The People of the State of Michigan enact:

432.103 Additional definitions.

Sec. 3. (1) "Educational organization" means an organization within this state that is organized not for pecuniary profit, whose primary purpose is educational in nature and designed to develop the capabilities of individuals by instruction in any public or private elementary or secondary school that complies with the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, or any private or public college or university that is organized not for pecuniary profit and that is approved by the state board of education.

(2) "Fraternal organization" means an organization within this state, except a college fraternity or sorority, that is organized not for pecuniary profit; that is a branch, lodge, or chapter of a national or state organization; and that exists for the common purpose, brotherhood, or other interests of its members.

(3) "Licensee" means a person or qualified organization licensed under this act.

(4) "Member" means an individual who qualified for membership in a qualified organization under its bylaws, articles of incorporation, charter, rules, or other written statement.

(5) "Person" means a natural person, firm, association, corporation, or other legal entity.

(6) "Qualified organization" means a bona fide religious, educational, service, senior citizens, fraternal, or veterans' organization that operates without profit to its members and that either has been in existence continuously as an organization for a period of 5 years or is exempt from taxation under 26 USC 501(c). Qualified organization does not include a candidate committee, political committee, political party committee, ballot question committee, independent committee, or any other committee as defined by, and organized under, the Michigan campaign finance act, 1976 PA 388, MCL 169.201 to 169.282.

(7) "Religious organization" means any of the following:

(a) An organization, church, body of communicants, or group that is organized not for pecuniary profit and that gathers in common membership for mutual support and edification in piety, worship, and religious observances.

(b) A society of individuals that is organized not for pecuniary profit and that unites for religious purposes at a definite place.

(c) A church related private school that is organized not for pecuniary profit.

(8) "Senior citizens organization" means an organization within this state that is organized not for pecuniary profit, that consists of at least 15 members who are 60 years of age or older, and that exists for their mutual support and for the advancement of the causes of elderly or retired persons.

(9) "Service organization" means either of the following:

(a) A branch, lodge, or chapter of a national or state organization that is organized not for pecuniary profit and that is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a fraternal, civic, or service purpose within the state.

(b) A local civic organization that is organized not for pecuniary profit; that is not affiliated with a state or national organization; that is recognized by resolution adopted by the local governmental subdivision in which the organization conducts its principal activities; whose constitution, charter, articles of incorporation, or bylaws contain a provision for the perpetuation of the organization as a nonprofit organization; whose entire assets are used for charitable purposes; and whose constitution, charter, articles of incorporation, or bylaws contain a provision that all assets, real property, and personal property shall revert to the benefit of the local governmental subdivision that granted the resolution upon dissolution of the organization.

(10) "Veterans' organization" means an organization within this state, or a branch, lodge, or chapter within this state of a state organization or of a national organization chartered by the congress of the United States, that is organized not for pecuniary profit, the membership of which consists of individuals who were members of the armed services or forces of the United States.

432.103a Definitions; E to S.

Sec. 3a. (1) "Equipment" means the objects and mechanical or electromechanical devices used to determine or assist in determining the winners of prizes at events licensed under this act.

(2) "Event" means each occasion of a bingo, millionaire party, raffle, charity game, or numeral game licensed under this act.

(3) "Large bingo" means a series of bingo occasions that occur on a regular basis during which the total value of all prizes awarded through bingo at a single occasion does not exceed $3,500.00 and the total value of all prizes awarded for 1 game does not exceed $1,100.00, except that a prize awarded through a Michigan progressive jackpot bingo game is not subject to these limitations.

(4) "Large raffle" means an event where the total value of all prizes awarded through raffle drawings exceed $500.00 per occasion.

(5) "Location" means a building, enclosure, part of a building or enclosure, or a distinct portion of real estate that is used for the purpose of conducting events licensed under this act. Location also means all components or buildings that comprise 1 architectural entity or that serve a unified functional purpose.

(6) "Manufacturer" means a person licensed under section 11c who manufactures numeral game tickets for sale to suppliers for use in an event.

(7) "Michigan progressive jackpot" means a bingo game conducted in conjunction with a licensed large bingo occasion, where the value of the prize is carried forward to the next bingo occasion if no player bingos in a predetermined number of allowable calls. Michigan progressive jackpot may include bingo games conducted by more than 1 licensee that are linked together for the purpose of a common jackpot prize and consolation prize as prescribed by the commissioner.

(8) "Millionaire party" means an event at which wagers are placed upon games of chance customarily associated with a gambling casino through the use of imitation money or chips that have a nominal value equal to or greater than the value of the currency for which they can be exchanged.

(9) "Numeral game" means the random resale of a series of numeral game tickets by a qualified organization under a numeral game license or in conjunction with a licensed millionaire party or large raffle.

(10) "Numeral game ticket" means a paper strip on which preprinted numerals are covered by folding the strip and banding the folded strip with a separate piece of paper, if upon breaking the paper strip that bands the ticket, the purchaser discovers whether the ticket is a winning ticket and the purchaser may be awarded a merchandise prize.

(11) "Occasion" means the hours of the day for which a license is issued.

(12) "Principal officer" means the highest ranking officer of the qualified organization according to its written constitution, charter, articles of incorporation, or bylaws.

(13) "Prize" means anything of value, including, but not limited to, money or merchandise that is given to a player for attending or winning a game at an event. A nonmonetary item is valued at its retail value. Prize does not include advertising material given away by a qualified organization in accordance with rules promulgated under this act.

(14) "Single gathering" means 1 scheduled assembly or meeting with a specified beginning and ending time that is conducted or sponsored by the qualified organization. Single gathering does not include the regular operating hours of a club or similar facility and does not include a meeting conducted solely for the purpose of conducting a raffle.

(15) "Small bingo" means a series of bingo occasions that occur on a regular basis during which the total value of all prizes awarded through bingo at a single occasion does not exceed $300.00 and the total value of all prizes awarded for a single bingo game does not exceed $25.00.

(16) "Small raffle" means an event during which the total value of all prizes awarded through raffle drawings does not exceed $500.00 during 1 occasion.

(17) "Special bingo" means a single or consecutive series of bingo occasions during which the total value of all prizes awarded through bingo at a single occasion does not exceed $3,500.00 and the total value of all prizes awarded for a single bingo game does not exceed $1,100.00.

(18) "Supplier" means a person licensed under this act to rent, sell, or lease equipment or to sell charity game or numeral game tickets to qualified organizations licensed under this act.

432.105 Large or small bingo license; reissuance; expiration; limitations.

Sec. 5. (1) A large or small bingo license may be reissued annually upon the submitting of an application for renewal provided by the commissioner and upon the licensee's payment of the appropriate fee. A small or large bingo license expires at 12 midnight on the last day of February.

(2) A qualified organization may hold more than 1 bingo license.

(3) A small or large bingo license shall be valid for not more than 1 day per week.

(4) Not more than 14 bingo licenses shall be issued for a 7-day period at any 1 location.

(5) A special bingo license may be issued for up to 7 consecutive days.

(6) A qualified organization may be issued up to 4 special bingo licenses per calendar year.

432.105c Michigan progressive jackpot bingo.

Sec. 5c. (1) The value of a prize or consolation prize awarded during a Michigan progressive jackpot bingo game is not subject to the prize limitations of section 3a(3).

(2) The prize awarded to the winner of a Michigan progressive jackpot bingo game may be a predetermined amount that shall not exceed $500.00 or 50% of the card sales on the first bingo occasion.

(3) If a Michigan progressive jackpot prize is not won in the predetermined number of allowable calls, the game shall be played to its conclusion for a predetermined consolation prize that shall not exceed $100.00.

(4) If a Michigan progressive jackpot prize is not won in the predetermined number of allowable calls, the entire prize amount shall be carried forward to the next scheduled bingo occasion.

(5) When a Michigan progressive jackpot prize has been carried forward from a previous bingo occasion, the new prize amount shall include the entire amount carried forward, plus 50% of the card sales for the Michigan progressive jackpot bingo game for the current bingo occasion.

(6) No arrangement of numbers other than a coverall pattern shall be required or allowed to win a Michigan progressive jackpot bingo game.

(7) A Michigan progressive jackpot bingo game shall be played only on bingo cards that are approved by the commissioner.

(8) All cards for the Michigan progressive jackpot bingo game shall be sold by the licensee at a uniform price with no discount for the purchase of more than 1 card.

(9) Whenever a Michigan progressive jackpot bingo game is conducted, the licensee shall post a notice and announce the following information:

(a) The maximum number of allowable calls in which the player must complete a coverall pattern in order to win a Michigan progressive jackpot prize on that occasion.

(b) The prize amount offered to the winner of the Michigan progressive jackpot game and the consolation prize for that bingo occasion.

(c) The date the next bingo occasion will occur in that particular progression if the jackpot is not awarded.

(10) A Michigan progressive jackpot bingo game shall be conducted in the following manner:

(a) On the first bingo occasion a player shall not be required to obtain bingo in less than the number of allowable calls as prescribed by the commissioner to win the jackpot prize.

(b) The number of allowable calls required to win the jackpot shall be increased by 1 number on each successive bingo occasion for that licensee in a particular progression.

(c) Once a Michigan progressive jackpot bingo game has been started, the progressive jackpot prize shall be offered at each successive bingo occasion for that licensee until the jackpot prize has been won.

(d) A Michigan progressive jackpot progression shall only be terminated or interrupted by 1 of the following:

(*i*) Determining a winner of the Michigan progressive jackpot prize.

(*ii*) Expiration, suspension, revocation, or surrender of the license to conduct bingo.

(*iii*) A previously announced scheduled interruption, such as a legal holiday or other temporary closing.

(*iv*) A valid emergency condition under which the licensee is unable to conduct the game.

(11) Only 1 Michigan progressive jackpot bingo game shall be in progress at 1 time per bingo occasion.

(12) Prizes for a Michigan progressive jackpot bingo game shall be awarded as follows:

(a) The Michigan progressive jackpot prize shall be awarded to the player or players who complete the coverall pattern within the predesignated number of allowable calls.

(b) A consolation prize shall be awarded on each bingo occasion at which a Michigan progressive jackpot game is played, except on the bingo occasion that the jackpot prize is won.

(c) The consolation prize shall be awarded to the player or players who complete a coverall pattern on each bingo occasion, regardless of the number of calls in excess of the predesignated number of allowable calls required to win the Michigan progressive jackpot bingo game.

(13) The jackpot prize shall be awarded by a check written from the licensee's financial account or in the manner prescribed by the commissioner.

(14) Except as otherwise provided in this section, all other provisions of this act or rules promulgated under this act apply to the conduct of a Michigan progressive jackpot game.

(15) If an organization's bingo license will expire or is suspended, revoked, or surrendered before the last bingo occasion of a particular progression, the jackpot prize shall be awarded and the winner determined on the last authorized bingo occasion regardless of the number of calls required to determine the winner.

432.108 Disposition of fees and revenue; expenses; limitation.

Sec. 8. All fees and revenue collected by the commissioner or bureau under this act shall be paid into the state lottery fund. All necessary expenses incurred by the bureau in the administration and enforcement of any activity authorized by this act and in the initiation, implementation, and ongoing operation of any activity authorized by this act shall be financed from the state lottery fund. The amount of these necessary expenses shall not exceed the amount of revenues received from the sale of charity game tickets and all fees collected under this act. At the end of each fiscal year all money, including interest, in the state lottery fund which is attributable to fees and revenue collected under this act but which has not been expended under this section shall be deposited in the state general fund.

432.110 Management of event; compensation; equipment; advertising.

Sec. 10. (1) Only a member of the qualified organization shall participate in the management of an event.

(2) A person shall not receive any commission, salary, pay, profit, or wage for participating in the management or operation of bingo, a millionaire party, a raffle, or a charity game except as provided by rule promulgated under this act.

(3) Except by special permission of the commissioner, a licensee shall conduct bingo or a millionaire party only with equipment that it owns, uses under a bureau-approved rental contract, or is purchasing or renting at a reasonable rate from a supplier.

(4) A licensee shall not advertise bingo except to the extent and in the manner permitted by rule promulgated under this act. If the commissioner permits a licensee to advertise bingo, the licensee shall indicate in the advertisement the purposes for which the net proceeds will be used by the licensee.

(5) The holder of a millionaire party license shall not advertise the event, except to the extent and in the manner permitted by rule promulgated under this act. If the commissioner permits a licensee to advertise the event, the licensee shall indicate in the advertising the purposes for which the net proceeds will be used by the licensee.

432.110a Conduct of millionaire party.

Sec. 10a. All of the following apply in the conduct of a millionaire party:

(a) A person less than 18 years of age shall not be permitted to wager.

(b) A wager may not be placed on a contest other than a game of chance taking place at the location and during the time period approved for the event, and in no event shall a wager be placed upon an athletic event or upon a game involving personal skill.

