Act No. 392
Public Acts of 2014
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STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014

Introduced by Rep. LaFontaine

ENROLLED HOUSE BILL No. 5192

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 838a (MCL 500.838a), as added by 2006 PA 671.

The People of the State of Michigan enact:

Sec. 838a. (1) As used in this section:

(a) "2001 CSO mortality table" means that term as defined in section 838.

(b) "2001 CSO preferred class structure mortality table" means mortality tables with separate rates of mortality for super preferred nonsmokers, preferred nonsmokers, residual standard nonsmokers, preferred smokers, and residual

standard smoker splits of the 2001 CSO nonsmoker and smoker tables as adopted by the NAIC at the September 2006 national meeting and published in the "NAIC Proceedings" (3rd Quarter 2006). Unless the context indicates otherwise, the "2001 CSO preferred class structure mortality table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

(c) "Director" means the director of the department of insurance and financial services.

(d) "NAIC" means the national association of insurance commissioners.

(e) "Smoker and nonsmoker mortality tables" means that term as defined in section 838.

(f) "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers that are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

(2) Subject to subsections (6) and (7), an insurer may substitute the 2001 CSO preferred class structure mortality table in place of the 2001 CSO smoker and nonsmoker mortality tables as the minimum valuation standard for policies issued after June 30, 2004 and before January 1, 2007. An insurer may, for each calendar year of issue for any 1 or more specified plans of insurance and subject to this section, substitute the 2001 CSO preferred class structure mortality table in place of the 2001 CSO smoker and nonsmoker mortality tables as the minimum valuation standard for policies issued on or after January 1, 2007. An insurer shall not elect the 2001 CSO preferred class structure mortality table until the insurer demonstrates that not less than 20% of the business valued on this table is in 1 or more of the preferred classes. A table from the 2001 CSO preferred class structure mortality table used in place of a 2001 CSO mortality table as provided in this section is treated as part of the 2001 CSO mortality table only for purposes of reserve valuation under section 838.

(3) For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the super preferred nonsmoker, preferred nonsmoker, and residual standard nonsmoker tables to substitute for the nonsmoker mortality table found in the 2001 CSO mortality table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the residual standard nonsmoker table, the appointed actuary shall certify both of the following:

(a) That the present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(b) That the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(4) For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the preferred smoker and residual standard smoker tables to substitute for the smoker mortality table found in the 2001 CSO mortality table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the preferred smoker table, the appointed actuary shall certify both of the following:

(a) That the present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table corresponding to the valuation table being used for that class.

(b) That the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table.

(5) Unless exempted by the director, every authorized insurer using the 2001 CSO preferred class structure mortality table shall file annually with the director, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the director statistical reports showing mortality and other information as the director considers necessary or expedient for the administration of this section. The director shall establish the form of the reports under this subsection.

(6) The use of the 2001 CSO preferred class structure mortality table as the minimum valuation standard for policies issued after June 30, 2004 and before January 1, 2007 is subject to both of the following:

(a) The consent of the director. In determining consent, the director may rely on whether consent for the use of the 2001 CSO preferred class structure mortality table was given to the insurer by the commissioner of the insurer's state of domicile.

(b) The use is not permitted if the insurer reports in any statutory financial statement for a coinsured policy or portion of a policy coinsured, either of the following:

(*i*) If the mode of payment of the reinsurance premium is less frequent than the mode of payment of the policy premium, a reserve credit that exceeds by more than the amount specified in this subdivision as "Y", the gross reserve calculated before reinsurance. "Y" is the amount of the gross reinsurance premium that provides coverage for the period from the next policy premium due date to the earlier of the end of the policy year and the next reinsurance premium due date, and would be refunded to the ceding entity upon the termination of the policy.

(*ii*) If the mode of payment of the reinsurance premium is more frequent than the mode of payment of the policy premium, a reserve credit that is less than the gross reserve, calculated before reinsurance, by an amount that is less than the amount specified in this subdivision as "Z". "Z" is the amount of the gross reinsurance premium that the ceding entity would need to pay the assuming company to provide reinsurance coverage from the period of the next reinsurance premium due date to the next policy premium due date minus any liability established for the proportionate amount not remitted to the reinsurer.

(7) For purposes of (6)(b), the reserve for the mean reserve method is the mean reserve minus the deferred premium asset, and the reserve for the midterminal reserve method includes the unearned premium reserve. To satisfy subsection (6)(b), an insurer may estimate and adjust its accounting on an aggregate basis.

This act is ordered to take immediate effect.

Clerk of the House of Representatives

Secretary of the Senate

Approved .....

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Governor