

SENATE BILL No. 226

February 27, 2013, Introduced by Senator SMITH and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 2109 (MCL 500.2109).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 (a) ~~Rates~~ **A RATE** shall not be excessive, inadequate, or
5 unfairly discriminatory. A rate shall not be held to be excessive
6 unless the rate is unreasonably high for the insurance coverage
7 provided and a reasonable degree of competition does not exist for
8 the insurance to which the rate is applicable.

9 (b) A rate shall not be held to be inadequate unless the rate
10 is unreasonably low for the insurance coverage provided and the
11 continued use of the rate endangers the solvency of the insurer; or

1 unless the rate is unreasonably low for the insurance provided and
2 the use of the rate has or will have the effect of destroying
3 competition among insurers, creating a monopoly, or causing a kind
4 of insurance to be unavailable to a significant number of
5 applicants who are in good faith entitled to procure that insurance
6 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 SHALL BE MADE IN ACCORDANCE WITH THE FOLLOWING:

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

12 (B) A RATE SHALL 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 SHALL 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.