

# SENATE BILL No. 178

March 4, 2015, Introduced by Senator HUNE and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending sections 2108 and 2406 (MCL 500.2108 and 500.2406),  
section 2406 as amended by 1993 PA 200, and by adding chapter 17.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### CHAPTER 17

#### RISK MANAGEMENT AND OWN RISK AND SOLVENCY ASSESSMENT

#### SEC. 1701. AS USED IN THIS CHAPTER:

(A) "INSURANCE GROUP" MEANS, FOR THE PURPOSE OF CONDUCTING AN  
ORSA, INSURERS AND AFFILIATES INCLUDED WITHIN AN INSURANCE HOLDING  
COMPANY SYSTEM.

(B) "INSURER" MEANS THAT TERM AS DEFINED IN SECTION 106.  
INSURER ALSO INCLUDES A FRATERNAL BENEFIT SOCIETY AS THAT TERM IS  
DEFINED IN SECTION 8164. INSURER DOES NOT INCLUDE AGENCIES,

1 AUTHORITIES, OR INSTRUMENTALITIES OF THE UNITED STATES, ITS  
2 POSSESSIONS AND TERRITORIES, THE COMMONWEALTH OF PUERTO RICO, THE  
3 DISTRICT OF COLUMBIA, OR A STATE OR POLITICAL SUBDIVISION OF A  
4 STATE.

5 (C) "NAIC" MEANS THE NATIONAL ASSOCIATION OF INSURANCE  
6 COMMISSIONERS.

7 (D) "OWN RISK AND SOLVENCY ASSESSMENT" OR "ORSA" MEANS A  
8 CONFIDENTIAL INTERNAL ASSESSMENT, APPROPRIATE TO THE NATURE, SCALE,  
9 AND COMPLEXITY OF AN INSURER OR INSURANCE GROUP, CONDUCTED BY THE  
10 INSURER OR INSURANCE GROUP, OF THE MATERIAL AND RELEVANT RISKS  
11 ASSOCIATED WITH THE INSURER OR INSURANCE GROUP'S CURRENT BUSINESS  
12 PLAN, AND THE SUFFICIENCY OF CAPITAL RESOURCES TO SUPPORT THOSE  
13 RISKS.

14 (E) "ORSA GUIDANCE MANUAL" MEANS THE OWN RISK AND SOLVENCY  
15 ASSESSMENT GUIDANCE MANUAL AS ADOPTED AND PRESCRIBED BY THE  
16 DIRECTOR. A CHANGE IN THE ORSA GUIDANCE MANUAL IS EFFECTIVE ON THE  
17 JANUARY 1 FOLLOWING THE CALENDAR YEAR IN WHICH THE CHANGES HAVE  
18 BEEN ADOPTED AND PRESCRIBED BY THE DIRECTOR.

19 (F) "ORSA SUMMARY REPORT" MEANS A CONFIDENTIAL HIGH-LEVEL  
20 SUMMARY OF AN INSURER OR INSURANCE GROUP'S ORSA.

21 SEC. 1703. AN INSURER SHALL MAINTAIN A RISK MANAGEMENT  
22 FRAMEWORK TO ASSIST THE INSURER WITH IDENTIFYING, ASSESSING,  
23 MONITORING, MANAGING, AND REPORTING ON ITS MATERIAL AND RELEVANT  
24 RISKS. THIS REQUIREMENT MAY BE SATISFIED IF THE INSURANCE GROUP OF  
25 WHICH THE INSURER IS A MEMBER MAINTAINS A RISK MANAGEMENT FRAMEWORK  
26 APPLICABLE TO THE OPERATIONS OF THE INSURER.

27 SEC. 1705. SUBJECT TO SECTION 1709, AN INSURER, OR THE

1 INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER, SHALL REGULARLY  
2 CONDUCT AN ORSA CONSISTENT WITH A PROCESS COMPARABLE TO THE ORSA  
3 GUIDANCE MANUAL. THE ORSA SHALL BE CONDUCTED NO LESS THAN ANNUALLY  
4 BUT ALSO AT ANY TIME WHEN THERE ARE SIGNIFICANT CHANGES TO THE RISK  
5 PROFILE OF THE INSURER OR THE INSURANCE GROUP OF WHICH THE INSURER  
6 IS A MEMBER.

