

SUBSTITUTE FOR
SENATE BILL NO. 298

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2930a, 4501, and 4503 (MCL 500.2930a,
500.4501, and 500.4503), section 2930a as amended by 2002 PA 492
and sections 4501 and 4503 as added by 1995 PA 276.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2930a. (1) Except as otherwise provided in subsection
2 ~~(4)(e)–(5)(C)~~, rates charged in each territory by the pool for home
3 insurance shall be equal ~~to the weighted average of the 10~~
4 ~~voluntary market insurer groups with the largest premium volume in~~
5 ~~this state. Rating territories for home insurance established by~~
6 ~~the pool shall be the same as those utilized by the largest number~~
7 ~~of insurers by premium volume writing home insurance in this state.~~
8 ~~Any change in the rates for an HO-2 form replacement cost policy by~~

1 ~~those insurers that would produce a change in excess of 5% in the~~
2 ~~HO-2 pool rates for any territory shall be reflected as soon as~~
3 ~~reasonably practicable in the HO-2 pool rates. HO-2 pool rates~~
4 ~~shall be reviewed at least annually, but shall not be revised more~~
5 ~~often than quarterly.~~ ACTUARIALLY DETERMINED AND CALCULATED TO
6 GENERATE A TOTAL PREMIUM SUFFICIENT TO COVER THE EXPECTED LOSSES
7 AND EXPENSES THAT THE POOL WILL LIKELY INCUR DURING THE PROJECTED
8 PERIOD FOR WHICH THE RATES WILL BE EFFECTIVE, SUBJECT TO THE
9 FOLLOWING:

10 (A) IF THE POOL'S ACTUARIALLY INDICATED OVERALL RATE CHANGE IS
11 GREATER THAN 5% BUT LESS THAN OR EQUAL TO 20%, THE POOL SHALL TAKE
12 1/2 OF THE ACTUARIALLY INDICATED RATE CHANGE AMOUNT.

13 (B) IF THE POOL'S ACTUARIALLY INDICATED OVERALL RATE CHANGE IS
14 GREATER THAN 20%, THE POOL SHALL TAKE THE FULL AMOUNT THAT EXCEEDS
15 20%, PLUS 10%.

16 (C) IF THE POOL'S ACTUARIALLY INDICATED OVERALL RATE CHANGE IS
17 LESS THAN 5%, THE POOL SHALL TAKE THE ENTIRE INDICATED RATE CHANGE
18 AMOUNT.

19 (2) RATES DEVELOPED UNDER THIS SECTION ARE SUBJECT TO THE
20 FOLLOWING:

21 (A) THE RATES SHALL NOT BE REVISED MORE THAN ANNUALLY.

22 (B) THE RATES SHALL BE FILED WITH THE COMMISSIONER FOR PRIOR
23 APPROVAL. A FILING IS CONSIDERED TO BE APPROVED UNLESS IT IS
24 DISAPPROVED BY THE COMMISSIONER WITHIN 30 DAYS AFTER IT IS
25 RECEIVED.

26 (C) IF THE COMMISSIONER DISAPPROVES A FILING WITHIN 30 DAYS
27 AFTER IT IS RECEIVED, HE OR SHE SHALL SEND WRITTEN NOTICE OF

1 DISAPPROVAL TO THE POOL SPECIFYING IN WHAT RESPECTS THE FILING
2 FAILS TO MEET THE REQUIREMENTS OF THIS ACT AND STATING THAT THE
3 FILING SHALL NOT BECOME EFFECTIVE.

4 (D) IF AT ANY TIME AFTER THE 30-DAY PERIOD SPECIFIED IN
5 SUBDIVISION (B) THE COMMISSIONER FINDS THAT A FILING DOES NOT MEET
6 THE REQUIREMENTS OF THIS ACT, THE COMMISSIONER SHALL, AFTER A
7 HEARING HELD ON NOT LESS THAN 10 DAYS' WRITTEN NOTICE SPECIFYING
8 THE MATTERS TO BE CONSIDERED AT THE HEARING, ISSUE AN ORDER
9 SPECIFYING IN WHAT RESPECTS THE COMMISSIONER FINDS THAT THE FILING
10 FAILS TO MEET THE REQUIREMENTS OF THIS ACT AND STATING WHEN, WITHIN
11 A REASONABLE PERIOD AFTER THE DATE OF THE ORDER, THE FILING SHALL
12 BE CONSIDERED NO LONGER EFFECTIVE.

13 (3) ~~(2)~~—In addition to the ~~provisions~~ **REQUIREMENTS** of
14 ~~subsection~~ **SUBSECTIONS (1) AND (2)**, the premium established for the
15 repair cost policy offered by the pool shall not exceed the premium
16 for an amount of insurance equal to 80% of the replacement cost of
17 the property under the replacement cost policy of the pool
18 equivalent to the HO-2 form replacement cost policy filed and in
19 effect in this state for a licensed rating organization. Premiums
20 for dwellings with identical replacement costs shall vary on a
21 schedule determined by the pool in accordance with the insured
22 value of the dwelling.

