

# HOUSE BILL No. 4617

May 17, 2017, Introduced by Reps. Hammoud, Wittenberg, Geiss, Gay-Dagnogo and Chirkun and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2027, 2111, and 2151 (MCL 500.2027, 500.2111, and 500.2151), section 2027 as amended by 1998 PA 26, section 2111 as amended by 2012 PA 441, and section 2151 as added by 2012 PA 165, and by adding section 2027a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2027. Unfair methods of competition and unfair or  
2 deceptive acts or practices in the business of insurance include:  
3           (a) Refusing to insure, ~~or~~ refusing to continue to insure, or  
4 limiting the amount of coverage available to an individual or risk  
5 because of any of the following:  
6           (i) Race, color, creed, marital status, sex, or national  
7 origin, except that marital status may be used to classify

1 individuals or risks for the purpose of insuring family units.

2 (ii) The residence, age, disability, or lawful occupation of  
3 the individual or the location of the risk, unless there is a  
4 reasonable relationship between the residence, age, disability, or  
5 lawful occupation of the individual or the location of the risk and  
6 the extent of the risk or the coverage issued or to be issued, but  
7 subject to subparagraph (iii) **AND SECTION 2027A**. This section ~~shall~~  
8 **DOES** not prohibit an insurer from specializing in or limiting its  
9 transactions of insurance to certain occupational groups, types, or  
10 risks as approved by the ~~commissioner of insurance~~. **DIRECTOR**. The  
11 ~~commissioner~~ **DIRECTOR** shall approve the specialization for an  
12 insurer licensed to do business in this state and whose articles of  
13 incorporation contained a provision on July 1, 1976, requiring that  
14 specialization.

15 (iii) For property insurance, the location of the risk, unless  
16 there is a statistically significant relationship between the  
17 location of the risk and a risk of loss due to fire within the area  
18 in which the insured property is located. As used in this  
19 subparagraph, "area" means a single zip code number under the  
20 zoning improvement plan of the United States ~~postal service~~. **POSTAL**  
21 **SERVICE**.

22 (b) Refusing to insure or refusing to continue to insure an  
23 individual or risk solely because the insured or applicant was  
24 previously denied insurance coverage by an insurer.

25 (c) Charging a different rate for the same coverage based on  
26 sex, marital status, age, residence, location of risk, disability,  
27 or lawful occupation of the risk unless the rate differential is

1 based on sound actuarial principles, a reasonable classification  
 2 system, and is related to the actual and credible loss statistics  
 3 or, **FOR NEW COVERAGES**, reasonably anticipated experience, ~~in the~~  
 4 ~~ease of new coverages. This~~ **BUT SUBJECT TO SECTION 2027A. EXCEPT AS**  
 5 **PROVIDED IN SECTION 2027A, THIS** subdivision ~~shall~~ **DOES** not apply if  
 6 the rate has previously been approved by the ~~commissioner~~ **DIRECTOR**.

7 **SEC. 2027A. (1) IT IS AN UNFAIR METHOD OF COMPETITION AND AN**  
 8 **UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSURANCE**  
 9 **FOR AN AUTOMOBILE INSURER TO REFUSE TO INSURE, REFUSE TO CONTINUE**  
 10 **TO INSURE, LIMIT THE AMOUNT OF COVERAGE AVAILABLE, OR CHARGE A**  
 11 **DIFFERENT RATE OR PREMIUM FOR THE SAME COVERAGE BASED ON ANY OF THE**  
 12 **FOLLOWING FOR AN INSURED OR APPLICANT:**

13 (A) **EMPLOYMENT.**

14 (B) **TRADE.**

15 (C) **BUSINESS.**

16 (D) **OCCUPATION.**

17 (E) **PROFESSION.**

18 (F) **EDUCATION LEVEL.**

19 (G) **CREDIT HISTORY OR LACK OF CREDIT HISTORY.**

20 (2) **SUBSECTION (1) (A) TO (F) DOES NOT PROHIBIT A DISCOUNT**  
 21 **BASED ON EXPENSE SAVINGS RELATED TO GROUP, BLANKET, OR FRANCHISE**  
 22 **AUTOMOBILE INSURANCE.**

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

1 requirements of this section.

2 (2) Classifications established under this section for  
3 automobile insurance ~~shall~~**MUST** be based only on 1 or more of the  
4 following factors, which ~~shall~~**MUST** be applied by an insurer on a  
5 uniform basis throughout this state:

6 (a) With respect to all automobile insurance coverages:

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

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

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

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

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

19 (vi) Daily or weekly commuting mileage.

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

24 (viii) Amount of insurance.

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

27 (i) Earned income.

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

3           (iii) Coordination of benefits.

4           (iv) Use of a safety belt.