7 SEC. 1707. (1) AN INSURER SHALL ANNUALLY SUBMIT TO THE  
8 DIRECTOR AN ORSA SUMMARY REPORT, OR ANY COMBINATION OF REPORTS THAT  
9 TOGETHER CONTAIN THE INFORMATION AS DESCRIBED IN THE ORSA GUIDANCE  
10 MANUAL, APPLICABLE TO THE INSURER, THE INSURANCE GROUP OF WHICH IT  
11 IS A MEMBER, OR BOTH. WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF  
12 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE INSURER SHALL  
13 SUBMIT TO THE DIRECTOR THE CALENDAR DATE THE INSURER WILL ANNUALLY  
14 SUBMIT THE ORSA SUMMARY REPORT REQUIRED UNDER THIS SECTION. IF THE  
15 INSURER IS A MEMBER OF AN INSURANCE GROUP, THE INSURER SHALL SUBMIT  
16 A REPORT REQUIRED BY THIS SUBSECTION IF THE DIRECTOR IS THE LEAD  
17 STATE REGULATOR OF THE INSURANCE GROUP IN ACCORDANCE WITH THE  
18 PROCEDURES, AS ADOPTED BY THE DIRECTOR, WITHIN THE NATIONAL  
19 ASSOCIATION OF INSURANCE COMMISSIONERS FINANCIAL ANALYSIS HANDBOOK.

20 (2) A REPORT REQUIRED UNDER SUBSECTION (1) MUST INCLUDE A  
21 SIGNATURE OF THE INSURER OR INSURANCE GROUP'S CHIEF RISK OFFICER OR  
22 OTHER EXECUTIVE HAVING RESPONSIBILITY FOR THE OVERSIGHT OF THE  
23 INSURER'S ENTERPRISE RISK MANAGEMENT PROCESS ATTESTING TO THE BEST  
24 OF HIS OR HER BELIEF AND KNOWLEDGE THAT THE INSURER APPLIES THE  
25 ENTERPRISE RISK MANAGEMENT PROCESS DESCRIBED IN THE ORSA SUMMARY  
26 REPORT AND THAT A COPY OF THE REPORT HAS BEEN PROVIDED TO THE  
27 INSURER'S BOARD OF DIRECTORS OR APPROPRIATE COMMITTEE OF THE

1 INSURER'S BOARD OF DIRECTORS.

2 (3) AN INSURER MAY COMPLY WITH SUBSECTION (1) BY PROVIDING THE  
3 MOST RECENT AND SUBSTANTIALLY SIMILAR REPORT PROVIDED BY THE  
4 INSURER OR ANOTHER MEMBER OF AN INSURANCE GROUP OF WHICH THE  
5 INSURER IS A MEMBER TO A COMMISSIONER OF ANOTHER STATE OR TO A  
6 SUPERVISOR OR REGULATOR OF A FOREIGN JURISDICTION, IF THE REPORT  
7 PROVIDES INFORMATION THAT IS COMPARABLE TO THE INFORMATION  
8 PRESCRIBED BY THE ORSA GUIDANCE MANUAL. A REPORT IN A LANGUAGE  
9 OTHER THAN ENGLISH MUST BE ACCOMPANIED BY A TRANSLATION OF THE  
10 REPORT INTO THE ENGLISH LANGUAGE.

11 SEC. 1709. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (5),  
12 AN INSURER IS EXEMPT FROM THE REQUIREMENTS OF THIS CHAPTER, IF BOTH  
13 OF THE FOLLOWING APPLY:

14 (A) THE INSURER HAS ANNUAL DIRECT WRITTEN AND UNAFFILIATED  
15 ASSUMED PREMIUM, INCLUDING INTERNATIONAL DIRECT AND ASSUMED PREMIUM  
16 BUT EXCLUDING PREMIUMS REINSURED WITH THE FEDERAL CROP INSURANCE  
17 CORPORATION AND FEDERAL FLOOD PROGRAM, LESS THAN \$500,000,000.00.

18 (B) THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER HAS  
19 ANNUAL DIRECT WRITTEN AND UNAFFILIATED ASSUMED PREMIUM, INCLUDING  
20 INTERNATIONAL DIRECT AND ASSUMED PREMIUM BUT EXCLUDING PREMIUMS  
21 REINSURED WITH THE FEDERAL CROP INSURANCE CORPORATION AND FEDERAL  
22 FLOOD PROGRAM, LESS THAN \$1,000,000,000.00.

