



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2203

Introduced 2/8/2023, by Rep. Will Guzzardi

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/143.19.4 new

Amends the Illinois Insurance Code. Provides that the amendatory Act may be referred to as the Motor Vehicle Insurance Fairness Act. Provides that no insurer or insurance company group shall refuse to issue or renew a private passenger motor vehicle liability policy based in whole or in part on specified prohibited underwriting or rating factors. Sets forth factors that are prohibited with respect to automobile liability insurance underwriting and rating. Provides that every insurer or insurance company group selling automobile liability insurance in the State shall demonstrate that its marketing, underwriting, rating, claims handling, fraud investigations, and any algorithm or model used for those business practices do not disparately impact any group of customers based on race, color, national or ethnic origin, religion, sex, sexual orientation, disability, gender identity, or gender expression. Provides that no rate shall be approved or remain in effect that is excessive, inadequate, unfairly discriminatory, or otherwise in violation of the provisions. Provides that every insurer that desires to change any rate shall file a complete rate application with the Director of Insurance. Provides that all information provided to the Director under the provisions shall be available for public inspection. Provides that any person may initiate or intervene in any proceeding permitted or established under the provisions and challenge any action of the Director under the provisions. Provides that the Department of Insurance shall adopt rules. Provides that all insurers subject to the provisions shall be assessed a fee of 0.05% of their total earned premium from the prior calendar year, and that the fee shall be payable to the Department no later than July 1 of each calendar year and shall be used by the Department to implement the provisions.

LRB103 25405 BMS 51752 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. This Act may be referred to as the Motor Vehicle  
5 Insurance Fairness Act.

6 Section 5. The Illinois Insurance Code is amended by  
7 adding Section 143.19.4 as follows:

8 (215 ILCS 5/143.19.4 new)

9 Sec. 143.19.4. Motor vehicle insurance fairness.

10 (a) Definition. As used in this Section, "proceeding"  
11 includes the filing of any rate, rule, or form and any  
12 rulemaking conducted pursuant to this Section.

13 (b) Prohibitions; refusal to insure.

14 (1) No insurer or insurance company group shall refuse  
15 to issue or renew a private passenger motor vehicle  
16 liability policy, bond, or any other insurance based on  
17 the ownership or operation of a motor vehicle based in  
18 whole or in part on any of the prohibited underwriting and  
19 rating factors set forth in subsection (c), or use those  
20 factors to determine the terms of coverage or placement in  
21 a particular affiliate within an insurance company group.

22 (2) Classification plans, rating plans, rating tier

1 placement factors, scoring models, rules, rates, premiums,  
2 or any other method of establishing the premium to be paid  
3 by an automobile insurance policyholder or covered driver,  
4 and the modification thereof, based in whole or in part on  
5 any of the prohibited underwriting and rating factors in  
6 subsection (c) are unfairly discriminatory.

7 (c) Prohibited factors. With respect to automobile  
8 liability insurance underwriting and rating, the use of the  
9 following factors shall be prohibited:

10 (1) sex or gender;

11 (2) marital status;

12 (3) race;

13 (4) creed;

14 (5) national origin;

15 (6) religion;

16 (7) age;

17 (8) employment or occupation;

18 (9) education level attained;

19 (10) home ownership;

20 (11) consumer credit information or other credit-based  
21 score;

22 (12) the absence of prior insurance;

23 (13) the amount or provider of prior insurance  
24 coverage;

25 (14) any measure of a consumer's price elasticity of  
26 demand; and

1           (15) the level of income or wealth.

2           (d) Prohibited business practices. Every insurer or  
3 insurance company group selling automobile liability insurance  
4 in Illinois shall demonstrate that its marketing,  
5 underwriting, rating, claims handling, fraud investigations,  
6 and any algorithm or model used for those business practices  
7 do not disparately impact any group of customers based on  
8 race, color, national or ethnic origin, religion, sex, sexual  
9 orientation, disability, gender identity, or gender  
10 expression.

