



# HOUSE BILL No. 5703

March 21, 1996, Introduced by Reps. Prusi, Cherry, Agee, LaForge, Kelly, DeHart, Tesanovich, Martinez, Brewer and Gagliardi and referred to the Committee on Human Resources and Labor.

A bill to amend section 2409 of Act No. 218 of the Public Acts of 1956, entitled as amended "The insurance code of 1956," as amended by Act No. 200 of the Public Acts of 1993, being section 500.2409 of the Michigan Compiled Laws.

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

1 Section 1. Section 2409 of Act No. 218 of the Public Acts  
2 of 1956, as amended by Act No. 200 of the Public Acts of 1993,  
3 being section 500.2409 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5 Sec. 2409. (1) The commissioner shall hold a public hearing  
6 and shall issue a tentative report detailing the state of compe-  
7 tition in the worker's compensation insurance market on a  
8 statewide basis and delineating specific classifications, kinds  
9 or types of insurance, if any, where competition does not exist

1 not later than January 15, 1984 and each year thereafter. The  
2 report shall be based on relevant economic tests, including but  
3 not limited to those in subsection (3). The findings in the  
4 report shall not be based on any single measure of competition,  
5 but appropriate weight shall be given to all measures of  
6 competition. The report shall include a certification of whether  
7 or not competition exists. HOWEVER, THE COMMISSIONER SHALL CER-  
8 TIFY THAT COMPETITION DOES NOT EXIST IF THE AVERAGE LOSS RATIO  
9 AMONG THOSE INSURERS WRITING WORKER'S COMPENSATION INSURANCE IS  
10 75% OR MORE. Any person who disagrees with the report and find-  
11 ings of the commissioner may request a contested hearing pursuant  
12 to the administrative procedures act of 1969, Act No. 306 of the  
13 Public Acts of 1969, ~~as amended,~~ being sections 24.201 to  
14 24.328 of the Michigan Compiled Laws, not later than 60 days  
15 after issuance of the tentative report.

16 (2) Not later than August 1, 1984 and each year thereafter,  
17 the commissioner shall issue a final report which shall include a  
18 final certification of whether or not competition exists in the  
19 worker's compensation insurance market. The final report and  
20 certification shall be supported by substantial evidence.

21 (3) All of the following shall be considered by the commis-  
22 sioner for purposes of subsections (1) and (2):

23 (a) The extent to which any insurer controls all or a por-  
24 tion of the worker's compensation insurance market. With respect  
25 to competition on a statewide basis, an insurer shall not be con-  
26 sidered to control the worker's compensation insurance market  
27 unless it has more than a 15% market share. In making a

1 determination under this subdivision, the commissioner shall use  
2 all insurers in this state, including self-insurers, group  
3 self-insurers as defined in chapter 65, and insurers writing  
4 risks under the placement facility created in chapter 23 as a  
5 base for calculating market share.

6 (b) Whether the total number of companies writing worker's  
7 compensation insurance in this state is sufficient to provide  
8 multiple options to employers.

9 (c) The disparity among worker's compensation insurance  
10 rates and classifications to the extent that such classifications  
11 result in rate differentials.

12 (d) The availability of worker's compensation insurance to  
13 employers in all geographic areas and all types of business.

14 (e) The residual market share.

15 (f) The overall rate level which is not excessive, inade-  
16 quate, or unfairly discriminatory.

17 (G) THE AVERAGE LOSS RATIO AMONG ALL INSURERS WRITING  
18 WORKER'S COMPENSATION INSURANCE IN THIS STATE AND THE INDIVIDUAL  
19 LOSS RATIO OF EACH OF THOSE INSURERS.

20 (H) ~~(g)~~ Any other factors the commissioner considers  
21 relevant.

22 (4) The reports and certifications required under subsec-  
23 tions (1) and (2) shall be forwarded to the governor, the clerk  
24 of the house, the secretary of the senate, all the members of the  
25 house of representatives committees on insurance and labor, and  
26 all the members of the senate committees on commerce and labor.

1           (5) Not later than 90 days after receipt of the final report  
2 and final certification, the legislature, by concurrent  
3 resolution, shall approve or disapprove the certification by a  
4 majority roll-call vote in each house. If the certification is  
5 approved, the commissioner shall proceed under section 2409a.