

HOUSE BILL No. 4627

March 21, 1991, Introduced by Reps. Saunders, Harrison, Perry Bullard, Clarke, Murphy, Bennane, Kilpatrick, Joe Young, Sr., DeMars, Clack, Stallworth, Wallace, Joe Young, Jr., Owen, Harder, Emerson, Kosteva, Gubow, Jondahl, Scott, Hollister, Berman, Barns, Hood and Varga and referred to the Committee on Insurance.

A bill to amend sections 2021, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2114, 2118, 2120, 2127, 2236, 2400, 2406, 2430, 2436, 2438, 2458, 2462, 2472, 2600, 2606, 2608, 2616, 2628, 2630, 2636, 2652, 2654, 2664, 2930, 3020, 3315, 3321, and 3340 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

section 2021 as added and sections 2406 and 2436 as amended by Act No. 7 of the Public Acts of 1982, section 2111 as amended by Act No. 88 of the Public Acts of 1990, section 2118 as amended by Act No. 43 of the Public Acts of 1988, section 2120 as amended by Act No. 350 of the Public Acts of 1984, section 2236 as amended by Act No. 305 of the Public Acts of 1990, section 2400 as amended by Act No. 8 of the Public Acts of 1982, section 2458 as amended by Act No. 262 of the Public Acts of 1988, section 3020 as amended by Act No. 170 of the Public Acts of 1990, and section

3315 as added and section 3340 as amended by Act No. 10 of the Public Acts of 1986, being sections 500.2021, 500.2105, 500.2106, 500.2107, 500.2108, 500.2109, 500.2110, 500.2111, 500.2114, 500.2118, 500.2120, 500.2127, 500.2236, 500.2400, 500.2406, 500.2430, 500.2436, 500.2438, 500.2458, 500.2462, 500.2472, 500.2600, 500.2606, 500.2608, 500.2616, 500.2628, 500.2630, 500.2636, 500.2652, 500.2654, 500.2664, 500.2930, 500.3020, 500.3315, 500.3321, and 500.3340 of the Michigan Compiled Laws; to add sections 2026a, 2094, 2103a, 2106a, 2107a, 2109a, 2109b, 2111e, 2128, 2128a, 2128b, 2128c, 2128d, 2128e, 2128f, and 3105a; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2021, 2105, 2106, 2107, 2108, 2109,
2 2110, 2111, 2114, 2118, 2120, 2127, 2236, 2400, 2406, 2430, 2436,
3 2438, 2458, 2462, 2472, 2600, 2606, 2608, 2616, 2628, 2630, 2636,
4 2652, 2654, 2664, 2930, 3020, 3315, 3321, and 3340 of Act No. 218
5 of the Public Acts of 1956, section 2021 as added and sections
6 2406 and 2436 as amended by Act No. 7 of the Public Acts of 1982,
7 section 2111 as amended by Act No. 88 of the Public Acts of 1990,
8 section 2118 as amended by Act No. 43 of the Public Acts of 1988,
9 section 2120 as amended by Act No. 350 of the Public Acts of
10 1984, section 2236 as amended by Act No. 305 of the Public Acts
11 of 1990, section 2400 as amended by Act No. 8 of the Public Acts
12 of 1982, section 2458 as amended by Act No. 262 of the Public
13 Acts of 1988, section 3020 as amended by Act No. 170 of the
14 Public Acts of 1990, and section 3315 as added and section 3340
15 as amended by Act No. 10 of the Public Acts of 1986, being

1 sections 500.2021, 500.2105, 500.2106, 500.2107, 500.2108,
 2 500.2109, 500.2110, 500.2111, 500.2114, 500.2118, 500.2120,
 3 500.2127, 500.2236, 500.2400, 500.2406, 500.2430, 500.2436,
 4 500.2438, 500.2458, 500.2462, 500.2472, 500.2600, 500.2606,
 5 500.2608, 500.2616, 500.2628, 500.2630, 500.2636, 500.2652,
 6 500.2654, 500.2664, 500.2930, 500.3020, 500.3315, 500.3321, and
 7 500.3340 of the Michigan Compiled Laws, are amended and sections
 8 2026a, 2094, 2103a, 2106a, 2107a, 2109a, 2109b, 2111e, 2128,
 9 2128a, 2128b, 2128c, 2128d, 2128e, 2128f, and 3105a are added to
 10 read as follows:

11 Sec. 2021. An unfair method of competition and an unfair or
 12 deceptive act or practice in the business of insurance includes
 13 failure by a rating organization and an insurer ~~which makes its~~
 14 ~~own rates,~~ within a reasonable time after receiving written
 15 request therefor and upon payment of ~~such~~ A reasonable charge
 16 as it may make, to furnish to ~~any~~ AN insured affected by a rate
 17 made by it, or to the INSURED'S authorized representative, ~~of~~
 18 ~~such insured,~~ all pertinent information to ~~such~~ THE rate.

19 SEC. 2026A. (1) IT IS AN UNFAIR METHOD OF COMPETITION AND
 20 AN UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSUR-
 21 ANCE FOR A PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURER OR THE
 22 INSURER'S AGENT TO SOLICIT, OFFER, PAY, OR RECEIVE A KICKBACK OR
 23 BRIBE IN CONNECTION WITH THE PROCESS OF ADJUSTING, RESOLVING,
 24 DENYING, OR LITIGATING A CLAIM FOR AUTOMOTIVE REPAIR.

25 (2) AN INSURER OR AN INSURER'S AGENT WHO VIOLATES THIS SEC-
 26 TION IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
 27 LESS THAN 1 YEAR OR MORE THAN 5 YEARS, OR A FINE OF NOT MORE THAN

1 \$50,000.00, OR BOTH, AND IN ADDITION, THE INSURER IS SUBJECT TO
2 THE CERTIFICATE OF AUTHORITY REVOCATION PROCEEDINGS OF THIS
3 CHAPTER.

4 SEC. 2094. AN INDIVIDUAL THREATENED WITH INJURY OR INJURED
5 DIRECTLY OR INDIRECTLY BY A VIOLATION BY A PRIVATE PASSENGER NON-
6 FLEET AUTOMOBILE INSURER OF ANY PROVISION OF THIS CHAPTER APPLI-
7 CABLE TO THAT INSURER MAY BRING AN ACTION FOR APPROPRIATE INJUNC-
8 TIVE OR OTHER EQUITABLE RELIEF AGAINST IMMEDIATE IRREPARABLE
9 HARM, ACTUAL DAMAGES SUSTAINED BY REASON OF A VIOLATION OF THIS
10 CHAPTER, AND, AS DETERMINED BY THE COURT, INTEREST ON THE DAMAGES
11 FROM THE DATE OF THE COMPLAINT, TAXABLE COSTS, AND REASONABLE
12 ATTORNEY'S FEES. THIS REMEDY IS IN ADDITION TO THE OTHER REMEDY
13 AND PENALTY PROVISIONS PROVIDED BY THIS CHAPTER.

14 SEC. 2103A. AS USED IN THIS CHAPTER:

15 (A) "GROUP AUTOMOBILE INSURANCE" MEANS AUTOMOBILE INSURANCE
16 COVERING NOT LESS THAN 25 ELIGIBLE EMPLOYEES OR MEMBERS, WITH OR
17 WITHOUT THEIR ELIGIBLE DEPENDENTS, WRITTEN UNDER A MASTER POLICY
18 ISSUED TO AND ENDORSED BY A GOVERNMENTAL CORPORATION, UNIT,
19 AGENCY, OR DEPARTMENT THEREOF, OR TO A CORPORATION, PARTNERSHIP,
20 INDIVIDUAL EMPLOYER, OR AN ASSOCIATION, UPON APPLICATION OF AN
21 EXECUTIVE OFFICER OR TRUSTEE OF THE ASSOCIATION HAVING A CONSTI-
22 TUTION OR BYLAWS, AND FORMED IN GOOD FAITH FOR PURPOSES OTHER
23 THAN THAT OF OBTAINING INSURANCE WHERE OFFICERS, MEMBERS, EMPLOY-
24 EES, CLASSES, OR DEPARTMENTS THEREOF MAY BE INSURED FOR THEIR
25 INDIVIDUAL BENEFIT.

26 (B) "TOTAL RETURN RATING" MEANS THE CONSIDERATION OF TOTAL
27 REVENUE AND AVAILABLE ASSETS OF THE INSURER, INCLUDING, BUT NOT

1 LIMITED TO, INVESTMENT INCOME, CAPITAL AND SURPLUS, UNDERWRITING
2 AND OPERATING PROFITS, PREMIUM REVENUE, AND ALL OTHER RESERVES.

3 Sec. 2105. (1) ~~No~~ A policy of automobile insurance or
4 home insurance shall NOT be offered, bound, made, issued, deliv-
5 ered or renewed in this state on and after January 1, 1981,
6 except in conformity with this chapter. This chapter shall not
7 apply to policies of automobile insurance or home insurance
8 offered, bound, made, issued, delivered or renewed in this state
9 before January 1, 1981.

10 (2) This chapter shall not apply to insurance written on a
11 group, franchise, ~~blanket policy,~~ or similar basis ~~which~~ THAT
12 offers home insurance ~~or automobile insurance~~ to all members of
13 the group, franchise plan, or blanket coverage who are eligible
14 persons.

15 Sec. 2106. Except as specifically provided in this chap-
16 ter, the provisions of chapter 24 and chapter 26 shall not apply
17 to automobile insurance and home insurance. An insurer may use
18 rates for ~~automobile insurance or~~ home insurance as soon as
19 those rates are filed. AN INSURER SHALL NOT USE RATES FOR AUTO-
20 MOBILE INSURANCE UNTIL THOSE RATES HAVE BEEN APPROVED BY THE
21 COMMISSIONER. To the extent that other provisions of this code
22 are inconsistent with the provisions of this chapter, this chap-
23 ter shall govern with respect to automobile insurance and home
24 insurance.

25 SEC. 2106A. TO BE AUTHORIZED TO WRITE GROUP AUTOMOBILE
26 INSURANCE IN THIS STATE, AN INSURER SHALL OFFER THE GROUP
27 COVERAGE TO EVERY ELIGIBLE PERSON IN THE GROUP IN A UNIFORM

1 MANNER AND SHALL FOLLOW THE RATE-MAKING, UNDERWRITING, AND OTHER
2 APPLICABLE PROVISIONS OF THIS ACT.

3 Sec. 2107. (1) On or before September 1, 1980, each
4 insurer subject to this chapter shall make filings in accordance
5 with this chapter for ~~automobile insurance,~~ home insurance ~~or~~
6 ~~or both,~~ to be effective not later than January 1, 1981 ~~nor~~ OR
7 earlier than November 1, 1980.

8 (2) With regard to a filing submitted under subsection (1),
9 the commissioner shall conduct a review of the filing on an
10 informal basis, and a dispute with regard to that filing shall
11 not be considered a contested case under THE ADMINISTRATIVE PRO-
12 CEDURES ACT OF 1969, Act No. 306 of the Public Acts of 1969, as
13 amended, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
14 LAWS. A filing not disapproved within 60 days after its submis-
15 sion shall be considered approved.

16 (3) A filing approved or considered approved under subsec-
17 tion (2) shall be exempt from any further proceedings whatsoever
18 under this chapter until July 1, 1981.

19 (4) If a filing is disapproved under subsection (2), the
20 insurer, within 30 days of the order of disapproval, shall make a
21 revised filing with the commissioner. The revised filing shall
22 take effect on January 1, 1981 and shall be subject to review
23 under this chapter on or after January 1, 1981 in the same manner
24 as subsequent filings made under this chapter.

25 SEC. 2107A. (1) BY NOT LATER THAN 1 YEAR AFTER THE EFFEC-
26 TIVE DATE OF THIS SECTION AND ANNUALLY THEREAFTER, EACH INSURER
27 SUBJECT TO THIS CHAPTER SHALL FILE BASE RATES FOR AUTOMOBILE

1 INSURANCE AND SHALL MAKE FILINGS THAT CONFORM TO THIS ACT AS
2 AMENDED BY THE 1991 AMENDATORY ACT THAT ADDED THIS SECTION.

3 (2) THE COMMISSIONER SHALL REVIEW A FILING SUBMITTED UNDER
4 SUBSECTION (1) AND SHALL APPROVE OR DISAPPROVE THE FILING WITHIN
5 60 DAYS AFTER ITS SUBMISSION.

6 (3) A FILING APPROVED UNDER SUBSECTION (2) SHALL NOT BE
7 REVISED FOR 12 MONTHS AFTER THE EFFECTIVE DATE OF THE FILING
8 UNLESS THE REVISION MEETS EITHER OF THE FOLLOWING:

9 (A) LOWERS THE PRICE OF THE COVERAGE.

10 (B) IS IN RESPONSE TO A RULING OR DECISION BY THE COMMIS-
11 SIONER, THE COURT, OR A HEARING OFFICER.

12 (4) A RULE CHANGE OR OTHER CHANGE FILED WITH THE COMMIS-
13 SIONER THAT RESULTS IN A CHANGE IN THE COST OF COVERAGE IS CON-
14 sidered a revision in a rate filing under this section.

15 (5) IF A FILING IS DISAPPROVED UNDER SUBSECTION (2), THE
16 INSURER, WITHIN 30 DAYS OF THE ORDER OF DISAPPROVAL, SHALL MAKE A
17 REVISED FILING WITH THE COMMISSIONER. THE REVISED FILING SHALL
18 BE SUBJECT TO REVIEW UNDER THIS CHAPTER IN THE SAME MANNER AS AN
19 ORIGINAL FILING MADE UNDER THIS CHAPTER. AN INSURER SHALL NOT
20 USE RATES FOR AUTOMOBILE INSURANCE UNTIL APPROVED BY THE
21 COMMISSIONER.

22 Sec. 2108. (1) ~~On~~ EXCEPT AS PROVIDED IN SECTION 2107A, ON
23 the effective date thereof, each insurer shall file with the com-
24 missioner every manual of classification, every manual of rules
25 and rates, every rating plan, and every modification of a manual
26 of classification, manual of rules and rates, or a rating plan
27 ~~which~~ THAT it proposes to use for automobile insurance and home

1 insurance. Each filing shall state the character and extent of
2 the coverage contemplated. Each insurer subject to this chapter
3 who maintains rates in any part of this state shall at all times
4 maintain rates in effect for all eligible persons meeting the
5 underwriting criteria of the insurer.

6 (2) ~~An~~ EXCEPT FOR FILINGS CONCERNING RATES, AN insurer may
7 satisfy its obligation to make filings ~~under subsection (1)~~ by
8 becoming a member of, or a subscriber to, a LICENSED rating orga-
9 nization ~~licensed under chapter 24 or chapter 26 which~~ THAT
10 makes ~~those~~ filings, and by filing with the commissioner a copy
11 of its authorization of the rating organization to make ~~those~~
12 filings on its behalf. Nothing contained in this chapter shall
13 be construed as requiring any insurer to become a member of or a
14 subscriber to any rating organization. Insurers may file and use
15 deviations from filings made on their behalf, which deviations
16 shall be subject to the provisions of this chapter.

17 (3) Each filing shall be accompanied by a certification by
18 or on behalf of the insurer that, to the best of its information
19 and belief, the filing conforms to the requirements of this
20 chapter.

21 (4) Each filing shall include information that supports the
22 filing with respect to the requirements of ~~section~~ SECTIONS
23 2109 AND 2109A. The information may include 1 or more of the
24 following:

25 (a) The experience or judgment of the insurer ~~or rating~~
26 ~~organization~~ making the filing.

1 (b) The interpretation of the insurer ~~or rating~~
2 ~~organization~~ of any statistical data it relies upon.

3 (c) The experience of other insurers. ~~or rating~~
4 ~~organizations.~~

5 (d) Any other relevant information.

6 (5) A filing and any accompanying information shall be open
7 to public inspection upon filing.

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

11 Sec. 2109. (1) All rates for ~~automobile insurance and~~
12 home insurance shall be made in accordance with the following
13 provisions:

14 (a) Rates shall not be excessive, inadequate, or unfairly
15 discriminatory. A rate shall not be held to be excessive unless
16 the rate is unreasonably high for the insurance coverage provided
17 and a reasonable degree of competition does not exist for the
18 insurance to which the rate is applicable.

19 (b) A rate shall not be held to be inadequate unless the
20 rate is unreasonably low for the insurance coverage provided and
21 the continued use of the rate endangers the solvency of the
22 insurer; or unless the rate is unreasonably low for the insurance
23 provided and the use of the rate has or will have the effect of
24 destroying competition among insurers, creating a monopoly, or
25 causing a kind of insurance to be unavailable to a significant
26 number of applicants who are in good faith entitled to procure
27 that insurance through ordinary methods.

1 (c) A rate for a coverage is unfairly discriminatory in
2 relation to another rate for the same coverage if the differen-
3 tial between the rates is not reasonably justified by differences
4 in losses, expenses, or both, or by differences in the uncer-
5 tainty of loss, for the individuals or risks to which the rates
6 apply. A reasonable justification shall be supported by a rea-
7 sonable classification system; by sound actuarial principles when
8 applicable; and by actual and credible loss and expense statis-
9 tics or, in the case of new coverages and classifications, by
10 reasonably anticipated loss and expense experience. A rate is
11 not unfairly discriminatory because it reflects differences in
12 expenses for individuals or risks with similar anticipated
13 losses, or because it reflects differences in losses for individ-
14 uals or risks with similar expenses.

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

26 SEC. 2109A. (1) ALL RATES FOR AUTOMOBILE INSURANCE SHALL
27 BE REVIEWED BY THE COMMISSIONER BY EXAMINING THE INSURER'S REPORT

1 PREPARED PURSUANT TO SECTION 2128 AND SHALL BE MADE IN ACCORDANCE
2 WITH TOTAL RETURN RATING AND THE FOLLOWING PROVISIONS:

3 (A) RATES SHALL NOT BE EXCESSIVE, INADEQUATE, OR UNFAIRLY
4 DISCRIMINATORY. A RATE SHALL NOT BE APPROVED BY THE COMMISSIONER
5 UNLESS IT IS ACTUARIALLY JUSTIFIED BASED UPON THE INFORMATION
6 RECEIVED PURSUANT TO SECTION 2128.

