

Act No. 141
Public Acts of 2015
Approved by the Governor
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STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015

Introduced by Reps. Webber, Franz, Lyons, Cochran, Banks, Sheppard, Kosowski and Derek Miller

ENROLLED HOUSE BILL No. 4354

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” by amending sections 2021, 2108, 2112, 2406, 2458, 2606, and 2652 (MCL 500.2021, 500.2108, 500.2112, 500.2406, 500.2458, 500.2606, and 500.2652), section 2021 as added by 1982 PA 7, section 2112 as amended by 2012 PA 454, section 2406 as amended by 1993 PA 200, and section 2458 as amended by 1988 PA 262.

The People of the State of Michigan enact:

Sec. 2021. An unfair method of competition and an unfair or deceptive act or practice in the business of insurance includes failure by a rating organization and an insurer that makes its own rates, within a reasonable time after receiving written request for the information and on payment of a reasonable charge, to furnish to an insured affected

by a rate made by it, or to the insured authorized representative, all pertinent information to the rate. Pertinent information under this section does not include information that is a trade secret as determined by the director under section 2108(5) or 2406(6).

Sec. 2108. (1) On the effective date of a manual of classification, manual of rules and rates, rating plan, or modification of a manual of classification, manual of rules and rates, or rating plan that an insurer proposes to use for automobile insurance or home insurance, the insurer shall file the manual or plan with the director. Each filing under this subsection must state the character and extent of the coverage contemplated. An insurer that is subject to this chapter and that maintains rates in any part of this state shall at all times maintain rates in effect for all eligible persons meeting the underwriting criteria of the insurer.

(2) An insurer may satisfy its obligation to make filings under subsection (1) by becoming a member of, or a subscriber to, a rating organization licensed under chapter 24 or chapter 26 that makes the filings, and by filing with the director a copy of its authorization of the rating organization to make the filings on its behalf. This chapter does not require an insurer to become a member of or a subscriber to a rating organization. An insurer may file and use deviations from filings made on its behalf. The deviations are subject to this chapter.

(3) A filing under this section must be accompanied by a certification by or on behalf of the insurer that, to the best of the insurer's information and belief, the filing conforms to the requirements of this chapter.

(4) A filing under this section must include information that supports the filing with respect to the requirements of section 2109. The information may include 1 or more of the following:

- (a) The experience or judgment of the insurer or rating organization making the filing.
- (b) The interpretation of the insurer or rating organization of any statistical data it relies on.
- (c) The experience of other insurers or rating organizations.
- (d) Any other relevant information.

(5) Except as otherwise provided in this subsection, the department shall make a filing under this section and any accompanying information open to public inspection on filing. An insurer or a rating organization filing on the insurer's behalf may designate information included in the filing or any accompanying information as a trade secret. The insurer or the rating organization filing on behalf of the insurer shall demonstrate to the director that the designated information is a trade secret. If the director determines that the information is a trade secret, the information is not subject to public inspection and is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. As used in this subsection, "trade secret" means that term as defined in section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902. However, trade secret does not include filings and information accompanying filings under this section that were subject to public inspection before the effective date of the amendatory act that added this sentence.

(6) An insurer shall not make, issue, or renew a contract or policy except in accordance with filings that are in effect for the insurer under this chapter.

Sec. 2112. (1) Subject to subsection (3), at least annually, in conjunction with a renewal notice, a bill, or other notice of payment due issued to a policyholder in conjunction with an automobile or home insurance contract, an insurer shall send to the policyholder a written notice that all of the following information is available and will be provided to the policyholder on request:

(a) A description of the specific rating classifications by which the rates and premiums for the policy have been determined. The notice must be of sufficient detail and clarity so that the policyholder can reasonably verify the applicability and accuracy of the rating classifications.

(b) A general explanation of the extent to which rates or premiums vary among policyholders on the basis of the rating classifications used by the insurer.

(c) Sources and reasonable procedures by which the policyholder can obtain from the insurer additional information sufficient for the policyholder to calculate and confirm the accuracy of his or her specific premium.

(d) Relevant information regarding the rights of the policyholder, under sections 2113 and 2114, to appeal the application of the insurer's rating plan in determining his or her premium, to obtain documentation from the insurer regarding the determination of the rate, to appeal the application of the insurer's underwriting rules to the policyholder, to request an informal conference with the insurer, and to file with the director a complaint as an aggrieved person.

(e) A description of all of the insurer's underwriting rules based on insurance eligibility points and a description of all of the underwriting rules of the insurer's affiliates based on insurance eligibility points.

(f) A suggestion that the policyholder contact his or her agent to determine if he or she is eligible for insurance from an affiliate of the insurer or under a different rating plan of the insurer that would provide to the policyholder insurance at a more favorable premium.

(2) In a written notice provided under subsection (1), the insurer shall provide the policyholder with a telephone number and an Internet address, by either of which the policyholder may contact the insurer to request the information

listed in subsection (1). On request of the policyholder, the insurer shall provide the policyholder with the requested information in either a written or electronic format, as requested by the policyholder.

(3) An insurer is not required to provide information to an insured under this section that is a trade secret as determined by the director under section 2108(5) or 2406(6).

Sec. 2406. (1) Except for worker's compensation insurance, an insurer shall file with the director a manual of classification, manual of rules and rates, rating plan, or modification of a manual of classification, manual of rules and rates, or rating plan that the insurer proposes to use. Each filing under this subsection must state the proposed effective date of the filing and must indicate the character and extent of the coverage contemplated. If a filing is not accompanied by the information on which the insurer supports the filing, and the director does not have sufficient information to determine if the filing meets the requirements of this chapter, the director shall within 10 days of the filing give written notice to the insurer to furnish the information that supports the filing. The information furnished in support of a filing may include the experience or judgment of the insurer or rating organization making the filing, its interpretation of any statistical data it relies on, the experience of other insurers or rating organizations, or any other relevant factors. Except as otherwise provided in subsection (6), the department shall make a filing under this subsection and any supporting information open to public inspection after the filing becomes effective.