(c) The licensee under the millionaire party license shall be responsible for insuring that the requirements of this section are met.

(d) A qualified organization shall not receive more than $15,000.00 in exchange for imitation money or chips in 1 day of a millionaire party.

432.111b Supplier of equipment, charity game tickets, or numeral game tickets.

Sec. 11b. (1) Each applicant for a license or renewal of a license to operate as a supplier of equipment, charity game tickets, or numeral game tickets to qualified organizations licensed under this act shall submit a written application to the bureau on a form prescribed by the commissioner.

(2) The applicant shall pay an annual license fee of $300.00 at the time of the application.

(3) A supplier's license expires at 12 midnight on September 30 of each year.

(4) The commissioner shall require suppliers authorized to sell charity game tickets, numeral game tickets, or both, to post a performance bond of not less than $50,000.00 and not greater than $1,000,000.00.

(5) A supplier shall remit to the bureau an amount equal to the qualified organization's purchase price of the charity game tickets less an amount that shall not be less than the sum of $.008 for each ticket sold plus 1.0% of the total resale value for all charity game tickets sold.

(6) For each numeral game sold, the supplier shall issue to the licensed organization an invoice listing the manufacturer and serial number of each game.

(7) The fee collected by a supplier from the qualified organization for each game of numeral tickets sold shall be $5.00 per 1,000 tickets or any portion of 1,000 tickets.

(8) The fees collected by the supplier for each numeral game sold shall be remitted to the bureau by the fifteenth day of the month following the month in which the numeral game is sold. A late fee of 25% of the amount due may be assessed by the commissioner against any supplier who fails to remit the fees by the required filing date.

(9) A supplier shall only display, offer for sale, sell, or otherwise make available to a qualified organization numeral game tickets that have been obtained from a manufacturer.

(10) A person who is directly or indirectly connected to the sale, rental, or distribution of bingo or millionaire party equipment, or the sale of charity game tickets or numeral game tickets, or a person residing in the same household as the supplier shall not be involved directly or indirectly with the rental or leasing of a facility used for an event.

(11) A supplier shall submit to the bureau a report as required by the commissioner regarding the sale or rental of equipment and the sale of charity game tickets and numeral game tickets.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 428]

(HB 6089)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 2b (MCL 205.92b), as added by 2004 PA 172.

The People of the State of Michigan enact:

205.92b Additional definitions.

Sec. 2b. As used in this act:

(a) "Alcoholic beverage" means a beverage suitable for human consumption that contains 1/2 of 1% or more of alcohol by volume.

(b) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(c) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(d) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.

(e) "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the purchaser of tangible personal property or services. Delivery charges include, but are not limited to, transportation, shipping, postage, handling, crating, and packing. Beginning September 1, 2004, delivery charges do not include the charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

(f) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that is all of the following:

(*i*) Required to be labeled as a dietary supplement identifiable by the "supplemental facts" box found on the label as required by 21 CFR 101.36.

(*ii*) Contains 1 or more of the following dietary ingredients:

(A) A vitamin.

(B) A mineral.

(C) An herb or other botanical.

(D) An amino acid.

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient listed in sub-subparagraphs (A) through (E).

(*iii*) Intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in 1 of those forms, is not represented as conventional food or for use as a sole item of a meal or of the diet.

(g) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addresses on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients, including tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material but not including multiple items of printed material delivered to a single address.

(h) "Drug" means a compound, substance, or preparation, or any component of a compound, substance, or preparation, other than food or food ingredients, dietary supplements, or alcoholic beverages, intended for human use that is 1 or more of the following:

(*i*) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or in any of their supplements.

(*ii*) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

(*iii*) Intended to affect the structure or any function of the body.

(i) "Durable medical equipment" means equipment for home use, other than mobility enhancing equipment, dispensed pursuant to a prescription, including repair or replacement parts for that equipment, that does all of the following:

(*i*) Can withstand repeated use.

(*ii*) Is primarily and customarily used to serve a medical purpose.

(*iii*) Is not useful generally to a person in the absence of illness or injury.

(*iv*) Is not worn in or on the body.

(j) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(k) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase or extend. This definition applies only to leases and rentals entered into after September 1, 2004 and has no retroactive impact on leases and rentals that existed on that date. Lease or rental does not include the following:

(*i*) A transfer of possession or control of tangible personal property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.

(*ii*) A transfer of possession or control of tangible personal property under an agreement requiring transfer of title upon completion of the required payments and payment of an option price that does not exceed $100.00 or 1% of the total required payments, whichever is greater.

(*iii*) The provision of tangible personal property along with an operator for a fixed or indeterminate period of time, where that operator is necessary for the equipment to perform as designed. To be necessary, an operator must do more than maintain, inspect, or set up the tangible personal property.

(*iv*) An agreement covering motor vehicles or trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in 26 USC 7701(h)(1).

(*l*) "Mobility enhancing equipment" means equipment, other than durable medical equipment or a motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer, dispensed pursuant to a prescription, including repair or replacement parts for that equipment, that is all of the following:

(*i*) Primarily and customarily used to provide or increase the ability to move from 1 place to another and is appropriate for use at home or on a motor vehicle.

(*ii*) Not generally used by a person with normal mobility.

(m) "Prescription" means an order, formula, or recipe, issued in any form of oral, written, electronic, or other means of transmission by a licensed physician or other health professional as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501.

(n) "Prewritten computer software" means computer software, including prewritten upgrades, that is delivered by any means and that is not designed and developed by the author or other creator to the specifications of a specific purchaser. Prewritten computer software includes all of the following:

(*i*) Any combination of 2 or more prewritten computer software programs or portions of prewritten computer software programs.

(*ii*) Computer software designed and developed by the author or other creator to the specifications of a specific purchaser if it is sold to a person other than that specific purchaser.

(*iii*) The modification or enhancement of prewritten computer software or portions of prewritten computer software where the modification or enhancement is designed and developed to the specifications of a specific purchaser unless there is a reasonable, separately stated charge or an invoice or other statement of the price is given to the purchaser for the modification or enhancement. If a person other than the original author or creator modifies or enhances prewritten computer software, that person is considered to be the author or creator of only that person's modifications or enhancements.

(o) "Prosthetic device" means a replacement, corrective, or supportive device, other than contact lenses and dental prosthesis, dispensed pursuant to a prescription, including repair or replacement parts for that device, worn on or in the body to do 1 or more of the following:

(*i*) Artificially replace a missing portion of the body.

(*ii*) Prevent or correct a physical deformity or malfunction of the body.

(*iii*) Support a weak or deformed portion of the body.

(p) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 429]

(HB 6150)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 18103, 18105, and 18115 (MCL 333.18103, 333.18105, and 333.18115), section 18103 as amended by 1993 PA 79, section 18105 as amended by 1989 PA 262, and section 18115 as added by 1988 PA 421, and by adding sections 16605 and 16620.

The People of the State of Michigan enact:

333.16605 Use of words, titles, or letters.

Sec. 16605. The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the following terms and in a way prescribed in this part: "dentist", "doctor of dental surgery", "oral and maxillofacial surgeon", "orthodontist", "prosthodontist",

"periodontist", "endodontist", "oral pathologist", "pediatric dentist", "dental hygienist", "registered dental hygienist", "dental assistant", "registered dental assistant", "r.d.a.", "d.d.s.", "d.m.d.", and "r.d.h.".

333.16620 Terms of office.

Sec. 16620. The terms of office of individual members of the board and task force created under this part, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.

333.18103 Michigan board of counseling; creation; membership; terms of office.

Sec. 18103. (1) The Michigan board of counseling is created in the department. The board shall consist of the following 11 voting members who shall meet the requirements of part 161:

(a) Six members of the board shall be engaged in the practice of counseling and shall consist of: 3 members who are engaged primarily in providing counseling techniques, behavior modification techniques, or preventive techniques to clients; 2 members who are engaged primarily in teaching, training, or research in counseling; and 1 member who is engaged primarily in the administration of counseling services.

(b) Four members of the general public.

(c) One member who is a statutorily regulated mental health professional. As used in this subdivision, "statutorily regulated mental health professional" means any of the following: a psychiatrist, psychologist, substance abuse counselor, marriage and family therapist, or social worker.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

333.18105 Practice of counseling; conditions; use of words, titles, or letters.

Sec. 18105. (1) A licensee shall not perform any acts, tasks, or functions within the practice of counseling unless he or she is trained to perform such acts, tasks, or functions.

(2) Effective October 1, 1990, a person shall not engage in the practice of counseling unless licensed or otherwise authorized under this article.

(3) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "licensed professional counselor", "licensed counselor", "professional counselor", and "l.p.c.".

333.18115 Practice of statutorily regulated profession or occupation not limited; definition; applicability of part; use of word "counselor."

Sec. 18115. (1) This article does not limit an individual in, nor prevent an individual from, the practice of a statutorily regulated profession or occupation if counseling is part of the services provided by that profession or occupation, and the individual does not hold himself or herself out as a counselor regulated under this article. As used in this subsection, "statutorily regulated profession or occupation" includes, but is not limited to, all of the following: a physician, attorney, marriage and family therapist, debt management counselor, social worker, social services technician, licensed psychologist, limited licensed psychologist, temporary limited licensed psychologist, or school counselor.

(2) This part does not apply to any of the following:

(a) An ordained member of the clergy if counseling is incidental to his or her religious duties performed under the auspices or recognition of a church, denomination, religious association, or sect, that has tax exempt status pursuant to section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, if the member of the clergy does not hold himself or herself out as a counselor licensed under this article.

(b) An individual who performs volunteer services for a public or private nonprofit organization, church, or charity, if the individual is approved by the organization or agency for which the services are rendered.

(c) An individual who is employed by or who volunteers to work in a program licensed by the office of substance abuse services.

(d) A member of any other profession whose practice may include counseling principles, methods, or procedures from practicing his or her profession as long as he or she is trained in that profession and does not hold himself or herself out as a counselor providing counseling. As used in this subdivision, "profession" includes, but is not limited to, the fields of human resources development and organizational development.

(3) Notwithstanding section 18105(3), this part does not prohibit the use of the word "counselor" without the qualifying words "licensed" or "professional" used in conjunction with the word "counselor", except as otherwise provided by law.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 430]

(HB 6164)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 30307 (MCL 324.30307), as amended by 2004 PA 325.

The People of the State of Michigan enact:

324.30307 Hearing; location; notice; approval or disapproval of permit application; appeal; legal action; request and fee for notification of pending permit applications; biweekly list of applications; effect of ordinance regulating wetlands; review of permit application by local unit of government; effect of failure to approve or disapprove within time period; recommendations; notice of permit issuance.

Sec. 30307. (1) Within 60 days after receipt of the completed application and fee, the department may hold a hearing. If a hearing is held, it shall be held in the county where the wetland to which the permit is to apply is located. Notice of the hearing shall be made in the same manner as for the promulgation of rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may approve or disapprove a permit application without a public hearing unless a person requests a hearing in writing within 20 days after the mailing of notification of the permit application as required by subsection (3) or unless the department determines that the permit application is of significant impact so as to warrant a public hearing.

(2) The action taken by the department on a permit application under this part and part 13 may be appealed pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A property owner may, after exhaustion of administrative remedies, bring appropriate legal action in a court of competent jurisdiction.

(3) A person who desires notification of pending permit applications may make a written request to the department accompanied by an annual fee of $25.00, which shall be credited to the general fund of the state. The department shall prepare a biweekly list of the applications made during the previous 2 weeks and shall promptly mail copies of the list for the remainder of the calendar year to the persons who requested notice. The biweekly list shall state the name and address of each applicant, the location of the wetland in the proposed use or development, including the size of both the proposed use or development and of the wetland affected, and a summary statement of the purpose of the use or development.

(4) A local unit of government may regulate wetland within its boundaries, by ordinance, only as provided under this part. This subsection is supplemental to the existing authority of a local unit of government. An ordinance adopted by a local unit of government pursuant to this subsection shall comply with all of the following:

(a) The ordinance shall not provide a different definition of wetland than is provided in this part, except that a wetland ordinance may regulate wetland of less than 5 acres in size.

(b) If the ordinance regulates wetland that is smaller than 2 acres in size, the ordinance shall comply with section 30309.

(c) The ordinance shall comply with sections 30308 and 30310.

(d) The ordinance shall not require a permit for uses that are authorized without a permit under section 30305, and shall otherwise comply with this part.

(5) Each local unit of government that adopts an ordinance regulating wetlands under subsection (4) shall notify the department.