23 (4) ~~(3)~~—The pool or any other association or organization
24 designated by the pool shall develop **ITS OWN ACTUARIALLY JUSTIFIED**
25 statistical plans, rating rules, classifications, ~~territory rating~~
26 ~~plans~~ **TERRITORIES**, and ~~manuals of classification~~ **RATING CALCULATION**
27 **STEPS** for home insurance issued on behalf of the pool consistent

1 with this section.

2 (5) ~~(4)~~—The pool shall offer at least the following home
3 insurance policy forms:

4 (a) An HO-2 form replacement cost policy equivalent to the HO-
5 2 form replacement cost policy filed and in effect in this state
6 for a licensed rating organization.

7 (b) A repair cost policy providing the deductibles, terms and
8 conditions, perils insured against, and types and amounts of
9 coverage equivalent to those provided by the HO-2 replacement cost
10 policy filed and in effect for a licensed rating organization.

11 (c) An HO-3 form replacement cost policy equivalent to the HO-
12 3 form replacement cost policy filed and in effect in this state
13 for a licensed rating organization. The rates established by the
14 pool for the HO-3 form replacement cost policy offered pursuant to
15 this subdivision shall be **ACTUARIALLY DETERMINED AND** calculated to
16 generate a total premium sufficient to cover the expected losses
17 and expenses of the pool related to the HO-3 replacement cost
18 policy that the pool will likely incur during the **PROJECTED** period
19 for which the ~~premium is applicable~~ **RATES WILL BE EFFECTIVE**. The
20 premium shall ~~include an amount to cover incurred but not reported~~
21 ~~losses for the period and shall be adjusted~~ **FULLY IN A SINGLE**
22 **PERIOD OR OVER SEVERAL PERIODS IN A MANNER PROVIDED FOR IN THE PLAN**
23 **OF OPERATION** for any excess or deficient premiums from previous
24 periods. ~~Excesses or deficiencies from previous periods shall be~~
25 ~~fully adjusted in a single period or over several periods in a~~
26 ~~manner provided for in the plan of operation.~~ Rates established by
27 the pool under this subdivision shall not be based upon the

1 ~~weighted average methodology provided for in subsection (1).~~

2 (6) ~~(5) Rates and policy~~ **POLICY** forms shall be filed in
3 ~~accordance with such provisions of this chapter as~~ **WITH** the
4 commissioner ~~designates.~~ **FOR PRIOR APPROVAL.**

5 ~~—— (6) The commissioner shall report in writing to the senate and~~
6 ~~house of representatives standing committees on insurance issues by~~
7 ~~July 1, 2005 on the effect in chapter 29 that the amendatory act~~
8 ~~that added this subsection has had on home insurance premiums in~~
9 ~~this state.~~

10 (7) **AS USED IN THIS SECTION:**

11 (A) **"ACTUARIALLY INDICATED OVERALL RATE CHANGE" MEANS RATE**
12 **CHANGE CALCULATED WITHIN THE FRAMEWORK AND PRINCIPLES OF THE**
13 **CASUALTY ACTUARIAL SOCIETY THAT USES A PERMISSIBLE COMBINED RATIO**
14 **OF 100%.**

15 (B) **"COMBINED RATIO" MEANS THE SUM OF THE LOSS RATIO AND THE**
16 **EXPENSE RATIO WHERE THE LOSS RATIO IS THE RATIO OF INCURRED LOSS**
17 **AND LOSS ADJUSTMENT EXPENSES TO EARNED PREMIUM AND THE EXPENSE**
18 **RATIO IS THE RATIO OF UNDERWRITING EXPENSES TO EARNED PREMIUM.**

19 Sec. 4501. As used in this chapter:

20 (a) "Authorized agency" means the department of state police;
21 a city, village, or township police department; a county sheriff's
22 department; a United States criminal investigative department or
23 agency; the prosecuting authority of a city, village, township,
24 county, or state or of the United States; the ~~insurance bureau~~
25 **OFFICE OF FINANCIAL AND INSURANCE REGULATION**; or the department of
26 state.

27 (b) "Financial loss" includes, but is not limited to, loss of

Senate Bill No. 298 as amended November 29, 2011

1 earnings, out-of-pocket and other expenses, repair and replacement
2 costs, investigative costs, and claims payments.

3 (c) "Insurance policy" or "policy" means an insurance policy,
4 ~~<<BENEFIT CONTRACT OF A SELF-FUNDED PLAN,>>~~
5 health maintenance organization contract, nonprofit dental care
6 corporation certificate, or health care corporation certificate.

7 (d) "Insurer" means a property-casualty insurer, life insurer,
8 third party administrator, self-funded plan, health insurer, health
9 maintenance organization, nonprofit dental care corporation, health
10 care corporation, reinsurer, or any other entity regulated by the
11 insurance laws of this state and providing any form of insurance.

12 (e) "Organization" means an organization or internal
13 department of an insurer established to detect and prevent
14 insurance fraud.

