

# HOUSE BILL No. 5192

December 11, 2013, Introduced by Rep. LaFontaine and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 838a (MCL 500.838a), as added by 2006 PA 671.

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

1       Sec. 838a. (1) As used in this section:

2       (a) "2001 CSO mortality table" means that term as defined in  
3 section 838.

4       (b) "2001 CSO preferred class structure mortality table" means  
5 mortality tables with separate rates of mortality for super  
6 preferred nonsmokers, preferred nonsmokers, residual standard  
7 nonsmokers, preferred smokers, and residual standard smoker splits  
8 of the 2001 CSO nonsmoker and smoker tables as adopted by the NAIC  
9 at the September 2006 national meeting and published in the "NAIC

1 Proceedings" (3rd Quarter 2006). Unless the context indicates  
2 otherwise, the "2001 CSO preferred class structure mortality table"  
3 includes both the ultimate form of that table and the select and  
4 ultimate form of that table. It includes both the smoker and  
5 nonsmoker mortality tables. It includes both the male and female  
6 mortality tables and the gender composite mortality tables. It also  
7 includes both the age-nearest-birthday and age-last-birthday bases  
8 of the mortality table.

9 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF  
10 INSURANCE AND FINANCIAL SERVICES.

11 (D) ~~(e)~~"NAIC" means the national association of insurance  
12 commissioners.

13 (E) ~~(d)~~"Smoker and nonsmoker mortality tables" means that  
14 term as defined in section 838.

15 (F) ~~(e)~~"Statistical agent" means an entity with proven  
16 systems for protecting the confidentiality of individual insured  
17 and insurer information; demonstrated resources for and history of  
18 ongoing electronic communications and data transfer ensuring data  
19 integrity with insurers ~~, which~~ **THAT** are its members or  
20 subscribers; and a history of and means for aggregation of data and  
21 accurate promulgation of the experience modifications in a timely  
22 manner.

23 (2) **SUBJECT TO SUBSECTIONS (6) AND (7), AN INSURER MAY**  
24 **SUBSTITUTE THE 2001 CSO PREFERRED CLASS STRUCTURE MORTALITY TABLE**  
25 **IN PLACE OF THE 2001 CSO SMOKER AND NONSMOKER MORTALITY TABLES AS**  
26 **THE MINIMUM VALUATION STANDARD FOR POLICIES ISSUED AFTER JUNE 30,**  
27 **2004 AND BEFORE JANUARY 1, 2007.** An insurer may, for each calendar

1 year of issue for any 1 or more specified plans of insurance and  
2 subject to this section, substitute the 2001 CSO preferred class  
3 structure mortality table in place of the 2001 CSO smoker and  
4 nonsmoker mortality tables as the minimum valuation standard for  
5 policies issued on or after January 1, 2007. An insurer shall not  
6 elect the 2001 CSO preferred class structure mortality table until  
7 the insurer demonstrates that ~~at least~~ **NOT LESS THAN** 20% of the  
8 business ~~to be~~ valued on this table is in 1 or more of the  
9 preferred classes. A table from the 2001 CSO preferred class  
10 structure mortality table used in place of a 2001 CSO mortality  
11 table as provided in this section ~~shall be~~ **IS** treated as part of  
12 the 2001 CSO mortality table only for purposes of reserve valuation  
13 ~~pursuant to~~ **UNDER** section 838.

14 (3) For each plan of insurance with separate rates for  
15 preferred and standard nonsmoker lives, an insurer may use the  
16 super preferred nonsmoker, preferred nonsmoker, and residual  
17 standard nonsmoker tables to substitute for the nonsmoker mortality  
18 table found in the 2001 CSO mortality table to determine minimum  
19 reserves. At the time of election and annually thereafter, except  
20 for business valued under the residual standard nonsmoker table,  
21 the appointed actuary shall certify both of the following:

22 (a) That the present value of death benefits over the next 10  
23 years after the valuation date, using the anticipated mortality  
24 experience without recognition of mortality improvement beyond the  
25 valuation date for each class, is less than the present value of  
26 death benefits using the valuation basic table corresponding to the  
27 valuation table being used for that class.

1           (b) That the present value of death benefits over the future  
2 life of the contracts, using anticipated mortality experience  
3 without recognition of mortality improvement beyond the valuation  
4 date for each class, is less than the present value of death  
5 benefits using the valuation basic table corresponding to the  
6 valuation table being used for that class.

7           (4) For each plan of insurance with separate rates for  
8 preferred and standard smoker lives, an insurer may use the  
9 preferred smoker and residual standard smoker tables to substitute  
10 for the smoker mortality table found in the 2001 CSO mortality  
11 table to determine minimum reserves. At the time of election and  
12 annually thereafter, for business valued under the preferred smoker  
13 table, the appointed actuary shall certify both of the following:

14           (a) That the present value of death benefits over the next 10  
15 years after the valuation date, using the anticipated mortality  
16 experience without recognition of mortality improvement beyond the  
17 valuation date for each class, is less than the present value of  
18 death benefits using the preferred smoker valuation basic table  
19 corresponding to the valuation table being used for that class.

20           (b) That the present value of death benefits over the future  
21 life of the contracts, using anticipated mortality experience  
22 without recognition of mortality improvement beyond the valuation  
23 date for each class, is less than the present value of death  
24 benefits using the preferred smoker valuation basic table.

25           (5) Unless exempted by the ~~commissioner~~, **DIRECTOR**, every  
26 authorized insurer using the 2001 CSO preferred class structure  
27 mortality table shall file annually with the ~~commissioner~~,

1 **DIRECTOR**, with the NAIC, or with a statistical agent designated by  
2 the NAIC and acceptable to the ~~commissioner~~**DIRECTOR** statistical  
3 reports showing mortality and ~~such~~ other information as the  
4 ~~commissioner may consider~~**DIRECTOR CONSIDERS** necessary or expedient  
5 for the administration of this section. The **DIRECTOR SHALL**  
6 **ESTABLISH THE** form of the reports ~~shall be established by the~~  
7 ~~commissioner~~**UNDER THIS SUBSECTION.**

8 (6) **THE USE OF THE 2001 CSO PREFERRED CLASS STRUCTURE**  
9 **MORTALITY TABLE AS THE MINIMUM VALUATION STANDARD FOR POLICIES**  
10 **ISSUED AFTER JUNE 30, 2004 AND BEFORE JANUARY 1, 2007 IS SUBJECT TO**  
11 **BOTH OF THE FOLLOWING:**

12 (A) **THE CONSENT OF THE DIRECTOR. IN DETERMINING CONSENT, THE**  
13 **DIRECTOR MAY RELY ON WHETHER CONSENT FOR THE USE OF THE 2001 CSO**  
14 **PREFERRED CLASS STRUCTURE MORTALITY TABLE WAS GIVEN TO THE INSURER**  
15 **BY THE COMMISSIONER OF THE INSURER'S STATE OF DOMICILE.**

16 (B) **THE USE IS NOT PERMITTED IF THE INSURER REPORTS IN ANY**  
17 **STATUTORY FINANCIAL STATEMENT FOR A COINSURED POLICY OR PORTION OF**  
18 **A POLICY COINSURED, EITHER OF THE FOLLOWING:**

19 (i) **IF THE MODE OF PAYMENT OF THE REINSURANCE PREMIUM IS LESS**  
20 **FREQUENT THAN THE MODE OF PAYMENT OF THE POLICY PREMIUM, A RESERVE**  
21 **CREDIT THAT EXCEEDS BY MORE THAN THE AMOUNT SPECIFIED IN THIS**  
22 **SUBDIVISION AS "Y", THE GROSS RESERVE CALCULATED BEFORE**  
23 **REINSURANCE. "Y" IS THE AMOUNT OF THE GROSS REINSURANCE PREMIUM**  
24 **THAT PROVIDES COVERAGE FOR THE PERIOD FROM THE NEXT POLICY PREMIUM**  
25 **DUE DATE TO THE EARLIER OF THE END OF THE POLICY YEAR AND THE NEXT**  
26 **REINSURANCE PREMIUM DUE DATE, AND WOULD BE REFUNDED TO THE CEDING**  
27 **ENTITY UPON THE TERMINATION OF THE POLICY.**

1           (ii) IF THE MODE OF PAYMENT OF THE REINSURANCE PREMIUM IS MORE  
2 FREQUENT THAN THE MODE OF PAYMENT OF THE POLICY PREMIUM, A RESERVE  
3 CREDIT THAT IS LESS THAN THE GROSS RESERVE, CALCULATED BEFORE  
4 REINSURANCE, BY AN AMOUNT THAT IS LESS THAN THE AMOUNT SPECIFIED IN  
5 THIS SUBDIVISION AS "Z". "Z" IS THE AMOUNT OF THE GROSS REINSURANCE  
6 PREMIUM THAT THE CEDING ENTITY WOULD NEED TO PAY THE ASSUMING  
7 COMPANY TO PROVIDE REINSURANCE COVERAGE FROM THE PERIOD OF THE NEXT  
8 REINSURANCE PREMIUM DUE DATE TO THE NEXT POLICY PREMIUM DUE DATE  
9 MINUS ANY LIABILITY ESTABLISHED FOR THE PROPORTIONATE AMOUNT NOT  
10 REMITTED TO THE REINSURER.

11           (7) FOR PURPOSES OF (6) (B), THE RESERVE FOR THE MEAN RESERVE  
12 METHOD IS THE MEAN RESERVE MINUS THE DEFERRED PREMIUM ASSET, AND  
13 THE RESERVE FOR THE MIDTERMINAL RESERVE METHOD INCLUDES THE  
14 UNEARNED PREMIUM RESERVE. TO SATISFY SUBSECTION (6) (B), AN INSURER  
15 MAY ESTIMATE AND ADJUST ITS ACCOUNTING ON AN AGGREGATE BASIS.