

Act No. 226
Public Acts of 1994
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**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Reps Brown and Martin

ENROLLED HOUSE BILL No. 5310

AN ACT to amend sections 214 222 226 402b 405a 408 410 632 834 901 917 943 946 1011 1903 4012 4037 5008 5024 5205 5214 5215 5222 5228 5430 5836 6450 6550 6806 6822 6823 6886 7604 8128 8130 8158 and 8199a of Act No 218 of the Public Acts of 1956 entitled as amended 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 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 to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates and to provide for certain powers and duties upon certain persons as they affect the continued availability and affordability of that insurance 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 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 persons to provide certain powers and duties upon certain officials departments and authorities of this state to provide an appropriation to repeal certain acts and parts of acts to repeal certain acts and parts of acts on specific dates to repeal certain parts of this act on specific dates and to provide penalties for the violation of this act sections 214 226 405a and 1011 as added and sections 222 402b 408 410 901 and 946 as amended by Act No 182 of the Public Acts of 1992 sections 834 and 4012 as amended and section 4037 as added by Act No 349 of the Public Acts of 1993 section 917 as added by Act No 106 of the Public Acts of 1991 section 943 as added by Act No 24 of the Public Acts of 1987 section 1903 as added by Act No 341 of the Public Acts of 1980 section 5008 as amended by Act No 290 of the Public Acts of 1988 section

5222 as amended by Act No 365 of the Public Acts of 1984 section 6550 as added by Act No 173 of the Public Acts of 1986 section 6886 as amended by Act No 261 of the Public Acts of 1987 section 7604 as amended by Act No 1 of the Public Acts of 1990 sections 8128 8130 and 8158 as added by Act No 302 of the Public Acts of 1989 and section 8199a as amended by Act No 84 of the Public Acts of 1992 being sections 500 214 500 222 500 226 500 402b 500 405a 500 408 500 410 500 632 500 834 500 901 500 917 500 943 500 946 500 1011 500 1903 500 4012 500 4037 500 5008 500 5024 500 5205 500 5214 500 5215 500 5222 500 5228 500 5430 500 5836 500 6450 500 6550 500 6806 500 6822 500 6823 500 6886 500 7604 500 8128 500 8130 500 8158 and 500 8199a of the Michigan Compiled Laws to add sections 402c 405b 830a 917a 6460 and 8160 and chapters 11 and 11a and to repeal certain parts of the act

The People of the State of Michigan enact

Section 1 Sections 214 222 226 402b 405a 408 410 632 834 901 917 943 946 1011 1903 4012 4037 5008 5024 5205 5214 5215 5222 5228 5430 5836 6450 6550 6806 6822 6823 6886 7604 8128 8130 8158 and 8199a of Act No 218 of the Public Acts of 1956 sections 214 226 405a and 1011 as added and sections 222 402b 408 410 901 and 946 as amended by Act No 182 of the Public Acts of 1992 sections 834 and 4012 as amended and section 4037 as added by Act No 349 of the Public Acts of 1993 section 917 as added by Act No 106 of the Public Acts of 1991 section 943 as added by Act No 24 of the Public Acts of 1987 section 1903 as added by Act No 341 of the Public Acts of 1980 section 5008 as amended by Act No 290 of the Public Acts of 1988 section 5222 as amended by Act No 365 of the Public Acts of 1984 section 6550 as added by Act No 173 of the Public Acts of 1986 section 6886 as amended by Act No 261 of the Public Acts of 1987 section 7604 as amended by Act No 1 of the Public Acts of 1990 sections 8128 8130 and 8158 as added by Act No 302 of the Public Acts of 1989 and section 8199a as amended by Act No 84 of the Public Acts of 1992 being sections 500 214 500 222 500 226 500 402b 500 405a 500 408 500 410 500 632 500 834 500 901 500 917 500 943 500 946 500 1011 500 1903 500 4012 500 4037 500 5008 500 5024 500 5205 500 5214 500 5215 500 5222 500 5228 500 5430 500 5836 500 6450 500 6550 500 6806 500 6822 500 6823 500 6886 500 7604 500 8128 500 8130 500 8158 and 500 8199a of the Michigan Compiled Laws are amended and sections 402c 405b 830a 917a 6460 and 8160 and chapters 11 and 11a are added to read as follows

Sec 214 (1) The commissioner or his or her representatives are immune from civil liability both personally and professionally for any of their acts or omissions if all of the following are met

(a) The commissioner or his or her representatives acted or reasonably believed he or she acted within the scope of his or her authority

(b) The commissioner s or his or her representatives conduct did not amount to gross negligence that was proximate cause of the injury or damages suffered

(2) The commissioner or his or her representatives shall not be personally liable for the acts or omissions of others

(3) Except as otherwise provided in this section defense and indemnification of the commissioner or his or her representatives for an act or omission under this act shall be conducted in accordance with Act No 170 of the Public Acts of 1964 being sections 691 1401 to 691 1415 of the Michigan Compiled Laws

(4) If a claim is made or a civil action is commenced against the commissioner or his or her representatives either personally or professionally for an act or omission done in the course of employment as it pertains to chapter 78 chapter 81 or any successor chapter legal representation shall be provided by the attorney general or a special assistant attorney general appointed to provide such representation

(5) If the attorney general appoints a special assistant attorney general to represent the commissioner or his or her representatives the costs of the defense shall be paid as incurred out of the insurer estate that is the subject of a claim arising out of a chapter 78 chapter 81 or any successor chapter proceeding

(6) As a condition of the acceptance of the defense the commissioner or his or her representatives shall agree to reimburse the costs of the defense if it is finally determined by a final adjudication on the merits that the commissioner or his or her representatives acted outside of the scope of his or her authority and had no reasonable basis for believing that he or she acted within the scope of his or her authority and that his or her conduct amounted to gross negligence that was the proximate cause of the injury or damages suffered

(7) If a judgment is awarded or a settlement is entered into in a civil action against the commissioner or his or her representatives for an act or omission pertaining to a chapter 78 chapter 81 or any successor chapter proceeding the state shall indemnify the commissioner or his or her representatives out of the involved insurer s estate

(8) This section does not apply to those persons acting as the commissioner s agents under section 438a

(9) For purposes of this section

(a) Gross negligence means conduct so reckless as to demonstrate substantial lack of concern for whether injury results

(b) Representative means any employee of the commissioner or the insurance bureau or any person exercising power delegated by the commissioner in accordance with this act but does not include accountants actuaries or lawyers retained as independent contractors and acting in their professional capacity

Sec 222 (1) The commissioner in person or by any of his or her authorized deputies or examiners may examine any or all of the books records documents and papers of any insurer at any time after its articles of incorporation have been executed and filed or after it has been authorized to do business in this state The commissioner at his or her discretion shall examine into the affairs of any domestic insurer and whenever he or she considers it expedient so to do to examine into the affairs of any foreign or alien insurer doing business in this state

(2) In lieu of an examination under this act of any foreign or alien insurer authorized to do business in this state the commissioner may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port of entry state if that state accepts examination reports prepared by the commissioner This subsection applies only as follows

(a) Until this state becomes accredited by the national association of insurance commissioners financial regulation standards and accreditation program

(b) If this state loses accreditation by the national association of insurance commissioners financial regulation standards and accreditation program

(3) In lieu of an examination under this act of any foreign or alien insurer authorized to do business in this state the commissioner may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port of entry state if that state accepts examination reports prepared by the commissioner and if the insurance regulatory agency of the state of domicile or port of entry state was accredited by the national association of insurance commissioners financial regulation standards and accreditation program at the time of the examination or if the examination is performed under the supervision of an accredited insurance regulatory agency or with the participation of 1 or more examiners who are employed by an accredited insurance regulatory agency and who after a review of the examination work papers and report state under oath that the examination was prepared in a manner consistent with the standards and procedures required by their accredited regulatory agency This subsection only applies during the time this state is accredited by the national association of insurance commissioners financial regulation standards and accreditation program

(4) The commissioner in person or by any of his or her authorized deputies or examiners shall once every 5 years examine the books records documents and papers of each authorized insurer The commissioner may examine an insurer more frequently and upon its request shall examine a domestic insurer that has not been examined for the 3 years immediately preceding the request This section does not authorize the examination of books records documents or papers if those items involve matters that are a subject of a currently pending administrative or judicial proceeding against the insurer from whom the information is sought unless the commissioner or judge specifically finds on the record of the proceeding that the examination is reasonably necessary to protect the interests of policyholders creditors or the public or to make a determination of whether an insurer is safe reliable and entitled to public confidence

(5) The business affairs assets and contingent liabilities of insurers shall be subject to examination by the commissioner at any time The commissioner may supervise and make the same examination of the business and affairs of every foreign or alien insurer doing business in this state as of domestic insurers doing the same kind of business and of its assets books accounts and general condition Every foreign or alien insurer and its agents and officers are subject to the same obligations and are subject to the same examinations and in case of default therein to the same penalties and liabilities as domestic insurers doing the same kind of business or any of the agents or officers thereof are or may be liable to under the laws of this state or the regulations of the insurance bureau of the department of commerce The commissioner may whenever he or she considers it expedient to do so either in person or by a proper person appointed by him or her repair to the general office or other offices of the foreign or alien insurer wherever the same may be and make an investigation and examination of its affairs and condition

(6) Upon an examination under this section the commissioner his or her deputy or any examiner authorized by him or her may examine in person by writing and if appropriate under oath the officers or agents of the insurer or all persons considered to have material information regarding the insurer's property assets business or affairs The commissioner may compel the attendance and testimony of witnesses and the production of any books accounts papers records documents and files relating to the insurer's business or affairs and may sign subpoenas administer oaths and affirmations examine witnesses and receive evidence for this purpose The insurer and its officers and agents shall produce its books and records and all papers in its or their possession relating to its business or affairs and any other person may be required to produce any books records or papers considered relevant to the examination for the inspection of the commissioner or his or her deputy or examiners whenever required The insurer's officers or agents shall facilitate the examination and aid in making the same so far as it is in their power to do so If the commissioner's order or subpoena is not followed the commissioner may request the Ingham county circuit court to issue an order requiring compliance with the commissioner's order or subpoena

(7) Not later than 60 days following completion of the examination the deputy or examiners shall make a full and true report and furnish the insurer a copy of the examination report that shall comprise only facts appearing on the insurer's books records or documents or ascertained from examination of its officers or agents or other persons concerning its affairs and the conclusions and recommendations as may be reasonably warranted from the facts disclosed. An insurer examined upon its request shall be granted a hearing before the commissioner or his or her designee before the report is filed. Upon request of the insurer the hearing shall be closed to the public. A hearing under this subsection is not subject to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 being sections 24 201 to 24 328 of the Michigan Compiled Laws. Each examination report shall be withheld from public inspection until the report is final and filed with the commissioner. In addition the commissioner may withhold any examination report or any analysis of an insurer's financial condition from public inspection for such time as he or she may consider proper. In any event all information and testimony furnished to the insurance bureau and the insurance bureau's work papers correspondence memoranda reports records and other written or oral information related to an examination report or an investigation shall be withheld from public inspection shall be confidential shall not be subject to subpoena and shall not be divulged to any person except as provided in this section. If assurances are provided that the information will be kept confidential the commissioner may disclose confidential work papers correspondence memoranda reports records or other information as follows

- (a) To the governor or the attorney general
- (b) To any relevant regulatory agency including regulatory agencies of other states or the federal government
- (c) In connection with an enforcement action brought pursuant to this or another applicable act
- (d) To law enforcement officials
- (e) To persons authorized by the Ingham county circuit court to receive the information
- (f) To persons entitled to receive such information in order to discharge duties specifically provided for in this act

(8) Notwithstanding the other provisions of this section the commissioner is not required to finalize and file an examination report for an insurer for a year in which an examination report was not finalized and filed if the insurer is currently undergoing an examination subsequent to the year for which an examination report was not finalized and filed. Nothing contained in this section shall be construed to limit the commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

(9) The examination of an alien insurer shall be limited to its United States business except as otherwise required by the commissioner.

Sec 226 The commissioner or any of the commissioner's employees or agents shall not divulge confidential information acquired in the course of an examination or investigation except as permitted by section 222(7). A person appointed or acting under this act who discloses any fact or information that is confidential under this act is guilty of a misdemeanor punishable by a fine of not more than \$1 000 00 or imprisonment of not more than 1 year or both. A conviction under this section shall automatically remove the person from his or her position or office.

Sec 402b In this state the following constitute transactions of insurance for which a certificate of authority is not required

- (a) Transaction of insurance under chapter 19
- (b) Transaction of reinsurance except a transfer of direct obligations to policyholders by assumption reinsurance or other transaction to the same effect
- (c) Transaction of insurance on a risk not resident or located in this state at the time the insurance took effect if the insurance was not written in this state
- (d) Transaction of group or blanket insurance or group annuities in which a master policy was lawfully issued to an employer located in another state for the benefit of employees residing in this state
- (e) Transaction of property or casualty insurance under the same policy on 1 or more risks resident or located both within and outside this state if under all the circumstances of the transaction any appropriate part of the premium on the policy was apportioned to this state and if the policy was lawfully issued to a person resident in another state
- (f) Transaction of insurance as defined in sections 614 and 616
- (g) Transaction of insurance independently procured through negotiations occurring entirely outside of this state
- (h) Transaction of insurance by a nonprofit life insurance company if the transactions involve life insurance disability or annuity contracts issued direct from the home office of the company without agents or representatives in this state other than representatives servicing life insurance disability annuity contracts or providing information upon request concerning other products of the company only to or for the benefit of employees of nonprofit educational scientific or religious institutions. The transactions defined in this subdivision do not include those of a fraternal benefit society as defined in section 8164.

- (i) Transaction of group health insurance and incidental death and disability insurance if all of the following are met
- (u) The group health insurance and incidental death and disability insurance is maintained pursuant to a written collective bargaining agreement between a labor organization and 1 or more city village township or county employers
- (v) The labor organization demonstrates to the commissioner's satisfaction that it meets the definition of the term labor organization as defined in section 2(5) of the national labor relations act chapter 372 49 Stat 450 29 U S C 152
- (w) The group health insurance and incidental death and disability insurance is regulated under the employee retirement income security act of 1974 Public Law 93 406 88 Stat 829 and is funded by a trust fund as described in section 302(c)(5) of title III of the labor management relations act 1947 chapter 120 61 Stat 157 29 U S C 186

Sec 402c (1) A transaction of reinsurance for which a ceding insurer did not take credit for reinsurance as either an asset or a deduction from liability on account of reinsurance ceded and for which no credit or deduction is needed for the ceding insurer to be safe reliable and entitled to public confidence is not a transaction of insurance under this act

(2) To determine whether a ceding insurer is safe reliable and entitled to public confidence under subsection (1) the commissioner may make inquiries pursuant to section 438(3) Any information obtained from these inquiries shall only be used to enforce the financial solvency provisions of this act

Sec 405a If an insurer is subject in its state or country of domicile to formal delinquency proceedings within the meaning of chapter 81 or to a proceeding of similar effect and the formal delinquency proceeding was properly commenced by the appropriate domiciliary regulatory authority on or after October 1 1991 the certificates of authority of the insurer and of any current affiliated insurers of the insurer shall be automatically revoked 90 days after the effective date of the delinquency or other proceedings without further action by the commissioner unless within the 90 day period or a longer period if the commissioner allows each insurer requalifies for a certificate of authority under the provisions of this act then in force A domestic insurer for purposes of requalification shall be treated as though it is a foreign insurer The certificate of authority shall be revoked under such conditions for the protection of the public as the commissioner may require

Sec 405b An insurer that seeks requalification pursuant to sections 405 or 405a is entitled to a formal review by the commissioner during which the insurer may submit information documents or other data to the commissioner in support of the application for requalification The commissioner shall act upon the application by an order that embodies the commissioner's findings and reasons for the decision A record of the review including the information documents or other data submitted by the insurer to the commissioner in support of the application for requalification shall be prepared by the insurance bureau and made available

Sec 408 (1) To qualify for authority to transact insurance in this state a domestic foreign or alien insurer shall possess and thereafter maintain paid in capital or surplus or assets in amount of not less than as shown by the applicable portion of the following schedule

Kind of insurance	Domestic foreign stock insurers CAPITAL	Domestic foreign mutual life insurers SURPLUS
Life	\$200 000 00	\$200 000 00
Life and disability	300 000 00	300 000 00
Disability except as provided in subsections (2) (3) or (4) below	200 000 00	not applicable
Property & marine	200 000 00	not applicable
Automobile	200 000 00	not applicable
Casualty	200 000 00	not applicable
Surety & fidelity	250 000 00	not applicable
Surety fidelity casualty	450 000 00	not applicable

Kind of insurance	Reciprocal insurers ASSETS
Disability except as provided in subsections (2) (3) or (4) below	\$50 000 00
Property & marine	50 000 00
Automobile	50 000 00
Casualty	50 000 00
Surety & fidelity	50 000 00
Surety fidelity casualty	50 000 00

Multiple lines Any insurer may reinsure risks of every kind or description and write any and all kinds of insurance other than life insurance for which it is authorized while it maintains paid up capital and surplus of not less than \$500 000 00

(2) An insurer authorized to transact casualty insurance shall also have authority to transact disability insurance without additional capital surplus or assets as the case may be

(3) A domestic stock insurer organized to insure on the monthly or weekly premium payment plan any person against bodily injury or death by accident or against disability on account of sickness or to provide a cash funeral benefit not exceeding \$500 00 shall have paid in capital stock of not less than \$25 000 00

(4) As to a reciprocal insurer the authority to transact disability insurance either alone or in combination with other insuring powers does not include authority to transact health insurance

(5) Financial requirements as to cooperative assessment life disability and loss of position insurers as identified in chapter 64 shall be as provided in that chapter Financial requirements as to domestic stock insurers formed to insure railway employees against loss of position to transact disability and life insurance and to make annuities as identified in section 6604 shall be as provided in section 6608

(6) This section applies to domestic insurers organized prior to July 21 1965 and to foreign and alien insurers not subject to the provisions of section 410 However domestic insurers organized prior to July 21 1965 and any foreign and alien insurers not subject to the provisions of section 410 that subsequently attain the level of capital or surplus required by section 410 are required thereafter to maintain compliance with section 410 unless the direct premiums written and any reinsurance assumed by the insurer in an annual period are less than the insurer's surplus

(7) Notwithstanding the specific requirements of this section domestic foreign and alien insurers shall also comply with the standard set forth in section 403

Sec 410 (1) To qualify for and maintain authority to transact insurance in this state after July 21 1965 a domestic foreign or alien insurer shall possess and thereafter maintain unimpaired capital and surplus in an amount determined adequate by the commissioner to continue to comply with section 403 but not less than \$1 000 000 00 The commissioner shall take into account the risk based capital requirements as developed by the national association of insurance commissioners in order to determine adequate compliance with section 403

(2) In addition to the minimum capital and surplus specified in subsection (1) an insurer applying for an initial certificate of authority in this state shall possess and maintain surplus or additional surplus in an amount determined by the commissioner adequate to comply with section 403 for the kind or kinds of insurance it writes or proposes to write but in no event less than \$500 000 00

(3) Except as provided by section 407 every insurer authorized to transact insurance in this state may transact life insurance or property insurance but not both unless it was authorized to transact such other kind or kinds of insurance in this state immediately prior to January 1 1965 For the purpose of this section life insurance includes any 1 or more of the insurances described in sections 602 and 606 property insurance includes any 1 or more of the insurances described in chapter 6 excepting only section 602 and those provisions of section 632 that apply to insurances described in section 602 Nothing in this section shall be construed to broaden the authority of reciprocal insurers

(4) Except as provided in subsection (5) an insurer authorized to transact insurance prior to July 21 1965 may continue to transact insurance so long as it maintains the minimum financial requirements of section 408 However an insurer authorized to transact insurance prior to July 21 1965 that subsequently attains the level of minimum capital or surplus required by subsection (1) shall maintain compliance with this section unless the direct premiums written and any reinsurance assumed by the insurer in an annual period are less than the insurer's surplus

(5) An insurer shall not be authorized to transact legal expense insurance unless it meets the capital and surplus requirements of subsections (1) and (2)

(6) Notwithstanding the specific requirements of this section domestic foreign and alien insurers shall also comply with the standard set forth in section 403

Sec 632 (1) Every insurer shall be entitled to reinsure any risk authorized to be undertaken by it and to grant reinsurance upon any similar risk undertaken by any other insurer

(2) Subject to chapter 58 any mutual insurance company other than life may by policy treaty or other agreement cede to or accept from any insurance company or insurer reinsurance upon the whole or any part of any risk which reinsurance shall be without contingent liability or participation or membership unless provided otherwise Reinsurance shall not be effected with any company or insurer disapproved by written order of the commissioner filed in his or her office

(3) An insurer authorized to transact multiple lines of insurance may except with respect to policies of life and endowment insurance and contracts for the payment of annuities and pure endowments reinsure risks of every kind or description

(4) Reinsurance shall not be ceded to or accepted by any insurer operating under the cooperative or assessment plan. Reinsurance of any insurer operating under the cooperative or assessment plan shall be ceded only to insurers authorized under this act to transact a similar kind of insurance in this state and to accept reinsurance.

(5) An insurer may be specifically authorized to accept reinsurance for kinds of risks that it does not have authority to insure directly.

Sec 830a (1) Every life insurance company doing business in this state shall annually submit to the commissioner the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The actuarial opinion required by this section shall be submitted in a form prescribed by the commissioner and may include any other items that the commissioner considers necessary.

(2) Every life insurance company, except as exempted by or pursuant to rule, shall also annually include in the opinion required by subsection (1) an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts. By order, the commissioner may provide for a transition period for establishing any higher reserves that the qualified actuary may consider necessary in order to render the opinion required by this subsection.

(3) Each opinion required by subsection (2) shall be governed by the following:

(a) A memorandum shall be prepared to support each actuarial opinion that shall be in form and substance acceptable to the commissioner.

(b) If the insurance company fails to provide a supporting memorandum within the period of time requested by the commissioner or the commissioner determines that the supporting memorandum provided by the insurer fails to meet the standards prescribed by applicable laws or rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare a supporting memorandum as is required by the commissioner.

(4) Each opinion required by this section shall be governed by the following:

(a) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1994.

(b) The opinion shall apply to all business in force, including individual and group disability insurance plans, in form and substance acceptable to the commissioner.

(c) The opinion shall be based on standards as the commissioner may prescribe by rule.

(d) For an opinion required to be submitted by a foreign or alien insurer, the commissioner may accept the opinion filed by that insurer with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) Any memorandum in support of the opinion, and any other material provided by the insurer to the commissioner in connection with it, shall be kept confidential by the commissioner, shall not be made public, and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules promulgated under this section. However, the memorandum or other material may be released by the commissioner in any of the following instances:

(i) With the written consent of the insurer;

(ii) To the American Academy of Actuaries if the memorandum or other material is required for the purpose of professional disciplinary proceedings and the request sets forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material;

(iii) If any portion of the confidential memorandum is cited by the insurer in its marketing or is cited before any governmental agency other than a state insurance regulatory agency or is released by the insurer to the news media. In this event, all portions of the confidential memorandum shall no longer be confidential.

(5) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person other than the insurance company and the commissioner for any act, error, omission, decision, or conduct with respect to the actuary's opinion. Disciplinary action by the commissioner against the insurer or the qualified actuary shall be defined in rules by the commissioner.

(6) For purposes of this section, "qualified actuary" means a member of either the American Academy of Actuaries or the Society of Actuaries who also meets any other criteria established by the commissioner by rule.

(7) The commissioner shall not accept as a qualified actuary or accept an actuarial opinion prepared in whole or in part by an individual who has done any of the following

(a) Been convicted of fraud bribery a violation of chapter 96 of title 18 of the United States Code 18 U S C 1961 to 1968 or any dishonest conduct or practices under federal or state law

(b) Been found to have violated the insurance laws of this state with respect to any previous reports submitted under this section

(c) Has failed to detect or disclose material information in 1 or more previous reports filed under this section

(8) The commissioner may hold a public hearing pursuant to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 being sections 24 201 to 24 328 of the Michigan Compiled Laws to determine whether an actuary is qualified After considering the evidence presented the commissioner may find that the actuary is not qualified for purposes of expressing his or her opinion on reserves and related actuarial items as required by this section and may require the insurer to replace the actuary with another actuary

(9) This section shall take effect December 31 1994

Sec 834 (1) Except as otherwise provided in sections 835 836 and 837 the minimum standard for the valuation of policies and contracts described in subsection (8) shall be the commissioner's reserve valuation methods defined in subsections (2) (3) and (6) 5% interest for group annuity and pure endowment contracts provided that prior notice of any revaluation of reserves with respect to these group annuity and pure endowment contracts is given to the commissioner in the same manner as is required before a revaluation of reserves under section 832(2) and 3 1/2% interest for all other of these policies and contracts or in the case of policies and contracts other than annuity and pure endowment contracts issued on or after October 21 1974 4% interest for those policies issued before October 1 1980 and 4 1/2% interest for those policies issued on or after October 1 1980 or in the case of life insurance contracts other than annuity and pure endowment contracts issued after December 31 1994 5 1/2% interest for single premium life insurance policies and 4 1/2% interest for all other policies and the following tables

(I) For all ordinary policies of life insurance issued on the standard basis excluding any disability and accidental death benefits in these policies the commissioner's 1941 standard ordinary mortality table for these policies issued before the operative date of paragraph 5 of section 4060(5) and the commissioner's 1958 standard ordinary mortality table for these policies issued on or after that operative date and before the operative date of paragraphs 9 to 19 of section 4060(5) For any category of these policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than 6 years younger than the actual age of the insured and for such policies issued on or after the operative date of paragraphs 9 to 19 of section 4060(5) the commissioner's 1980 standard ordinary mortality table or at the election of the company for any 1 or more specified plans of life insurance the commissioner's 1980 standard ordinary mortality table with 10 year select mortality factors or any ordinary mortality table adopted after 1980 by the national association of insurance commissioners that is approved by a rule promulgated by the commissioner for use in determining the minimum standard of valuation for such policies

(II) For all industrial life insurance policies issued on the standard basis excluding any disability and accidental death benefits in these policies the 1941 standard industrial mortality table for these policies issued before the operative date of paragraph 7 of section 4060(5) and for these policies issued on or after that operative date the commissioner's 1961 standard industrial mortality table or any industrial mortality table adopted after 1980 by the national association of insurance commissioners that is approved by a rule promulgated by the commissioner for use in determining the minimum standard of valuation for such policies

(III) For individual annuity and pure endowment contracts excluding any disability and accidental death benefits in these policies the 1937 standard annuity mortality table or at the option of the company the annuity mortality table for 1949 ultimate or any modification of either of these tables approved by the commissioner

(IV) For group annuity and pure endowment contracts excluding any disability and accidental death benefits in these policies the group annuity mortality table for 1951 any modification of that table approved by the commissioner or at the option of the company any of the tables or modifications of tables specified for individual annuity and pure endowment contracts

(V) For total and permanent disability benefits in or supplementary to ordinary policies or contracts for policies or contracts issued on or after January 1 1966 the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries with due regard to the type of benefit or any tables of disablement rates and termination rates adopted after 1980 by the national association of insurance commissioners that are approved by a rule promulgated by the commissioner for use in determining the minimum standard of valuation for such policies for policies or contracts issued on or after January 1 1961 and before January 1 1966 either these tables or at the option of the company the class (3) disability table 1926 and for policies issued before January 1 1961 the class (3) disability table 1926 For active lives a table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies

(VI) For accidental death benefits in or supplementary to policies for policies issued on or after January 1 1966 the 1959 accidental death benefits table or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners that is approved by a rule promulgated by the commissioner for use in determining the minimum standard of valuation for such policies for policies issued on or after January 1 1961 and before January 1 1966 1 of the above tables or at the option of the insurer the intercompany double indemnity mortality table A table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies

(VII) For group life insurance life insurance issued on the substandard basis and other special benefits any table approved by the commissioner

(2) Except as otherwise provided in subsections (3) and (6) reserves according to the commissioner's reserve valuation method for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess if any of the present value at the date of valuation of the future guaranteed benefits provided for by these policies over the then present value of any future modified net premiums for the policies The modified net premiums for such a policy shall be a uniform percentage of the respective contract premiums for the future guaranteed benefits so that the present value of all modified net premiums equals at the date of issue of the policy the sum of the then present value of these benefits provided for by the policy and the excess of (g) over (h) as follows

(g) A net level annual premium equal to the present value at the date of issue of the future guaranteed benefits provided for after the first policy year divided by the present value at the date of issue of an annuity of 1 per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due However the net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age 1 year higher than the age at issue of the policy

(h) A net 1 year term premium for the future guaranteed benefits provided for in the first policy year

However for any life insurance policy issued on or after January 1 1986 for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for that excess and that provides an endowment benefit or a cash surrender value or a combination of them in an amount greater than the excess premium the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium shall be except as otherwise provided in subsection (6) the greater of the reserve as of that policy anniversary calculated as described in paragraph 1 of this subsection and the reserve as of that policy anniversary calculated as described in that paragraph but with the value defined in (g) being reduced by 15% of the amount of the excess first year premium all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date the policy being assumed to mature on that date as an endowment and the cash surrender value provided on that date being considered as an endowment benefit In making the above comparison the mortality and interest bases stated in subsection (1) and section 836 shall be used

Reserves according to the commissioner's reserve valuation method for (I) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums (II) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer including a partnership or sole proprietorship or by an employee organization or by both other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code (III) disability and accidental death benefits in all policies and contracts and (IV) all other benefits except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts shall be calculated by a method consistent with the principles of this subsection

(3) This subsection applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer including a partnership or sole proprietorship or by an employee organization or by both other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the internal revenue code Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts excluding any disability and accidental death benefits in these contracts shall be the greatest of the respective excesses of the present values at the date of valuation of the future guaranteed benefits including guaranteed nonforfeiture benefits provided for by these contracts at the end of each respective contract year over the present value at the date of valuation of any future valuation considerations derived from future gross considerations required by the terms of the contract that become payable before the end of that respective contract year The future guaranteed benefits shall be determined by using the mortality table if any and the interest rate specified in these contracts for determining guaranteed benefits The valuation considerations are the portions of the respective gross considerations applied under the terms of these contracts to determine nonforfeiture values

(4) An insurer's aggregate reserves for all life insurance policies excluding disability and accidental death benefits shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subsections (2) (3) (6) and (7) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for

the policies. The aggregate reserves for all policies, contracts, and benefits shall not be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by section 830a.

(5) Reserves for all policies and contracts issued prior to the effective date of the amendatory act that added this sentence may be calculated at the option of the insurer according to any standards that produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately before that date. Reserves for a category of policies, contracts, or benefits as established by the commissioner issued on or after the effective date of the amendatory act that added this sentence may be calculated at the option of the insurer according to any standards that produce greater aggregate reserves than those calculated according to the minimum standard provided in this act. However, the rate or rates of interest used for policies and contracts other than annuity and pure endowment contracts shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for in those policies and contracts. Any insurer that had previously adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in this section and section 835 may, with the commissioner's approval, adopt any lower standard of valuation but not lower than the minimum standard provided by this section and section 835. However, for the purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by section 830a shall not be considered to be the adoption of a higher standard of valuation.

(6) If in any contract year the gross premium charged by a life insurer on a policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but for any policy or contract issued before January 1, 1995 at the option of the insurer using the minimum valuation standards of mortality either at the time of issue or the time of valuation of such policy or contract and the minimum valuation rate of interest at time of issue or the time of valuation of such policy or contract and for any policy or contract issued on or after January 1, 1995 using the minimum valuation standards of mortality and rates of interest the minimum reserve required for the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract or the reserve calculated by the method actually used for the policy or contract using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. However, for any policy or contract issued before January 1, 1995 for which gross premiums vary by duration including renewable term plans where renewal premiums beyond the current term period are guaranteed in the policy, the valuation net premiums shall be calculated as a uniform percentage of all the respective gross premiums or premiums guaranteed in the policy or contract. The minimum valuation standards of mortality and rate of interest referred to in this subsection are those standards stated in subsection (1) and section 836. However, for any life insurance policy issued on or after January 1, 1986 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for that excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the provisions of this subsection shall be applied as if the method actually used in calculating the reserve for that policy were the method described in subsection (2) ignoring paragraph 2 of that subsection. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subsection (2) including paragraph 2 of that subsection and the minimum reserve calculated in accordance with this subsection.

(7) In the case of any plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience or in the case of any plan of life insurance or annuity that is of such a nature that the minimum reserves cannot be determined by the methods described in subsections (2), (3), and (6), the reserves that are held under those plans must be appropriate in relation to the benefits and the pattern of premiums for that plan and computed by a method that is consistent with the principles of this standard valuation law as determined by rules promulgated by the commissioner.

(8) This section applies to only life insurance policies and contracts issued on and after the operative date of section 4060, the standard nonforfeiture law, except as otherwise provided in sections 835 and 836 for group annuity and pure endowment contracts issued on or after the operative date of section 4060 and except as otherwise provided in section 837 for universal life contracts.

Sec. 901. (1) Each insurer authorized to transact the business of insurance in this state and each person approved for placement of business by a surplus lines agent pursuant to chapter 19 may loan or invest its funds in any investment and may buy, sell, hold title to, possess, occupy, pledge, convey, manage, protect, insure, and deal with respect to its investments, property, and money to the same extent as any other person or corporation under the laws of this state or of the United States if the insurer has 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 minimum capital and surplus required to be maintained by sections 408 and 410 or \$1,000,000.00.

(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 5 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

(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 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

(f) Amounts loaned to a noninsurance affiliate that is owned solely by the insurer 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.

Sec 917 (1) An insurer may invest in 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.

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) Subject to the limitations prescribed in section 901(6), an insurer may invest in 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.

Sec 943 (1) An insurer may invest in financial futures contracts issued under terms and conditions regulated by a federal regulatory agency, subject to all of the following:

(a) The terms and conditions required by the commissioner by rules promulgated under subsection (3).

(b) An insurer shall not enter into a financial futures contract except as a hedging transaction.

(c) An insurer shall not have a margin outstanding from futures positions authorized under this section of more than 10% of the excess of the insurer's total capital and surplus over the minimum capital and surplus requirements that must be met by a new stock or mutual company to qualify for a certificate of authority to write the kind of insurance that the insurer is authorized to write.

(2) An insurer may invest in put options and call options on financial instruments issued under terms and conditions regulated by a national securities exchange registered under the securities exchange act of 1934, chapter 404, 48 Stat. 881, or any board of trade designated as a contract market by the commodity futures trading commission, subject to all of the following:

(a) Except as provided in subdivision (b) an insurer shall not write a call option on either securities it does not own or in an amount greater than securities that it presently owns

(b) For call options on financial futures contracts and stock or bond index contracts where it is not feasible to own the underlying security an insurer may write a call option only in connection with a hedging transaction

(c) An insurer shall not write a put option unless its obligations under the put option are fully secured by a deposit by the insurer with a bank or other custodian of cash or cash equivalents

(d) An insurer shall not maintain as open positions authorized under this subsection more than 10% of the excess of the insurer's total capital and surplus over the minimum capital and surplus requirements that must be met by a new stock or mutual company to qualify for a certificate or authority to write the kind of insurance that the company is authorized to write

(3) The commissioner may promulgate rules pursuant to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 being sections 24 201 to 24 328 of the Michigan Compiled Laws 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

(4) Each domestic insurer shall develop written guidelines that establish the policy objectives of management in investing in financial futures contracts permissible financial futures contract strategies the relationship of those strategies to the insurer's operations and how such strategies reduce the insurer's net investment rate exposure

(5) As used in this section

(a) Financial futures contract means an exchange traded agreement to make or take delivery of or to make a cash settlement instead of delivery of a specified amount of financial instruments on a specified date or period of time under terms and conditions regulated by the commodity futures trading commission

(b) Hedging transaction means bona fide hedging transactions and positions as defined in section 1 3 of the general regulations under the commodity exchange act C F R 1 3 pursuant to section 4a of the commodity exchange act chapter 369 49 Stat 1492 7 U S C 6a and as certified by the commissioner

(c) Margin means any type of deposit or settlement made or required to be made with a futures commission merchant clearinghouse or safekeeping agent to ensure performance of the terms of the financial futures contract

Sec 946 (1) An insurer may invest in a home office lands and buildings and may continue to hold the same for its own use and as a source of revenue 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

Sec 1011 An insurer may make written application to the commissioner for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of affiliates that uses a pooling or 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer cedes all of its direct and assumed business to the pool If approval is given a columnar consolidating or combining work sheet shall be filed with the report as follows

(a) Amounts shown on the consolidated or combined audited financial report shall be shown on the work sheet

(b) Amounts for each insurer subject to this section shall be stated separately

(c) Noninsurance operations may be shown on the work sheet on a combined or individual basis

(d) Explanations of consolidating and eliminating entries shall be included

(e) Any differences between the amounts shown in the individual insurer columns of the work sheet and comparable amounts shown on the annual statements of the insurers shall be reconciled

CHAPTER 11

REINSURANCE

Sec 1101 For purposes of this chapter a qualified United States financial institution means an institution that meets either subdivision (a) or (b)

(a) Is organized or in the case of a United States office of a foreign banking organization is licensed under federal or state law is regulated supervised and examined by federal or state authorities having regulatory authority over banks and trust companies and has been determined by the commissioner to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner

(b) For those institutions that are eligible to act as a fiduciary of a trust is organized or in the case of a United States branch or agency office of a foreign banking organization is licensed under federal or state law has been granted authority to operate with fiduciary powers and is regulated supervised and examined by federal or state authorities having regulatory authority over banks and trust companies

Sec 1103 (1) A ceding insurer shall be allowed credit for reinsurance as either an asset or a deduction from liability on account of reinsurance ceded only if the reinsurance is ceded to an assuming insurer that is authorized to transact insurance in this state or that meets the requirements of subsection (2) or (3) Credit for reinsurance shall be allowed only to the extent that the amounts recoverable are verified by the assuming insurer in statements filed with the commissioner pursuant to section 438

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers their assigns and successors in interest and submits to the commissioner's authority to examine its books and records and bears the expense of the examination The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported by authorized insurers pursuant to section 438 to enable the commissioner to determine the sufficiency of the trust fund

(a) The trust fund shall consist of the following

(i) In the case of a single assuming insurer the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and in addition the assuming insurer shall maintain a trusteed surplus of an amount sufficient in the opinion of the commissioner to maintain compliance with section 403 as respects business written in the United States but not less than \$20 000 000 00

(ii) In the case of a group including incorporated and individual unincorporated underwriters the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and in addition the group shall maintain a trusteed surplus of which an amount sufficient in the opinion of the commissioner to maintain compliance with section 403 as respects business written in the United States but not less than \$100 000 000 00 shall be held jointly for the benefit of United States ceding insurers of any member of the group The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members The group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accounts

(iii) In the case of a group of incorporated insurers under common administration which complies with the reporting requirements contained in this section and which has continuously transacted an insurance business outside the United States for at least 3 years and which has aggregate policyholders surplus of \$10 000 000 000 00 the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of such group In addition the group shall maintain a joint trusteed surplus of which an amount sufficient in the opinion of the commissioner to maintain compliance with section 403 as respects business written in the United States but not less than \$100 000 000 00 shall be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any liabilities and each member of the group shall make available to the commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant

(b) The trust shall be established in a form approved by the commissioner The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers their assigns and successors in interest The trust shall be subject to examination as determined by the commissioner and the expense of the examination shall be borne by the assuming insurer The trust described herein must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust

(c) No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust if so planned or certify that the trust shall not expire prior to the next following December 31

(3) Credit shall be allowed if reinsurance is ceded to an assuming insurer not meeting the requirements of this section but only for the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction

(4) If the assuming insurer is not authorized to transact insurance or reinsurance in this state the credit permitted by subsection (2) shall not be allowed unless the assuming insurer agrees in the reinsurance agreements

(a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement the assuming insurer at the request of the ceding insurer shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States will comply with all requirements necessary to give such court jurisdictions and will abide by the final decision of such court or any appellate court in the event of an appeal

(b) To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action suit or proceeding instituted by or on behalf of the ceding company

(5) The provisions of subsection (4) are not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes if such an obligation is created in the agreement

(6) The commissioner may allow credit for reinsurance that does not otherwise meet the requirements of this section if all of the following are met

(a) The amount is not material to the ceding insurer's ability to meet the standards of section 901

(b) The commissioner is satisfied that the assuming insurers meet the requirements of section 403

(c) The amounts are substantially confirmed in statements filed with the commissioner pursuant to section 438 or in similar statements filed in the assuming insurer's domiciliary jurisdiction and available to the commissioner

Sec 1105 A reduction from liability for the reinsurance ceded by a ceding insurer to an assuming insurer not meeting the requirements of section 1103 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and the reduction shall be in the amount of funds held by or on behalf of the ceding insurer including funds held in trust for the ceding insurer under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder if the security is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer and for a trust held in a qualified United States financial institution This security may be in the form of any of the following

(a) Cash

(b) Securities that may be valued by the commissioner in accordance with sections 841 and 842 and are approved for investment by insurers under chapter 9

(c) Clean irrevocable unconditional letters of credit issued or confirmed by a qualified United States financial institution no later than December 31 of the year for which filing is being made and in the possession of the ceding insurer on or before the filing date of its annual statement Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance or confirmation shall notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuer acceptability continue to be acceptable as security until their expiration extension renewal modification or amendment whichever occurs first

Sec 1121 The provisions of sections 1123 through 1127 apply to all life and disability insurers and also apply to licensed property and casualty insurers with respect to their disability insurance business Sections 1123 through 1127 do not apply to assumption reinsurance yearly renewable term reinsurance or certain nonproportional reinsurance such as excess or catastrophe reinsurance

Sec 1123 (1) For reinsurance ceded an insurer subject to this section shall not reduce any liability or establish any asset in any financial agreement filed with the commissioner if by the terms of the reinsurance agreement in substance or effect any of the following conditions exist

(a) Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period are not sufficient to cover anticipated allowable renewal expenses of the ceding insurer on the portion of the business reinsured unless a liability is established for the present value of the shortfall using assumptions equal to the applicable statutory reserve basis on the business reinsured Those expenses include commissions premium taxes and direct expenses including but not limited to billing valuation claims and maintenance expected by the company at the time the business is reinsured

(b) The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event such as the insolvency of the ceding insurer except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due such as modified

coinsurance reserve adjustments interest and adjustments on funds withheld and tax reimbursements shall not be considered to be such a deprivation of surplus or assets

(c) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement except that neither offsetting experience refunds against current and prior years losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years losses under the agreement upon voluntary termination of in force reinsurance by the ceding insurer shall be considered such a reimbursement to the reinsurer for negative experience Voluntary termination does not include situations where termination occurs because of unreasonable provisions that allow the reinsurer to reduce its risk under the agreement An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding insurer to prematurely terminate the reinsurance treaty

(d) The ceding insurer must at specific points in time scheduled in the agreement terminate or automatically recapture all or part of the reinsurance ceded

(e) The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the reinsured policies For example a ceding insurer may not pay reinsurance premiums or other fees or charges to a reinsurer that are greater than the direct premiums collected by the ceding insurer

(f) The treaty does not transfer all of the significant risk inherent in the business being reinsured The following table identifies for a representative sampling of products or type of business the risks that are considered to be significant For products not specifically included the risks determined to be significant shall be consistent with this table

Risk Categories

(i) Morbidity

(ii) Mortality

(iii) Lapse This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy

(iv) Credit quality (C1) This is the risk that invested assets supporting the reinsured business will decrease in value The main hazards are that the assets will default or that there will be a decrease in earning power It excludes market value declines due to changes in interest rate

(v) Reinvestment (C2) This is the risk that interest rates will fall and funds reinvested such as coupon payments or money received upon asset maturity or call will therefore earn less than expected If asset durations are less than liability durations the mismatch will increase

(vi) Disintermediation (C3) This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal If asset durations are greater than the liability durations the mismatch will increase Policyholders will move their funds into new products offering higher rates The company may have to sell assets at a loss to provide for these withdrawals

RISK CATEGORY

	(i)	(ii)	(iii)	(iv)	(v)	(vi)
Health insurance Other than LTC/LTD*	+	0	+	0	0	0
Health insurance LTC/LTD*	+	0	+	+	+	0
Immediate annuities	0	+	0	+	+	0
Single premium deferred annuities	0	0	+	+	+	+
Flexible premium deferred annuities	0	0	+	+	+	+
Guaranteed interest contracts	0	0	0	+	+	+
Other annuity deposit business	0	0	+	+	+	+
Single premium whole life	0	+	+	+	+	+
Traditional nonpar permanent	0	+	+	+	+	+
Traditional nonpar term	0	+	+	0	0	0
Traditional par permanent	0	+	+	+	+	+
Traditional par term	0	+	+	0	0	0
Adjustable premium permanent	0	+	+	+	+	+
Indeterminate premium permanent	0	+	+	+	+	+
Universal life flexible premium	0	+	+	+	+	+
Universal life fixed premium	0	+	+	+	+	+
Universal life fixed premium	0	+	+	+	+	+

Dump in premiums allowed

+ = Significant

0 = Insignificant

*LTC = Long term care insurance

LTD = Long term disability insurance

(g) The credit quality reinvestment or disintermediation risk is significant for the business reinsured and other than for the classes of business excepted in subdivision (h) the ceding insurer does not either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the commissioner that legally segregates by contract or contract provision the underlying assets

(h) Notwithstanding the requirements of subsection (g) the assets supporting the reserves for the following classes of business and any classes of business that do not have a significant credit quality reinvestment or disintermediation risk may be held by the ceding insurer without segregation of such assets

- (i) Health insurance LTC/LTD
- (ii) Traditional nonparticipating permanent life
- (iii) Traditional participating permanent life
- (iv) Adjustable premium permanent life
- (v) Indeterminate premium permanent life
- (vi) Universal life fixed premium

The associated formula for determining the reserve interest rate adjustment must use a formula that reflects the ceding insurer's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula

$$\text{RATE} = \frac{2(I + CG)}{X + Y I CG}$$

WHERE I is the net investment income
CG is capital gains less capital losses
X is the current year cash and invested assets plus investment income due and accrued less borrowed money
Y is the same as X but for the prior year

(i) Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within 90 days of the settlement date

(j) The ceding insurer is required to make representations or warranties not reasonably related to the business being reinsured

(k) The ceding insurer is required to make representations or warranties about future performance of the business or liabilities being reinsured

(l) The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding insurer typically on a temporary basis while not transferring all of the significant risks inherent in the business reinsured and in substance or effect the expected potential liability to the ceding insurer remains basically unchanged

(2) Notwithstanding subsection (1) an insurer subject to this section and sections 1125 and 1127 may with the prior approval of the commissioner take such reserve credit or establish such asset as the commissioner may consider consistent with this act

(3) Agreements entered into after the effective date of this chapter that involve the reinsurance of business excluding annually renewable reinsurance treaties and agreements issued prior to the effective date of the agreements along with any subsequent amendments thereto shall be filed by the ceding insurer with the commissioner within 30 days from its date of execution. Each filing shall include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this section and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with the commissioner. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that the work conforms to this section. A foreign insurer is not required to file the agreements with the commissioner as required by this subsection if it is subject to filing requirements adopted by statute or regulation in its state of domicile that the commissioner has determined are substantially similar to those required under this subsection. Any increase in surplus net of federal income tax resulting from arrangements described in this subsection shall be identified separately on the insurer's statutory financial statement as a surplus item under aggregate write ins for gains and losses in surplus in the capital and surplus account and recognition of the surplus increase as income shall be reflected on a net of tax basis and identified as reinsurance ceded in the annual financial statement as earnings emerge from the business reinsured

