

HOUSE BILL No. 5192

December 11, 2013, Introduced by Rep. LaFontaine and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 838a (MCL 500.838a), as added by 2006 PA 671.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 838a. (1) As used in this section:

2 (a) "2001 CSO mortality table" means that term as defined in
3 section 838.

4 (b) "2001 CSO preferred class structure mortality table" means
5 mortality tables with separate rates of mortality for super
6 preferred nonsmokers, preferred nonsmokers, residual standard
7 nonsmokers, preferred smokers, and residual standard smoker splits
8 of the 2001 CSO nonsmoker and smoker tables as adopted by the NAIC
9 at the September 2006 national meeting and published in the "NAIC

1 Proceedings" (3rd Quarter 2006). Unless the context indicates
2 otherwise, the "2001 CSO preferred class structure mortality table"
3 includes both the ultimate form of that table and the select and
4 ultimate form of that table. It includes both the smoker and
5 nonsmoker mortality tables. It includes both the male and female
6 mortality tables and the gender composite mortality tables. It also
7 includes both the age-nearest-birthday and age-last-birthday bases
8 of the mortality table.

9 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OF
10 INSURANCE AND FINANCIAL SERVICES.

11 (D) ~~(e)~~"NAIC" means the national association of insurance
12 commissioners.

13 (E) ~~(d)~~"Smoker and nonsmoker mortality tables" means that
14 term as defined in section 838.

15 (F) ~~(e)~~"Statistical agent" means an entity with proven
16 systems for protecting the confidentiality of individual insured
17 and insurer information; demonstrated resources for and history of
18 ongoing electronic communications and data transfer ensuring data
19 integrity with insurers ~~, which~~ **THAT** are its members or
20 subscribers; and a history of and means for aggregation of data and
21 accurate promulgation of the experience modifications in a timely
22 manner.

23 (2) **SUBJECT TO SUBSECTIONS (6) AND (7), AN INSURER MAY**
24 **SUBSTITUTE THE 2001 CSO PREFERRED CLASS STRUCTURE MORTALITY TABLE**
25 **IN PLACE OF THE 2001 CSO SMOKER AND NONSMOKER MORTALITY TABLES AS**
26 **THE MINIMUM VALUATION STANDARD FOR POLICIES ISSUED AFTER JUNE 30,**
27 **2004 AND BEFORE JANUARY 1, 2007.** An insurer may, for each calendar

1 year of issue for any 1 or more specified plans of insurance and
2 subject to this section, substitute the 2001 CSO preferred class
3 structure mortality table in place of the 2001 CSO smoker and
4 nonsmoker mortality tables as the minimum valuation standard for
5 policies issued on or after January 1, 2007. An insurer shall not
6 elect the 2001 CSO preferred class structure mortality table until
7 the insurer demonstrates that ~~at least~~ **NOT LESS THAN** 20% of the
8 business ~~to be~~ valued on this table is in 1 or more of the
9 preferred classes. A table from the 2001 CSO preferred class
10 structure mortality table used in place of a 2001 CSO mortality
11 table as provided in this section ~~shall be~~ **IS** treated as part of
12 the 2001 CSO mortality table only for purposes of reserve valuation
13 ~~pursuant to~~ **UNDER** section 838.

14 (3) For each plan of insurance with separate rates for
15 preferred and standard nonsmoker lives, an insurer may use the
16 super preferred nonsmoker, preferred nonsmoker, and residual
17 standard nonsmoker tables to substitute for the nonsmoker mortality
18 table found in the 2001 CSO mortality table to determine minimum
19 reserves. At the time of election and annually thereafter, except
20 for business valued under the residual standard nonsmoker table,
21 the appointed actuary shall certify both of the following:

22 (a) That the present value of death benefits over the next 10
23 years after the valuation date, using the anticipated mortality
24 experience without recognition of mortality improvement beyond the
25 valuation date for each class, is less than the present value of
26 death benefits using the valuation basic table corresponding to the
27 valuation table being used for that class.

1 (b) That the present value of death benefits over the future
2 life of the contracts, using anticipated mortality experience
3 without recognition of mortality improvement beyond the valuation
4 date for each class, is less than the present value of death
5 benefits using the valuation basic table corresponding to the
6 valuation table being used for that class.

7 (4) For each plan of insurance with separate rates for
8 preferred and standard smoker lives, an insurer may use the
9 preferred smoker and residual standard smoker tables to substitute
10 for the smoker mortality table found in the 2001 CSO mortality
11 table to determine minimum reserves. At the time of election and
12 annually thereafter, for business valued under the preferred smoker
13 table, the appointed actuary shall certify both of the following:

14 (a) That the present value of death benefits over the next 10
15 years after the valuation date, using the anticipated mortality
16 experience without recognition of mortality improvement beyond the
17 valuation date for each class, is less than the present value of
18 death benefits using the preferred smoker valuation basic table
19 corresponding to the valuation table being used for that class.

