

# HOUSE BILL No. 4246

February 6, 1997, Introduced by Reps. Prusi, Schauer, Brewer, Cherry, Martinez, Anthony, Varga, LaForge, Leland, Scott and Goschka and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending section 2409 (MCL 500.2409), as amended by 1993 PA  
200.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2409. (1) The commissioner shall hold a public hearing  
2 and shall issue a tentative report detailing the state of compe-  
3 tition in the worker's compensation insurance market on a state-  
4 wide basis and delineating specific classifications, kinds or  
5 types of insurance, if any, where competition does not exist not  
6 later than January 15, 1984 and each year thereafter. The report  
7 shall be based on relevant economic tests, including but not  
8 limited to those in subsection (3). The findings in the report  
9 shall not be based on any single measure of competition, but  
10 appropriate weight shall be given to all measures of

1 competition. The report shall include a certification of whether  
2 or not competition exists. HOWEVER, THE COMMISSIONER SHALL CER-  
3 TIFY THAT COMPETITION DOES NOT EXIST IF THE AVERAGE LOSS RATIO  
4 AMONG THOSE INSURERS WRITING WORKER'S COMPENSATION INSURANCE IS  
5 75% OR MORE. Any person who disagrees with the report and find-  
6 ings of the commissioner may request a contested hearing pursuant  
7 to the administrative procedures act of 1969, ~~Act No. 306 of the~~  
8 ~~Public Acts of 1969, as amended, being sections 24.201 to 24.328~~  
9 ~~of the Michigan Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328,  
10 not later than 60 days after issuance of the tentative report.

11 (2) Not later than August 1, 1984 and each year thereafter,  
12 the commissioner shall issue a final report which shall include a  
13 final certification of whether or not competition exists in the  
14 worker's compensation insurance market. The final report and  
15 certification shall be supported by substantial evidence.

16 (3) All of the following shall be considered by the commis-  
17 sioner for purposes of subsections (1) and (2):

18 (a) The extent to which any insurer controls all or a por-  
19 tion of the worker's compensation insurance market. With respect  
20 to competition on a statewide basis, an insurer shall not be con-  
21 sidered to control the worker's compensation insurance market  
22 unless it has more than a 15% market share. In making a determi-  
23 nation under this subdivision, the commissioner shall use all  
24 insurers in this state, including self-insurers, group  
25 self-insurers as defined in chapter 65, and insurers writing  
26 risks under the placement facility created in chapter 23 as a  
27 base for calculating market share.

1 (b) Whether the total number of companies writing worker's  
2 compensation insurance in this state is sufficient to provide  
3 multiple options to employers.

4 (c) The disparity among worker's compensation insurance  
5 rates and classifications to the extent that such classifications  
6 result in rate differentials.

7 (d) The availability of worker's compensation insurance to  
8 employers in all geographic areas and all types of business.

9 (e) The residual market share.

10 (f) The overall rate level which is not excessive, inade-  
11 quate, or unfairly discriminatory.

12 (G) THE AVERAGE LOSS RATIO AMONG ALL INSURERS WRITING  
13 WORKER'S COMPENSATION INSURANCE IN THIS STATE AND THE INDIVIDUAL  
14 LOSS RATIO OF EACH OF THOSE INSURERS.

15 (H) ~~(g)~~ Any other factors the commissioner considers  
16 relevant.

17 (4) The reports and certifications required under subsec-  
18 tions (1) and (2) shall be forwarded to the governor, the clerk  
19 of the house, the secretary of the senate, all the members of the  
20 house of representatives committees on insurance and labor, and  
21 all the members of the senate committees on commerce and labor.

22 (5) Not later than 90 days after receipt of the final report  
23 and final certification, the legislature, by concurrent resolu-  
24 tion, shall approve or disapprove the certification by a majority  
25 roll-call vote in each house. If the certification is approved,  
26 the commissioner shall proceed under section 2409a.