23 (2) IF AN INSURER QUALIFIES FOR EXEMPTION UNDER SUBSECTION  
24 (1) (A) BUT THE INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER  
25 DOES NOT QUALIFY FOR EXEMPTION UNDER SUBSECTION (1) (B), THE ORSA  
26 SUMMARY REPORT THAT MAY BE REQUIRED UNDER SECTION 1707 MUST INCLUDE  
27 EVERY INSURER WITHIN THE INSURANCE GROUP. THIS REQUIREMENT MAY BE

1 SATISFIED BY THE SUBMISSION OF MORE THAN 1 ORSA SUMMARY REPORT FOR  
2 ANY COMBINATION OF INSURERS IF THE COMBINATION OF REPORTS INCLUDES  
3 EVERY INSURER WITHIN THE INSURANCE GROUP.

4 (3) IF AN INSURER DOES NOT QUALIFY FOR EXEMPTION UNDER  
5 SUBSECTION (1) (A) BUT THE INSURANCE GROUP OF WHICH IT IS A MEMBER  
6 QUALIFIES FOR EXEMPTION UNDER SUBSECTION (1) (B), THE ONLY ORSA  
7 SUMMARY REPORT THAT MAY BE REQUIRED UNDER SECTION 1707 IS THE  
8 REPORT APPLICABLE TO THE INSURER.

9 (4) SUBJECT TO SUBSECTION (5), AN INSURER THAT DOES NOT  
10 QUALIFY FOR EXEMPTION UNDER SUBSECTION (1) MAY APPLY TO THE  
11 DIRECTOR FOR A WAIVER FROM THE REQUIREMENTS OF THIS CHAPTER BASED  
12 ON UNIQUE CIRCUMSTANCES. IN DECIDING WHETHER TO GRANT THE INSURER'S  
13 REQUEST FOR A WAIVER, THE DIRECTOR MAY CONSIDER THE TYPE AND VOLUME  
14 OF BUSINESS WRITTEN, OWNERSHIP AND ORGANIZATIONAL STRUCTURE, AND  
15 ANY OTHER FACTOR THE DIRECTOR CONSIDERS RELEVANT TO THE INSURER OR  
16 INSURANCE GROUP OF WHICH THE INSURER IS A MEMBER. IF THE INSURER IS  
17 PART OF AN INSURANCE GROUP WITH INSURERS DOMICILED IN MORE THAN 1  
18 STATE, THE DIRECTOR SHALL COORDINATE WITH THE LEAD STATE  
19 COMMISSIONER AND WITH THE OTHER DOMICILIARY COMMISSIONERS IN  
20 CONSIDERING WHETHER TO GRANT THE INSURER'S REQUEST FOR A WAIVER.

21 (5) NOTWITHSTANDING THE EXEMPTION PROVIDED IN SUBSECTION (1),  
22 THE DIRECTOR MAY REQUIRE 1 OR MORE OF THE FOLLOWING:

23 (A) THE DIRECTOR MAY REQUIRE THAT AN INSURER MAINTAIN A RISK  
24 MANAGEMENT FRAMEWORK, CONDUCT AN ORSA, AND FILE AN ORSA SUMMARY  
25 REPORT BASED ON UNIQUE CIRCUMSTANCES INCLUDING, BUT NOT LIMITED TO,  
26 THE TYPE AND VOLUME OF BUSINESS WRITTEN, OWNERSHIP AND  
27 ORGANIZATIONAL STRUCTURE, FEDERAL AGENCY REQUESTS, AND

1 INTERNATIONAL SUPERVISOR REQUESTS.

2 (B) THE DIRECTOR MAY REQUIRE THAT AN INSURER MAINTAIN A RISK  
3 MANAGEMENT FRAMEWORK, CONDUCT AN ORSA, AND FILE AN ORSA SUMMARY  
4 REPORT IF THE DIRECTOR DETERMINES 1 OR MORE OF THE FOLLOWING:

5 (i) THE INSURER HAS RISK-BASED CAPITAL FOR A COMPANY ACTION  
6 LEVEL EVENT.

7 (ii) THE INSURER MEETS 1 OR MORE OF THE CONDITIONS DESCRIBED IN  
8 SECTION 436.

9 (iii) THE OPERATION OF THE INSURER IS HAZARDOUS TO  
10 POLICYHOLDERS, CREDITORS, OR THE PUBLIC UNDER SECTION 436A.

11 (iv) THE INSURER EXHIBITS QUALITIES OF A TROUBLED INSURER.

12 (6) IF AN INSURER THAT QUALIFIES FOR AN EXEMPTION UNDER  
13 SUBSECTION (1) SUBSEQUENTLY NO LONGER QUALIFIES FOR THAT EXEMPTION  
14 BECAUSE OF AN INCREASE IN PREMIUM AS REFLECTED IN THE INSURER'S  
15 MOST RECENT ANNUAL STATEMENT OR IN THE MOST RECENT ANNUAL  
16 STATEMENTS OF THE INSURERS WITHIN THE INSURANCE GROUP OF WHICH THE  
17 INSURER IS A MEMBER, THE INSURER HAS 1 YEAR FOLLOWING THE YEAR THE  
18 PREMIUM EXCEEDED THE LIMITATION PROVIDED IN SUBSECTION (1) TO  
19 COMPLY WITH THIS CHAPTER.

20 SEC. 1711. (1) SUBJECT TO SUBSECTION (2), AN INSURER SHALL  
21 PREPARE AN ORSA SUMMARY REPORT UNDER SECTION 1707 CONSISTENT WITH  
22 THE ORSA GUIDANCE MANUAL PRESCRIBED BY THE DIRECTOR. THE INSURER  
23 SHALL MAINTAIN AND MAKE AVAILABLE TO THE DIRECTOR DOCUMENTATION AND  
24 SUPPORTING INFORMATION RELATING TO THE ORSA SUMMARY REPORT.

25 (2) THE DIRECTOR SHALL REVIEW AN ORSA SUMMARY REPORT AND ANY  
26 ADDITIONAL REQUESTS FOR INFORMATION USING SIMILAR PROCEDURES USED  
27 IN THE ANALYSIS AND EXAMINATION OF MULTISTATE OR GLOBAL INSURERS

1 AND INSURANCE GROUPS.

2 SEC. 1713. (1) DOCUMENTS, MATERIALS, OR OTHER INFORMATION,  
3 INCLUDING THE ORSA SUMMARY REPORT, IN THE POSSESSION OR CONTROL OF  
4 THE DIRECTOR THAT ARE OBTAINED BY, CREATED BY, OR DISCLOSED TO THE  
5 DIRECTOR OR ANY OTHER PERSON UNDER THIS CHAPTER ARE CONSIDERED  
6 PROPRIETARY AND TO CONTAIN TRADE SECRETS. THE DOCUMENTS, MATERIALS,  
7 OR OTHER INFORMATION ARE CONFIDENTIAL AND PRIVILEGED, ARE NOT  
8 SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA  
9 442, MCL 15.231 TO 15.246, ARE NOT SUBJECT TO SUBPOENA, AND ARE NOT  
10 SUBJECT TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN A PRIVATE CIVIL  
11 ACTION. HOWEVER, THE DIRECTOR MAY USE THE DOCUMENTS, MATERIALS, OR  
12 OTHER INFORMATION IN THE FURTHERANCE OF ANY REGULATORY OR LEGAL  
13 ACTION BROUGHT AS A PART OF THE DIRECTOR'S OFFICIAL DUTIES. THE  
14 DIRECTOR SHALL NOT OTHERWISE MAKE THE DOCUMENTS, MATERIALS, OR  
15 OTHER INFORMATION PUBLIC WITHOUT THE PRIOR WRITTEN CONSENT OF THE  
16 INSURER TO WHICH IT PERTAINS.

17 (2) THE DIRECTOR OR ANY PERSON WHO RECEIVED DOCUMENTS,  
18 MATERIALS, OR OTHER ORSA-RELATED INFORMATION, THROUGH EXAMINATION  
19 OR OTHERWISE, WHILE ACTING UNDER THE AUTHORITY OF THE DIRECTOR OR  
20 WITH WHOM THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION ARE SHARED  
21 UNDER THIS ACT SHALL NOT TESTIFY IN A PRIVATE CIVIL ACTION  
22 CONCERNING CONFIDENTIAL DOCUMENTS, MATERIALS, OR INFORMATION  
23 DESCRIBED IN SUBSECTION (1).