(6) A local unit of government that adopts an ordinance regulating wetlands shall use an application form supplied by the department, and each person applying for a permit shall make application directly to the local unit of government. Upon receipt, the local unit of government shall forward a copy of each application along with any state fees that may have been submitted under section 30306 to the department. The department shall begin reviewing the application as provided in this part. The local unit of government shall review the application pursuant to its ordinance and shall modify, approve, or deny the

application within 90 days after receipt. If a local unit of government does not approve or disapprove the permit application within the time period provided by this subsection, the permit application shall be considered approved, and the local unit of government shall be considered to have made the determinations as listed in section 30311. The denial of a permit shall be accompanied by a written statement of all reasons for denial. The failure to supply complete information with a permit application may be reason for denial of a permit. If requested, the department shall inform a person whether or not a local unit of government has an ordinance regulating wetlands. If the department receives an application with respect to a wetland located in a local unit of government that has an ordinance regulating wetlands, the department immediately shall forward the application to the local unit of government, which shall modify, deny, or approve the application under this subsection. The local unit of government shall notify the department of its decision. The department shall proceed as provided in this part.

(7) If a local unit of government does not have an ordinance regulating wetlands, the department shall promptly send a copy of the permit application to the local unit of government where the wetland is located. The local unit of government may review the application; may hold a hearing on the application; may recommend approval, modification, or denial of the application to the department or may notify the department that the local unit of government declines to make a recommendation. The recommendation of the local unit of government, if any, shall be made and returned to the department at any time within 45 days after the local unit of government's receipt of the permit application.

(8) In addition to the requirements of subsection (7), the department shall notify the local unit of government that the department has issued a permit under this part within the jurisdiction of that local unit of government within 15 days of issuance of the permit. The department shall enclose a copy of the permit with the notice.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 431]

(HB 6165)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 30313b.

The People of the State of Michigan enact:

324.30313b Minor permit revisions.

Sec. 30313b. (1) The department may make minor revisions in a permit issued under this part if all of the following apply:

(a) The project is in compliance with the permit and this part.

(b) The minor revisions are requested by the permittee in writing.

(c) The request is accompanied by a fee of $250.00.

(d) If the request is for a transfer of the permit, the request is accompanied by a written agreement between the current and new owners or operators containing a specific date for transfer of responsibility, coverage, and liability under the permit.

(2) The department shall approve or deny the request within 20 business days. However, if the only minor revision requested is a transfer under subsection (4)(a), the department shall approve or deny the request within 10 business days. If the department fails to approve or deny the request within the time required by this subsection, the department shall refund the fee.

(3) If the department determines that none of the changes requested are minor revisions, the department shall retain the fee but the permittee may apply the fee toward a new permit for a project at that site.

(4) As used in this section, "minor revision" means either of the following with respect to a permit issued under this part:

(a) A transfer.

(b) A revision that does not increase the overall impact of a project on wetlands and that is within the scope of the project as described in the original permit.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 432]

(HB 6248)

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," (MCL 500.100 to 500.8302) by adding section 126.

The People of the State of Michigan enact:

500.126 Waiver of customer liability agreement; definitions.

Sec. 126. (1) A waiver of customer liability agreement is not insurance or the business of insurance and is not subject to this act.

(2) As used in this section:

(a) "Service provider" means a public or private provider of electricity, natural gas, water, sewer, solid waste collection, or any other similar service, and any provider of communications services involving the transmission of data or any other information or signals utilizing any medium or method, including, but not limited to, cable or broadband service, IP-enabled voice service, cellular or mobile service, or any other similar service.

(b) "Waiver of customer liability agreement" means an optional agreement between a service provider and a customer of the service provider under which the service provider agrees, in return for a specified charge payable by the customer to the service provider, to waive all or a portion of the customer's liability to the service provider for incurred charges during a defined period in the event of any 1 or more of the following: the customer's call to active military service; involuntary unemployment; death; disability; hospitalization; marriage; divorce; evacuation; displacement due to natural disaster or other cause; qualification for family leave; or similar qualifying event or condition. A waiver of customer liability may be contained in the agreement under which the service provider provides services to the customer or in a separate agreement between the service provider and the customer.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 433]

(HB 5408)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending sections 43510, 43511, 43513, and 43516 (MCL 324.43510, 324.43511, 324.43513, and 324.43516), sections 43510 and 43516 as amended by 2004 PA 129, section 43511 as added by 1995 PA 57, and section 43513 as amended by 1998 PA 129.

The People of the State of Michigan enact:

324.43510 Carrying or transporting firearm, slingshot, bow and arrow, crossbow or trap; license required; exception; applicability to taking of wild animal.

Sec. 43510. (1) Subject to subsection (2) and except as provided in section 43513, a person shall not carry or transport a firearm, slingshot, bow and arrow, crossbow, or a trap while in any area frequented by wild animals unless that person has in his or her possession a license as required under this part.

(2) This act or a rule promulgated or order issued by the department or the commission under this act shall not be construed to prohibit a person from transporting a pistol or carrying a loaded pistol, whether concealed or not, if either of the following applies:

(a) The person has in his or her possession a license to carry a concealed pistol under 1927 PA 372, MCL 28.421 to 28.435.

(b) The person is authorized under the circumstances to carry a concealed pistol without obtaining a license to carry a concealed pistol under 1927 PA 372, MCL 28.421 to 28.435, as provided for under any of the following:

(*i*) Section 12a of 1927 PA 372, MCL 28.432a.

(*ii*) Section 227, 227a, 231, or 231a of the Michigan penal code, 1931 PA 328, MCL 750.227, 750.227a, 750.231, and 750.231a.

(3) Subsection (2) does not authorize an individual to take or attempt to take a wild animal except as provided by law.

324.43511 Deer or elk season; transporting or possessing shotgun or rifle; license required; exception.

Sec. 43511. (1) Subject to subsection (2), and except as provided in section 43513, during the open season for the taking of deer or elk with a firearm, a person shall not transport or possess a shotgun with buckshot, slug load, ball load, or cut shell or a rifle other than a .22 caliber rim fire, unless the person has in his or her possession a license to hunt deer or elk with a firearm.

(2) Subsection (1) does not apply during muzzle-loading deer season.

324.43513 Carrying, transporting, or possessing firearm, slingshot, bow and arrow, or crossbow; hunting license not required; carrying or possessing unloaded weapon.

Sec. 43513. (1) A person may carry, transport, or possess a firearm without a hunting license if the firearm is unloaded in both barrel and magazine and either enclosed in a case or carried in a vehicle in a location that is not readily accessible to any occupant of the vehicle. A person may carry, transport, or possess a slingshot, bow and arrow, or crossbow without a hunting license if the slingshot, bow, or crossbow is unstrung, enclosed in a case, or carried in a vehicle in a location that is not readily accessible to any occupant of the vehicle.

(2) Regardless of whether the person has a license or it is open season for the taking of game, a person may carry, transport, possess or discharge a firearm, a bow and arrow, or a crossbow if all of the following apply:

(a) The person is not taking or attempting to take game but is engaged in 1 or more of the following activities:

(*i*) Target practice using an identifiable, artificially constructed target or targets.

(*ii*) Practice with silhouettes, plinking, skeet, or trap.

(*iii*) Sighting-in the firearm, bow and arrow, or crossbow.

(b) The person is, or is accompanied by or has the permission of, either of the following:

(*i*) The owner of the property on which the activity under subdivision (a) is taking place.

(*ii*) The lessee of that property for a term of not less than 1 year.

(c) The owner or lessee of the property does not receive remuneration for the activity under subdivision (a).

(3) A person may carry or possess an unloaded weapon at any time if the person is traveling to or from or participating in a historical reenactment.

324.43516 Hunting, fur harvester, or fishing license; carrying license; exhibiting license on demand; firearm deer license with unused kill tag; exhibiting tag on request.

Sec. 43516. (1) A person who has been issued a hunting, fur harvester's, or fishing license shall carry the license and shall exhibit the license upon the demand of a conservation officer, a law enforcement officer, or the owner or occupant of the land if either or both of the following apply:

(a) The person is hunting, trapping, or fishing.

(b) Subject to section 43510(2) and except as provided in section 43513, the person is in possession of a firearm or other hunting or trapping apparatus or fishing apparatus in an area frequented by wild animals or fish, respectively.

(2) Subject to section 43510(2) and except as provided in section 43513, a person shall not carry or possess afield a shotgun with buckshot, slug loads, or ball loads; a bow and arrow; a muzzle-loading rifle or black powder handgun; or a centerfire handgun or centerfire rifle during firearm deer season unless that person has a valid firearm deer license, with an unused kill tag, if issued, issued in his or her name. The person shall exhibit an unused kill tag, if issued, upon the request of a conservation officer, a law enforcement officer, or the owner or occupant of the land.

This act is ordered to take immediate effect.

Approved October 3, 2006.

Filed with Secretary of State October 5, 2006.

[No. 434]

(HB 6090)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 1a (MCL 205.51a), as added by 2004 PA 173.

The People of the State of Michigan enact:

205.51a Additional definitions.

Sec. 1a. As used in this act:

(a) "Alcoholic beverage" means a beverage suitable for human consumption that contains 1/2 of 1% or more of alcohol by volume.

(b) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(c) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(d) "Delivered electronically" means delivered from the seller to the purchaser by means other than tangible storage media.

(e) "Delivery charges" means charges by the seller for preparation and delivery to a location designated by the purchaser of tangible personal property or services. Delivery charges include, but are not limited to, transportation, shipping, postage, handling, crating, and packing. Beginning September 1, 2004, delivery charges do not include the charges for delivery of direct mail if the charges are separately stated on an invoice or similar billing document given to the purchaser.

(f) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that is all of the following:

(*i*) Required to be labeled as a dietary supplement identifiable by the "supplemental facts" box found on the label as required by 21 CFR 101.36.

(*ii*) Contains 1 or more of the following dietary ingredients:

(A) A vitamin.

(B) A mineral.

(C) An herb or other botanical.

(D) An amino acid.

(E) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake.

(F) A concentrate, metabolite, constituent, extract, or combination of any ingredient listed in sub-subparagraphs (A) through (E).

(*iii*) Intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in 1 of those forms, is not represented as conventional food or for use as a sole item of a meal or of the diet.

(g) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients, including tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material, but not including multiple items of printed material delivered to a single address.

(h) "Drug" means a compound, substance, or preparation, or any component of a compound, substance, or preparation, other than food or food ingredients, dietary supplements, or alcoholic beverages, intended for human use that is 1 or more of the following:

(*i*) Recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or in any of their supplements.

(*ii*) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease.

(*iii*) Intended to affect the structure or any function of the body.

(i) "Durable medical equipment" means equipment for home use, other than mobility enhancing equipment, dispensed pursuant to a prescription, including repair or replacement parts for that equipment, that does all of the following:

(*i*) Can withstand repeated use.

(*ii*) Is primarily and customarily used to serve a medical purpose.

(*iii*) Is not useful generally to a person in the absence of illness or injury.

(*iv*) Is not worn in or on the body.

(j) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(k) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration and may include future options to purchase or extend. This definition applies only to leases and rentals entered into after September 1, 2004 and has no retroactive impact on leases and rentals that existed on that date. Lease or rental does not include the following:

(*i*) A transfer of possession or control of tangible personal property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments.

(*ii*) A transfer of possession or control of tangible personal property under an agreement requiring transfer of title upon completion of the required payments and payment of an option price that does not exceed $100.00 or 1% of the total required payments, whichever is greater.

(*iii*) The provision of tangible personal property along with an operator for a fixed or indeterminate period of time, where that operator is necessary for the equipment to perform as designed. To be necessary, an operator must do more than maintain, inspect, or set up the tangible personal property.

(*iv*) An agreement covering motor vehicles or trailers if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in section 7701(h)(1) of the internal revenue code, 26 USC 7701.

(*l*) "Mobility enhancing equipment" means equipment, other than durable medical equipment or a motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer, dispensed pursuant to a prescription, including repair or replacement parts for that equipment, that is all of the following:

(*i*) Primarily and customarily used to provide or increase the ability to move from 1 place to another and is appropriate for use at home or on a motor vehicle.

(*ii*) Not generally used by a person with normal mobility.

(m) "Prescription" means an order, formula, or recipe, issued in any form of oral, written, electronic, or other means of transmission by a licensed physician or other health professional as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501.

(n) "Prewritten computer software" means computer software, including prewritten upgrades, that is delivered by any means and that is not designed and developed by the author or other creator to the specifications of a specific purchaser. Prewritten computer software includes the following:

(*i*) Any combination of 2 or more prewritten computer software programs or portions of prewritten computer software programs.

(*ii*) Computer software designed and developed by the author or other creator to the specifications of a specific purchaser if it is sold to a person other than that specific purchaser.

