

SENATE BILL No. 1340

May 19, 2010, Introduced by Senators CLARKE, THOMAS, PRUSI, CLARK-COLEMAN, BRATER, SWITALSKI, OLSHOVE, CHERRY, HUNTER and SCOTT and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," (MCL 500.100 to 500.8302) by adding chapter 19A; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 19A

THE FAIR AND AFFORDABLE INSURANCE ACT

SEC. 1957. (1) THE PURPOSE OF THIS CHAPTER IS TO PROTECT CONSUMERS FROM UNFAIR INSURANCE RATES AND PRACTICES, TO ENCOURAGE A COMPETITIVE INSURANCE MARKETPLACE, TO EMPOWER CONSUMERS WITH LEGAL RIGHTS, AND TO ENSURE THAT INSURANCE IS AFFORDABLE FOR ALL RESIDENTS IN THIS STATE.

(2) THIS CHAPTER SHALL BE KNOWN AND MAY BE CITED AS THE "FAIR AND AFFORDABLE INSURANCE ACT".

1 SEC. 1958. (1) FOR ANY COVERAGE FOR A POLICY FOR AUTOMOBILE
2 AND ANY OTHER FORM OF INSURANCE SUBJECT TO THIS ACT ISSUED OR
3 RENEWED ON OR AFTER THE EFFECTIVE DATE OF THIS CHAPTER, THE
4 FOLLOWING APPLY:

5 (A) EVERY INSURER SHALL REDUCE EACH POLICYHOLDER'S PREMIUMS TO
6 LEVELS THAT ARE AT LEAST 20% LESS THAN THE PREMIUMS FOR THE SAME
7 COVERAGE THAT WERE IN EFFECT ON FEBRUARY 21, 2009.

8 (B) THE PREMIUMS REDUCED IN THIS SECTION SHALL NOT BE
9 INCREASED FOR A PERIOD OF 1 YEAR FROM THE DATE OF ISSUANCE OR
10 RENEWAL OF THE POLICY.

11 (C) AN INSURER SHALL PROVIDE A GOOD DRIVER DISCOUNT TO A
12 PERSON WHO MEETS THE GOOD DRIVER STANDARDS DESCRIBED IN SECTION
13 1959.

14 (2) COMMENCING 11 MONTHS AFTER THE EFFECTIVE DATE OF THIS
15 CHAPTER, INSURANCE RATES AND RATING FACTORS SUBJECT TO THIS CHAPTER
16 MUST BE APPROVED BY THE COMMISSIONER PRIOR TO THEIR USE.

17 (3) FOR THOSE PERSONS WHO APPLY FOR AN INSURANCE POLICY FOR
18 THE FIRST TIME ON OR AFTER THE EFFECTIVE DATE OF THIS CHAPTER, THE
19 PREMIUM SHALL BE 20% LESS THAN THE PREMIUM THAT WAS IN EFFECT ON
20 FEBRUARY 21, 2009 FOR SIMILARLY SITUATED RISKS. ANY SEPARATE
21 AFFILIATE OF AN INSURER, ESTABLISHED ON OR AFTER FEBRUARY 21, 2009,
22 SHALL BE SUBJECT TO THE PROVISIONS OF THIS SECTION AND SHALL REDUCE
23 ITS PREMIUMS TO LEVELS WHICH ARE AT LEAST 20% LESS THAN THE
24 INSURER'S CHARGES IN EFFECT ON THAT DATE.

25 SEC. 1959. (1) IN ADDITION TO THE REDUCTION DUE TO THE PREMIUM
26 ROLLBACK UNDER SECTION 1958(1), AN INSURER SHALL PROVIDE A GOOD
27 DRIVER DISCOUNT REGARDING AUTOMOBILE COVERAGE TO AN ELIGIBLE PERSON

1 WHO MEETS THE STANDARDS DESCRIBED IN THIS SECTION. THE GOOD DRIVER
2 DISCOUNT SHALL PROVIDE A DISCOUNT OF AT LEAST 20% BELOW THE PREMIUM
3 THE INSURED WOULD OTHERWISE HAVE BEEN CHARGED FOR THE SAME
4 COVERAGE. FOR POLICIES RENEWED OR ISSUED WITHIN 1 YEAR AFTER THE
5 EFFECTIVE DATE OF THIS CHAPTER, THE GOOD DRIVER DISCOUNT SHALL
6 PROVIDE A DISCOUNT OF AT LEAST 20% BELOW THE PREMIUM THE INSURED
7 WOULD OTHERWISE HAVE BEEN CHARGED FOR THE SAME COVERAGE THAT WAS IN
8 EFFECT ON FEBRUARY 21, 2009. THE PREMIUM REDUCTION FROM THE GOOD
9 DRIVER DISCOUNT IS IN ADDITION TO THE PREMIUM REDUCTION DUE TO THE
10 PREMIUM ROLLBACK UNDER SECTION 1958(1). THE COMMISSIONER SHALL
11 APPROVE THE GOOD DRIVER DISCOUNT. EVERY PERSON WHO HAS BEEN
12 LICENSED TO DRIVE A MOTOR VEHICLE FOR THE PREVIOUS 3 YEARS AND,
13 DURING THAT PERIOD, HAS NOT BEEN ASSESSED ANY POINTS AS PROVIDED IN
14 SECTION 320A OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
15 257.320A, SHALL BE QUALIFIED TO PURCHASE A GOOD DRIVER DISCOUNT
16 POLICY FROM THE INSURER OF HIS OR HER CHOICE. AN INSURER SHALL NOT
17 REFUSE TO OFFER OR SELL, OR BOTH, THE GOOD DRIVER DISCOUNT POLICY
18 TO ANY PERSON WHO MEETS THE STANDARDS OF THIS SUBSECTION. A PERSON
19 WHO PRESENTS EVIDENCE OF HAVING AN OPERATOR'S LICENSE IN ANOTHER
20 STATE OR CANADA AND HAS THE EQUIVALENT OF ZERO POINTS ON HIS OR HER
21 DRIVING RECORD IS REBUTTABLY PRESUMED TO MEET THE CRITERIA OF THIS
22 SUBSECTION.

23 (2) AN AGENT OR REPRESENTATIVE REPRESENTING 1 OR MORE INSURERS
24 HAVING COMMON OWNERSHIP OR OPERATING IN MICHIGAN UNDER COMMON
25 MANAGEMENT OR CONTROL SHALL OFFER, AND THE INSURER SHALL SELL, A
26 GOOD DRIVER DISCOUNT POLICY TO A GOOD DRIVER FROM THE INSURER
27 WITHIN THAT COMMON OWNERSHIP, MANAGEMENT, OR CONTROL GROUP, WHICH

1 OFFERS THE LOWEST RATES FOR THAT COVERAGE. THE REQUIREMENT OF THIS
2 SUBSECTION APPLIES NOTWITHSTANDING THE UNDERWRITING SYSTEMS OF ANY
3 OF THE INSURERS OR THE UNDERWRITING SYSTEMS OF THE COMMON
4 OWNERSHIP, MANAGEMENT, OR CONTROL GROUP.

5 SEC. 1960. (1) THE BUSINESS OF INSURANCE SHALL BE SUBJECT TO
6 THE LAWS OF MICHIGAN APPLICABLE TO ANY OTHER BUSINESS, INCLUDING,
7 BUT NOT LIMITED TO, THE MICHIGAN CONSUMER PROTECTION ACT, 1976 PA
8 331, MCL 445.901 TO 445.922, THE MICHIGAN ANTITRUST REFORM ACT,
9 1984 PA 274, MCL 445.771 TO 445.788.

10 (2) PREMIUMS FOR AN AUTOMOBILE INSURANCE POLICY SHALL BE
11 DETERMINED BY APPLICATION OF THE FOLLOWING FACTORS IN DECREASING
12 ORDER OF IMPORTANCE:

13 (A) THE INSURED'S DRIVING SAFETY RECORD.

14 (B) THE NUMBER OF MILES THE INSURED DRIVES ANNUALLY.

15 (C) THE INSURED'S NUMBER OF YEARS OF DRIVING EXPERIENCE.

16 (D) THOSE OTHER FACTORS THAT THE COMMISSIONER MAY ADOPT BY
17 RULE AND THAT HAVE A SUBSTANTIAL RELATIONSHIP TO THE RISK OF LOSS.

18 (3) THE RULES IMPLEMENTING SUBSECTION (2) SHALL SET FORTH THE
19 RESPECTIVE WEIGHT TO BE GIVEN EACH FACTOR IN DETERMINING AUTOMOBILE
20 RATES AND PREMIUMS. THE COMBINED WEIGHT OF ALL OF THE OTHER FACTORS
21 PERMITTED IN SUBSECTION (2) (D) SHALL BE LESS THAN THE WEIGHT OF THE
22 FACTOR IN SUBSECTION (2) (C). AN INSURER'S USE OF ANY FACTOR WITHOUT
23 THE COMMISSIONER'S PRIOR APPROVAL SHALL CONSTITUTE UNFAIR
24 DISCRIMINATION, NOTWITHSTANDING ANY OTHER PROVISION OF LAW. AN
25 INSURER SHALL NOT USE ANY RATING FACTOR OR SURCHARGE THAT UNFAIRLY
26 DISCRIMINATES AGAINST ANY INSURED OR APPLICANT.

27 (4) THE COMMISSIONER SHALL NOT ADOPT RULES OR APPROVE RATES

1 THAT ARE BASED DIRECTLY OR INDIRECTLY ON RELIGION, RACE, COLOR,
2 INCOME, NATIONAL ORIGIN, SEX, FAMILIAL STATUS, MARITAL STATUS,
3 CREDIT HISTORY, PRIOR INSURANCE COVERAGE, PRIOR INSURER, TERRITORY,
4 OR ANY RATING FACTOR THAT UNFAIRLY DISCRIMINATES AGAINST ANY
5 INSURED OR APPLICANT. RATES AND RATING FACTORS SHALL NOT BE
6 CONSIDERED UNFAIRLY DISCRIMINATORY DUE TO COMPLIANCE WITH THIS
7 CHAPTER, NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW.

8 (5) THIS SECTION DOES NOT PROHIBIT THE FOLLOWING:

9 (A) ANY AGREEMENT TO COLLECT, COMPILE, AND DISSEMINATE
10 HISTORICAL DATA ON PAID CLAIMS OR RESERVES FOR REPORTED CLAIMS,
11 PROVIDED SUCH DATA ARE CONTEMPORANEOUSLY TRANSMITTED TO THE
12 COMMISSIONER.

13 (B) PARTICIPATION IN ANY JOINT ARRANGEMENT ESTABLISHED BY
14 STATUTE OR BY THE COMMISSIONER TO ASSURE AVAILABILITY OF INSURANCE.

15 (6) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN INSURER
16 SHALL NOT CANCEL OR REFUSE TO RENEW AN INSURANCE POLICY EXCEPT FOR
17 1 OR MORE OF THE FOLLOWING:

18 (A) NONPAYMENT OF PREMIUM CURRENTLY DUE.

19 (B) CONVICTION OF THE NAMED INSURED OF A CRIME HAVING AS 1 OF
20 ITS NECESSARY ELEMENTS AN ACT INCREASING THE RISK OF LOSS POSED BY
21 ANY HAZARD INSURED AGAINST UNDER THE POLICY.

22 (C) FRAUD OR MATERIAL MISREPRESENTATION BY THE NAMED INSURED
23 IN OBTAINING THE INSURANCE OR PURSUING A CLAIM UNDER THE POLICY.

24 (D) THE HAZARD INSURED AGAINST HAS SUBSTANTIALLY INCREASED.

25 (E) PHYSICAL CHANGES IN THE INSURED PROPERTY THAT RESULT IN
26 THE PROPERTY BECOMING UNINSURABLE, AS DEFINED BY RULES ADOPTED BY
27 THE COMMISSIONER.

1 (7) AN INSURER SHALL NOT REFUSE TO ISSUE OR RENEW AN INSURANCE
2 POLICY, AND SHALL NOT INCREASE PREMIUMS OR DENY A DISCOUNT ON THE
3 BASIS OF THE FOLLOWING:

4 (A) THE FOLLOWING CLAIMS MADE BY THE APPLICANT:

5 (i) CLAIMS RESULTING FROM A LOSS DUE TO NATURAL CAUSES,
6 INCLUDING, BUT NOT LIMITED TO, FLOODS, EARTHQUAKES, LIGHTNING, AND
7 ANY WEATHER-RELATED EVENT IN WHICH THE LOSS IS NOT THE DIRECT
8 RESULT OF GROSS NEGLIGENCE BY THE APPLICANT OR INSURED.

9 (ii) CLAIMS RESULTING FROM FIRE LOSSES WHERE THE FIRE DID NOT
10 START ON THE INSURED'S PROPERTY.

11 (iii) CLAIMS THAT ARE FILED BUT ARE NOT PAID, ARE WITHIN THE
12 CLAIMANT'S DEDUCTIBLE, OR ARE NOT COVERED BY THE POLICY.

13 (iv) CLAIMS THAT ARE PAID IN FULL BY ANOTHER INSURANCE POLICY
14 OR A THIRD PARTY.

15 (v) CLAIMS IN WHICH THE LOSS IS NOT THE DIRECT RESULT OF GROSS
16 NEGLIGENCE BY THE APPLICANT OR INSURED AND FOR WHICH THE RISK OF
17 LOSS HAS BEEN MITIGATED THROUGH THE REMOVAL OF THE HAZARD, THE
18 REPAIR OF THE DAMAGE OR DEFECT, OR OTHER CHANGES TO THE PROPERTY OR
19 CONDITION CAUSING THE LOSS THAT ELIMINATE THE INSURER'S INCREASED
20 EXPOSURE TO LOSS.

21 (vi) CLAIMS ARISING FROM HAZARDS FOR WHICH THE POLICY NO LONGER
22 PROVIDES COVERAGE.

23 (vii) CLAIMS CONCERNING A PROPERTY THAT IS NO LONGER OWNED BY
24 THE APPLICANT OR INSURED.

25 (B) AN INQUIRY ABOUT THE SCOPE OR NATURE OF COVERAGE, IN WHICH
26 THE INQUIRY DID NOT RESULT IN THE FILING OF A CLAIM OR RESULTED IN
27 A CLAIM THAT DOES NOT QUALIFY UNDER THIS CHAPTER.

1 (C) LOSSES WHERE AN INSURANCE CLAIM IS NOT FILED.

2 (8) AN INSURER SHALL NOT REFUSE TO ISSUE A RESIDENTIAL
3 PROPERTY INSURANCE POLICY ON THE BASIS OF CLAIMS PREVIOUSLY MADE
4 CONCERNING THE PROPERTY TO BE INSURED, UNLESS THE PROPERTY PRESENTS
5 AN ONGOING HAZARD THAT VIOLATES THE INSURER'S UNDERWRITING SYSTEMS.

6 (9) THE FACTORS PROHIBITED IN SUBSECTION (4) APPLY TO ALL
7 PERSONAL INSURANCE COVERAGE SUBJECT TO THIS CHAPTER. AN INSURER
8 SHALL NOT USE RATES, RATING FACTORS, OR UNDERWRITING SYSTEMS AND
9 SHALL NOT CHARGE PREMIUMS THAT ARE BASED DIRECTLY OR INDIRECTLY ON
10 FACTORS PROHIBITED IN SUBSECTION (4), EDUCATION, OR OCCUPATION.

11 (10) THE COMMISSIONER MAY ADOPT RULES PERMITTING INSURERS TO
12 USE TERRITORY AS A RATING FACTOR ONLY IF THE RATES AND PREMIUMS DO
13 NOT UNFAIRLY DISCRIMINATE AGAINST ANY INSURED OR APPLICANT. IF THE
14 COMMISSIONER ADOPTS SUCH RULES, THEY MUST COMPLY WITH SUBSECTION
15 (12) AND WILL REGULATE RATES FOR INSURANCE COVERAGE SUBJECT TO THIS
16 CHAPTER AS PROVIDED IN SECTION 1966, NOTWITHSTANDING ANY OTHER
17 PROVISION OF LAW.