15 (f) "Person" includes an individual, insurer, company,
16 association, organization, Lloyds, society, reciprocal or inter-
17 insurance exchange, partnership, syndicate, business trust,
18 corporation, and any other legal entity.

19 (g) "Practitioner" means a licensee of this state authorized
20 to practice medicine and surgery, psychology, chiropractic, or law,
21 ~~<<or>>~~ any other licensee of the state~~<<, OR AN UNLICENSED HEALTH~~
22 ~~CARE PROVIDER>>~~ whose services are compensated,
23 directly or indirectly, by insurance proceeds, or a licensee
24 similarly licensed in other states and nations, or the practitioner
25 of any nonmedical treatment rendered in accordance with a
26 recognized religious method of healing.

27 (H) "RUNNER", "CAPPER", OR "STEERER" MEANS A PERSON WHO
28 RECEIVES A PECUNIARY ~~<<OR OTHER>>~~ BENEFIT FROM A PRACTITIONER,
29 WHETHER DIRECTLY
30 OR INDIRECTLY, FOR PROCURING OR ATTEMPTING TO PROCURE A CLIENT,

1 PATIENT, OR CUSTOMER AT THE DIRECTION OR REQUEST OF, OR IN
2 COOPERATION WITH, A PRACTITIONER WHOSE INTENT IS TO OBTAIN BENEFITS
3 UNDER A CONTRACT OF INSURANCE OR TO ASSERT A CLAIM AGAINST AN
4 INSURED OR AN INSURER FOR PROVIDING SERVICES TO THE CLIENT,
5 PATIENT, OR CUSTOMER. RUNNER, CAPPER, OR STEERER DOES NOT INCLUDE A
6 PRACTITIONER WHO PROCURES CLIENTS, PATIENTS, OR CUSTOMERS THROUGH
7 THE USE OF PUBLIC MEDIA.

8 (I) ~~(h)~~—"Statement" includes, but is not limited to, any
9 notice statement, proof of loss, bill of lading, receipt for
10 payment, invoice, account, estimate of property damages, bill for
11 services, claim form, diagnosis, prescription, hospital or doctor
12 record, X-rays, test result, or other evidence of loss, injury, or
13 expense.

14 Sec. 4503. A fraudulent insurance act includes, but is not
15 limited to, acts or omissions committed by any person who
16 knowingly, and with an intent to injure, defraud, or deceive:

17 (a) Presents, causes to be presented, or prepares with
18 knowledge or belief that it will be presented to or by an insurer
19 or any agent of an insurer, or any agent of an insurer, reinsurer,
20 or broker any oral or written statement knowing that the statement
21 contains any false information concerning any fact material to an
22 application for the issuance of an insurance policy.

23 (b) Prepares or assists, abets, solicits, or conspires with
24 another to prepare or make an oral or written statement that is
25 intended to be presented to or by any insurer in connection with,
26 or in support of, any application for the issuance of an insurance
27 policy, knowing that the statement contains any false information

1 concerning any fact or thing material to the application.

2 (c) Presents or causes to be presented to or by any insurer,
3 any oral or written statement including computer-generated
4 information as part of, or in support of, a claim for payment or
5 other benefit pursuant to an insurance policy, knowing that the
6 statement contains false information concerning any fact or thing
7 material to the claim.

8 (d) Assists, abets, solicits, or conspires with another to
9 prepare or make any oral or written statement including computer-
10 generated documents that is intended to be presented to or by any
11 insurer in connection with, or in support of, any claim for payment
12 or other benefit pursuant to an insurance policy, knowing that the
13 statement contains any false information concerning any fact or
14 thing material to the claim.

15 (e) Solicits or accepts new or renewal insurance risks by or
16 for an insolvent insurer.

17 (f) Removes or attempts to remove the assets or records of
18 assets, transactions, and affairs, or a material part of the assets
19 or records, from the home office or other place of business of the
20 insurer or from the place of safekeeping of the insurer, or who
21 conceals or attempts to conceal the assets or record of assets,
22 transactions, and affairs, or a material part of the assets or
23 records, from the commissioner.

24 (g) Diverts, attempts to divert, or conspires to divert funds
25 of an insurer or of other persons in connection with any of the
26 following:

27 (i) The transaction of insurance or reinsurance.

- 1 (ii) The conduct of business activities by an insurer.
2 (iii) The formation, acquisition, or dissolution of an insurer.

3 (H) EMPLOYS, USES, OR ACTS AS A RUNNER, CAPPER, OR STEERER
4 WITH THE INTENT TO FALSELY OR FRAUDULENTLY OBTAIN BENEFITS UNDER A
5 CONTRACT OF INSURANCE OR TO FALSELY OR FRAUDULENTLY ASSERT A CLAIM
6 AGAINST AN INSURED OR AN INSURER FOR PROVIDING SERVICES TO THE
7 CLIENT, PATIENT, OR CUSTOMER.

8 (I) ~~(h)~~—Knowingly and willfully assists, conspires with, or
9 urges any person to fraudulently violate this act, or any person
10 who due to that assistance, conspiracy, or urging knowingly and
11 willfully benefits from the proceeds derived from the fraud.