24 (3) THE DIRECTOR MAY DO ALL OF THE FOLLOWING:

25 (A) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, ON  
26 REQUEST, SHARE DOCUMENTS, MATERIALS, OR OTHER ORSA-RELATED  
27 INFORMATION, INCLUDING THE CONFIDENTIAL AND PRIVILEGED DOCUMENTS,

1 MATERIALS, OR INFORMATION DESCRIBED IN SUBSECTION (1), INCLUDING  
2 PROPRIETARY AND TRADE SECRET DOCUMENTS AND MATERIALS WITH OTHER  
3 STATE, FEDERAL, AND INTERNATIONAL FINANCIAL REGULATORY AGENCIES,  
4 INCLUDING MEMBERS OF A SUPERVISORY COLLEGE, WITH THE NAIC AND WITH  
5 ANY THIRD-PARTY CONSULTANTS DESIGNATED BY THE DIRECTOR. THE  
6 DIRECTOR SHALL NOT SHARE DOCUMENTS, MATERIALS, OR OTHER ORSA-  
7 RELATED INFORMATION DESCRIBED IN THIS SUBDIVISION UNLESS THE  
8 RECIPIENT AGREES IN WRITING TO MAINTAIN THE CONFIDENTIALITY AND  
9 PRIVILEGED STATUS OF THE ORSA-RELATED DOCUMENTS, MATERIALS, OR  
10 OTHER INFORMATION AND HAS VERIFIED IN WRITING THE LEGAL AUTHORITY  
11 TO MAINTAIN CONFIDENTIALITY.

12 (B) SUBJECT TO THIS SUBDIVISION, RECEIVE DOCUMENTS, MATERIALS,  
13 OR OTHER ORSA-RELATED INFORMATION, INCLUDING OTHERWISE CONFIDENTIAL  
14 AND PRIVILEGED DOCUMENTS, MATERIALS, OR INFORMATION, INCLUDING  
15 PROPRIETARY AND TRADE-SECRET INFORMATION OR DOCUMENTS, FROM  
16 REGULATORY OFFICIALS OF OTHER FOREIGN OR DOMESTIC JURISDICTIONS,  
17 INCLUDING MEMBERS OF A SUPERVISORY COLLEGE, AND FROM THE NAIC. THE  
18 DIRECTOR SHALL MAINTAIN AS CONFIDENTIAL OR PRIVILEGED ANY  
19 DOCUMENTS, MATERIALS, OR INFORMATION RECEIVED WITH NOTICE OR THE  
20 UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED UNDER THE LAWS  
21 OF THE JURISDICTION THAT IS THE SOURCE OF THE DOCUMENT, MATERIAL,  
22 OR INFORMATION.

23 (4) THE DIRECTOR SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE  
24 NAIC OR A THIRD-PARTY CONSULTANT GOVERNING SHARING AND USE OF  
25 INFORMATION PROVIDED UNDER THIS CHAPTER. THE WRITTEN AGREEMENT MUST  
26 DO ALL OF THE FOLLOWING:

27 (A) SPECIFY PROCEDURES AND PROTOCOLS REGARDING THE



1 CONFIDENTIALITY AND SECURITY OF INFORMATION SHARED WITH THE NAIC OR  
2 A THIRD-PARTY CONSULTANT UNDER THIS CHAPTER, INCLUDING PROCEDURES  
3 AND PROTOCOLS FOR SHARING BY THE NAIC WITH OTHER STATE REGULATORS  
4 FROM STATES IN WHICH THE INSURANCE GROUP HAS DOMICILED INSURERS.

5 (B) CONTAIN A STATEMENT THAT THE RECIPIENT AGREES IN WRITING  
6 TO MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE ORSA-  
7 RELATED DOCUMENTS, MATERIALS, OR OTHER INFORMATION AND HAS VERIFIED  
8 IN WRITING THE LEGAL AUTHORITY TO MAINTAIN CONFIDENTIALITY.

9 (C) SPECIFY THAT THE DIRECTOR OWNS THE INFORMATION SHARED WITH  
10 THE NAIC OR A THIRD-PARTY CONSULTANT UNDER THIS CHAPTER AND THAT  
11 THE NAIC'S OR THIRD-PARTY CONSULTANT'S USE OF THE INFORMATION IS  
12 SUBJECT TO THE DIRECTION OF THE DIRECTOR.

13 (D) PROHIBIT THE NAIC OR THIRD-PARTY CONSULTANT FROM STORING  
14 THE INFORMATION SHARED UNDER THIS CHAPTER IN A PERMANENT DATABASE  
15 AFTER THE UNDERLYING ANALYSIS IS COMPLETED.

16 (E) REQUIRE PROMPT NOTICE TO BE GIVEN TO AN INSURER WHOSE  
17 CONFIDENTIAL INFORMATION IN THE POSSESSION OF THE NAIC OR THIRD-  
18 PARTY CONSULTANT UNDER THIS CHAPTER IS SUBJECT TO A REQUEST OR  
19 SUBPOENA TO THE NAIC OR THIRD-PARTY CONSULTANT FOR DISCLOSURE OR  
20 PRODUCTION.

21 (F) REQUIRE THE NAIC OR THIRD-PARTY CONSULTANT TO CONSENT TO  
22 INTERVENTION BY AN INSURER IN ANY JUDICIAL OR ADMINISTRATIVE ACTION  
23 IN WHICH THE NAIC OR THIRD-PARTY CONSULTANT MAY BE REQUIRED TO  
24 DISCLOSE CONFIDENTIAL INFORMATION ABOUT THE INSURER SHARED WITH THE  
25 NAIC OR THIRD-PARTY CONSULTANT UNDER THIS CHAPTER.

26 (G) FOR AN AGREEMENT INVOLVING A THIRD-PARTY CONSULTANT,  
27 PROVIDE FOR THE INSURER'S WRITTEN CONSENT.

1           (5) THE SHARING OF INFORMATION AND DOCUMENTS BY THE DIRECTOR  
2 UNDER THIS CHAPTER IS NOT A DELEGATION OF REGULATORY AUTHORITY OR  
3 RULE-MAKING, AND THE DIRECTOR IS SOLELY RESPONSIBLE FOR THE  
4 ADMINISTRATION, EXECUTION, AND ENFORCEMENT OF THIS CHAPTER.

5           (6) THE DISCLOSURE OR SHARING OF DOCUMENTS, PROPRIETARY AND  
6 TRADE-SECRET MATERIALS, OR OTHER ORSA-RELATED INFORMATION TO THE  
7 DIRECTOR OR OTHER PERSON UNDER THIS CHAPTER IS NOT A WAIVER OF AN  
8 APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY.

9           (7) DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE  
10 POSSESSION OR CONTROL OF THE NAIC OR THIRD-PARTY CONSULTANTS UNDER  
11 THIS CHAPTER ARE CONFIDENTIAL AND PRIVILEGED, ARE NOT SUBJECT TO  
12 DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL  
13 15.231 TO 15.246, ARE NOT SUBJECT TO SUBPOENA, AND ARE NOT SUBJECT  
14 TO DISCOVERY OR ADMISSIBLE IN EVIDENCE IN A PRIVATE CIVIL ACTION.

15           (8) DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE  
16 POSSESSION OF AN INSURER CREATED BY THE INSURER TO COMPLY WITH THIS  
17 CHAPTER IS CONFIDENTIAL AND PRIVILEGED, IS NOT SUBJECT TO SUBPOENA  
18 OR TO DISCOVERY, AND IS NOT ADMISSIBLE IN EVIDENCE IN A PRIVATE  
19 CIVIL ACTION.

20           SEC. 1715. AN INSURER THAT DOES NOT, WITHOUT JUST CAUSE,  
21 TIMELY FILE AN ORSA SUMMARY REPORT AS REQUIRED IN THIS CHAPTER  
22 SHALL PAY A CIVIL FINE OF \$1,000.00 FOR EACH DAY'S DELAY, TO BE  
23 RECOVERED BY THE DIRECTOR AND PAID INTO THE GENERAL FUND. THE  
24 MAXIMUM CIVIL FINE UNDER THIS SECTION IS \$75,000.00. THE DIRECTOR  
25 MAY REDUCE THE PENALTY IF THE INSURER DEMONSTRATES TO THE DIRECTOR  
26 THAT THE PENALTY WOULD CAUSE A FINANCIAL HARDSHIP TO THE INSURER.

27           Sec. 2108. (1) On the effective date ~~thereof, each insurer~~

1 ~~shall file with the commissioner every~~ **OF A** manual of  
 2 classification, ~~every~~ manual of rules and rates, ~~every~~ rating plan,  
 3 ~~and every~~ **OR** modification of a manual of classification, manual of  
 4 rules and rates, or ~~a~~ rating plan ~~which it~~ **THAT AN INSURER** proposes  
 5 to use for automobile insurance ~~and~~ **OR** home insurance, **THE INSURER**  
 6 **SHALL FILE THE MANUAL OR PLAN WITH THE DIRECTOR.** Each filing ~~shall~~  
 7 **UNDER THIS SUBSECTION MUST** state the character and extent of the  
 8 coverage contemplated. ~~Each~~ **AN** insurer **THAT IS** subject to this  
 9 chapter ~~who~~ **AND THAT** maintains rates in any part of this state  
 10 shall at all times maintain rates in effect for all eligible  
 11 persons meeting the underwriting criteria of the insurer.

12 (2) An insurer may satisfy its obligation to make filings  
 13 under subsection (1) by becoming a member of, or a subscriber to, a  
 14 rating organization licensed under chapter 24 or chapter 26 ~~which~~  
 15 **THAT** makes ~~these~~ **THE** filings, and by filing with the ~~commissioner~~  
 16 **DIRECTOR** a copy of its authorization of the rating organization to  
 17 make ~~these~~ **THE** filings on its behalf. ~~Nothing contained in this~~  
 18 **THIS** chapter ~~shall be construed as requiring any~~ **DOES NOT REQUIRE**  
 19 **AN** insurer to become a member of or a subscriber to ~~any~~ **A** rating  
 20 organization. ~~Insurers~~ **AN INSURER** may file and use deviations from  
 21 filings made on ~~their~~ **ITS** behalf. ~~, which~~ **THE** deviations ~~shall be~~  
 22 **ARE** subject to ~~the provisions of~~ this chapter.

23 (3) ~~Each~~ **A** filing ~~shall~~ **UNDER THIS SECTION MUST** be accompanied  
 24 by a certification by or on behalf of the insurer that, to the best  
 25 of ~~its~~ **THE INSURER'S** information and belief, the filing conforms to  
 26 the requirements of this chapter.

27 (4) ~~Each~~ **A** filing ~~shall~~ **UNDER THIS SECTION MUST** include

1 information that supports the filing with respect to the  
 2 requirements of section 2109. The information may include 1 or more  
 3 of the following:

4 (a) The experience or judgment of the insurer or rating  
 5 organization making the filing.

6 (b) The interpretation of the insurer or rating organization  
 7 of any statistical data it relies ~~upon~~-ON.

8 (c) The experience of other insurers or rating organizations.

9 (d) Any other relevant information.

10 (5) ~~A-EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A~~  
 11 ~~filing UNDER THIS SECTION and any accompanying information shall be~~  
 12 ~~open to public inspection upon filing.~~ IS A PUBLIC RECORD AS  
 13 PROVIDED IN THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231  
 14 TO 15.246. AN INSURER OR A RATING ORGANIZATION FILING ON THE  
 15 INSURER'S BEHALF MAY DESIGNATE THE FILING OR ANY ACCOMPANYING  
 16 INFORMATION AS A TRADE SECRET. IF THE DIRECTOR DETERMINES THAT THE  
 17 FILING OR ANY ACCOMPANYING INFORMATION IS A TRADE SECRET, THE  
 18 FILING OR ANY ACCOMPANYING INFORMATION IS EXEMPT FROM THE FREEDOM  
 19 OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. AS USED IN  
 20 THIS SUBSECTION, "TRADE SECRET" MEANS THAT TERM AS DEFINED IN  
 21 SECTION 2 OF THE UNIFORM TRADE SECRETS ACT, 1998 PA 448, MCL  
 22 445.1902.

23 (6) An insurer shall not make, issue, or renew a contract or  
 24 policy except in accordance with filings ~~which~~-THAT are in effect  
 25 for the insurer ~~pursuant to~~-UNDER this chapter.

26 Sec. 2406. (1) Except for worker's compensation insurance,  
 27 ~~every~~-AN insurer shall file with the ~~commissioner~~-every-DIRECTOR A