18 (11) THE USE OF TERRITORY IN RATES, RATING FACTORS, PREMIUMS,
19 OR UNDERWRITING SYSTEMS FOR PERSONAL AUTO INSURANCE IS PROHIBITED
20 AS PROVIDED IN SUBSECTION (4), EXCEPT THAT TERRITORY MAY BE USED AS
21 A RATING FACTOR FOR COMPREHENSIVE INSURANCE COVERAGE SUBJECT TO THE
22 RATE APPROVAL STANDARDS IN SECTION 1961. IF TERRITORY IS USED AS A
23 RATING FACTOR IN THIS MANNER, IT MUST BE ASSIGNED THE LEAST WEIGHT
24 AMONG ALL FACTORS PERMITTED UNDER SUBSECTION (2) (D).

25 (12) EXCEPT FOR THE FACTORS AND WEIGHTS PROVIDED IN SECTION
26 1960(2) AND (3) AND THE WEIGHT PROVIDED IN THIS SECTION GOVERNING
27 THE USE OF TERRITORY IN AUTO COVERAGE, THE RULES SHALL PROVIDE THE

1 FOLLOWING REGARDING ALL PERSONAL INSURANCE:

2 (A) THAT NO FACTOR SHALL BE USED THAT HAS NOT BEEN FOUND BY
3 THE COMMISSIONER TO BE A STATISTICALLY VALID PREDICTOR OF LOSS
4 COSTS, AND NO FACTOR MAY BE GIVEN A WEIGHT THAT EXCEEDS ITS
5 STATISTICAL ASSOCIATION WITH LOSS COSTS. THE INSURER SHALL HAVE THE
6 BURDEN OF PROVING THE VALIDITY OF PROPOSED RATING FACTORS.

7 (B) NO RATING FACTOR SHALL BE USED TO THE EXTENT THAT IT
8 OPERATES AS A PROXY FOR ANY FACTOR PROHIBITED BY SUBSECTIONS (4) OR
9 (9).

10 (C) A PROHIBITION OF THE USE OF A FACTOR AS A PROXY FOR A
11 PROHIBITED FACTOR AS FOLLOWS:

12 (i) THE INSURER SHALL PERFORM AN ANALYSIS OF THE STATISTICAL
13 ASSOCIATION OF LOSS COSTS WITH EACH OF THE PROHIBITED FACTORS,
14 TAKEN SEPARATELY AND TOGETHER.

15 (ii) THE INSURER SHALL THEN PERFORM AN ANALYSIS, USING THE SAME
16 DATA AND CONSISTENT METHODOLOGY, OF THE STATISTICAL ASSOCIATION OF
17 EACH FACTOR IT PROPOSES TO USE, TAKEN SEPARATELY AND TOGETHER, WITH
18 THE VARIANCE IN LOSS COSTS UNEXPLAINED BY THE PROHIBITED FACTORS.

19 (iii) EACH RATING FACTOR SHALL HAVE THE WEIGHT DEMONSTRATED TO
20 BE APPROPRIATE BASED ON ITS STATISTICAL ASSOCIATION WITH VARIANCE
21 IN LOSS COSTS UNEXPLAINED BY THE PROHIBITED FACTORS.

22 (iv) NO FACTOR MAY BE USED UNLESS IT IS SHOWN TO BE A
23 STATISTICALLY SIGNIFICANT PREDICTOR OF VARIANCE IN LOSS COSTS
24 UNEXPLAINED BY THE PROHIBITED FACTORS WHEN CONTROLLING FOR THE
25 OTHER FACTORS TO BE USED.

26 SEC. 1961. (1) NO RATE SHALL BE APPROVED OR REMAIN IN EFFECT
27 WHICH IS EXCESSIVE, INADEQUATE, UNFAIRLY DISCRIMINATORY, OR

1 OTHERWISE IN VIOLATION OF THIS CHAPTER. THE COMMISSIONER HAS
2 AUTHORITY TO REFUND A PREMIUM TO A CONSUMER, INCLUDING A PREMIUM
3 CHARGED BY THE CATASTROPHIC CLAIMS ASSOCIATION, IMPOSED OR CHARGED
4 IN VIOLATION OF THIS SECTION. IN CONSIDERING WHETHER A RATE IS
5 EXCESSIVE, INADEQUATE, OR UNFAIRLY DISCRIMINATORY, THE COMMISSIONER
6 SHALL CONSIDER WHETHER THE RATE MATHEMATICALLY REFLECTS THE
7 INSURANCE COMPANY'S INVESTMENT INCOME BUT SHALL NOT CONSIDER THE
8 DEGREE OF COMPETITION AMONG INSURERS. IN CONSIDERING WHETHER A RATE
9 IS UNFAIRLY DISCRIMINATORY, THE COMMISSIONER SHALL CONSIDER WHETHER
10 APPLICATION OF THE RATE TO PERSONS WHO HAVE SIMILAR RISKS OF LOSS
11 COULD RESULT IN THEIR PAYING PREMIUMS THAT ARE NOT SIMILAR.

12 (2) THE COMMISSIONER SHALL TAKE INTO ACCOUNT ANY RULES ADOPTED
13 UNDER SECTION 1960(3) REGARDING THE FORMULA FOR DETERMINING RATES
14 THAT ARE EXCESSIVE OR INADEQUATE.

