

HOUSE BILL NO. 4651

May 21, 2019, Introduced by Reps. Robinson, Gay-Dagnogo, Guerra, Jones, Tyrone Carter and Bolden and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2106, 2108, 2109, and 2114 (MCL 500.2106,
500.2108, 500.2109, and 500.2114), section 2108 as amended by 2015
PA 141, and by adding section 213.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 213. (1) As soon as practicable after the effective date
2 of this section, the director shall employ 14 actuaries who are
3 qualified to carry out this section, and shall maintain the



1 actuaries, or their successors, as employees of the department.

2 (2) The actuaries employed under this section shall review
3 rate and other filings made by automobile insurers under chapters
4 21, 24, and 26, to determine whether the filings comply with the
5 requirements of those chapters, with particular emphasis on whether
6 the filings contain rates that are excessive as described in
7 section 2109.

8 Sec. 2106. (1) Except as specifically provided in this
9 chapter, ~~the provisions of chapter 24 and chapter 26 shall~~ do not
10 apply to automobile insurance and home insurance.

11 (2) **An insurer shall file and use rates for automobile**
12 **insurance in accordance with sections 2406 and 2408.**

13 (3) An insurer may use rates for ~~automobile insurance or home~~
14 insurance as soon as those rates are filed.

15 (4) To the extent that other provisions of this ~~code~~ **act** are
16 inconsistent with ~~the provisions of this chapter~~, this chapter
17 ~~shall govern~~ **governs** with respect to automobile insurance and home
18 insurance.

19 Sec. 2108. (1) On the effective date of a manual of
20 classification, manual of rules and rates, rating plan, or
21 modification of a manual of classification, manual of rules and
22 rates, or rating plan that an insurer proposes to use for
23 ~~automobile insurance or home insurance~~, the insurer shall file the
24 manual or plan with the director. **For automobile insurance, an**
25 **insurer shall file a manual or plan described in this subsection in**
26 **accordance with sections 2406 and 2408.** Each filing under this
27 subsection must state the character and extent of the coverage
28 contemplated. An insurer that is subject to this chapter and that
29 maintains rates in any part of this state shall at all times



1 maintain rates in effect for all eligible persons meeting the
2 underwriting criteria of the insurer.

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

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

16 (4) A filing under this section must include information that
17 supports the filing with respect to the requirements of section
18 2109. The information may include 1 or more of the following:

19 (a) The experience or judgment of the insurer or rating
20 organization making the filing.

21 (b) The interpretation of the insurer or rating organization
22 of any statistical data it relies on.

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

24 (d) Any other relevant information.

25 (5) Except as otherwise provided in this subsection, the
26 department shall make a filing under this section and any
27 accompanying information open to public inspection on filing. An
28 insurer or a rating organization filing on the insurer's behalf may
29 designate information included in the filing or any accompanying



1 information as a trade secret. The insurer or the rating
 2 organization filing on behalf of the insurer shall demonstrate to
 3 the director that the designated information is a trade secret. If
 4 the director determines that the information is a trade secret, the
 5 information is not subject to public inspection and is exempt from
 6 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
 7 As used in this subsection, "trade secret" means that term as
 8 defined in section 2 of the uniform trade secrets act, 1998 PA 448,
 9 MCL 445.1902. However, trade secret does not include filings and
 10 information accompanying filings under this section that were
 11 subject to public inspection before ~~the effective date of the~~
 12 ~~amendatory act that added this sentence.~~ **January 11, 2016.**

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

16 Sec. 2109. ~~(1)~~ All rates for automobile insurance and home
 17 insurance ~~shall~~ **must** be made in accordance with the following
 18 provisions:

19 (a) Rates ~~shall~~ **must** not be excessive, inadequate, or unfairly
 20 discriminatory. A rate ~~shall~~ **must** not be held to be excessive
 21 unless the rate is unreasonably high for the insurance coverage
 22 provided. ~~and a reasonable degree of competition does not exist for~~
 23 ~~the insurance to which the rate is applicable.~~

24 (b) A rate ~~shall~~ **must** not be held to be inadequate unless the
 25 rate is unreasonably low for the insurance coverage provided and
 26 the continued use of the rate endangers the solvency of the
 27 insurer; or unless the rate is unreasonably low for the insurance
 28 provided and the use of the rate has or will have the effect of
 29 destroying competition among insurers, creating a monopoly, or

1 causing a kind of insurance to be unavailable to a significant
2 number of applicants who are in good faith entitled to procure that
3 insurance through ordinary methods.

