(f) Property sold to a person engaged in a business enterprise and using and consuming the property in the tilling, planting, caring for, or harvesting of the things of the soil or in the breeding, raising, or caring for livestock, poultry, or horticultural products, including transfers of livestock, poultry, or horticultural products for further growth. At the time of the transfer of that tangible personal property, the transferee shall sign a statement, in a form approved by the department, stating that the property is to be used or consumed in connection with the production of horticultural or agricultural products as a business enterprise. The statement shall be accepted by the courts as prima facie evidence of the exemption. This exemption includes agricultural land tile, which means fired clay or perforated plastic tubing used as part of a subsurface drainage system for land used in the production of agricultural products as a business enterprise and includes a portable grain bin, which means a structure that is used or is to be used to shelter grain and that is designed to be disassembled without significant damage to its component parts. This exemption does not include transfers of food, fuel, clothing, or similar tangible personal property for personal living or human consumption. This exemption does not include tangible personal property permanently affixed and becoming a structural part of real estate.

(g) Property or services sold to the United States, an unincorporated agency or instrumentality of the United States, an incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States, the American red cross and its chapters or branches, this state, a department or institution of this state, or a political subdivision of this state.

(h) Property or services sold to a school, hospital, or home for the care and maintenance of children or aged persons, operated by an entity of government, a regularly organized church, religious, or fraternal organization, a veterans' organization, or a corporation incorporated under the laws of this state, if not operated for profit, and if the income or benefit from the operation does not inure, in whole or in part, to an individual or private shareholder, directly or indirectly, and if the activities of the entity or agency are carried on exclusively for the benefit of the public at large and are not limited to the advantage, interests, and benefits of its members or a restricted group. The tax levied does not apply to property or services sold to a parent cooperative preschool. As used in this subdivision, "parent cooperative preschool" means a nonprofit, nondiscriminatory educational institution, maintained as a community service and administered by parents of children currently enrolled in the preschool that provides an educational and developmental program for children younger than compulsory school age, that provides an educational program for parents, including active participation with children in preschool activities, that is directed by qualified preschool personnel, and that is licensed by the department of consumer and industry services pursuant to 1973 PA 116, MCL 722.111 to 722.128.

(i) Property or services sold to a regularly organized church or house of religious worship except the following:

(*i*) Sales in which the property is used in activities that are mainly commercial enterprises.

(*ii*) Sales of vehicles licensed for use on the public highways other than a passenger van or bus with a manufacturer's rated seating capacity of 10 or more that is used primarily for the transportation of persons for religious purposes.

(j) A vessel designed for commercial use of registered tonnage of 500 tons or more, if produced upon special order of the purchaser, and bunker and galley fuel, provisions, supplies, maintenance, and repairs for the exclusive use of a vessel of 500 tons or more engaged in interstate commerce.

(k) Property purchased for use in this state where actual personal possession is obtained outside this state, the purchase price or actual value of which does not exceed $10.00 during 1 calendar month.

(*l*) A newspaper or periodical classified under federal postal laws and regulations effective September 1, 1985 as second-class mail matter or as a controlled circulation publication or qualified to accept legal notices for publication in this state, as defined by law, or any other newspaper or periodical of general circulation, established at least 2 years, and published at least once a week, and a copyrighted motion picture film. Tangible personal property used or consumed in producing a copyrighted motion picture film, a newspaper published more than 14 times per year, or a periodical published more than 14 times per year, and not becoming a component part of that film, newspaper, or periodical is subject to the tax. After December 31, 1993, tangible personal property used or consumed in producing a newspaper published 14 times or less per year or a periodical published 14 times or less per year and that portion or percentage of tangible personal property used or consumed in producing an advertising supplement that becomes a component part of a newspaper or periodical is exempt from the tax under this subdivision. A claim for a refund for taxes paid before January 1, 1999 under this subdivision shall be made before June 30, 1999. For purposes of this subdivision, tangible personal property that becomes a component part of a newspaper or periodical and consequently not subject to tax, includes an advertising supplement inserted into and circulated with a newspaper or periodical that is otherwise exempt from tax under this subdivision, if the advertising supplement is delivered directly to the newspaper or periodical by a person other than the advertiser, or the advertising supplement is printed by the newspaper or periodical.

(m) Property purchased by persons licensed to operate a commercial radio or television station if the property is used in the origination or integration of the various sources of program material for commercial radio or television transmission. This subdivision does not include a vehicle licensed and titled for use on public highways or property used in the transmitting to or receiving from an artificial satellite.

(n) A person who is a resident of this state who purchases an automobile in another state while in the military service of the United States and who pays a sales tax in the state where the automobile is purchased.

(o) A vehicle for which a special registration is secured in accordance with section 226(12) of the Michigan vehicle code, 1949 PA 300, MCL 257.226.

(p) A hearing aid, contact lenses if prescribed for a specific disease that precludes the use of eyeglasses, or any other apparatus, device, or equipment used to replace or substitute for any part of the human body, or used to assist the disabled person to lead a reasonably normal life when the tangible personal property is purchased on a written prescription or order issued by a health professional as defined by section 4 of former 1974 PA 264, or section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501, or eyeglasses prescribed or dispensed to correct the person's vision by an ophthalmologist, optometrist, or optician.

(q) Water when delivered through water mains or in bulk tanks in quantities of not less than 500 gallons.

(r) A vehicle not for resale used by a nonprofit corporation organized exclusively to provide a community with ambulance or fire department services.

(s) Tangible personal property purchased and installed as a component part of a water pollution control facility for which a tax exemption certificate is issued pursuant to part 37 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3701 to 324.3708, or an air pollution control facility for which a tax exemption certificate is issued pursuant to part 59 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.5901 to 324.5908.

(t) Tangible real or personal property donated by a manufacturer, wholesaler, or retailer to an organization or entity exempt pursuant to subdivision (h) or (i) or section 4a(a) or (b) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(u) The storage, use, or consumption by a domestic air carrier of an aircraft purchased after December 31, 1992 but before October 1, 1996 for use solely in the transport of air cargo that has a maximum certificated takeoff weight of at least 12,500 pounds. For purposes of this subdivision, the term "domestic air carrier" is limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

(v) The storage, use, or consumption by a domestic air carrier of an aircraft purchased after June 30, 1994 but before October 1, 1996 that is used solely in the regularly scheduled transport of passengers. For purposes of this subdivision, the term "domestic air carrier" is limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

(w) The storage, use, or consumption by a domestic air carrier of an aircraft, other than an aircraft described under subdivision (v), purchased after December 31, 1994 but before October 1, 1996, that has a maximum certificated takeoff weight of at least 12,500 pounds and that is designed to have a maximum passenger seating configuration of more than 30 seats and used solely in the transport of passengers. For purposes of this subdivision, the term "domestic air carrier" is limited to entities engaged in the commercial transport for hire of cargo or entities engaged in the commercial transport of passengers as a business activity.

(x) The storage, use, or consumption of an aircraft by a domestic air carrier after September 30, 1996 for use solely in the transport of air cargo, passengers, or a combination of air cargo and passengers, that has a maximum certificated takeoff weight of at least 6,000 pounds. For purposes of this subdivision, the term "domestic air carrier" is limited to a person engaged primarily in the commercial transport for hire of air cargo, passengers, or a combination of air cargo and passengers as a business activity. The state treasurer shall estimate on January 1 each year the revenue lost by this act from the school aid fund and deposit that amount into the school aid fund from the general fund.

(y) The storage, use, or consumption of an aircraft by a person who purchases the aircraft for subsequent lease to a domestic air carrier operating under a certificate issued by the federal aviation administration under 14 C.F.R. part 121, for use solely in the regularly scheduled transport of passengers.

(z) Property or services sold to an organization not operated for profit and exempt from federal income tax under section 501(c)(3) or 501(c)(4) of the internal revenue code of 1986, 26 U.S.C. 501; or to a health, welfare, educational, cultural arts, charitable, or benevolent organization not operated for profit that has been issued before June 13, 1994 an exemption ruling letter to purchase items exempt from tax signed by the administrator of the sales, use, and withholding taxes division of the department. The department shall reissue an exemption letter after June 13, 1994 to each of those organizations that had an exemption letter that shall remain in effect unless the organization fails to meet the requirements that originally entitled it to this exemption. The exemption does not apply to sales of tangible personal property and sales of vehicles licensed for use on public highways, that are not used primarily to carry out the purposes of the organization as stated in the bylaws or articles of incorporation of the exempt organization.

(aa) The use or consumption of services described in section 3a(a) or (c) or 3b by means of a prepaid telephone calling card, a prepaid authorization number for telephone use, or a charge for internet access.

(bb) The purchase, lease, use, or consumption of the following by an industrial laundry after December 31, 1997:

(*i*) Textiles and disposable products including, but not limited to, soap, paper, chemicals, tissues, deodorizers and dispensers, and all related items such as packaging, supplies, hangers, name tags, and identification tags.

(*ii*) Equipment, whether owned or leased, used to repair and dispense textiles including, but not limited to, roll towel cabinets, slings, hardware, lockers, mop handles and frames, and carts.

(*iii*) Machinery, equipment, parts, lubricants, and repair services used to clean, process, and package textiles and related items, whether owned or leased.

(*iv*) Utilities such as electric, gas, water, or oil.

(*v*) Production washroom equipment and mending and packaging supplies and equipment.

(*vi*) Material handling equipment including, but not limited to, conveyors, racks, and elevators and related control equipment.

(*vii*) Wastewater pretreatment equipment and supplies and related maintenance and repair services.

(2) The property or services under subsection (1) are exempt only to the extent that the property or services are used for the exempt purposes if one is stated in subsection (1). The exemption is limited to the percentage of exempt use to total use determined by a reasonable formula or method approved by the department.

205.94q Central office equipment or wireless equipment; presumption.

Sec. 4q. (1) The tax levied under this act does not apply to the purchase of machinery and equipment for use or consumption in the rendition of any combination of services, the use or consumption of which is taxable under section 3a(a) or (c) or 3b except that this exemption is limited to the tangible personal property located on the premises of the subscriber and to central office equipment or wireless equipment, directly used or consumed in transmitting, receiving, or switching, or in the monitoring of switching of a 2-way interactive communication. As used in this subsection, central office equipment or wireless equipment does not include distribution equipment including cable or wire facilities.

(2) Beginning April 1, 1999, the property under subsection (1) is exempt only to the extent that the property is used for the exempt purposes stated in this section. There is an irrebuttable presumption that 90% of total use is for exempt purposes. This presumption is in effect until April 1, 2006, at which time the presumption shall be reviewed and redetermined by the department of treasury using nonexempt and exempt user information for the previous 12-month period. That redetermined irrebuttable presumption shall be in effect for the following 7 years. The irrebuttable presumption shall be reviewed and redetermined every 7 years after April 1, 2006 and applied to the following 7 years.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 477.

(b) Senate Bill No. 1248.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

Compiler's note: Senate Bill No. 477, referred to in enacting section 1, was filed with the Secretary of State June 21, 2002, and became P.A. 2002, No. 455, Imd. Eff. June 21, 2002.

Senate Bill No. 1248, also referred to in enacting section 1, was filed with the Secretary of State June 21, 2002, and became P.A. 2002, No. 452, Imd. Eff. June 21, 2002.

[No. 457]

(HB 5992)

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 3 (MCL 205.53), as amended by 1980 PA 164.

The People of the State of Michigan enact:

205.53 License required to engage in business for which privilege tax imposed; application; fee; bond or deposit; renewal; exemptions; suspension and restoration of license; violation as misdemeanor; penalty.

Sec. 3. (1) If a person engages or continues in a business for which a privilege tax is imposed by this act, the person shall, under rules the department prescribes, apply for and obtain from the department a license to engage in and to conduct that business for the current tax year. When the department considers it necessary in order to secure the collection of the tax or if an applicant taxpayer has at any time failed, refused, or neglected to pay any tax or interest or penalty upon a tax or has attempted to evade the payment of any tax or interest or penalty upon a tax by means of petition in bankruptcy, or if applicant taxpayer is a corporation and the department has reason to believe that the management or control of the corporation is under persons who have failed to pay any tax or interest or penalty upon a tax under this act, the department shall require a surety bond payable to the state of Michigan, upon which the applicant or taxpayer shall be the obligor, in the sum of not less than $1,000.00 nor more than $25,000.00. The surety bond shall be conditioned that the applicant or taxpayer shall comply with this act and shall promptly file true reports and pay the taxes, interest, and penalties provided for or required by this act. The bonds shall be approved as to the amount and surety by the department. The applicant or taxpayer may in lieu of the surety bond deposit a sum of money with the department in an amount the department determines to guarantee the payment of the tax, interest, and penalty and compliance with this act. However, the amount determined by the department shall not exceed the estimated tax payable during a 1-year period. The applicant or taxpayer shall be licensed to engage in and conduct the business. The department may require the applicant or taxpayer to furnish other and further bond as it considers necessary within the limits in this section, after giving a 30-day notice in writing. The license shall be renewed annually if the taxpayer pays the tax accrued to the state under this act. A person shall not engage or continue in a business taxable under this act without securing a license. A person, firm, or corporation engaged solely in industrial processing or agricultural producing under this act and who makes no sales at retail within the meaning of this act is not required to have a license.

(2) The revenue commissioner or his or her designee, after notice and hearing, may suspend the license of a person who violates or fails to comply with this act or a rule promulgated by the department under this act. The revenue commissioner or his or her designee may restore licenses after suspension. If a person engages in business taxable under this act while his or her license is in suspension, the tax imposed under this act is imposed and payable with respect to that business.

(3) A person who engages in any business in this state that is taxable under this act and who fails to secure from the revenue commissioner or his or her designee a license to engage in that business or who continues to engage in business after the license has expired or was suspended by the revenue commissioner or his or her designee is guilty of a misdemeanor punishable by a fine of not more than $1,000.00 or imprisonment for not more than 1 year, or both.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 458]

(HB 5832)

AN ACT to amend 1988 PA 466, entitled "An act to authorize and require the appointment of a state veterinarian within the department of agriculture; to protect the human food chain and the livestock and aquaculture industries of the state through prevention, control, and eradication of infectious, contagious, or toxicological diseases of livestock and other animals; to prevent the importation of certain nonindigenous animals under certain circumstances; to safeguard the human population from certain diseases that are communicable between animals and humans; to prevent or control the contamination of livestock with certain toxic substances through certain livestock or livestock products; to provide for indemnification for livestock under certain circumstances; to provide for certain powers and duties for certain state agencies and departments; to provide for the promulgation of rules; to provide for certain hearings; to provide for remedies and penalties; and to repeal acts and parts of acts," by amending sections 3, 4, 6, 8, 9, 11b, 12, 13a, 14, 16, 19, 22, 30a, 30b, 33, and 44 (MCL 287.703, 287.704, 287.706, 287.708, 287.709, 287.711b, 287.712, 287.713a, 287.714, 287.716, 287.719, 287.722, 287.730a, 287.730b, 287.733, and 287.744), sections 3, 4, 6, 8, 9, 12, 14, 16, 19, 30a, 30b, 33, and 44 as amended and sections 11b and 13a as added by 2000 PA 323 and section 22 as amended by 1996 PA 369; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

287.703 Definitions; A to F.

Sec. 3. (1) "Accredited veterinarian" means a veterinarian approved by the administrator of the United States department of agriculture, animal and plant health inspection service in accordance with provisions of 9 C.F.R. part 161, and considered preapproved to perform certain functions of federal and cooperative state/federal programs.

(2) "Animal" means mollusks, crustaceans, and vertebrates other than human beings including, but not limited to, livestock, exotic animals, aquaculture, and domestic animals.