15 (3) EVERY INSURER THAT DESIRES TO CHANGE ANY RATE SHALL FILE A
16 COMPLETE RATE APPLICATION WITH THE COMMISSIONER. A COMPLETE RATE
17 APPLICATION SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE
18 FOLLOWING INFORMATION FOR THE 3 PRECEDING YEARS:

19 (A) PREMIUMS WRITTEN.

20 (B) PREMIUMS EARNED.

21 (C) UNEARNED PREMIUMS.

22 (D) THE DOLLAR AMOUNT OF CLAIMS PAID.

23 (E) THE NUMBER OF OUTSTANDING CLAIMS.

24 (F) NET LOSS RESERVES FOR OUTSTANDING CLAIMS EXCLUDING CLAIMS
25 INCURRED BUT NOT REPORTED.

26 (G) NET LOSS RESERVES FOR CLAIMS INCURRED BUT NOT REPORTED.

27 (H) LOSSES INCURRED AS A PERCENTAGE OF PREMIUMS EARNED.

1 (I) NET INVESTMENT GAIN OR LOSS AND OTHER INCOME OR GAIN OR
2 LOSS ALLOCATED TO PRODUCTS LIABILITY LINES.

3 (J) NET INCOME BEFORE FEDERAL AND FOREIGN INCOME TAXES.

4 (K) EXPENSES INCURRED INCLUDING LOSS ADJUSTMENT EXPENSE,
5 COMMISSION AND BROKERAGE EXPENSE, OTHER ACQUISITION EXPENSE, AND
6 GENERAL EXPENSE.

7 (l) SUCH OTHER INFORMATION AS THE COMMISSIONER MAY REQUIRE.

8 (4) THE APPLICANT SHALL HAVE THE BURDEN OF PROVING THAT THE
9 REQUESTED RATE CHANGE IS JUSTIFIED AND MEETS THE REQUIREMENTS OF
10 THIS CHAPTER.

11 (5) PRODUCER FEES ON PERSONAL LINES OF INSURANCE, IF ALLOWED,
12 SHALL BE DETERMINED BY THE COMMISSIONER AND SHALL BE REASONABLE AND
13 CUSTOMARY.

14 (6) THE COMMISSIONER SHALL NOTIFY THE PUBLIC OF ANY
15 APPLICATION BY AN INSURER AFTER DETERMINING THAT THE APPLICATION IS
16 COMPLETE. A RATE APPLICATION SHALL BE CONSIDERED COMPLETE NO LATER
17 THAN 30 DAYS AFTER RECEIPT BY THE COMMISSIONER. THIS TIME PERIOD IS
18 TOLLED IF THE COMMISSIONER CONSIDERS ANY ITEM IN THE FILING
19 INCOMPLETE AND SO INFORMS THE APPLICANT. THE COMMISSIONER SHALL
20 APPROVE OR REJECT THE APPLICATION WITHIN 60 DAYS AFTER PUBLIC
21 NOTICE UNLESS ANY OF THE FOLLOWING OCCUR WITHIN THIS TIME PERIOD:

22 (A) A CONSUMER OR HIS OR HER REPRESENTATIVE REQUESTS A HEARING
23 WITHIN 45 DAYS AFTER PUBLIC NOTICE AND THE COMMISSIONER GRANTS THE
24 HEARING. THE COMMISSIONER MUST EITHER GRANT OR DENY ANY PETITION
25 FOR HEARING NO LATER THAN 15 DAYS AFTER THE HEARING REQUEST.

26 (B) THE COMMISSIONER ON HIS OR HER OWN MOTION DETERMINES TO
27 HOLD A HEARING OR DETERMINES THAT A HEARING IS REQUIRED BY LAW.

1 (7) UPON A SHOWING OF GOOD CAUSE, THE COMMISSIONER MAY EXTEND
2 THE REVIEW PERIOD FOR UP TO AN ADDITIONAL 60 DAYS.

3 (8) UPON A TIMELY REQUEST, THE COMMISSIONER SHALL HOLD A
4 HEARING ON A PROPOSED RATE ADJUSTMENT THAT EXCEEDS 5% OF THE THEN
5 APPLICABLE RATE. THE OVERALL RATE CHANGE SHALL NOT EXCEED 7% WITHIN
6 ANY 12-MONTH PERIOD WITHOUT A HEARING. THE COMMISSIONER MAY WAIVE
7 THIS HEARING REQUIREMENT FOR RATES AFFECTING ONLY LARGE COMMERCIAL
8 OR INDUSTRIAL CUSTOMERS.

9 (9) FOR 1 YEAR IMMEDIATELY AFTER THE EFFECTIVE DATE OF THIS
10 CHAPTER, AN INSURER MAY SEEK A RATE INCREASE FOR A LINE OF
11 INSURANCE TO PROTECT THE INSURER'S RIGHT TO EARN A FAIR RATE OF
12 RETURN ON SURPLUS USED AND USEFUL FOR THAT LINE OF INSURANCE. THE
13 COMMISSIONER MAY INCREASE RATES AND PREMIUMS REDUCED BY THE
14 ROLLBACK PROVIDED FOR IN SECTION 1958 ONLY IF THE COMMISSIONER
15 FINDS, AFTER AN ADMINISTRATIVE HEARING, THAT THE REDUCED RATE WOULD
16 RESULT IN A TAKING UNDER THE STATE CONSTITUTION OF 1963 OR BE
17 CONSIDERED CONFISCATORY UNDER THE CONSTITUTION OF THE UNITED
18 STATES.

