HOUSE BILL No. 4029

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January 25, 2001, Introduced by Rep. Richner and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 2117 (MCL 500.2117), as amended by 1980 PA 461.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2117. (1) As a condition of maintaining its certificate of authority, an insurer shall not refuse to insure, refuse to continue to insure, or limit the coverage available to an eligible person for home insurance, except in accordance with underwriting rules established pursuant to this section and section 2119. An insurer shall not establish underwriting rules for home insurance for contracts providing identical coverages that differ from those of any affiliate of the insurer.

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(2) The underwriting rules ~~which~~ THAT an insurer may establish for home insurance shall be based only on the following:

(a) Criteria identical to the standards set forth in section 2103(2).

(b) The physical condition of the property insured or to be insured, provided the underwriting rules are objective, are directly related to the perils insured against, and, without regard to the age of the structure, are based upon the specific provisions of a national, state, or local housing and safety code, a manufacturer's specification, or standards of similar specificity. If an applicant or insured obtains a certificate of compliance or habitation issued by an appropriate governmental unit or agency, certifying that a building is in substantial compliance with local housing and safety codes, the certificate ~~shall create~~ CREATES a rebuttable presumption that the dwelling meets the insurer's underwriting rules relating to physical condition.

(c) For the renewal of a home insurance policy, the liability claim history of the person insured or to be insured during the 3-year period immediately preceding renewal of the policy, if that history is based on 1 or both of the following:

(*i*) Claim experience arising out of an insured's negligence.

(*ii*) Failure by the insured, after written notice from the insurer, to correct a physical condition ~~which~~ THAT is directly related to a paid liability claim or ~~which~~ THAT presents a clear risk of a significant loss under the liability portion of a homeowners policy.

(d) For new policies only, physical conditions ~~which~~ THAT clearly present an extreme likelihood of a significant loss under the liability coverages of a home insurance policy.

(e) The relationship between market value and replacement cost of a dwelling insured or to be insured for a replacement cost policy, if a repair cost policy is offered by that insurer pursuant to subsection (3).

(f) For nonrenewal of home insurance policies, the claim history under the policy, excluding liability claims, if there has been 1 or more of the following:

(*i*) Three paid claims within the immediately preceding 3-year period totaling ~~$750.00~~ $1,500.00 or more, exclusive of weather-related claims.

(*ii*) Three paid claims within the immediately preceding 3-year period totaling ~~$1,000.00~~ $2,000.00 or more, including weather-related claims.

(g) The number of residences within the dwelling are inconsistent with the policy forms approved by the commissioner for the insurer.

(h) The unoccupancy of a dwelling for more than 60 days, if there is evidence of an intent to vacate or keep the premises vacant or unoccupied, as to the applicant or insured.

(i) The existence of an adjacent physical hazard, if the hazard presents a significant risk of loss directly related to the perils insured or to be insured against for which a rate surcharge is not applicable. For purposes of this subdivision only, residential property or traffic patterns shall not be considered to cause a significant risk of loss. Nonrenewals based upon an adjacent physical hazard shall be due to a change in the hazard from that which existed at the original date of issuance of the policy.

(j) The failure of the insured or applicant to purchase an amount of insurance in excess of 80% of the replacement cost of the property to be insured under a replacement cost policy, if both of the following conditions are met:

(*i*) The purchase of an amount of insurance in excess of 80% of the replacement cost is a condition for sale of the policy.

(*ii*) The insurer offers in this state at least 1 form of a replacement cost policy for which the insurer requires only a minimum amount of insurance equal to 80% of the replacement cost of the dwelling as a condition of purchase.

(3) If an insurer establishes an underwriting rule based upon the relationship between the market value and replacement cost pursuant to subsection (2)(e), all the following shall apply as to the repair cost policy:

(a) The insurer shall offer for sale a repair cost policy with deductibles, terms and conditions, perils insured against, and types and amounts of coverage, which are substantially equivalent to the deductibles, terms and conditions, perils insured against, and types and amounts of coverage provided by the replacement cost policy of the insurer at least equivalent to the HO-2 form replacement cost policy filed and in effect in this state for the principal rating organization as of October 1, 1979.

(b) The insurer shall not utilize an underwriting rule based upon the relationship between the market value and replacement cost for the repair cost policy.

(4) The rates of an insurer for a repair cost policy shall be established so that the premium for a repair cost policy shall not exceed 105% of the premium for an amount of insurance equal to 80% of the replacement cost of the dwelling under the equivalent replacement cost policy described in subsection (3)(a). Premiums for dwellings with identical replacement costs shall vary on a schedule determined by the insurer in accordance with the market value of the dwellings.

(5) Off-premises claims may be aggregated for the purposes of subsection (2)(f), irrespective of the location of the insured dwelling. All claims other than off-premises losses utilized in a determination for purposes of subsection (2)(f) shall be aggregated only as to an insured dwelling. The minimum dollar amounts prescribed in subsection (2)(f) shall be adjusted ~~biennially pursuant to rules promulgated by the commissioner under Act No. 306 of the Public Acts of 1969, as amended, based upon an appropriate index relating to the cost of claims~~ ANNUALLY TO REFLECT THE ANNUAL AVERAGE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX. AS USED IN THIS SUBSECTION, "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE 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 AS CERTIFIED BY THE COMMISSIONER.

Enacting section 1. This amendatory act takes effect January 1, 2002.