(3) "Animal movement certificate" means animal movement authorization established in a manner approved and issued by the director that contains, at a minimum, the following information regarding animals or an animal:

(a) The point of origin and point of destination.

(b) Official identification.

(c) Anticipated movement date.

(d) Any required official test results for bovine tuberculosis.

(4) "Aquaculture" means the commercial husbandry of aquaculture species on the approved list of aquaculture species under the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884, including, but not limited to, the culturing, producing, growing, using, propagating, harvesting, transporting, importing, exporting, or marketing of any products, coproducts, or by-products of fish, crustaceans, mollusks, reptiles, and amphibians, reared or cultured under controlled conditions in an aquaculture facility.

(5) "Aquaculture facility" means that term as defined under the Michigan aquaculture development act, 1996 PA 199, MCL 286.871 to 286.884.

(6) "Approved vaccine" means a veterinary biological administered to livestock or other animals to induce immunity in the recipient and approved by the state veterinarian.

(7) "Carcasses" means the dead bodies of animals, poultry, or aquaculture. Carcasses do not include rendered products.

(8) "Cattle" means all bovine (genus bos) animals, bovinelike animals (genus bison) also commonly referred to as American buffalo or bison and any cross of these species unless otherwise specifically provided.

(9) "Cattle importation lot" means a premises registered with the department and used only to feed cattle in preparation for slaughter.

(10) "Commingling" means concurrently or subsequently sharing or subsequent use by livestock or other domestic animals of the same pen or same section in a facility or same section in a transportation unit where there is physical contact or contact with bodily excrements, aerosols, or fluids from other livestock or domestic animals.

(11) "Consignee" means the person receiving the animals at the point of destination named on the official interstate or intrastate health certificate, official interstate certificate of veterinary inspection or animal movement certificate, entry authorization form, fish disease inspection report, owner-shipper statement, or sales invoice.

(12) "Contagious disease" means an illness due to a specific infectious agent or suspected infectious agent or its toxic products which arises through transmission of that agent or its products from an infected animal, or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, vector, or the inanimate environment, or via an airborne mechanism.

(13) "Dealer" means any person required to be licensed under 1937 PA 284, MCL 287.121 to 287.131, and engaged in the business of buying, receiving, selling, exchanging, transporting, negotiating, or soliciting the sale, resale, exchange, transportation, or transfer of livestock.

(14) "Department" means the Michigan department of agriculture.

(15) "Direct movement" means transfer of animals to a destination without unloading the animals en route and without exposure to any other animals or bodily excrements, aerosols, or fluids from other animals.

(16) "Director" means the director of the Michigan department of agriculture or his or her authorized representative.

(17) "Disease" means any animal health condition with potential for economic impact, public or animal health concerns, or food safety concerns.

(18) "Distribute" means to deliver other than by administering or dispensing a veterinary biological.

(19) "Domestic animal" means those species of animals that live under the husbandry of humans.

(20) "Emergency fish diseases" means certain infectious diseases of fish that are transmissible directly or indirectly from 1 fish to another and are not known to exist within the waters of the state. Emergency fish diseases include, but are not limited to, viral hemorrhagic septicemia, infectious hematopoietic necrosis, ceratomyxosis, and proliferative kidney disease.

(21) "Equine" means all animals of the equine family which includes horses, asses, jacks, jennies, hinnies, mules, donkeys, burros, ponies, and zebras.

(22) "Exhibition or exposition" means a congregation, gathering, or collection of livestock that are presented or exposed to public view for show, display, swap, exchange, entertainment, educational event, instruction, advertising, or competition. Exhibition or exposition does not include livestock for sale at public stockyards, auctions, saleyards, and livestock yards licensed under the provisions of 1937 PA 284, MCL 287.121 to 287.131.

(23) "Exhibition facility" means any facility used or intended to be used for public view, show, display, swap, exchange, entertainment, advertisement, educational event, or competition involving livestock. Exhibition facility does not include a public stockyard, an auction saleyard, and a livestock yard where livestock are accepted on consignment and the auction method is used in the marketing of the livestock.

(24) "Exhibitor" means any person who presents livestock for public display, exhibition, or competition or enters livestock in a fair, show, exhibition, or exposition.

(25) "Exotic animal" means those animals that are not native to North America.

(26) "Fair" means a competition and educational exhibition of agricultural commodities and manufactured products for which premiums may be paid and which is conducted by an association or governmental entity.

(27) "Feral swine" means swine which have lived their life or any part of their life as free roaming or not under the husbandry of humans.

287.704 Definitions; F to I.

Sec. 4. (1) "Fish disease inspection report" means a document available from the Great Lakes fishery commission completed by a fish health official giving evidence of inspections and diagnostic work performed.

(2) "Fish health official" means a fish health specialist identified by member agencies of the Great Lakes fish disease control committee to the chair of the Great Lakes fish disease control committee responsible for conducting fish-hatchery inspections and the issuance of inspection reports.

(3) "Flock" means all of the poultry on 1 premises or, upon the discretion of the department, a group of poultry that is segregated from all other poultry for at least 21 days.

(4) "Garbage" means any animal origin products, including those of poultry and fish origin, or other animal material resulting from the handling, processing, preparation, cooking, and consumption of foods. Garbage includes, but is not limited to, any refuse of any type that has been associated with any such material at any time during the handling, preparation, cooking, or consumption of food. Garbage does not include rendered products or manure.

(5) "Grade" means an animal for which no proof of registration with an appropriate breed registry is provided.

(6) "Hatchery" means incubators, hatchers, and auxiliary equipment on 1 premises operated and controlled for the purpose of hatching poultry.

(7) "Hatching poultry eggs" means eggs for use in a hatchery to produce young poultry or to produce embryonated eggs.

(8) "Herd or flock of origin" means any herd or flock in which animals are born and remain until movement or any herd or flock which animals remain for at least 30 days immediately following direct movement into the herd or flock from another herd or flock. Herd or flock of origin includes the place of origin, premises of origin, and farm of origin.

(9) "Infectious disease" means an infection or disease due to the invasion of the body by pathogenic organisms.

(10) "Isolated" means the physical separation of animals by a physical barrier in such a manner that other animals do not have access to the isolated animals' body, excrement, aerosols, or discharges, not allowing the isolated animals to share a building with a common ventilation system with other animals, and not allowing the isolated animals to be within 10 feet of other animals if not sharing a building with a common ventilation system. Isolated animals have a feed and water system separate from other animals.

287.706 Definitions; O to W.

Sec. 6. (1) "Official calfhood vaccinate" means female cattle that are vaccinated by an accredited veterinarian with a United States department of agriculture approved brucella abortus vaccine in accordance with procedures and at an age approved by the director.

(2) "Official identification" means an identification ear tag, tattoo, electronic identification, or other identification approved by the United States department of agriculture or the department.

(3) "Official interstate health certificate" or "official interstate certificate of veterinary inspection" means a printed form adopted by any state that documents the information required under section 20 and that is issued for animals being imported to or exported from this state within 30 days before the importation or exportation of the animals it describes. A photocopy of an official interstate health certificate or an official interstate certificate of veterinary inspection is considered an official copy if certified as a true copy by the issuing veterinarian or a livestock health official of the state of origin.

(4) "Official test" means a sample of specific material collected from an animal by an accredited veterinarian, state or federal veterinary medical officer, or other person authorized by the director and analyzed by a laboratory certified by the United States department of agriculture or the department to conduct the test, or a diagnostic injection administered and analyzed by an accredited veterinarian or a state or federal veterinary medical officer. An official test is conducted only by an accredited veterinarian or a state or federal veterinary medical officer except under special permission by the director.

(5) "Official vaccination" means a vaccination that the director has designated as reportable, administered by an accredited veterinarian or a state or federal veterinary medical officer, and documented on a form supplied by the department.

(6) "Originate" refers to direct movement of animals from a herd or flock of origin.

(7) "Over 19 months of age" means cattle that have the first pair of permanent incisor teeth visibly present unless the owner can document the exact age. Parturient or postparturient heifers, regardless of their age, are considered over 19 months of age.

(8) "Person" means an individual, partnership, corporation, cooperative, association, joint venture, or other legal entity including, but not limited to, contractual relationships.

(9) "Poultry" means, but is not limited to, chickens, guinea fowl, turkeys, waterfowl, pigeons, doves, peafowl, and game birds that are propagated and maintained under the husbandry of humans.

(10) "Prior entry permit" means a code that is obtained from the department for specific species of livestock imported into the state that is recorded on the official interstate health certificate or official interstate certificate of veterinary inspection before entry into the state.

(11) "Privately owned cervid" means all species of the cervid family including, but not limited to, deer, elk, moose, and all other members of the family cervidae raised or maintained in captivity for the production of meat and other agricultural products, sport, exhibition, or any other purpose. A privately owned cervid at large will continue to be considered a privately owned cervid as long as it bears visible identification.

(12) "Privately owned cervid farm" means any private or public premises that contains 1 or more privately owned cervids and does not have any privately owned cervids removed by the hunting method.

(13) "Privately owned cervid ranch" means any private or public premises that contains 1 or more privately owned cervids and has privately owned cervids removed by the hunting method.

(14) "Privately owned white-tailed deer or elk ranch" means any private or public premises that contain 1 or more privately owned white-tailed deer or privately owned elk and has privately owned white-tailed deer or privately owned elk removed by the hunting method.

(15) "Pullorum-typhoid" means a disease of poultry caused by both salmonella pullorum and salmonella gallinarum.

(16) "Pullorum-typhoid clean flock" means a flock that receives and maintains this status by fulfilling the requirements prescribed in the national poultry improvement plan.

(17) "Quarantine" means enforced isolation of any animal or group of animals or restriction of movement of an animal or group of animals, equipment, or vehicles to or from any structure, premises, or area of this state including the entirety of this state.

(18) "Ratite" means flightless birds having a flat breastbone without the keellike prominence characteristic of most flying birds. Ratites include, but are not limited to, cassowaries, kiwis, ostriches, emus, and rheas.

(19) "Reasonable assistance" means safely controlling an animal by corralling, stabling, kenneling, holding, tying, chemically restraining, or confining by halter or leash or crowding the animal in a safe and sensible manner so an examination or testing procedure considered necessary by the director can be performed.

(20) "Rendered products" means waste material derived in whole or in part from meat of any animal or other animal material and other refuse of any character whatsoever that has been associated with any such material at any time during the handling, preparation, cooking, or consumption of food that has been ground and heat-treated to a minimum temperature of 230 degrees Fahrenheit to make products including, but not limited to, animal protein meal, poultry protein meal, fish protein meal, grease, or tallow. Rendered products also include bakery wastes, eggs, candy wastes, and domestic dairy products including, but not limited to, milk.

(21) "Reportable disease" means an animal disease on the current reportable animal disease list maintained by the state veterinarian that poses a serious threat to the livestock industry, public health, or human food chain.

(22) "Slaughter facility premises" means all facilities, buildings, structures, including all immediate grounds where slaughtering occurs under federal or state inspection, or otherwise authorized by the director.

(23) "Sow" means any female swine that has farrowed or given birth to or aborted 1 litter or more.

(24) "State veterinarian" means the chief animal health official of the state as appointed by the director under section 7, or his or her authorized representative.

(25) "Swine" means any of the ungulate mammals of the family suidae.

(26) "Terminal operation" means a facility for cattle, privately owned cervids, and goats to allow for continued growth and finishing until such time as the cattle, privately owned cervids, and goats are shipped directly to slaughter.

(27) "Toxic substance" means a natural or synthetic chemical in concentrations which alone or in combination with other natural or synthetic chemicals presents a threat to the health, safety, or welfare to human or animal life or which has the capacity to produce injury or illness through ingestion, inhalation, or absorption through the body surface.

(28) "Toxicological disease" means any condition caused by or related to a toxic substance.

(29) "U.S. registered shield" means a tattoo authorized and approved by the United States department of agriculture for use by an accredited veterinarian to designate cattle that have been vaccinated against brucellosis using an approved brucella abortus vaccine.

(30) "Veterinarian" means a person licensed to practice veterinary medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or under a state or federal law applicable to that person.

(31) "Veterinary biological" means all viruses, serums, toxins, and analogous products of natural or synthetic origin, or products prepared from any type of genetic engineering, such as diagnostics, antitoxins, vaccines, live microorganisms, killed microorganisms, and the antigenic or immunizing components of microorganisms intended for use in the diagnosis, treatment, or prevention of diseases in animals.

(32) "Waters of the state" means groundwaters, lakes, rivers, and streams and all other watercourses and waters within the jurisdiction of the state and also the Great Lakes bordering the state.

(33) "Wild animal" means any nondomesticated animal or any cross of a nondomesticated animal.

287.708 State veterinarian; powers and duties generally.

Sec. 8. (1) Under the direction of the director, the state veterinarian shall do all of the following:

(a) Develop and enforce policy and supervise activities to carry out this act and other state and federal laws, rules, and regulations that pertain to the health and welfare of animals in this state on public or private premises.

(b) Promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the use of veterinary biologicals including diagnostic biological agents.

(c) Maintain a list of reportable animal diseases. The state veterinarian shall review and update the list annually and more often if necessary.

(d) Maintain a list of veterinary biologicals whose sale, distribution, use, or administration by any person is reported to the director when requested by the director within 10 working days of the sale, distribution, use, or administration. The state veterinarian shall review and update the list annually and more often if necessary.

(e) Develop and implement scientifically based surveillance and monitoring programs for reportable diseases when the director determines, with advice and consultation from the livestock industry and veterinary profession, that these programs would aid in the control or eradication of a reportable disease or strengthen the economic viability of the industry.

(2) The state veterinarian may require that the importation and use of veterinary biologicals or biological agents be reported to the department and may restrict the use of certain veterinary biologicals to veterinarians when the disease or veterinary biological involved has a substantial impact on public health, animal health, or animal industry.

(3) Unless otherwise prohibited by law, the state veterinarian may enter upon any public or private premises to enforce this act.

(4) A person shall not give false information in a matter pertaining to this act and shall not impede or hinder the director in the discharge of his or her duties under this act.

(5) Upon demand of the director, a person transporting livestock shall produce documentation that contains the origin of shipment, registration or permit copies or documentation, documentation demonstrating shipping destination, and any other proof that may be required under this act.

(6) The director may waive any testing requirements after epidemiologic review.

287.709 Animal affected with reportable disease or contaminated with toxic substance; moving restrictions and requirements; designation of high risk areas; exemption; conduct of bovine tuberculosis testing.

Sec. 9. (1) A person who discovers, suspects, or has reason to believe that an animal is either affected by a reportable disease or contaminated with a toxic substance shall immediately report that fact, suspicion, or belief to the director. The director shall take appropriate action to investigate the report. A person possessing an animal affected by, or suspected of being affected by, a reportable disease or contaminated with a toxic substance shall allow the director to examine the animal or collect diagnostic specimens. The director may enter premises where animals, animal products, or animal feeds are suspected of being contaminated with an infectious or contagious disease, or a disease caused by a toxic substance and seize or impound the animal products or feed located on the premises. The director may withhold a certain amount of animal products or feed for the purpose of controlled research and testing. A person who knowingly possesses or harbors affected or suspected animals shall not expose other animals to the affected or suspected animals or otherwise move the affected or suspected animals or animals under quarantine except with permission from the director.

(2) A person owning animals shall provide reasonable assistance to the director during the examination and necessary testing procedures.

(3) The director may call upon a law enforcement agency to assist in enforcing the director's quarantines, orders, or any other provisions of this act.

(4) A person shall not remove or alter the official identification of an animal. A person shall not misrepresent an animal's identity or the ownership of an animal. A person shall not misrepresent the animal's health status to a potential buyer.