4 (c) A rate for a coverage is unfairly discriminatory in
5 relation to another rate for the same coverage if the differential
6 between the rates is not reasonably justified by differences in
7 losses, expenses, or both, or by differences in the uncertainty of
8 loss, for the individuals or risks to which the rates apply. A
9 reasonable justification ~~shall~~**must** be supported by a reasonable
10 classification system; by sound actuarial principles when
11 applicable; and by actual and credible loss and expense statistics
12 or, ~~in the case of~~**for** new coverages and classifications, by
13 reasonably anticipated loss and expense experience. A rate is not
14 unfairly discriminatory because it reflects differences in expenses
15 for individuals or risks with similar anticipated losses, or
16 because it reflects differences in losses for individuals or risks
17 with similar expenses.

18 ~~(2) A determination concerning the existence of a reasonable~~
19 ~~degree of competition with respect to subsection (1) (a) shall take~~
20 ~~into account a reasonable spectrum of relevant economic tests,~~
21 ~~including the number of insurers actively engaged in writing the~~
22 ~~insurance in question, the present availability of such insurance~~
23 ~~compared to its availability in comparable past periods, the~~
24 ~~underwriting return of that insurance over a period of time~~
25 ~~sufficient to assure reliability in relation to the risk associated~~
26 ~~with that insurance, and the difficulty encountered by new insurers~~
27 ~~in entering the market in order to compete for the writing of that~~
28 ~~insurance.~~

29 Sec. 2114. (1) A person ~~or organization~~ aggrieved with respect



1 to any filing ~~which~~**that** is in effect and ~~which~~**that** affects the
 2 person ~~or organization~~ may make written application to the
 3 ~~commissioner~~**director** for a hearing on the filing. However, the
 4 insurer or rating organization ~~which~~**that** made the filing shall ~~may~~
 5 not ~~be authorized to proceed~~ under this subsection. The **director**
 6 **may also commence a contested case regarding a filing under this**
 7 **subsection. An** application ~~shall~~**by an aggrieved person under this**
 8 **subsection must** specify the grounds to be relied ~~upon~~**on** by the
 9 applicant. If the ~~commissioner~~**director** finds that the application
 10 is made in good faith, that the applicant would be so aggrieved if
 11 the grounds specified are established, or that the grounds
 12 specified otherwise justify holding a hearing, the ~~commissioner,~~
 13 **director**, not more than 30 days after receipt of the application,
 14 shall hold a hearing in accordance with ~~Act No. 306 of the Public~~
 15 ~~Acts~~**the administrative procedures act** of 1969, ~~as amended, upon~~
 16 **1969 PA 306, MCL 24.201 to 24.328, on** not less than 10 days'
 17 written notice to the applicant, the insurer, and ~~the~~**any** rating
 18 organization ~~which~~**that** made the filing. **If the director commences**
 19 **a contested case regarding a filing under this subsection, the**
 20 **director shall hold a hearing as provided in this subsection.**

21 (2) If after **a** hearing initiated under subsection (1) or ~~upon~~
 22 ~~on the commissioner's~~**director's** own motion pursuant to ~~Act No. 306~~
 23 ~~of the Public Acts~~**under the administrative procedures act** of 1969,
 24 ~~as amended,~~**1969 PA 306, MCL 24.201 to 24.328,** the ~~commissioner~~
 25 **director** finds that a filing does not meet **any of** the requirements
 26 of ~~sections 2109 and 2111,~~**this chapter or chapter 24,** the
 27 ~~commissioner~~**director** shall issue an order stating the specific
 28 reasons for ~~that~~**the** finding. The order ~~shall~~**must** state when,
 29 within a reasonable time after issuance of the order, the filing



1 ~~shall be considered~~**will** no longer **be** effective. A copy of the
2 order ~~shall~~**must** be sent to the applicant, if any, and to each
3 insurer and rating organization subject to the order. ~~The~~**An** order
4 ~~shall~~**issued under this subsection does** not affect a contract or
5 policy made or issued before the date the filing becomes
6 ineffective, as indicated in the ~~commissioner's~~**director's** order.

