

Act No. 492
Public Acts of 2002
Approved by the Governor
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Senators Sanborn and Bullard

ENROLLED SENATE BILL No. 991

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 2103, 2111, 2117, 2118, 2121, 2930, and 2930a (MCL 500.2103, 500.2111, 500.2117, 500.2118, 500.2121, 500.2930, and 500.2930a), section 2103 as amended by 2001 PA 147, section 2111 as amended by 1996 PA 98, section 2117 as amended by 2001 PA 25, section 2118 as amended by 1988 PA 43, section 2121 as amended by 1998 PA 26, and section 2930a as amended by 1980 PA 461.

The People of the State of Michigan enact:

Sec. 2103. (1) "Eligible person", for automobile insurance, means a person who is an owner or registrant of an automobile registered or to be registered in this state or who holds a valid Michigan license to operate a motor vehicle, but does not include any of the following:

(a) A person who is not required to maintain security pursuant to section 3101, unless the person intends to reside in this state for 30 days or more and makes a written statement of that intention on a form approved by the commissioner.

(b) A person whose license to operate a vehicle is under suspension or revocation.

(c) A person who has been convicted within the immediately preceding 5-year period of fraud or intent to defraud involving an insurance claim or an application for insurance; or an individual who has been successfully denied, within the immediately preceding 5-year period, payment by an insurer of a claim in excess of \$1,000.00 under an automobile insurance policy, if there is evidence of fraud or intent to defraud involving an insurance claim or application.

(d) A person who, during the immediately preceding 3-year period, has been convicted under, or who has been subject to an order of disposition of the family division of circuit court for a violation of, any of the following:

(i) Section 324 or 325 of the Michigan penal code, 1931 PA 328, MCL 750.324 and 750.325; section 1 of former 1931 PA 214 or section 626c of the Michigan vehicle code, 1949 PA 300, MCL 257.626c; or under any other law of this state the violation of which constitutes a felony resulting from the operation of a motor vehicle.

(ii) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(iii) Section 617, 617a, 618, or 619 of the Michigan vehicle code, 1949 PA 300, MCL 257.617, 257.617a, 257.618, and 257.619.

(iv) Section 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.626; or for a similar violation under the laws of any other state or a municipality within or without this state.

(e) A person whose vehicle insured or to be insured under the policy fails to meet the motor vehicle safety requirements of sections 683 to 711 of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.711.

(f) A person whose policy of automobile insurance has been canceled because of nonpayment of premium or financed premium within the immediately preceding 2-year period, unless the premium due on a policy for which application has been made is paid in full before issuance or renewal of the policy.

(g) A person who fails to obtain or maintain membership in a club, group, or organization, if membership is a uniform requirement of the insurer as a condition of providing insurance, and if the dues, charges, or other conditions for membership are applied uniformly throughout this state, are not expressed as a percentage of premium, and do not vary with respect to the rating classification of the member except for the purpose of offering a membership fee to family units. Membership fees may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees.

(h) A person whose driving record for the 3-year period immediately preceding application for or renewal of a policy, has, pursuant to section 2119a, an accumulation of more than 6 insurance eligibility points.

(2) "Eligible person", for home insurance, means a person who is the owner-occupant or tenant of a dwelling of any of the following types: a house, a condominium unit, a cooperative unit, a room, or an apartment; or a person who is the owner-occupant of a multiple unit dwelling of not more than 4 residential units. Eligible person does not include any of the following:

(a) A person who has been convicted, in the immediately preceding 5-year period, of 1 or more of the following:

(i) Arson, or conspiracy to commit arson.

(ii) A crime under sections 72 to 77, 112, 211a, 377a, 377b, or 380 of the Michigan penal code, 1931 PA 328, MCL 750.72 to 750.77, 750.112, 750.211a, 750.377a, 750.377b, and 750.380.

(iii) A crime under section 92, 151, 157b, or 218 of the Michigan penal code, 1931 PA 328, MCL 750.92, 750.151, 750.157b, and 750.218, based upon a crime described in subparagraph (ii) committed by or on behalf of the person.