7 (B) A RATE SHALL NOT BE HELD TO BE INADEQUATE UNLESS THE
8 RATE, AFTER CONSIDERATION OF INVESTMENT INCOME AND SURPLUS, IS
9 UNREASONABLY LOW FOR THE INSURANCE COVERAGE PROVIDED AND IS
10 INSUFFICIENT TO SUSTAIN PROJECTED LOSSES AND EXPENSES; OR UNLESS
11 THE RATE IS UNREASONABLY LOW FOR THE INSURANCE PROVIDED AND THE
12 USE OF THE RATE HAS OR WILL HAVE THE EFFECT OF DESTROYING COMPE-
13 TITION AMONG INSURERS, CREATING A MONOPOLY, OR CAUSING A KIND OF
14 INSURANCE TO BE UNAVAILABLE TO A SIGNIFICANT NUMBER OF APPLICANTS
15 WHO ARE IN GOOD FAITH ENTITLED TO PROCURE THAT INSURANCE THROUGH
16 ORDINARY METHODS.

17 (C) A RATE FOR A COVERAGE IS UNFAIRLY DISCRIMINATORY IN
18 RELATION TO ANOTHER RATE FOR THE SAME COVERAGE IF THE DIFFEREN-
19 TIAL BETWEEN THE RATES IS NOT REASONABLY JUSTIFIED BY DIFFERENCES
20 IN LOSSES, EXPENSES, OR BOTH, OR BY DIFFERENCES IN THE UNCER-
21 TAINTY OF LOSS, FOR THE INDIVIDUALS OR RISKS TO WHICH THE RATES
22 APPLY. A REASONABLE JUSTIFICATION SHALL BE SUPPORTED BY A REA-
23 SONABLE CLASSIFICATION SYSTEM; BY SOUND ACTUARIAL PRINCIPLES WHEN
24 APPLICABLE; AND BY ACTUAL AND CREDIBLE LOSS AND EXPENSE STATIS-
25 TICS OR, IN THE CASE OF NEW COVERAGES AND CLASSIFICATIONS, BY
26 REASONABLY ANTICIPATED LOSS AND EXPENSE EXPERIENCE. A RATE IS
27 NOT UNFAIRLY DISCRIMINATORY BECAUSE IT REFLECTS DIFFERENCES IN

1 EXPENSES FOR INDIVIDUALS OR RISKS WITH SIMILAR ANTICIPATED
2 LOSSES, OR BECAUSE IT REFLECTS DIFFERENCES IN LOSSES FOR INDIVID-
3 UALS OR RISKS WITH SIMILAR EXPENSES.

4 (2) THE COMMISSIONER SHALL NOT APPROVE A RATE INCREASE FOR
5 AUTOMOBILE INSURANCE UNLESS THE COMMISSIONER DETERMINES THAT THE
6 DATA RECEIVED FROM THE REPORT PREPARED PURSUANT TO SECTION 2128
7 JUSTIFIES A RATE INCREASE. THE COMMISSIONER SHALL NOT APPROVE A
8 RATE INCREASE BY EXAMINING ACTUARIAL DATA FROM A LINE OTHER THAN
9 THE INSURER'S AUTOMOBILE INSURANCE LINE OR IF THE INSURER FAILS
10 TO FILE THE REPORT REQUIRED BY SECTION 2128. THE COMMISSIONER
11 SHALL NOT APPROVE A RATE INCREASE IF THE COMMISSIONER FINDS THE
12 INSURER'S ADMINISTRATIVE EXPENSES TO BE EXCESSIVE.

13 (3) EACH INSURER SHALL SUBMIT ANNUALLY TO THE COMMISSIONER A
14 COMPLETE BREAKDOWN OF LITIGATION COSTS ASSOCIATED WITH FIRST AND
15 THIRD PARTY AUTOMOBILE INSURANCE CLAIMS THAT HAVE BEEN RECEIVED
16 OR ARE IN THE PROCESS OF BEING LITIGATED AND OF AMOUNTS RESERVED
17 TO BE USED FOR THOSE EXPENSES. THE COMMISSIONER SHALL NOT
18 APPROVE A RATE IF THE ADMINISTRATIVE COSTS ASSOCIATED WITH THE
19 LITIGATION OF FIRST PARTY CLAIMS EXCEED 1% OF THE ADMINISTRATIVE
20 COSTS ASSOCIATED WITH THE LITIGATION OF THIRD PARTY CLAIMS. EACH
21 AUTOMOBILE INSURANCE INSURER'S TOTAL ADMINISTRATIVE EXPENSES
22 SHALL BE ALLOCATED TO EACH TERRITORY ACCORDING TO THE INSURER'S
23 PROPORTIONATE SHARE OF PREMIUM WRITTEN IN EACH TERRITORY. EACH
24 PREMIUM CHARGED WITHIN EACH TERRITORY SHALL CONTAIN AN EQUAL
25 SHARE OF THE ADMINISTRATIVE EXPENSE FOR THE TERRITORY. RATES
26 SHALL BE FILED AND CHARGED UNDER THIS SECTION SO THAT EACH

1 AUTOMOBILE INSURANCE PREMIUM INCLUDES AN EQUAL SHARE OF EACH
2 INSURER'S OVERALL ADMINISTRATIVE EXPENSE.

3 SEC. 2109B. (1) IF THE COMMISSIONER DETERMINES THAT ANY
4 PERSON OR ORGANIZATION HAS VIOLATED THE AUTOMOBILE RATE-MAKING OR
5 UNDERWRITING PROVISIONS OF THIS CHAPTER, THE COMMISSIONER MAY
6 ISSUE A CEASE AND DESIST ORDER AND ORDER THE PERSON OR ORGANI-
7 ZATION TO PAY A CIVIL FINE OF NOT MORE THAN \$500.00 FOR EACH VIO-
8 LATION AND A CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR EACH WILL-
9 FUL VIOLATION. A DEFAULT IN THE PAYMENT OF A CIVIL FINE UNDER
10 THIS SECTION MAY BE REMEDIED BY ANY MEANS AUTHORIZED UNDER THE
11 REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF
12 1961, BEING SECTIONS 600.100 TO 600.9947 OF THE MICHIGAN COMPILED
13 LAWS. A CIVIL FINE COLLECTED PURSUANT TO THIS SUBSECTION SHALL
14 BE USED FOR THE OPERATION OF THE AUTOMOBILE INSURANCE DATA COL-
15 LECTION AGENCY CREATED IN SECTION 2128E.

16 (2) IF THE COMMISSIONER FINDS THAT A VIOLATION OF THE AUTO-
17 MOBILE RATE-MAKING OR UNDERWRITING PROVISIONS OF THIS CHAPTER HAS
18 OCCURRED AND THAT THE VIOLATION HAS RESULTED IN AN INCREASE IN
19 AUTOMOBILE INSURANCE PREMIUMS OR A DECREASE IN BENEFITS, THE COM-
20 MISSIONER SHALL ORDER THE INSURER TO RETURN THE PREMIUM OR THE
21 AMOUNT OF BENEFITS THAT SHOULD HAVE BEEN PAID, ALONG WITH AN
22 INTEREST CHARGE OF 12% PER ANNUM TO BE APPLIED FROM THE TIME THE
23 PREMIUM WAS COLLECTED OR THE BENEFIT WAS DUE OR WOULD HAVE BEEN
24 DUE TO THE CONSUMER.

25 (3) THE COMMISSIONER MAY SUSPEND THE LICENSE OF AN INSURER
26 THAT FAILS TO COMPLY WITH THE COMMISSIONER'S ORDER TO CORRECT A
27 VIOLATION OF THIS CHAPTER.

1 Sec. 2110. (1) In developing and evaluating rates pursuant
2 to the standards prescribed in ~~section~~ SECTIONS 2109 AND 2109A,
3 due consideration shall be given to past and prospective loss
4 experience within and outside this state, to catastrophe hazards,
5 if any; to a reasonable margin for underwriting profit and con-
6 tingencies; to dividends, savings, or unabsorbed premium deposits
7 allowed or returned by insurers to their policyholders, members,
8 or subscribers; to past and prospective expenses, both country-
9 wide and those specially applicable to this state exclusive of
10 assessments under this code; to assessments under this code; to
11 underwriting practice and judgment; and to all other relevant
12 factors within and outside this state.

13 (2) The systems of expense provisions included in the rates
14 for use by any insurer or group of insurers may differ from those
15 of other insurers or groups of insurers to reflect the require-
16 ments of the operating methods of the insurer or group with
17 respect to any kind of insurance, or with respect to any subdivi-
18 sion or combination thereof for which subdivision or combination
19 separate expense provisions are applicable.

20 (3) Risks may be grouped by classifications for the estab-
21 lishment of rates and minimum premiums. The classifications may
22 measure differences in losses, expenses, or both.

23 Sec. 2111. (1) Notwithstanding any provision of this ~~code~~
24 ACT and this chapter to the contrary, classifications and terri-
25 torial base rates used by ~~any~~ AN insurer in this state with
26 respect to ~~automobile insurance or~~ home insurance AND
27 CLASSIFICATIONS USED BY AN INSURER WITH RESPECT TO AUTOMOBILE

1 INSURANCE shall conform to the applicable requirements of this
2 section.

3 (2) Classifications established pursuant to this section for
4 automobile insurance shall be based only upon 1 or more of the
5 following factors, which shall be applied by an insurer on a uni-
6 form basis throughout the state:

7 (a) With respect to all automobile insurance coverages:

8 (i) Either the age of THE driver; the length of driving
9 experience; or the number of years licensed to operate a motor
10 vehicle.

11 (ii) Driver primacy, based upon the proportionate use of
12 each vehicle insured under the policy by individual drivers
13 insured or to be insured under the policy.

14 (iii) Average miles driven weekly, annually, or both.

15 (iv) Type of use, such as business, farm, or pleasure use.

16 (v) Vehicle characteristics, features, and options, such as
17 engine displacement, ability of vehicle and its equipment to pro-
18 tect passengers from injury — and other similar items, includ-
19 ing vehicle make and model.

20 (vi) Daily or weekly commuting mileage.

21 (vii) Number of cars insured by the insurer or number of
22 licensed operators in the household. However, number of licensed
23 operators shall not be used as an indirect measure of marital
24 status.

25 (viii) Amount of insurance.

26 (b) In addition to the factors prescribed in subdivision

27 (a), with respect to personal protection insurance coverage:

- 1 (i) Earned income.
- 2 (ii) Number of dependents of income earners insured under
3 the policy.
- 4 (iii) Coordination of benefits.
- 5 (iv) Use of a safety belt.
- 6 (v) THE WAIVER OF COVERAGE FOR WORK LOSS BENEFITS UNDER SEC-
7 TION 3107.
- 8 (c) In addition to the factors prescribed in subdivision
9 (a), with respect to collision and comprehensive coverages:
- 10 (i) The anticipated cost of vehicle repairs or replacement,
11 which may be measured by age, price, cost new, or value of the
12 insured automobile, and other factors directly relating to that
13 anticipated cost.
- 14 (ii) Vehicle make and model.
- 15 (iii) Vehicle design characteristics related to vehicle
16 damageability.
- 17 (iv) Vehicle characteristics relating to automobile theft
18 prevention devices.
- 19 (d) With respect to all automobile insurance coverage other
20 than comprehensive, successful completion by the individual
21 driver or drivers insured under the policy of an accident preven-
22 tion education course ~~which~~ THAT meets the following criteria:
23 —
- 24 (i) The course shall include a minimum of 8 hours of class-
25 room instruction.
- 26 (ii) The course shall include, but not be limited to, a
27 review of all of the following:

- 1 (A) The effects of aging on driving behavior.
- 2 (B) The shapes, colors, and types of road signs.
- 3 (C) The effects of alcohol and medication on driving.
- 4 (D) The laws relating to the proper use of a motor vehicle.
- 5 (E) Accident prevention measures.
- 6 (F) The benefits of safety belts and child restraints.
- 7 (G) Major driving hazards.
- 8 (H) Interaction with other highway users such as motorcy-
9 clists, bicyclists, and pedestrians.

10 (3) ~~Before February 1, 1987, each~~ EACH insurer shall
11 establish and maintain premium discount plans pursuant to the
12 following:

13 (a) ~~Until July 1, 1991, an~~ AN automobile theft prevention
14 premium discount plan. A premium discount plan required under
15 this subdivision shall provide for a premium discount for automo-
16 bile comprehensive coverage based upon the installation of an
17 approved automobile theft prevention device. As used in this
18 subdivision, "approved automobile theft prevention device" means
19 a device ~~which~~ THAT is designed to prevent the theft of an
20 insured's automobile and ~~which~~ THAT is approved by the board of
21 directors of the automobile theft prevention authority.

22 (b) Until July 1, 1991, an automobile safety belt premium
23 discount plan. A premium discount plan required under this sub-
24 division shall provide for a premium discount for automobile per-
25 sonal protection insurance of not less than 20%. A premium dis-
26 count plan established under this subdivision may require the
27 insured individual to certify in writing that he or she will wear

1 a safety belt while operating the insured motor vehicle in
 2 compliance with section 710e of the Michigan vehicle code, Act
 3 No. 300 of the Public Acts of 1949, being section 257.710e of the
 4 Michigan Compiled Laws, as a condition to receiving the premium
 5 discount. If an insured receives a premium discount after pro-
 6 viding such certification and is injured while operating a motor
 7 vehicle without wearing a safety belt at the time of the injury,
 8 an insurer may subsequently deny to ~~such~~ THE insured the right
 9 to participate in any premium discount plan established by the
 10 insurer pursuant to this subdivision for a period of 12 months.
 11 An insurer ~~which~~ THAT reduces its personal protection insurance
 12 rates after December 1, 1985 by not less than 20% and does not
 13 increase ~~such~~ THOSE rates for a period of 12 months shall be
 14 considered to be in compliance with this subdivision.

15 (4) Each insurer shall establish a secondary or merit rating
 16 plan for automobile insurance, other than comprehensive
 17 coverage. A secondary or merit rating plan required under this
 18 subsection shall provide for premium surcharges for any or all
 19 coverages for automobile insurance, other than comprehensive cov-
 20 erage, based upon any or all of the following, when that informa-
 21 tion becomes available to the insurer:

22 (a) Substantially at-fault accidents.

23 (b) Convictions for, determinations of responsibility for
 24 civil infractions for, or findings of responsibility in probate
 25 court for civil infractions for, violations under chapter VI of
 26 the Michigan vehicle code, Act No. 300 of the Public Acts of

1 1949, as amended, being sections 257.601 to 257.750 of the
2 Michigan Compiled Laws.

3 (5) An insurer shall not establish or maintain rates or
4 rating classifications for automobile insurance based upon sex or
5 marital status.

6 (6) Notwithstanding other provisions of this chapter, auto-
7 mobile insurance risks shall be grouped by territory AS PRE-
8 SCRIBED BY THE COMMISSIONER. THE COMMISSIONER SHALL ESTABLISH
9 UNIFORM TERRITORIAL RATING TO BE USED BY ALL AUTOMOBILE INSURANCE
10 INSURERS DOING BUSINESS IN THE STATE. TERRITORIAL BOUNDARIES
11 SHALL BE BASED ON OBJECTIVE CRITERIA, INCLUDING TRAFFIC PATTERNS,
12 AND SHALL BE RELATED TO THE DRIVING ENVIRONMENT INCLUDING, BUT
13 NOT LIMITED TO, DENSITY OF TRAFFIC, REGULARITY OF TRAFFIC FLOW,
14 TRAFFIC ROUTE SIZE, AND TYPES OF ROADWAY. A TERRITORY SHALL NOT
15 INCLUDE LESS THAN 1 COUNTY AND MAY INCLUDE MORE THAN 1 COUNTY.
16 AN INSURER SHALL NOT CHARGE A TERRITORIAL BASE RATE FOR AN AUTO-
17 MOBILE INSURANCE POLICY UNLESS THE TERRITORIAL RATING SCHEME USED
18 BY THE INSURER HAS BEEN APPROVED BY THE COMMISSIONER. AN INSURER
19 SHALL ESTABLISH 1 ACTUARIALLY SOUND BASE RATE FOR EACH PRESCRIBED
20 TERRITORY WHICH BASE RATE SHALL BE APPROVED BY THE COMMISSIONER
21 PURSUANT TO THIS CHAPTER. ~~7 and territorial base rates for cov-~~
22 ~~erages shall be established as provided in section 2111a and as~~
23 ~~follows:~~

24 ~~(a) An insurer shall not be limited as to the number of ter-~~
25 ~~ritories employed in its rating plan.~~

26 ~~(b) Except during the period of time from February 28, 1986~~
27 ~~to June 30, 1991, an insurer shall not employ more than 20~~

1 ~~different territorial base rates for an automobile insurance~~
2 ~~coverage.~~

3 ~~(c) A territorial base rate may be made applicable in 1 or~~
4 ~~more territories contained in the rating plan of the insurer.~~

5 ~~(d) Except during the period of time from February 28, 1986~~
6 ~~to June 30, 1991, an insurer shall not employ a territorial base~~
7 ~~rate for an automobile insurance package policy that is less than~~
8 ~~45% of the highest territorial base rate for the same policy, all~~
9 ~~other rating classifications being the same.~~

10 ~~(e) Except during the period of time from February 28, 1986~~
11 ~~to June 30, 1991, an insurer shall not employ a territorial base~~
12 ~~rate in a territory for an automobile insurance package policy~~
13 ~~that is less than 90% of the territorial base rate employed in~~
14 ~~any adjacent territory for the same policy, all other rating~~
15 ~~classifications being the same.~~

16 ~~(7) Except during the period of time from February 28, 1986~~
17 ~~to June 30, 1991, an insurer may elect at any time to exempt~~
18 ~~itself from the requirements of subsection (6) by filing for an~~
19 ~~exemption with the commissioner. An insurer electing this exemp-~~
20 ~~tion shall initially file a rating plan in which no territorial~~
21 ~~base rate for an automobile insurance package policy is less than~~
22 ~~45% of the highest territorial base rate for the same policy, all~~
23 ~~other rating classifications being the same. Five years from the~~
24 ~~date of the initial filing the insurer shall be prohibited from~~
25 ~~using a rating plan in which any territorial base rate for an~~
26 ~~automobile insurance package policy will be less than 67% of the~~
27 ~~highest territorial base rate for that same policy, all other~~

~~1 rating classifications being the same. An insurer's election of
2 an exemption under this subsection is permanent, final, and not
3 subject to change.~~

~~4 (8) Except during the period of time from February 28, 1986
5 to June 30, 1991, if an insurer can demonstrate to the commis-
6 sioner, after an opportunity for an evidentiary hearing held pur-
7 suant to the administrative procedures act of 1969, Act No. 306
8 of the Public Acts of 1969, as amended, being sections 24.201 to
9 24.328 of the Michigan Compiled Laws, that clear and significant
10 financial impairment exists in the geographic territory or terri-
11 tories in question because of the need for an additional territo-
12 rial base rate, or for a greater variance in the adjacent geo-
13 graphic territory differential contained in subsection (6)(e),
14 the additional territorial base rate, a greater variance, or
15 both, shall be permitted for use by the insurer or a licensed
16 rating organization on behalf of that insurer, at such time as
17 the need exists. Evidence shall not include financial impairment
18 resulting from exemptions granted to other insurers.~~

~~19 (9) Except during the period of time from February 28, 1986
20 to June 30, 1991, if the commissioner finds, solely on the evi-
21 dence presented, that a greater variance in the adjacent geo-
22 graphic territory differential than that authorized under subsec-
23 tion (6)(e) is justified, the increase in variance shall not
24 exceed 100% of that authorized under that subsection. Except
25 during the period of time from February 28, 1986 to June 30,
26 1991, if an increase in variance in the adjacent geographic
27 territory differential greater than 100% of that authorized under~~

1 ~~subsection (6)(e) is justified, the commissioner shall require~~
2 ~~the creation of an additional territorial base rate.~~

3 ~~(10) Except during the period of time from February 28, 1986~~
4 ~~to June 30, 1991, an exemption granted under subsections (8) and~~
5 ~~(9) shall be applicable only to the geographic territory or ter-~~
6 ~~ritories in question, and only to the insurer requesting the~~
7 ~~exemption.~~

8 ~~(11) Except during the period of time from February 28, 1986~~
9 ~~to June 30, 1991, an insurer shall not have more than 5 exemp-~~
10 ~~tions in force at any time. For purposes of determining the~~
11 ~~number of existing exemptions, each additional territorial base~~
12 ~~rate or each increase in variance in the adjacent geographic ter-~~
13 ~~ritory differential granted, shall be considered to be a separate~~
14 ~~exemption.~~

15 (7) ~~(12)~~ This section shall not be construed as limiting
16 insurers or rating organizations from establishing and maintain-
17 ing statistical reporting territories. This section shall not be
18 construed to prohibit an insurer from establishing or maintain-
19 ing, for automobile insurance, a premium discount plan for senior
20 citizens in this state who are 65 years of age or older, if the
21 plan is uniformly applied by the insurer throughout this state.
22 If an insurer has not established and maintained such a premium
23 discount plan for senior citizens, the insurer shall offer
24 reduced premium rates to senior citizens in this state who are 65
25 years of age or older and who drive less than 3,000 miles per
26 year, regardless of statistical data.

1 (8) ~~(+3)~~ Classifications established pursuant to this
2 section for home insurance other than inland marine insurance
3 provided by policy floaters or endorsements shall be based only
4 upon 1 or more of the following factors:

5 (a) Amount and types of coverage.

6 (b) Security and safety devices, including locks, smoke
7 detectors, and similar, related devices.

8 (c) Repairable structural defects reasonably related to
9 risk.

10 (d) Fire protection class.

11 (e) Construction of structure, based on structure size,
12 building material components, and number of units.

13 (f) Loss experience of the insured, based upon prior claims
14 attributable to factors under the control of the insured ~~which~~
15 THAT have been paid by an insurer.

16 (g) Use of smoking materials within the structure.

17 (h) Distance of the structure from a fire hydrant.

18 (i) Availability of law enforcement or crime prevention
19 services.

20 (9) ~~(+4)~~ Notwithstanding other provisions of this chapter,
21 home insurance risks shall be grouped by territory, and territo-
22 rial base rates for coverages shall be established as follows:

23 (a) An insurer shall not be limited as to the number of ter-
24 ritories employed in its rating plan. However, an insurer shall
25 not employ more than 3 different territorial base rates for a
26 home insurance coverage. A territorial base rate may be made

1 applicable in 1 or more territories contained in the rating plan
2 of the insurer.

3 (b) An insurer shall not employ a territorial base rate for
4 home insurance for owner-occupied dwelling policies that is less
5 than 70% of the highest territorial base rate for the same
6 policy, all other rating classifications being the same.

7 (c) An insurer shall not employ a territorial base rate for
8 home insurance for renter or tenant policies that is less than
9 65% of the highest territorial base rate for the same policy, all
10 other rating classifications being the same.

11 (10) ~~(15) An insurer shall not utilize factors other than~~
12 ~~those prescribed in this section in establishing classifications~~
13 ~~for automobile insurance and home insurance until January 1,~~
14 ~~1982. However, on and after January 1, 1982, an AN insurer may~~
15 utilize factors in addition to those specified in this section,
16 if the commissioner finds, after a hearing held pursuant to the
17 administrative procedures act of 1969, Act No. 306 of the Public
18 Acts of 1969, as amended, being sections 24.201 to 24.328 of the
19 Michigan Compiled Laws, that the factors would encourage innova-
20 tion, would encourage insureds to minimize the risks of loss from
21 hazards insured against, and would be consistent with the pur-
22 poses of this chapter.

23 SEC. 2111E. (1) BY NOT LATER THAN 1 YEAR AFTER THE EFFEC-
24 TIVE DATE OF THIS SECTION, EACH AUTOMOBILE INSURANCE INSURER
25 SHALL FILE BASE RATES FOR AUTOMOBILE INSURANCE THAT CONFORM TO
26 THIS ACT AS AMENDED BY THE 1991 AMENDATORY ACT THAT ADDED THIS
27 SECTION AND, FOR EACH UNIFORM TERRITORY, REFLECT A REDUCTION THAT

1 IS AT LEAST AN OVERALL 20% REDUCTION FROM THE AGGREGATE RATES
2 PREVIOUSLY CHARGED IN THE TERRITORY BY THE 10 AUTOMOBILE INSUR-
3 ANCE INSURERS HAVING THE GREATEST MARKET SHARE IN THE STATE BASED
4 ON RATES IN EFFECT AS OF MAY 1, 1988. THE COMMISSIONER SHALL
5 REQUIRE A RATE REDUCTION TO THIS LEVEL UNLESS THE INSURER, AFTER
6 CONFORMING FULLY WITH ALL OF THE PROVISIONS OF THIS ACT, CAN
7 DEMONSTRATE THAT A DIFFERENT RATE LEVEL IS ACTUARIALLY ESSENTIAL
8 PURSUANT TO SECTION 2109A.

9 (2) BY NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF
10 THIS SECTION, EACH AUTOMOBILE INSURANCE INSURER WHO DID NOT WRITE
11 AUTOMOBILE INSURANCE IN THIS STATE ON MAY 1, 1988 SHALL FILE BASE
12 RATES FOR AUTOMOBILE INSURANCE THAT DO NOT EXCEED THE WEIGHTED
13 AVERAGE OF THE BASE RATES FILED ON MAY 1, 1988 BY THE 10 LARGEST
14 AUTOMOBILE INSURANCE INSURERS BY MARKET SHARE.

15 (3) ASSESSMENTS FOR THE MICHIGAN CATASTROPHIC CLAIMS ASSOCI-
16 ATION, AUTOMOBILE THEFT PREVENTION AUTHORITY, AND THE MICHIGAN
17 AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL NOT BE CONSIDERED
18 IN ACHIEVING THE REDUCTION REQUIRED BY SUBSECTIONS (1) AND (2).

19 Sec. 2114. (1) A person or organization aggrieved with
20 respect to any filing ~~which~~ THAT is in effect and ~~which~~ THAT
21 affects the person or organization may make written application
22 to the commissioner for a hearing on the filing. However, the
23 insurer or rating organization ~~which~~ THAT made the filing shall
24 not be authorized to proceed under this subsection. The applica-
25 tion shall specify the grounds to be relied upon by the
26 applicant. If the commissioner finds that the application is
27 made in good faith, that the applicant would be so aggrieved if

1 the grounds specified are established, or that the grounds
2 specified otherwise justify holding a hearing, the commissioner,
3 not more than 30 days after receipt of the application, shall
4 hold a hearing in accordance with THE ADMINISTRATIVE PROCEDURES
5 ACT OF 1969, Act No. 306 of the Public Acts of 1969, as amended,
6 BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS,
7 upon not less than 10 days' written notice to the applicant, the
8 insurer, and the rating organization which made the filing.

9 (2) If after hearing initiated under subsection (1) or upon
10 the commissioner's own motion pursuant to Act No. 306 of the
11 Public Acts of 1969, as amended, the commissioner finds that a
12 filing does not meet the requirements of sections 2109, 2109A,
13 and 2111, the commissioner shall issue an order stating the spe-
14 cific reasons for that finding. The order shall state when,
15 within a reasonable time after issuance of the order, the filing
16 shall be considered no longer effective. A copy of the order
17 shall be sent to the applicant, if any, and to each insurer and
18 rating organization subject to the order. The order shall not
19 affect a contract or policy made or issued before the date the
20 filing becomes ineffective, as indicated in the commissioner's
21 order.

22 Sec. 2118. (1) As a condition of maintaining its certifi-
23 cate of authority, an insurer shall not refuse to insure, refuse
24 to continue to insure, or limit coverage available to an eligible
25 person for automobile insurance, except in accordance with under-
26 writing rules established pursuant to this section and sections
27 2119 and 2120.

1 (2) The underwriting rules ~~which~~ THAT an insurer may
2 establish for automobile insurance shall be based only on the
3 following:

4 (a) Criteria identical to the standards set forth in section
5 2103(1).

6 (b) The insurance eligibility point accumulation in excess
7 of the amounts established by section 2103(1) of a member of the
8 household of the eligible person insured or to be insured, if the
9 member of the household usually accounts for 10% or more of the
10 use of a vehicle insured or to be insured. For purposes of this
11 subdivision, a person who is the principal driver for 1 automo-
12 bile insurance policy shall be rebuttably presumed not to usually
13 account for more than 10% of the use of other vehicles of the
14 household not insured under the policy of that person.

15 (c) With respect to a vehicle insured or to be insured, sub-
16 stantial modifications from the vehicle's original manufactured
17 state for purposes of increasing the speed or acceleration capa-
18 bilities of the vehicle.

19 ~~(d) Failure by the person to provide proof that insurance~~
20 ~~required by section 3101 was maintained in force with respect to~~
21 ~~any vehicle which was both owned by the person and driven or~~
22 ~~moved by the person or by a member of the household of the person~~
23 ~~during the 6 month period immediately preceding application.~~
24 ~~Such proof shall take the form of a certification by the person~~
25 ~~on a form provided by the insurer that the vehicle was not driven~~
26 ~~or moved without maintaining the insurance required by section~~

1 ~~3+01 during the 6 month period immediately preceding~~
2 ~~application.~~

3 (D) ~~(e)~~ Type of vehicle insured or to be insured, based on
4 1 of the following, without regard to the age of the vehicle:

5 (i) The vehicle is of limited production or of custom
6 manufacture.

7 (ii) The insurer does not have a rate lawfully in effect for
8 the type of vehicle.

9 (iii) The vehicle represents exposure to extraordinary
10 expense for repair or replacement under comprehensive or colli-
11 sion coverage.

12 (E) ~~(f)~~ Use of a vehicle insured or to be insured for
13 transportation of passengers for hire, for rental purposes, or
14 for commercial purposes. Rules under this subdivision shall not
15 be based on the use of a vehicle for volunteer or charitable pur-
16 poses or for which reimbursement for normal operating expenses is
17 received.

18 (F) ~~(g)~~ Payment of a minimum deposit at the time of appli-
19 cation or renewal, not to exceed the smallest deposit required
20 under an extended payment or premium finance plan customarily
21 used by the insurer.

22 (G) ~~(h)~~ For purposes of requiring comprehensive deducti-
23 bles of not more than \$150.00, or of refusing to insure if the
24 person refuses to accept a required deductible, the claim
25 experience of the person with respect to comprehensive coverage.

26 (H) ~~(i)~~ Total abstinence from the consumption of alcoholic
27 beverages except ~~when~~ IF such beverages are consumed as part of

1 a religious ceremony. However, an insurer shall not utilize an
2 underwriting rule based on this subdivision unless the insurer
3 has been authorized to transact automobile insurance in this
4 state prior to January 1, 1981, and has consistently utilized
5 such an underwriting rule as part of the insurer's automobile
6 insurance underwriting since being authorized to transact automo-
7 bile insurance in this state.

8 Sec. 2120. (1) Affiliated insurers may establish underwrit-
9 ing rules so that each affiliate will provide automobile insur-
10 ance only to certain eligible persons. This subsection shall
11 apply only if an eligible person can obtain automobile insurance
12 from 1 of the affiliates. The underwriting rules shall be in
13 compliance with this section ~~section~~ AND SECTIONS 2118 ~~section~~
14 and ~~section~~ 2119.

15 (2) An insurer may establish separate rating plans so that
16 certain eligible persons are provided automobile insurance under
17 1 rating plan and other eligible persons are provided automobile
18 insurance under another rating plan. This subsection shall apply
19 only if all eligible persons can obtain automobile insurance
20 under a rating plan of the insurer. Underwriting rules consis-
21 tent with this section ~~section~~ AND SECTIONS 2118 ~~section~~ and
22 ~~section~~ 2119 shall be established to define the rating plan
23 applicable to each eligible person.

24 (3) Underwriting rules under this section shall be based
25 only on the following:

26 (a) With respect to a vehicle insured or to be insured,
27 substantial modifications from the vehicle's original

1 manufactured state for purposes of increasing the speed or
2 acceleration capabilities of the vehicle.

3 ~~(b) Failure of the person to provide proof that insurance~~
4 ~~required by section 3101 was maintained in force with respect to~~
5 ~~any vehicle owned and operated by the person or by a member of~~
6 ~~the household of the person during the 6 month period immediately~~
7 ~~preceding application or renewal of the policy. Such proof shall~~
8 ~~take the form of a certification by the person that the required~~
9 ~~insurance was maintained in force for the 6 month period with~~
10 ~~respect to such vehicle.~~

11 (B) ~~(c)~~ For purposes of insuring persons who have refused
12 a deductible lawfully required under section ~~2118(2)(h)~~
13 2118(2)(G), the claim experience of the person with respect to
14 comprehensive coverage.

15 (C) ~~(d)~~ Refusal of the person to pay a minimum deposit
16 required under section ~~2118(2)(g)~~ 2118(2)(F).

17 (D) ~~(e)~~ A person's insurance eligibility point accumula-
18 tion under section 2103 (1)(h), or the total insurance eligibil-
19 ity point accumulation of all persons who account for 10% or more
20 of the use of 1 or more vehicles insured or to be insured under
21 the policy.

22 (E) ~~(f)~~ The type of vehicle insured or to be insured as
23 provided in section ~~2118(2)(e)~~ 2118(2)(D).

24 Sec. 2127. The commissioner may by rule prospectively
25 require insurers, rating organizations, and advisory organi-
26 zations to collect and report data ~~only~~ to the extent necessary
27 to monitor and evaluate the automobile and home insurance markets

1 in this state. The commissioner shall authorize the use of
 2 sampling techniques in each instance where sampling is practica-
 3 ble and consistent with the purposes for which the data, by
 4 county, are to be collected and reported. RULES PROMULGATED PUR-
 5 SUANT TO THIS SECTION ARE IN ADDITION TO, AND DO NOT REPLACE, THE
 6 REPORTING REQUIREMENTS IN SECTION 2128.

7 SEC. 2128. BY APRIL 1 OF EACH YEAR, EACH INSURER WHO ISSUES
 8 AUTOMOBILE INSURANCE IN THIS STATE SHALL FILE WITH THE COMMIS-
 9 SIONER AND WITH THE AUTOMOBILE INSURANCE DATA COLLECTION AGENCY
 10 CREATED IN SECTION 2128E ON FORMS PRESCRIBED BY THE AUTOMOBILE
 11 INSURANCE DATA COLLECTION AGENCY, THE FOLLOWING AUTOMOBILE INSUR-
 12 ANCE DATA, BY TERRITORY, FOR THE PRIOR CALENDAR YEAR:

13 (A) WITH RESPECT TO PERSONAL PROTECTION INSURANCE COVERAGE:

14 (i) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
 15 BENEFITS FOR WHICH PAYMENT IS MADE.

16 (ii) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
 17 BENEFITS THAT ARE CLOSED WITHOUT PAYMENT.

18 (iii) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
 19 BENEFITS THAT INVOLVE SOME FORM OF LITIGATION AND ARE CLOSED
 20 WITHOUT PAYMENT.

21 (iv) THE NUMBER OF CLAIMS FOR PERSONAL PROTECTION INSURANCE
 22 BENEFITS THAT INVOLVE LITIGATION AND FOR WHICH PAYMENT IS MADE
 23 AFTER LITIGATION COMMENCES, INCLUDING THE LENGTH OF TIME BETWEEN
 24 THE FILING OF THE CLAIM AND THE FIRST PAYMENT.

25 (v) THE AMOUNT OF INTEREST CHARGES PAID ON CLAIMS FOR PER-
 26 SONAL PROTECTION INSURANCE BENEFITS AND THE NUMBER OF CASES FOR
 27 WHICH INTEREST CHARGES HAVE BEEN PAID.

1 (vi) THE LITIGATION COSTS FOR CLAIMS FOR PERSONAL PROTECTION
2 INSURANCE BENEFITS.

3 (vii) THE NUMBER OF CASES GOING TO VERDICT AND THE AMOUNT OF
4 THE VERDICT IN THOSE CASES WHERE AN AWARD IS MADE.

5 (viii) THE NUMBER OF VERDICTS OF NO CAUSE OF ACTION.

6 (ix) THE NUMBER OF CASES WHERE ATTORNEY FEES ARE PAID, THE
7 TOTAL AMOUNT OF ATTORNEY FEES PAID, AND THE AMOUNT OF ATTORNEY
8 FEES PAID FOR EACH CASE WHERE FEES WERE PAID.

9 (B) WITH RESPECT TO PROPERTY PROTECTION INSURANCE COVERAGE:

10 (i) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY TORT
11 CLAIMS CLOSED BY PAYMENT TO THE CLAIMANT BEFORE THE COMMENCEMENT
12 OF LITIGATION AND A BREAKDOWN OF HOW MANY OF THESE CLAIMS WERE
13 DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION
14 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

15 (ii) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY TORT
16 CLAIM LAWSUITS FILED, AND A BREAKDOWN OF HOW MANY WERE FILED FOR
17 DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION
18 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

19 (iii) THE NUMBER OF THIRD PARTY AUTOMOBILE BODILY INJURY
20 TORT CLAIMS CLOSED BY PAYMENT TO THE CLAIMANT AFTER THE COMMENCE-
21 MENT OF LITIGATION AND A BREAKDOWN OF HOW MANY OF THESE CLAIMS
22 WERE DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY FUNCTION
23 CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

24 (iv) THE DOLLAR AMOUNT PAID TO CLAIMANTS TO SETTLE THIRD
25 PARTY AUTOMOBILE BODILY INJURY TORT CLAIMS BEFORE AND AFTER LITI-
26 GATION HAD BEEN COMMENCED AND A BREAKDOWN OF THE DOLLAR AMOUNTS

1 PAID FOR DEATH THRESHOLD CLAIMS, SERIOUS IMPAIRMENT OF BODY
2 FUNCTION CLAIMS, AND PERMANENT SERIOUS DISFIGUREMENT CLAIMS.

3 (v) THE NUMBER AND DOLLAR AMOUNT PAID OR RESERVED FOR ALL
4 BODILY INJURY CLAIMS SET UP OR OPENED, INDICATING THE NUMBER AND
5 DOLLAR AMOUNT OF RESERVES FOR CLAIMS REMAINING OPEN AT THE END OF
6 THE REPORTING PERIOD.

7 SEC. 2128A. EACH AUTOMOBILE INSURANCE INSURER WRITING AUTO-
8 MOBILE INSURANCE IN THIS STATE SHALL FILE ANNUALLY BY APRIL 1
9 WITH THE COMMISSIONER A CERTIFIED AUDIT OF THE INSURER'S BOOKS
10 AND RECORDS PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC
11 ACCOUNTANT.

12 SEC. 2128B. (1) BY JANUARY 15, 1993 AND EVERY 2 YEARS
13 THEREAFTER, THE COMMISSIONER SHALL ISSUE A PRELIMINARY REPORT
14 DETAILING THE STATE OF COMPETITION OR AVAILABILITY IN THE AUTOMO-
15 BILE INSURANCE MARKET ON A STATEWIDE BASIS AND DELINEATING SPE-
16 CIFIC CLASSIFICATIONS, KINDS OR TYPES OF INSURANCE, IF ANY, WHERE
17 COMPETITION OR AVAILABILITY DOES NOT EXIST AND SHALL HOLD A
18 PUBLIC HEARING ON THE REPORT. THE REPORT SHALL BE BASED ON RELE-
19 VANT ECONOMIC TESTS, INCLUDING BUT NOT LIMITED TO THOSE IN SUB-
20 SECTION (3). THE FINDINGS IN THE REPORT SHALL NOT BE BASED ON
21 ANY SINGLE MEASURE OF COMPETITION, BUT APPROPRIATE WEIGHT SHALL
22 BE GIVEN TO ALL MEASURES OF COMPETITION. THE REPORT SHALL
23 INCLUDE A CERTIFICATION OF WHETHER OR NOT COMPETITION OR AVAIL-
24 ABILITY EXISTS. A PERSON WHO DISAGREES WITH THE REPORT AND FIND-
25 INGS OF THE COMMISSIONER MAY REQUEST A CONTESTED HEARING PURSUANT
26 TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE
27 PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE

1 MICHIGAN COMPILED LAWS, NOT LATER THAN 60 DAYS AFTER ISSUANCE OF
2 THE TENTATIVE REPORT.

3 (2) BY AUGUST 1, 1993 AND EVERY 2 YEARS THEREAFTER, THE COM-
4 MISSIONER SHALL ISSUE A FINAL REPORT THAT SHALL INCLUDE A FINAL
5 CERTIFICATION OF WHETHER OR NOT A REASONABLE DEGREE OF COMPETI-
6 TION OR AVAILABILITY EXISTS IN THE AUTOMOBILE INSURANCE MARKET ON
7 A STATEWIDE BASIS AND IF COMPETITION OR AVAILABILITY DOES NOT
8 EXIST, A PLAN TO CREATE COMPETITION OR AVAILABILITY. THE FINAL
9 REPORT AND CERTIFICATION SHALL BE SUPPORTED BY SUBSTANTIAL
10 EVIDENCE.

11 (3) FOR PURPOSES OF DETERMINING WHETHER COMPETITION OR
12 AVAILABILITY EXISTS IN THE AUTOMOBILE INSURANCE MARKET, ALL OF
13 THE FOLLOWING SHALL BE CONSIDERED BY THE COMMISSIONER:

14 (A) THE EXTENT TO WHICH ANY INSURER CONTROLS THE AUTOMOBILE
15 INSURANCE MARKET OR ANY PORTION OF THAT MARKET. WITH RESPECT TO
16 COMPETITION ON A STATEWIDE BASIS, AN INSURER SHALL NOT BE CONSID-
17 ERED TO CONTROL THE AUTOMOBILE INSURANCE MARKET UNLESS IT HAS
18 MORE THAN A 15% MARKET SHARE.

19 (B) WHETHER THE TOTAL NUMBER OF INSURERS WRITING AUTOMOBILE
20 INSURANCE IN THIS STATE IS SUFFICIENT TO PROVIDE MULTIPLE OPTIONS
21 AND ADEQUATE SERVICE TO INDIVIDUALS.

22 (C) THE DISPARITY AMONG AUTOMOBILE INSURANCE RATES AND CLAS-
23 SIFICATIONS TO THE EXTENT THAT SUCH CLASSIFICATIONS RESULT IN
24 RATE DIFFERENTIALS.

25 (D) THE AVAILABILITY OF AUTOMOBILE INSURANCE TO INDIVIDUALS
26 IN ALL GEOGRAPHIC AREAS OF THE STATE.

1 (E) THE RESIDUAL MARKET SHARE.

2 (F) THE OVERALL RATE LEVEL.

3 (G) ANY OTHER FACTORS THE COMMISSIONER CONSIDERS RELEVANT.

4 (4) A PLAN TO CREATE COMPETITION OR AVAILABILITY SHALL ONLY
5 RELATE TO THOSE GEOGRAPHIC AREAS, CLASSIFICATIONS, OR KINDS OR
6 TYPES OF RISKS WHERE COMPETITION OR AVAILABILITY HAS BEEN CERTI-
7 FIED NOT TO EXIST. THE PLAN MAY INCLUDE METHODS DESIGNED TO
8 CREATE COMPETITION OR AVAILABILITY AS THE COMMISSIONER CONSIDERS
9 NECESSARY, AND MAY PROVIDE FOR THE COMMISSIONER TO DO 1 OR MORE
10 OF THE FOLLOWING:

11 (A) AUTHORIZE, BY ORDER, JOINT UNDERWRITING ACTIVITIES IN A
12 MANNER SPECIFIED IN THE COMMISSIONER'S ORDER.

13 (B) MODIFY THE RATE APPROVAL PROCESS IN A MANNER TO INCREASE
14 COMPETITION OR AVAILABILITY WHILE AT THE SAME TIME PROVIDING FOR
15 REASONABLY TIMELY RATE APPROVALS. MODIFICATIONS UNDER THIS SUB-
16 DIVISION SHALL NOT AFFECT THE REQUIREMENTS OF SECTIONS 2106 AND
17 2107A.

18 (C) ORDER EXCESS PROFITS REGULATION. EXCESS PROFITS REGULA-
19 TION AUTHORIZED BY THIS SUBDIVISION SHALL BE BASED UPON RULES
20 PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
21 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
22 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS. EXCESS PROFITS
23 SHALL INCLUDE BOTH UNDERWRITING PROFITS AND ALL AFTER-TAX INVEST-
24 MENT OR INVESTMENT PROFIT OR LOSS FROM UNEARNED PREMIUMS AND LOSS
25 RESERVES ATTRIBUTABLE TO AUTOMOBILE INSURANCE. THE COMMISSIONER,
26 PURSUANT TO EXCESS PROFITS REGULATION, MAY ESTABLISH FORMS FOR
27 THE REPORTING OF FINANCIAL DATA BY THE INSURER.

1 (D) ESTABLISH AND REQUIRE AUTOMOBILE INSURANCE RATES, BY
2 ORDER, THAT INSURERS SHALL USE AS A CONDITION OF MAINTAINING
3 THEIR CERTIFICATE OF AUTHORITY. THE ORDER SETTING THE RATES
4 SHALL TAKE EFFECT NOT LESS THAN 90 DAYS OR MORE THAN 150 DAYS
5 AFTER THE ORDER IS ISSUED.

6 (E) ESTABLISH AND IMPLEMENT A PLAN TO ASSIST IN INFORMING
7 CONSUMERS OF HOW TO OBTAIN AUTOMOBILE INSURANCE AT THE MOST
8 FAVORABLE RATES AND HOW TO OBTAIN BENEFITS FOR WHICH THEY ARE
9 ELIGIBLE. THE PLAN MAY INCLUDE THE USE OF TOLL-FREE TELEPHONE
10 NUMBERS FOR USE BY AUTOMOBILE INSURANCE CONSUMERS AND MAY PROVIDE
11 FOR THE DISTRIBUTION OF INFORMATION TO LOCAL UNITS OF
12 GOVERNMENT.

13 (5) THE REPORTS AND CERTIFICATIONS REQUIRED UNDER SUBSEC-
14 TIONS (1) AND (2) SHALL BE FORWARDED TO THE GOVERNOR, THE CLERK
15 OF THE HOUSE, THE SECRETARY OF THE SENATE, AND ALL THE MEMBERS OF
16 THE HOUSE OF REPRESENTATIVES AND SENATE COMMITTEES ON INSURANCE
17 ISSUES.

18 SEC. 2128C. (1) EACH INSURER WRITING 7% OR MORE OF THE
19 AUTOMOBILE INSURANCE IN THIS STATE SHALL GEOGRAPHICALLY MARKET
20 AUTOMOBILE INSURANCE PROPORTIONATE TO THE NUMBER OF REGISTERED
21 VEHICLES IN EACH AREA OF THE STATE. BEGINNING 1 YEAR AFTER THE
22 EFFECTIVE DATE OF THIS SECTION, EACH INSURER WRITING 7% OR MORE
23 OF THE AUTOMOBILE INSURANCE IN THIS STATE SHALL SUBMIT ANNUALLY
24 TO THE COMMISSIONER A MARKETING PLAN INDICATING THE NUMBER OF
25 AGENTS THAT MARKET FOR THE INSURER AND THE LOCATION OF THEIR
26 OFFICES. THE COMMISSIONER SHALL DETERMINE THE ADEQUACY OF EACH
27 INSURER'S MARKETING PLAN.

1 (2) IF THE COMMISSIONER, AFTER REVIEWING AN AUTOMOBILE
2 INSURER'S MARKETING PLAN, FINDS THE PLAN IS NOT IN COMPLIANCE
3 WITH SUBSECTION (1), THE COMMISSIONER SHALL NOTIFY THE INSURER IN
4 WRITING OF THE INSURER'S FAILURE TO COMPLY WITH THE LAW, SHALL
5 RECOMMEND REVISIONS TO THE INSURER'S PLAN, AND SHALL REQUIRE THAT
6 A REVISED PLAN BE RESUBMITTED WITHIN 30 DAYS. THE COMMISSIONER
7 SHALL APPROVE OR DISAPPROVE AN INSURER'S MARKETING PLAN OR REVI-
8 SIONS TO THE PLAN WITHIN 30 DAYS AFTER THE COMMISSIONER'S RECEIPT
9 OF THE PLAN OR THE REVISED PLAN.

10 (3) IF THE COMMISSIONER FINDS THAT AN AUTOMOBILE INSURANCE
11 INSURER HAS WILLFULLY VIOLATED THE PROVISIONS OF THIS SECTION,
12 THE COMMISSIONER MAY SUSPEND OR REVOKE THE INSURER'S LICENSE TO
13 DO BUSINESS AND MAY ORDER THE INSURER TO PAY A CIVIL FINE OF NOT
14 MORE THAN \$10,000.00 FOR EACH VIOLATION.

15 (4) IF THE COMMISSIONER FINDS THAT AN AUTOMOBILE INSURANCE
16 INSURER HAS FAILED TO FILE A MARKETING PLAN COMPLYING WITH THIS
17 SECTION, HAS FAILED TO REVISE A PLAN PURSUANT TO THE
18 COMMISSIONER'S FINDING, OR HAS CONSISTENTLY FAILED TO SUBMIT AN
19 ACCEPTABLE MARKETING PLAN, THE COMMISSIONER MAY SUSPEND OR REVOKE
20 THE INSURER'S LICENSE TO DO BUSINESS AND MAY ORDER THE INSURER TO
21 PAY A CIVIL FINE OF NOT MORE THAN \$2,000.00 FOR EACH OCCURRENCE.

22 (5) THE COMMISSIONER SHALL NOTIFY EACH AUTOMOBILE INSURANCE
23 INSURER LICENSED IN THIS STATE OF THE MARKETING PLAN FILING
24 REQUIREMENT.

25 SEC. 2128D. (1) IF THE COMMISSIONER FINDS, AFTER A HEARING
26 HELD PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT
27 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO

1 24.328 OF THE MICHIGAN COMPILED LAWS, THAT ACCESS TO A REASONABLY
2 COMPETITIVE AND CONVENIENT AUTOMOBILE INSURANCE MARKET IN THIS
3 STATE IS LACKING FOR CERTAIN CONSUMERS, THE COMMISSIONER MAY
4 ORDER THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY TO
5 DEVELOP A MARKET ACCESS PLAN, SUBJECT TO THE COMMISSIONER'S
6 APPROVAL, TO ASSURE THAT THOSE CONSUMERS HAVE REASONABLE AND CON-
7 VENIENT ACCESS TO THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT
8 FACILITY AND COMPETITIVE INSURANCE MARKETS IN THIS STATE.

9 (2) IF A MARKET ACCESS PLAN UNDER SUBSECTION (1) IS NOT SUB-
10 MITTED WITHIN 30 DAYS AFTER THE DATE OF THE COMMISSIONER'S ORDER,
11 OR IF THE PLAN DOES NOT MEET THE COMMISSIONER'S APPROVAL, THE
12 COMMISSIONER SHALL DEVELOP A MARKET ACCESS PLAN AND ORDER ITS
13 IMPLEMENTATION BY THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT
14 FACILITY UNTIL SUCH TIME THAT A PLAN ESTABLISHED BY THE MICHIGAN
15 AUTOMOBILE INSURANCE PLACEMENT FACILITY IS APPROVED BY THE
16 COMMISSIONER.

17 SEC. 2128E. (1) THERE IS CREATED AN AUTOMOBILE INSURANCE
18 DATA COLLECTION AGENCY TO EFFECTUATE THE AUTOMOBILE INSURANCE
19 DATA COLLECTION REQUIREMENTS OF THIS ACT. THE GOVERNING BOARD OF
20 THE AUTOMOBILE INSURANCE DATA COLLECTION AGENCY SHALL BE COMPOSED
21 OF THE COMMISSIONER AND 8 MEMBERS APPOINTED BY THE COMMISSIONER
22 AS FOLLOWS:

23 (A) TWO PERSONS WHO REPRESENT A PRIVATE AUTOMOBILE INSURANCE
24 INSURER NOT HOLDING MORE THAN 15% OF THE STATE'S OVERALL MARKET
25 SHARE AT THE TIME ITS REPRESENTATIVE SERVES ON THE BOARD.

26 (B) TWO PERSONS WHO REPRESENT THE GENERAL PUBLIC OF THIS
27 STATE.

1 (C) ONE PERSON WHO IS A LICENSED MEDICAL PROFESSIONAL IN
2 THIS STATE AND WHO DOES NOT OWN ANY PORTION OF AN AUTOMOBILE
3 INSURANCE INSURER OR MANAGE DIRECTLY OR INDIRECTLY AN AUTOMOBILE
4 INSURANCE INSURER'S AFFAIRS.

5 (D) ONE PERSON WHO IS A LICENSED ATTORNEY IN THIS STATE, WHO
6 DOES NOT OWN ANY PORTION OF AN AUTOMOBILE INSURANCE INSURER OR
7 MANAGE DIRECTLY OR INDIRECTLY AN AUTOMOBILE INSURANCE INSURER'S
8 AFFAIRS, AND WHO HAS AT LEAST 5 YEARS OF EXPERIENCE IN AUTOMOBILE
9 ACCIDENT RELATED LITIGATION.

10 (E) ONE PERSON WHO IS AN INDEPENDENT INSURANCE AGENT.

11 (F) ONE PERSON WHO HAS AT LEAST 10 YEARS OF DATA PROCESSING
12 EXPERIENCE IN A COMBINATION OF HARDWARE ACQUISITION AND SOFTWARE
13 DEVELOPMENT.

14 (2) A MEMBER OF THE GOVERNING BOARD OF THE AUTOMOBILE INSUR-
15 ANCE DATA COLLECTION AGENCY SHALL SERVE FOR A TERM OF 2 YEARS.

16 (3) THE AUTOMOBILE INSURANCE DATA COLLECTION AGENCY, UNDER
17 THE DIRECTION AND CONTROL OF THE COMMISSIONER AND SUBJECT TO THE
18 COMMISSIONER'S APPROVAL, SHALL HAVE THE FOLLOWING DUTIES:

19 (A) PRESCRIBE RATE FILING FORMS AND DATA COLLECTION FORMS
20 AND ESTABLISH UNIFORM DATA REPORTING REQUIREMENTS NECESSARY TO
21 SATISFY THE PROVISIONS OF THIS CHAPTER.

22 (B) ANALYZE REPORTED DATA, ANALYZE AUTOMOBILE INSURANCE
23 INSURERS' RATE-MAKING DATA, AND REPORT THESE FINDINGS TO THE COM-
24 MISSIONER, AND COLLECT AND ANALYZE OTHER PERTINENT DATA AT THE
25 COMMISSIONER'S REQUEST.

26 (C) PREPARE REPORTS ON AUTOMOBILE INSURANCE AS REQUESTED BY
27 THE COMMISSIONER.

1 (D) ESTABLISH UNIFORM CLASSIFICATION SYMBOLS OR OTHER
2 UNIFORM DESIGNATIONS FOR USE BY AUTOMOBILE INSURANCE INSURERS TO
3 ESTABLISH RISK ASSOCIATED WITH EACH TYPE OF VEHICLE TO BE
4 INSURED.

5 (E) IN A UNIFORM MANNER GATHER ALL DATA NECESSARY TO ACCOM-
6 PLISH TOTAL RETURN RATE-MAKING. INFORMATION SHALL BE GATHERED
7 THAT ENABLES THE COMMISSIONER TO ASSESS AN INSURER'S ACTUAL LOSS
8 EXPERIENCE, LEVEL OF PROFIT, INTEREST INCOME, METHOD FOR ASSESS-
9 ING ANTICIPATED LOSSES, PARTICULAR APPLICATION OF LOSS TREND FAC-
10 TORS, PURE PREMIUM, FREQUENCY OF LOSSES BASED ON THE NUMBER OF
11 VEHICLES INSURED, AND THE LOSS COSTS AND FREQUENCY OF LOSSES
12 ASSOCIATED WITH THE COMPONENT PARTS OF EACH ASPECT OF COVERAGE,
13 INCLUDING, BUT NOT LIMITED TO, MEDICAL, WAGE-LOSS, REPLACEMENT
14 SERVICES, SURVIVORS BENEFITS, DEATH BENEFIT, COLLISION COVERAGE,
15 COMPREHENSIVE COVERAGE WITH THEFT REPORTED AS A SEPARATE COMPO-
16 NENT, BODILY INJURY OR LIABILITY COVERAGE REPORTED BY POLICY
17 LIMITS, PROPERTY PROTECTION, AND ALL OTHER BENEFITS BEING
18 MARKETED BY THE INSURER.

19 (F) GATHER DETAILED DATA ABOUT INSURERS' ADMINISTRATIVE
20 EXPENSES AND THEIR RELATIONSHIP TO THE PREMIUM CHARGED, INCLUDING
21 COSTS FOR EACH TYPE OF LITIGATION ASSOCIATED WITH AUTOMOBILE
22 INSURANCE CLAIMS RESOLUTION, SALARIES, FRINGE BENEFITS, COMMIS-
23 SIONS, AND COSTS ASSOCIATED WITH OVERHEAD AND OTHER FIXED COSTS.

24 (G) REQUIRE EACH INSURER TO LIST THE ITEMS THAT ARE USED TO
25 COMPOSE A BASE RATE AND REQUIRE EACH INSURER TO EXPLAIN THE
26 APPLICATIONS OF BASE RATES.

1 (H) ESTABLISH FORMS TO ENABLE THE COLLECTION OF DATA
2 SUFFICIENT TO PERMIT THE COMMISSIONER TO DETERMINE, WITH
3 CERTAINTY, THAT ALL ASPECTS OF AUTOMOBILE INSURANCE RATE-MAKING
4 ARE ACTUARIALLY SOUND AND THAT AUTOMOBILE INSURANCE RATES ARE NOT
5 EXCESSIVE OR DISCRIMINATORY.

6 (I) REQUIRE THE REPORTING OF ALL AUTOMOBILE INSURANCE CLAIMS
7 COSTS AND THE FREQUENCY OF EACH TYPE OF LOSS AND PROVIDE THE COM-
8 MISSIONER WITH THIS DATA.

9 (J) COLLECT ALL AUTOMOBILE INSURANCE RATE-MAKING DATA AND
10 EVALUATE THIS DATA BY DETERMINING ITS ACTUARIAL SOUNDNESS AND BY
11 MAKING COMPARISONS BASED ON STATEWIDE UNIFORM RATING TERRITORIES
12 AS ESTABLISHED BY THIS ACT.

13 (K) ENSURE THAT ALL NECESSARY DATA ARE COLLECTED AND ANA-
14 LYZED IN A MANNER THAT COMPLIES WITH THE PROVISIONS OF THIS
15 CHAPTER.

16 (L) SUBJECT TO THE APPROVAL OF THE COMMISSIONER, DESIGNATE 1
17 ADVISORY ORGANIZATION FOR THE PURPOSE OF IMPLEMENTING ITS DATA
18 COLLECTION PLAN AND THE COMPILATION OF RATE-MAKING AND OTHER
19 FINANCIAL DATA FROM AUTOMOBILE INSURANCE INSURERS. THE DESIG-
20 NATED ADVISORY ORGANIZATION SHALL REPORT ITS FINDINGS TO THE
21 AUTOMOBILE INSURANCE DATA COLLECTION AGENCY, WHICH SHALL REPORT
22 TO THE COMMISSIONER.

23 (M) REPORT TO THE COMMISSIONER ANY KNOWN VIOLATION OF THIS
24 ACT.

25 (N) COMPLETE ANY OTHER TASK REQUIRED TO SATISFY THE PROVI-
26 SIONS OF THIS ACT AS REQUESTED BY THE COMMISSIONER.

1 (4) THE COMMISSIONER SHALL MAKE RECOMMENDATIONS TO THE
2 LEGISLATURE ANNUALLY REGARDING THE ADEQUACY OF STATUTORY
3 UNDERWRITING AND RATE-MAKING PROVISIONS BASED UPON THE INFORMA-
4 TION GATHERED AND ANALYZED BY THE AUTOMOBILE INSURANCE DATA COL-
5 LECTION AGENCY AND ANY OTHER INFORMATION THAT THE COMMISSIONER
6 CONSIDERS APPROPRIATE.

7 SEC. 2128F. (1) PRIOR TO APRIL 1, 1992, AND PRIOR TO APRIL 1
8 OF EACH YEAR THEREAFTER, EACH INSURER ENGAGED IN WRITING INSUR-
9 ANCE COVERAGES THAT PROVIDE THE SECURITY REQUIRED BY SECTION
10 3101(1) WITHIN THIS STATE, AS A CONDITION OF ITS AUTHORITY TO
11 TRANSACT INSURANCE IN THIS STATE, SHALL PAY TO THE AUTOMOBILE
12 INSURANCE DATA COLLECTION AGENCY AN ASSESSMENT EQUAL TO \$1.00
13 MULTIPLIED BY THE INSURER'S TOTAL EARNED CAR YEARS OF INSURANCE
14 PROVIDING THE SECURITY REQUIRED BY SECTION 3101(1) WRITTEN IN
15 THIS STATE DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

16 (2) MONEY RECEIVED PURSUANT TO SUBSECTION (1), AND ALL OTHER
17 MONEY RECEIVED BY THE AUTOMOBILE INSURANCE DATA COLLECTION
18 AGENCY, SHALL BE SEGREGATED AND PLACED IN A FUND TO BE KNOWN AS
19 THE DATA COLLECTION FUND. THE DATA COLLECTION FUND SHALL BE
20 ADMINISTERED BY THE AUTOMOBILE INSURANCE DATA COLLECTION AGENCY.

21 (3) MONEY IN THE DATA COLLECTION FUND SHALL BE USED TO PAY
22 THE COSTS OF ADMINISTRATION OF THE AUTOMOBILE INSURANCE DATA COL-
23 LECTION AGENCY AND SHALL NOT BE CONSIDERED STATE MONEY.

24 Sec. 2236. (1) A basic insurance policy form or annuity
25 contract form shall not be issued or delivered to any person in
26 this state, and an insurance or annuity application form if a
27 written application is required and is to be made a part of the

1 policy or contract, a printed rider or indorsement form or form
 2 of renewal certificate, and a group certificate in connection
 3 with the policy or contract, shall not be issued or delivered to
 4 a person in this state, until a copy of the form is filed with
 5 the insurance bureau and approved by the commissioner as conform-
 6 ing with the requirements of this ~~code~~ ACT and not inconsistent
 7 with the law. Failure of the commissioner to act within 30 days
 8 after submittal shall constitute approval. All such forms,
 9 except policies of disability insurance as defined in section
 10 3400, shall be plainly printed with type size not less than
 11 8-point unless the commissioner determines that portions of such
 12 a form printed with type less than 8-point is not deceptive or
 13 misleading. An insurance policy form submitted for approval by
 14 the state accident fund shall include on the first page of the
 15 form in a separate paragraph in 10-point type a statement that
 16 the Michigan state accident fund is an agency of state govern-
 17 ment, and is not a member of the property and casualty guaranty
 18 association. Neither the state nor the association is liable if
 19 the state accident fund is declared insolvent during the effec-
 20 tive period of the policy.

21 (2) ~~An~~ EXCEPT FOR FILINGS CONCERNING RATES, AN insurer may
 22 satisfy its obligations to make form filings by becoming a member
 23 of, or a subscriber to, a rating organization, licensed under
 24 section 2436 or 2630, which makes such filings and by filing with
 25 the commissioner a copy of its authorization of the rating orga-
 26 nization to make the filings on its behalf. Every member of or
 27 subscriber to a rating organization shall adhere to the form

1 filings made on its behalf by the organization except that an
2 insurer may file with the commissioner a substitute form, and
3 thereafter if a subsequent form filing by the rating organization
4 affects the use of the substitute form, the insurer shall review
5 its use and notify the commissioner to withdraw its substitute
6 form.

7 (3) Beginning January 1, 1992, the commissioner shall not
8 approve a form filed pursuant to this section providing for or
9 relating to an insurance policy or an annuity contract for per-
10 sonal, family, or household purposes if the form fails to obtain
11 the readability score or meet the other requirements of this sub-
12 section, as applicable:

13 (a) The readability score for a form for which approval is
14 required by this section shall not be less than 45, as determined
15 by the method provided in subdivisions (b) and (c).

16 (b) The readability score for a form shall be determined as
17 follows:

18 (i) For a form containing not more than 10,000 words, the
19 entire form shall be analyzed. For a form containing more than
20 10,000 words, not less than two 200-word samples per page shall
21 be analyzed instead of the entire form. The samples shall be
22 separated by at least 20 printed lines.

23 (ii) Count the number of words and sentences in the form or
24 samples and divide the total number of words by the total number
25 of sentences. Multiply this quotient by a factor of 1.015.

26 (iii) Count the total number of syllables in the form or
27 samples and divide the total number of syllables by the total

1 number of words. Multiply this quotient by a factor of 84.6. As
2 used in this subparagraph, "syllable" means a unit of spoken lan-
3 guage consisting of 1 or more letters of a word as indicated by
4 an accepted dictionary. If the dictionary shows 2 or more
5 equally acceptable pronunciations of a word, the pronunciation
6 containing fewer syllables may be used.

7 (iv) Add the figures obtained in subparagraphs (ii) and
8 (iii) and subtract this sum from 206.835. The figure obtained
9 equals the readability score for the form.

10 (c) For the purposes of subdivision (b)(ii) and (iii), the
11 following procedures shall be used:

12 (i) A contraction, hyphenated word, or numbers and letters
13 when separated by spaces shall be counted as 1 word.

14 (ii) A unit of words ending with a period, semicolon, or
15 colon, but excluding headings and captions, shall be counted as 1
16 sentence.

17 (d) In determining the readability score, the method pro-
18 vided in subdivisions (b) and (c):

19 (i) Shall be applied to an insurance policy form or an annu-
20 ity contract, together with a rider or indorsement form usually
21 associated with such an insurance policy form or annuity
22 contract.

23 (ii) Shall not be applied to words or phrases that are
24 defined in an insurance policy form, an annuity contract, or
25 riders, indorsements, or group certificates pursuant to an insur-
26 ance policy form or annuity contract.

1 (iii) Shall not be applied to language specifically agreed
2 upon through collective bargaining or required by a collective
3 bargaining agreement.

4 (iv) Shall not be applied to language that is prescribed by
5 state or federal statute or by rules or regulations promulgated
6 pursuant to a state or federal statute.

7 (e) Each form for which approval is required by this section
8 shall contain both of the following:

9 (i) Topical captions.

10 (ii) An identification of exclusions.

11 (f) Each insurance policy and annuity contract that has more
12 than 3,000 words printed on not more than 3 pages of text or that
13 has more than 3 pages of text regardless of the number of words
14 shall contain a table of contents. This subdivision does not
15 apply to indorsements.

16 (g) Each rider or indorsement form that changes coverage
17 shall do all of the following:

18 (i) Contain a properly descriptive title.

19 (ii) Reproduce either the entire paragraph or the provision
20 as changed.

21 (iii) Be accompanied by an explanation of the change.

22 (h) If a computer system approved by the commissioner calcu-
23 lates the readability score of a form as being in compliance with
24 this subsection, the form is considered in compliance with the
25 readability score requirements of this subsection.

26 (4) After January 1, 1992, any change or addition to a
27 policy or annuity contract form for personal, family, or

1 household purposes, whether by indorsement, rider, or otherwise,
2 or a change or addition to a rider or indorsement form to such
3 policy or annuity contract form, which policy or annuity contract
4 form has not been previously approved under subsection (3), shall
5 be submitted for approval pursuant to subsection (3).

6 (5) Upon written notice to the insurer, the commissioner may
7 disapprove, withdraw approval or prohibit the issuance,
8 advertising, or delivery of any form to any person in this state
9 if it violates any provisions of this code, or contains inconsis-
10 tent, ambiguous, or misleading clauses, or contains exceptions
11 and conditions that unreasonably or deceptively affect the risk
12 purported to be assumed in the general coverage of the policy.
13 The notice shall specify the objectionable provisions or condi-
14 tions and state the reasons for the commissioner's decision. If
15 the form is legally in use by the insurer in this state, the
16 notice shall give the effective date of the commissioner's disap-
17 proval, which shall not be less than 30 days subsequent to the
18 mailing or delivery of the notice to the insurer. If the form is
19 not legally in use, then disapproval shall be effective
20 immediately.

21 (6) If a form is disapproved or approval is withdrawn under
22 the provisions of this ~~code~~ ACT, the insurer shall be entitled
23 upon demand to a hearing before the commissioner or a deputy com-
24 missioner within 30 days after the notice of disapproval or of
25 withdrawal of approval. ~~and after~~ AFTER the hearing, the
26 commissioner shall make findings of fact and law, and either

1 affirm, modify, or withdraw his or her original order or
2 decision.

3 (7) Any issuance, use, or delivery by an insurer of any form
4 without the prior approval of the commissioner as required by
5 subsection (1) or after withdrawal of approval as provided by
6 subsection (5) constitutes a separate violation for which the
7 commissioner may order the imposition of a civil penalty of
8 \$25.00 for each offense, but not to exceed the maximum penalty of
9 \$500.00 for any 1 series of offenses relating to any 1 basic
10 policy form, which penalty may be recovered by the attorney gen-
11 eral as provided in section 230.

12 (8) The filing requirements of this section shall not apply
13 to:

14 (a) Insurance against loss of or damage to:

15 (i) Imports, exports, or domestic shipments.

16 (ii) Bridges, tunnels, or other instrumentalities of trans-
17 portation and communication.

18 (iii) Aircraft and attached equipment.

19 (iv) Vessels and watercraft under construction or owned by
20 or used in a business or having a straight-line hull length of
21 more than 24 feet.

22 (b) Insurance against loss resulting from liability, other
23 than worker's compensation or employers' liability arising out of
24 the ownership, maintenance, or use of:

25 (i) Imports, exports, or domestic shipments.

26 (ii) Aircraft and attached equipment.

1 (iii) Vessels and watercraft under construction or owned by
2 or used in a business or having a straight-line hull length of
3 more than 24 feet.

4 (c) Surety bonds other than fidelity bonds.

5 (d) Policies, riders, indorsements, or forms of unique char-
6 acter designed for and used with relation to insurance upon a
7 particular subject, or which relate to the manner of distribution
8 of benefits or to the reservation of rights and benefits under
9 life or disability insurance policies and are used at the request
10 of the individual policyholder, contract holder or certificate
11 holder. Beginning September 1, 1968, the commissioner by order
12 may exempt from the filing requirements of this section and sec-
13 tions 2242, 3606, and 4430 for so long as he or she considers
14 proper any insurance document or form, except that portion of the
15 document or form that establishes a relationship between group
16 disability insurance and personal protection insurance benefits
17 subject to exclusions or deductibles pursuant to section 3109a,
18 as specified in the order to which this section practicably may
19 not be applied, or the filing and approval of which are consid-
20 ered unnecessary for the protection of the public. Insurance
21 documents or forms providing medical payments or income replace-
22 ment benefits, except that portion of the document or form that
23 establishes a relationship between group disability insurance and
24 personal protection insurance benefits subject to exclusions or
25 deductibles pursuant to section 3109a, exempt by order of the
26 commissioner from the filing requirements of this section and

1 sections 2242 and 3606 are considered approved by the
2 commissioner; for purposes of section 3430.

3 (9) Every order made by the commissioner under the provi-
4 sions of this section shall be subject to court review as pro-
5 vided in section 244.

6 Sec. 2400. (1) ~~Except with respect to worker's compensa-~~
7 ~~tion insurance, the~~ THE purpose of this chapter is to promote
8 the public welfare by regulating insurance rates to the end that
9 they shall not be excessive, inadequate, or unfairly discrimina-
10 tory, and to ~~authorize and~~ regulate cooperative action among
11 insurers in rate-making and ~~in other~~ matters within the scope
12 of the insurance code. Nothing in this chapter is intended ~~(+)~~
13 to prohibit or discourage reasonable competition. ~~, or (2) to~~
14 ~~prohibit, or encourage except to the extent necessary to accom-~~
15 ~~plish the aforementioned purpose, uniformity in insurance rates,~~
16 ~~rating systems, rating plans, or practices. (2) With respect to~~
17 ~~worker's compensation insurance, the~~ THE purposes of this chap-
18 ter ~~are~~ ALSO INCLUDE:

19 (a) ~~To protect~~ PROTECTING policyholders and the public
20 against the adverse effects of excessive, inadequate, or unfairly
21 discriminatory rates.

22 (b) ~~To promote~~ PROMOTING price competition among insurers
23 ~~writing worker's compensation insurance~~ so as to encourage
24 rates which will result in the lowest possible rates consistent
25 with ~~the~~ benefits ~~established in the worker's disability com-~~
26 ~~pensation act of 1969, Act No. 317 of the Public Acts of 1969, as~~

1 ~~amended, being sections 418.101 to 418.941 of the Michigan~~
2 ~~Compiled Laws,~~ and with maintaining the solvency of insurers.

3 (c) ~~To provide~~ PROVIDING regulatory controls and other
4 activity in the absence of competition.

5 (d) ~~To improve~~ IMPROVING the availability, fairness, and
6 reliability of ~~worker's compensation~~ insurance.

7 (2) ANTITRUST PROVISIONS IN THIS CHAPTER ARE NOT EXCLUSIVE
8 AND OTHER PROVISIONS PROVIDED BY LAW MAY APPLY.

9 (3) This chapter shall be liberally interpreted to carry
10 into effect the provisions of this section.

11 Sec. 2406. (1) Except in regard to worker's compensation
12 insurance, ~~every~~ EACH insurer shall file with the commissioner
13 every manual of classification, every manual of rules and rates,
14 every rating plan, and every modification of any of the foregoing
15 ~~which~~ THAT it proposes to use. Every ~~such~~ filing shall state
16 the proposed effective date ~~thereof~~ OF THE FILING, and shall
17 indicate the character and extent of the coverage contemplated.
18 ~~When~~ IF a filing is not accompanied by the information upon
19 which the insurer supports ~~such~~ THE filing, and the commis-
20 sioner does not have sufficient information to determine whether
21 ~~such~~ THE filing meets the requirements of this chapter, the
22 commissioner shall within 10 days of ~~such~~ THE filing give writ-
23 ten notice to ~~such~~ THE insurer to furnish the information upon
24 which it supports ~~such~~ THE filing. The information furnished
25 in support of a filing may include ~~(a)~~ the experience or judg-
26 ment of the insurer ~~or rating organization~~ making the filing,
27 ~~(b)~~ its interpretation of any statistical data it relies upon,

1 ~~(c)~~ the experience of other insurers, ~~or rating~~
2 ~~organizations,~~ or ~~(d)~~ any other relevant factors. A filing
3 and any supporting information shall be open to public inspection
4 after the filing becomes effective.

5 (2) Except in regard to worker's compensation insurance AND
6 FOR FILINGS CONCERNING RATES, an insurer may satisfy its obliga-
7 tion to make ~~such~~ filings by becoming a member of, or a sub-
8 scriber to, a licensed rating organization ~~which~~ THAT makes
9 ~~such~~ filings, and by filing with the commissioner a copy of its
10 authorization of the rating organization to make ~~such~~ filings
11 on its behalf. Nothing contained in this chapter shall be con-
12 strued as requiring any insurer to become a member of or a sub-
13 scriber to any rating organization.

14 (3) ~~Every~~ EACH insurer with regard to worker's compensa-
15 tion insurance in this state shall file with the commissioner all
16 rates and rating systems. ~~Every insurer that insures worker's~~
17 ~~compensation in this state on the effective date of this subsec-~~
18 ~~tion shall file the rates not later than the effective date of~~
19 ~~this subsection.~~

20 (4) Except as provided in subsection (3), the rates and
21 rating systems regarding worker's compensation insurance shall be
22 filed not later than the date the rates and rating systems are to
23 be effective. These filings shall be considered to meet the
24 requirements of this chapter unless and until the commissioner
25 disapproves a filing pursuant to section 2418.

26 (5) Each filing under subsections (3) and (4) shall be
27 accompanied by a certification by the insurer that, to the best

1 of its information and belief, the filing conforms to the
2 requirements of this chapter.

3 (6) AS A CONDITION OF MAINTAINING ITS CERTIFICATE OF AUTHOR-
4 ITY, AN INSURER SHALL NOT DO ANY OF THE FOLLOWING:

5 (A) HAVE ANY RATES FILED ON ITS BEHALF IN THIS STATE BY A
6 RATING ORGANIZATION.

7 (B) SHARE INFORMATION WITH ANY OTHER INSURER OR RATING ORGA-
8 NIZATION CONCERNING ESTABLISHING RATES OR RATING SYSTEMS.

9 (C) AGREE WITH ANY OTHER INSURER OR RATING ORGANIZATION TO
10 ADHERE TO OR USE ANY RATE, RATING PLAN, RATING SCHEDULE, RATING
11 RULE, OR UNDERWRITING RULE IN THIS STATE.

12 (D) MAKE AVAILABLE TO ANY OTHER INSURER OR RATING ORGANI-
13 ZATION INFORMATION ON ACTUARIAL PROJECTIONS, TRENDING FACTORS,
14 PROFITS, OR EXPENSES EXCEPT LOSS ADJUSTMENT EXPENSES.

15 Sec. 2430. (1) In lieu of the filing requirements of this
16 chapter and as an alternative method of filing, ~~any~~ AN insurer
17 ~~or rating organization~~ may file with the commissioner ~~any~~ A
18 manual of classification, rules, or rates, any rating plan and
19 every modification of any of the foregoing ~~which~~ THAT it pro-
20 poses to use, the filing to indicate the character and extent of
21 the coverage contemplated. IN LIEU OF THE FILING REQUIREMENTS OF
22 THIS CHAPTER AND AS AN ALTERNATIVE METHOD OF FILING, A RATING
23 ORGANIZATION MAY FILE WITH THE COMMISSIONER FOR AN INSURER A
24 MANUAL OF CLASSIFICATION, RULES, AND EVERY MODIFICATION OF ANY OF
25 THE FOREGOING, THE FILING TO INDICATE THE CHARACTER AND EXTENT OF
26 THE COVERAGE CONTEMPLATED. Every ~~such~~ filing under this section
27 shall state the effective date ~~thereof~~ OF THE FILING, shall

1 take effect on ~~said~~ THAT date, shall not be subject to any
 2 waiting period requirements, and shall be ~~deemed~~ CONSIDERED to
 3 meet the requirements of section 2403 (1) (d). ~~(rate~~
 4 ~~standards)~~. A filing and any supporting information shall be
 5 open to public inspection, if the filing is not disapproved.

6 (2) At any time within ~~+5~~ 30 days from and after the date
 7 of ~~any such~~ A filing UNDER SUBSECTION (1), the commissioner may
 8 give written notice to the insurer ~~or rating organization~~
 9 making ~~such~~ THE filing, specifying in what respect and to what
 10 extent he OR SHE contends ~~such~~ THE filing fails to comply with
 11 the requirements of section 2403 (1) (d) and fixing a date for
 12 hearing not less than 10 days from the date of THE mailing of
 13 ~~such~~ THE notice. At ~~such~~ THE hearing the factors specified
 14 in section 2406 (1) shall be considered. If the commissioner
 15 after hearing finds that the filing does not comply with the pro-
 16 visions of this chapter, he OR SHE may issue ~~his~~ AN order
 17 determining ~~wherein~~ WHERE and to what extent ~~such~~ THE filing
 18 is ~~deemed to be~~ improper and fixing a date, ~~thereafter,~~
 19 within a reasonable time, after which ~~such~~ THE filing shall no
 20 longer be effective. ~~Any~~ AN order of disapproval under this
 21 section must be entered within 30 days of the date of the filing
 22 affected.

23 (3) ~~In the event that no~~ IF A notice of hearing ~~shall be~~
 24 IS NOT issued within 15 days from the date of ~~any such~~ A filing
 25 UNDER SUBSECTION (1), the filing shall be ~~deemed~~ CONSIDERED to
 26 be approved. If ~~such~~ THE filing ~~shall be~~ IS disapproved, the
 27 insuring provisions of ~~any~~ A contract or policy issued prior to

1 the time the order becomes effective shall not be affected. But
2 if the commissioner disapproves ~~such~~ THE filing as not being in
3 compliance with section 2403 (1) (d), ~~(rate standards)~~, he OR
4 SHE may order an adjustment of the premium to be made with the
5 policyholder either by refund or collection of additional premi-
6 um, if the amount is substantial and equals or exceeds the cost
7 of making the adjustment. The commissioner may thereafter review
8 any such filing in the manner provided in sections 2418 and 2420,
9 but if so reviewed, no adjustment of premium may be ordered.
10 ~~Sections 2406 (2) (filing may be made by rating organization),~~
11 ~~2408 (1) (commissioner shall review filing as soon as reasonably~~
12 ~~possible), and 2412 (insurer must adhere to filing)~~ SECTIONS
13 2406(2), 2408(1), AND 2412 shall be applicable to filings made
14 under this section.

15 Sec. 2436. (1) A corporation, an association, a partner-
16 ship, or an individual, whether located within or outside this
17 state, may ~~make application to~~ APPLY WITH the commissioner for
18 a license as a rating organization to make ~~rates and~~ insurance
19 contract forms for the kinds of insurance or subdivisions there-
20 of, except for worker's compensation insurance, as are specified
21 in its application and shall file with the application all of the
22 following:

- 23 (a) A copy of its constitution, its articles of agreement or
24 association, or its certificate of incorporation, and of its
25 bylaws and rules governing the conduct of its business.
- 26 (b) A list of its members and subscribers.

1 (c) The name and address of a resident of this state upon
2 whom notices or orders of the commissioner or process affecting
3 the rating organization may be served.

4 (d) A statement of its qualifications as a rating
5 organization.

6 (2) If the commissioner finds that the applicant is compe-
7 tent, trustworthy, and otherwise qualified to act as a rating
8 organization and that its constitution, articles of agreement or
9 association, or certificate of incorporation, and its bylaws and
10 rules governing the conduct of its business conform to the
11 requirements of law, he or she shall issue a license specifying
12 the kinds of insurance or subdivisions thereof for which the
13 applicant is authorized to act as a rating organization. Every
14 application shall be granted or denied in whole or in part by the
15 commissioner within 60 days of the date of its filing with the
16 commissioner.

17 (3) The fee for the license shall be \$25.00 which shall be
18 in lieu of all other fees, licenses, or taxes imposed by the
19 state or any political subdivision of the state.

20 (4) Licenses issued pursuant to this section shall remain in
21 force for 3 years from date of issuance unless suspended or
22 revoked by the commissioner, after hearing upon notice, pursuant
23 to section 2478, ~~in the event~~ IF the rating organization ceases
24 to meet the requirements of this section.

25 (5) Every rating organization shall notify the commissioner
26 promptly of every change in any of the following:

1 (a) Its constitution, its articles of agreement or
2 association, or its certificate of incorporation, and its bylaws
3 and rules governing the conduct of its business.

4 (b) Its list of members and subscribers.

5 (c) The name and address of the resident of this state des-
6 igned by it upon whom notices or orders of the commissioner or
7 process affecting the rating organization may be served.

8 Sec. 2438. (1) Subject to REASONABLE rules and regulations
9 ~~which have been~~ approved by the commissioner, ~~as reasonable,~~
10 each rating organization shall permit ~~any~~ AN insurer, not a
11 member, to be a subscriber to its rating services for any kind of
12 insurance or subdivision ~~thereof~~ OF INSURANCE for which it is
13 authorized to act as a rating organization. Notice of proposed
14 changes in ~~such~~ THE rules and regulations shall be given to
15 subscribers. Each rating organization shall furnish its ~~rating~~
16 services without discrimination to its members and subscribers.

17 (2) The reasonableness of any rule or regulation in its
18 application to subscribers, or the refusal of any rating organi-
19 zation to admit an insurer as a subscriber, ~~shall,~~ at the
20 request of ~~any~~ A subscriber or ~~any such~~ insurer, SHALL be
21 reviewed by the commissioner at a hearing held upon at least 10
22 days' written notice to ~~such~~ THE rating organization and to
23 ~~such~~ THE subscriber or insurer. If the commissioner finds that
24 ~~such~~ THE rule or regulation is unreasonable in its application
25 to subscribers, he OR SHE shall order that ~~such~~ THE rule or
26 regulation shall not be applicable to subscribers.

1 (3) If the rating organization fails to grant or reject an
2 insurer's application for subscribership within 30 days after it
3 was made, the insurer may request a review by the commissioner as
4 if the application had been rejected. If the commissioner finds
5 that the insurer has been refused admittance to the rating orga-
6 nization as a subscriber without justification, ~~he~~ THE
7 COMMISSIONER shall order the rating organization to admit the
8 insurer as a subscriber. If ~~he~~ THE COMMISSIONER finds that the
9 action of the rating organization was justified, ~~he~~ THE
10 COMMISSIONER shall make an order affirming its action.

11 Sec. 2458. ~~Every rating organization and every~~ EACH
12 insurer, ~~which makes its own rates shall,~~ within a reasonable
13 time after receiving written request therefor and upon payment of
14 ~~such~~ A reasonable charge as it may make, SHALL furnish to ~~any~~
15 AN insured affected by a rate made by it, or to the INSURED'S
16 authorized representative, ~~of the insured,~~ all pertinent infor-
17 mation as to the rate. ~~Every rating organization and every~~
18 EACH insurer ~~which makes its own rates~~ shall provide within
19 this state reasonable means ~~whereby any~~ FOR A person aggrieved
20 by the application of ~~its~~ THE INSURER'S rating system ~~may~~ TO
21 be heard, in person or by his or her authorized representative,
22 on his or her written request to review the manner in which the
23 rating system has been applied in connection with the insurance
24 afforded to him or her. If the ~~rating organization or~~ insurer
25 fails to grant or reject the request within 30 days after it is
26 made, the applicant may proceed in the same manner as if his or
27 her application had been rejected. ~~Any~~ A party affected by the

1 action of the ~~rating organization or~~ insurer on SUCH A request
2 may APPEAL, within 30 days after written notice of the action,
3 ~~appeal~~ to the commissioner, who, after a hearing held upon not
4 less than 10 days' written notice to the appellant and to the
5 ~~rating organization or~~ insurer, may affirm or reverse the
6 action. A person who requests a hearing before the commissioner
7 pursuant to this section may be represented at the hearing by an
8 attorney. A person, other than an individual, that requests a
9 hearing before the commissioner pursuant to this section may also
10 be represented by an officer or employee of that person. An
11 individual who requests a hearing before the commissioner pursu-
12 ant to this section may also be represented by a relative of the
13 individual.

14 Sec. 2462. (1) Every group, association, or other organi-
15 zation of insurers, whether located within or outside this state,
16 which assists insurers ~~which make their own filings or rating~~
17 ~~organizations~~ in rate making, by the collection and furnishing
18 of loss or expense statistics, ~~or by the submission of~~
19 ~~recommendations,~~ but which does not make filings under this
20 chapter, shall be known as an advisory organization.

21 (2) Every advisory organization shall file with the commis-
22 sioner ALL OF THE FOLLOWING:

23 (a) A copy of its constitution, its articles of agreement or
24 association or its certificate of incorporation and of its
25 bylaws, rules, and regulations governing its activities. —

26 (b) A list of its members. —

1 (c) The name and address of a resident of this state upon
2 whom notices or orders of the commissioner or process issued at
3 his direction may be served. ~~, and~~

4 (d) An agreement that the commissioner may examine ~~such~~
5 THE advisory organization in accordance with the provisions of
6 section 2468.

7 (3) If, after a hearing, the commissioner finds that the
8 furnishing of ~~such~~ information or assistance involves any act
9 or practice ~~which~~ THAT is unfair or unreasonable or otherwise
10 inconsistent with the provisions of this chapter, he OR SHE may
11 issue a written order specifying in what respects ~~such~~ THE act
12 or practice is unfair or unreasonable or otherwise inconsistent
13 with the provisions of this chapter, and requiring the discon-
14 tinuance of ~~such~~ THE act or practice.

15 (4) ~~No~~ AN insurer ~~which makes its own filings nor any~~
16 ~~rating organization~~ shall NOT support its filings by statistics
17 ~~or adopt rate making recommendations,~~ furnished to it by an
18 advisory organization ~~which~~ THAT has not complied with this
19 section or with an order of the commissioner involving ~~such~~ THE
20 statistics ~~or recommendations~~ issued under subsection (3). ~~of~~
21 ~~this section.~~ If the commissioner finds ~~such~~ THE insurer ~~or~~
22 ~~rating organization~~ to be in violation of this subsection he OR
23 SHE may issue an order requiring the discontinuance of ~~such~~ THE
24 violation.

25 Sec. 2472. (1) The commissioner shall promulgate reasonable
26 rules and statistical plans, reasonably adapted to each of the
27 rating systems on file with him OR HER, which may be modified

1 from time to time and which shall be used thereafter to the
2 extent applicable to its particular rating system or systems, by
3 each insurer in the recording and reporting of its loss and coun-
4 trywide expense experience, in order that the experience of all
5 insurers may be made available at least annually in ~~such~~ A form
6 and detail as may be necessary to aid ~~him~~ THE COMMISSIONER in
7 determining whether rating systems comply with the standards set
8 forth in section 2403. ~~Such~~ THE rules and plans may also pro-
9 vide for the recording and reporting of expense experience items
10 ~~which~~ THAT are specially applicable to this state and are not
11 susceptible of determination by a prorating of countrywide
12 expense experience. In promulgating ~~such~~ rules and plans, the
13 commissioner shall give due consideration to the rating systems
14 on file with him OR HER and, in order that ~~such~~ THE rules and
15 plans may be as uniform as is practicable among the several
16 states, to the rules and to the form of the plans used for ~~such~~
17 rating systems in other states. ~~No~~ AN insurer shall NOT be
18 required to record or report its loss experience on a classifica-
19 tion basis that is inconsistent with the rating system filed by
20 it. ~~and no~~ AN insurer shall NOT be required to record or
21 report its loss or expense experience on any basis or statistical
22 plan that differs from that which is regularly employed and main-
23 tained in the usual course of ~~such~~ THE insurer's business, or
24 to any rating organization or agency of which it is not a member
25 or subscriber. The commissioner may designate 1 or more rating
26 organizations or other agencies to assist him OR HER in gathering
27 such experience and making compilations thereof, and ~~such~~ THE

1 compilations shall be made available, subject to reasonable rules
2 promulgated by the commissioner, to insurers and rating
3 organizations.

4 (2) Reasonable rules and plans may be promulgated by the
5 commissioner for the interchange of data necessary for the appli-
6 cation of rating plans.

7 (3) In order to further uniform administration of rate regu-
8 latory laws, the commissioner and ~~every~~ EACH insurer ~~and~~
9 ~~rating organization~~ may exchange information and experience data
10 with insurance supervisory officials ~~, insurers and rating~~
11 ~~organizations~~ in other states and may consult with them with
12 respect to ~~rate making and~~ the application of rating systems.
13 IN ADDITION, EACH INSURER AND EACH RATING ORGANIZATION MAY
14 EXCHANGE HISTORICAL LOSS DATA.

15 Sec. 2600. (1) The purpose of this chapter is to promote
16 the public welfare by regulating insurance rates to the end that
17 they shall not be excessive, inadequate, or unfairly discrimina-
18 tory, and to ~~authorize and~~ regulate cooperative action among
19 insurers in rate making and in other matters within the scope of
20 the insurance code. Nothing in this chapter is intended ~~(1)~~ to
21 prohibit or discourage reasonable competition. ~~, or (2) to pro-~~
22 ~~hibit, or encourage except to the extent necessary to accomplish~~
23 ~~the aforementioned purpose, uniformity in insurance rates, rating~~
24 ~~systems, rating plans or practices.~~

25 (2) Conformity with this chapter shall not be ~~deemed to be~~
26 CONSIDERED a violation of section 2075. ~~(compacts to restrain~~

1 ~~competition prohibited~~) ANTITRUST PROVISIONS ARE NOT EXCLUSIVE
2 AND OTHER PROVISIONS PROVIDED BY LAW MAY APPLY.

3 (3) This chapter shall be liberally interpreted to carry
4 into effect the provisions of this section.

5 Sec. 2606. ~~(1) Every~~ EACH insurer shall file with the
6 commissioner, except as to inland marine risks which by general
7 custom of the business are not written according to manual rates
8 or rating plans, every manual, minimum, class rate, rating sched-
9 ule or rating plan, and every other rating rule, and every modi-
10 fication of any of the foregoing ~~which~~ THAT it proposes to
11 use. Every ~~such~~ filing shall state the proposed effective date
12 ~~thereof~~ OF THE FILING, and shall indicate the character and
13 extent of the coverage contemplated.

14 ~~(2) When~~ IF a filing is not accompanied by the information
15 upon which the insurer supports ~~such~~ THE filing, and the com-
16 missioner does not have sufficient information to determine
17 whether ~~such~~ THE filing meets the requirements of this chapter,
18 ~~he~~ THE COMMISSIONER shall require ~~such~~ THE insurer to furnish
19 the information upon which it supports ~~such~~ THE filing and ~~in~~
20 ~~such event~~ the waiting period shall commence as of the date
21 ~~such~~ THE information is furnished. The information furnished
22 in support of a filing may include ~~(a)~~ the experience or judg-
23 ment of the insurer ~~or rating organization~~ making the filing,
24 ~~(b)~~ its interpretation of any statistical data it relies upon,
25 ~~(c)~~ the experience of other insurers, ~~or rating~~
26 ~~organizations,~~ or ~~(d)~~ any other relevant factors.

1 (3) A filing and any supporting information shall be open to
2 public inspection after the filing becomes effective.

3 ~~(4) Specific inland marine rates on risks specially rated,~~
4 ~~made by a rating organization, shall be filed with the~~
5 ~~commissioner.~~

6 (4) ~~(5) An~~ EXCEPT FOR FILINGS CONCERNING RATES, AN insurer
7 may satisfy its obligation to make ~~such~~ filings by becoming a
8 member of, or a subscriber to, a licensed rating organization
9 ~~which~~ THAT makes ~~such~~ filings, and by filing with the commis-
10 sioner a copy of its authorization of the rating organization to
11 make ~~such~~ filings on its behalf. Nothing contained in this
12 chapter shall be construed as requiring any insurer to become a
13 member of or a subscriber to any rating organization.

14 (5) AS A CONDITION OF MAINTAINING ITS CERTIFICATE OF AUTHOR-
15 ITY, AN INSURER SHALL NOT DO ANY OF THE FOLLOWING:

16 (A) HAVE ANY RATES FILED ON ITS BEHALF IN THIS STATE BY A
17 RATING ORGANIZATION.

18 (B) SHARE INFORMATION WITH ANY OTHER INSURER OR RATING ORGA-
19 NIZATION CONCERNING ESTABLISHING RATES OR RATING SYSTEMS.

20 (C) AGREE WITH ANY OTHER INSURER OR RATING ORGANIZATION TO
21 ADHERE TO OR USE ANY RATE, RATING PLAN, RATING SCHEDULE, RATING
22 RULE, OR UNDERWRITING RULE IN THIS STATE.

23 (D) MAKE AVAILABLE TO ANY OTHER INSURER OR RATING ORGANI-
24 ZATION INFORMATION ON ACTUARIAL PROJECTIONS, TRENDING FACTORS,
25 PROFITS, OR EXPENSES EXCEPT LOSS ADJUSTMENT EXPENSES.

1 Sec. 2608. (1) The commissioner shall review filings as
2 soon as reasonably possible after they have been made in order to
3 determine whether they meet the requirements of this chapter.

4 (2) ~~Subject to the exception specified in subsection (3) of~~
5 ~~this section, each~~ EACH filing shall be on file for a waiting
6 period of 15 days before it becomes effective, which period may
7 be extended by the commissioner for an additional period not to
8 exceed 15 days if ~~he~~ THE COMMISSIONER gives written notice
9 within ~~such~~ THE waiting period to the insurer or rating organi-
10 zation ~~which~~ THAT made the filing that he OR SHE needs such
11 additional time for the consideration of ~~such~~ THE filing. Upon
12 written application by ~~such~~ THE insurer or rating organization,
13 the commissioner may authorize a filing ~~which~~ THAT he OR SHE
14 has reviewed to become effective before the expiration of the
15 waiting period or any extension ~~thereof~~ OF THE WAITING PERIOD.
16 A filing shall be ~~deemed~~ CONSIDERED to meet the requirements of
17 this chapter unless disapproved by the commissioner within the
18 waiting period or any extension ~~thereof~~ OF THE WAITING PERIOD.

19 ~~(3) Specific inland marine rates on risks specially rated~~
20 ~~by a rating organization shall become effective when filed and~~
21 ~~shall be deemed to meet the requirements of this chapter until~~
22 ~~such time as the commissioner reviews the filing and so long~~
23 ~~thereafter as the filing remains in effect.~~

24 Sec. 2616. ~~(+)~~ If within the waiting period or any exten-
25 sion ~~thereof~~ OF THE WAITING PERIOD as provided in section
26 2608(2), the commissioner finds that a filing does not meet the
27 requirements of this chapter, he OR SHE shall send to the insurer

1 or rating organization ~~which~~ THAT made ~~such~~ THE filing, ~~—~~
2 written notice of disapproval of ~~such~~ THE filing specifying
3 ~~therein in what respects he finds such~~ HOW THE filing fails to
4 meet the requirements of this chapter and stating that ~~such~~ THE
5 filing shall not become effective.

6 ~~(2) If within 30 days after a specific inland marine rate~~
7 ~~on a risk specially rated by a rating organization, subject to~~
8 ~~section 2608 (3) has become effective, the commissioner finds~~
9 ~~that such filing does not meet the requirements of this chapter,~~
10 ~~he shall send to the rating organization which made such filing~~
11 ~~written notice of disapproval of such filing specifying therein~~
12 ~~in what respects he finds that such filing fails to meet the~~
13 ~~requirements of this chapter and stating when, within a reason-~~
14 ~~able period thereafter, such filing shall be deemed no longer~~
15 ~~effective. Said disapproval shall not affect any contract made~~
16 ~~or issued prior to the expiration of the period set forth in said~~
17 ~~notice.~~

18 Sec. 2628. (1) In lieu of the filing requirements of this
19 chapter and as an alternative method of filing, ~~any~~ AN insurer
20 ~~or rating organization~~ may file with the commissioner ~~any~~ A
21 manual of classification, rules, or rates, any rating plan and
22 every modification of any of the foregoing ~~which~~ THAT it pro-
23 poses to use, the filing to indicate the character and extent of
24 the coverage contemplated. IN LIEU OF THE FILING REQUIREMENTS OF
25 THIS CHAPTER AND AS AN ALTERNATIVE METHOD OF FILING, A RATING
26 ORGANIZATION MAY FILE WITH THE COMMISSIONER FOR AN INSURER A
27 MANUAL OF CLASSIFICATION, RULES, AND EVERY MODIFICATION OF ANY OF

1 THE FOREGOING, THE FILING TO INDICATE THE CHARACTER AND EXTENT OF
2 THE COVERAGE CONTEMPLATED. Every ~~such~~ filing under this section
3 shall state the effective date ~~thereof~~ OF THE FILING, shall
4 take effect on ~~said~~ THAT date, shall not be subject to any
5 waiting period requirements, and shall be ~~deemed~~ CONSIDERED to
6 meet the requirements of ~~subdivision (d) of subsection (1) of~~
7 ~~section 2603 (rate standards)~~ SECTION 2603(1)(D). A filing and
8 any supporting information shall be open to public inspection, if
9 the filing is not disapproved.

10 (2) At any time within 15 days from and after the date of
11 ~~any such~~ A filing UNDER SUBSECTION (1), the commissioner may
12 give written notice to the insurer ~~or rating organization~~
13 making ~~such~~ THE filing, specifying in what respect and to what
14 extent he OR SHE contends ~~such~~ THE filing fails to comply with
15 the requirements of ~~subdivision (d) of subsection (1) of section~~
16 ~~2603~~ SECTION 2603(1)(D) and fixing a date for hearing not less
17 than 10 days from the date of THE mailing of ~~such~~ THE notice.
18 At ~~such~~ THE hearing the factors specified in ~~subsection (2) of~~
19 ~~section 2606~~ SECTION 2606(2) shall be considered. If the com-
20 missioner after hearing finds that the filing does not comply
21 with the provisions of this chapter, he OR SHE may issue ~~his~~ AN
22 order determining ~~wherein~~ WHERE and to what extent ~~such~~ THE
23 filing is ~~deemed to be~~ improper and fixing a date,
24 ~~thereafter,~~ within a reasonable time, after which ~~such~~ THE
25 filing shall no longer be effective. ~~Any~~ AN order of disap-
26 proval under this section must be entered within 30 days of the
27 date of the filing affected.

1 (3) ~~In the event that no~~ IF A notice of hearing ~~shall be~~
2 IS NOT issued within 15 days from the date of ~~any such~~ A filing
3 UNDER SUBSECTION (1), the filing shall be ~~deemed~~ CONSIDERED to
4 be approved. If ~~such~~ THE filing ~~shall be~~ IS disapproved, the
5 insuring provisions of ~~any~~ A contract or policy issued prior to
6 the time the order becomes effective shall not be affected. But
7 if the commissioner disapproves ~~such~~ THE filing as not being in
8 compliance with ~~subdivision (d) of subsection (1) of section~~
9 ~~2603 (rate standards)~~ SECTION 2603(1)(D), he OR SHE may order an
10 adjustment of the premium to be made with the policyholder either
11 by refund or collection of additional premium, if the amount is
12 substantial and equals or exceeds the cost of making the
13 adjustment. The commissioner may thereafter review any such
14 filing in the manner provided in sections 2618 and 2620, but if
15 so reviewed, no adjustment of premium may be ordered.
16 ~~Subsection (5) of section 2606 (filing may be made by rating~~
17 ~~organization), subsection (1) of section 2608 (commissioner shall~~
18 ~~review filing as soon as reasonably possible), and 2612 (insurer~~
19 ~~must adhere to filing)~~ SECTIONS 2606(4), 2608(1), AND 2612 shall
20 be applicable to filings made under this section.

21 Sec. 2630. (1) A corporation, an unincorporated associa-
22 tion, a partnership, or an individual, whether located within or
23 outside this state, may ~~make application to~~ APPLY WITH the com-
24 missioner for license as a rating organization to make ~~rates~~
25 ~~and~~ insurance contract forms for ~~such~~ THE kinds of insurance,
26 or subdivision or class of risk or a part or combination thereof

1 as are specified in its application and shall file ~~therewith~~
2 WITH THE APPLICATION ALL OF THE FOLLOWING:

3 (a) A copy of its constitution, its articles of agreement or
4 association or its certificate of incorporation, and ~~of~~ its
5 bylaws and rules governing the conduct of its business.

6 (b) A list of its members and subscribers.

7 (c) The name and address of a resident of this state upon
8 whom notices or orders of the commissioner or process affecting
9 ~~such~~ THE rating organization may be served.

10 (d) A statement of its qualifications as a rating
11 organization.

12 (2) If the commissioner finds that the applicant is compe-
13 tent, trustworthy, and otherwise qualified to act as a rating
14 organization and that its constitution, articles of agreement or
15 association, or certificate of incorporation, and its bylaws and
16 rules governing the conduct of its business conform to the
17 requirements of law, he OR SHE shall issue a license specifying
18 the kinds of insurance, or subdivision or class of risk or part
19 or combination thereof for which the applicant is authorized to
20 act as a rating organization. Every ~~such application~~ APPLICANT
21 shall be granted or denied in whole or in part by the commis-
22 sioner within 60 days of the date of its filing with ~~him~~ THE
23 COMMISSIONER.

24 (3) Licenses issued pursuant to this section shall remain in
25 effect for 3 years unless sooner suspended or revoked by the
26 commissioner.

1 (4) The fee for the license shall be \$25.00.

2 (5) Licenses issued pursuant to this section may be
3 suspended or revoked by the commissioner, after hearing upon
4 notice, ~~in the event~~ IF the rating organization ceases to meet
5 the requirements of this section.

6 (6) Every rating organization shall notify the commissioner
7 promptly of every change in ANY OF THE FOLLOWING:

8 (a) ~~its~~ ITS constitution, its articles of agreement or
9 association, or its certificate of incorporation, and its bylaws
10 and rules governing the conduct of its business. ~~—~~

11 (b) ~~its~~ ITS list of members and subscribers. ~~and~~

12 (c) ~~the~~ THE name and address of the resident of this state
13 designated by it upon whom notices or orders of the commissioner
14 or process affecting ~~such~~ THE rating organization may be
15 served.

16 Sec. 2636. (1) Subject to REASONABLE rules and regulations
17 ~~which have been~~ approved by the commissioner, ~~as reasonable,~~
18 each rating organization shall permit ~~any~~ AN insurer, not a
19 member, to be a subscriber to its rating services for any kind of
20 insurance, subdivision, or class of risk or a part or combination
21 thereof for which it is authorized to act as a rating
22 organization. Notice of proposed changes in ~~such~~ THE rules and
23 regulations shall be given to subscribers. Each rating organi-
24 zation shall furnish its ~~rating~~ services without discrimination
25 to its members and subscribers.

26 (2) The reasonableness of any rule or regulation in its
27 application to subscribers, or the refusal of any rating

1 organization to admit an insurer as a subscriber, ~~shall,~~ at the
2 request of ~~any~~ A subscriber or ~~any such~~ insurer, SHALL be
3 reviewed by the commissioner at a hearing held upon at least 10
4 days' written notice to ~~such~~ THE rating organization and to
5 ~~such~~ THE subscriber or insurer. If the commissioner finds that
6 ~~such~~ THE rule or regulation is unreasonable in its application
7 to subscribers, he OR SHE shall order that ~~such~~ THE rule or
8 regulation shall not be applicable to subscribers.

9 (3) If the rating organization fails to grant or reject an
10 insurer's application for subscribership within 30 days after it
11 was made, the insurer may request a review by the commissioner as
12 if the application had been rejected. If the commissioner finds
13 that the insurer has been refused admittance to the rating orga-
14 nization as a subscriber without justification, ~~he~~ THE
15 COMMISSIONER shall order the rating organization to admit the
16 insurer as a subscriber. If ~~he~~ THE COMMISSIONER finds that the
17 action of the rating organization was justified, ~~he~~ THE
18 COMMISSIONER shall make an order affirming its action.

19 Sec. 2652. ~~Every rating organization and every insurer~~
20 ~~which makes its own rates shall~~ EACH INSURER, within a reason-
21 able time after receiving written request therefor and upon pay-
22 ment of ~~such~~ A reasonable charge as it may make, SHALL furnish
23 to ~~any~~ AN insured affected by a rate made by it, or to the
24 INSURED'S authorized representative, ~~of such insured,~~ all per-
25 tinent information as to ~~such~~ THE rate. ~~Every rating organi-~~
26 ~~zation and every insurer which makes its own rates~~ EACH INSURER
27 shall provide within this state reasonable means ~~whereby any~~

1 FOR A person aggrieved by the application of ~~its~~ THE INSURER'S
2 rating system ~~may~~ TO be heard, in person or by his OR HER
3 authorized representative, on his OR HER written request to
4 review the manner in which ~~such~~ THE rating system has been
5 applied in connection with the insurance afforded him OR HER. If
6 the ~~rating organization or~~ insurer fails to grant or reject
7 ~~such~~ THE request within 30 days after it is made, the applicant
8 may proceed in the same manner as if his OR HER application had
9 been rejected. ~~Any~~ A party affected by the action of ~~such~~
10 ~~rating organization or such~~ AN insurer on such A request may
11 APPEAL, within 30 days after written notice of ~~such~~ THE action,
12 ~~appeal~~ to the commissioner, who, after a hearing held upon not
13 less than 10 days' written notice to the appellant and to ~~such~~
14 ~~rating organization or~~ THE insurer, may affirm or reverse ~~such~~
15 THE action.

