

SENATE BILL NO. 500

September 10, 2019, Introduced by Senators BRINKS, MOSS and ALEXANDER and referred to the Committee on Insurance and Banking.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 2108 and 2478 (MCL 500.2108 and 500.2478),
section 2108 as amended by 2019 PA 21 and section 2478 as amended
by 1984 PA 7, and by adding section 2108a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1** Sec. 2108. (1) On the effective date of a manual of
2 classification, manual of rules and rates, rating plan, or

1 modification of a manual of classification, manual of rules and
2 rates, or rating plan that an insurer proposes to use for home
3 insurance, the insurer shall file the manual or plan with the
4 director. For automobile insurance, an insurer shall file a manual
5 or plan described in this subsection in accordance with subsection
6 (6). Each filing under this subsection must state the character and
7 extent of the coverage contemplated. An insurer that is subject to
8 this chapter and that maintains rates in any part of this state
9 shall at all times maintain rates in effect for all eligible
10 persons meeting the underwriting criteria of the insurer.

11 (2) An insurer may satisfy its obligation to make filings
12 under subsection (1) by becoming a member of, or a subscriber to, a
13 rating organization licensed under chapter 24 or chapter 26 that
14 makes the filings, and by filing with the director a copy of its
15 authorization of the rating organization to make the filings on its
16 behalf. This chapter does not require an insurer to become a member
17 of or a subscriber to a rating organization. An insurer may file
18 and use deviations from filings made on its behalf. The deviations
19 are subject to this chapter.

20 (3) A filing under this section must be accompanied by a
21 certification by or on behalf of the insurer that, to the best of
22 the insurer's information and belief, the filing conforms to the
23 requirements of this chapter.

24 (4) A filing under this section must include information that
25 supports the filing with respect to the requirements of section
26 2109. The information may include 1 or more of the following:

27 (a) The experience or judgment of the insurer or rating
28 organization making the filing.

29 (b) The interpretation of the insurer or rating organization

1 of any statistical data it relies on.

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

3 (d) Any other relevant information.

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

20 (6) For automobile insurance, an insurer shall file a manual
21 or plan in accordance with chapter 24, except that the manual or
22 plan must remain on file for a waiting period of 90 days before it
23 becomes effective, which period may not be extended by the
24 director, and the waiting period applies regardless of whether
25 supporting information is required by the director under section
26 2406(1). Upon written application by the insurer, the director may
27 authorize a filing that he or she has reviewed to become effective
28 before expiration of the waiting period.

29 (7) An insurer shall not make, issue, or renew a contract or

1 policy except in accordance with filings that are in effect for the
2 insurer under this chapter.

3 (8) A filing under this chapter must specify that the insurer
4 will not refuse to insure, refuse to continue to insure, or limit
5 the amount of coverage available because of the location of the
6 risk, and that the insurer recognizes those practices to constitute
7 redlining. An insurer shall not engage in redlining as described in
8 this subsection.

9 (9) **An insurer that knowingly includes false or misleading**
10 **information in a filing under this section shall pay a civil fine**
11 **not to exceed \$100,000.00 to be recovered by the director and paid**
12 **into the general fund.**

13 **Sec. 2108a. Beginning January 1, 2020 and each January 1**
14 **thereafter, the department shall post on the department's website a**
15 **comparison of insurance rates, based on filings under sections 2108**
16 **and 2406, for those lines of insurance that the director determines**
17 **are of most interest to individual purchasers of insurance. The**
18 **posting under this section must be designed to provide useful**
19 **information to consumers so that they may make informed comparisons**
20 **of rates. The posting must include sample policy rates or premiums**
21 **for sample consumers.**

22 **Sec. 2478. (1) Subject to ~~subsection~~ subsections (3) and (4),**
23 **the ~~commissioner~~ director may, if he or she finds that any person**
24 **~~or organization~~ a person has violated a provision of this chapter,**
25 **~~previous to~~ before the date of his or her finding, impose a civil**
26 **fine of not more than \$300.00 for each violation, and if the**
27 **violation is ~~wilful~~, willful, the ~~commissioner~~ director may impose**
28 **a civil fine of not more than \$1,500.00 for each violation. A civil**
29 **fine ~~shall~~ must not be imposed for an offense that was committed**

1 more than 12 months ~~prior to~~**before** the date of the ~~commissioner's~~
 2 **director's** findings. A fine collected under this subsection ~~shall~~
 3 **must** be turned over to the state treasurer and credited to the
 4 general fund of ~~the~~**this** state.

5 (2) The ~~commissioner~~**director** may suspend the license of ~~any a~~
 6 rating organization or insurer ~~which~~**that** fails to comply with an
 7 order of the ~~commissioner~~**director** within the time specified by the
 8 order, or any extension of the order ~~which~~**that** the ~~commissioner~~
 9 ~~may grant,~~**director grants,** but the suspension ~~shall~~**does** not
 10 affect the validity or continued effectiveness of rates previously
 11 filed and effective. The ~~commissioner~~**director** shall not suspend
 12 the license of ~~any a~~ rating organization or insurer for failure to
 13 comply with an order until the time prescribed for an appeal from
 14 the order has expired, or, if an appeal has been taken, until the
 15 order has been affirmed. The ~~commissioner~~**director** may determine
 16 when a suspension of license ~~shall become~~**becomes** effective, and
 17 the suspension ~~shall remain~~**remains** in effect for the ~~period fixed~~
 18 ~~by him or her,~~**time ordered by the director** unless ~~he or she~~**the**
 19 **director** modifies or rescinds the suspension, or until the order
 20 ~~upon on~~ which the suspension is based is modified, rescinded, or
 21 reversed.

22 (3) A civil fine ~~shall~~**must** not be imposed and a license ~~shall~~
 23 **must** not be suspended or revoked except ~~upon on~~ a written order of
 24 the ~~commissioner,~~**director** specifying the alleged violation and
 25 stating his or her findings, made after a hearing held ~~upon on~~ not
 26 less than 10 days' written notice to the person or organization. ~~An~~
 27 **Except as otherwise provided in subsection (4), an** order issued by
 28 the ~~commissioner pursuant to~~**director under** this section ~~shall~~**must**
 29 not require the payment of civil fines exceeding \$10,000.00.

1 (4) Both of the following apply to a violation of section
2 2474:

3 (a) For a person who willfully withholds information, the
4 person shall pay a civil fine not to exceed \$5,000.000 for each 30-
5 day period that the person violates section 2474 as described in
6 this subdivision. A civil fine under this subdivision must not
7 exceed \$100,000.00 to be recovered by the director and paid into
8 the general fund.

9 (b) For a person who knowingly gives false or misleading
10 information, the person shall pay a civil fine not to exceed
11 \$100,000.00 to be recovered by the director and paid into the
12 general fund.