20 (b) That the present value of death benefits over the future
21 life of the contracts, using anticipated mortality experience
22 without recognition of mortality improvement beyond the valuation
23 date for each class, is less than the present value of death
24 benefits using the preferred smoker valuation basic table.

25 (5) Unless exempted by the ~~commissioner~~, **DIRECTOR**, every
26 authorized insurer using the 2001 CSO preferred class structure
27 mortality table shall file annually with the ~~commissioner~~,

1 DIRECTOR, with the NAIC, or with a statistical agent designated by
2 the NAIC and acceptable to the ~~commissioner~~DIRECTOR statistical
3 reports showing mortality and ~~such~~other information as the
4 ~~commissioner may consider~~DIRECTOR CONSIDERS necessary or expedient
5 for the administration of this section. The DIRECTOR SHALL
6 ESTABLISH THE form of the reports ~~shall be established by the~~
7 ~~commissioner~~.UNDER THIS SUBSECTION.

8 (6) THE USE OF THE 2001 CSO PREFERRED CLASS STRUCTURE
9 MORTALITY TABLE AS THE MINIMUM VALUATION STANDARD FOR POLICIES
10 ISSUED AFTER JUNE 30, 2004 AND BEFORE JANUARY 1, 2007 IS SUBJECT TO
11 BOTH OF THE FOLLOWING:

12 (A) THE CONSENT OF THE DIRECTOR. IN DETERMINING CONSENT, THE
13 DIRECTOR MAY RELY ON WHETHER CONSENT FOR THE USE OF THE 2001 CSO
14 PREFERRED CLASS STRUCTURE MORTALITY TABLE WAS GIVEN TO THE INSURER
15 BY THE COMMISSIONER OF THE INSURER'S STATE OF DOMICILE.

16 (B) THE USE IS NOT PERMITTED IF THE INSURER REPORTS IN ANY
17 STATUTORY FINANCIAL STATEMENT FOR A COINSURED POLICY OR PORTION OF
18 A POLICY COINSURED, EITHER OF THE FOLLOWING:

19 (i) IF THE MODE OF PAYMENT OF THE REINSURANCE PREMIUM IS LESS
20 FREQUENT THAN THE MODE OF PAYMENT OF THE POLICY PREMIUM, A RESERVE
21 CREDIT THAT EXCEEDS BY MORE THAN THE AMOUNT SPECIFIED IN THIS
22 SUBDIVISION AS "Y", THE GROSS RESERVE CALCULATED BEFORE
23 REINSURANCE. "Y" IS THE AMOUNT OF THE GROSS REINSURANCE PREMIUM
24 THAT PROVIDES COVERAGE FOR THE PERIOD FROM THE NEXT POLICY PREMIUM
25 DUE DATE TO THE EARLIER OF THE END OF THE POLICY YEAR AND THE NEXT
26 REINSURANCE PREMIUM DUE DATE, AND WOULD BE REFUNDED TO THE CEDING
27 ENTITY UPON THE TERMINATION OF THE POLICY.

1 (ii) IF THE MODE OF PAYMENT OF THE REINSURANCE PREMIUM IS MORE
2 FREQUENT THAN THE MODE OF PAYMENT OF THE POLICY PREMIUM, A RESERVE
3 CREDIT THAT IS LESS THAN THE GROSS RESERVE, CALCULATED BEFORE
4 REINSURANCE, BY AN AMOUNT THAT IS LESS THAN THE AMOUNT SPECIFIED IN
5 THIS SUBDIVISION AS "Z". "Z" IS THE AMOUNT OF THE GROSS REINSURANCE
6 PREMIUM THAT THE CEDING ENTITY WOULD NEED TO PAY THE ASSUMING
7 COMPANY TO PROVIDE REINSURANCE COVERAGE FROM THE PERIOD OF THE NEXT
8 REINSURANCE PREMIUM DUE DATE TO THE NEXT POLICY PREMIUM DUE DATE
9 MINUS ANY LIABILITY ESTABLISHED FOR THE PROPORTIONATE AMOUNT NOT
10 REMITTED TO THE REINSURER.

11 (7) FOR PURPOSES OF (6) (B), THE RESERVE FOR THE MEAN RESERVE
12 METHOD IS THE MEAN RESERVE MINUS THE DEFERRED PREMIUM ASSET, AND
13 THE RESERVE FOR THE MIDTERMINAL RESERVE METHOD INCLUDES THE
14 UNEARNED PREMIUM RESERVE. TO SATISFY SUBSECTION (6) (B), AN INSURER
15 MAY ESTIMATE AND ADJUST ITS ACCOUNTING ON AN AGGREGATE BASIS.