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

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

11           (ii) Vehicle make and model.

12           (iii) Vehicle design characteristics related to vehicle  
13 damageability.

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

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

20           (i) The course ~~shall~~**MUST** include a minimum of 8 hours of  
21 classroom instruction.

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

24           (A) The effects of aging on driving behavior.

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

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

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

1 (E) Accident prevention measures.

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

3 (G) Major driving hazards.

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

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

13 (a) Substantially at-fault accidents.

14 (b) Convictions for, determinations of responsibility for  
15 civil infractions for, or findings of responsibility in probate  
16 court for civil infractions for violations under chapter VI of the  
17 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750.  
18 However, an insured shall not be merit rated for a civil infraction  
19 under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL  
20 257.601 to 257.750, for a period of time longer than that which the  
21 secretary of state's office carries points for that infraction on  
22 the insured's motor vehicle record.

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

26 (5) ~~Notwithstanding other provisions of this chapter, AN~~  
27 **INSURER SHALL NOT ESTABLISH OR MAINTAIN RATES OR RATING**

1 **CLASSIFICATIONS FOR** automobile insurance ~~risks may be grouped by~~  
2 **BASED ON THE** territory **IN WHICH THE INSURED RESIDES OR WORKS.**

3 (6) This section does not limit insurers or rating  
4 organizations from establishing and maintaining statistical  
5 reporting territories. This section does not prohibit an insurer  
6 from establishing or maintaining, for automobile insurance, a  
7 premium discount plan for senior citizens in this state who are 65  
8 years of age or older, if the plan is uniformly applied by the  
9 insurer throughout this state. If an insurer has not established  
10 and maintained a premium discount plan for senior citizens, the  
11 insurer shall offer reduced premium rates to senior citizens in  
12 this state who are 65 years of age or older and who drive less than  
13 3,000 miles per year, regardless of statistical data.

14 (7) Classifications established under this section for home  
15 insurance other than inland marine insurance provided by policy  
16 floaters or endorsements ~~shall~~ **MUST** be based only on 1 or more of  
17 the following factors:

18 (a) Amount and types of coverage.

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

21 (c) Repairable structural defects reasonably related to risk.

22 (d) Fire protection class.

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

25 (f) Loss experience of the insured, based on prior claims  
26 attributable to factors under the control of the insured that have  
27 been paid by an insurer. An insured's failure, after written notice

1 from the insurer, to correct a physical condition that presents a  
2 risk of repeated loss shall be considered a factor under the  
3 control of the insured for purposes of this subdivision.

4 (g) Use of smoking materials within the structure.

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

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

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

10 (9) An insurer may use factors in addition to those permitted  
11 by this section for insurance if the plan is consistent with the  
12 purposes of this act and reflects reasonably anticipated reductions  
13 or increases in losses or expenses.

14 Sec. 2151. As used in this chapter:

15 (a) "Adverse action" means an increase in any charge for, or a  
16 reduction or other adverse or unfavorable change in the terms of  
17 coverage or amount of, any personal insurance, existing or applied  
18 for.

19 (b) "Consumer reporting agency" means any person ~~which,~~ **THAT,**  
20 for monetary fees or dues or on a cooperative nonprofit basis,  
21 regularly engages in whole or in part in the practice of assembling  
22 or evaluating consumer credit information or other information on  
23 consumers for the purpose of furnishing consumer reports to third  
24 parties.

25 (c) "Credit information" means any credit-related information  
26 derived from a credit report, found on a credit report itself, or  
27 provided on an application for personal insurance. Information that



1 is not credit-related ~~shall~~ **IS** not be considered credit  
2 information, regardless of whether it is contained in a credit  
3 report or in an application, or is used to calculate an insurance  
4 score.

5 (d) "Credit report" means any written, oral, or other  
6 communication of information by a consumer reporting agency bearing  
7 on a consumer's credit worthiness, credit standing, or credit  
8 capacity that is used or expected to be used or collected in whole  
9 or in part for the purpose of serving as a factor in the rating of  
10 personal insurance.

11 (e) "Insurance score" means a number or rating that is derived  
12 from an algorithm, computer application, model, or other process  
13 that is based in whole or in part on credit information for the  
14 purposes of predicting the future insurance loss exposure of an  
15 individual applicant or insured.

16 (f) "Personal insurance" means property/casualty insurance  
17 written for personal, family, or household use, including  
18 ~~automobile,~~ home, motorcycle, mobile home, noncommercial dwelling  
19 fire, boat, personal watercraft, snowmobile, and recreational  
20 vehicle, whether written on an individual, group, franchise,  
21 blanket policy, or similar basis. **PERSONAL INSURANCE DOES NOT**  
22 **INCLUDE AUTOMOBILE INSURANCE.**