(*iii*) The modification or enhancement of prewritten computer software or portions of prewritten computer software where the modification or enhancement is designed and developed to the specifications of a specific purchaser unless there is a reasonable, separately stated charge or an invoice or other statement of the price is given to the purchaser for the modification or enhancement. If a person other than the original author or creator modifies or enhances prewritten computer software, that person is considered to be the author or creator of only that person's modifications or enhancements.

(o) "Prosthetic device" means a replacement, corrective, or supportive device, other than contact lenses and dental prosthesis, dispensed pursuant to a prescription, including repair or replacement parts for that device, worn on or in the body to do 1 or more of the following:

(*i*) Artificially replace a missing portion of the body.

(*ii*) Prevent or correct a physical deformity or malfunction of the body.

(*iii*) Support a weak or deformed portion of the body.

(p) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched or that is in any other manner perceptible to the senses and includes electricity, water, gas, steam, and prewritten computer software.

(q) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 435]

(HB 6162)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, assessments, and donations; to provide certain appropriations; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," (MCL 324.101 to 324.90106) by adding section 30306b.

The People of the State of Michigan enact:

324.30306b Preapplication meeting; fee; withdrawal of request; refund of fee; duration of written agreement.

Sec. 30306b. (1) If a preapplication meeting is requested in writing by the landowner or another person who is authorized in writing by the landowner, the department shall meet with the person or his or her representatives to review a proposed project or a proposed permit application in its entirety. The preapplication meeting shall take place at the department's district office for the district that includes the project site or at the project site itself, as specified in the request.

(2) Except as provided in this subsection, the request shall be accompanied by a fee. The fee for a preapplication meeting at the district office is $150.00. The fee for a preapplication meeting at the project site is $250.00 for the first acre or portion of an acre of project area, plus $50.00 for each acre or portion of an acre in excess of the first acre, but not to exceed a fee of $1,000.00. However, if the location of the project is a single family residential lot that is less than 1 acre in size, there is no fee for a preapplication meeting at the district office, and the fee for a preapplication meeting at the project site is $100.00.

(3) If the person withdraws the request at least 24 hours before the preapplication meeting, the department may agree with the person to reschedule the meeting or shall promptly refund the fee and need not meet as provided in this section. Otherwise, if, after agreeing to the time and place for a preapplication meeting, the person is not represented at the meeting, the person shall forfeit the fee for the meeting. If, after agreeing to the time and place for a preapplication meeting, the department is not represented at the meeting, the department shall refund the fee and send a representative to a rescheduled meeting to be held within 10 days of the first scheduled meeting date.

(4) Any written agreement provided by the department as a result of the preapplication meeting regarding the need to obtain a permit is binding on the department for 2 years from the date of the agreement.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 436]

(SB 1284)

AN ACT to amend 1974 PA 198, entitled "An act to provide for the establishment of plant rehabilitation districts and industrial development districts in local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to impose and provide for the disposition of an administrative fee; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of the state tax commission and certain officers of local governmental units; and to provide penalties," by amending section 9 (MCL 207.559), as amended by 2006 PA 22.

The People of the State of Michigan enact:

207.559 Finding and determination in resolution approving application for certificate; valuation requiring separate finding and statement; compliance with certain requirements as condition to approval of application and granting of certificate; demolition, sale, or transfer of obsolete industrial property; certificate applicable to speculative building; procedural information; failure of commission to receive application; replacement facility; property owned or operated by casino; certificate extension approved after December 2003 and before March 1, 2006; issuance of certificate ending December 30, 2010.

Sec. 9. (1) The legislative body of the local governmental unit, in its resolution approving an application, shall set forth a finding and determination that the granting of the industrial facilities exemption certificate, considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of a taxing unit that levies an ad valorem property tax in the local governmental unit in which the facility is located or to be located. If the state equalized valuation of property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate state equalized valuation of property exempt under certificates previously granted and currently in force, exceeds 5% of the state equalized valuation of the local governmental unit, the commission, with the approval of the state treasurer, shall make a separate finding and shall include a statement in the order approving the industrial facilities exemption certificate that exceeding that amount shall not have the effect of substantially impeding the operation of the local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) Except for an application for a speculative building, which is governed by subsection (4), the legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate unless the applicant complies with all of the following requirements:

(a) The commencement of the restoration, replacement, or construction of the facility occurred not earlier than 12 months before the filing of the application for the industrial facilities exemption certificate. If the application is not filed within the 12-month period, the application may be filed within the succeeding 12-month period and the industrial facilities exemption certificate shall in this case expire 1 year earlier than it would have expired if the application had been timely filed. This subdivision does not apply for applications filed with the local governmental unit after December 31, 1983.

(b) For applications made after December 31, 1983, the proposed facility shall be located within a plant rehabilitation district or industrial development district that was duly established in a local governmental unit eligible under this act to establish a district and that was established upon a request filed or by the local governmental unit's own initiative taken before the commencement of the restoration, replacement, or construction of the facility.

(c) For applications made after December 31, 1983, the commencement of the restoration, replacement, or construction of the facility occurred not earlier than 6 months before the filing of the application for the industrial facilities exemption certificate.

(d) The application relates to a construction, restoration, or replacement program that when completed constitutes a new or replacement facility within the meaning of this act and that shall be situated within a plant rehabilitation district or industrial development district duly established in a local governmental unit eligible under this act to establish the district.

(e) Completion of the facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to create employment, retain employment, prevent a loss of employment, or produce energy in the community in which the facility is situated.

(f) Completion of the facility does not constitute merely the addition of machinery and equipment for the purpose of increasing productive capacity but rather is primarily for the purpose and will primarily have the effect of restoration, replacement, or updating the technology of obsolete industrial property. An increase in productive capacity, even though significant, is not an impediment to the issuance of an industrial facilities exemption certificate if other criteria in this section and act are met. This subdivision does not apply to a new facility.

(g) The provisions of subdivision (c) do not apply to a new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in April of 1992 if the application was approved by the local governing body and was denied by the state tax commission in April of 1993.

(h) The provisions of subdivisions (b) and (c) and section 4(3) do not apply to 1 or more of the following:

(*i*) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1995 for construction that was commenced in July 1992 in a district that was established by the legislative body of the local governmental unit in July 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(*ii*) A facility located in an industrial development district that was established in January 1994 and was owned by a person who filed an application for an industrial facilities exemption certificate in February 1994 if the personal property and real property portions of the application were approved by the legislative body of the local governmental unit and the personal property portion of the application was approved by the state tax commission in December 1994 and the real property portion of the application was denied by the state tax commission in December 1994. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16(3).

(*iii*) A facility located in an industrial development district that was established in December 1995 and was owned by a person who filed an application for an industrial facilities exemptions certificate in November or December 1995 for construction that was commenced in September 1995.

(*iv*) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in July 2001 for construction that was commenced in February 2001 in a district that was established by the legislative body of the local governmental unit in September 2001. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16. The facility described in this subparagraph shall be taxed under this act as if it was granted an industrial facilities exemption certificate in October 2001, and a corrected tax bill shall be issued by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. If granting the industrial facilities exemption certificate under this subparagraph results in an overpayment of the tax, a rebate, including any interest and penalties paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(*v*) A facility located in an industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in December 2005 for construction that was commenced in September 2005 in a district that was established by the legislative body of the local governmental unit in December 2005. An industrial facilities exemption certificate described in this subparagraph shall expire as provided in section 16.

(i) The provisions of subdivision (c) do not apply to any of the following:

(*i*) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in October 1993 if the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the state tax commission in December 1993.

(*ii*) A new facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in September 1993 if the personal property portion of the application was approved by the legislative body of the local governmental unit and the real property portion of the application was denied by the legislative body of the local governmental unit in October 1993 and subsequently approved by the legislative body of the local governmental unit in September 1994.

(*iii*) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in August 1993 if the application was approved by the local governmental unit in September 1993 and the application was denied by the state tax commission in December 1993.

(*iv*) A facility located in an existing industrial development district occupied by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the local governmental unit in October of 1995 for construction that was commenced in November or December of 1994.

(*v*) A facility located in an existing industrial development district owned by a person who filed an application for an industrial facilities exemption certificate in June of 1995 if the application was approved by the legislative body of the local governmental unit in July of 1995 and the personal property portion of the application was approved by the state tax commission in November of 1995.

(j) If the facility is locating in a plant rehabilitation district or an industrial development district from another location in this state, the owner of the facility is not delinquent in any of the taxes described in section 10(1)(a) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690, or substantially delinquent in any of the taxes described in and as provided under section 10(1)(b) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2690.

(3) If the replacement facility when completed will not be located on the same premises or contiguous premises as the obsolete industrial property, then the applicant shall make provision for the obsolete industrial property by demolition, sale, or transfer to another person with the effect that the obsolete industrial property shall within a reasonable time again be subject to assessment and taxation under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or be used in a manner consistent with the general purposes of this act, subject to approval of the commission.

(4) The legislative body of the local governmental unit shall not approve an application and the commission shall not grant an industrial facilities exemption certificate that applies to a speculative building unless the speculative building is or is to be located in a plant rehabilitation district or industrial development district duly established by a local governmental unit eligible under this act to establish a district; the speculative building was constructed less than 9 years before the filing of the application for the industrial facilities

exemption certificate; the speculative building has not been occupied since completion of construction; and the speculative building otherwise qualifies under subsection (2)(e) for an industrial facilities exemption certificate. An industrial facilities exemption certificate granted under this subsection shall expire as provided in section 16(3).

(5) Not later than September 1, 1989, the commission shall provide to all local assessing units the name, address, and telephone number of the person on the commission staff responsible for providing procedural information concerning this act. After October 1, 1989, a local unit of government shall notify each prospective applicant of this information in writing.

(6) Notwithstanding any other provision of this act, if on December 29, 1986 a local governmental unit passed a resolution approving an exemption certificate for 10 years for real and personal property but the commission did not receive the application until 1992 and the application was not made complete until 1995, then the commission shall issue, for that property, an industrial facilities exemption certificate that begins December 30, 1987 and ends December 30, 1997. The facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1987.

(7) Notwithstanding any other provision of this act, if a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on July 8, 1991 but rescinded that resolution and passed a resolution approving an industrial facilities exemption certificate for that same facility as a replacement facility on October 21, 1996, the commission shall issue for that property an industrial facilities exemption certificate that begins December 30, 1991 and ends December 2003. The replacement facility described in this subsection shall be taxed under this act as if it was granted an industrial facilities exemption certificate on December 30, 1991.

(8) Property owned or operated by a casino is not industrial property or otherwise eligible for an abatement or reduction of ad valorem property taxes under this act. As used in this subsection, "casino" means a casino or a parking lot, hotel, motel, convention and trade center, or retail store owned or operated by a casino, an affiliate, or an affiliated company, regulated by this state pursuant to the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.201 to 432.226.

(9) Notwithstanding section 16a and any other provision of this act, if a local governmental unit passed a resolution approving an industrial facilities exemption certificate for a new facility on October 28, 1996 for a certificate that expired in December 2003 and the local governmental unit passes a resolution approving the extension of the certificate after December 2003 and before March 1, 2006, the commission shall issue for that property an industrial facilities exemption certificate that begins on December 30, 2005 and ends December 30, 2010 as long as the property continues to qualify under this act.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 437]

(SB 1375)

AN ACT to amend 1971 PA 140, entitled "An act to provide for the distribution of certain state revenues to cities, villages, townships, and counties; to impose certain duties and confer certain powers on this state, political subdivisions of this state, and the officers of both;

to create reserve funds; and to establish a revenue sharing task force and provide for its powers and duties," by amending section 13 (MCL 141.913), as amended by 2005 PA 196.

The People of the State of Michigan enact:

141.913 Payments to cities, villages, and townships from state income tax and single business tax; payments based on sales tax collections; population more than or less than 750,000; limitations; distributions; payment dates; annual appropriation by legislature; withholding payments.

Sec. 13. (1) This subsection and subsection (2) apply to distributions to cities, villages, and townships during the state fiscal years before the 1996-1997 state fiscal year of collections from the state income tax and single business tax. Except as otherwise provided in subsection (2), the department of treasury shall cause to be paid to each city, village, and township its share, computed in accordance with the tax effort formula, of the following revenues:

(a) During each August, November, February, and May, the collections from the state income tax for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to cities, villages, and townships under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(b) The amount of the collections from the single business tax available for distribution to cities, villages, and townships under former section 136 of the single business tax act, 1975 PA 228.

(2) The amount of collections of the state income tax otherwise available for distribution to cities, villages, and townships in November, February, and May, computed in accordance with the tax effort formula, shall be increased by $22,600,000.00. The amount of collections otherwise available for distribution to cities, villages, and townships in August, computed in accordance with the tax effort formula, shall be decreased by $67,800,000.00.

(3) This subsection applies to distributions to cities, villages, and townships for the 1996-1997 state fiscal year. The department shall cause to be paid in accordance with the tax effort formula an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a.

(4) The department of treasury shall cause to be paid during the 1997-1998 state fiscal year an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a, both of the following:

(a) To each city, village, and township, the amount of collections distributed under subsection (3) to cities, villages, and townships for the 1996-1997 state fiscal year or its pro rata share of the collections if the collections are less than the amount of collections distributed under subsection (3) for the 1996-1997 state fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed using the tax effort formula.

(b) To each city, village, and township its share of the collections to the extent the total collections available for distribution under this subsection exceed the amount distributed to cities, villages, and townships under subdivision (a) for the fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed on a per capita basis.

(5) Subject to section 13d, for the 1998-1999 through 2006-2007 state fiscal years, the department of treasury shall cause distributions determined under subsections (6) to (13) to be paid to each city, village, and township from an amount equal to 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made. After September 30, 2007, 74.94% of 21.3% of sales tax collections at a rate of 4% shall be distributed to cities, villages, and townships as provided by law.

(6) Subject to section 13d, for the 1998-1999 through 2006-2007 state fiscal years, except for the 2002-2003 through 2006-2007 state fiscal years, and except as otherwise provided in subsection (15), the department of treasury shall cause to be paid $333,900,000.00 to a city with a population of 750,000 or more as the total combined distribution under this act and section 10 of article IX of the state constitution of 1963 as annualized for any period of less than 12 months to that city. For the 2002-2003 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of $322,213,500.00 or $333,900,000.00 multiplied by the percentage as determined under this subsection. For the 2002-2003 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $791,070,000.00 by $1,515,644,218.00. For the 2003-2004 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 92%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2002-2003 state fiscal year. For the 2003-2004 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $724,800,000.00 by $1,407,850,000.00 and then subtracting 0.08. For the 2004-2005 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2003-2004 state fiscal year. For the 2004-2005 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $445,300,000.00 by $1,126,300,000.00. For the 2005-2006 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2004-2005 state fiscal year. For the 2005-2006 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 for the 2005-2006 state fiscal year and $423,350,000.00 by $1,115,875,000.00. For the 2006-2007 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2005-2006 state fiscal year. For the 2006-2007 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 for the 2006-2007 state fiscal year and $407,485,000.00 by $1,106,410,000.00.

(7) Except as otherwise provided in this subsection, distributions under subsections (8) to (13) to cities, villages, and townships with populations of less than 750,000 shall be made from the amount available for distribution under this section that remains after the distribution under subsection (6) is made. For the 2002-2003 state fiscal year only, each city, village,

and township with a population of less than 750,000 shall receive the lesser of 96.5%, or the percentage determined under this subsection, of the amount that the city, village, or township would have received if the total available for distribution under subsections (8) to (13) were $363,069,728.00 and the total available for distribution under section 10 of article IX of the state constitution of 1963 were $607,125,488.00. The total amount available for distribution to all cities, villages, and townships under this subsection shall not exceed $936,238,383.00. For the 2002-2003 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $791,070,000.00 by $1,515,644,218.00. For the 2003-2004 state fiscal year only, each city, village, and township with a population of less than 750,000 shall receive an amount equal to the lesser of 92%, or the percentage determined under this subsection, of the amount distributed to the city, village, or township under this subsection and section 10 of article IX of the state constitution of 1963 for the 2002-2003 state fiscal year. For the 2003-2004 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $724,800,000.00 by $1,407,850,000.00 and then subtracting 0.08. For the 2004-2005 state fiscal year only, the combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 to each city, village, and township with a population of less than 750,000 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution to that city, village, or township under this subsection and section 10 of article IX of the state constitution of 1963 for the 2003-2004 state fiscal year. For the 2004-2005 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 and $445,300,000.00 by $1,126,300,000.00. For the 2005-2006 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2004-2005 state fiscal year. For the 2005-2006 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 for the 2005-2006 state fiscal year and $423,350,000.00 by $1,115,875,000.00. For the 2006-2007 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be the lesser of 100%, or the percentage determined under this subsection, of the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 for the 2005-2006 state fiscal year. For the 2006-2007 state fiscal year, the percentage under this subsection shall be determined by dividing the sum of all payments under section 10 of article IX of the state constitution of 1963 for the 2006-2007 state fiscal year and $407,485,000.00 by $1,106,410,000.00. The amount of the adjustment under this subsection shall be accomplished by reducing the payments under subsections (8) to (13), and payments under section 10 of article IX shall not be reduced based on any adjustments made under this subsection.

(8) Subject to section 13d, for the 1998-1999 through 2006-2007 state fiscal years, for cities, villages, and townships with populations of less than 750,000, subject to the limitations under this section, a taxable value payment shall be made to each city, village, and township determined as follows:

(a) Determine the per capita taxable value for each city, village, and township by dividing the taxable value of that city, village, or township by the population of that city, village, or township.

(b) Determine the statewide per capita taxable value by dividing the total taxable value of all cities, villages, and townships by the total population of all cities, villages, and townships.

(c) Determine the per capita taxable value ratio for each city, village, and township by dividing the statewide per capita taxable value by the per capita taxable value for that city, village, or township.

(d) Determine the adjusted taxable value population for each city, village, and township by multiplying the per capita taxable value ratio as determined under subdivision (c) for that city, village, or township by the population of that city, village, or township.

(e) Determine the total statewide adjusted taxable value population which is the sum of all adjusted taxable value population for all cities, villages, and townships.

(f) Determine the taxable value payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and dividing that result by the total statewide adjusted taxable value population as determined under subdivision (e).

(g) Determine the taxable value payment for each city, village, and township by multiplying the result under subdivision (f) by the adjusted taxable value population for that city, village, or township.

(9) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section and except as provided in subsection (14), a unit type population payment shall be made to each city, village, and township with a population of less than 750,000 determined as follows:

(a) Determine the unit type population weight factor for each city, village, and township as follows:

(*i*) For a township with a population of 5,000 or less, the unit type population weight factor is 1.0.

(*ii*) For a township with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.2.

(*iii*) For a township with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 1.44.

(*iv*) For a township with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 1.73.

(*v*) For a township with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 2.07.

(*vi*) For a township with a population of more than 80,000, the unit type population weight factor is 2.49.

(*vii*) For a village with a population of 5,000 or less, the unit type population weight factor is 1.5.

(*viii*) For a village with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.8.

(*ix*) For a village with a population of more than 10,000, the unit type population weight factor is 2.16.

(*x*) For a city with a population of 5,000 or less, the unit type population weight factor is 2.5.

(*xi*) For a city with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 3.0.

(*xii*) For a city with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 3.6.

(*xiii*) For a city with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 4.32.

(*xiv*) For a city with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 5.18.

(*xv*) For a city with a population of more than 80,000 but less than 160,001, the unit type population weight factor is 6.22.

(*xvi*) For a city with a population of more than 160,000 but less than 320,001, the unit type population weight factor is 7.46.

(*xvii*) For a city with a population of more than 320,000 but less than 640,001, the unit type population weight factor is 8.96.

(*xviii*) For a city with a population of more than 640,000, the unit type population weight factor is 10.75.

(b) Determine the adjusted unit type population for each city, village, and township by multiplying the unit type population weight factor for that city, village, or township as determined under subdivision (a) by the population of the city, village, or township.

(c) Determine the total statewide adjusted unit type population, which is the sum of the adjusted unit type population for all cities, villages, and townships.

(d) Determine the unit type population payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and then dividing that result by the total statewide adjusted unit type population as determined under subdivision (c).

(e) Determine the unit type population payment for each city, village, and township by multiplying the result under subdivision (d) by the adjusted unit type population for that city, village, or township.

(10) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section, a yield equalization payment shall be made to each city, village, and township with a population of less than 750,000 sufficient to provide the guaranteed tax base for a local tax effort not to exceed 0.02. The payment shall be determined as follows:

(a) The guaranteed tax base is the maximum combined state and local per capita taxable value that can be guaranteed in a state fiscal year to each city, village, and township for a local tax effort not to exceed 0.02 if an amount equal to 74.94% of 21.3% of the state sales tax at a rate of 4% is distributed to cities, villages, and townships whose per capita taxable value is below the guaranteed tax base.

(b) The full yield equalization payment to each city, village, and township is the product of the amounts determined under subparagraphs (*i*) and (*ii*):

(*i*) An amount greater than zero that is equal to the difference between the guaranteed tax base determined in subdivision (a) and the per capita taxable value of the city, village, or township.

(*ii*) The local tax effort of the city, village, or township, not to exceed 0.02, multiplied by the population of that city, village, or township.

(c) The yield equalization payment is the full yield equalization payment divided by 3.

(11) For state fiscal years after the 1997-1998 state fiscal year, distributions under this section for cities, villages, and townships with populations of less than 750,000 shall be determined as follows:

(a) For the 1998-1999 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1998-1999 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(b) For the 1999-2000 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 1999-2000 state fiscal year multiplied by the city's, village's, or township's percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(c) For the 2000-2001 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2000-2001 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(d) For the 2001-2002 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2001-2002 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(e) For the 2002-2003 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the city's, village's, or township's

percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Fifty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2002-2003 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(f) For the 2003-2004 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Forty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Sixty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2003-2004 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(g) For the 2004-2005 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Thirty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Seventy percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2004-2005 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(h) For the 2005-2006 state fiscal year, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Twenty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Eighty percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2005-2006 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(i) For the period of October 1, 2006 through September 30, 2007, the payment under this section for each city, village, and township shall be the sum of the following:

(*i*) Ten percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the city's, village's, or township's percentage share of the distributions under this section and section 12a minus the amount of a distribution under this section and section 12a to a city that is eligible to receive a distribution under subsection (6) in the 1997-1998 state fiscal year.

(*ii*) Ninety percent of the total amount available for distribution under subsections (8), (9), and (10) for the 2006-2007 state fiscal year multiplied by the percentage share of the distribution amounts calculated under subsections (8), (9), and (10).

(12) Except as otherwise provided in this subsection, the total payment to any city, village, or township under this act and section 10 of article IX of the state constitution of

1963 shall not increase by more than 8% over the amount of the payment under this act and section 10 of article IX of the state constitution of 1963 in the immediately preceding state fiscal year. From the amount not distributed because of the limitation imposed by this subsection, the department shall distribute an amount to certain cities, villages, and townships such that the percentage increase in the total payment under this act and section 10 of article IX of the state constitution of 1963 from the immediately preceding state fiscal year to each of those cities, villages, and townships is equal to, but does not exceed, the percentage increase from the immediately preceding state fiscal year of any city, village, or township that does not receive a distribution under this subsection. This subsection does not apply for state fiscal years after the 2000 federal decennial census becomes official to a city, village, or township with a 10% or more increase in population from the official 1990 federal decennial census to the official 2000 federal decennial census.

(13) The percentage allocations to distributions under subsections (8) to (10) pursuant to subsection (11) shall be calculated as if, in any state fiscal year, the amount appropriated under this section for distribution to cities, villages, and townships is 74.94% of 21.3% of the sales tax at a rate of 4%. If the amount appropriated under this section to cities, villages, and townships is less than 74.94% of 21.3% of the sales tax at a rate of 4%, any reduction made necessary by this appropriation in distributions to cities, villages, and townships shall first be applied to the distribution under subsections (8) to (10) and any remaining amount shall be applied to the other distributions under this section.

(14) A township that provides for or makes available fire, police on a 24-hour basis either through contracting for or directly employing personnel, water to 50% or more of its residents, and sewer services to 50% or more of its residents and has a population of 10,000 or more or a township that has a population of 20,000 or more shall use the unit type population weight factor under subsection (9)(a) for a city with the same population as the township.

(15) For a state fiscal year in which the sales tax collections decrease from the sales tax collections for the immediately preceding state fiscal year, the department shall reduce the amount to be distributed to a city with a population of 750,000 or more under subsection (6) by an amount determined by subtracting the amount the city is eligible for under section 10 of article IX of the state constitution of 1963 for the state fiscal year from $333,900,000.00 and multiplying that result by the same percentage as the percentage decrease in sales tax collections for that state fiscal year as compared to sales tax collections for the immediately preceding state fiscal year. This subsection does not apply to the 2002-2003 through 2006-2007 state fiscal years.

(16) Notwithstanding any other provision of this section for the 1998-1999 state fiscal year, the total combined amount received by each city, village, and township under this section and section 10 of article IX of the state constitution of 1963 shall not be less than the combined amount received under this section, section 12a, and section 10 of article IX of the state constitution of 1963 in the 1997-1998 state fiscal year. The increase, if any, for each city, village, and township from the 1997-1998 state fiscal year, other than a city that receives a distribution under subsection (6), shall be reduced by a uniform percentage to the extent necessary to fund distributions under this subsection.

(17) The payments under subsections (3), (4), and (5) shall be made during each October, December, February, April, June, and August. Payments under subsections (3), (4), and (5) shall be based on collections from the sales tax at the rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30, and for the 1996-1997 and 1997-1998 state fiscal years only, the payments shall be reduced by 1/6 of the total distribution for the state fiscal year under section 12a.

(18) Payments under this section shall be made from revenues collected during the state fiscal year in which the payments are made.

(19) Distributions provided for by this act are subject to an annual appropriation by the legislature.

(20) After the department has informed a city, village, or township in writing of the intent to withhold all or a portion of payments under this section and offered the affected city, village, or township an opportunity for an informal conference on the matter, the department of treasury may withhold all or a portion of payments under this section to a city, village, or township that has not distributed 1 or more of the following:

(a) An industrial facilities tax as required under 1974 PA 198, MCL 207.551 to 207.572.

(b) The specific tax as required under section 21b of the enterprise zone act, 1985 PA 224, MCL 125.2121b.

(c) Any portion of the state education tax levied under the state education tax act, 1993 PA 331, MCL 211.901 to 211.906, or of property taxes levied for any purpose by a local or intermediate school district under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, determined by the state tax commission to have been wrongfully captured and retained to implement a tax increment financing plan under 1975 PA 197, MCL 125.1651 to 125.1681, the tax increment finance authority act, 1980 PA 450, MCL 125.1801 to 125.1830, or the local development financing act, 1986 PA 281, MCL 125.2151 to 125.2174.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 438]

(HB 5820)

AN ACT to amend 1980 PA 87, entitled "An act to provide procedures for the condemnation, acquisition, or exercise of eminent domain of real or personal property by public agencies or private agencies; to provide for an agency's entry upon land for certain purposes; to provide for damages; to prescribe remedies; and to repeal certain acts and parts of acts," by amending section 8 (MCL 213.58), as amended by 1996 PA 474.

The People of the State of Michigan enact:

213.58 Payment by escrowee of money deposited; funds remaining in escrow as security for remediation costs; court order; released funds; circumstances; reversal of agency's election under MCL 213.56a(1); applicability of subsections (2) and (3); "principal residence" defined.

Sec. 8. (1) Except as provided in subsections (2) and (3), if a motion for review under section 6 is not filed or is denied and the right to appeal has terminated or if interim possession is granted under section 9, the court shall order the escrowee to pay the money deposited under section 5 for or on account of the just compensation that may be awarded under section 13. Except as provided in subsections (2) and (3), if a motion for review under section 6 is not filed, the court shall, within 30 days, order the escrowee to pay the money deposited under section 5 for or on account of the just compensation that may be awarded under section 13. Upon the motion of any party, the court shall apportion the estimated compensation among the claimants to the compensation.

(2) Except as provided in subsection (5), if the agency reserves its rights to bring a state or federal cost recovery claim against an owner, under circumstances that the court considers just, the court may allow any portion of the money deposited under section 5 to remain in escrow as security for remediation costs of environmental contamination on the condemned parcel. An agency shall present an affidavit and environmental report establishing that the funds placed on deposit under section 5 are likely to be required to remediate the property. The amount in escrow shall not exceed the likely costs of remediation if the property were used for its highest and best use. This subsection does not limit or expand an owner's or agency's rights to bring federal or state cost recovery claims.

(3) Notwithstanding any order entered by the court requiring money deposited pursuant to section 5 to remain in escrow for the payment of estimated remediation costs of contaminated property, the funds in escrow, plus interest subject to section 15, shall be released among the claimants to the just compensation under circumstances that the court considers just, including any of the following circumstances:

(a) The court finds that the applicable statutory requirements for remediation have changed and the amount remaining in escrow is no longer required in full or in part to remediate the alleged environmental contamination.

(b) The court finds that the anticipated need for the remediation of the alleged environmental contamination is not required or is not required to the extent of the funds remaining on deposit.

(c) If the remediation of the property is not initiated by the agency within 2 years of surrender of possession pursuant to section 9 and the agency is unable to show good cause for delay.

(d) The costs actually expended for remediation are less than the estimated costs of remediation or less than the amount of money remaining in escrow.

(e) A court issues an order of apportionment of remediation responsibility.

(4) If the court orders the agency to reverse its election under section 6a(1), the court shall order the escrowee to pay the amount of the revised good faith written offer for or on account of the just compensation that may be awarded pursuant to section 13, and to pay the balance of the escrow to the agency. If the agency seeks possession before the court decides whether to reverse the agency's election or before submitting a revised good faith offer, the agency may request that the court order a portion of the escrow withheld in anticipation of a reduction in the revised good faith offer, with the balance to be paid by the escrowee for or on account of the just compensation that may be awarded pursuant to section 13. If the court denies the request to reverse the agency's election or when the revised good faith offer is submitted, the court shall order the escrowee to pay any unpaid portion of it for or on account of the owner and to pay any balance to the agency.

(5) Subsections (2) and (3) do not apply to money deposited under section 5 in escrow for the payment of just compensation for an owner's principal residence, if the principal residential structure is actually taken or the amount of the property taken leaves less property contiguous to the principal residential structure than the minimum lot size if the local governing unit has implemented a minimum lot size by zoning ordinance. This subsection does not limit or expand an owner's or agency's rights to bring federal or state cost recovery claims. As used in this subsection, "principal residence" means a principal residence for which an exemption from certain local taxation is granted under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc.

Effective date.

Enacting section 1. This amendatory act takes effect December 23, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5821 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 3, 2006.

Filed with Secretary of State October 5, 2006.

Compiler's note: House Bill No. 5821, referred to in enacting section 2, was filed with the Secretary of State October 5, 2006, and became 2006 PA 439, Eff. Dec. 23, 2006.

[No. 439]

(HB 5821)

AN ACT to amend 1980 PA 87, entitled "An act to provide procedures for the condemnation, acquisition, or exercise of eminent domain of real or personal property by public agencies or private agencies; to provide for an agency's entry upon land for certain purposes; to provide for damages; to prescribe remedies; and to repeal certain acts and parts of acts," by amending section 5 (MCL 213.55), as amended by 1996 PA 474.

The People of the State of Michigan enact:

213.55 Just compensation; amount; written notice to occupants; offer; review of appraisal; filing complaint for acquisition; "comparable replacement dwelling" defined; financial information; documents; determination of just compensation; items annexed to complaint; deposit; payment of additional amount for property which is principal residence; "taxable value" defined.

Sec. 5. (1) Before initiating negotiations for the purchase of property, the agency shall establish an amount that it believes to be just compensation for the property and promptly shall submit to the owner a good faith written offer to acquire the property for the full amount so established. At the same time, if the taking of the property might require relocation, the agency shall provide written notice to the occupants of the property stating that an eminent domain proceeding has commenced and outlining the occupants' basic legal rights in the process, including, but not limited to, the fact that any person who has a leasehold interest of less than 6 months is entitled to a $3,500.00 moving allowance as provided under section 2 of 1965 PA 40, MCL 213.352, and that an individual who is a residential occupant may not be displaced until moving expenses or a moving allowance is paid as provided under 1965 PA 40, MCL 213.351 to 213.355, and the person has had a reasonable opportunity, not to exceed 180 days after the payment date of moving expenses or the moving allowance as provided under 1965 PA 40, MCL 213.351 to 213.355, to relocate to a comparable replacement dwelling. If there is more than 1 owner of a parcel, the agency may make a single, unitary good faith written offer. The good faith offer shall state whether the agency reserves or waives its rights to bring federal or state cost recovery actions against the present owner of the property arising out of a release of hazardous substances at the property and the agency's appraisal of just compensation for the property shall reflect such reservation or waiver. The amount shall not be less than the agency's appraisal of just compensation for the property. If the owner fails to provide documents or information as required by subsection (2), the agency may base its good faith written offer on the information otherwise known to the agency whether or not the agency has sought a court order under subsection (2).

The agency shall provide the owner of the property and the owner's attorney with an opportunity to review the written appraisal, if an appraisal has been prepared, or if an appraisal has not been prepared, the agency shall provide the owner or the owner's attorney with a written statement and summary, showing the basis for the amount the agency established as just compensation for the property. If an agency is unable to agree with the owner for the purchase of the property, after making a good faith written offer to purchase the property, the agency may file a complaint for the acquisition of the property in the circuit court in the county in which the property is located. If a parcel of property is situated in 2 or more counties and an owner resides in 1 of the counties, the complaint shall be filed in the county in which the owner is a resident. If a parcel of property is situated in 2 or more counties and an owner does not reside in 1 of the counties, the complaint may be filed in any of the counties in which the property is situated. The complaint shall ask that the court ascertain and determine just compensation to be made for the acquisition of the described property. As used in this subsection, "comparable replacement dwelling" means any dwelling that is all of the following:

(a) Decent, safe, and sanitary.

(b) Adequate in size to accommodate the occupants.

(c) Within the financial means of the individual.

(d) Functionally equivalent.

(e) In an area not subject to unreasonable adverse environmental conditions.

(f) In a location generally not less desirable than the location of the individual's dwelling with respect to public utilities, facilities, services, and the individual's place of employment.

(2) During the period in which the agency is establishing just compensation for the owner's parcel, the agency has the right to secure tax returns, financial statements, and other relevant financial information for a period not to exceed 5 years before the agency's request. The owner shall produce the information within 21 business days after receipt of a written request from the agency. The agency shall reimburse the owner for actual, reasonable costs incurred in reproducing any requested documents, plus other actual, reasonable costs of not more than $1,000.00 incurred to produce the requested information. Within 45 days after production of the requested documents and other information, the owner shall provide to the agency a detailed invoice for the costs of reproduction and other costs sought. The owner is not entitled to a reimbursement of costs under this subsection if the reimbursement would be duplicative of any other reimbursement to the owner. If the owner fails to provide all documents and other information requested by the agency under this section, the agency may file a complaint and proposed order to show cause in the circuit court in the county specified in subsection (1). The court shall immediately hold a hearing on the agency's proposed order to show cause. The court shall order the owner to provide documents and other information requested by the agency that the court finds to be relevant to a determination of just compensation. An agency shall keep documents and other information that an owner provides to the agency under this section confidential. However, the agency and its experts and representatives may utilize the documents and other information to determine just compensation, may utilize the documents and other information in legal proceedings under this act, and may utilize the documents and other information as provided by court order. If the owner unreasonably fails to timely produce the documents and other information, the owner shall be responsible for all expenses incurred by the agency in obtaining the documents and other information. This section does not affect any right a party may otherwise have to discovery or to require the production of documents and other information upon commencement of an action under this act. A copy of this section shall be provided to the owner with the agency's request.

(3) In determining just compensation, all of the following apply:

(a) If an owner claims that the agency is taking property other than the property described in the good faith written offer or claims a right to compensation for damage caused by the taking, apart from the value of the property taken, and not described in the good faith written offer, the owner shall file a written claim with the agency stating the nature and substance of that property or damage. The owner's written claim shall provide sufficient information and detail to enable the agency to evaluate the validity of the claim and to determine its value. The owner shall file the claim within 90 days after the good faith written offer is made pursuant to section 5(1) or 180 days after the complaint is served, whichever is later, unless a later date is set by the court for reasonable cause. If the appraisal or written estimate of value is provided within the established period for filing written claims, the owner's appraisal or written estimate of value may serve as the written claim under this act. If the owner fails to timely file the written claim under this subsection, the claim is barred.

(b) The parties shall exchange the agency's updated appraisal reports, if any, and the owner's appraisal report within 90 days after the expiration of the period for filing written claims, unless a later date is set by the court in accordance with section 11(1) for reasonable cause. If the agency believes that the information provided by the owner is not sufficient to allow the evaluation of the claim, the agency may request additional information from the owner and, if that information is not provided, may ask the court to compel the owner to provide additional information to enable the agency to evaluate the validity of the claim and to determine its value. If the owner fails to provide sufficient information after being ordered to do so by the court, the court may assess an appropriate sanction in accordance with the Michigan court rules for failing to comply with discovery orders, including, but not limited to, barring the claim. In addition, the court also shall consider any failure to provide timely information when it determines the maximum reimbursable attorney fees under section 16.

(c) For any claim that has not fully accrued or is continuing in nature when the claim is filed, the owner shall provide information then reasonably available that would enable the agency to evaluate the claim, subject to the owner's continuing duty to supplement that information as it becomes available. The owner shall provide all supplementary information at least 90 days before trial, and the court shall afford the agency a reasonable opportunity for discovery once all supplementary information is provided and allow that discovery to proceed until 30 days before trial. For reasonable cause, the court may extend the time for the owner to provide information to the agency and for the agency to complete discovery. If the owner fails to provide supplementary information as required under this subdivision, the court may assess an appropriate sanction in accordance with the Michigan court rules for failing to comply with discovery orders, including, but not limited to, barring the claim. In addition, the court also shall consider any failure to provide timely supplemental information when it determines the maximum reimbursable attorney fees under section 16.

(d) After receiving a written claim from an owner, the agency may provide written notice that it contests the compensability of the claim, establish an amount that it believes to be just compensation for the claim, or reject the claim. If the agency establishes an amount it believes to be just compensation for the claim, the agency shall submit a good faith written offer for the claim. The sum of the good faith written offer for all claims submitted under this subsection or otherwise disclosed in discovery for all items of property or damage plus the original good faith written offer constitutes the good faith written offer for purposes of determining the maximum reimbursable attorney fees under section 16.

(e) If the owner files a claim that is frivolous or in bad faith, the agency is entitled to recover from the owner its actual and reasonable expenses incurred to evaluate the validity and to determine the value of the claim.

(f) A residential tenant's leasehold interest of less than 6 months in the property is not a compensable claim under this act.

(4) In addition to other allegations required or permitted by law, the complaint shall contain or have annexed to it all of the following:

(a) A plan showing the property to be taken.

(b) A statement of purpose for which the property is being acquired, and a request for other relief to which the agency is entitled by law.

(c) The name of each known owner of the property being taken.

(d) A statement setting forth the time within which motions for review under section 6 shall be filed; the amount that will be awarded and the persons to whom the amount will be paid in the event of a default; and the deposit and escrow arrangements made under subsection (5).

(e) A declaration signed by an authorized official of the agency declaring that the property is being taken by the agency. The declaration shall be recorded with the register of deeds of each county within which the property is situated. The declaration shall include all of the following:

(*i*) A description of the property to be acquired sufficient for its identification and the name of each known owner.

(*ii*) A statement of the estate or interest in the property being taken. Fluid mineral and gas rights and rights of access to and over the highway are excluded from the rights acquired unless the rights are specifically included.

(*iii*) A statement of the sum of money estimated by the agency to be just compensation for each parcel of property being acquired.

(*iv*) Whether the agency reserves or waives its rights to bring federal or state cost recovery actions against the present owner of the property.

(5) When the complaint is filed, the agency shall deposit the amount estimated to be just compensation with a bank, trust company, or title company in the business of handling real estate escrows, or with the state treasurer, municipal treasurer, or county treasurer. The deposit shall be set aside and held for the benefit of the owners, to be disbursed upon order of the court under section 8.

(6) If the property being taken is a principal residence for which an exemption from certain local taxation is granted under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc, the agency is obligated to pay an additional amount to the owner or owners, which shall be deposited along with the amount estimated to be just compensation as provided in subsection (5). The additional amount shall be determined by subtracting the taxable value from the state equalized value, multiplying that amount by the total property tax millage rate applicable to the property taken, and multiplying that result by the number of years the owner or owners have owned the principal residence, but not more than 5 years.

(7) As used in this section, "taxable value" means that value determined under section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

Effective date.

Enacting section 1. This amendatory act takes effect December 23, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5820 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved October 3, 2006.

Filed with Secretary of State October 5, 2006.

Compiler's note: House Bill No. 5820, referred to in enacting section 2, was filed with the Secretary of State October 5, 2006, and became 2006 PA 438, Eff. Dec. 23, 2006.

[No. 440]

(HB 5942)

AN ACT to amend 1996 PA 376, entitled "An act to create and expand certain renaissance zones; to foster economic opportunities in this state; to facilitate economic development; to stimulate industrial, commercial, and residential improvements; to prevent physical and infrastructure deterioration of geographic areas in this state; to authorize expenditures; to provide exemptions and credits from certain taxes; to create certain obligations of this state and local governmental units; to require disclosure of certain transactions and gifts; to provide for appropriations; and to prescribe the powers and duties of certain state and local departments, agencies, and officials," by amending sections 4, 8a, and 11 (MCL 125.2684, 125.2688a, and 125.2691), section 4 as amended by 2002 PA 477 and section 8a as amended by 2006 PA 116.

The People of the State of Michigan enact:

125.2684 Designation of local governmental unit as renaissance zone; application; criteria; additional distinct geographic areas; extension of status.

Sec. 4. (1) One or more qualified local governmental units may apply to the review board to designate the qualified local governmental unit or units as a renaissance zone if all of the following criteria are met:

(a) The geographic area of the proposed renaissance zone is located within the boundaries of the qualified local governmental unit or units that apply.

(b) The application includes a development plan.

(c) The proposed renaissance zone is not more than 5,000 acres in size.

(d) The renaissance zone does not contain more than 10 distinct geographic areas. Except as otherwise provided in this subdivision, the minimum size of a distinct geographic area is not less than 5 acres. A qualified local governmental unit or units may designate not more than 4 distinct geographic areas in each renaissance zone to have no minimum size requirement.

(e) The application includes the proposed duration of renaissance zone status, not to exceed 15 years, except as otherwise provided in this section.

(f) If the qualified local governmental unit has an elected county executive, the county executive's written approval of the application.

(g) If the qualified local governmental unit is a city, that city's mayor's written approval of the application.

(2) A qualified local governmental unit may submit not more than 1 application to the review board for designation as a renaissance zone. A resolution provided by a city, village, or township under section 7(2) does not constitute an application of a city, village, or township for a renaissance zone under this act.

(3) For a distinct geographic area described in subsection (1)(d), a village may include publicly owned land within the boundaries of any distinct geographic area.

(4) Beginning December 1, 2006 through December 31, 2011, a qualified local governmental unit or units in which a renaissance zone was designated under section 8 or 8a(1) or (3) may designate additional distinct geographic areas not to exceed a total of 10 distinct geographic areas upon application to and approval by the board of the Michigan strategic fund if the distinct geographic area is located in an eligible distressed area as defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411, or is contiguous to an eligible distressed area, and if the additional distinct geographic area will increase capital investment and job creation. The duration of renaissance zone status for the additional distinct geographic areas shall not exceed 15 years.

(5) Through December 31, 2002, if a qualified local governmental unit or units designate additional distinct geographic areas in a renaissance zone under subsection (4), the qualified local governmental unit or units may extend the duration of the renaissance zone status of 1 or more distinct geographic areas in that renaissance zone until 2017 upon application to and approval by the board.

(6) Through December 31, 2002, a qualified local governmental unit or units in which a renaissance zone was designated under section 8 or 8a may, upon application to and approval by the board, seek to extend the duration of renaissance zone status until 2017. Upon application, the board may extend the duration of renaissance zone status.

(7) Through December 31, 2011, a qualified local governmental unit or units in which a renaissance zone was designated under section 8 or 8a(1) or (3) that has not experienced significant development may, upon application to and approval by the board of the Michigan strategic fund, seek to extend the duration of renaissance zone status for 1 or more portions of the renaissance zone. The board of the Michigan strategic fund may extend renaissance zone status for 1 or more portions of the renaissance zone under this subsection for a period of time not to exceed 15 years from the date of the application to the board of the Michigan strategic fund under this subsection.

125.2688a Additional renaissance zones; designation; property located in alternative energy zone; definitions.

Sec. 8a. (1) Except as provided in subsections (2), (3), and (4), the board shall not designate more than 9 additional renaissance zones within this state under this section. Not more than 6 of the renaissance zones shall be located in urban areas and not more than 5 of the renaissance zones shall be located in rural areas. For purposes of determining whether a renaissance zone is located in an urban area or rural area under this section, if any part of a renaissance zone is located within an urban area, the entire renaissance zone shall be considered to be located in an urban area.

(2) The board of the Michigan strategic fund described in section 4 of the Michigan strategic fund act, 1984 PA 270, MCL 125.2004, may designate not more than 10 additional renaissance zones within this state in 1 or more cities, villages, or townships if that city, village, or township or combination of cities, villages, or townships consents to the creation of a renaissance zone within their boundaries. The board of the Michigan strategic fund may designate not more than 1 of the 10 additional renaissance zones described in this

subsection as an alternative energy zone. An alternative energy zone shall promote and increase the research, development, and manufacturing of alternative energy technology as that term is defined in the Michigan next energy authority act. An alternative energy zone shall have a duration of renaissance zone status for a period not to exceed 20 years as determined by the board of the Michigan strategic fund. Not later than April 16, 2004, the board of the Michigan strategic fund may designate not more than 1 of the 10 additional renaissance zones described in this subsection as a pharmaceutical renaissance zone. A pharmaceutical renaissance zone shall promote and increase the research, development, and manufacturing of pharmaceutical products of an eligible pharmaceutical company. The board of the Michigan strategic fund may designate not more than 5 of the additional 10 renaissance zones described in this subsection as a redevelopment renaissance zone. A redevelopment renaissance zone shall promote the redevelopment of existing industrial facilities. Before designating a renaissance zone under this subsection, the board of the Michigan strategic fund may enter into a development agreement with the city, township, or village in which the renaissance zone will be located.

(3) In addition to the not more than 9 additional renaissance zones described in subsection (1), the board may designate additional renaissance zones within this state in 1 or more qualified local governmental units if that qualified local governmental unit or units contain a military installation that was operated by the United States department of defense and was closed in 1977 or after 1990.

(4) Land owned by a county or the qualified local governmental unit or units adjacent to a zone as described in subsection (3) may be included in this zone.

(5) Notwithstanding any other provision of this act, property located in the alternative energy zone that is classified as commercial real property under section 34c of the general property tax act, 1893 PA 206, MCL 211.34c, and that the authority, with the concurrence of the assessor of the local tax collecting unit, determines is not used to directly promote and increase the research, development, and manufacturing of alternative energy technology is not eligible for any exemption, deduction, or credit under section 9.

(6) As used in this section:

(a) "Eligible pharmaceutical company" means a company that meets all of the following criteria:

(*i*) Is engaged primarily in manufacturing, research and development, and sale of pharmaceuticals.

(*ii*) Has not less than 8,499 employees located in this state, all of whom are located within a 100-mile radius of each other.

(*iii*) Of the total number of employees located in this state, has not less than 4,800 engaged primarily in research and development of pharmaceuticals.

(b) "Redevelopment renaissance zone" means a renaissance zone that meets 1 of the following:

(*i*) All of the following:

(A) Is located in a city with a population of more than 7,500 and less than 8,500 and is located in a county with a population of more than 60,000 and less than 70,000.

(B) Contains an industrial site of 200 or more acres.

(*ii*) All of the following:

(A) Is located in a city with a population of more than 13,000 and less than 14,000 and is located in a county with a population of more than 1,000,000 and less than 1,300,000.

(B) Contains an industrial site of 300 or more contiguous acres.

(*iii*) All of the following:

(A) Is located in a township with a population of more than 5,500 and is located in a county with a population of less than 24,000.

(B) Contains an industrial site of more than 850 acres and has railroad access.

(*iv*) All of the following:

(A) Is located in a city with a population of more than 40,000 and less than 44,000 and is located in a county with a population of more than 81,000 and less than 87,000.

(B) Contains an industrial site of more than 475 acres.

(*v*) All of the following:

(A) Is located in a city with a population of more than 21,000 and less than 26,000 and is located in a county with a population of more than 573,000 and less than 625,000.

(B) Contains an industrial site of less than 45 acres in size.

125.2691 Application form.

Sec. 11. The form of the application for a renaissance zone designation shall be as specified by the Michigan strategic fund. After the form of the application is specified by the Michigan strategic fund, the Michigan strategic fund shall file a copy of the application with each house of the legislature. The board may request any information from an applicant, in addition to that contained in an application, as may be needed to permit the board to discharge its responsibilities under this act.

This act is ordered to take immediate effect.
Approved October 3, 2006.
Filed with Secretary of State October 5, 2006.

[No. 441]

(HB 5348)

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 section 3901 (MCL 500.3901), as added by 1992 PA 84, and by adding section 3902; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

500.3901 Long-term care insurance; definitions.

Sec. 3901. As used in this chapter:

(a) "Acute condition" means that the individual is medically unstable, requiring frequent monitoring by medical professionals in order to maintain his or her health status.

(b) "Applicant" means:

(*i*) For an individual long-term care insurance policy, the person who seeks to contract for long-term care benefits.

(*ii*) For a group long-term care insurance certificate, the proposed certificate holder.

(c) "Group long-term care insurance" means a long-term care insurance certificate that is delivered or issued for delivery in this state and issued to any of the following:

(*i*) One or more employers or labor organizations, or to a trust or the trustees of a fund established by 1 or more employers or labor organizations for employees or former employees or members or former members of the labor organization.

(*ii*) A professional, trade, or occupational association for its members or former or retired members if the association is composed of individuals who were all actively engaged in the same profession, trade, or occupation and the association has been maintained in good faith for purposes other than obtaining insurance unless waived by the commissioner.

(*iii*) Subject to section 3903(2), an association or to a trust or to the trustees of a fund established, created, or maintained for the benefit of members of 1 or more associations.

(*iv*) A group other than that described in subparagraphs (*i*), (*ii*), or (*iii*) if the commissioner determines all of the following:

(A) The issuance of the group certificate is not contrary to the best interests of the public.

(B) The issuance of the group certificate would result in economies of acquisition or administration.

(C) The benefits are reasonable in relation to the premiums charged.

(d) "Guaranteed renewable" means the insured has the right to continue the long-term care insurance in force by the timely payment of premiums and the insurer does not have a unilateral right to make any change in any provision of the policy or rider while the insurance is in force and cannot decline to renew, except that rates may be revised by the insurer on a class basis.

(e) "Home care services" means 1 or more of the following prescribed services or assessment team recommended services for the long-term care and treatment of an insured that are to be provided in a noninstitutional setting according to a written diagnosis and plan of care or individual assessment and plan of care:

(*i*) Nursing services under the direction of a registered nurse, including the service of a home health aide.

(*ii*) Physical therapy.

(*iii*) Speech therapy.

(*iv*) Respiratory therapy.

(*v*) Occupational therapy.

(*vi*) Nutritional services provided by a registered dietitian.

(*vii*) Personal care services, homemaker services, adult day care, and similar nonmedical services.

(*viii*) Medical social services.

(*ix*) Other similar medical services and health-related support services.

(f) "Home health or care agency" means a person certified by medicare whose business is to provide to individuals in their places of residence other than in a hospital, nursing home, or county medical care facility, 1 or more of the following services: nursing services, therapeutic services, social work services, homemaker services, home health aide services, or other related services.

(g) "Intermediate care facility" means a facility, or distinct part of a facility, certified by the department of community health to provide intermediate care, custodial care, or basic care that is less than skilled nursing care but more than room and board.

(h) "Long-term care insurance" means an individual or group insurance policy, certificate, or rider advertised, marketed, offered, or designed to provide coverage for at least 12 consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis for 1 or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, personal, or custodial care services provided in a setting, including an assisted living facility operating legally in this state, but not including an acute care unit of a hospital. Long-term care insurance includes individual or group annuities and life insurance policies or riders that provide directly or supplement long-term care insurance. Long-term care insurance does not include a life insurance policy that accelerates the death benefit specifically for 1 or more of the qualifying events of terminal illness or medical conditions requiring extraordinary medical intervention or permanent institutional confinement and that provide the option of a lump-sum payment for those benefits and in which neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care. Long-term care insurance does not include an insurance policy offered primarily to provide coverage for rehabilitative and convalescent care and is not offered, advertised, or marketed as a long-term care policy, or offered primarily to provide basic medicare supplemental coverage, hospital confinement indemnity coverage, basic hospital expense coverage, basic medical-surgical expense coverage, major medical expense coverage,

disability income protection coverage, catastrophic coverage, comprehensive coverage, accident only coverage, specific disease or specified accident coverage, or limited benefit health coverage.

(i) "Medicare" means title XVIII of the social security act, 42 USC 1395 to 1395ggg.

(j) "Nonprofit health care corporation" means a nonprofit health care corporation operating pursuant to the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(k) "Preexisting condition" means a condition for which medical advice or treatment was recommended by, or received from, a provider of health care services within the 6 months immediately before the effective date of coverage of an insured person.

(*l*) "Policy" means an insurance policy or certificate, rider, or endorsement delivered or issued for delivery in this state by an insurer or subsidiary of a nonprofit health care corporation.

(m) "Skilled nursing facility" means a facility, or a distinct part of a facility, certified by the department of community health to provide skilled nursing care.

500.3902 Offer of long-term care coverage by subsidiary of health care corporation.

Sec. 3902. A nonprofit health care corporation shall only offer long-term care coverage through a subsidiary of the health care corporation and as provided in this chapter. If a health care corporation subsidiary offers long-term care coverage in this state, the sale of that coverage is not exempt from taxation by this state or any political subdivision of this state.

Repeal of MCL 550.1420 to 550.1430.

Enacting section 1. Sections 420 to 430 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1420 to 550.1430, are repealed.

This act is ordered to take immediate effect.
Approved October 18, 2006.
Filed with Secretary of State October 19, 2006.

[No. 442]

(HB 5349)

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 1204a, 1204c, 3915, 3927, 3935, and 3942 (MCL 500.1204a, 500.1204c, 500.3915, 500.3927, 500.3935, and 500.3942), section 1204a as amended by 1987 PA 64, section 1204c as amended by 2006 PA 109, and sections 3915, 3927, 3935, and 3942 as added by 1992 PA 84, and by adding sections 1204f, 3906, 3910, 3910a, 3910b, 3925, 3926, 3926a, and 3941a.

The People of the State of Michigan enact:

500.1204a Qualification as registered insurance agent program of study; criteria; conducting portion of minimum number of classroom hours of instruction; rules; recommendations for improvements in course materials; failure to maintain reasonable standards.

Sec. 1204a. (1) To qualify as a registered insurance agent program of study, the program of study shall meet all of the following criteria:

(a) Be conducted through an educational institution offering home study courses that has been in existence for not less than 5 years, by an insurance trade association, by an authorized insurer as provided in subsection (2), or by an educational institution listed in the state board of education directory of institutions of higher learning.

(b) Except as provided in subsection (2), provide for a minimum number of hours of classroom instruction or its equivalent in home study or online courses as follows:

(*i*) In the case of a program of study for health insurance agents, 14 hours of instruction on the principles of health insurance and 6 hours of instruction on the requirements of the insurance laws of this state.

(*ii*) In the case of a program of study for life insurance agents, 20 hours of instruction on the principles of life insurance and 6 hours of instruction on the requirements of the insurance laws of this state.

(*iii*) In the case of a combined program of study for life and health insurance agents, 14 hours of instruction on the principles of health insurance, 20 hours of instruction on the principles of life insurance, and 6 hours of instruction on the requirements of the insurance laws of this state.

(*iv*) In the case of a program of study for property and casualty insurance agents and solicitors, 12 hours of instruction on the principles of property insurance, 6 hours of instruction on the requirements of the insurance laws of this state, and 22 hours of instruction on the principles of liability insurance.

(c) Include instruction in ethical practices in the marketing and selling of insurance.

(d) Instruction shall be given only by individuals who meet the qualifications required by the commissioner. The commissioner, after consulting the insurance agent education advisory council, shall promulgate rules prescribing the criteria which must be met by a person in order to render instruction in a registered insurance agent program of study.

(2) An authorized insurer may conduct that portion of the minimum number of hours of instruction under subsection (1) as the commissioner deems appropriate. Any combination of classroom, online, or self-study hours may be used in satisfying the minimum number of hours of instruction under subsection (1).

(3) The commissioner shall promulgate rules prescribing the subject matter that a program of study must possess to qualify for registration under this section.

(4) The commissioner may make recommendations for improvements in course materials as deemed necessary by the commissioner. The commissioner may, after notice and opportunity for a hearing, withdraw the registration of a program of study which does not maintain reasonable standards as determined by the commissioner for the protection of the public.

500.1204c Definitions; insurance producer's hours of study; review; continuing education requirements; program of study; approval; hearing; revocation; filing certificate of attendance or instruction; waiver; reciprocal agreements; fees; sale of business and failure to meet continuing education requirements; cancellation of license.

Sec. 1204c. (1) As used in this section:

(a) "Hour" means a period of time of not less than 50 minutes.

(b) "Insurance producer" means a life-health agent or property-casualty agent.

(c) "Life-health agent" means a resident or nonresident individual insurance producer licensed for life, limited life, mortgage redemption, accident and health, or any combination thereof.

(d) "Property-casualty agent" means a resident or nonresident individual insurance producer or solicitor licensed for automobile, fire, multiple lines, any limited or minor property and casualty line, or any combination thereof.

(2) Unless the insurance producer has renewed his or her license pursuant to subsection (4), an insurance producer's hours of study accrued under this section shall be reviewed for license continuance as follows:

(a) If the insurance producer's license number ends in "1" as follows:

(*i*) If the insurance producer's last name starts with A to L, on January 1, 1995 and on January 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on January 1, 1996 and on January 1 every 2 years thereafter.

(b) If the insurance producer's license number ends in "2" as follows:

(*i*) If the insurance producer's last name starts with A to L, on February 1, 1995 and on February 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on February 1, 1996 and on February 1 every 2 years thereafter.

(c) If the insurance producer's license number ends in "3" as follows:

(*i*) If the insurance producer's last name starts with A to L, on March 1, 1995 and on March 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on March 1, 1996 and on March 1 every 2 years thereafter.

(d) If the insurance producer's license number ends in "4" as follows:

(*i*) If the insurance producer's last name starts with A to L, on June 1, 1995 and on June 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on June 1, 1996 and on June 1 every 2 years thereafter.

(e) If the insurance producer's license number ends in "5" as follows:

(*i*) If the insurance producer's last name starts with A to L, on July 1, 1995 and on July 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on July 1, 1996 and on July 1 every 2 years thereafter.

(f) If the insurance producer's license number ends in "6" as follows:

(*i*) If the insurance producer's last name starts with A to L, on August 1, 1995 and on August 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on August 1, 1996 and on August 1 every 2 years thereafter.

(g) If the insurance producer's license number ends in "7" as follows:

(*i*) If the insurance producer's last name starts with A to L, on September 1, 1995 and on September 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on September 1, 1996 and on September 1 every 2 years thereafter.

(h) If the insurance producer's license number ends in "8" as follows:

(*i*) If the insurance producer's last name starts with A to L, on October 1, 1995 and on October 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on October 1, 1996 and on October 1 every 2 years thereafter.

(i) If the insurance producer's license number ends in "9" as follows:

(*i*) If the insurance producer's last name starts with A to L, on November 1, 1995 and on November 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on November 1, 1996 and on November 1 every 2 years thereafter.

(j) If the insurance producer's license number ends in "0" as follows:

(*i*) If the insurance producer's last name starts with A to L, on December 1, 1995 and on December 1 every 2 years thereafter.

(*ii*) If the insurance producer's last name starts with M to Z, on December 1, 1996 and on December 1 every 2 years thereafter.

(3) If an insurance producer's hours of study would be reviewed according to the schedule under subsection (2) within 23 months after issuance of the initial license, the hours shall not be reviewed on the first scheduled date following the issuance of the initial license and shall be reviewed on the next scheduled review date following the first review date according to the schedule under subsection (2), unless the insurance producer has renewed his or her license pursuant to subsection (4).

(4) Except as provided in subsections (11) to (14), before the review date of each applicable 2-year period provided for under subsection (2) or (3), an insurance producer wishing to renew his or her license shall renew his or her license by attending or instructing not less than 24 hours of continuing education classes approved by the commissioner or 24 hours of home study if evidenced by successful completion of course work approved by the commissioner. Of the 24 hours of continuing education required, not less than 3 hours shall be in ethics in insurance classes or course work.

(5) After reviewing recommendations made by the council under section 1204b, the commissioner shall approve a program of study if the commissioner determines that the program increases knowledge of insurance and related subjects as follows:

(a) For a life-health agent program of study, the program offers instruction in 1 or more of the following:

(*i*) The fundamental considerations and major principles of life insurance.

(*ii*) The fundamental considerations and major principles of health insurance.

(*iii*) Estate planning and taxation as related to insurance.

(*iv*) Industry and legal standards concerning ethics in insurance.

(*v*) Legal, legislative, and regulatory matters concerning insurance, the insurance code, and the insurance industry.

(*vi*) Principal provisions used in life insurance contracts, health insurance contracts, or annuity contracts and differences in types of coverages.

(*vii*) Accounting and actuarial considerations in insurance.

(*viii*) Principles of agency management, excluding telemarketing or other marketing instruction.

(*ix*) The fundamental considerations, major principles, and statutory requirements of long-term care insurance.

(b) For a property-casualty agent program of study, the program offers instructions in 1 or more of the following:

(*i*) The fundamental considerations and major principles of property insurance.

(*ii*) The fundamental considerations and major principles of casualty insurance.

(*iii*) Basic principles of risk management.

(*iv*) Industry and legal standards concerning ethics in insurance.

(*v*) Legal, legislative, and regulatory matters concerning insurance, the insurance code, and the insurance industry.

(*vi*) Principal provisions used in casualty insurance contracts, no-fault insurance contracts, or property insurance contracts and differences in types of coverages.

(*vii*) Accounting and actuarial considerations in insurance.

(*viii*) Principles of agency management, excluding telemarketing or other marketing instruction.