16 Sec. 2654. (1) Every group, association, or other organi-
17 zation of insurers, whether located within or outside this state,
18 ~~which~~ THAT assists insurers ~~which make their own filings or~~
19 ~~rating organizations~~ in rate making, by the collection and fur-
20 nishing of loss or expense statistics, ~~or by the submission of~~
21 ~~recommendations,~~ but which does not make filings under this
22 chapter, shall be known as an advisory organization.

23 (2) Every advisory organization shall file with the
24 commissioner:

25 (a) A copy of its constitution, its articles of agreement or
26 association or its certificate of incorporation, and ~~of~~ its
27 bylaws, rules, and regulations governing its activities. ~~—~~

1 (b) A list of its members. ~~—~~

2 (c) The name and address of a resident of this state upon
3 whom notices or orders of the commissioner or process issued at
4 his OR HER direction may be served. ~~—, and—~~

5 (d) An agreement that the commissioner may examine ~~—such—~~
6 THE advisory organization in accordance with the provisions of
7 section 2662.

8 (3) If, after a hearing, the commissioner finds that the
9 furnishing of ~~—such—~~ information or assistance involves any act
10 or practice ~~—which—~~ THAT is unfair or unreasonable or otherwise
11 inconsistent with the provisions of this chapter, he OR SHE may
12 issue a written order specifying in what respects ~~—such—~~ THE act
13 or practice is unfair or unreasonable or otherwise inconsistent
14 with the provisions of this chapter, and requiring the discon-
15 tinuance of ~~—such—~~ THE act or practice.

16 (4) ~~No~~ AN insurer ~~—which makes its own filings nor any~~
17 ~~rating organization~~ shall NOT support its filings by statistics
18 ~~or adopt rate making recommendations,~~ furnished to it by an
19 advisory organization ~~—which—~~ THAT has not complied with this
20 section or with an order of the commissioner involving ~~—such—~~ THE
21 statistics ~~or recommendations~~ issued under subsection (3). ~~—of~~
22 ~~this section.~~ If the commissioner finds ~~—such—~~ THE insurer ~~or~~
23 ~~rating organization~~ to be in violation of this subsection, he OR
24 SHE may issue an order requiring the discontinuance of ~~—such—~~ THE
25 violation.

26 Sec. 2664. (1) The commissioner shall promulgate reasonable
27 rules and statistical plans, reasonably adapted to each of the

1 rating systems on file with him OR HER, which may be modified
2 from time to time and which shall be used thereafter by each
3 insurer in the recording and reporting of its loss and country-
4 wide expense experience, in order that the experience of all
5 insurers may be made available at least annually in such form and
6 detail as may be necessary to aid ~~him~~ THE COMMISSIONER in
7 determining whether rating systems comply with the standards set
8 forth in section 2603. ~~Such~~ THE rules and plans may also pro-
9 vide for the recording and reporting of expense experience items
10 ~~which~~ THAT are specially applicable to this state and are not
11 susceptible of determination by a prorating of countrywide
12 expense experience. In promulgating ~~such~~ rules and plans, the
13 commissioner shall give due consideration to the rating systems
14 on file with him OR HER and, in order that ~~such~~ THE rules and
15 plans may be as uniform as is practicable among the several
16 states, to the rules and to the form of the plans used for ~~such~~
17 rating systems in other states. ~~No~~ AN insurer shall NOT be
18 required to record or report its loss experience on a classifica-
19 tion basis that is inconsistent with the rating system filed by
20 it. The commissioner may designate 1 or more rating organi-
21 zations or other agencies to assist him OR HER in gathering such
22 experience and making compilations thereof, and ~~such~~ THE compi-
23 lations shall be made available, subject to reasonable rules
24 promulgated by the commissioner, to insurers and rating
25 organizations.

1 (2) Reasonable rules and plans may be promulgated by the
2 commissioner for the interchange of data necessary for the
3 application of rating plans.

4 (3) In order to further uniform administration of rate regu-
5 latory laws, the commissioner and ~~every~~ EACH insurer and
6 ~~rating organization~~ may exchange information and experience data
7 with insurance supervisory officials ~~, insurers and rating~~
8 ~~organizations~~ in other states and may consult with them with
9 respect to ~~rate making and~~ the application of rating systems.
10 IN ADDITION, EACH INSURER AND EACH RATING ORGANIZATION MAY
11 EXCHANGE HISTORICAL LOSS DATA.

12 Sec. 2930. ~~(1) The premium for basic property insurance of~~
13 ~~any risk by the pool shall be equal to the rate for identical~~
14 ~~insurance established by the principal rating organization for~~
15 ~~identical insurance within this state plus a uniform surcharge~~
16 ~~approved by the commissioner. (2) The pool shall establish~~
17 rates for any basic property insurance. ~~which is without rates~~
18 ~~established by a principal rating organization or which the pool,~~
19 ~~with the approval of the commissioner, determines should be oth-~~
20 ~~erwise rated in order to better effectuate the purposes of this~~
21 ~~chapter.~~ The pool shall file with the commissioner for his or
22 her approval each rate and each policy form to be issued by it.
23 The pool, acting as agent for participating members, shall file
24 policy forms for basic property insurance to be issued by partic-
25 ipating members under the provisions of this chapter. Rates and
26 policy forms shall be filed in accordance with such provisions of
27 this chapter as the commissioner designates.

1 Sec. 3020. (1) A policy of casualty insurance, except
2 worker's compensation, including all classes of motor vehicle
3 coverage, shall not be issued or delivered in this state by an
4 insurer authorized to do business in this state for which a pre-
5 mium or advance assessment is charged, unless the policy contains
6 the following provisions:

7 (a) That the policy may be canceled at any time at the
8 request of the insured, in which case the insurer shall refund
9 the excess of paid premium or assessment above the pro rata rates
10 for the expired time, except as otherwise provided in subsections
11 (2) and (3).

12 (b) That the policy may be canceled at any time by the
13 insurer by mailing to the insured at the insured's address last
14 known to the insurer or an authorized agent of the insurer, with
15 postage fully prepaid, a not less than 10 days' written notice of
16 cancellation with or without tender of the excess of paid premium
17 or assessment above the pro rata premium for the expired time.

18 (c) That the minimum earned premium on any policy canceled
19 pursuant to this subsection, other than automobile insurance as
20 defined in section 2102(2)(a) and (b), shall not be less than the
21 pro rata premium for the expired time or \$25.00, whichever is
22 greater.

23 (2) An insurer may file a rule with the commissioner provid-
24 ing for a minimum retention of premium for automobile insurance
25 as defined in section 2102(2)(a) and (b). The rule shall
26 describe the circumstances under which the retention shall be
27 applied and shall set forth the amount to be retained, which

1 shall be subject to the approval of the commissioner. The rule
2 shall include, but need not be limited to, the following
3 provisions:

4 (a) That a minimum retention shall be applied only when the
5 amount exceeds the amount which would have been retained had the
6 policy been canceled on a pro rata basis.

7 (b) That a minimum retention shall not apply to renewal
8 policies.

9 (c) That a minimum retention shall not apply ~~when~~ IF a
10 policy is canceled for the following reasons:

11 (i) The insured is no longer required to maintain security
12 pursuant to section 3101(1).

13 (ii) The insured has replaced the automobile insurance
14 policy being canceled with an automobile insurance policy from
15 another insurer and provides proof of the replacement coverage to
16 the canceling insurer.

17 (3) An insurer may provide for a short rate premium for
18 insurance on a motorcycle, watercraft, off-road vehicle, or
19 snowmobile. As used in this subsection:

20 (a) "Motorcycle" means that term as defined in section
21 3101.

22 (b) "Off-road vehicle" means an ORV as defined in section 1
23 of Act No. 319 of the Public Acts of 1975, being section 257.1601
24 of the Michigan Compiled Laws.

25 (c) "Snowmobile" means that term as defined in section 1 of
26 Act No. 74 of the Public Acts of 1968, being section 257.1501 of
27 the Michigan Compiled Laws.

1 (d) "Watercraft" means that term as defined in section 1(1)
2 of Act No. 160 of the Public Acts of 1976, being section 281.1201
3 of the Michigan Compiled Laws.

4 (4) Cancellation SHALL NOT BE EFFECTIVE UNTIL AFTER THE
5 NOTICE as prescribed in this section HAS EXPIRED AND THE
6 CANCELLATION shall be without prejudice to any claim originating
7 before the cancellation. The mailing of notice shall be prima
8 facie proof of notice. Delivery of written notice shall be
9 equivalent to mailing.

10 (5) A notice of cancellation, including a cancellation
11 notice under section 3224, shall be accompanied by a statement
12 that the insured shall not operate or permit the operation of the
13 vehicle to which notice of cancellation is applicable, or operate
14 any other vehicle, unless the vehicle is insured as required by
15 law.

16 (6) An insurer who wishes to provide for a short rate pre-
17 mium under subsection (3) shall file with the commissioner pursu-
18 ant to chapter 24 or 26 a rule establishing a short rate
19 premium. The rule shall describe the circumstances under which
20 the short rate shall be applied and shall set forth the amount or
21 percentage to be retained.

22 SEC. 3105A. AN INSURER LIABLE TO PAY PERSONAL PROTECTION
23 INSURANCE BENEFITS UNDER THIS CHAPTER HAS A DUTY TO DEAL FAIRLY
24 AND IN GOOD FAITH WITH ITS INSURED, ANY PERSON ENTITLED TO
25 RECEIVE PERSONAL PROTECTION INSURANCE BENEFITS UNDER A POLICY
26 ISSUED TO ITS INSURED, OR ANY PERSON ENTITLED TO RECEIVE PERSONAL
27 PROTECTION INSURANCE BENEFITS FROM THE INSURER UNDER THE

1 PROVISIONS OF THIS CHAPTER. THE FIDUCIARY DUTY IMPOSED BY THIS
2 SECTION IS DEEMED TO INVOLVE MATTERS OF MENTAL CONCERN AND
3 SOLICITUDE. A BREACH OF THE DUTY TO DEAL FAIRLY AND IN GOOD
4 FAITH SUBJECTS THE INSURER TO LIABILITY IN TORT FOR ANY DAMAGES
5 PROXIMATELY ARISING THEREFROM AND FOR PUNITIVE DAMAGES.

6 Sec. 3315. The facility shall establish as part of its plan
7 of operation a program to ~~reduce the participation ratio of an~~
8 INCREASE insurer ~~under section 3303(c)(i) based upon~~
9 PARTICIPATION IN URBAN AREAS. THE FACILITY SHALL ASSIGN PRIVATE
10 PASSENGER NONFLEET INSURANCE POLICIES TO ITS PARTICIPATING MEM-
11 BERS ON A BASIS THAT IS INVERSELY PROPORTIONATE TO the number of
12 private passenger nonfleet automobiles ~~voluntarily~~ written in
13 an urban area BY EACH MEMBER. ~~The program shall also include~~
14 ~~reductions to the participation ratio for any increases in the~~
15 ~~number of private passenger nonfleet automobiles voluntarily~~
16 ~~written in an urban area. However, an insurer's participation~~
17 ~~ratio shall not be increased by more than 10% annually as a~~
18 ~~result of this section.~~ As used in this section, "urban area"
19 means the area within the boundaries of a city in this state
20 ~~which~~ THAT has a population of 1,000,000 or more as determined
21 by the latest of each succeeding federal decennial census and
22 includes any city located wholly within the boundaries of a city
23 in this state ~~which~~ THAT has a population of 1,000,000 or more
24 as determined by the latest of each succeeding federal decennial
25 census. ~~This section is repealed effective July 1, 1991.~~

26 Sec. 3321. The facility shall provide, with respect to all
27 automobiles not included in section 3320:

1 (a) Only the insurance required by law or required by the
2 commissioner. ~~of insurance.~~ The commissioner may only require
3 insurance for which a rate has been filed by an ~~insurance rating~~
4 ~~organization or~~ insurer, ~~and~~ which rate is in effect, and
5 which the commissioner finds, after a public hearing, to be rea-
6 sonable, necessary, and in the public interest. The temporary
7 provision of insurance may be required pending the public hearing
8 if the commissioner determines it necessary to do so.

9 (b) The equitable distribution of applicants to participat-
10 ing members in accordance with the participation ratios defined
11 in section 3303.

12 Sec. 3340. (1) As agent for participating members, the
13 facility shall file with the commissioner every manual of classi-
14 fication, every manual of rules and rates, every rating plan, and
15 every modification of a manual of classification, manual of rules
16 and rates, or rating plan proposed for use for private passenger
17 nonfleet automobile insurance placed through the facility. The
18 facility may incorporate by reference in its filings other mate-
19 rial on file with the commissioner. The classifications, rules,
20 and rates and any amendments thereof shall be subject to prior
21 written approval by the commissioner. Except as provided in this
22 chapter, rates filed by the facility for private passenger non-
23 fleet automobile insurance shall be in accordance with chapter 21
24 and rates by the facility for all other automobile insurance
25 shall be filed in accordance with chapter 24.

26 (2) Every participating member designated to act on behalf
27 of the facility shall be authorized to use the rates and rules

1 approved by the commissioner for use by the facility on business
2 placed through the facility and shall not use other rates for
3 automobile insurance placed through the facility.

4 (3) Laws relating to rating organizations or advisory orga-
5 nizations shall not apply to functions provided for under this
6 section.

7 (4) Private passenger nonfleet automobile rates for the
8 facility shall comply with the following requirements:

9 ~~(a) The territories for the facility shall be defined as~~
10 ~~those of the principal rating organization for the voluntary~~
11 ~~market.~~

12 (A) ~~(b)~~ The base rates for the facility shall be derived
13 from the weighted average of the base rates currently charged ~~in~~
14 ~~each facility territory~~ by the 5 largest insurer groups, deter-
15 mined by voluntary net direct automobile insurance car years
16 written in the state for the calendar year ending December 31 of
17 the second prior year as reported to the statistical agent.

18 ~~(c) The base rates as determined in subdivision (b) in each~~
19 ~~facility territory shall be modified as follows:~~

20 ~~(i) One hundred percent of the weighted average in each ter-~~
21 ~~ritory in the highest rated territory or territories in the state~~
22 ~~within a single political subdivision.~~

23 ~~(ii) From 105% to 125% of the weighted average for all other~~
24 ~~facility territories, with the highest rated such territories~~
25 ~~receiving the lowest surcharge and increasing to the highest sur-~~
26 ~~charge in the lowest rated facility territories in 5 percentage~~

1 ~~point increments. In no event, however, shall any such rate~~
2 ~~exceed the rate established in subdivision (i).~~

3 (B) ~~(d)~~ The facility shall adjust its rates at least once
4 each year or whenever changes in private competitive insurance
5 market rate levels would produce a change in excess of 5% in the
6 facility rate. ~~for any facility territory.~~ However, changes
7 shall not be made more often than quarterly.

8 (C) ~~(e) In the event that~~ IF underwriting losses and
9 administrative expenses resulting from the operation of the
10 facility at rates established pursuant to this subsection would
11 exceed an amount equal to 5% of the net direct private passenger
12 nonfleet automobile premiums for this state, ~~the~~ levels
13 ~~specified in subdivision (c)(i) and (ii)~~ shall be proportion-
14 ately increased in an amount to produce underwriting losses and
15 administrative expenses that do not exceed 5%.

16 Section 2. Sections 122, 2111a, 2111b, 2131, 2446, and 2640
17 of Act No. 218 of the Public Acts of 1956, being sections
18 500.122, 500.2111a, 500.2111b, 500.2131, 500.2446, and 500.2640
19 of the Michigan Compiled Laws, are repealed.

20 Section 3. (1) The legislature finds that there exists in
21 this state an emergency for a significant number of citizens who
22 are obligated pursuant to law to purchase automobile insurance
23 that has become unaffordable and unavailable. A substantial
24 number of urban registered vehicles are now without automobile
25 insurance coverage. While a vehicle is often a necessity for
26 employment and other essential daily activities, citizens who
27 drive automobiles without insurance coverage violate criminal law

1 regardless of the fact that for a substantial number of those
2 citizens it is impossible to obtain automobile insurance due to
3 the unaffordability and the unequal availability of that
4 insurance. The affordability and equal availability of automo-
5 bile insurance is essential to the preservation of the state's
6 interest in providing that its citizens obtain automobile insur-
7 ance coverage under the state's compulsory automobile insurance
8 laws. In many areas of the state, insurers are charging in a
9 subjective and discriminatory manner unreasonable amounts for
10 coverage. In addition, the automobile insurance market structure
11 has not resulted in promoting reasonable competition among insur-
12 ers, and this has further contributed to the unaffordability and
13 unavailability of automobile insurance. Five automobile insur-
14 ance insurers control over 60% of the entire state automobile
15 insurance market with 1 of those insurers controlling 23% of the
16 market.

17 (2) It is the purpose of this amendatory act to preserve the
18 state's interest in providing its citizens with automobile insur-
19 ance coverage by relieving the emergency condition of unafford-
20 able and unequally available automobile insurance; to provide
21 more stringent regulation of automobile insurance rate-making and
22 underwriting and to eliminate and prevent arbitrary and discrim-
23 inatory practices in automobile insurance marketing, rate-making,
24 and underwriting; to monitor the level of competition in the
25 automobile insurance market and to enable corrective measures
26 when necessary to create a healthy, competitive market for
27 automobile insurance; to examine loss prevention systems,

1 controls, and costs; to ensure that automobile insurance prices
2 reflect the actual costs of claims and reasonable expenses; and
3 to eliminate injustices that have resulted from the compulsory
4 automobile insurance system.

5 Section 4. This amendatory act shall not take effect unless
6 Senate Bill No. _____ or House Bill No. 4629 (request
7 no. 1500'91) of the 86th Legislature is enacted into law.