(2) Except for worker's compensation insurance, an insurer may satisfy its obligation to make filings by becoming a member of, or a subscriber to, a licensed rating organization that makes filings, and by filing with the director a copy of its authorization of the rating organization to make filings on its behalf. This chapter does not require an insurer to become a member of or a subscriber to a rating organization.

(3) For worker's compensation insurance in this state, the insurer shall file with the director all rates and rating systems.

(4) The rates and rating systems for worker's compensation insurance must be filed not later than the date the rates and rating systems are to be effective. A filing under this subsection meets the requirements of this chapter unless and until the director disapproves a filing under section 2418 or 2420.

(5) A filing under subsections (3) and (4) must be accompanied by a certification by the insurer that, to the best of the insurer's information and belief, the filing conforms to the requirements of this chapter.

(6) An insurer or a rating organization filing on the insurer's behalf may designate information included in the filing or any accompanying information as a trade secret. The insurer or the rating organization filing on behalf of the insurer shall demonstrate to the director that the designated information is a trade secret. If the director determines that the information is a trade secret, the information is not subject to public inspection and is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. As used in this subsection, "trade secret" means that term as defined in section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902. However, trade secret does not include filings and information accompanying filings under this section that were subject to public inspection before the effective date of the amendatory act that added this subsection.

Sec. 2458. Each rating organization and insurer that makes its own rates, within a reasonable time after receiving written request for the information and on payment of a reasonable charge, shall furnish to an insured affected by a rate made by the rating organization or insurer, or to the insured's authorized representative, all pertinent information as to the rate. Pertinent information under this section does not include information that is a trade secret as determined by the director under section 2108(5) or 2406(6). Each rating organization and insurer that makes its own rates shall provide within this state reasonable means for a person aggrieved by the application of its rating system to be heard, in person or by his or her authorized representative, on his or her written request to review the manner in which the rating system has been applied in connection with the insurance afforded to him or her. If the rating organization or insurer fails to grant or reject the request within 30 days after it is made, the applicant may proceed in the same manner as if his or her application had been rejected. A party affected by the action of the rating organization or insurer on the request may appeal, within 30 days after written notice of the action, to the director, who, after a hearing held on not less than 10 days' written notice to the appellant and to the rating organization or insurer, may affirm or reverse the action. A person who requests a hearing before the director under this section may be represented at the hearing by an attorney. A person, other than an individual, that requests a hearing before the director under this section may also be represented by an officer or employee of that person. An individual who requests a hearing before the director under this section may also be represented by a relative of the individual.

Sec. 2606. (1) Each insurer shall file with the director, except as to inland marine risks that by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing that it proposes to use. In its filing, each insurer shall state the proposed effective date of the filing and shall indicate the character and extent of the coverage contemplated.

(2) If a filing is not accompanied by the information on which the insurer supports the filing, and the director does not have sufficient information to determine whether the filing meets the requirements of this chapter, the director shall

require the insurer to furnish the information that supports the filing and the waiting period commences on the date the information is furnished. The information furnished in support of a filing may include the experience or judgment of the insurer or rating organization making the filing, its interpretation of any statistical data it relies on, the experience of other insurers or rating organizations, or any other relevant factors.

(3) Except as otherwise provided in this subsection, the department shall make a filing under this section and any supporting information open to public inspection after the filing becomes effective. An insurer or a rating organization filing on the insurer's behalf may designate information included in the filing or any accompanying information as a trade secret. The insurer or the rating organization filing on behalf of the insurer shall demonstrate to the director that the designated information is a trade secret. If the director determines that the information is a trade secret, the information is not subject to public inspection and is exempt from the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. As used in this subsection, "trade secret" means that term as defined in section 2 of the uniform trade secrets act, 1998 PA 448, MCL 445.1902. However, trade secret does not include filings and information accompanying filings under this section that were subject to public inspection before the effective date of the amendatory act that added this sentence.

(4) Specific inland marine rates on risks specially rated, made by a rating organization, must be filed with the director.

(5) An insurer may satisfy its obligation to make filings under this section by becoming a member of, or a subscriber to, a licensed rating organization that makes filings, and by filing with the director a copy of its authorization of the rating organization to make the filings on its behalf. This chapter does not require an insurer to become a member of or a subscriber to a rating organization.

Sec. 2652. Each rating organization and insurer that makes its own rates, within a reasonable time after receiving written request for the information and on payment of a reasonable charge, shall furnish to an insured affected by a rate made by it, or to the insured's authorized representative, all pertinent information as to the rate. Pertinent information under this section does not include information that is a trade secret as determined by the director under section 2108(5) or 2406(6). Each rating organization and insurer that makes its own rates shall provide within this state reasonable means for a person aggrieved by the application of its rating system to be heard, in person or by his or her authorized representative, on his or her written request to review the manner in which the rating system has been applied in connection with the insurance afforded him or her. If the rating organization or insurer fails to grant or reject the request within 30 days after it is made, the applicant may proceed in the same manner as if the applicant's application had been rejected. A party affected by the action of the rating organization or the insurer on the request may appeal, within 30 days after written notice of the action, to the director, who, after a hearing held on not less than 10 days' written notice to the appellant and to the rating organization or insurer, may affirm or reverse the action.

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

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor