

SENATE BILL No. 722

December 12, 2017, Introduced by Senator YOUNG and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 134, 2027, 2105, 2106, 2108, 2109, 2110a, 2111, 2151, and 3104 (MCL 500.134, 500.2027, 500.2105, 500.2106, 500.2108, 500.2109, 500.2110a, 500.2111, 500.2151, and 500.3104), section 134 as amended by 1990 PA 256, section 2027 as amended by 1998 PA 26, section 2108 as amended by 2015 PA 141, sections 2110a and 2111 as amended by 2012 PA 441, section 2151 as added by 2012 PA 165, and section 3104 as amended by 2002 PA 662, and by adding sections 2027a, 2108a, 3181, and 3182.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 134. (1) ~~Every~~**A** certificate of authority or license in
 2 force immediately ~~prior to~~**BEFORE** January 1, 1957 and existing
 3 under any act repealed by this act is valid until its original

1 expiration date, unless earlier terminated in accordance with this
2 act.

3 (2) ~~Any~~**A** plan of operation adopted by an association or
4 facility, and any premium or assessment levied against an insurer
5 member of that association or facility, is ~~hereby validated~~**VALID**
6 retroactively to the date of its original adoption or levy and
7 ~~shall continue~~**CONTINUES** in force and effect according to the terms
8 of the plan of operation, premium, or assessment until otherwise
9 changed by the ~~commissioner~~**DIRECTOR** or the board of directors of
10 the association or facility pursuant to this act.

11 (3) An association or facility or the board of directors of
12 the association or facility is not a state agency and the money of
13 an association or facility is not state money.

14 (4) ~~A~~**EXCEPT AS OTHERWISE PROVIDED IN SECTION 3104, A** record
15 of an association or facility ~~shall be exempted~~**IS EXEMPT** from
16 disclosure ~~pursuant to~~**UNDER** section 13 of the freedom of
17 information act, ~~Act No. 442 of the Public Acts of 1976, being~~
18 ~~section 15.243 of the Michigan Compiled Laws 1976 PA 442, MCL~~
19 **15.243.**

20 (5) Any premium or assessment levied by an association or
21 facility, or any premium or assessment of a similar association or
22 facility formed under a law in force outside this state, is not a
23 burden or special burden for purposes of a calculation under
24 section 476a, and any premium or assessment paid to an association
25 or facility ~~shall~~**MUST** not be included in determining the aggregate
26 amount a foreign insurer pays to the ~~commissioner~~**DEPARTMENT OF**
27 **TREASURY** under section 476a.

1 (6) As used in this section, "association or facility" means
2 an association of insurers created under this act and any other
3 association or facility formed under this act as a nonprofit
4 organization of insurer members, including, but not limited to, the
5 following:

6 (a) The Michigan worker's compensation placement facility
7 created under chapter 23.

8 (b) The Michigan basic property insurance association created
9 under ~~section~~ **CHAPTER** 29.

10 (c) The catastrophic claims association created under chapter
11 31.

12 (d) The Michigan automobile insurance placement facility
13 created under chapter 33.

14 (e) The Michigan life and health insurance guaranty
15 association created under chapter 77.

16 (f) The property and casualty guaranty association created
17 under chapter 79.

18 (g) The assigned claims facility created under section 3171.

19 Sec. 2027. Unfair methods of competition and unfair or
20 deceptive acts or practices in the business of insurance include:

21 (a) Refusing to insure, ~~or~~ refusing to continue to insure, or
22 limiting the amount of coverage available to an individual or risk
23 because of any of the following:

24 (i) Race, color, creed, marital status, sex, or national
25 origin, except that marital status may be used to classify
26 individuals or risks for the purpose of insuring family units.

27 (ii) The residence, age, disability, or lawful occupation of

1 the individual or the location of the risk, unless there is a
2 reasonable relationship between the residence, age, disability, or
3 lawful occupation of the individual or the location of the risk and
4 the extent of the risk or the coverage issued or to be issued, but
5 subject to subparagraph (iii) **AND SECTION 2027A**. This section ~~shall~~
6 **DOES** not prohibit an insurer from specializing in or limiting its
7 transactions of insurance to certain occupational groups, types, or
8 risks as approved by the ~~commissioner of insurance~~. **DIRECTOR**. The
9 ~~commissioner~~ **DIRECTOR** shall approve the specialization for an
10 insurer licensed to do business in this state and whose articles of
11 incorporation contained a provision on July 1, 1976, requiring that
12 specialization.

13 (iii) For property insurance, the location of the risk, unless
14 there is a statistically significant relationship between the
15 location of the risk and a risk of loss due to fire within the area
16 in which the insured property is located. As used in this
17 subparagraph, "area" means a single zip code number under the
18 zoning improvement plan of the United States ~~postal service~~. **POSTAL**
19 **SERVICE**.

20 (b) Refusing to insure or refusing to continue to insure an
21 individual or risk solely because the insured or applicant was
22 previously denied insurance coverage by an insurer.

23 (c) Charging a different rate for the same coverage based on
24 sex, marital status, age, residence, location of risk, disability,
25 or lawful occupation of the risk unless the rate differential is
26 based on sound actuarial principles, a reasonable classification
27 system, and is related to the actual and credible loss statistics

1 or, **FOR NEW COVERAGES**, reasonably anticipated experience, ~~in the~~
 2 ~~ease of new coverages. This~~ **BUT SUBJECT TO SECTION 2027A. EXCEPT AS**
 3 **PROVIDED IN SECTION 2027A, THIS** subdivision ~~shall~~ **DOES** not apply if
 4 the rate has previously been approved by the ~~commissioner~~ **DIRECTOR**.

5 **SEC. 2027A. IT IS AN UNFAIR METHOD OF COMPETITION AND AN**
 6 **UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSURANCE**
 7 **FOR AN AUTOMOBILE INSURER TO REFUSE TO INSURE, REFUSE TO CONTINUE**
 8 **TO INSURE, LIMIT THE AMOUNT OF COVERAGE AVAILABLE, OR CHARGE A**
 9 **DIFFERENT RATE OR PREMIUM FOR THE SAME COVERAGE BASED ON ANY OF THE**
 10 **FOLLOWING FOR AN INSURED OR APPLICANT:**

11 (A) **EMPLOYMENT.**

12 (B) **TRADE.**

13 (C) **BUSINESS.**

14 (D) **OCCUPATION.**

15 (E) **PROFESSION.**

16 (F) **EDUCATION LEVEL.**

17 (G) **CREDIT HISTORY OR LACK OF CREDIT HISTORY.**

18 Sec. 2105. (1) ~~No~~ **A** policy of automobile insurance or home
 19 insurance ~~shall~~ **MUST NOT** be offered, bound, made, issued, delivered
 20 or renewed in this state ~~on and after January 1, 1981, except in~~
 21 ~~conformity~~ **UNLESS THE POLICY CONFORMS** with this chapter. This
 22 ~~chapter shall not apply to policies of automobile insurance or home~~
 23 ~~insurance offered, bound, made, issued, delivered or renewed in~~
 24 ~~this state before January 1, 1981.~~

25 (2) This chapter ~~shall~~ **DOES** not apply to insurance written on
 26 a group, franchise, blanket policy, or similar basis ~~which~~ **THAT**
 27 offers home insurance ~~or automobile insurance~~ to all members of the

1 group, franchise plan, or blanket coverage who are eligible
2 persons.

3 Sec. 2106. (1) Except as specifically provided in this
4 chapter, ~~the provisions of~~ chapter 24 and chapter 26 ~~shall~~ DO not
5 apply to automobile insurance and home insurance.

6 (2) An insurer may use rates for automobile insurance or home
7 insurance as soon as ~~these~~ THE rates are filed. **HOWEVER, IF THE**
8 **RATE IS AN INCREASE FROM AN AUTOMOBILE INSURANCE RATE IN EFFECT ON**
9 **THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 2108A,**
10 **THE INSURER MAY ONLY USE THE RATE AS PROVIDED IN SECTION 2108A.**

11 (3) To the extent that other provisions of this ~~code~~ ACT are
12 inconsistent with ~~the provisions of~~ this chapter, this chapter
13 ~~shall govern~~ GOVERNS with respect to ~~automobile insurance and home~~
14 ~~insurance~~ AND, WITH THE EXCEPTION OF ESTABLISHING RATES, AUTOMOBILE
15 INSURANCE.

16 Sec. 2108. (1) On the effective date of a manual of
17 classification, manual of rules and rates, rating plan, or
18 modification of a manual of classification, manual of rules and
19 rates, or rating plan that an insurer proposes to use for
20 automobile insurance or home insurance, the insurer shall file the
21 manual or plan with the director. **HOWEVER, IF THE MANUAL OF**
22 **CLASSIFICATION, MANUAL OF RULES AND RATES, RATING PLAN, OR**
23 **MODIFICATION OF A MANUAL OF CLASSIFICATION, MANUAL OF RULES AND**
24 **RATES, OR RATING PLAN WOULD RESULT IN AN INCREASE FROM AN**
25 **AUTOMOBILE INSURANCE RATE IN EFFECT ON THE EFFECTIVE DATE OF THE**
26 **AMENDATORY ACT THAT ADDED SECTION 2108A, THE INSURER SHALL FILE THE**
27 **MANUAL OR PLAN WITH THE DIRECTOR BEFORE IT TAKES EFFECT.**

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

6 (3) ~~(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 (4) ~~(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 (5) ~~(4)~~—A filing under this section must include information
20 that supports the filing with respect to the requirements of
21 section 2109. The information may include 1 or more of the
22 following:

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

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

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

1 (d) Any other relevant information.

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

19 (7) ~~(6)~~—An insurer shall not make, issue, or renew a contract
20 or policy except in accordance with filings that are in effect for
21 the insurer under this chapter.

22 **SEC. 2108A. (1) THE DIRECTOR SHALL REVIEW A MANUAL OR PLAN**
23 **FILED UNDER SECTION 2108(1) THAT WOULD RESULT IN AN INCREASE FROM**
24 **AN AUTOMOBILE INSURANCE RATE IN EFFECT ON THE EFFECTIVE DATE OF THE**
25 **AMENDATORY ACT THAT ADDED THIS SECTION AND THE ACCOMPANYING**
26 **SUPPORTING INFORMATION AS SOON AS REASONABLY POSSIBLE AFTER IT IS**
27 **FILED TO DETERMINE WHETHER THE MANUAL OR PLAN MEETS THE**

1 REQUIREMENTS OF THIS CHAPTER.

2 (2) IF THE DIRECTOR DETERMINES THAT A MANUAL OR PLAN DESCRIBED
 3 IN SUBSECTION (1) DOES NOT MEET THE REQUIREMENTS OF THIS CHAPTER,
 4 HE OR SHE SHALL SEND TO THE INSURER OR RATING ORGANIZATION THAT
 5 FILED THE MANUAL OR PLAN A WRITTEN NOTICE OF DISAPPROVAL SPECIFYING
 6 IN WHAT RESPECTS THE MANUAL OR PLAN FAILS TO MEET THE REQUIREMENTS
 7 OF THIS CHAPTER AND STATING THAT THE RATES IN THE MANUAL OR PLAN
 8 WILL NOT BE EFFECTIVE AND THAT THE INSURER SHALL NOT USE THE RATES.

9 (3) IF THE DIRECTOR APPROVES A MANUAL OR PLAN DESCRIBED IN
 10 SUBSECTION (1), THE MANUAL OR PLAN WITH ACCOMPANYING SUPPORTING
 11 INFORMATION IS CONSIDERED TO MEET THE REQUIREMENTS OF THIS CHAPTER
 12 AND A RATE IN THE MANUAL OR PLAN IS EFFECTIVE AND MAY BE USED BY
 13 THE INSURER.

14 (4) AN INSURER OR RATINGS ORGANIZATION MAY SEEK RELIEF FROM A
 15 DECISION BY THE DIRECTOR UNDER THIS SECTION AS PROVIDED IN SECTION
 16 2482.

17 Sec. 2109. (1) All rates for ~~automobile insurance and home~~
 18 insurance ~~shall~~ **TO WHICH THIS CHAPTER APPLIES MUST** be made in
 19 accordance with the following: ~~provisions.~~

20 (a) ~~Rates shall~~ **A RATE MUST** not be excessive, inadequate, or
 21 unfairly discriminatory. A rate ~~shall~~ **MUST** not be held to be
 22 excessive unless the rate is unreasonably high for the insurance
 23 coverage provided and a reasonable degree of competition does not
 24 exist for the insurance to which the rate is applicable.

25 (b) A rate ~~shall~~ **MUST** not be held to be inadequate unless the
 26 rate is unreasonably low for the insurance coverage provided and
 27 the continued use of the rate endangers the solvency of the

1 insurer; or unless the rate is unreasonably low for the insurance
2 provided and the use of the rate has or will have the effect of
3 destroying competition among insurers, creating a monopoly, or
4 causing a kind of insurance to be unavailable to a significant
5 number of applicants who are in good faith entitled to procure that
6 insurance through ordinary methods.

7 (c) A rate for a coverage is unfairly discriminatory in
8 relation to another rate for the same coverage if the differential
9 between the rates is not reasonably justified by differences in
10 losses, expenses, or both, or by differences in the uncertainty of
11 loss, for the individuals or risks to which the rates apply. ~~A-TO~~
12 **BE HELD** reasonable **UNDER THIS SUBDIVISION, A** justification shall
13 **MUST** be supported by a reasonable classification system; by sound
14 actuarial principles ~~when-IF~~ applicable; and by actual and credible
15 loss and expense statistics or, ~~in the case of-~~**FOR** new coverages
16 and classifications, by reasonably anticipated loss and expense
17 experience. A rate is not unfairly discriminatory **UNDER THIS**
18 **SUBDIVISION** because it reflects differences in expenses for
19 individuals or risks with similar anticipated losses, or because it
20 reflects differences in losses for individuals or risks with
21 similar expenses.

22 (2) A determination concerning the existence of a reasonable
23 degree of competition ~~with respect to-~~**UNDER** subsection (1)(a) shall
24 **MUST** take into account a reasonable spectrum of relevant economic
25 tests, including the number of insurers actively engaged in writing
26 the insurance in question, the present availability of ~~such-~~**THE**
27 insurance compared to its availability in comparable past periods,

1 the underwriting return of ~~that~~ **THE** insurance over a period of time
2 sufficient to assure reliability in relation to the risk associated
3 with ~~that~~ **THE** insurance, and the difficulty encountered by new
4 insurers in entering the market ~~in order~~ to compete for ~~the~~ writing
5 of ~~that~~ **THE** insurance.

6 (3) ALL RATES FOR AUTOMOBILE INSURANCE TO WHICH THIS CHAPTER
7 APPLIES MUST BE MADE IN ACCORDANCE WITH THE FOLLOWING:

8 (A) A RATE MUST NOT BE EXCESSIVE. A RATE IS EXCESSIVE IF IT IS
9 LIKELY TO PRODUCE A PROFIT THAT IS UNREASONABLY HIGH IN RELATION TO
10 THE RISK INVOLVED OR IF THE COST OF THE INSURANCE IS UNREASONABLY
11 HIGH IN RELATION TO SERVICES RENDERED.

12 (B) A RATE MUST NOT BE INADEQUATE. A RATE IS INADEQUATE IF
13 EITHER OF THE FOLLOWING APPLIES:

14 (i) THE RATE IS CLEARLY INSUFFICIENT, WHEN COMBINED WITH THE
15 INVESTMENT INCOME ATTRIBUTABLE TO THE RATE, TO SUSTAIN PROJECTED
16 LOSSES AND EXPENSE.

17 (ii) AS TO THE PREMIUM CHARGED TO A RISK, DISCOUNTS OR CREDITS
18 ARE ALLOWED THAT EXCEED A REASONABLE REFLECTION OF EXPENSE SAVINGS
19 AND REASONABLY EXPECTED LOSS EXPERIENCE FROM THE RISK.

20 (C) A RATE MUST NOT BE UNFAIRLY DISCRIMINATORY. A RATE IS
21 UNFAIRLY DISCRIMINATORY AS TO A RISK IF THE APPLICATION OF PREMIUM
22 DISCOUNTS, CREDITS, OR SURCHARGES TO THE RISK DOES NOT BEAR A
23 REASONABLE RELATIONSHIP TO THE EXPECTED LOSS AND EXPENSE
24 EXPERIENCE.

25 Sec. 2110a. (1) If uniformly applied to all its insureds, an
26 insurer may use factors in addition to those permitted by section
27 2111 for insurance if the plan is consistent with the purposes of

1 this act and reflects reasonably anticipated reductions or
2 increases in losses or expenses.

3 (2) This section does not affect benefits or obligations
4 required under chapter 31.

5 (3) This section does not authorize an insurer to offer or
6 prohibit an insurer from offering premium discount plans concerning
7 any of the following:

8 (a) Health care services, health care providers, or health
9 care facilities.

10 (b) Automobile repair providers.

11 (c) Materials used in the repair of an automobile.

12 (4) **THIS SECTION DOES NOT AUTHORIZE AN INSURER TO USE A FACTOR**
13 **IN ESTABLISHING OR MAINTAINING RATES OR RATING CLASSIFICATIONS IF**
14 **USE OF THE FACTOR IS EXPRESSLY PROHIBITED BY THIS ACT.**

15 Sec. 2111. (1) Notwithstanding any provision of this act or
16 this chapter to the contrary, classifications and territorial base
17 rates used by an insurer in this state with respect to automobile
18 insurance or home insurance ~~shall~~**MUST** conform to the applicable
19 requirements of this section.

20 (2) Classifications established under this section for
21 automobile insurance ~~shall~~**MUST** be based only on 1 or more of the
22 following factors, which ~~shall~~**MUST** be applied by an insurer on a
23 uniform basis throughout this state:

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

25 (i) Either the age of the driver; the length of driving
26 experience; or the number of years licensed to operate a motor
27 vehicle.

1 (ii) Driver primacy, based on the proportionate use of each
2 vehicle insured under the policy by individual drivers insured or
3 to be insured under the policy.

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

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

6 (v) Vehicle characteristics, features, and options, such as
7 engine displacement, ability of the vehicle and its equipment to
8 protect passengers from injury, and other similar items, including
9 vehicle make and model.

10 (vi) Daily or weekly commuting mileage.

11 (vii) Number of cars insured by the insurer or number of
12 licensed operators in the household. However, number of licensed
13 operators ~~shall~~**MUST** not be used as an indirect measure of marital
14 status.

15 (viii) Amount of insurance.

16 (b) In addition to the factors prescribed in subdivision (a),
17 with respect to personal protection insurance coverage:

18 (i) Earned income.

19 (ii) Number of dependents of income earners insured under the
20 policy.

21 (iii) Coordination of benefits.

22 (iv) Use of a safety belt.

23 (c) In addition to the factors prescribed in subdivision (a),
24 with respect to collision and comprehensive coverages:

25 (i) The anticipated cost of vehicle repairs or replacement,
26 which may be measured by age, price, cost new, or value of the
27 insured automobile, and other factors directly relating to that

1 anticipated cost.

2 (ii) Vehicle make and model.

3 (iii) Vehicle design characteristics related to vehicle
4 damageability.

5 (iv) Vehicle characteristics relating to automobile theft
6 prevention devices.

7 (d) With respect to all automobile insurance coverage other
8 than comprehensive, successful completion by the individual driver
9 or drivers insured under the policy of an accident prevention
10 education course that meets the following criteria:

11 (i) The course ~~shall~~**MUST** include a minimum of 8 hours of
12 classroom instruction.

13 (ii) The course ~~shall~~**MUST** include, but not be limited to, a
14 review of all of the following:

15 (A) The effects of aging on driving behavior.

16 (B) The shapes, colors, and types of road signs.

17 (C) The effects of alcohol and medication on driving.

18 (D) The laws relating to the proper use of a motor vehicle.

19 (E) Accident prevention measures.

20 (F) The benefits of safety belts and child restraints.

21 (G) Major driving hazards.

22 (H) Interaction with other highway users, such as
23 motorcyclists, bicyclists, and pedestrians.

24 (3) Each insurer shall establish a secondary or merit rating
25 plan for automobile insurance, other than comprehensive coverage. A
26 secondary or merit rating plan required under this subsection ~~shall~~
27 **MUST** provide for premium surcharges for any or all coverages for

1 automobile insurance, other than comprehensive coverage, based upon
 2 ON any or all of the following, when that information becomes
 3 available to the insurer:

4 (a) Substantially at-fault accidents.

5 (b) Convictions for, determinations of responsibility for
 6 civil infractions for, or findings of responsibility in probate
 7 court for civil infractions for violations under chapter VI of the
 8 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750.
 9 However, an insured shall not be merit rated for a civil infraction
 10 under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL
 11 257.601 to 257.750, for a period of time longer than that which the
 12 secretary of state's office carries points for that infraction on
 13 the insured's motor vehicle record.

14 (4) An insurer shall not establish or maintain rates or rating
 15 classifications for automobile insurance based on sex or marital
 16 status.

17 (5) ~~Notwithstanding other provisions of this chapter, AN~~
 18 **INSURER SHALL NOT ESTABLISH OR MAINTAIN RATES OR RATING**
 19 **CLASSIFICATIONS FOR** automobile insurance ~~risks may be grouped by~~
 20 **BASED ON THE** territory **IN WHICH THE INSURED RESIDES OR WORKS.**

21 (6) **AN INSURER SHALL NOT ESTABLISH OR MAINTAIN RATES OR RATING**
 22 **CLASSIFICATIONS FOR AUTOMOBILE INSURANCE BASED ON A FACTOR LISTED**
 23 **IN SECTION 2027A.**

24 (7) ~~(6)~~ This section does not limit insurers or rating
 25 organizations from establishing and maintaining statistical
 26 reporting territories. This section does not prohibit an insurer
 27 from establishing or maintaining, for automobile insurance, a

1 premium discount plan for senior citizens in this state who are 65
2 years of age or older, if the plan is uniformly applied by the
3 insurer throughout this state. If an insurer has not established
4 and maintained a premium discount plan for senior citizens, the
5 insurer shall offer reduced premium rates to senior citizens in
6 this state who are 65 years of age or older and who drive less than
7 3,000 miles per year, regardless of statistical data.

8 (8) ~~(7)~~—Classifications established under this section for
9 home insurance other than inland marine insurance provided by
10 policy floaters or endorsements ~~shall~~ **MUST** be based only on 1 or
11 more of the following factors:

12 (a) Amount and types of coverage.

13 (b) Security and safety devices, including locks, smoke
14 detectors, and similar, related devices.

15 (c) Repairable structural defects reasonably related to risk.

16 (d) Fire protection class.

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

19 (f) Loss experience of the insured, based on prior claims
20 attributable to factors under the control of the insured that have
21 been paid by an insurer. An insured's failure, after written notice
22 from the insurer, to correct a physical condition that presents a
23 risk of repeated loss shall be considered a factor under the
24 control of the insured for purposes of this subdivision.

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

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

27 (i) Availability of law enforcement or crime prevention

1 services.

2 (9) ~~(8)~~ Notwithstanding other provisions of this chapter, home
3 insurance risks may be grouped by territory.

4 (10) ~~(9)~~ An insurer may use factors in addition to those
5 permitted by this section for insurance if the plan is consistent
6 with the purposes of this act and reflects reasonably anticipated
7 reductions or increases in losses or expenses. **THIS SUBSECTION DOES**
8 **NOT PERMIT AN INSURER TO USE A FACTOR IF THE USE OF THE FACTOR IS**
9 **EXPRESSLY PROHIBITED BY THIS ACT.**

10 Sec. 2151. As used in this chapter:

11 (a) "Adverse action" means an increase in any charge for, or a
12 reduction or other adverse or unfavorable change in the terms of
13 coverage or amount of, any personal insurance, existing or applied
14 for.

15 (b) "Consumer reporting agency" means any person ~~which,~~ **THAT,**
16 for monetary fees or dues or on a cooperative nonprofit basis,
17 regularly engages in whole or in part in the practice of assembling
18 or evaluating consumer credit information or other information on
19 consumers for the purpose of furnishing consumer reports to third
20 parties.

21 (c) "Credit information" means any credit-related information
22 derived from a credit report, found on a credit report itself, or
23 provided on an application for personal insurance. Information that
24 is not credit-related ~~shall~~ **IS** not ~~be considered~~ credit
25 information, regardless of whether it is contained in a credit
26 report or in an application, or is used to calculate an insurance
27 score.

1 (d) "Credit report" means any written, oral, or other
 2 communication of information by a consumer reporting agency bearing
 3 on a consumer's credit worthiness, credit standing, or credit
 4 capacity that is used or expected to be used or collected in whole
 5 or in part for the purpose of serving as a factor in the rating of
 6 personal insurance.

7 (e) "Insurance score" means a number or rating that is derived
 8 from an algorithm, computer application, model, or other process
 9 that is based in whole or in part on credit information for the
 10 purposes of predicting the future insurance loss exposure of an
 11 individual applicant or insured.

12 (f) "Personal insurance" means property/casualty insurance
 13 written for personal, family, or household use, including
 14 ~~automobile,~~ home, motorcycle, mobile home, noncommercial dwelling
 15 fire, boat, personal watercraft, snowmobile, and recreational
 16 vehicle, whether written on an individual, group, franchise,
 17 blanket policy, or similar basis. **PERSONAL INSURANCE DOES NOT**
 18 **INCLUDE AUTOMOBILE INSURANCE.**

19 Sec. 3104. (1) ~~An~~ **THE CATASTROPHIC CLAIMS ASSOCIATION IS**
 20 **CREATED AS AN** unincorporated, nonprofit association. ~~to be known as~~
 21 ~~the catastrophic claims association, hereinafter referred to as the~~
 22 ~~association, is created.~~ Each insurer engaged in writing insurance
 23 coverages that provide the security required by section 3101(1)
 24 ~~within~~ **IN** this state, as a condition of its authority to transact
 25 insurance in this state, shall be a member of the association and
 26 ~~shall be~~ **IS** bound by the plan of operation of the association. ~~Each~~
 27 **AN** insurer engaged in writing insurance coverages that provide the

1 security required by section 3103(1) ~~within~~**IN** this state, as a
2 condition of its authority to transact insurance in this state,
3 ~~shall be~~**IS** considered **TO BE** a member of the association, but only
4 for purposes of premiums under subsection (7)(d). Except as
5 expressly provided in this section, the association is not subject
6 to any laws of this state with respect to insurers, but in all
7 other respects the association is subject to the laws of this state
8 to the extent that the association would be if it were an insurer
9 organized and subsisting under chapter 50.

10 (2) The association shall provide and each member shall accept
11 indemnification for 100% of the amount of ultimate loss sustained
12 under personal protection insurance coverages in excess of the
13 following amounts in each loss occurrence:

14 (a) For a motor vehicle accident policy issued or renewed
15 before July 1, 2002, \$250,000.00.

16 (b) For a motor vehicle accident policy issued or renewed
17 during the period July 1, 2002 to June 30, 2003, \$300,000.00.

18 (c) For a motor vehicle accident policy issued or renewed
19 during the period July 1, 2003 to June 30, 2004, \$325,000.00.

20 (d) For a motor vehicle accident policy issued or renewed
21 during the period July 1, 2004 to June 30, 2005, \$350,000.00.

22 (e) For a motor vehicle accident policy issued or renewed
23 during the period July 1, 2005 to June 30, 2006, \$375,000.00.

24 (f) For a motor vehicle accident policy issued or renewed
25 during the period July 1, 2006 to June 30, 2007, \$400,000.00.

26 (g) For a motor vehicle accident policy issued or renewed
27 during the period July 1, 2007 to June 30, 2008, \$420,000.00.

1 (h) For a motor vehicle accident policy issued or renewed
2 during the period July 1, 2008 to June 30, 2009, \$440,000.00.

3 (i) For a motor vehicle accident policy issued or renewed
4 during the period July 1, 2009 to June 30, 2010, \$460,000.00.

5 (j) For a motor vehicle accident policy issued or renewed
6 during the period July 1, 2010 to June 30, 2011, \$480,000.00.

7 (k) For a motor vehicle accident policy issued or renewed
8 during the period July 1, 2011 to June 30, 2013, \$500,000.00.

9 **(l) FOR A MOTOR VEHICLE ACCIDENT POLICY ISSUED OR RENEWED**
10 **DURING THE PERIOD JULY 1, 2013 TO JUNE 30, 2015, \$530,000.00.**

11 **(m) FOR A MOTOR VEHICLE ACCIDENT POLICY ISSUED OR RENEWED**
12 **DURING THE PERIOD JULY 1, 2015 TO JUNE 30, 2017, \$545,000.00.**

13 **(n) FOR A MOTOR VEHICLE ACCIDENT POLICY ISSUED OR RENEWED**
14 **DURING THE PERIOD JULY 1, 2017 TO JUNE 30, 2019, \$555,000.00.**

15 Beginning July 1, ~~2013, 2019~~, this ~~\$500,000.00~~ **\$555,000.00** amount
16 ~~shall~~ **MUST** be increased biennially on July 1 of each odd-numbered
17 year, for policies issued or renewed before July 1 of the following
18 odd-numbered year, by the lesser of 6% or the consumer price index,
19 and rounded to the nearest \$5,000.00. ~~This~~ **THE ASSOCIATION SHALL**
20 **CALCULATE THIS** biennial adjustment ~~shall be calculated by the~~
21 ~~association~~ by January 1 of the year of its July 1 effective date.

22 (3) An insurer may withdraw from the association only ~~upon~~ **ON**
23 ceasing to write insurance that provides the security required by
24 section 3101(1) in this state.

25 (4) An insurer whose membership in the association has been
26 terminated by withdrawal ~~shall continue~~ **CONTINUES** to be bound by
27 the plan of operation, and ~~upon~~ **ON** withdrawal, all unpaid premiums

1 that have been charged to the withdrawing member are payable as of
2 the effective date of the withdrawal.

3 (5) An unsatisfied net liability to the association of an
4 insolvent member ~~shall~~**MUST** be assumed by and apportioned among the
5 remaining members of the association as provided in the plan of
6 operation. The association has all rights allowed by law on behalf
7 of the remaining members against the estate or funds of the
8 insolvent member for ~~sums~~**MONEY** due the association.

9 (6) If a member has been merged or consolidated into another
10 insurer or another insurer has reinsured a member's entire business
11 that provides the security required by section 3101(1) in this
12 state, the member and successors in interest of the member remain
13 liable for the member's obligations.

14 (7) The association shall do all of the following on behalf of
15 the members of the association:

16 (a) Assume 100% of all liability as provided in subsection
17 (2).

18 (b) Establish procedures by which members ~~shall~~**MUST** promptly
19 report to the association each claim that, on the basis of the
20 injuries or damages sustained, may reasonably be anticipated to
21 involve the association if the member is ultimately held legally
22 liable for the injuries or damages. Solely for the purpose of
23 reporting claims, the member shall in all instances consider itself
24 legally liable for the injuries or damages. The member shall also
25 advise the association of subsequent developments likely to
26 materially affect the interest of the association in the claim.

27 (c) Maintain relevant loss and expense data relative to all

1 liabilities of the association and require each member to furnish
2 statistics, in connection with liabilities of the association, at
3 the times and in the form and detail as ~~may be~~ required by the plan
4 of operation.

5 (d) In a manner provided for in the plan of operation,
6 calculate and charge to members of the association a total premium
7 sufficient to cover the expected losses and expenses of the
8 association that the association will likely incur during the
9 period for which the premium is applicable. The premium ~~shall~~**MUST**
10 include an amount to cover incurred but not reported losses for the
11 period and may be adjusted for any excess or deficient premiums
12 from previous periods. Excesses or deficiencies from previous
13 periods may be fully adjusted in a single period or may be adjusted
14 over several periods in a manner provided for in the plan of
15 operation. Each member ~~shall~~**MUST** be charged an amount equal to
16 that member's total written car years of insurance providing the
17 security required by section 3101(1) or 3103(1), or both, written
18 in this state during the period to which the premium applies,
19 multiplied by the average premium per car. The average premium per
20 car ~~shall be~~**IS** the total premium calculated divided by the total
21 written car years of insurance providing the security required by
22 section 3101(1) or 3103(1) written in this state of all members
23 during the period to which the premium applies. A member ~~shall~~**MUST**
24 be charged a premium for a historic vehicle that is insured with
25 the member of 20% of the premium charged for a car insured with the
26 member. As used in this subdivision:

27 (i) "Car" includes a motorcycle but does not include a

1 historic vehicle.

2 (ii) "Historic vehicle" means a vehicle that is a registered
3 historic vehicle under section 803a or 803p of the Michigan vehicle
4 code, 1949 PA 300, MCL 257.803a and 257.803p.

5 (e) Require and accept the payment of premiums from members of
6 the association as provided for in the plan of operation. The
7 association shall do either of the following:

8 (i) Require payment of the premium in full within 45 days
9 after the premium charge.

10 (ii) Require payment of the premiums to be made periodically
11 to cover the actual cash obligations of the association.

12 (f) Receive and distribute all ~~sums~~**MONEY** required by the
13 operation of the association.

14 (g) Establish procedures for reviewing claims procedures and
15 practices of members of the association. If the claims procedures
16 or practices of a member are considered inadequate to properly
17 service the liabilities of the association, the association may
18 undertake or may contract with another person, including another
19 member, to adjust or assist in the adjustment of claims for the
20 member on claims that create a potential liability to the
21 association and may charge the cost of the adjustment to the
22 member.

23 (8) In addition to other powers granted to it by this section,
24 the association may do all of the following:

25 (a) Sue and be sued in the name of the association. A judgment
26 against the association ~~shall~~**DOES** not create any direct liability
27 against the individual members of the association. The association

1 may provide for the indemnification of its members, members of the
2 board of directors of the association, and officers, employees, and
3 other persons lawfully acting on behalf of the association.

4 (b) Reinsure all or any portion of its potential liability
5 with reinsurers licensed to transact insurance in this state or
6 approved by the ~~commissioner~~**DIRECTOR OF THE DEPARTMENT**.

7 (c) Provide for appropriate housing, equipment, and personnel
8 as ~~may be~~ necessary to assure the efficient operation of the
9 association.

10 (d) Pursuant to the plan of operation, adopt reasonable rules
11 for the administration of the association, enforce those rules, and
12 delegate authority, as the board considers necessary to assure the
13 proper administration and operation of the association consistent
14 with the plan of operation.

15 (e) Contract for goods and services, including independent
16 claims management, actuarial, investment, and legal services, from
17 others ~~within~~**IN** or ~~without~~**OUTSIDE OF** this state to assure the
18 efficient operation of the association.

19 (f) Hear and determine complaints of a company or other
20 interested party concerning the operation of the association.

21 (g) Perform other acts not specifically enumerated in this
22 section that are necessary or proper to accomplish the purposes of
23 the association and that are not inconsistent with this section or
24 the plan of operation.

25 (9) A board of directors is created, ~~hereinafter referred to~~
26 ~~as the board, which shall be responsible for the operation of~~ **AND**
27 **SHALL OPERATE** the association consistent with the plan of operation

1 and this section.

2 (10) The plan of operation ~~shall~~**MUST** provide for all of the
3 following:

4 (a) The establishment of necessary facilities.

5 (b) The management and operation of the association.

6 (c) Procedures to be utilized in charging premiums, including
7 adjustments from excess or deficient premiums from prior periods.

8 (d) Procedures governing the actual payment of premiums to the
9 association.

10 (e) Reimbursement of each member of the board by the
11 association for actual and necessary expenses incurred on
12 association business.

13 (f) The investment policy of the association.

14 (g) Any other matters required by or necessary to effectively
15 implement this section.

16 (11) ~~Each~~**THE** board ~~shall~~**MUST** include members that would
17 contribute a total of not less than 40% of the total premium
18 calculated pursuant to subsection (7) (d). Each director ~~shall be~~**IS**
19 entitled to 1 vote. The initial term of office of a director ~~shall~~
20 ~~be~~**IS** 2 years.

21 (12) As part of the plan of operation, the board shall adopt
22 rules providing for the composition ~~and term of successor boards to~~
23 the ~~initial~~ board **AND THE TERMS OF BOARD MEMBERS**, consistent with
24 the membership composition requirements in subsections (11) and
25 (13). Terms of the directors ~~shall~~**MUST** be staggered so that the
26 terms of all the directors do not expire at the same time and so
27 that a director does not serve a term of more than 4 years.

1 (13) The board ~~shall~~ **MUST** consist of 5 directors ~~,~~ and the
2 ~~commissioner~~ **DIRECTOR OF THE DEPARTMENT, WHO** shall ~~be~~ **SERVE AS** an
3 ex officio, **NONVOTING** member of the board. ~~without vote.~~

4 (14) ~~Each director~~ **THE DIRECTOR OF THE DEPARTMENT** shall be
5 ~~appointed by the commissioner and~~ **APPOINT THE DIRECTORS. A DIRECTOR**
6 shall serve until ~~that member's~~ **HIS OR HER** successor is selected
7 and qualified. The **BOARD SHALL ELECT THE** chairperson of the board.
8 ~~shall be elected by the board. A~~ **THE DIRECTOR OF THE DEPARTMENT**
9 **SHALL FILL ANY** vacancy on the board ~~shall be filled by the~~
10 ~~commissioner consistent with~~ **AS PROVIDED IN** the plan of operation.

11 (15) ~~After the board is appointed, the~~ **THE** board shall meet as
12 often as the chairperson, the ~~commissioner,~~ **DIRECTOR OF THE**
13 **DEPARTMENT,** or the plan of operation ~~shall require,~~ **REQUIRES,** or at
14 the request of any 3 members of the board. The chairperson ~~shall~~
15 ~~retain the right to~~ **MAY** vote on all issues. Four members of the
16 board constitute a quorum.

17 (16) ~~An~~ **THE BOARD SHALL FURNISH TO EACH MEMBER AN** annual
18 report of the operations of the association in a form and detail as
19 ~~may be determined by the board. shall be furnished to each member.~~

20 ~~(17) Not more than 60 days after the initial organizational~~
21 ~~meeting of the board, the board shall submit to the commissioner~~
22 ~~for approval a proposed plan of operation consistent with the~~
23 ~~objectives and provisions of this section, which shall provide for~~
24 ~~the economical, fair, and nondiscriminatory administration of the~~
25 ~~association and for the prompt and efficient provision of~~
26 ~~indemnity. If a plan is not submitted within this 60 day period,~~
27 ~~then the commissioner, after consultation with the board, shall~~

1 ~~formulate and place into effect a plan consistent with this~~
 2 ~~section.~~

3 ~~—— (18) The plan of operation, unless approved sooner in writing,~~
 4 ~~shall be considered to meet the requirements of this section if it~~
 5 ~~is not disapproved by written order of the commissioner within 30~~
 6 ~~days after the date of its submission. Before disapproval of all or~~
 7 ~~any part of the proposed plan of operation, the commissioner shall~~
 8 ~~notify the board in what respect the plan of operation fails to~~
 9 ~~meet the requirements and objectives of this section. If the board~~
 10 ~~fails to submit a revised plan of operation that meets the~~
 11 ~~requirements and objectives of this section within the 30-day~~
 12 ~~period, the commissioner shall enter an order accordingly and shall~~
 13 ~~immediately formulate and place into effect a plan consistent with~~
 14 ~~the requirements and objectives of this section.~~

15 (17) ~~(19) The proposed plan of operation or ANY~~ amendments to
 16 the plan of operation **OF THE ASSOCIATION** are subject to majority
 17 approval by the board, ~~ratified~~ **RATIFICATION** by a majority of the
 18 membership having a vote, with voting rights being apportioned
 19 according to the premiums charged in subsection (7)(d), and are
 20 ~~subject to approval by the commissioner.~~ **DIRECTOR OF THE DEPARTMENT.**

21 (18) ~~(20) Upon approval by the commissioner and ratification~~
 22 ~~by the members of the plan submitted, or upon the promulgation of a~~
 23 ~~plan by the commissioner, each AN~~ insurer authorized to write
 24 insurance providing the security required by section 3101(1) in
 25 this state, as provided in this section, is bound by and shall
 26 formally subscribe to and participate in the plan ~~approved~~ **OF**
 27 **OPERATION** as a condition of maintaining its authority to transact

1 insurance in this state.

2 (19) ~~(21)~~The association is subject to all the reporting,
3 loss reserve, and investment requirements of the ~~commissioner~~
4 **DIRECTOR OF THE DEPARTMENT** to the same extent as ~~would a member~~ **ARE**
5 **THE MEMBERS** of the association.

6 (20) ~~(22)~~Premiums charged members by the association shall
7 **MUST** be recognized in the rate-making procedures for insurance
8 rates in the same manner that expenses and premium taxes are
9 recognized.

10 (21) ~~(23)~~The ~~commissioner~~**DIRECTOR OF THE DEPARTMENT** or an
11 authorized representative of the ~~commissioner~~**DIRECTOR OF THE**
12 **DEPARTMENT** may visit the association at any time and examine any
13 and all **OF** the association's affairs.

14 (22) ~~(24)~~The association does not have liability for losses
15 occurring before July 1, 1978.

16 (23) **THE BOARD SHALL CONDUCT ITS BUSINESS AT A PUBLIC MEETING**
17 **OF THE BOARD HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA**
18 **267, MCL 15.261 TO 15.275.**

19 (24) **A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR**
20 **RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNCTION IS**
21 **SUBJECT TO DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976 PA**
22 **442, MCL 15.231 TO 15.246.**

23 (25) As used in this section:

24 (A) **"ASSOCIATION" MEANS THE CATASTROPHIC CLAIMS ASSOCIATION**
25 **CREATED IN SUBSECTION (1).**

26 (B) **"BOARD" MEANS THE BOARD OF DIRECTORS OF THE ASSOCIATION**
27 **CREATED IN SUBSECTION (9).**

1 (C) ~~(a)~~-"Consumer price index" means the percentage of change
2 in the consumer price index for all urban consumers in the United
3 States city average for all items for the 24 months ~~prior to~~**BEFORE**
4 October 1 of the year ~~prior to~~**BEFORE** the July 1 effective date of
5 the biennial adjustment under subsection ~~(2) (k)~~**(2) (N)** as reported
6 by the United States ~~department~~**DEPARTMENT** of labor, ~~bureau~~**LABOR,**
7 **BUREAU** of labor statistics, **LABOR STATISTICS**, and as certified by
8 the ~~commissioner~~**DIRECTOR OF THE DEPARTMENT**.

9 (D) ~~(b)~~-"Motor vehicle accident policy" means a policy
10 providing the coverages required under section 3101(1).

11 (E) ~~(c)~~-"Ultimate loss" means the actual loss amounts that a
12 member is obligated to pay and that are paid or payable by the
13 member, and do not include claim expenses. An ultimate loss is
14 incurred by the association on the date that the loss occurs.

15 **SEC. 3181. BY 90 DAYS AFTER THE EFFECTIVE DATE OF THE**
16 **AMENDATORY ACT THAT ADDED THIS SECTION, AN INSURER ENGAGED IN**
17 **WRITING INSURANCE COVERAGES THAT PROVIDE THE SECURITY REQUIRED BY**
18 **SECTION 3101(1) SHALL FILE RATES FOR THE FOLLOWING 6 YEARS THAT**
19 **WILL RESULT IN PER VEHICLE PREMIUM REDUCTIONS EACH YEAR FROM THE**
20 **RATES IN EFFECT FOR THE INSURER ON JANUARY 1, 2017, WITH A PER**
21 **VEHICLE PREMIUM REDUCTION IN THE SIXTH YEAR OF 65% OR MORE FROM THE**
22 **RATES IN EFFECT FOR THE INSURER ON JANUARY 1, 2017.**

23 **SEC. 3182. (1) NOTWITHSTANDING ANYTHING IN THIS ACT TO THE**
24 **CONTRARY, AN INSURER SHALL NOT CHARGE A PREMIUM FOR AN AUTOMOBILE**
25 **INSURANCE POLICY ISSUED TO 1 OR MORE INDIVIDUALS THAT EXCEEDS 2% OF**
26 **THE TAXABLE INCOME OF THE INSURED INDIVIDUAL OR INDIVIDUALS.**

27 **(2) AS USED IN THIS SECTION, "TAXABLE INCOME" MEANS THAT TERM**

1 AS DEFINED IN SECTION 30 OF THE INCOME TAX ACT OF 1967, 1967 PA
2 281, MCL 206.30.

3 Enacting section 1. This amendatory act does not take effect
4 unless Senate Bill No. ____ or House Bill No. ____ (request no.
5 04311'17 a) of the 99th Legislature is enacted into law.