(b) A person who has been successfully denied, within the immediately preceding 5-year period, payment by an insurer of a claim under a home insurance policy based on evidence of arson, conspiracy to commit arson, fraud, or conspiracy to commit fraud, committed by or on behalf of the person.

(c) A person who insures or seeks to insure a dwelling that is being used for an illegal or demonstrably hazardous purpose.

(d) A person who refuses to purchase an amount of insurance equal to at least 80% of the replacement cost of the property insured or to be insured under a replacement cost policy.

(e) A person who refuses to purchase an amount of insurance equal to at least 100% of the market value of the property insured or to be insured under a repair cost policy.

(f) A person who refuses to purchase an amount of insurance equal to at least 100% of the actual cash value of the property insured or to be insured under a tenant or renter's home insurance policy.

(g) A person whose policy of home insurance has been canceled because of nonpayment of premium within the immediately preceding 2-year period, unless the premium due on the policy is paid in full before issuance or renewal of the policy.

(h) A person who insures or seeks to insure a dwelling, if the insured value is not any of the following:

(i) For a repair cost policy, at least \$15,000.00.

(ii) For a replacement policy, at least \$35,000.00 or another amount which the commissioner may establish biennially on and after January 1, 1983, pursuant to rules promulgated by the commissioner under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, based upon changes in applicable construction cost indices.

(i) A person who insures or seeks to insure a dwelling that has physical conditions that clearly present an extreme likelihood of a significant loss under a home insurance policy.

(j) A person whose real property taxes with respect to the dwelling insured or to be insured have been and are delinquent for 2 or more years at the time of renewal of, or application for, home insurance.

(k) A person who has failed to procure or maintain membership in a club, group, or organization, if membership is a uniform requirement of the insurer, and if the dues, charges, or other conditions for membership are applied uniformly throughout this state, are not expressed as a percentage of premium, and do not vary with respect to the rating classification of the member except for the purpose of offering a membership fee to family units. Membership fees may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees.

(3) "Home insurance" means any of the following, but does not include insurance intended to insure commercial, industrial, professional, or business property, obligations, or liabilities:

(a) Fire insurance for an insured's dwelling of a type described in subsection (2).

(b) If contained in or indorsed to a fire insurance policy providing insurance for the insured's residence, other insurance intended primarily to insure nonbusiness property, obligations, and liabilities.

(c) Other insurance coverages for an insured's residence as prescribed by rule promulgated by the commissioner pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A rule proposed for promulgation by the commissioner pursuant to this section shall be transmitted in advance to each member of the standing committee in the house and in the senate that has jurisdiction over insurance.

(4) "Insurance eligibility points" means all of the following:

(a) Points calculated, according to the following schedule, for convictions, determinations of responsibility for civil infractions, or findings of responsibility in probate court:

(i) For a violation of any lawful speed limit by more than 15 miles per hour, or careless driving, 4 points.

(ii) For a violation of any lawful speed limit by more than 10 miles per hour, but less than 16 miles per hour, 3 points.

(iii) For a violation of any lawful speed limit by 10 miles per hour or less, 2 points.

(iv) For a violation of any speed limit by 15 miles per hour or less on a roadway that had a lawfully posted maximum speed of 70 miles per hour as of January 1, 1974, 2 points.

(v) For all other moving violations pertaining to the operation of motor vehicles, 2 points.

(b) Points calculated, according to the following schedule, for determinations that the person was substantially at-fault, as defined in section 2104(4):

(i) For the first substantially at-fault accident, 3 points.

(ii) For the second and each subsequent substantially at-fault accident, 4 points.

(5) "Insurer" means an insurer authorized to transact in this state the kind or combination of kinds of insurance constituting automobile insurance or home insurance, as defined in this chapter.

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

(2) Classifications established pursuant to this section for automobile insurance shall be based only upon 1 or more of the following factors, which shall be applied by an insurer on a uniform basis throughout the state:

(a) With respect to all automobile insurance coverages:

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

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

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

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

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

(vi) Daily or weekly commuting mileage.

