

HOUSE BILL No. 5723

June 1, 2012, Introduced by Reps. Nesbitt, Wayne Schmidt, MacGregor, Pscholka, Foster, Greimel, Kandrevas, Townsend, Ananich, Irwin and Horn and referred to the Committee on Commerce.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 2312 (MCL 500.2312), as amended by 1993 PA 200.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2312. (1) ~~A~~**THE BOARD OF GOVERNORS SHALL PREPARE A** plan
2 of operation of the facility, ~~shall be prepared by the board of~~
3 ~~governors and shall be~~**WHICH IS** subject to the approval of the
4 commissioner. The commissioner shall review the plan of operation
5 on an ongoing basis, and the plan ~~shall be~~**IS** subject to revision
6 at the request of the commissioner at any time.

7 (2) The plan of operation shall provide for all of the
8 following:

9 (a) Appointment by the board of governors of 1 or more

1 servicing **OR DIRECT ASSIGNMENT** carriers, subject to the approval of
2 the commissioner. Appointments may be rescinded for cause by ~~either~~
3 the board, subject to the approval of the commissioner, or by the
4 commissioner.

5 (b) Creation of servicing **AND DIRECT ASSIGNMENT** carrier
6 performance standards including all of the following:

7 (i) Sufficient personnel to provide support for safety
8 management services offered by the plan.

9 (ii) Providing for sufficient personnel for claims adjustment.

10 (c) Agreements among all insurers authorized to write worker's
11 compensation insurance in this state with respect to the equitable
12 apportionment among them of worker's compensation insurance ~~which~~
13 ~~may be~~ **THAT IS** afforded applicants who are in good faith entitled
14 to, but who are unable to procure ~~such~~ **THAT** insurance through
15 ordinary methods.

16 (d) Payment of commissions to producing agents not to exceed
17 5% of a total premium.

18 (e) Creation of 3 rating plans as follows:

19 (i) Rating plan "A", which shall provide coverage for insureds
20 who have a demonstrated accident frequency problem, who have a
21 measurably adverse loss ratio over a period of years, or who have
22 demonstrated an attitude of noncompliance with safety requirements.
23 The commissioner shall approve rates for rating plan A ~~which shall~~
24 ~~be~~ **THAT ARE** adequate to cover losses and ~~which shall not be~~ **ARE NOT**
25 excessive, inadequate, or unfairly discriminatory. This plan shall
26 contain a system of surcharges established by the board of
27 governors and approved by the commissioner.

1 (ii) Rating plan "B", which shall provide coverage to ~~those~~
2 employers who apply for worker's compensation insurance in the
3 facility and are either self-insured or a member of a self-
4 insurance group. This plan shall be established by the board of
5 governors of the facility and approved by the commissioner. The
6 commissioner shall convene and consult with an advisory
7 organization including representatives of self-insureds and group
8 self-insureds ~~prior to~~ **BEFORE** approving rating plan "B". The
9 **COMMISSIONER SHALL GIVE THE** recommendations of the advisory
10 organization ~~shall be given reasonable consideration. by the~~
11 ~~commissioner.~~ The commissioner shall approve rates for rating plan
12 B ~~which shall be~~ **THAT ARE** adequate to cover losses and ~~which shall~~
13 ~~not be~~ **ARE NOT** excessive, inadequate, or unfairly discriminatory.

14 (iii) Rating plan "C", which shall provide coverage to all other
15 insureds of the facility. Rating plan "C" shall not contain any
16 surcharge system. The commissioner shall approve rates for rating
17 plan C that are set through the lower of either of the following
18 methods:

19 (A) By using 20% of the loss experience of insurers from
20 employers while participants in rating plan C and 80% of the
21 statewide loss experience of all insurers writing worker's
22 compensation insurance in this state.

23 (B) Through the use of rates adequate to cover losses and
24 ~~which shall not be~~ **THAT ARE NOT** excessive, inadequate, or unfairly
25 discriminatory.

26 (f) Prompt and fair hearings ~~for purposes of~~ **UNDER** section
27 2350.

1 (3) The **COMMISSIONER SHALL DETERMINE THE** application of the
2 plans created under subsection (2)(e) to insureds. ~~shall be as~~
3 ~~determined by the commissioner.~~ The plans shall be applied to
4 insureds regardless of the number of employees or amount of payroll
5 of the insured.

6 (4) ~~Retrospective~~**THE BOARD OF GOVERNORS SHALL PERFORM**
7 **RETROSPECTIVE** evaluation of premiums and loss and expense
8 experience of insureds within each rating plan under subsection
9 (2)(e) ~~shall be performed by the board of governors,~~ in a manner
10 approved by the commissioner. If this evaluation indicates that a
11 return of a portion of premiums is in order, then ~~such a~~**THE** return
12 shall be accomplished, subject to the approval of the commissioner.