

**House Bill 4029 (Substitute H-1)  
First Analysis (3-22-01)**

**Sponsor: Rep. Andrew Richner  
Committee: Insurance and Financial  
Services**

***THE APPARENT PROBLEM:***

Chapter 21 of the Insurance Code addresses, among other things, the underwriting rules that companies who write homeowner's insurance policies are allowed use in order to refuse to insure, refuse to renew (or "nonrenew"), or limit the coverage available to a customer. One of the provisions says that an insurance company can adopt an underwriting rule that allows it not to renew a homeowner's policy if there have been three paid claims within the immediately preceding three-year period totaling \$750 or more without including weather-related claims, and \$1,500 or more when including weather-related claims. (Liability claims are not included in this calculation.) Regulators say that most Michigan companies have adopted this rule. Such an insurance underwriting rule must be applied uniformly to customers. The amounts were put into the code as part of Public Act 145 of 1979. The code calls for the amounts to be adjusted biennially by the insurance commissioner (now known as the commissioner of the Office of Financial and Insurance Services) "based on an appropriate index relating to the cost of claims." The code requires that this adjustment be made pursuant to rules promulgated by the commissioner. Promulgating rules requires what has been described as a cumbersome and lengthy process. Apparently, no such rules have ever been promulgated and so no adjustments to these amounts have been made in 20 years.

Obviously, the cost of goods and services that determine the size of an insurance claim has increased substantially over the past 20 years, making a policyholder far more vulnerable to non-renewal as a result of his or her three-year claims history. Insurance officials say that once an insured reaches these limits and an insurance company has adopted the three-claim rule, the company must non-renew even if the company considers the customer a good risk. A survey begun in 1999 by the Office of Financial and Insurance Services (OFIS) indicated that there had been many weather-related occurrences

over a recent three-year period, with the result that many policyholders were unable to renew their homeowner's policies because they had fallen under the three claims rule and dollar amount threshold. According to an OFIS analysis, "When a series of bad weather events occur in an area, homeowners become more susceptible to nonrenewal through no fault of their own."

Legislation has been introduced to raise the claims history dollar amounts and provide a means of adjusting them periodically to take account of increases in the cost of living.

***THE CONTENT OF THE BILL:***

The bill would amend Chapter 21 of the Insurance Code so that an insurance company could base the nonrenewal of a home insurance policy on the claim history under the policy, excluding liability claims, if there had been either:

- 1) three paid claims within the immediately preceding three-year period totaling \$1,500 or more (rather than \$750 or more, as is now the case), exclusive of weather-related claims; or
- 2) three paid claims within the immediately preceding three-year period totaling \$2,000 or more (rather than \$1,000 or more), including weather-related claims.

Further, an insurance company that had adopted a rule with the statutory minimums cited above could also adopt a different underwriting rule that applied to a long-term policyholder. Such a rule would apply to a policyholder who had held a home insurance policy with the company for a continuous minimum period of time as determined by the company. The period of time would have to be between five and ten years. (That is, the company could not require a person to have been a customer for more than ten years continuously and could not apply such a rule to

a person who had been with the company less than five years.) Such a rule would have to be based on a history of three or more claims within an immediately preceding three-year period and based on a paid claim history that totaled \$1,500 or more, exclusive of weather related claims, or \$2,000 or more, including weather-related claims. (This means that this underwriting rule would be more lenient than the rule applied to other policyholders as regards the number of claims and the total cost of the claims.)

In addition, the bill would require that the \$1,500 and \$2,000 limits be adjusted on January 1, 2006, and on January 1 every sixth year thereafter, to reflect the aggregate annual average percentage change in the Consumer Price Index (CPI) since the previous adjustment, rounded to the nearest hundred dollars. (The term "consumer price index" would mean the index for all urban consumers in the U.S. city average, as most recently reported by the United States Department of Labor, Bureau of Labor Statistics, and after certification by the commissioner of the Office of Financial and Insurance Services in an administrative bulletin.)

The bill would take effect January 1, 2002.

MCL 500.2117

### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency (HFA), the bill would have no impact on state funds. (3-21-01)

### ***ARGUMENTS:***

#### ***For:***

The dollar amounts in the Insurance Code that insurance companies commonly use in their underwriting rules to "nonrenew" home insurance policies are over 20 years old and need updating. When enacted, it was anticipated that they would be periodically adjusted, but they have not been. Because the cost of goods and services necessary to repair damaged homes has increased substantially over the past two decades, policyholders are increasingly more vulnerable to nonrenewal. The Office of Financial and Insurance Services has pointed out that a series of bad weather events, as have occurred in recent years, can result in the nonrenewal of home insurance policies, even though the damage was not the fault of the homeowner and even though the insurance company considered the homeowner a good risk. (Insurance companies who have adopted an underwriting rule based on the

statutory dollar amounts, must apply the rule uniformly to all customers.) As OFIS points out, currently a minor loss can put an insured over the maximum dollar limit and then two subsequent losses would produce a nonrenewal. The bill would double the statutory dollar amounts and require an inflation-based adjustment periodically.

#### ***For:***

Under the bill, an insurance company could adopt a more lenient underwriting rule for long-term customers than for other customers. If a company had adopted an underwriting rule based on the statutory dollar amounts, it could then use a different underwriting rule for customers that had been with the company for a certain number of years. (The minimum number of years could be no less than five and no more than ten.) It then could renew the policies of these longstanding customers in circumstances in which it would not renew the policies of other customers.

#### ***Against:***

As written, the bill could lead insurance companies and consumers to assume that insurance companies are not allowed to increase the dollar amount threshold and the number of claims threshold beyond the statutory minimums unless the insured had held a policy with the company for more than five years. But this assumption would be wrong. According to OFIS, insurance companies can set the dollar and claims limits at any amount above the minimums allowed by statute as long as they apply them uniformly for all their insured customers. That is, a company can adopt a more lenient underwriting rule than described in statute but not a more strict one.

### ***POSITIONS:***

The Office of Financial and Insurance Services (OFIS) supports the bill. (3-21-01)

The Michigan Insurance Federation supports the bill. (3-21-01)

Farmers Insurance Group supports the bill. (3-21-01)

Analyst: R. Young/C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.