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

(viii) Amount of insurance.

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

(i) Earned income.

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

(iii) Coordination of benefits.

(iv) Use of a safety belt.

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

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

(ii) Vehicle make and model.

(iii) Vehicle design characteristics related to vehicle damageability.

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

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

(i) The course shall include a minimum of 8 hours of classroom instruction.

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

(A) The effects of aging on driving behavior.

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

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

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

(E) Accident prevention measures.

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

(G) Major driving hazards.

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

(3) Each insurer shall establish a secondary or merit rating plan for automobile insurance, other than comprehensive coverage. A secondary or merit rating plan required under this subsection shall provide for premium surcharges for any or all coverages for automobile insurance, other than comprehensive coverage, based upon any or all of the following, when that information becomes available to the insurer:

(a) Substantially at-fault accidents.

(b) Convictions for, determinations of responsibility for civil infractions for, or findings of responsibility in probate court for civil infractions for, violations under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750. However, beginning 90 days after the effective date of this sentence, an insured shall not be merit rated for a civil infraction under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750, for a period of time longer than that which the secretary of state's office carries points for that infraction on the insured's motor vehicle record.

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

(5) Notwithstanding other provisions of this chapter, automobile insurance risks may be grouped by territory.

(6) This section shall not be construed as limiting insurers or rating organizations from establishing and maintaining statistical reporting territories. This section shall not be construed to prohibit an insurer from establishing or maintaining, for automobile insurance, a premium discount plan for senior citizens in this state who are 65 years of age or older, if the plan is uniformly applied by the insurer throughout this state. If an insurer has not established and maintained a premium discount plan for senior citizens, the insurer shall offer reduced premium rates to senior citizens in this state who are 65 years of age or older and who drive less than 3,000 miles per year, regardless of statistical data.

(7) Classifications established pursuant to this section for home insurance other than inland marine insurance provided by policy floaters or endorsements shall be based only upon 1 or more of the following factors:

(a) Amount and types of coverage.

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

(c) Repairable structural defects reasonably related to risk.

(d) Fire protection class.

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

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

(g) Use of smoking materials within the structure.

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

(i) Availability of law enforcement or crime prevention services.

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

(9) An insurer may utilize factors in addition to those specified in this section, if the commissioner finds, after a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage innovation, would encourage insureds to minimize the risks of loss from hazards insured against, and would be consistent with the purposes of this chapter.

Sec. 2117. (1) As a condition of maintaining its certificate of authority, an insurer shall not refuse to insure, refuse to continue to insure, or limit the coverage available to an eligible person for home insurance, except in accordance with underwriting rules established pursuant to this section and section 2119. An insurer shall not establish underwriting rules for home insurance for contracts providing identical coverages that differ from those of any affiliate of the insurer.

(2) The underwriting rules that an insurer may establish for home insurance shall be based only on the following:

(a) Criteria identical to the standards set forth in section 2103(2).

(b) The physical condition of the property insured or to be insured, provided the underwriting rules are objective, are directly related to the perils insured against, and, without regard to the age of the structure, are based upon the specific provisions of a national, state, or local housing and safety code, a manufacturer's specification, or standards of similar specificity. If an applicant or insured obtains a certificate of compliance or habitation issued by an appropriate governmental unit or agency, certifying that a building is in substantial compliance with local housing and safety codes, the certificate creates a rebuttable presumption that the dwelling meets the insurer's underwriting rules relating to physical condition.

(c) For the renewal of a home insurance policy, the claim history of the person insured or to be insured during the 3-year period immediately preceding renewal of the policy, if that history is based on 1 or both of the following:

(i) Claim experience arising out of an insured's negligence.

(ii) Failure by the insured, after written notice from the insurer, to correct a physical condition that is directly related to a paid claim or that presents a clear risk of a significant loss under the property or liability portions of a homeowners policy.

(d) The relationship between market value and replacement cost of a dwelling insured or to be insured for a replacement cost policy, if a repair cost policy is offered by that insurer pursuant to subsection (3).

(e) For nonrenewal of home insurance policies, the claim history under the policy, excluding liability claims, as follows:

(i) If there has been 1 or more of the following:

(A) Three paid claims within the immediately preceding 3-year period totaling \$3,000.00 or more, exclusive of weather-related claims.

(B) Three paid claims within the immediately preceding 3-year period totaling \$4,000.00 or more, including weather-related claims.

(ii) A history of 3 or more paid claims within an immediately preceding 3-year period if the insurer meets all of the following:

(A) Has an underwriting rule under subparagraph (i) in effect.

(B) The underwriting rule under this subparagraph is for a paid claim history that totals not less than the amount in subparagraph (i)(A) exclusive of weather-related claims and totals not less than the amount in subparagraph (i)(B) including weather-related claims.

(C) The underwriting rule under this subparagraph applies to an insured who has had a home insurance policy with the insurer for a continuous minimum period of time as determined by the insurer that may be any period of time between 5 and 10 years.

(f) The number of residences within the dwelling are inconsistent with the policy forms approved by the commissioner for the insurer.

(g) The unoccupancy of a dwelling for more than 60 days, if there is evidence of an intent to vacate or keep the premises vacant or unoccupied, as to the applicant or insured.

(h) The existence of an adjacent physical hazard, if the hazard presents a significant risk of loss directly related to the perils insured or to be insured against for which a rate surcharge is not applicable. For purposes of this subdivision only, residential property or traffic patterns shall not be considered to cause a significant risk of loss. Nonrenewals based upon an adjacent physical hazard shall be due to a change in the hazard from that which existed at the original date of issuance of the policy.

(i) The failure of the insured or applicant to purchase an amount of insurance in excess of 80% of the replacement cost of the property to be insured under a replacement cost policy, if both of the following conditions are met:

(i) The purchase of an amount of insurance in excess of 80% of the replacement cost is a condition for sale of the policy.

(ii) The insurer offers in this state at least 1 form of a replacement cost policy for which the insurer requires only a minimum amount of insurance equal to 80% of the replacement cost of the dwelling as a condition of purchase.

(j) One or more incidents involving a threat, harassment, or physical assault by the insured or applicant for insurance on an insurer employee, agent, or agent employee while acting within the scope of his or her employment so long as a report of the incident was filed with an appropriate law enforcement agency.

(3) If an insurer establishes an underwriting rule based upon the relationship between the market value and replacement cost pursuant to subsection (2)(d), all the following shall apply as to the repair cost policy:

(a) The insurer shall offer for sale a repair cost policy with deductibles, terms and conditions, perils insured against, and types and amounts of coverage, which are substantially equivalent to the deductibles, terms and conditions, perils insured against, and types and amounts of coverage provided by the replacement cost policy of the insurer at least equivalent to the HO-2 form replacement cost policy filed and in effect in this state for the principal rating organization as of October 1, 1979.

(b) The insurer shall not utilize an underwriting rule based upon the relationship between the market value and replacement cost for the repair cost policy.

(4) The rates of an insurer for a repair cost policy shall be established so that the premium for a repair cost policy shall not exceed 105% of the premium for an amount of insurance equal to 80% of the replacement cost of the dwelling under the equivalent replacement cost policy described in subsection (3)(a). Premiums for dwellings with identical replacement costs shall vary on a schedule determined by the insurer in accordance with the market value of the dwellings.

(5) Off-premises claims may be aggregated for the purposes of subsection (2)(f), irrespective of the location of the insured dwelling. All claims other than off-premises losses utilized in a determination for purposes of subsection (2)(f) shall be aggregated only as to an insured dwelling. The minimum dollar amounts prescribed in subsection (2)(f)(i) shall be adjusted on January 1, 2006, and on January 1 every sixth year thereafter, to reflect the aggregate annual average percentage change in the consumer price index since the previous adjustment, rounded to the nearest hundred dollars. As used in this subsection, "consumer price index" means the consumer price index for all urban consumers in the U.S. city average, as most recently reported by the United States department of labor, bureau of labor statistics, and after certification by the commissioner in an administrative bulletin.

