insured affected by a rate made by it, THE RATING
 14 ORGANIZATION OR INSURER, or to the INSURED'S authorized
 15 representative, ~~of the insured~~, all pertinent information as to the
 16 rate. ~~Every~~ PERTINENT INFORMATION UNDER THIS SECTION DOES NOT
 17 INCLUDE INFORMATION THAT IS A TRADE SECRET AS DETERMINED BY THE
 18 DIRECTOR UNDER SECTION 2108(5) OR 2406(6). EACH rating organization
 19 and ~~every~~ insurer ~~which~~ THAT makes its own rates shall provide
 20 within this state reasonable means ~~whereby~~ any FOR A person
 21 aggrieved by the application of its rating system ~~may~~ TO be heard,
 22 in person or by his or her authorized representative, on his or her
 23 written request to review the manner in which the rating system has
 24 been applied in connection with the insurance afforded to him or
 25 her. If the rating organization or insurer fails to grant or reject
 26 the request within 30 days after it is made, the applicant may
 27 proceed in the same manner as if his or her application had been

1 rejected. ~~Any~~ **A** party affected by the action of the rating
 2 organization or insurer on **THE** request may **APPEAL**, within 30 days
 3 after written notice of the action, ~~appeal to the commissioner,~~
 4 **DIRECTOR**, who, after a hearing held ~~upon~~ **ON** not less than 10 days'
 5 written notice to the appellant and to the rating organization or
 6 insurer, may affirm or reverse the action. A person who requests a
 7 hearing before the ~~commissioner pursuant to~~ **DIRECTOR UNDER** this
 8 section may be represented at the hearing by an attorney. A person,
 9 other than an individual, that requests a hearing before the
 10 ~~commissioner pursuant to~~ **DIRECTOR UNDER** this section may also be
 11 represented by an officer or employee of that person. An individual
 12 who requests a hearing before the ~~commissioner pursuant to~~ **DIRECTOR**
 13 **UNDER** this section may also be represented by a relative of the
 14 individual.

15 Sec. 2606. (1) ~~Every~~ **EACH** insurer shall file with the
 16 ~~commissioner,~~ **DIRECTOR**, except as to inland marine risks ~~which~~ **THAT**
 17 by general custom of the business are not written according to
 18 manual rates or rating plans, every manual, minimum, class rate,
 19 rating schedule or rating plan and every other rating rule, and
 20 every modification of any of the foregoing ~~which~~ **THAT** it proposes
 21 to use. ~~Every such~~ **IN ITS** filing, **EACH INSURER** shall state the
 22 proposed effective date ~~thereof,~~ **OF THE FILING** and shall indicate
 23 the character and extent of the coverage contemplated.

24 (2) ~~When~~ **IF** a filing is not accompanied by the information
 25 ~~upon~~ **ON** which the insurer supports ~~such~~ **THE** filing, and the
 26 ~~commissioner~~ **DIRECTOR** does not have sufficient information to
 27 determine whether ~~such~~ **THE** filing meets the requirements of this

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chapter, ~~he~~ **THE DIRECTOR** shall require ~~such~~ **THE** insurer to furnish the information ~~upon which it~~ **THAT** supports ~~such~~ **THE** filing and in ~~such event~~ the waiting period ~~shall commence as of~~ **COMMENCES ON** the date ~~such~~ **THE** information is furnished. The information furnished in support of a filing may include ~~(a)~~ the experience or judgment of the insurer or rating organization making the filing, ~~(b)~~ its interpretation of any statistical data it relies ~~upon,~~ ~~(c)~~ **ON**, the experience of other insurers or rating organizations, or ~~(d)~~ any other relevant factors.

(3) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE DEPARTMENT SHALL MAKE A** filing **UNDER THIS SECTION** and any supporting information ~~shall be~~ open to public inspection after the filing becomes effective. **AN INSURER OR A RATING ORGANIZATION FILING ON THE INSURER'S BEHALF MAY DESIGNATE INFORMATION INCLUDED IN THE FILING OR ANY ACCOMPANYING INFORMATION AS A TRADE SECRET. THE INSURER OR THE RATING ORGANIZATION FILING ON BEHALF OF THE INSURER SHALL DEMONSTRATE TO THE DIRECTOR THAT THE DESIGNATED INFORMATION IS A TRADE SECRET. IF THE DIRECTOR DETERMINES THAT THE INFORMATION IS A TRADE SECRET, THE INFORMATION IS NOT SUBJECT TO PUBLIC INSPECTION AND IS EXEMPT FROM THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. AS USED IN THIS SUBSECTION, "TRADE SECRET" MEANS THAT TERM AS DEFINED IN SECTION 2 OF THE 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 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE.>>**

(4) Specific inland marine rates on risks specially rated, made by a rating organization, ~~shall~~ **MUST** be filed with the ~~commissioner~~ **DIRECTOR**.

(5) An insurer may satisfy its obligation to make ~~such~~ filings

1 UNDER THIS SECTION by becoming a member of, or a subscriber to, a
 2 licensed rating organization ~~which~~ **THAT** makes ~~such~~ filings, and by
 3 filing with the ~~commissioner~~ **DIRECTOR** a copy of its authorization
 4 of the rating organization to make ~~such~~ **THE** filings on its behalf.
 5 ~~Nothing contained in this~~ **THIS** chapter ~~shall be construed as~~
 6 ~~requiring any~~ **DOES NOT REQUIRE AN** insurer to become a member of or
 7 a subscriber to ~~any~~ **A** rating organization.

8 Sec. 2652. ~~Every~~ **EACH** rating organization and ~~every~~ insurer
 9 ~~which~~ **THAT** makes its own rates, ~~shall,~~ within a reasonable time
 10 after receiving written request ~~therefor~~ **FOR THE INFORMATION** and
 11 ~~upon~~ **ON** payment of ~~such~~ **A** reasonable charge, ~~as it may make,~~ **SHALL**
 12 furnish to ~~any~~ **AN** insured affected by a rate made by it, or to the
 13 **INSURED'S** authorized representative, ~~of such insured,~~ all pertinent
 14 information as to ~~such~~ **THE** rate. ~~Every~~ **PERTINENT INFORMATION UNDER**
 15 **THIS SECTION DOES NOT INCLUDE INFORMATION THAT IS A TRADE SECRET AS**
 16 **DETERMINED BY THE DIRECTOR UNDER SECTION 2108(5) OR 2406(6).** **EACH**
 17 rating organization and ~~every~~ insurer ~~which~~ **THAT** makes its own
 18 rates shall provide within this state reasonable means ~~whereby any~~
 19 **FOR A** person aggrieved by the application of its rating system ~~may~~
 20 **TO** be heard, in person or by his **OR HER** authorized representative,
 21 on his **OR HER** written request to review the manner in which ~~such~~
 22 **THE** rating system has been applied in connection with the insurance
 23 afforded him **OR HER**. If the rating organization or insurer fails to
 24 grant or reject ~~such~~ **THE** request within 30 days after it is made,
 25 the applicant may proceed in the same manner as if ~~his~~ **THE**
 26 **APPLICANT'S** application had been rejected. ~~Any~~ **A** party affected by
 27 the action of ~~such~~ **THE** rating organization or ~~such~~ **THE** insurer on

1 ~~such~~**THE** request may **APPEAL**, within 30 days after written notice of
2 ~~such~~**THE** action, ~~appeal to the commissioner,~~**DIRECTOR**, who, after a
3 hearing held ~~upon~~**ON** not less than 10 days' written notice to the
4 appellant and to ~~such~~**THE** rating organization or insurer, may
5 affirm or reverse ~~such~~**THE** action.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.