

HOUSE BILL No. 5737

June 8, 2016, Introduced by Reps. Banks, Moss, Cochran, Gay-Dagnogo, Plawecki, Robinson, Hovey-Wright, Dianda, Geiss, Pagan, Garrett, Greig and Wittenberg and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2108 and 2478 (MCL 500.2108 and 500.2478), section 2108 as amended by 2015 PA 141 and section 2478 as amended by 1984 PA 7, and by adding section 2108a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2108. (1) On the effective date of a manual of
2 classification, manual of rules and rates, rating plan, or
3 modification of a manual of classification, manual of rules and
4 rates, or rating plan that an insurer proposes to use for
5 automobile insurance or home insurance, the insurer shall file the
6 manual or plan with the director. Each filing under this subsection

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

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

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

19 (4) A filing under this section must include information that
20 supports the filing with respect to the requirements of section
21 2109. The information may include 1 or more of the following:

22 (a) The experience or judgment of the insurer or rating
23 organization making the filing.

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

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

27 (d) Any other relevant information.

1 (5) Except as otherwise provided in this subsection, the
2 department shall make a filing under this section and any
3 accompanying information open to public inspection on filing. An
4 insurer or a rating organization filing on the insurer's behalf may
5 designate information included in the filing or any accompanying
6 information as a trade secret. The insurer or the rating
7 organization filing on behalf of the insurer shall demonstrate to
8 the director that the designated information is a trade secret. If
9 the director determines that the information is a trade secret, the
10 information is not subject to public inspection and is exempt from
11 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
12 As used in this subsection, "trade secret" means that term as
13 defined in section 2 of the uniform trade secrets act, 1998 PA 448,
14 MCL 445.1902. However, trade secret does not include filings and
15 information accompanying filings under this section that were
16 subject to public inspection before ~~the effective date of the~~
17 ~~amendatory act that added this sentence.~~ **JANUARY 11, 2016.**

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

21 **(7) AN INSURER THAT KNOWINGLY INCLUDES FALSE OR MISLEADING**
22 **INFORMATION IN A FILING UNDER THIS SECTION SHALL PAY A CIVIL FINE**
23 **NOT TO EXCEED \$100,000.00 TO BE RECOVERED BY THE DIRECTOR AND PAID**
24 **INTO THE GENERAL FUND.**

25 **SEC. 2108A. BEGINNING JANUARY 1, 2017 AND EACH JANUARY 1**
26 **THEREAFTER, THE DEPARTMENT SHALL POST ON THE DEPARTMENT'S WEBSITE A**
27 **COMPARISON OF INSURANCE RATES, BASED ON FILINGS UNDER SECTIONS 2108**

1 AND 2406, FOR THOSE LINES OF INSURANCE THAT THE DIRECTOR DETERMINES
2 ARE OF MOST INTEREST TO INDIVIDUAL PURCHASERS OF INSURANCE. THE
3 POSTING UNDER THIS SECTION MUST BE DESIGNED TO PROVIDE USEFUL
4 INFORMATION TO CONSUMERS SO THAT THEY MAY MAKE INFORMED COMPARISONS
5 OF RATES. THE POSTING MUST INCLUDE SAMPLE POLICY RATES OR PREMIUMS
6 FOR SAMPLE CONSUMERS.

7 Sec. 2478. (1) Subject to ~~subsection~~**SUBSECTIONS** (3) **AND** (4),
8 the ~~commissioner~~**DIRECTOR** may, if he or she finds that ~~any person~~
9 ~~or organization~~**A PERSON** has violated a ~~provision of this chapter,~~
10 ~~previous to~~**BEFORE** the date of his or her finding, impose a civil
11 fine of not more than \$300.00 for each violation, and if the
12 violation is ~~wilful,~~**WILLFUL**, the ~~commissioner~~**DIRECTOR** may impose
13 a civil fine of not more than \$1,500.00 for each violation. A civil
14 fine shall not be imposed for an offense that was committed more
15 than 12 months ~~prior to~~**BEFORE** the date of the ~~commissioner's~~
16 **DIRECTOR'S** findings. A fine collected under this subsection ~~shall~~
17 **MUST** be turned over to the state treasurer and credited to the
18 general fund of ~~the~~**THIS** state.

19 (2) The ~~commissioner~~**DIRECTOR** may suspend the license of ~~any~~**A**
20 rating organization or insurer ~~which~~**THAT** fails to comply with an
21 order of the ~~commissioner~~**DIRECTOR** within the time specified by the
22 order, or any extension of the order ~~which~~**THAT** the ~~commissioner~~
23 ~~may grant,~~**DIRECTOR GRANTS**, but the suspension ~~shall~~**DOES** not
24 affect the validity or continued effectiveness of rates previously
25 filed and effective. The ~~commissioner~~**DIRECTOR** shall not suspend
26 the license of ~~any~~**A** rating organization or insurer for failure to
27 comply with an order until the time prescribed for an appeal from

1 the order has expired, or, if an appeal has been taken, until the
2 order has been affirmed. The ~~commissioner~~**DIRECTOR** may determine
3 when a suspension of license shall ~~become~~**BECOMES** effective, and
4 the suspension shall ~~remain~~**REMAINS** in effect for the ~~period fixed~~
5 ~~by him or her,~~**TIME ORDERED BY THE DIRECTOR** unless ~~he or she~~**THE**
6 **DIRECTOR** modifies or rescinds the suspension, or until the order
7 ~~upon~~**ON** which the suspension is based is modified, rescinded, or
8 reversed.

9 (3) A civil fine shall not be imposed and a license shall not
10 be suspended or revoked except ~~upon~~**ON** a written order of the
11 ~~commissioner,~~**DIRECTOR** specifying the alleged violation and stating
12 his or her findings, made after a hearing held ~~upon~~**ON** not less
13 than 10 days' written notice to the person or organization. ~~An~~
14 **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (4), AN** order issued by
15 the ~~commissioner pursuant to~~**DIRECTOR UNDER** this section shall not
16 require the payment of civil fines exceeding \$10,000.00.

17 (4) **BOTH OF THE FOLLOWING APPLY TO A VIOLATION OF SECTION**
18 **2474:**

19 (A) **FOR A PERSON WHO WILLFULLY WITHHOLDS INFORMATION, THE**
20 **PERSON SHALL PAY A CIVIL FINE NOT TO EXCEED \$5,000.000 FOR EACH 30-**
21 **DAY PERIOD THAT THE PERSON VIOLATES SECTION 2474 AS DESCRIBED IN**
22 **THIS SUBDIVISION. A CIVIL FINE UNDER THIS SUBDIVISION MUST NOT**
23 **EXCEED \$100,000.00 TO BE RECOVERED BY THE DIRECTOR AND PAID INTO**
24 **THE GENERAL FUND.**

25 (B) **FOR A PERSON WHO KNOWINGLY GIVES FALSE OR MISLEADING**
26 **INFORMATION, THE PERSON SHALL PAY A CIVIL FINE NOT TO EXCEED**
27 **\$100,000.00 TO BE RECOVERED BY THE DIRECTOR AND PAID INTO THE**

1 GENERAL FUND.