19 (10) THE UNDERWRITING SYSTEMS EMPLOYED BY INSURERS SHALL BE
20 SUBJECT TO THE APPLICATION, REVIEW, AND DISCLOSURE REQUIREMENTS
21 APPLICABLE TO RATE APPLICATIONS PURSUANT TO THIS CHAPTER. AS USED
22 IN THIS SECTION, "UNDERWRITING SYSTEMS" MEANS ANY RULES, PLANS,
23 MANUALS, AND GUIDELINES USED TO DETERMINE ELIGIBILITY TO PURCHASE
24 INSURANCE; TO CALCULATE RATES AND PREMIUMS, INCLUDING CREDITS AND
25 SURCHARGES; TO ASSIGN A PERSON TO A RATING TIER; TO PLACE A PERSON
26 WITH AN AFFILIATED COMPANY; OR TO ESTABLISH THE FINANCING OR TERMS
27 OF PAYMENT OF A POLICY OF INSURANCE.

1 SEC. 1962. (1) THE COMMISSIONER SHALL PROVIDE CONSUMERS, ON
2 THE OFFICE OF FINANCIAL AND INSURANCE REGULATION WEBSITE AND IN
3 PLAIN ENGLISH AND IN SPANISH, A COMPARISON OF THE RATE IN EFFECT
4 FOR EACH PERSONAL LINE OF INSURANCE FOR EVERY INSURER OFFERING
5 INSURANCE IN MICHIGAN.

6 (2) ANY RATE APPLICATION OR OTHER PUBLIC FILING BY AN INSURER
7 THAT IS REQUIRED BY THIS CHAPTER SHALL BE SUBMITTED TO THE
8 COMMISSIONER IN ELECTRONIC FORM, IN A FORMAT SPECIFIED BY THE
9 COMMISSIONER, AND SHALL BE PLACED ON THE WEBSITE OF THE OFFICE OF
10 FINANCIAL AND INSURANCE REGULATION IN ITS ENTIRETY FOR A PERIOD OF
11 AT LEAST 5 YEARS, WHERE IT MAY BE ACCESSED BY THE PUBLIC AT NO
12 CHARGE.

13 (3) PUBLIC NOTICE REQUIRED BY THIS CHAPTER SHALL BE MADE
14 THROUGH DISTRIBUTION TO THE NEWS MEDIA, MADE THROUGH DISPLAY ON THE
15 OFFICE OF FINANCIAL AND INSURANCE REGULATION WEBSITE, AND MADE
16 AVAILABLE TO ANY MEMBER OF THE PUBLIC WHO ASKS TO BE PLACED ON A
17 MAILING LIST THAT THE COMMISSIONER SHALL ESTABLISH FOR THAT
18 PURPOSE.

19 (4) NOTWITHSTANDING ANY OTHER LAW, ALL INFORMATION PROVIDED TO
20 THE COMMISSIONER PURSUANT TO THIS CHAPTER AND INFORMATION SUBMITTED
21 IN SUPPORT OF A RATE APPLICATION SHALL BE AVAILABLE FOR PUBLIC
22 INSPECTION.

23 (5) THE CATASTROPHIC CLAIMS ASSOCIATION CREATED UNDER SECTION
24 3104 IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL
25 15.231 TO 15.246, AND THE OPEN MEETINGS ACT, 1976 PA 267, MCL
26 15.261 TO 15.275. AS PART OF THE RATE APPROVAL AUTHORITY, THE
27 COMMISSIONER SHALL APPROVE, REJECT, OR MODIFY PREMIUMS CHARGED TO

1 CONSUMERS BY THE CATASTROPHIC CLAIMS ASSOCIATION.

2 SEC. 1963. (1) HEARINGS SHALL BE CONDUCTED PURSUANT TO
3 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
4 24.328. DISCOVERY SHALL BE LIBERALLY CONSTRUED, AND DISPUTES SHALL
5 BE DETERMINED BY THE ADMINISTRATIVE LAW JUDGE.

6 (2) THE COMMISSIONER SHALL DETERMINE WHETHER TO HOLD A HEARING
7 AND SERVE A NOTICE OF HEARING TO THE APPLICANT AND ALL INTERESTED
8 PARTIES WITHIN 60 DAYS OF THE PUBLIC NOTICE REQUIRED BY SUBDIVISION
9 (6) OF SECTION 1961. THE COMMISSIONER MUST COMPLETE ANY SUCH
10 HEARING WITHIN 120 DAYS OF THE NOTICE OF HEARING, EXCEPT UPON GOOD
11 CAUSE SHOWN, THE COMMISSIONER MAY EXTEND THE TIME TO COMPLETE THE
12 HEARING BY NO MORE THAN 60 DAYS.

13 (3) ALL FINAL ORDERS OR DECISIONS BY THE COMMISSIONER ARE
14 SUBJECT TO DE NOVO JUDICIAL REVIEW BY THE COURTS OF THE STATE, AND
15 PROCEEDINGS ON REVIEW SHALL BE AS PROVIDED BY LAW. FOR PURPOSES OF
16 JUDICIAL REVIEW, A DECISION TO HOLD A HEARING IS NOT A FINAL ORDER
17 OR DECISION EXCEPT THAT A DECISION NOT TO HOLD A HEARING IS
18 CONSIDERED A FINAL ORDER OR DECISION.

19 (4) THE COMMISSIONER'S FAILURE TO HOLD OR NOT TO HOLD A
20 HEARING REQUIRED UNDER THIS CHAPTER IS SUBJECT TO JUDICIAL REVIEW.

21 (5) ANY PERSON MAY BRING A PRIVATE CAUSE OF ACTION IN A COURT
22 OF COMPETENT JURISDICTION TO CHALLENGE ANY CONDUCT SUBJECT TO THIS
23 CHAPTER AND MAY ALSO DO THE FOLLOWING THROUGH A CIVIL OR
24 ADMINISTRATIVE ACTION:

25 (A) INITIATE OR INTERVENE IN ANY PROCEEDING PERMITTED OR
26 ESTABLISHED BY THIS CHAPTER.

27 (B) CHALLENGE ANY ACTION OF THE COMMISSIONER UNDER THIS

1 CHAPTER.

2 (C) ENFORCE ANY PROVISION OF THIS CHAPTER.

3 (6) THE COMMISSIONER OR A COURT SHALL AWARD REASONABLE
4 ADVOCACY AND WITNESS FEES AND EXPENSES TO ANY PERSON WHO
5 DEMONSTRATES THAT THE PERSON REPRESENTS THE INTERESTS OF CONSUMERS
6 AND MAKES A SUBSTANTIAL CONTRIBUTION TO THE ADOPTION OF ANY ORDER,
7 RULE, OR DECISION BY THE COMMISSIONER OR A COURT. WHERE SUCH
8 ADVOCACY OCCURS IN RESPONSE TO A RATE APPLICATION, THE AWARD SHALL
9 BE ASSESSED AGAINST AND PAID BY THE APPLICANT.

10 (7) THE COMMISSIONER SHALL PROVIDE THAT THE INSURERS PAY FEES
11 OR ASSESSMENTS SUFFICIENT TO COVER ADMINISTRATIVE AND OPERATIONAL
12 COSTS ARISING FROM THIS CHAPTER AND KEPT IN A RESTRICTED FUND. THE
13 COMMISSIONER SHALL CREATE AN ENTITY TO RECEIVE AND DISBURSE FUNDS
14 TO ANY GROUP AS DESCRIBED IN SUBSECTION (6). THE COMMISSIONER SHALL
15 ASSESS THE INSURANCE INDUSTRY BASED UPON AN AMOUNT EQUAL TO THE
16 PRIOR YEAR'S LOBBYING EXPENSES AND CAMPAIGN FINANCE DONATIONS. THE
17 INSURANCE INDUSTRY SHALL BE REQUIRED TO PAY THE ASSESSMENT IMPOSED
18 BY THE COMMISSIONER.

19 (8) WHENEVER IT IS DETERMINED, EITHER IN A CIVIL ACTION
20 BROUGHT PURSUANT TO THIS CHAPTER OR IN AN ADMINISTRATIVE PROCEEDING
21 BEFORE THE COMMISSIONER, THAT AN INSURER HAS VIOLATED A PROVISION
22 OF THIS CHAPTER OR OTHERWISE OWES MONEY TO A CONSUMER, THE INSURER
23 SHALL PAY INTEREST TO THE CONSUMER AT THE RATE OF 25% PER YEAR.

24 (9) ANY INSURER THAT BRINGS A CHALLENGE TO THE
25 CONSTITUTIONALITY, APPLICATION, OR ENFORCEMENT OF ANY PROVISION OF
26 THIS ACT SHALL REIMBURSE THE TAXPAYERS FOR THE LEGAL FEES AND COSTS
27 INCURRED BY THE STATE OF MICHIGAN IN DEFENDING SUCH A CHALLENGE IF

1 THAT CHALLENGE IS UNSUCCESSFUL, AS DETERMINED BY THE COURT.

2 SEC. 1964. (1) ANY PERSON, INSURER, ORGANIZATION, GROUP, OR
3 ASSOCIATION THAT FAILS TO COMPLY WITH A FINAL ORDER OF THE
4 COMMISSIONER UNDER THIS CHAPTER SHALL BE LIABLE TO THE STATE IN AN
5 AMOUNT NOT EXCEEDING \$50,000.00, BUT IF THE FAILURE IS WILLFUL, THE
6 PERSON OR LEGAL ENTITY SHALL BE LIABLE TO THE STATE IN AN AMOUNT
7 NOT EXCEEDING \$250,000.00. THIS PENALTY IS CUMULATIVE AND SHALL BE
8 IN ADDITION TO ANY PENALTY ARISING UNDER ANY OTHER LAW OR RULE. THE
9 COMMISSIONER SHALL COLLECT THE AMOUNT SO PAYABLE AND MAY BRING AN
10 ACTION IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN TO
11 ENFORCE COLLECTION.

12 (2) A WILLFUL VIOLATION OF THIS CHAPTER BY ANY PERSON IS A
13 MISDEMEANOR.

14 (3) IN ADDITION TO THE OTHER PENALTIES PROVIDED IN THIS
15 CHAPTER, THE COMMISSIONER MAY SUSPEND OR REVOKE, IN WHOLE OR IN
16 PART, THE CERTIFICATE OF AUTHORITY OF ANY INSURER THAT FAILS TO
17 COMPLY WITH THE PROVISIONS OF THIS CHAPTER.

18 SEC. 1965. (1) THE COMMISSIONER HAS AUTHORITY, INCLUDING THE
19 AUTHORITY TO ADOPT RULES, AS IS NECESSARY TO IMPLEMENT THIS
20 CHAPTER. THE COMMISSIONER SHALL, HOWEVER, PROMULGATE RULES
21 REGARDING THE FOLLOWING:

22 (A) THE FORMULA FOR DETERMINING EXCESSIVE OR INADEQUATE RATES.

23 (B) THE FORMAT OF RATE FILINGS, WHICH SHALL BECOME MANDATORY
24 UPON THE EFFECTIVE DATE OF THE RULES AND SHALL BE MADE AVAILABLE TO
25 THE PUBLIC ON THE WEBSITE OF THE OFFICE OF FINANCIAL AND INSURANCE
26 REGULATION.

27 (C) DEFINITIONS OF STANDARDIZED COVERAGE IN ALL LINES OF

1 INSURANCE AND UNDERWRITING REQUIREMENTS, AS AN AID FOR COMPARING
2 INSURANCE QUOTES.

3 (D) METHODS OF INTERPRETING COMPARATIVE PRICING INFORMATION.

4 (2) THE COMMISSIONER SHALL PROMULGATE RULES UNDER THE
5 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
6 24.328, TO IMPLEMENT THIS SECTION AND SHALL AMEND, RESCIND, OR
7 OTHERWISE CONFORM THE EXISTING RULES TO INCORPORATE THE
8 REQUIREMENTS OF THIS SECTION BY OCTOBER 1, 2011. INSURERS MAY
9 SUBMIT APPLICATIONS PURSUANT TO THIS CHAPTER THAT COMPLY WITH THOSE
10 RULES PRIOR TO THAT DATE, PROVIDED THAT NO SUCH APPLICATION THAT
11 VIOLATES THIS CHAPTER SHALL BE APPROVED PRIOR TO THAT DATE. ANY
12 RULE EXISTING ON THE EFFECTIVE DATE OF THIS CHAPTER THAT CONFLICTS
13 WITH THIS CHAPTER IS RESCINDED OR AMENDED AS PROVIDED FOR UNDER
14 SECTION 31 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA
15 306, MCL 24.231.

16 SEC. 1966. (1) THIS CHAPTER SHALL APPLY TO ALL PROPERTY
17 CASUALTY INSURANCE ON RISKS OR ON OPERATIONS IN THE STATE OF
18 MICHIGAN, INCLUDING, BUT NOT LIMITED TO, INSURANCE UNDER CHAPTERS
19 20, 21, 22, 24, 26, 29, 31, 32, AND 33 AS WELL AS INSURANCE FOR
20 EXEMPT COMMERCIAL POLICYHOLDERS AS DEFINED IN SECTION 2236(9). THIS
21 CHAPTER SHALL NOT APPLY TO SURETY, TITLE, WORKER'S COMPENSATION,
22 LIFE, AND HEALTH INSURANCE.

23 (2) THIS CHAPTER SHALL BE LIBERALLY CONSTRUED AND APPLIED IN
24 ORDER TO FULLY PROMOTE ITS UNDERLYING PURPOSES.

25 (3) SECTIONS 2403 AND 2603 DO NOT APPLY TO THE EXTENT THAT
26 EITHER OR BOTH SECTIONS CONFLICT WITH THIS CHAPTER, AND ANY
27 LANGUAGE IN THOSE SECTIONS IN CONFLICT WITH THIS CHAPTER IS

1 SUPERSEDED BY THIS CHAPTER.

2 (4) NOTWITHSTANDING SECTION 2912, A PERSON SHALL NOT BE
3 CHARGED A RATE OR PREMIUM EXCEEDING OR IN CONFLICT WITH THAT RATE
4 OR PREMIUM APPROVED BY THE COMMISSIONER UNDER THIS CHAPTER.

5 (5) THIS CHAPTER SHALL APPLY TO INSURANCE WRITTEN ON A GROUP,
6 FRANCHISE, BLANKET POLICY, OR SIMILAR BASIS THAT OFFERS HOME
7 INSURANCE OR AUTOMOBILE INSURANCE TO ALL MEMBERS OF THE GROUP,
8 FRANCHISE PLAN, OR BLANKET COVERAGE WHO ARE ELIGIBLE PERSONS.

9 (6) NOTWITHSTANDING ANY CONTRARY LAW:

10 (A) THIS CHAPTER SHALL AMEND OR MODIFY ANY PRE-EXISTING LAW
11 THAT APPLIES TO THE BUSINESS OF INSURANCE REGARDLESS IF THE CHAPTER
12 DOES NOT EXPRESSLY AMEND OR MODIFY THE LAW.

13 (B) ANY GENERAL CONSUMER PROTECTION STATUTE SHALL APPLY TO THE
14 BUSINESS OF INSURANCE IN THIS STATE COVERED UNDER THIS CHAPTER
15 REGARDLESS IF THE STATUTE DOES NOT EXPRESSLY REFER TO THE BUSINESS
16 OF INSURANCE OR THIS CHAPTER.

17 Enacting section 1. Sections 2027, 2047, 2108, 2109, 2110a,
18 2111e, 2114, 2119a, 2120, 2130, 2414, 2430, and 2614 of the
19 insurance code of 1956, 1956 PA 218, MCL 500.2027, 500.2047,
20 500.2108, 500.2109, 500.2110a, 500.2111e, 500.2114, 500.2119a,
21 500.2120, 500.2130, 500.2414, 500.2430, and 500.2614, are repealed.