Sec. 2118. (1) As a condition of maintaining its certificate of authority, an insurer shall not refuse to insure, refuse to continue to insure, or limit coverage available to an eligible person for automobile insurance, except in accordance with underwriting rules established pursuant to this section and sections 2119 and 2120.

(2) The underwriting rules that an insurer may establish for automobile insurance shall be based only on the following:

(a) Criteria identical to the standards set forth in section 2103(1).

(b) The insurance eligibility point accumulation in excess of the amounts established by section 2103(1) of a member of the household of the eligible person insured or to be insured, if the member of the household usually accounts for 10% or more of the use of a vehicle insured or to be insured. For purposes of this subdivision, a person who is the principal driver for 1 automobile insurance policy shall be rebuttably presumed not to usually account for more than 10% of the use of other vehicles of the household not insured under the policy of that person.

(c) With respect to a vehicle insured or to be insured, substantial modifications from the vehicle's original manufactured state for purposes of increasing the speed or acceleration capabilities of the vehicle.

(d) Failure by the person to provide proof that insurance required by section 3101 was maintained in force with respect to any vehicle which was both owned by the person and driven or moved by the person or by a member of the household of the person during the 6-month period immediately preceding application. Such proof shall take the form of a certification by the person on a form provided by the insurer that the vehicle was not driven or moved without maintaining the insurance required by section 3101 during the 6-month period immediately preceding application.

(e) Type of vehicle insured or to be insured, based on 1 of the following, without regard to the age of the vehicle:

(i) The vehicle is of limited production or of custom manufacture.

(ii) The insurer does not have a rate lawfully in effect for the type of vehicle.

(iii) The vehicle represents exposure to extraordinary expense for repair or replacement under comprehensive or collision coverage.

(f) Use of a vehicle insured or to be insured for transportation of passengers for hire, for rental purposes, or for commercial purposes. Rules under this subdivision shall not be based on the use of a vehicle for volunteer or charitable purposes or for which reimbursement for normal operating expenses is received.

(g) Payment of a minimum deposit at the time of application or renewal, not to exceed the smallest deposit required under an extended payment or premium finance plan customarily used by the insurer.

(h) For purposes of requiring comprehensive deductibles of not more than \$150.00, or of refusing to insure if the person refuses to accept a required deductible, the claim experience of the person with respect to comprehensive coverage.

(i) Total abstinence from the consumption of alcoholic beverages except when such beverages are consumed as part of a religious ceremony. However, an insurer shall not utilize an underwriting rule based on this subdivision unless the insurer has been authorized to transact automobile insurance in this state prior to January 1, 1981, and has consistently utilized such an underwriting rule as part of the insurer's automobile insurance underwriting since being authorized to transact automobile insurance in this state.

(j) One or more incidents involving a threat, harassment, or physical assault by the insured or applicant for insurance on an insurer employee, agent, or agent employee while acting within the scope of his or her employment so long as a report of the incident was filed with an appropriate law enforcement agency.

Sec. 2121. (1) If an insurer uses an inspection of a dwelling to determine whether the insured or applicant is an eligible person for home insurance, criteria for selecting dwellings for inspection shall not be based upon any of the following:

(a) Location, whether by political subdivision, census tract, zip code, neighborhood, or area which may be described as a block, set of blocks, or by street coordinates.

(b) The age of the dwelling or the age of its plumbing, heating, electrical, or structural components, or of any other components which form a part of the dwelling.

(c) The market value of a dwelling, unless the value is used as a minimum value above which all dwellings will be inspected.

(d) The amount of insurance, unless the amount is used as a minimum above which all dwellings will be inspected.

(e) Race, color, creed, marital status, sex, national origin, residence, age, disability, or lawful occupation.

(2) If an insurer establishes an inspection program that provides for inspection of a portion of its existing business on a periodic basis, the inspection program shall not be based upon any of the criteria in subsection (1)(a), (c), or (e).

