

# HOUSE BILL No. 5629

December 1, 2009, Introduced by Reps. Lipton, Liss, Haugh, Gregory, Slavens, Segal, Geiss, Switalski, Lemmons, Constan, Tlaib, Lisa Brown, Huckleberry, Robert Jones, Cushingberry, Durhal, Womack, Young, Nathan, Stanley, Roberts, Gonzales and Leland and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending sections 2403 and 2603 (MCL 500.2403 and 500.2603),  
section 2403 as amended by 1993 PA 200.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2403. (1) All rates shall be made in accordance with this  
2 section and all of the following:

3           (a) Due consideration shall be given to past and prospective  
4 loss experience within and outside this state; to catastrophe  
5 hazards; to a reasonable margin for underwriting profit and  
6 contingencies; to dividends, savings, or unabsorbed premium  
7 deposits allowed or returned by insurers to their policyholders,  
8 members, or subscribers; to past and prospective expenses, both

1 countrywide and those specially applicable to this state; to  
2 underwriting practice, judgment, and to all other relevant factors  
3 within and outside this state. For worker's compensation insurance,  
4 in determining the reasonableness of the margin for underwriting  
5 profit and contingencies, consideration shall be given to all  
6 after-tax investment profit or loss from unearned premium and loss  
7 reserves attributable to worker's compensation insurance, as well  
8 as the factors used to determine the amount of reserves. For all  
9 other kinds of insurance to which this chapter applies, all factors  
10 to which due consideration is given under this subdivision shall be  
11 treated in a manner consistent with the laws of this state that  
12 existed on December 28, 1981.

13 (b) The systems of expense provisions included in the rates  
14 for use by any insurer or group of insurers may differ from those  
15 of other insurers or groups of insurers to reflect the requirements  
16 of the operating methods of the insurer or group with respect to  
17 any kind of insurance, or with respect to any subdivision or  
18 combination thereof for which subdivision or combination separate  
19 expense provisions are applicable.

20 (c) Risks may be grouped by classifications for the  
21 establishment of rates and minimum premiums. Classification rates  
22 may be modified to produce rates for individual risks in accordance  
23 with rating plans that measure variations in hazards, expense  
24 provisions, or both. The rating plans may measure any differences  
25 among risks that may have a probable effect upon losses or expenses  
26 as provided for in subdivision (a).

27 (d) Rates shall not be excessive, inadequate, or unfairly

1 discriminatory. FOR AUTOMOBILE INSURANCE, DUE CONSIDERATION SHALL  
2 BE GIVEN TO THE PERCENTAGE OF UNINSURED DRIVERS IN THE STATE IN  
3 DETERMINING WHETHER RATES ARE EXCESSIVE, INADEQUATE, OR UNFAIRLY  
4 DISCRIMINATORY. THE PERCENTAGE OF UNINSURED DRIVERS MAY BE OBTAINED  
5 FROM INFORMATION INCLUDING, BUT NOT LIMITED TO, STATISTICS AND DATA  
6 FROM THE INSURANCE INFORMATION INSTITUTE, THE NATIONAL ASSOCIATION  
7 OF INSURANCE COMMISSIONERS, AND LAW ENFORCEMENT AGENCIES. A rate  
8 shall not be held to be excessive unless the rate is unreasonably  
9 high for the insurance coverage provided and, EXCEPT FOR AUTOMOBILE  
10 INSURANCE, a reasonable degree of competition does not exist with  
11 respect to the classification, kind, or type of risks to which the  
12 rate is applicable. Except as otherwise provided in this  
13 subdivision, a rate shall not be held to be inadequate unless the  
14 rate is unreasonably low for the insurance coverage provided and  
15 the continued use of the rate endangers the solvency of the  
16 insurer; or unless the rate is unreasonably low for the insurance  
17 coverage provided and the use of the rate has or will have the  
18 effect of destroying competition among insurers, creating a  
19 monopoly, or causing a kind of insurance to be unavailable to a  
20 significant number of applicants who are in good faith entitled to  
21 procure the insurance through ordinary methods. For commercial  
22 liability insurance a rate shall not be held to be inadequate  
23 unless the rate, after consideration of investment income and  
24 marketing programs and underwriting programs, is unreasonably low  
25 for the insurance coverage provided and is insufficient to sustain  
26 projected losses and expenses; or unless the rate is unreasonably  
27 low for the insurance coverage provided and the use of the rate has

1 or will have the effect of destroying competition among insurers,  
2 creating a monopoly, or causing a kind of insurance to be  
3 unavailable to a significant number of applicants who are in good  
4 faith entitled to procure the insurance through ordinary methods.  
5 As used in this subdivision, "commercial liability insurance" means  
6 insurance that provides indemnification for commercial, industrial,  
7 professional, or business liabilities. For worker's compensation  
8 insurance provided by an insurer that is controlled by a nonprofit  
9 health care corporation formed pursuant to the nonprofit health  
10 care corporation reform act, ~~Act No. 350 of the Public Acts of~~  
11 ~~1980, being sections 550.1101 to 550.1704 of the Michigan Compiled~~  
12 ~~Laws 1980 PA 350, MCL 550.1101 TO 550.1704~~, a rate shall not be  
13 held to be inadequate unless the rate is unreasonably low for the  
14 insurance coverage provided. A rate for a coverage is unfairly  
15 discriminatory in relation to another rate for the same coverage,  
16 if the differential between the rates is not reasonably justified  
17 by differences in losses, expenses, or both, or by differences in  
18 the uncertainty of loss for the individuals or risks to which the  
19 rates apply. A reasonable justification shall be supported by a  
20 reasonable classification system; by sound actuarial principles  
21 when applicable; and by actual and credible loss and expense  
22 statistics or, in the case of new coverages and classifications, by  
23 reasonably anticipated loss and expense experience. A rate is not  
24 unfairly discriminatory because the rate reflects differences in  
25 expenses for individuals or risks with similar anticipated losses,  
26 or because the rate reflects differences in losses for individuals  
27 or risks with similar expenses. Rates are not unfairly

1 discriminatory if they are averaged broadly among persons insured  
2 on a group, franchise, blanket policy, or similar basis.