(5) The director shall devise and implement a program to compensate livestock owners for livestock that die, are injured, or need to be destroyed for humane reasons due to injury occurring while the livestock are undergoing mandatory or required testing for a reportable disease.

(6) Any medical or epidemiological information that identifies the owners of animals and is gathered in connection with the reporting of a discovery, suspicion, or reason to believe that an animal is either affected by a reportable disease or contaminated with a toxic substance, or information gathered in connection with an investigation of the reporting of a discovery, suspicion, or reason to believe that an animal is affected by a reportable disease or contaminated with a toxic substance is confidential, is exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and is not open to public inspection without the individual's consent unless public inspection is necessary to protect the public or animal health as determined by the director. Such medical or epidemiological information that is released to a legislative body shall not contain information that identifies a specific owner.

(7) As used in subsections (8) to (10):

(a) "Disease free zone" means any area in the state with defined dimensions determined by the department in consultation with the United States department of agriculture to be free of bovine tuberculosis in livestock.

(b) "Infected zone" means any area in the state with defined dimensions in which bovine tuberculosis is present in livestock and separated from the disease free zone by a surveillance zone as determined by the department in consultation with the United States department of agriculture.

(c) "Official intrastate health certificate or official intrastate certificate of veterinary inspection" means a printed form adopted by the department and completed and issued by an accredited veterinarian that documents an animal's point of origin, point of destination, official identification, and any required official test results.

(d) "Prior movement permit" means prior documented permission given by the director before movement of livestock.

(e) "Surveillance zone" means any area in the state with defined dimensions that is located adjacent and contiguous to an infected zone as determined by the department in consultation with the United States department of agriculture.

(8) The director may develop, implement, and enforce scientifically based movement restrictions and requirements including official bovine tuberculosis test requirements, prior movement permits, official intrastate health certificates or animal movement certificates to accompany movement of animals, and official identification of animals for movement between or within a disease free zone, surveillance zone, and an infected zone, or any combination of those zones.

(9) The department shall comply with the following procedures before issuing zoning requirements described in subsection (8) that assure public notice and opportunity for public comment:

(a) Develop scientifically based zoning requirements with advice and consultation from the livestock industry and veterinary profession.

(b) Place the proposed zoning requirements on the commission of agriculture agenda at least 1 month before final review and order by the director. During the 1-month period described in this subdivision, written comments may be submitted to the director and the director shall hold at least 1 public forum within the affected areas.

(c) Place the proposed zoning requirements at least 1 month before implementation in a newspaper of each county within the proposed zoning requirement area and at least 2 newspapers having circulation outside of the proposed zoning requirement area.

(10) The director may revise or rescind movement restrictions and other requirements described in subsection (8), pursuant to this section, and any revision or revocation of such

movement restrictions or other requirements shall comply with the procedure set forth in subsection (9) unless the revision does not alter the boundary of a previously established zone.

(11) As used in subsections (12) to (32):

(a) "High-risk area" means an area designated by the director where bovine tuberculosis has been diagnosed in livestock.

(b) "Intrastate movement" means movement from 1 premises to another within this state. Intrastate movement does not include the movement of livestock from 1 premises within the state directly to another premises within the state when both premises are a part of the same livestock operation under common ownership and both premises are directly interrelated as part of the same livestock operation. Except that when intrastate movement causes livestock to cross from 1 zone into another zone, livestock must meet the testing requirements for their zone of origin.

(c) "Potential high-risk area" means an area determined by the director in which bovine tuberculosis has been diagnosed in wild animals only.

(d) "Whole herd" means any isolated group of cattle, privately owned cervids, or goats maintained on common ground for any purpose, or 2 or more groups of cattle, privately owned cervids, or goats under common ownership or supervision geographically separated but that have an interchange or movement of cattle, privately owned cervids, or goats without regard to health status as determined by the director.

(e) "Whole herd test" means a test of any isolated group of cattle or privately owned cervids 12 months of age and older or goats 6 months of age or older maintained on common ground for any purpose; 2 or more groups of cattle, goats, or privately owned cervids under common ownership or supervision geographically separated but that have an interchange or movement of cattle, goats, or privately owned cervids without regard to health status as determined by the director; or any other test of an isolated group of livestock considered a whole herd test by the director.

(12) This section does not exempt dairy herds from being tested in the manner provided for by grade "A" pasteurized milk ordinance, 2001 revision of the United States public health service/food and drug administration, with administrative procedures and appendices, set forth in the public health service/food and drug administration publication no. 229, and the provisions of the 1995 grade "A" condensed and dry milk products and condensed and dry whey-supplement I to the grade "A" pasteurized milk ordinance, 2001 revisions, and all amendments to those publications thereafter adopted pursuant to the rules that the director may promulgate.

(13) The director may establish high-risk areas and potential high-risk areas based upon scientifically based epidemiology. The director shall notify the commission of agriculture and publish public notice in a newspaper of each county with general circulation in any area designated as a high-risk or potential high-risk area.

(14) All cattle and goat herds located in high-risk areas shall be whole herd bovine tuberculosis tested at least once per year. After the first whole herd bovine tuberculosis test, testing shall occur between 10 and 14 months from the anniversary date of the first test. This section does not prevent whole herd testing by the owner or by department mandate at shorter intervals. When 36 months of testing fails to disclose a newly affected herd within the high-risk area or any portion of the high-risk area, the director shall remove the high-risk area designation from all or part of that area.

(15) Terminal operations located in high-risk areas in this state are exempt from the requirements of subsection (14) and shall be monitored by a written surveillance plan approved by the director.

(16) All cattle and goat herds located in potential high-risk areas shall be whole herd bovine tuberculosis tested within 6 months after the director has established a potential high-risk area or have a written herd plan with a targeted whole herd bovine tuberculosis testing date. When all herds meet the testing requirements imposed in this subsection, the director shall remove the potential high-risk area designation.

(17) Terminal operations located in potential high-risk areas in this state are exempt from the requirements of subsection (16) and may be monitored by a written surveillance plan approved by the director.

(18) Each owner of any privately owned cervid herd within a high-risk area shall cause an annual whole herd bovine tuberculosis test to be conducted on all privately owned cervids 12 months of age and older within the herd and all cattle and goats 6 months of age and older in contact with the cervids. Following the initial annual whole herd test, subsequent whole herd tests shall be completed at 9- to 15-month intervals. This section does not prevent whole herd testing by the owner or by department mandate at shorter intervals.

(19) Each owner of any privately owned cervid ranch within a high-risk area may elect to undergo a tuberculosis slaughter surveillance plan approved by the director in lieu of the annual whole herd testing. This slaughter surveillance plan must include examination of animals removed from the herd for detection of tuberculosis. Examination must be performed by a state or federal veterinarian or accredited veterinarian. The number to be examined at each testing interval shall include adult animals and must be equal to the amount necessary to establish an official tuberculosis monitored herd as defined in the bovine tuberculosis eradication uniform methods and rules, effective January 22, 1999, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(20) All cattle and goat herds, except livestock assembled at feedlots where all animals are fed for slaughter before 24 months of age, that are located in any area outside a high-risk area or a potential high-risk area in this state shall be whole herd bovine tuberculosis tested between January 1, 2000 and December 31, 2003. Privately owned cervid herds located in the non-high-risk areas or potential high-risk areas shall be tested per sections 30c and 30d. The director may order testing for any reportable disease in any geographical area or in any herd to accomplish surveillance necessary for the state of Michigan to participate in the national tuberculosis eradication program, to complete epidemiologic investigations for any reportable disease, or in any instance where a reportable disease is suspected. The director may establish a surveillance testing program for cattle and goats to replace the testing protocol and meet the intrastate movement requirements under subsections (22) and (23). A person shall not sell or offer for sale, move, or transfer any livestock that originate from a herd or area under order for testing by the director unless the livestock have met the requirements of the order issued under this subsection. If a person does not cause a herd to be tested in compliance with this order, the director shall notify the person responsible for management of the herd of the necessity for testing to occur and the deadline for testing to occur and shall quarantine any herd that has not been tested until such time as the testing can be completed by state or federal regulatory veterinarians or accredited veterinarians.

(21) Terminal operations and privately owned cervid premises located in any area outside a high-risk area or a potential high-risk area in this state may be exempted from subsection (18) and may be monitored by a written surveillance plan approved by the director.

(22) Subject to subsection (24), cattle and goats originating in an area not designated as a high-risk area moving intrastate shall meet at least 1 of the following until the zone, area, or the entirety of the state from which they originate receives tuberculosis-free status from the United States department of agriculture or under other circumstances as approved by the director:

(a) Originate directly from a herd that has received an official negative whole herd bovine tuberculosis test within the 24 months before the intrastate movement.

(b) Has received an individual official negative bovine tuberculosis test within 60 days before the intrastate movements.

(c) Has originated directly from an accredited bovine tuberculosis-free herd as defined in title 9 of the code of federal regulations and the bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(23) Subject to subsection (24), cattle and goats originating in a high-risk area that move intrastate shall meet at least 1 of the following until the zone, area, or the entirety of the state from which they originate is no longer designated as a high-risk area by the director or under other circumstances as approved by the director:

(a) Originate directly from a herd that has received an official negative whole herd bovine tuberculosis test within the 12 months before the intrastate movement.

(b) Has received an individual official negative bovine tuberculosis test within 60 days before the intrastate movements.

(c) Has originated directly from an accredited bovine tuberculosis-free herd as defined in title 9 of the code of federal regulations and the bovine tuberculosis eradication: uniform methods and rules effective January 22, 1999, approved by veterinary services of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(24) Cattle and goats not meeting subsection (22) or (23) may be sold through a livestock auction market for slaughter only. Slaughter must occur within 5 days after the sale. The buyer of livestock sold for slaughter shall provide verification that the slaughter occurred within 5 days after sale upon request of the director. Failure of a buyer of livestock sold for slaughter to comply with this subsection subjects that buyer to the penalties and sanctions of this act.

(25) Privately owned cervids moving intrastate shall meet requirements under section 30b.

(26) Bovine tuberculosis testing required under this section shall be an official test. Accredited veterinarians under contract and approved under this subsection may be paid by the department for testing services. Approved veterinarians paid by the department or the United States department of agriculture for bovine tuberculosis testing required by this section must attend an initial bovine tuberculosis educational seminar approved by the director.

(27) Bovine tuberculosis testing shall be conducted by the department, United States department of agriculture, or accredited veterinarians.

(28) Individual livestock that have been injected and are undergoing bovine tuberculosis testing shall not be removed from the premises where the test is administered until the test is read except as permitted by the director.

(29) With advice and consultation from the livestock industry and veterinary profession, the director shall pay to a producer for assistance approved by the Michigan commission of agriculture for whole herd bovine tuberculosis testing required in subsections (14), (16), (18), and (20).

(30) The director shall pay to an operator or owner of a livestock auction market on a 50/50 cost share basis for chutes, gates, and remodeling to expedite identification of livestock for bovine tuberculosis surveillance and eradication.

287.711b Official identification.

Sec. 11b. (1) All cattle, goats, sheep, and privately owned cervids shall bear official identification before they leave a premises.

(2) Compliance with this section regarding official identification is the responsibility of the owner.

(3) Official identification shall be supplied by the department.

287.712 Quarantine.

Sec. 12. (1) The director may issue a quarantine on animals, equipment, vehicles, structures, premises, or any area in the state, including the entire state if necessary, for the purpose of controlling or preventing the spread of a known or suspected infectious, contagious, or toxicological disease.

(2) A person shall not move animals that are under quarantine without permission from the director.

(3) A person shall not allow animals under quarantine to mingle or have contact with other animals not under quarantine without permission by the director.

(4) A person shall not import into this state an animal from another state or jurisdiction if that animal is under quarantine by the other state or jurisdiction unless that person obtains prior permission from the director.

(5) A person shall not import into this state an animal species from an area under quarantine for that species for any infectious, contagious, or toxicological disease unless permission is granted from the director.

(6) The director may prescribe procedures for the identification, inventory, separation, mode of handling, testing, treatment, feeding, and caring for both quarantined animals and animals within a quarantined area to prevent the infection or exposure of nonquarantined or quarantined animals to infectious, contagious, or toxicological diseases.

(7) The director may prescribe procedures required before any animal, structure, premises, or area or zone in this state, including the entirety of the state if necessary, are released from quarantine.

(8) An animal found running at large in violation of a quarantine may be killed by a law enforcement agency. The director may enlist the cooperation of a law enforcement agency to enforce the provisions of this quarantine. A law enforcement agency killing an animal due to a quarantine under this section is not subject to liability for the animal.

287.713a Terminal operation.

Sec. 13a. (1) A terminal operation may be a lot, parcel, pasture, premises, facility, or confined area.

(2) A terminal operation shall be registered with the department on an application form provided by the department.

(3) Registration shall not be issued unless the terminal operation has been inspected by the director and found to meet the requirements of this section.

(4) A terminal operation shall not allow or permit drainage from the terminal operation to flow into areas accessible to livestock, livestock feed, or livestock feed storage areas other than the cattle, privately owned cervids, and goats in the terminal operation.

(5) A terminal operation is constructed and operated to deter cattle, privately owned cervids, and goats in the terminal operation from making contact with animals other than those in the terminal operation.

(6) If a vehicle transporting cattle, privately owned cervids, and goats from a terminal operation completes the load at additional farms, all of which are en route to a slaughter facility, all cattle, privately owned cervids, and goats must remain on the vehicle and no animals are allowed to unload.

(7) A terminal operation may accept individual livestock that have not been tested for bovine tuberculosis provided that the herd of origin has been tested according to requirements of this act or when other requirements as determined by the director have been met.

(8) Aborted fetuses and animals that die in a terminal operation shall be disposed of in compliance with section 57 of the Michigan penal code, 1931 PA 328, MCL 750.57, and 1982 PA 239, MCL 287.651 to 287.683, regarding burial of dead animals.

(9) If an animal gives birth while in the terminal operation, both of the following apply:

(a) The offspring are restricted to the terminal operation and may leave only as described in subsection (10).

(b) The newborn animal must be officially identified within 30 days after birth.

(10) Cattle, privately owned cervids, and goats shall only exit a terminal operation by being transported directly to a slaughtering establishment, directly to another registered terminal operation, or through a livestock auction market for slaughter only, or to a veterinary hospital or clinic where the animal is not commingled with other animals unless permission is granted by the director to move the cattle, privately owned cervids, or goats to another premises. If cattle, privately owned cervids, or goats exit a terminal operation through a livestock auction market, the director may request verification that the animals were sold for slaughter and that the slaughter occurred 5 days after sale. Moving directly to a slaughtering establishment or directly to another registered terminal operation includes stopping at a premises to load other animals being transported to the slaughtering establishment or terminal operation without unloading any animals.

(11) Cattle, privately owned cervids, and goats in a terminal operation are exempt from official bovine tuberculosis testing as required in section 9(14), (16), and (20).

(12) A conveyance vehicle used to transport cattle, privately owned cervids, and goats from a terminal operation shall be cleaned and disinfected after use with a disinfectant applied in accordance with label instructions.

(13) The director may inspect any terminal operation and records of the terminal operation at any reasonable time to determine whether requirements established by this act are being met. The director shall make a reasonable attempt to notify the owner/operator before any inspection.

(14) Terminal operation records shall include all of the following:

(a) Identification of all cattle, privately owned cervids, and goats. As used in this subdivision, "identification" means official identification, including electronic identification, or permanent identification approved and supplied by the director.

(b) The date cattle, privately owned cervids, or goats were added to the terminal operation.

(c) The complete name and address of the person or dealer from whom the cattle, privately owned cervids, or goats were obtained.

(d) The complete street address of the premises from which the cattle, privately owned cervids, or goats were obtained.

(e) The complete name and street address of the slaughterhouse, veterinary hospital or clinic, livestock auction market, or terminal operation where the cattle, privately owned cervids, or goats were sent.

(f) The date the cattle, privately owned cervids, or goats were removed from the terminal operation.

(15) A terminal operation that purchases livestock from a dealer may provide the department the name of the dealer in order to fulfill the record requirements imposed under this section.

(16) Livestock entering terminal operations must bear official identification or official identification must be applied within 10 days of arrival.

287.714 Seizure, slaughter, destruction, or other disposition of livestock or domestic animals; notice; disposal of animals, animal products, and animal feeds; indemnification; appraisals and inventories; records; affidavit; appraisal certificate; annual budget; release of claim against state; applicability of right to indemnity; cleaning and disinfecting premises; repopulation of premises; cooperating and coordinating with secretary of agriculture; reports.

Sec. 14. (1) If the director determines that the control or eradication of a disease or condition of livestock warrants entry onto property where livestock or domestic animals are located, the director shall order the entry onto property where livestock or domestic animals are located and authorize seizure, slaughter, destruction, or other disposition of individual livestock or domestic animals or the entire herd, flock, or school. If the director has signed an order for the slaughter, destruction, or other disposition of livestock or domestic animals, the director shall notify the attorney general and the house and senate appropriations committees and the department of management and budget on the issue of indemnity under this section. The director may approve facilities and procedures for the orderly disposal of animals, animal products, and animal feeds for the purpose of controlling or preventing the spread of an infectious, contagious, or toxicological disease. The director may select a site or method for the disposal with the advice of the director of the department of environmental quality.

(2) The director may, under rules promulgated by the department, allow indemnification for the slaughter, destruction, or other disposition of livestock or domestic animals due to livestock diseases or toxicological contamination. If the director has signed an order for the slaughter, destruction, or other disposition of livestock or domestic animals, the owner may apply for indemnification. The director shall appraise and inventory the condemned livestock or domestic animals. The appraisals and inventories shall be on forms approved by the director. The director shall use agricultural pricing information from commercial livestock or domestic animal auction markets and other livestock or domestic animal market information as determined by the director to determine the value of condemned livestock or domestic animals.

(3) Except as otherwise provided in subsection (5), indemnification for individual livestock or domestic animals within a herd, flock, or school shall be based upon 100% of the fair market value of that type of livestock or domestic animal on the date of the appraisal and marketable for the purpose for which the livestock or domestic animal was intended, not to exceed $4,000.00 for each livestock or domestic animal. The appraisal determination shall not delay the slaughter, destruction, or disposition of the livestock or domestic animals. The indemnification amount under this subsection shall include a deduction for any compensation received, or to be received, from any other source including, but not limited to, indemnification by the United States department of agriculture, insurance, salvage value, or any monetary value obtained to encourage disposal of infected or exposed livestock or domestic animals in accordance with a disease control or eradication program. The owner shall furnish to the department all records indicating other sources of indemnity. An affidavit signed by the owner attesting to the amount of compensation for the livestock received or to be received from any other source shall accompany the appraisal certificate before indemnification under this section.

(4) Except as otherwise provided in subsection (5), indemnification for entire herd, flock, or school depopulations of livestock or domestic animals shall be based upon 100% of the fair market value of that type of animal on the date of the appraisal and marketable for the purpose for which the livestock or domestic animal was intended, not to exceed an average of $4,000.00 per animal in the flock, herd, or school. The appraisal determination shall not delay depopulation. The indemnification amount under this section shall include a deduction for any compensation received, or to be received, from any other source including, but not limited to, indemnification by the United States department of agriculture, insurance, salvage value, or any monetary value obtained to encourage disposal of infected or exposed livestock or domestic animals in accordance with a disease control or eradication program. The owner shall furnish to the department all records indicating other sources of indemnity. An affidavit signed by the owner attesting to the amount of compensation for the livestock or domestic animals received, or to be received, from any other source shall accompany the appraisal certificate prior to indemnification under this section.

(5) The department may provide for indemnity pursuant to this section not to exceed $100,000.00 per order, from any line item in the annual budget for the department in the applicable fiscal year. Any agreement greater than $100,000.00 entered into between the department and an owner of livestock shall contain a provision indicating that, notwithstanding the terms of the agreement, indemnification shall be subject to specific appropriations by the legislature and not be paid from department funds.

(6) Acceptance of compensation under this act constitutes a full and complete release of any claim the owner has against the state of Michigan, its departments, agencies, officers, employees, agents, and contractors to the extent these persons were acting on behalf of the state, within the scope of their employment with the state or under the direction of the state, its departments, agencies, officers, or employees, arising out of testing, purchase, removal, slaughter, destruction, and other disposition of the owner's animals.

(7) The right to indemnity from the state for animals condemned and ordered slaughtered, destroyed, or otherwise disposed of by the director applies only to native livestock and native domestic animals. Indemnification shall not apply to livestock or domestic animals determined by the department to be imported without meeting import requirements such as official interstate health certificate or official interstate certificate of veterinary inspection, required testing, required vaccination, or for livestock or domestic animals determined by the department to have been illegally moved within this state. An

owner is not entitled to indemnity from the state for an animal that comes into the possession of the owner with the owner's knowledge that the animal is diseased or is suspected of having been exposed to an infectious, contagious, or toxicological disease. In addition, the director shall not indemnify an owner for animals that have been exposed to an animal that comes in to the possession of the owner with the owner's knowledge that the animal is diseased or is suspected of having been exposed to an infectious, contagious, or toxicological disease.

(8) A premises that has been depopulated shall be cleaned and disinfected as prescribed by the director.

(9) Repopulation of the premises, except as approved by the director, shall not confer eligibility for future indemnity under this section.

(10) The department may cooperate and coordinate with the secretary of the United States department of agriculture or the secretary's authorized representative or other governmental departments or agencies regarding indemnification under this section.

(11) Not less than annually, within 60 days after the close of the fiscal year, the director shall make a written report to the standing committees of the house of representatives and senate having jurisdiction on agricultural and farming issues. The report will include the following:

(a) The amount expended by the department for bovine tuberculosis eradication during the preceding fiscal year.

(b) An explanation of the expenditures made by the department for bovine tuberculosis eradication during the preceding fiscal year.

(c) The status of bovine tuberculosis eradication efforts in Michigan.

(12) Not less than annually, within 60 days after the close of the fiscal year, the director of the department of natural resources shall make a written report to the standing committees of the house of representatives and senate having jurisdiction on agricultural and farming issues. The report will include the following:

(a) The amount expended by the department of natural resources for bovine tuberculosis eradication during the preceding fiscal year.

(b) An explanation of the expenditures made by the department of natural resources for bovine tuberculosis eradication during the preceding fiscal year.

287.716 Slaughter, destruction, or other disposition of livestock; branding and identification.

Sec. 16. (1) Livestock ordered to be slaughtered, destroyed, or otherwise disposed of by the director because of tuberculosis shall be branded on the left hip with a letter "T" not less than 2 inches high, and a tag designated as a reactor tag by the director shall be placed in the left ear. Tuberculosis reactor cattle, bison, and goats as defined in title 9 of the code of federal regulations and the bovine tuberculosis eradication: uniform methods and rules effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate shall also be identified by a permanent and legible tuberculosis tattoo and spray of yellow paint on the left ear. The director may refrain from the branding, tattooing, ear painting, and reactor tagging if slaughter, destruction, or other disposition of the entire herd is under the director's direct control or if individual animals are sent to a diagnostic laboratory or to disposal under an official seal and secured transport limit.

(2) Tuberculosis reactor cattle, bison, goats, and privately owned cervids as defined in title 9 of the code of federal regulations and the bovine tuberculosis eradication: uniform methods and rules effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate shall remain on the premises where they were located until a state or federal permit for movement has been obtained. Movement for destruction shall be within 15 days after classification as a reactor.

(3) Livestock ordered to be slaughtered, destroyed, or otherwise disposed of by the director because of brucellosis shall be branded on the left hip with a letter "B" not less than 2 inches high, and a tag designated as a reactor tag by the director shall be placed in the left ear. An exposed animal in a brucellosis infected or quarantined herd shall be branded on the left hip with a letter "S" not less than 2 inches high before a permit shall be issued to slaughter, destroy, or otherwise dispose of the animal for slaughter. The director may refrain from the branding and identification if slaughter, destruction, or other disposition of the entire herd is under the director's direct control, if animals are moved under official seal and secured transport unit, or if individual animals are sent to a diagnostic laboratory in a manner approved by the director.

(4) Livestock ordered slaughtered, destroyed, or otherwise disposed of for infectious, contagious, or toxicological diseases other than tuberculosis or brucellosis shall be identified and slaughtered, destroyed, or otherwise disposed of in a manner approved by the director.

287.719 Imported livestock; requirements.

Sec. 19. (1) Livestock imported into this state shall meet any and all requirements under appropriate provisions of this act and shall be accompanied by 1 of the following:

(a) An official interstate health certificate.

(b) An official interstate certificate of veterinary inspection.

(c) An owner-shipper statement or sales invoice if consigned directly to slaughter, or if nonnative neutered cattle imported directly to a cattle importation lot.

(d) A "report of sales of hatching eggs, chicks, and poults" (vs form 9-3) for participants in the national poultry improvement plan.

(e) A "permit for movement of restricted animals" (vs form 1-27), if prior approval is granted by the director.

(f) A fish disease inspection report for aquaculture only.

(g) Permission from the director.

(2) Brucellosis or tuberculosis officially classified suspect or reactor cattle shall not be imported into this state.

(3) A person shall not import or move intrastate livestock known to be affected with or exposed to chronic wasting disease, tuberculosis, or brucellosis, as determined by an official test, without permission of the director.

(4) The director may require that a prior entry permit be obtained for certain classifications of livestock.

(5) Any person, consignee, dealer, or livestock market operator must ensure that any testing required under this act, any official identification required under this act, and any requirements for official interstate or intrastate health certificate, official interstate or intrastate certificate of veterinary inspection, animal movement certificate, owner-shipper statement, sales invoice, "report of sales of hatching eggs, chicks, and poults" (vs form 9-3),

"permit for movement of restricted animals" (vs form 1-27), or prior entry permit have been fulfilled before accepting any animals on such a certificate and that a true copy is provided to the director upon request.

(6) Livestock shall not be diverted to premises other than the destination site named on the official interstate or intrastate health certificate, official interstate or intrastate certificate of veterinary inspection, owner-shipper statement, sale invoice, entry authorization form, exit authorization form, prior movement form, vs form 9-3, or vs form 1-27.

(7) Livestock imported for exhibition shall meet the requirements prescribed by this act for importation of breeding animals of that species and shall be accompanied by a copy of an official interstate health certificate or an official interstate certificate of veterinary inspection issued by an accredited veterinarian from the state of origin.

(8) The director may refuse entry into this state of livestock that the director has reason to believe may pose a threat to the public health or health of livestock. Livestock imported into this state shall not originate from a herd under quarantine unless accompanied by permission issued by the director. The director may waive specific requirements if it is determined that livestock imported from a certain area or state are not a threat to the public health or health of livestock.

(9) If the director determines that there is a threat to public health or a threat to the health of animals in this state, the director may require additional testing and vaccination requirements for animals imported or to be imported into this state.

287.722 Animal imported without required official tests or documents.

Sec. 22. (1) If an animal is imported into this state without the required official tests or documents, the director may do any or all of the following:

(a) Quarantine the animal.

(b) Require that the required tests or documents be performed or obtained at the owner's expense.

(c) Require the animal be returned to the state of origin within 10 days after such notification.

(d) Order the slaughter, destruction, or other disposition of the livestock, if it is determined by the director that the control or eradication of a disease or condition of the livestock is warranted. Livestock determined to be imported without meeting import requirements are not eligible for indemnity.

(e) Allow a direct movement of the animal or animals to slaughter by permit.

(f) Allow legal importation into another state.

(2) If the official test result or proof of shipment of the animal back to the state of origin has not been received within 15 days after notification, the director may order that the required tests be performed by a department veterinarian, at the owner's or importer's expense.

287.730a Privately owned cervidae.

Sec. 30a. (1) Privately owned cervids, except those consigned directly to a state or federally inspected slaughter facility premises, shall not be imported into this state unless accompanied by an official interstate health certificate or official interstate certificate of veterinary inspection.

(2) Privately owned cervids imported into this state shall be individually identified by an official identification. The official identification shall be listed on the official interstate health certificate or official interstate certificate of veterinary inspection.

(3) Privately owned cervids 6 months of age or older imported into this state, except those consigned directly to a state or federally inspected slaughter facility premises, shall originate directly from a certified brucellosis-free cervid herd as defined in brucellosis in cervidae: uniform methods and rules, effective September 30, 1998, or shall test negative to an official test for brucellosis within 30 days before importation.

(4) Privately owned cervids 1 year of age or older imported into this state, except those consigned directly to a state or federally inspected slaughter facility premises, must comply with 1 of the following before importation:

(a) Originate directly from an official tuberculosis accredited herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(b) Originate directly from an official tuberculosis qualified or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, and receive an official negative test for tuberculosis within 90 days before importation.

(c) Be isolated from all other animals until it receives 2 official negative tuberculosis tests conducted no less than 90 days apart, with the first test conducted no more than 120 days before importation.

(5) All privately owned cervids less than 1 year of age imported into this state, except those consigned directly to a state or federally inspected slaughter facility premises, must comply with 1 of the following before importation:

(a) Originate directly from an official tuberculosis accredited herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(b) Be born in and originate directly from an official tuberculosis qualified or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(c) Be a purchased addition originating directly from an official tuberculosis qualified or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, and receive an official negative test for tuberculosis within 90 days before importation.

(d) Be isolated from all other animals until it receives 2 official negative tuberculosis tests conducted not less than 90 days apart, with the first test conducted no more than 120 days before importation.

(6) Privately owned cervids with a response other than negative to any tuberculosis test or brucellosis test are not eligible for interstate movement into this state without permission from the director.

(7) Privately owned cervids known to be affected with or exposed to tuberculosis or brucellosis are not eligible for interstate movement into this state without permission from the director.

287.730b Privately owned cervidae; intrastate movement.

Sec. 30b. (1) All live privately owned cervids moving from 1 premises to another premises within this state shall be officially identified with an identification approved by the director.

(2) All live privately owned cervids 6 months of age or older moving from 1 premises to another premises within this state, except those consigned directly to a state or federally inspected slaughter facility premises, shall comply with 1 of the following:

(a) Originate directly from an official tuberculosis accredited, qualified, or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, and be accompanied by a copy of the current official letter from the Michigan department of agriculture verifying herd status.

(b) Originate directly from a herd that has received an official negative tuberculosis test of all privately owned cervids 12 months of age or older and all cattle and goats 6 months of age and older in contact with the herd within 24 months before movement.

(c) Originate directly from a herd that has received an official negative tuberculosis test of all privately owned cervids 12 months of age or older and all cattle and goats 6 months of age or older in contact with the herd more than 24 months before movement, receive an individual negative official test for tuberculosis within 90 days before movement, and be accompanied by a copy of the official tests for tuberculosis verifying that testing.

(d) Be isolated from all other animals until it receives 2 official negative tuberculosis tests conducted not less than 90 days apart, with the first test conducted not more than 120 days before movement.

(3) All live privately owned cervids less than 6 months of age moving from 1 premises to another premises within this state, except those consigned directly to a state or federally inspected slaughter facility premises, must comply with 1 of the following:

(a) Originate directly from an official tuberculosis accredited, qualified, or monitored herd as outlined in bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate, be identified by an official identification, and be accompanied by a copy of the current official letter from the Michigan department of agriculture verifying the herd status.

(b) Originate directly from a herd that has received an official negative tuberculosis test of all privately owned cervids 12 months of age or older and all cattle and goats 6 months of age and older in contact with the herd within 24 months before movement.

(c) Originate directly from a herd that has received an official negative tuberculosis test of all privately owned cervids 12 months of age or older and all cattle and goats 6 months of age or older in contact with the herd more than 24 months before movement and be accompanied by an official permit for movement of privately owned cervids less than 6 months of age within Michigan or an official interstate health certificate issued by

an accredited veterinarian, and remain at the destination stated on the permit or official interstate health certificate until it receives an official negative tuberculosis test when it reaches 6 months of age, but not more than 8 months of age. For purposes of this section, the age of the privately owned cervids shall be determined by the age placed on the official permit for movement of privately owned cervids less than 6 months of age in Michigan or the official interstate health certificate issued by the accredited veterinarian. A copy of the official test for tuberculosis and a copy of the official permit for movement of privately owned cervids less than 6 months of age within Michigan or the official interstate health certificate shall be forwarded to the department within 10 days following completion of the testing.

(4) Privately owned cervids with a response other than negative to any tuberculosis test are not eligible for intrastate movement without permission from the director.

(5) Privately owned cervids known to be affected with or exposed to tuberculosis shall not be moved intrastate without permission from the director.

(6) The department shall keep a current database on privately owned cervids premises in this state. The database shall include the owner's name, the owner's current address, location of privately owned cervids, species of privately owned cervids at the premises, and the approximate number of privately owned cervids at the premises.

287.733 Livestock sold at livestock auction market; identification.

Sec. 33. (1) Livestock sold at a livestock auction market shall be handled and housed in facilities and pens in a manner approved by the director. The alleys and sale rings used for livestock auction shall be appropriately cleaned and disinfected before each day's sale. The pens, facilities, and the procedures for cleaning and disinfecting shall be approved by the director.

(2) All cattle, bison, goats, and privately owned cervids presented at any livestock auction market in Michigan shall be identified as required in the bovine tuberculosis eradication: uniform methods and rules, effective January 22, 1999, and approved by veterinary services of the animal and plant health inspection service of the United States department of agriculture, and all amendments to those publications thereafter adopted pursuant to rules that the director may promulgate.

(3) Cattle, bison, goats, and privately owned cervids that are marketed for immediate slaughter shall be identified by official ear tag, sale tag, or official back tag in a manner designed to trace the animals to the premises of origin.

(4) Cattle, bison, goats, and privately owned cervids consigned for slaughter or that do not meet intrastate testing requirements for movement from 1 premises to another shall be sold for slaughter only and be moved directly to slaughter. Livestock auction markets or sale yard management shall not sell livestock to any buyer that does not certify in a signed statement that such animals removed from the premises shall be moved directly to a slaughter establishment and slaughtered within 5 days after movement. Before animals are removed by the buyer, sale management shall require that the buyer provide the slaughter destination information for each animal removed from the premises.

287.744 Felonies; penalty; violation of act or rule as misdemeanor; costs and attorney fees; powers of director; failure to pay fine; civil action and penalties; remedies and sanctions as independent and cumulative powers of department.

Sec. 44. (1) A person who commits 1 or more of the following is guilty of a felony punishable by a fine of not less than $1,000.00 and not more than $50,000.00, or imprison-

ment of not more than 5 years, or both, and shall not receive any indemnification payments at the discretion of the director:

(a) Intentionally contaminating or exposing livestock to an infectious, contagious, or toxicological disease for the purpose of receiving indemnification from the state or causing the state to destroy affected livestock.

(b) Intentionally making a false statement on an application for indemnification or reimbursement from the state.

(c) Intentionally violating a condition of quarantine authorized under section 12 or movement restrictions and other requirements authorized under section 9.

(d) Intentionally importing into this state, without permission from the director, diseased livestock or livestock exposed to an infectious, contagious, or toxicological disease.

(e) Intentionally misrepresenting the health, medical status, or prior treatment for an infectious, contagious, or toxicological disease of livestock to facilitate movement or transfer of ownership to another person.

(f) Intentionally infecting or contaminating an animal with, or intentionally exposing an animal to, a reportable disease other than for bona fide research as approved by a research institution licensed by the state of Michigan or a federal agency.

(2) Except as otherwise provided under subsections (1) and (2), a person who violates this act, a rule promulgated under this act, a quarantine authorized under section 12, or movement restrictions and other requirements authorized under section 9 is guilty of a misdemeanor, punishable by a fine of not less than $300.00 or imprisonment of not less than 30 days, or both.

(3) The court may allow the department to recover reasonable costs and attorney fees incurred in a prosecution resulting in a conviction for a violation of subsections (1) and (2). Costs assessed and recovered under this subsection shall be paid to the state treasury and credited to the department for the enforcement of this act.

(4) Except as otherwise provided in subsection (1), the director, upon finding that a person has violated this act, a rule promulgated under this act, a quarantine authorized under section 12, or movement restrictions and other requirements authorized under section 9, may do the following:

(a) Issue a warning.

(b) Impose an administrative fine of not more than $1,000.00 for each violation after notice and an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(c) Issue an appearance ticket as described and authorized by sections 9a to 9g of chapter 4 of the code of criminal procedure, 1927 PA 175, MCL 764.9a to 764.9g, with a fine of not less than $300.00 or imprisonment of not less than 30 days, or both.

(5) The director shall advise the attorney general of the failure of any person to pay an administrative or civil fine imposed under this section. The attorney general shall bring a civil action in a court of competent jurisdiction to recover the fine and costs and fees including attorney fees. Civil penalties and administrative fines collected shall be paid to the state treasury.

(6) The remedies and sanctions under this act are independent and cumulative. The use of a remedy or sanction under this act does not bar other lawful remedies and sanctions and does not limit criminal or civil liability. Notwithstanding the provisions of this act, the department may bring an action to do 1 or more of the following:

(a) Obtain a declaratory judgment that a method, act, or practice is a violation of this act.

(b) Obtain an injunction against a person who is engaging, or about to engage, in a method, act, or practice that violates this act.

Repeal of § 287.743a.

Enacting section 1. Section 43a of the animal industry act, 1988 PA 466, MCL 287.743a, is repealed.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 459]

(HB 5778)

AN ACT to amend 1961 PA 236, entitled "An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts," by amending section 949 (MCL 600.949), as amended by 1980 PA 69.

The People of the State of Michigan enact:

600.949 Investigation of applicants to state bar of Michigan; duty of law enforcement officers; fingerprinting required; disposition of fingerprint records.

Sec. 949. (1) It is the duty of all state, county, and city law enforcement officers to aid the state bar of Michigan and the board of law examiners in any investigation of the conduct of members of the bar, and the character and fitness of persons who apply for admission or reinstatement to the bar, and to furnish all available information about the members or persons.

(2) The board of law examiners shall require that an applicant for admission to the state bar of Michigan be fingerprinted to determine whether the applicant has a record of criminal convictions in this state or in other states. The board of law examiners shall submit the fingerprints and the appropriate state and federal fees, which shall be borne by the applicant, to the department of state police for a criminal history check. The department of state police may then forward the fingerprints to the federal bureau of investigation for a criminal history check. The information obtained as a result of the fingerprinting of an applicant shall be limited to officially determining the character and fitness of the applicant for admission to the state bar of Michigan. After approval of the applicant by the board of law examiners, all fingerprint records shall be returned to the applicant or destroyed.

(3) All fingerprint records being held by the state bar of Michigan shall be destroyed.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 460]

(HB 6043)

AN ACT to amend 1975 PA 197, entitled "An act to provide for the establishment of a downtown development authority; to prescribe its powers and duties; to correct and prevent deterioration in business districts; to encourage historic preservation; to authorize the acquisition and disposal of interests in real and personal property; to authorize the creation and implementation of development plans in the districts; to promote the economic growth of the districts; to create a board; to prescribe its powers and duties; to authorize the levy and collection of taxes; to authorize the issuance of bonds and other evidences of indebtedness; to authorize the use of tax increment financing; to reimburse downtown development authorities for certain losses of tax increment revenues; and to prescribe the powers and duties of certain state officials," (MCL 125.1651 to 125.1681) by adding section 3d.

The People of the State of Michigan enact:

125.1653d Establishment or amendment of authority, district, or plan; notice; publication or posting.

Sec. 3d. An ordinance enacted by a municipality that has a population of greater than 1,000 and less than 2,000 establishing an authority, creating a district, or approving a development plan or tax increment financing plan, or an amendment to an authority, district, or plan, and all actions taken or to be taken under that ordinance, including the issuance of bonds, are ratified and validated notwithstanding that notice for the public hearing on the establishment of the authority, creation of the district, or approval of the development plan or tax increment financing plan, or on the amendment, was not published, posted, or mailed at least 20 days before the hearing, provided that the notice was either published or posted at least 10 days before the hearing or that the authority was established in 1990 by a municipality that filed the ordinance with the secretary of state not later than July 1991. This section applies only to an ordinance or an amendment adopted by a municipality before January 1, 1999 and shall include any bonds or amounts to be used by the authority to pay the principal of and interest on bonds that have been issued or that are to be issued by the authority or the incorporating municipality. An authority for which an ordinance or amendment to the ordinance establishing the authority has been published before February 1, 1991 is considered for purposes of section 3(3) to have promptly filed the ordinance or amendment to the ordinance with the secretary of state if the ordinance or amendment to the ordinance is filed with the secretary of state before December 31, 2002. The validity of the proceedings or findings establishing an authority described in this section, or of the procedure, adequacy of notice, or findings with respect to the approval of a development plan or tax increment financing plan for an authority described in this section is conclusive with respect to the capture of tax increment revenues for a bond issued after June 1, 2002 and before June 1, 2006. As used in this section, "notice was either published or posted" means either publication or posting of the notice occurred at least once.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 461]

(HB 5758)

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, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by amending section 5419 (MCL 324.5419), as added by 2001 PA 165; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

324.5419 Arsenic testing program; repeal of section.

Sec. 5419. (1) The department shall implement an arsenic testing program. The arsenic testing program shall provide free testing of private drinking water wells for the presence of arsenic in geographic areas of the state where the department knows or suspects that there are levels of arsenic above the federal drinking water standard of 10 parts per billion.

(2) In promoting free drinking water tests under the arsenic testing program, the department shall encourage households containing senior citizens, children, and individuals with medical illnesses to have their drinking water tested.

(3) After the department conducts a test on the level of arsenic in water from a drinking water well, the department shall notify the resident or residents of the household of the level of arsenic in the drinking water sample and whether that level exceeds the federal drinking water standard for arsenic of 10 parts per billion. In addition to the results of the arsenic test, the department shall provide the resident or residents with educational materials about groundwater contamination and shall identify other substances for which the resident or residents may want to consider having the drinking water tested.

(4) The department shall establish an arsenic education program that will produce educational materials to be made available to local health departments in geographic areas of the state that the department knows to contain levels of arsenic above the federal drinking water standard of 10 parts per billion. In addition, the department shall make this information available on the department website.

(5) By October 1, 2002, the department shall, based upon data available to the department and in conjunction with local health departments, produce maps on a county by county basis to denote geographic areas that the department knows to contain arsenic, nitrates, or volatile organic compounds. The maps shall be available to local health departments and local public libraries and shall be posted on the department's website.

(6) By March 15, 2002 and September 30, 2002, the department shall submit a report to the legislature on the status of the implementation of this section.

(7) The department may promulgate rules to implement this section.

(8) As used in this section:

(a) "Local health department" means that term as it is defined in section 1105 of the public health code, 1978 PA 368, MCL 333.1105.

(b) "Federal drinking water standard for arsenic" means the standard promulgated under section 1412 of part B of title XIV, popularly known as the safe drinking water act, of the public health service act, chapter 373, 88 Stat. 1660, 42 U.S.C. 300g-1.

(9) This section is repealed effective September 30, 2003.

Repeal of enacting section 1 of 2001 PA 165.

Enacting section 1. Enacting section 1 of 2001 PA 165 is repealed.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 462]

(HB 5927)

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 901, 912, 914, 916, 917, 917a, 918, 922, 924, 932, 934, 938, 942, 943, 944, 946, and 947 (MCL 500.901, 500.912, 500.914, 500.916, 500.917, 500.917a, 500.918, 500.922, 500.924, 500.932, 500.934, 500.938, 500.942, 500.943, 500.944, 500.946, and 500.947), sections 901, 917, 943, and 946 as amended and section 917a as added by 1994 PA 226, section 922 as amended by 1991 PA 79, and section 942 as amended by 1984 PA 90, and by adding section 902.

The People of the State of Michigan enact:

500.901 Asset requirements for insurers.

Sec. 901. (1) Each domestic insurer shall maintain assets in cash or as defined in this chapter in a total amount at least equal to the sum of its liabilities including its reserves as required by this act, plus an amount equal to the lesser of the following:

(a) The minimum capital and surplus required to be maintained by sections 408 and 410.

(b) One of the following:

(*i*) For a fraternal benefit society regulated under chapter 81a, $1,000,000.00.

(*ii*) $7,000,000.00.

(2) For purposes of meeting the assets required by subsection (1), the following apply:

(a) The value of all computers shall not exceed 2% of the assets required by subsection (1) and the value of each computer shall not exceed the original cost of the computer amortized over a period not to exceed 3 years. For purposes of this section, "computer" means an electronic data processing system, composed of 1 or more components, that utilizes storage and processing mechanization and has a direct automatic means of input and output, including, but not limited to, central processing units, data input/output channels, main storage or memory, and peripheral devices for systems control, data input, output, or temporary or permanent storage of information, and associated reusable media required by these devices and operating systems software.

(b) Title insurers may include their net investment in their title plant.

(c) Assets described in sections 946 and 947 that are encumbered with prior liens that affect the salability of the asset to a material extent shall not be used to satisfy the requirements of subsection (1). For purposes of this subdivision, liens that do not affect the salability of the asset to a material extent are real estate taxes or assessments that are not delinquent, liens against an asset for which an insurer is insured against loss by title insurance, and any other liens that in the aggregate are not in excess of 5% of the fair market value of the asset. Assets described in sections 946 and 947 shall not be used to satisfy more than 20% of the requirements of subsection (1). This subdivision does not apply to assets described in section 942.

(d) Amounts receivable from broker/dealers registered under the securities exchange act of 1934, chapter 404, 48 Stat. 881, or from the issuer of a security or asset in connection with the disposition of assets qualified to satisfy subsection (1) may be included, provided the amount is not more than 5 business days past the date of disposition.

(e) Assets not otherwise defined in this chapter may be used as qualified assets for purposes of subsection (1) if the assets are rated investment grade by a securities rating organization approved by the commissioner.

(f) No more than 20% of the assets required by subsection (1) shall be high-yield, high-risk obligations. As used in this subdivision, "high-yield, high-risk obligations" means obligations that are not in 1 of the top 2 numbered classifications of bonds reported in the insurer's annual financial statement on a form approved by the commissioner.

(3) The sum of the liabilities and reserves computed for purposes of this section may be reduced by 1 or more of the following:

(a) A reinsurance balance recoverable or other credit due from a reinsurer that complies with existing or other applicable rules or orders promulgated or issued by the commissioner, to the extent that the balance recoverable or other credit due may be used to offset a liability as authorized in an insurer's annual statement concerning its affairs filed pursuant to section 438.

(b) Policy loans secured by policies included in the liabilities and reserves but not in excess of the cash surrender value of the policies.

(c) Premium notes secured by letters of credit, security trust funds, or unearned premium reserves.

(d) The net amount of insurance premiums and annuity considerations booked but deferred and not yet due. Reduction under this subdivision shall not be allowed for credit life and credit accident and health premiums deferred and uncollected, whether individual or group, except as allowed pursuant to subdivision (e).

(e) Amounts receivable from an agent, agency, policyholder, or other person that does not have control of more than 10% of all the insurer's agents' balances, and that is not affiliated with the insurer on policies with an effective date not more than 1 month old to the extent that the amounts are offset by unearned premium reserves on the same policies.

(f) Amounts receivable from a person to the extent the amounts offset liabilities or amounts payable to that person. Receivables and payables with respect to reinsurance may be allowed so long as the reinsurance contract has a right of offset provision. A reduction under this subdivision shall not be allowed for agents' balances or uncollected premiums as defined by subdivision (e).

(4) Assets, liabilities, and reserves under subsection (1) shall exclude assets, liabilities, and reserves included in separate accounts established in accordance with section 925. The value of income due and accrued in respect to assets required by subsection (1) may be included in the total amount. The assets shall not be valued at more than the actual value as ascertained in a manner approved by the commissioner, except those assets described in sections 912, 914, 918, 934, 938, and 942 that have a fixed term and rate, if amply secured and not in default as to principal and interest which may be valued as follows: if purchased at par, the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made. The purchase price shall not be taken at a higher figure than the actual market value at the time of purchase.

(5) The commissioner may permit other assets not specifically described in this section to be used as qualified assets for purposes of subsection (1), as long as the assets are financially equivalent to those assets described in sections 910 to 947, are approved by the commissioner as adequate as to quality and liquidity to secure the liabilities they support, and are valued in a manner approved by the commissioner.

(6) No more than 5% of the assets required by subsection (1) shall be invested in, loaned to, receivable from, secured by, leased or rented to, or deposited with 1 person or 1

group of affiliated persons or invested in 1 parcel of real estate. In calculating this restriction, the following apply:

(a) For purposes of this section, each issue of mortgage-backed securities secured by residential mortgage pools and rated investment grade by a securities rating organization approved by the commissioner, and each issue of asset-backed security rated investment grade by a securities rating organization approved by the commissioner, shall be considered a separate person regardless of other obligations issued by the same or affiliated issuer.

(b) This restriction does not apply to mortgage-related securities issued by the federal home loan mortgage corporation or the federal national mortgage association.

(c) This restriction does not apply to the extent that the principal and interest are fully guaranteed by the United States or any state.

(d) This restriction does not apply to assets invested in, loaned to, receivable from, secured by, leased or rented to, or deposited with an affiliate of the insurer that is authorized to transact insurance in any state or Canada.

(e) For an alien insurer that is an insurer authorized to transact the business of life insurance, for purposes of this subsection the 5% restriction applies to the total assets of the insurer, excluding assets included in separate accounts, as reported in the total business annual statement filed by the insurer with its domiciliary authority.

(f) This restriction does not apply to the value of a noninsurance affiliate that is owned solely by the insurer as described in subsection (7)(c).

(g) This restriction does not apply to the value of a noninsurance affiliate that is not owned solely by the insurer if the value of the noninsurance affiliate is determined in accordance with procedures approved by the commissioner and if the investment in the noninsurance affiliate is approved by the commissioner as adequate in quality and liquidity to secure the liabilities of the insurer.

(7) The assets referred to in subsection (1) shall not include assets invested in, loaned to, receivable from, secured by, leased or rented to, or deposited with a person that is, directly or indirectly, owned or controlled by the insurer or that, directly or indirectly, owns, controls, or is affiliated with the insurer as control is defined in section 115, except as follows:

(a) Amounts receivable from, secured by, leased or rented to, or deposited with an insurer affiliated with the insurer may be included if the amount receivable is not more than 90 days past due and its affiliated insurer complies with this section.

(b) Amounts invested in an affiliated publicly traded investment company that is registered and regulated under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64, may be included.

(c) The value of a noninsurance affiliate that is owned solely by the insurer may be included. The value of the noninsurance affiliate shall be the value of all assets qualifying under this section in excess of the assets required by this section, but shall not exceed the value determined by the securities valuation office of the national association of insurance commissioners. In support of the noninsurance affiliate's value, the insurer shall submit to the commissioner an audited financial statement for the noninsurance affiliate supplemented with a list of qualifying assets and associated values.

(d) Amounts invested in a noninsurance affiliate that is not owned solely by the insurer may be included if the investment in the noninsurance affiliate is approved by the commissioner as adequate in quality and liquidity to secure the liabilities of the insurer.

The value of the noninsurance affiliate shall be the value determined in accordance with procedures adopted by the commissioner.

(e) The assets required by subsection (1) may include the value of amounts invested in or loaned to an affiliate authorized to transact insurance in any state or in Canada in an amount equal to the assets that would qualify for compliance with this section that are held by the affiliate and are in excess of the amount of assets that would be required for the affiliate by this section, prorated to reflect the extent of the insurer's investment in or loans to the affiliate. Qualified assets for purposes of subsection (1) include loans, other than surplus notes, to an affiliate authorized to transact insurance in any state or in Canada provided that the affiliate has assets in excess of the amount of assets that are required for the affiliate under subsection (1). With the commissioner's approval, surplus notes may be treated as an investment for purposes of this section.

(f) Amounts loaned to a noninsurance affiliate may be included if the loans are rated investment grade by a securities rating organization approved by the commissioner. The insurer shall submit documentation satisfactory to the commissioner in support of the investment grade rating.

(8) An insurer may comply with this section if the insurer elects to provide alternative security to Michigan policyholders and claimants satisfactory to the commissioner or elects to deposit funds or securities of the kind described in section 912, or other securities acceptable to the commissioner, registered in the name of the state treasurer of Michigan, designated as exclusively held and deposited for the sole benefit of Michigan policyholders, claimants, and creditors pursuant to section 8141a, in an amount, at market value, considered adequate by the commissioner to secure Michigan policyholders, but not less than the greater of the aggregate sum of 100% of Michigan direct unpaid losses and unpaid loss adjustment expense plus 100% of Michigan direct unearned premiums and policy and contract reserves or the direct premiums written in Michigan during the most recent 12 months available in filed statements. Direct unpaid losses and unpaid loss adjustment expenses shall include a provision for incurred but not reported losses and associated loss adjustment expense. The deposit shall be a special deposit and shall be subject to special deposit claims for the benefit of Michigan policyholders and claimants pursuant to section 8141a. The deposit of funds required by this subsection shall be increased by adjustment each quarter. A decrease to the deposited fund may be made annually only upon a satisfactory showing by the insurer to the commissioner that a decrease in the deposit is justified. The commissioner may require the special deposits set forth in this subsection as a condition for any insurer to transact insurance in this state if the commissioner finds that a special deposit is necessary for the protection of Michigan policyholders and claimants.

(9) Compliance with subsection (1) is the obligation of each insurer, fund, or fraternal benefit society authorized to transact the business of insurance in this state. Failure to comply shall limit the insurer, fund, or fraternal benefit society under the remainder of this act. If, at any time following compliance with the requirements of this section, an insurer, fund, or fraternal benefit society fails to maintain compliance, the commissioner shall notify the insurer, fund, or fraternal benefit society that it has failed to maintain compliance with this section. Within 30 business days after notification by the commissioner of noncompliance with the provisions of this section, an insurer shall file a plan to restore compliance with this section. Failure of the insurer to file a plan shall create a presumption that the insurer is not safe, reliable, and entitled to public confidence. The commissioner, upon written request by the insurer, may grant a period of time within which to restore compliance. The period of time may be granted only if the commissioner is satisfied the insurer is safe, reliable, and entitled to public confidence; is satisfied the

insurer would suffer a material financial loss from an immediate forced conversion of its assets; and approves the plan filed by the insurer for restoring compliance within the time granted. If the plan is not approved by the commissioner, or if the plan is approved, and, at the end of 1 year the insurer still does not comply with the requirements of this section, the commissioner may grant additional time to comply, or the commissioner may suspend, revoke, or limit the certificate of authority of the insurer pursuant to section 436.

(10) The requirements of this section constitute a discrete determination of financial solidity and liquidity and are not intended to apply to other provisions of this act with respect to financial condition or to the accounting practices and procedures governing the preparation of financial statements pursuant to section 438.

500.902 Investments by domestic insurer; amount in qualified asset required; definition.

Sec. 902. (1) Except as otherwise provided in sections 942(7), (10), and (11), 943(2), and 946(4), this chapter does not prohibit the investment of a domestic insurer's capital and surplus in any asset otherwise permitted to be held by any other person or corporation under the laws of this state, provided the domestic insurer maintains qualified assets as described in this chapter in the amounts specified in section 901.

(2) As used in this section, "qualified assets" means cash and those assets described in sections 910 to 947.

500.912 Qualified assets; description; limitation on governmental securities.

Sec. 912. (1) Qualified assets for purposes of section 901 include all of the following:

(a) In the bonds or other evidences of indebtedness of the United States, or of the dominion of Canada, or any state, province, or territory or public instrumentality of the United States, or the dominion of Canada, or in the valid public debt, bonds, or other evidence of indebtedness of any city, county, township, village, school district, or any other political subdivision having the power to levy taxes, of any state or territory of the United States or province of the dominion of Canada, if the state, province, municipality, or other political subdivision has not, in the 3 years preceding the time of such investment, failed to pay its debt or any part of its debt or the interest due on the debt, or any part of the interest due on the debt. Delay, not exceeding 6 months, in the payment of any installment of principal or interest shall not be construed as failure to pay.

(b) In the bonds or other evidences of indebtedness of any political subdivision of the United States, or any state or county in the United States, or any agency, public instrumentality, or authority created by the United States, or any state or county in the United States, or any political subdivision of the state or county, if, by statutory or other legal requirements, those obligations are payable, as to both principal and interest, from adequate special revenues pledged or otherwise appropriated or by law required to be provided for the purpose of payment.

(c) In governmental securities of this or any foreign government, or governmental subdivisions or authorities or instrumentalities, not otherwise provided for in this section subject to the limitations in subdivisions (a) and (b) prescribed for other governmental securities.

(2) A domestic insurer's investment in governmental securities is subject to the limitations in section 901(2)(f).

500.914 Qualified assets as guaranteed interest bonds.

Sec. 914. Qualified assets for purposes of section 901 include bonds or other securities, the interest of which is guaranteed by the United States government pursuant to any act of congress enacted before, on, or after January 1, 1957.

500.916 Qualified assets as federal financing agency stock.

Sec. 916. If any agency or corporation is established by the federal government with authority to purchase, discount, or loan money upon the security of real estate mortgages but requiring membership or ownership of capital stock in that federal agency or corporation for any insurer organized under the laws of this state to avail itself of the full privileges of selling, rediscounting, or borrowing money upon those mortgages, then qualified assets for purposes of section 901 include the amount of capital stock that is required by the federal law or the rules of the governing body of the federal agency or corporation.

500.917 Mortgage-backed securities; certain securities described in secondary mortgage market enhancement act of 1984 subject to limitations; definition.

Sec. 917. (1) Qualified assets for purposes of section 901 include mortgage-backed securities backed by pools of residential mortgages and rated investment grade by a securities rating organization approved by the commissioner. Any securities described in section 106 of title I of the secondary mortgage market enhancement act of 1984, Public Law 98-440, 15 U.S.C. 77r-1, shall be subject to all the limitations prescribed by this chapter for investments not guaranteed by the full faith and credit of the United States.

(2) As used in this section, "mortgage-backed securities" means securities representing an ownership interest in, or as to which payments are secured directly or indirectly by, a pool of mortgages or by the cash flows generated by a pool of mortgages and shall include, but are not limited to, mortgage pass-through securities and collateralized mortgage obligations.

500.917a Definitions; asset-backed securities.

Sec. 917a. (1) As used in this section:

(a) "Asset-backed securities" means securities, other than those governed by section 917, representing loans to, participations in loans to, or equity interests in a person that has as its primary activity the acquisition and holding of assets, directly or through a trustee, for the benefit of its debt or equity holders and includes, but is not limited to, structured securities, pass-through certificates, and other securitized obligations.

(b) "Assets" means pools of assets consisting of either interest bearing obligations or contractual obligations representing the right to receive payment from the assets.

(c) "Structured securities" means asset-backed securities that have been divided into 2 or more classes where the payment of interest on or principal of any class of the securities has been allocated in a manner that may not be directly proportional to interest or principal received by the issuer of the securities on the underlying assets.

(d) "Pass-through certificate" means an asset-backed security, whether or not mortgage-related, where the payment of interest or principal on the security is directly proportional to interest or principal received by the issuer of the security on the underlying assets.

(2) Qualified assets for purposes of section 901 include asset-backed securities that are rated investment grade by a securities rating organization approved by the commissioner. Asset-backed securities that are secured by or represent an undivided interest in a single asset or pool of assets or in the cash flows generated by those assets, including without limitation, structured securities and pass-through certificates, are subject to all the limitations prescribed by this chapter for investments not guaranteed by the full faith and credit of the United States.

500.918 Qualified assets by solvent institution; authorization; mortgage loans; equipment trust certificates; fixed interest bearing obligations.

Sec. 918. Qualified assets for purposes of section 901 include lawfully authorized obligations issued, assumed, or guaranteed by any solvent institution created or existing under the laws of the United States or of any state, district, or territory of the United States, or of Canada or any province of Canada, that are not in default as to principal or interest and that are qualified under any of the following clauses:

(a) Obligations secured by the mortgage of property or the pledge of adequate collateral if, during any 3, including the last 2, of the 5 fiscal years next preceding the time of investment, the net earnings of the issuing, assuming, or guaranteeing institution available for fixed charges, as determined in accordance with standard accounting practice, have been not less than the total of its fixed charges for such year on an overall basis nor less than 1-1/2 times its fixed charges for such year on a priority basis after excluding interest requirements on obligations junior to such issue as to security.

(b) In equipment trust certificates of railroad companies organized under the laws of any state of the United States or of Canada or of any province of Canada, payable within 20 years from their date of issue, in annual or semiannual installments, beginning not later than the fifth year after such date, and which certificates are a first lien on the specific equipment pledged as security for the payment which are either the direct obligations of the railroad companies or guaranteed by them, or are executed by trustees holding title to the equipment.

(c) Fixed interest bearing obligations other than those described in subdivisions (a) and (b), if the net earnings of the issuing, assuming, or guaranteeing institution available for fixed charges during each of any 3, including the last 2, of the 5 fiscal years next preceding the time of investment, shall have been not less than 1-1/2 times the total of its fixed charges for such year.

500.922 Qualified assets in stocks, bonds, or evidences of corporate indebtedness; authorization.

Sec. 922. Qualified assets for purposes of section 901 include stocks, bonds, and other evidence of indebtedness of solvent corporations as approved by its board of directors or a committee of the board entrusted with the investment of the company's funds. The insurer may hold the stocks, bonds, and other evidences of indebtedness as an investment.

500.924 Qualified assets in preferred stock; authorization; conditions.

Sec. 924. Qualified assets for purposes of section 901 include preferred stocks of any company organized under the laws of the United States, a state of the United States, or the District of Columbia, if the company has continuously and regularly paid the dividends provided for by the preferred stock during the 5 years preceding the investment; except that with respect to preferred stocks issued within the 5-year period, the dividend payments requirement applies only from the date of issuance, and in those cases the net

earnings of the company and its subsidiaries available for fixed charges of the company and its subsidiaries and the net earnings of any predecessor organizations and their subsidiaries, if any, available for fixed charges of the predecessor organizations and their subsidiaries, must have averaged an amount per annum for the 5 fiscal years preceding the making of the investment at least equal to 2 times the total of the annual interest charges (including amortization of debt discount and expense) and dividends guaranteed, if any, and the preferred dividend requirement on a pro forma basis.

500.932 Qualified assets in shares of savings and loan associations.

Sec. 932. Qualified assets for purposes of section 901 include shares of any building and loan association or savings and loan association, either state chartered or federally chartered.

500.934 Qualified assets in farm loan bonds, intermediate credit bank loans, central bank for cooperatives, home loan banks, federal savings and loan insurance corporation obligations; authorization.

Sec. 934. Qualified assets for purposes of section 901 include farm loan bonds, consolidated or otherwise, issued by the federal land banks pursuant to the federal farm loan act, as amended; in collateral trust debentures or other similar obligations, consolidated or otherwise, issued by federal intermediate credit banks pursuant to the federal farm loan act, as amended; in debentures, consolidated or otherwise, issued by the central bank for cooperatives or banks for cooperatives pursuant to the farm credit act of 1933, as amended; in obligations issued pursuant to the provisions of the federal home loan bank act, approved July 22, 1932, as amended; and in interest-bearing obligations of the federal savings and loan insurance corporation issued pursuant to title 4 of the national housing act, approved June 27, 1934, as amended.

500.938 Qualified assets.

Sec. 938. Qualified assets for purposes of section 901 include all of the following:

(a) Any negotiable paper or other evidence of indebtedness secured by any of the classes of securities in which insurance companies may lawfully invest funds pursuant to sections 912 and 918.

(b) Negotiable notes secured by pledge of stock of national or state banks, which have a surplus equal in amount to 25% of the paid in capital stock provided those loans do not exceed 85% of the market value of the stock and the total amount of the loan on bank secured collateral does not exceed 15% of the capital and surplus of the insurance company.

(c) For other than a life insurer, loans secured as collateral by corporate stocks and securities eligible for investment under section 922 but no loan shall be made of more than 50% of the fair market value of those stocks and securities.

500.942 Qualified assets in real estate loans; purchase of loan or certificate of participation.

Sec. 942. (1) Qualified assets for purposes of section 901 include real estate loans secured by first liens upon improved or income bearing real estate, including also improved farmland and improved business and residential properties, or that are secured by first mortgages or deeds of trust on leasehold estates having an unexpired term equivalent to the term of the mortgage, inclusive of the term or terms that may be provided by enforceable options of renewal. Vacant property, at least 60% of which is under contract

of sale and the contract or contracts in connection therewith trusteed or pledged as additional collateral, is income bearing real estate within the meaning of this section.

(2) Real estate is not encumbered within the meaning of this section because it is subject to lease in whole or in part and rents or profits are reserved to the owner or because it is subject to an easement for a right of way.

(3) A loan secured by real estate shall be in the form of obligations secured by mortgage, trust deed, or other such instrument upon real estate, and an insurer may purchase an obligation so secured when the entire amount of the obligation is sold to the insurer, except that an insurer may purchase a part of an obligation if the investment of each participant is not less than $50,000.00 at the time of the insurer's investment, if all other participants are insurers, banks, savings and loan associations, or any other financial institution as that term is defined in the Gramm-Leach-Bliley act, Public Law 106-102, 113 Stat. 1338, 12 U.S.C. 1811, and if the entire indebtedness of which participation is a part would qualify under the provisions of this section, and either the insurer holds a senior participation, giving it substantially the rights of a first mortgagee, or each participation is of equal rank.

(4) Except as otherwise provided in this subsection, any portion of a loan that exceeds 66-2/3% of the appraised value, at the time of the loan, of the real estate constituting or offered as security and any loan the term of which exceeds 5 years is not a qualified asset for purposes of section 901. However, the following loans are qualified assets for the purposes of section 901:

(a) A loan on land improved with permanent buildings used for agriculture or pasture in an amount not to exceed 75% of the appraised value, at the time of the loan, of the real estate constituting or offered as security if the loan is secured by an amortized mortgage, deed of trust, or other instrument under the terms of which the installment payments are sufficient to amortize on not to exceed an annual basis of 40% or more of the principal of the loan within a period of not more than 10 years.

(b) A loan on single family residential property in an amount not to exceed 80% of the appraised value, at the time of the loan, of the real estate offered as security, if the loan is secured by a mortgage, deed of trust, or other instrument for a term of not more than 35 years.

(c) Subject to subsection (6), a loan on multifamily residential property in an amount not to exceed 85% of the appraised value, at the time of the loan, of the real estate offered as security, if the loan is secured by a mortgage, deed of trust, or other instrument for a term of not more than 35 years.

(d) A loan in an amount not to exceed 75% of the appraised value of the real estate offered as security and for a term not longer than 35 years, if the real estate is improved if it is not used for agriculture or pasture, and if the loan is secured by a mortgage, deed of trust, or other instrument for a term of not more than 35 years.

(5) The limitations and restrictions in subsection (4) do not apply to real estate loans that are insured under the provisions of title II of the national housing act, chapter 847, 48 Stat. 1247, 12 U.S.C. 1707 to 1709, 1710 to 1715g, 1715k to 1715r, and 1715t to 1715z-1, by the federal housing administration, to loans insured under the Canadian national housing act of 1954 by the central mortgage and housing corporation, or to real estate loans that are guaranteed as to principal by the United States government or Canadian government or an agency or instrumentality of the United States or Canadian government.

(6) If the total amount of multifamily residential loans that exceed 75% of the appraised value of the real estate offered as security for those loans is greater than 20% of an

insurer's mortgage portfolio, the portion of those loans that exceed 75% of the appraised value shall not be treated as a qualified asset for purposes of section 901.

(7) An insurer shall not make any such loan unless an appraisal has been made in writing by a competent appraiser appointed or employed by the insurer and filed with the investment committee authorized to approve the loan.

(8) Qualified assets for the purposes of section 901 include a loan or certificate of participation secured by a loan made on a single-family residential property in an amount not to exceed 95% of the appraised value, at the time of the loan, of the real estate offered as security, if the loan is secured by a mortgage, deed of trust, or other instrument for a term of not more than 35 years, and the loan is insured by a private mortgage insurer approved by the federal home loan mortgage corporation and the federal national mortgage association and is licensed to do business in the state of Michigan.

(9) Qualified assets for the purposes of section 901 include real estate loans that do not qualify as first mortgages as described in subsections (1) and (3). Total investments that may be treated as qualified assets under this subsection shall not exceed 25% of the insurer's total investments in real estate loans as described in subsections (1) and (3).

(10) A domestic insurer shall not invest more than 10% of its surplus in real estate loans that exceed the appraised value limitations under subsection (4), (6), or (8) unless the real estate loan is the result of a restructuring of an existing real estate loan and the insurer provides written notice to the commissioner on or before the date of the restructuring. The commissioner may increase the 10% investment limit of this section to 20% for an insurer who demonstrates to the commissioner's satisfaction the soundness of a particular investment or investment strategy that would cause the insurer to exceed the lower limit. If the loans under this subsection exceed 5% of an insurer's assets within any 12-month period, no other loans may be made pursuant to this subsection except with the commissioner's prior approval.

(11) A domestic insurer shall not invest more than 20% of its mortgage portfolio in multifamily residential mortgages that exceed 75% of the appraised value, at the time of the loan, of the real estate offered as security.

500.943 Qualified assets; derivative instruments and transactions.

Sec. 943. (1) Qualified assets for purposes of section 901 include derivative instruments only if the insurer is able to demonstrate to the commissioner through cash flow testing or other appropriate analyses both the intended hedging characteristics and the ongoing effectiveness of the derivative transaction or combination of transactions.

(2) Before engaging in a derivative transaction and with board of director approval, a domestic insurer shall do all of the following:

(a) Establish written guidelines to be used for effecting or maintaining derivative transactions. The guidelines shall be available to the commissioner on request and shall meet all of the following:

(*i*) Address investment or, if applicable, underwriting objectives and risk constraints, such as credit risk limits.

(*ii*) Address permissible derivative transactions and the relationship of those transactions to its operations.

(*iii*) Require compliance with internal control procedures.

(b) Have a system for determining whether a derivative instrument used in a hedging or replication transaction is effective.

(c) Have a credit risk management system for over-the-counter derivative transactions that measures credit risk exposure using counter party exposure amount.

(d) Determine whether the insurer has adequate professional personnel, technical expertise, and systems to implement investment practices involving derivatives.

(e) Determine that the derivative program is prudent and that the level of risk is appropriate for the insurer given the level of capitalization and expertise available to the insurer.

(3) Except as provided in section 222(7), written guidelines prepared pursuant to subsection (2), if furnished to the commissioner, are confidential and privileged, are not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

(4) The commissioner may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section, including, but not limited to, the establishment of all of the following:

(a) Financial solvency standards.

(b) Valuation standards.

(c) Reporting requirements.

(5) An insurer shall include all counter party exposure amounts in determining compliance with the limitations in section 901(6).

(6) In measuring the net amount of credit risk exposure using counter party exposure amount, all of the following apply:

(a) The net amount of credit risk equals the market value of the over-the-counter derivative instrument if the liquidation of the derivative instrument would result in a final cash payment to the insurer or zero if the liquidation of the derivative instrument would not result in a final cash payment to the insurer.

(b) If over-the-counter derivative instruments are entered into pursuant to a written master agreement that provides for netting of payments owed by the respective parties, and the domiciliary jurisdiction of the counter party is either within the United States or, if not within the United States, within a foreign jurisdiction approved as eligible for netting, the net amount of credit risk is the greater of zero or the net sum of the market value of the over-the-counter derivative instruments entered into pursuant to the agreement, the liquidation of which would result in a final cash payment to the insurer and the market value of the over-the-counter derivative instruments entered into pursuant to the agreement, the liquidation of which would result in a final cash payment by the insurer to the business entity.

(7) As used in subsection (6), market value shall be determined for open transactions at the end of the most recent quarter of the insurer's fiscal year and shall be reduced by the market value of acceptable collateral held by the insurer or placed in escrow by 1 or both parties.

(8) As used in this section:

(a) "Cap" means an agreement obligating the seller to make payments to the buyer with each payment based on the amount by which a reference price or level or the performance or value of 1 or more underlying interests exceeds a predetermined number, sometimes called the strike rate or strike price.

(b) "Collar" means an agreement to receive payments as the buyer of an option, cap, or floor, and to make payments as the seller of a different option, cap, or floor.

(c) "Collateralized mortgage obligation" means an asset-backed security that has cash flows originating directly or indirectly from underlying mortgage assets.

(d) "Counter party exposure amount" means the net amount of credit risk attributable to a derivative instrument entered into with a business entity other than through a qualified exchange or qualified foreign exchange or cleared through a qualified clearinghouse such as an over-the-counter derivative instrument.

(e) "Derivative instrument" means any agreement, option, or instrument, or any series or combinations of an agreement, option, or instrument to make or take delivery of, or assume or relinquish, a specified amount of 1 or more underlying interests, or to make a cash settlement in lieu of 1 or more underlying interests, or that has a price, performance, value, or cash flow based primarily upon the actual or expected price, yield, level, performance, value, or cash flow of 1 or more underlying interests. Derivative instruments include options, warrants, caps, floors, collars, swaps, swaptions, forwards, futures, and any other substantially similar agreements, options, or instruments, or any series or combinations and any further agreements, options, or instruments included under rules promulgated by the commissioner. Derivative instruments do not include collateralized mortgage obligations, other asset-backed securities, principal-protected structured securities, or instruments that an insurer is otherwise permitted to invest in or receive under this chapter other than under this section. The sale or purchase of a derivative instrument by an insurer in connection with a written investment policy that insulates the purchaser from the risk of default of an underlying financial instrument shall be treated as a derivative and not as insurance for purposes of this act.

(f) "Derivative transaction" means a transaction involving the use of 1 or more derivative instruments. For purposes of this section, dollar roll transactions, repurchase transactions, reverse repurchase transactions, and securities lending transactions are not derivative transactions.

(g) "Floor" means an agreement obligating the seller to make payments to the buyer in which each payment is based on the amount by which a predetermined number, sometimes called the floor rate or price, exceeds a reference price, level, performance, or value of 1 or more underlying interests.

(h) "Forward" means an agreement, other than a future, to make or take delivery in the future of 1 or more underlying interests, or effect a cash settlement, based on the actual or expected price, level, performance, or value of the underlying interests. Forward includes spot transactions effected within customary settlement periods, when-issued purchases, or other similar cash market transactions.

(i) "Future" means an agreement traded on a futures exchange, to make or take delivery of, or effect a cash settlement based on the actual or expected price, level, performance, or value of 1 or more underlying interests.

(j) "Hedging transaction" means a derivative transaction that is entered into and maintained to manage the risk of a change in the value, yield, price, cash flow, or quantity of assets or liabilities that the insurer has acquired or incurred or anticipates acquiring or incurring or the currency exchange rate risk related to assets or liabilities that an insurer has acquired or incurred or anticipates acquiring or incurring.

(k) "Option" means an agreement giving the buyer the right to buy or receive, known as a call option, sell or deliver, known as a put option, enter into, extend, or terminate or effect a cash settlement based on the actual or expected price, spread, level, performance, or value of 1 or more underlying interests.

(*l*) "Replication transaction" means a derivative transaction or combination of derivative transactions effected either separately or in conjunction with cash market investments included in the insurer's investment portfolio in order to replicate the risks and returns of another authorized transaction, investment, or instrument or to operate as a substitute for cash market transactions. A derivative transaction entered into by the insurer as a hedging transaction is not a replication transaction.

(m) "Structured security" means an obligation whose principal or interest payments are determined partially or entirely by reference to an index, market, event, or asset unrelated to the issuer's ability to pay.

(n) "Swap" means an agreement to exchange or to net payments at 1 or more times based on the actual or expected price, yield, level, performance, or value of 1 or more underlying interests.

(o) "Swaption" means an option to purchase or sell a swap at a given price and time or at a series of prices and times. A swaption does not mean a swap with an embedded option.

(p) "Underlying interest" means the assets, liabilities, other interests, or a combination of assets, liabilities, or other interests underlying a derivative instrument such as any 1 or more securities, currencies, rates, indices, commodities, or derivative instruments.

(q) "Warrant" means an instrument that gives the holder the right to purchase or sell the underlying interest at a given price and time or at a series of prices and times outlined in the warrant agreement.

(9) The amendatory act that added this subsection does not affect the validity of any derivative transaction entered into or derivative instrument acquired by an insurer before the effective date of the amendatory act that added this subsection.

500.944 Accounts receivable; includable as qualified assets.

Sec. 944. Qualified assets for purposes of section 901 include the value of any amounts receivable from insurers authorized to transact insurance in this state.

500.946 Home office, lands, and buildings; includable as qualified assets.

Sec. 946. (1) Subject to the limitations in section 901, qualified assets for purposes of section 901 include a home office, lands, and buildings as follows:

(a) A building in which the insurer has its principal home office and the land upon which the building stands.

(b) Real estate requisite for its accommodation in the convenient transaction of its business.

(c) Other real estate requisite or desirable for the protection or enhancement of the value of real estate described under subdivisions (a) and (b).

(2) Any parcel of real estate acquired under this section may include excess space for rental to others or if the excess is reasonably required in order to have a building that would be an economic unit.

(3) Real estate under this section may be subject to a mortgage.

(4) Any real estate investment under this section that would result in a total real estate investment in excess of 10% of a domestic insurer's capital and surplus shall not be made until a certificate of permission for the purchase or construction of the property is granted by the commissioner. The commissioner may require an appraisal of the property considered for investment by 3 qualified appraisers, appointed by the commissioner for the purpose of the appraisal, and their certification to the commissioner of a valuation of

the property at least equal to the amount that is proposed to be invested in the property by the insurer.

500.947 Income producing real estate and housing projects; includable as qualified assets.

Sec. 947. (1) Subject to the limitations in section 901, qualified assets for purposes of section 901 include real estate or any interest in real estate, acquired by the insurer for the purpose, under its franchise, of construction, development, maintenance, operation, or lease as an investment for the production of income, or for the purpose, under its franchise, of constructing, maintaining, or operating housing projects including incidental retail and service facilities.

(2) Subject to the limitations in section 901, qualified assets for purposes of section 901 include real estate conveyed or mortgaged in good faith, by way of security for debts or in satisfaction for debts, or purchased at sales on judgments, decrees, or mortgages in favor of the insurer or acquired in the process of settling claims asserted under its policies.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 463]

(SB 928)

AN ACT to amend 1935 PA 120, entitled "An act to prescribe a method for the fingerprinting of residents of the state, and to provide for the recording and filing thereof by the central records division of the department of state police," by amending section 3 (MCL 28.273), as added by 1985 PA 175.

The People of the State of Michigan enact:

28.273 Fingerprinting and criminal record check; fee; report.

Sec. 3. (1) The department of state police may charge a fee, not to exceed $15.00, or, until October 1, 2004, not to exceed $30.00, for taking and processing the fingerprints and completing a criminal record check of a resident of this state when the impression of the fingerprints are requested for employment-related or licensing-related purposes. A fee shall not be collected under this section if a fee for taking and processing fingerprints is provided for under any other law. The fee shall not exceed the actual cost of taking and processing the impression of the fingerprints and completing a criminal record check on that person. The fee shall be collected and forwarded to the state police by the licensing body or the employer.

(2) The department of state police shall submit a written report to the secretary of the senate and the clerk of the house of representatives by October 1, 2003 stating whether the fee increase provided under the amendatory act that added this subsection is sufficient to support the actual costs of fingerprinting and what the actual costs of fingerprinting are.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 464]

(HB 5361)

AN ACT to amend 1974 PA 300, entitled "An act to regulate the practice of servicing and repairing motor vehicles; to proscribe unfair and deceptive practices; to provide for training and certification of mechanics; to provide for the registration of motor vehicle repair facilities; to provide for enforcement; and to prescribe penalties," by amending section 17 (MCL 257.1317), as amended by 1988 PA 254.

The People of the State of Michigan enact:

257.1317 Inspections; time; announced and unannounced; violations.

Sec. 17. (1) The registered facility or a facility required to be registered under this act shall be open to inspection by the administrator and other law enforcement officials during reasonable business hours. During reasonable business hours, the administrator and other law enforcement officials may make periodic unannounced inspections of the premises, parts records, and parts inventories of facilities.

(2) A person who hinders, obstructs, or otherwise prevents an inspection is in violation of this act.

This act is ordered to take immediate effect.
Approved June 21, 2002.
Filed with Secretary of State June 21, 2002.

[No. 465]

(SB 965)

AN ACT to amend 1933 PA 94, entitled "An act to authorize public corporations to purchase, acquire, construct, improve, enlarge, extend, or repair public improvements within or without their corporate limits, and to own, operate, and maintain the same; to authorize the condemnation of property for such public improvements; to provide for the imposition and collection of charges, fees, rentals, or rates for the services, facilities, and commodities furnished by such public improvements; to provide for the issuance of bonds and refunding bonds payable from the revenues of public improvements; to provide for a pledge by public corporations of their full faith and credit and the levy of taxes without limitation as to rate or amount to the extent necessary for the payment of the bonds, or for advancing money from general funds for payment of bonds; to provide for payment, retirement, and security of such bonds; to provide for the imposition of special assessment bonds for the purpose of refunding outstanding revenue bonds; to prescribe the powers and duties of the department of treasury and of the municipal finance commission or its successor agency relative to such bonds and relative to private activity bonds issued by a state or local governmental entity; to provide for other matters in respect to such public improvements and bonds and to validate action taken and bonds issued; and to prescribe penalties and provide remedies," by amending sections 3, 7, 12, 16, 22, 24, 26, 27, 28, and 30 (MCL 141.103, 141.107, 141.112, 141.116, 141.122, 141.124, 141.126, 141.127, 141.128, and 141.130), section 3 as amended by 1992 PA 305, sections 7, 12, and 27 as amended by 1985 PA 26, sections 16, 28, and 30 as amended by 1983 PA 76, and section 24 as amended by 1988 PA 228, and by adding sections 12a and 12b.

The People of the State of Michigan enact:

141.103 Definitions.

Sec. 3. As used in this act:

(a) "Public corporation" means a county, city, village, township, school district, port district, or metropolitan district of the state or a combination of these if authorized by law to act jointly; an authority created by or under an act of the legislature; or a municipal health facilities corporation or subsidiary municipal health facilities corporation incorporated as provided in the municipal health facilities corporations act, 1987 PA 230, MCL 331.1101 to 331.1507.

(b) "Public improvements" means only the following improvements: housing facilities; garbage disposal plants; rubbish disposal plants; incinerators; transportation systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; sewage disposal systems, including sanitary sewers, combined sanitary and storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of sewage or industrial wastes; storm water systems, including storm sewers, plants, works, instrumentalities, and properties used or useful in connection with the collection, treatment, or disposal of storm water; water supply systems, including plants, works, instrumentalities, and properties used or useful in connection with obtaining a water supply, the treatment of water, or the distribution of water; utility systems for supplying light, heat, or power, including plants, works, instrumentalities, and properties used or useful in connection with those systems; approved cable television systems, approved cable communication systems, or telephone systems, including plants, works, instrumentalities, and properties used or useful in connection with those systems; automobile parking facilities, including within or as part of the facilities areas or buildings that may be rented or leased to private enterprises serving the public; yacht basins; harbors; docks; wharves; terminal facilities; elevated highways; bridges over, tunnels under, and ferries across bodies of water; community buildings; public wholesale markets for farm and food products; stadiums; convention halls; auditoriums; dormitories; hospitals and other health care facilities; buildings devoted to public use; museums; parks; recreational facilities; reforestation projects; aeronautical facilities; and marine railways; or any right or interest in or equipment for these improvements. The term "public improvement" means the whole or a part of any of these improvements or of any combination of these improvements or any interest or participation in these improvements, as determined by the governing body. The definition contained in this subdivision does not broaden or enlarge the extent of a particular public improvement made by a public corporation.

(c) "Borrower" means a public corporation exercising the power to issue bonds as provided in this act.

(d) "Governing body" means for a county, the board of commissioners; for a city, the body having legislative powers; for a village, the body having legislative powers; for a township, the township board; for a school district, the board of education; for a port district, the port commission; for a metropolitan district, the legislative body of the district; for a municipal health facilities corporation, the board of trustees; for a nonprofit subsidiary municipal health facilities corporation, the nonprofit subsidiary board; and for an authority, the body in which is lodged general governing powers. If the charter of a public corporation or applicable law provides that a separate board has general management over a public improvement, "governing body" means, with respect to that public improvement, the separate board, subject to review by the legislative body of the public corporation as the charter or law may provide. Unless the charter or law specifically

provides otherwise, the separate board shall adopt the bond authorizing ordinance, but shall not pledge full faith and credit.

(e) "Rates" means the charges, fees, rentals, and rates that may be fixed and imposed for the services, facilities, and commodities furnished by a public improvement.

(f) "Revenues" means the income derived from the rates charged for the services, facilities, and commodities furnished by a public improvement. Revenues include, to the extent provided in the authorizing ordinance, earnings on investment of funds of the public improvement and other revenues derived from or pledged to operation of the public improvement.

(g) "Net revenues" means the revenues of a public improvement remaining after deducting the reasonable expenses of administration, operation, and maintenance of the public improvement.

(h) "Project cost" or "costs" means the costs of purchasing, acquiring, constructing, improving, enlarging, extending, or repairing a public improvement, including any engineering, architectural, legal, accounting, financial, and other expenses incident to the public improvement. Project costs include interest on the bonds, and other obligations of the borrower issued to pay project costs, during the period of construction and until full revenues are developed. Project costs include a reserve or addition to a reserve for payment of principal and interest on the bonds and the amount required for operation and maintenance until sufficient revenues have developed.

(i) "Ordinance" means an ordinance, resolution, or other appropriate legislative enactment of the governing body of a public corporation.

(j) "Approved cable television system" or "approved cable communication system" means a cable television or communication system to which 1 of the following applies:

(*i*) A municipality acquires or establishes the system either before January 1, 1987 or before a system is established in that municipality by a private person.

(*ii*) A municipality acquires or establishes the system after a system is established in that municipality by a private person and after approval by a majority of the electors in the affected area of that municipality voting on the question of the sale of revenue bonds to finance the acquisition or establishment of the municipal system.

141.107 Bonds; issuance; form; term; interest; exclusion from net bonded indebtedness; registration; pledge of funds; statutory first lien.

Sec. 7. (1) For the purpose of defraying the whole or a part of project costs, a public corporation may borrow money and issue its negotiable bonds. The bonds shall not be issued unless and until authorized by an ordinance, which shall set forth a brief description of the contemplated project, the estimated cost of the project, and the amount, maximum rate of interest, and time of payment of the bonds. The bonds shall be serial bonds or term bonds, or a combination of serial and term bonds, and shall be payable semiannually or annually by maturity of serial bonds or maturity or required redemption of term bonds. The last annual principal installment shall be not longer than the estimated period of usefulness of the public improvement for which the bond is issued, but the last installment shall not be more than 40 years from the date of the bond. The bonds shall bear interest, payable as provided in the authorizing ordinance, except that the first interest installment shall be payable not later than 10 months following the delivery date of the bonds. The bonds and coupons shall be substantially in the form provided in the authorizing ordinance and shall be executed in the manner prescribed in the bond, which may be by facsimile signature or signatures. The bonds and the interest on the bonds shall be made payable in

lawful money of the United States, and shall be exempt from taxation by this state or by any taxing authority within this state. The public corporation may provide that the redemption of term bonds may be satisfied in whole or in part by the purchase and cancellation of term bonds otherwise required to be redeemed. As used in this subsection, "annual principal installment" means a maturity of serial bonds, an amount of term bonds required to be redeemed in that year, or a maturity of term bonds less amounts previously required to be redeemed.

(2) The principal of and interest on the bonds shall be payable, except as provided in this act, solely from the net revenues derived from the operation of the public improvement purchased, acquired, constructed, improved, enlarged, extended, or repaired from the proceeds of the bonds, as shall be pledged to the bonds in the authorizing ordinance, which may include if the ordinance so provides, net revenues derived by reason of future improvements, enlargements, extensions, or repairs to the improvement, and payments made to the public corporation issuing the bonds by any other governmental entity pursuant to another law of this state or the United States for payment of principal and interest on the bonds, even though the payments are made from or include grants or other funds provided by this state or the United States or the proceeds of taxes levied on taxable property as provided by other law.

(3) As additional security for the payment of bonds that are used to finance the local share of projects that receive more than 25% of financing from federal or state grants or that are being initially purchased, in whole or in part, by the Michigan municipal bond authority created under the shared credit rating act, 1985 PA 227, MCL 141.1051 to 141.1076, or if specifically authorized by another law pertaining to the public improvements for which bonds are to be issued under this act, a public corporation, by majority vote of the elected members of its governing body, may include as a part of the ordinance authorizing the issuance of the bonds a pledge of its full faith and credit for payment of the principal of an interest on the bonds. For bonds issued for airports or airport improvements under the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 to 259.208, a public corporation, by majority vote of the elected members of its governing body, may agree that if funds pledged for payment of bonds are not sufficient to pay principal and interest on the bonds as the bonds become due, the public corporation shall advance sufficient funds out of its general funds for the payment if the proceeds of the bonds are used exclusively within the territorial limits of the county in which the political corporation is located. If a pledge is made, and the net revenues primarily pledged to the payment are insufficient to make a payment, the public corporation shall be obligated to pay the bonds and interest on the bonds in the same manner and to the same extent as other general obligation bonds of the public corporation, including the levy, when necessary, of a tax on all taxable property in the public corporation without limitation as to rate or amount, in addition to all other taxes that the public corporation is authorized to levy, but not exceeding the rate or amount necessary to make the payment. If a public corporation makes payment from taxes or general funds pursuant to a full faith and credit pledge or agreement to advance, it shall be reimbursed from net revenues subsequently received by the public improvement for which the bonds are issued that are not otherwise pledged or encumbered. A bond or coupon issued under this act shall not be general obligation or constitute an indebtedness of the borrower unless its full faith and credit are pledged. Unless a public corporation pledges its full faith and credit for the payment of bonds issued pursuant to this act, or unless otherwise exempt, the amount of the bonds shall not be included in computing the net bonded indebtedness of the public corporation for the purposes of debt limitations imposed by any statutory or charter provisions. Bonds may

be made registerable as to principal, or principal and interest, under terms and conditions determined by the governing body of the borrower.

(4) The governing body in the ordinance authorizing the bonds or in an agreement entered into under section 7a(1)(a) may pledge any funds established by the ordinance or agreement for the payment of the bonds or other obligations of the public corporation under the agreement and create a statutory first lien in favor of the holders of the bonds or a party subject to the agreement.

141.112 Bonds; discount; sale price; interest; competitive or negotiated sale; notice; publication.

Sec. 12. (1) Bonds issued under this act may be sold at a discount but may not be sold at a price that would make the interest cost on the money borrowed after deducting any premium or adding any discount exceed 10% per annum or the maximum rate permitted by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, whichever is greater, and may bear a stated rate of interest or no rate of interest.

(2) A public corporation may sell bonds at a competitive sale or a negotiated sale as determined in the authorizing ordinance. If a public corporation determines to sell a bond at a negotiated sale, the governing body shall expressly state the method and reasons for choosing a negotiated sale instead of a competitive sale in the resolution or ordinance authorizing the issuance or sale of the bonds.

(3) Bonds sold at a competitive sale shall not be sold until notice by publication at least 7 days before the sale in a publication printed in the English language and circulated in this state that carries as a part of its regular service notices of the sale of municipal bonds.

(4) A public corporation shall award a bond sold at a competitive sale to the bidder whose bid meets all specifications and requirements and results in the lowest interest cost to the public corporation, unless all bids are rejected.

(5) A public corporation may accept bids for the purchase of a bond made in person, by mail, by facsimile, by electronic means, or by any other means authorized by the public corporation.

141.112a Bonds subject to revised municipal finance act.

Sec. 12a. (1) Bonds issued under this act for which a municipality pledges its full faith and credit are also subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821, except for part VI and section 503 of the revised municipal finance act, 2001 PA 34, MCL 141.2601 to 141.2613, and MCL 141.2503.

(2) For bonds issued under this act, the first principal amount maturity date or mandatory redemption date shall be not later than 5 years after the date of issuance and some principal amount shall mature or be subject to mandatory redemption in each subsequent year of the term of the bond.

(3) As used in this section, "municipality" means that term as defined in the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(4) Except as otherwise provided in this act, bonds subject to this act are not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

141.112b Bulletins; issuance by department of treasury.

Sec. 12b. The department of treasury is authorized to issue bulletins as necessary to carry out the purposes of this act. A bulletin issued under this section shall include a statement of the department's specific statutory authority for any substantive requirement contained within the bulletin.