1 manual of classification, ~~every~~ manual of rules and rates, ~~every~~  
 2 rating plan, and ~~every~~ OR modification of ~~any of the foregoing~~ A  
 3 **MANUAL OF CLASSIFICATION, MANUAL OF RULES AND RATES, OR RATING PLAN**  
 4 that ~~it~~ **THE INSURER** proposes to use. ~~Every such~~ **EACH** filing shall  
 5 **UNDER THIS SUBSECTION MUST** state the proposed effective date  
 6 ~~thereof~~ **OF THE FILING** and shall **MUST** indicate the character and  
 7 extent of the coverage contemplated. If a filing is not accompanied  
 8 by the information upon which the insurer supports the filing, and  
 9 the ~~commissioner~~ **DIRECTOR** does not have sufficient information to  
 10 determine ~~whether~~ **IF** the filing meets the requirements of this  
 11 chapter, the ~~commissioner~~ **DIRECTOR** shall within 10 days of the  
 12 filing give written notice to the insurer to furnish the  
 13 information ~~upon which it~~ **THAT** supports the filing. The information  
 14 furnished in support of a filing may include the experience or  
 15 judgment of the insurer or rating organization making the filing,  
 16 its interpretation of any statistical data it relies upon, the  
 17 experience of other insurers or rating organizations, or any other  
 18 relevant factors. ~~A filing and any supporting information shall be~~  
 19 ~~open to public inspection after the filing becomes effective.~~

20 (2) Except for worker's compensation insurance, an insurer may  
 21 satisfy its obligation to make ~~such~~ filings by becoming a member  
 22 of, or a subscriber to, a licensed rating organization that makes  
 23 ~~such~~ filings, and by filing with the ~~commissioner~~ **DIRECTOR** a copy  
 24 of its authorization of the rating organization to make ~~such~~  
 25 filings on its behalf. ~~Nothing contained in this~~ **THIS** chapter shall  
 26 ~~be construed as requiring any~~ **DOES NOT REQUIRE AN** insurer to become  
 27 a member of or a subscriber to ~~any~~ **A** rating organization.

1 (3) For worker's compensation insurance in this state, the  
2 insurer shall file with the ~~commissioner~~**DIRECTOR** all rates and  
3 rating systems. ~~Every insurer that insures worker's compensation in~~  
4 ~~this state on the effective date of this subsection shall file the~~  
5 ~~rates not later than the effective date of this subsection.~~

6 (4) ~~Except as provided in subsection (3) and as otherwise~~  
7 ~~provided in this subsection, the~~**THE** rates and rating systems for  
8 worker's compensation insurance shall ~~shall~~**MUST** be filed not later than  
9 the date the rates and rating systems are to be effective. ~~However,~~  
10 ~~if the insurer providing worker's compensation insurance is~~  
11 ~~controlled by a nonprofit health care corporation formed pursuant~~  
12 ~~to the nonprofit health care corporation reform act, Act No. 350 of~~  
13 ~~the Public Acts of 1980, being sections 550.1101 to 550.1704 of the~~  
14 ~~Michigan Compiled Laws, the rates and rating systems that it~~  
15 ~~proposes to use shall be filed with the commissioner not less than~~  
16 ~~45 days before the effective date of the filing. These filings~~  
17 ~~shall be considered to meet~~**A FILING UNDER THIS SUBSECTION MEETS**  
18 the requirements of this chapter unless and until the ~~commissioner~~  
19 **DIRECTOR** disapproves a filing ~~pursuant to~~**UNDER** section 2418 or  
20 2420.

21 (5) ~~Each~~**A** filing under subsections (3) and (4) shall ~~shall~~**MUST** be  
22 accompanied by a certification by the insurer that, to the best of  
23 ~~its~~**THE INSURER'S** information and belief, the filing conforms to  
24 the requirements of this chapter.

25 (6) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A FILING**  
26 **UNDER THIS SECTION AND ANY SUPPORTING INFORMATION IS A PUBLIC**  
27 **RECORD AS PROVIDED IN THE FREEDOM OF INFORMATION ACT, 1976 PA 442,**

1 MCL 15.231 TO 15.246. AN INSURER OR A RATING ORGANIZATION FILING ON  
2 THE INSURER'S BEHALF MAY DESIGNATE THE FILING OR ANY ACCOMPANYING  
3 INFORMATION AS A TRADE SECRET. IF THE DIRECTOR DETERMINES THAT THE  
4 FILING OR ANY ACCOMPANYING INFORMATION IS A TRADE SECRET, THE  
5 FILING OR ANY ACCOMPANYING INFORMATION IS EXEMPT FROM THE FREEDOM  
6 OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246. AS USED IN  
7 THIS SUBSECTION, "TRADE SECRET" MEANS THAT TERM AS DEFINED IN  
8 SECTION 2 OF THE UNIFORM TRADE SECRETS ACT, 1998 PA 448, MCL  
9 445.1902.

10 Enacting section 1. This amendatory act takes effect 90 days  
11 after the date it is enacted into law.