11           (e) Prior approval of rates.

12           (1) No rate shall be approved or remain in effect that  
13 is excessive, inadequate, unfairly discriminatory, or  
14 otherwise in violation of this Section. In considering  
15 whether a rate is excessive, inadequate, or unfairly  
16 discriminatory, no consideration shall be given to the  
17 degree of competition and the Director shall consider  
18 whether the rate mathematically reflects the insurance  
19 company's investment income.

20           (2) Every insurer that desires to change any rate  
21 shall file a complete rate application with the Director.  
22 A complete rate application shall include all data  
23 necessary to justify the proposed rate and such other  
24 information as the Director may require. The applicant  
25 shall have the burden of proving that the requested rate  
26 change is justified and meets the requirements of this

1       Section.

2           (3) The Director shall notify the public of any  
3           application by an insurer for a rate change. The  
4           application shall be deemed approved 60 days after public  
5           notice unless:

6                   (A) the Director disapproves the application;

7                   (B) a consumer or the consumer's representative  
8                   requests a hearing within 45 days after the public  
9                   notice and the Director grants the hearing, or the  
10                   Director determines not to grant the hearing and  
11                   issues written findings in support of that decision;  
12                   or

13                   (C) the Director, on the Director's own motion,  
14                   determines to hold a hearing. If the proposed rate  
15                   adjustment exceeds 7% of the then-applicable rate for  
16                   personal lines insurance or 15% for commercial lines  
17                   insurance, then the Director must hold a hearing upon  
18                   a timely request. If the application is incomplete or  
19                   otherwise subject to disapproval, then the Director  
20                   may extend the application review process by up to 60  
21                   days with the agreement of the applicant.

22           (f) Right of the public to inspect rates. All information  
23           provided to the Director pursuant to this Section shall be  
24           available for public inspection.

25           (g) Right of the public to participate.

26                   (1) Any person may initiate or intervene in any

1 proceeding permitted or established pursuant to this  
2 Section and challenge any action of the Director under  
3 this Section.

4 (2) The Director or a court shall award reasonable  
5 advocacy and witness fees and expenses to any person who  
6 demonstrates that the person represents the interests of  
7 consumers and that the person made a substantial  
8 contribution to the adoption of any order, regulation, or  
9 decision by the Director or a court. Where such advocacy  
10 occurs in response to a rate application, the award shall  
11 be paid by the applicant.

12 (h) Rules.

13 (1) The Department shall, no later than 90 days after  
14 the effective date of this amendatory Act of the 103rd  
15 General Assembly, adopt rules that guide the filing and  
16 approval of rates, rules, and forms pursuant to this  
17 Section. The Director shall develop formulas for  
18 evaluating rates and any rules or forms that impact rates  
19 that will be used to determine whether to approve or  
20 disapprove any filing.

21 (2) Until the rules described in paragraph (1) have  
22 taken effect, no insurer or insurance advisory  
23 organization may file for a change in any rate, rule, or  
24 form that would result in a rate increase. If, before the  
25 adoption of the rules described in paragraph (1), an  
26 insurer asserts that it would not be able to earn a

1 reasonable rate of return without an increase, then it may  
2 request a hearing. If it is determined after a hearing  
3 that a rate increase is needed to earn a reasonable rate of  
4 return, then the insurer shall be allowed to make a change  
5 that affords it the minimum increase required to earn a  
6 reasonable rate of return.

7 (3) The Department shall, no later than 180 days after  
8 the effective date of this amendatory Act of the 103rd  
9 General Assembly, establish rules that implement the  
10 testing of insurer business practices for compliance with  
11 this Section.

12 (i) No taxpayer cost. All insurers subject to the  
13 provisions of this Section shall be assessed a fee of 0.05% of  
14 their total earned premium from the prior calendar year. The  
15 fee shall be payable to the Department no later than July 1 of  
16 each calendar year and shall be used by the Department to  
17 implement the provisions of this Section.