(3) Criteria for selecting dwellings for inspection shall be filed with the commissioner for informational purposes only. The commissioner, after a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, shall disapprove the further use of inspection criteria, if the commissioner finds that the criteria are inconsistent with the provisions of this chapter.

(4) There shall be no civil liability, other than contractual liability where applicable, on the part of, and a cause of action of any nature shall not arise against, the commissioner, an insurer, an inspection bureau, or an authorized representative, agent, employee, affiliate of the commissioner, an insurer, or an inspection bureau or any licensed insurance agent, for acts or omissions related solely to the physical condition of the property in an inspection conducted for insurance purposes pursuant to this chapter.

Sec. 2930. (1) The premium for basic property insurance of any risk by the pool shall be equal to the rate for identical insurance established by a licensed rating organization for identical insurance within this state plus a uniform surcharge approved by the commissioner.

(2) The pool shall establish rates for any basic property insurance that is without rates established by a licensed rating organization or that the pool, with the approval of the commissioner, determines should be otherwise rated in order to better effectuate the purposes of this chapter. The pool shall file with the commissioner for his or her approval each rate and each policy form to be issued by it. The pool, acting as agent for participating members, shall file policy forms for basic property insurance to be issued by participating members under the provisions of this chapter. Rates and policy forms shall be filed in accordance with this chapter as the commissioner designates.

Sec. 2930a. (1) Except as otherwise provided in subsection (4)(c), rates charged in each territory by the pool for home insurance shall be equal to the weighted average of the 10 voluntary market insurer groups with the largest premium volume in this state. Rating territories for home insurance established by the pool shall be the same as those utilized

by the largest number of insurers by premium volume writing home insurance in this state. Any change in the rates for an HO-2 form replacement cost policy by those insurers that would produce a change in excess of 5% in the HO-2 pool rates for any territory shall be reflected as soon as reasonably practicable in the HO-2 pool rates. HO-2 pool rates shall be reviewed at least annually, but shall not be revised more often than quarterly.

(2) In addition to the provisions of subsection (1), the premium established for the repair cost policy offered by the pool shall not exceed the premium for an amount of insurance equal to 80% of the replacement cost of the property under the replacement cost policy of the pool equivalent to the HO-2 form replacement cost policy filed and in effect in this state for a licensed rating organization. Premiums for dwellings with identical replacement costs shall vary on a schedule determined by the pool in accordance with the insured value of the dwelling.

(3) The pool or any other association or organization designated by the pool shall develop statistical plans, rating rules, classifications, territory rating plans, and manuals of classification for home insurance issued on behalf of the pool consistent with this section.

(4) The pool shall offer at least the following home insurance policy forms:

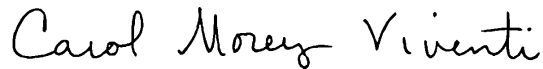
(a) An HO-2 form replacement cost policy equivalent to the HO-2 form replacement cost policy filed and in effect in this state for a licensed rating organization.

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

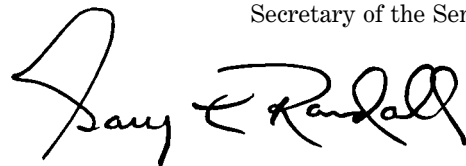
(c) An HO-3 form replacement cost policy equivalent to the HO-3 form replacement cost policy filed and in effect in this state for a licensed rating organization. The rates established by the pool for the HO-3 form replacement cost policy offered pursuant to this subdivision shall be calculated to generate a total premium sufficient to cover the expected losses and expenses of the pool related to the HO-3 replacement cost policy that the pool will likely incur during the period for which the premium is applicable. The premium shall include an amount to cover incurred but not reported losses for the period and shall be adjusted for any excess or deficient premiums from previous periods. Excesses or deficiencies from previous periods shall be fully adjusted in a single period or over several periods in a manner provided for in the plan of operation. Rates established by the pool under this subdivision shall not be based upon the weighted average methodology provided for in subsection (1).

(5) Rates and policy forms shall be filed in accordance with such provisions of this chapter as the commissioner designates.

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



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.