3 (2) Except to the extent necessary to meet the provisions of  
4 subsection (1)(d), uniformity among insurers in any matters within  
5 the scope of this section is neither required nor prohibited.

6 Sec. 2603. (1) All rates shall be made in accordance with the  
7 following provisions:

8 (a) Due consideration shall be given to past and prospective  
9 loss experience within and outside this state; to catastrophe  
10 hazards; to a reasonable margin for underwriting profit and  
11 contingencies; to dividends, savings, or unabsorbed premium  
12 deposits allowed or returned by insurers to their policyholders,  
13 members, or subscribers; to past and prospective expenses, both  
14 countrywide and those specially applicable to this state; and to  
15 all other relevant factors within and outside this state. In the  
16 case of fire insurance rates, consideration also shall be given to  
17 the experience of the fire insurance business during a period of  
18 not less than the most recent 5-year period for which that  
19 experience is available.

20 (b) The systems of expense provisions included in the rates  
21 for use by any insurer or group of insurers may differ from those  
22 of other insurers or groups of insurers to reflect the requirements  
23 of the operating methods of the insurer or group with respect to  
24 any kind of insurance or with respect to any subdivision or  
25 combination thereof for which subdivision or combination separate  
26 expense provisions are applicable.

27 (c) Risks may be grouped by classifications for the

1 establishment of rates and minimum premiums. Classification rates  
2 may be modified to produce rates for individual risks in accordance  
3 with rating plans ~~which~~**THAT** measure variations in hazards, expense  
4 provisions, or both. The rating plans may measure any differences  
5 among risks that may have a probable effect upon losses or expenses  
6 as provided for in subdivision (a).

7 (d) Rates shall not be excessive, inadequate, or unfairly  
8 discriminatory. **FOR AUTOMOBILE INSURANCE, DUE CONSIDERATION SHALL**  
9 **BE GIVEN TO THE PERCENTAGE OF UNINSURED DRIVERS IN THE STATE IN**  
10 **DETERMINING WHETHER RATES ARE EXCESSIVE, INADEQUATE, OR UNFAIRLY**  
11 **DISCRIMINATORY. THE PERCENTAGE OF UNINSURED DRIVERS MAY BE OBTAINED**  
12 **FROM INFORMATION INCLUDING, BUT NOT LIMITED TO, STATISTICS AND DATA**  
13 **FROM THE INSURANCE INFORMATION INSTITUTE, THE NATIONAL ASSOCIATION**  
14 **OF INSURANCE COMMISSIONERS, AND LAW ENFORCEMENT AGENCIES.** A rate  
15 shall not be held to be excessive unless the rate is unreasonably  
16 high for the insurance coverage provided and, **EXCEPT FOR AUTOMOBILE**  
17 **INSURANCE,** a reasonable degree of competition does not exist with  
18 respect to the classification, kind, or type of risks to which the  
19 rate is applicable. A rate shall not be held to be inadequate  
20 unless the rate is unreasonably low for the insurance coverage  
21 provided and the continued use of the rate endangers the solvency  
22 of the insurer; or unless the rate is unreasonably low for the  
23 insurance provided and the use of the rate has or will have the  
24 effect of destroying competition among insurers, creating a  
25 monopoly, or causing a kind of insurance to be unavailable to a  
26 significant number of applicants who are in good faith entitled to  
27 procure the insurance through ordinary methods. A rate for a

1 coverage is unfairly discriminatory in relation to another rate for  
2 the same coverage, if the differential between the rates is not  
3 reasonably justified by differences in losses, expenses, or both,  
4 or by differences in the uncertainty of loss for the individuals or  
5 risks to which the rates apply. A reasonable justification shall be  
6 supported by a reasonable classification system; by sound actuarial  
7 principles when applicable; and by actual and credible loss and  
8 expense statistics or, in the case of new coverages and  
9 classifications, by reasonably anticipated loss and expense  
10 experience. A rate is not unfairly discriminatory because the rate  
11 reflects differences in expenses for individuals or risks with  
12 similar anticipated losses, or because the rate reflects  
13 differences in losses for individuals or risks with similar  
14 expenses. Rates are not unfairly discriminatory if they are  
15 averaged broadly among persons insured on a group, franchise,  
16 blanket policy, or similar basis.

17 (2) Except to the extent necessary to meet the provisions of  
18 subsection (1)(d), uniformity among insurers in any matters within  
19 the scope of this section is neither required nor prohibited.

20 Enacting section 1. This amendatory act does not take effect  
21 unless all of the following bills of the 95th Legislature are  
22 enacted into law:

23 (a) Senate Bill No.\_\_\_\_ or House Bill No. 5627(request no.  
24 01661'09 \*\*).

25 (b) Senate Bill No.\_\_\_\_ or House Bill No. 5628(request no.  
26 01666'09 \*\*\*\*).

27 (c) Senate Bill No.\_\_\_\_ or House Bill No. 5630(request no.

1 01669'09 \*\*\*).