Sec 1125 (1) Neither a reinsurance agreement nor any amendment to that agreement shall be used to reduce any liability or to establish any asset in any financial statement filed with the commissioner unless the agreement amendment or a binding letter of intent has been duly executed by both parties no later than the as of date of the financial statement

(2) For a letter of intent a reinsurance agreement or an amendment to a reinsurance agreement shall be executed within a reasonable period of time not exceeding 90 days from the execution date of the letter of intent in order for credit to be granted for the reinsurance ceded

(3) A reinsurance agreement shall contain both of the following provisions

(a) That the agreement constitutes the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement

(b) That any change or modification to the agreement is null and void unless made by amendment to the agreement and signed by both parties

Sec 1127 Insurers subject to sections 1121 through 1125 shall reduce to zero by December 31 1994 any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this chapter that under the provisions of this chapter would not be entitled to recognition as reserve credits or assets so long as those reinsurance agreements were in compliance with laws or regulations in effect immediately preceding the effective date of this chapter

CHAPTER 11A REINSURANCE INTERMEDIARIES

Sec 1151 As used in this chapter

(a) Actuary means a person who is a member in good standing of the American academy of actuaries the society of actuaries or the casualty actuarial society

(b) Qualified United States financial institution means an institution that meets either subparagraph (i) or (ii)

(i) Is organized or in the case of a United States office of a foreign banking organization is licensed under federal or state law is regulated supervised and examined by federal or state authorities having regulatory authority over banks and trust companies and has been determined by the commissioner to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner

(ii) For those institutions that are eligible to act as a fiduciary of a trust is organized or in the case of a United States branch or agency office of a foreign banking organization is licensed under federal or state law has been granted authority to operate with fiduciary powers and is regulated supervised and examined by federal or state authorities having regulatory authority over banks and trust companies

(c) Reinsurance intermediary means a reinsurance intermediary broker or a reinsurance intermediary manager

(d) Reinsurance intermediary broker means any person other than an officer or employee of the ceding insurer who solicits negotiates or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of that insurer

(e) Reinsurance intermediary manager means any person who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer including the management of a separate division department or underwriting office and acts as an agent for the reinsurer whether known as a reinsurance intermediary manager manager or other similar term Notwithstanding the above the following persons are not considered a reinsurance intermediary manager with respect to a reinsurer for the purposes of this chapter

(i) An employee of the reinsurer

(ii) A United States manager of the United States branch of an alien reinsurer

(iii) An underwriting manager that pursuant to contract manages all the reinsurance operations of the reinsurer is under common control with the reinsurer subject to chapter 13 and whose compensation is not based on the volume of premiums written

(iv) The manager of a group association pool or organization of insurers that engage in joint underwriting or joint reinsurance and who are subject to examination by the commissioner of the state where the manager's principal office is located

(f) Reinsurer means any person duly authorized in this state pursuant to the applicable provisions of this act as an insurer with the authority to assume reinsurance

Sec 1153 (1) A person shall not act as a reinsurance intermediary broker in this state if the reinsurance intermediary broker either directly or as a member or employee of a firm or association or as an officer director or employee of a corporation does either of the following

(a) Maintains an office in this state unless the person is licensed as an agent or a reinsurance intermediary broker in this state

(b) Maintains an office in another state unless the person is licensed as an agent or a reinsurance intermediary broker in this state or another state having a law substantially similar to this law or such reinsurance intermediary broker is licensed in this state as a nonresident reinsurance intermediary

(2) A person shall not act as a reinsurance intermediary manager in any of the following cases

(a) For a reinsurer domiciled in this state unless such person is licensed as an agent or a reinsurance intermediary manager in this state

(b) In this state if the person maintains an office either directly or as a member of a firm or association or an officer director or employee of a corporation in this state unless such person is licensed as an agent or a reinsurance intermediary manager in this state

(c) In another state for a nondomestic insurer unless the person is licensed as an agent or a reinsurance intermediary manager in this state or another state having a law substantially similar to this law or the person is licensed in this state as a nonresident reinsurance intermediary

(3) The commissioner may require a reinsurance intermediary manager subject to subsection (2) to file a bond in an amount acceptable to the commissioner from an insurer acceptable to the commissioner for the protection of the reinsurer and maintain an errors and omissions policy in an amount acceptable to the commissioner

(4) The commissioner may issue a reinsurance intermediary license to any person who has complied with the requirements of this chapter Any license issued to a firm or association shall authorize all the members of the firm or association and any designated employees to act as reinsurance intermediaries under the license and all such persons shall be named in the application and any supplements thereto Any license issued to a corporation shall authorize all of the officers and any designated employees and directors to act as reinsurance intermediaries on behalf of the corporation and all such persons shall be named in the application and any supplements thereto

(5) If the applicant for a reinsurance intermediary license is a nonresident the applicant as a condition precedent to receiving or holding a license shall designate the commissioner as agent for service of process in the manner and with the same legal effect provided for by this act for designation of service of process upon unauthorized insurers and shall also furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting the nonresident reinsurance intermediary may be served The licensee shall promptly notify the commissioner in writing of every change in its designated agent for service of process

(6) The commissioner may refuse to issue a reinsurance intermediary license if in his or her judgment the applicant anyone named on the application or any member principal officer or director of the applicant is not trustworthy if any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary or if any of the foregoing has given cause for revocation or suspension of license or has failed to comply with any prerequisite for issuance of a license Upon written request the commissioner shall furnish a summary of the basis for refusal to issue a license which document shall be confidential and shall not be divulged to any person except as provided in this section

Sec 1155 Transactions between a reinsurance intermediary broker and the insurer it represents in such capacity shall be entered into only pursuant to a written authorization specifying the responsibilities of each party The authorization shall at a minimum provide for all of the following

(a) That the insurer may terminate the reinsurance intermediary broker's authority at any time

(b) That the reinsurance intermediary broker will render accounts to the insurer accurately detailing all material transactions including information necessary to support all commissions charges and other fees received by or owing to the reinsurance intermediary broker and remit all funds due to the insurer within 30 days of receipt

(c) That all funds collected for the insurer's account will be held by the reinsurance intermediary broker in a fiduciary capacity in a bank that is a qualified United States financial institution

(d) That the reinsurance intermediary broker will comply with the record keeping requirements of section 1157

(e) That the insurer will have access and the right to copy and audit all accounts and records maintained by the reinsurance intermediary broker related to its business in a form usable by the insurer

(f) That the reinsurance intermediary broker will comply with the written standards established by the insurer for the cession or retrocession of all risks

(g) That the reinsurance intermediary broker will disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded

Sec 1157 For at least 10 years after expiration of each contract of reinsurance transacted by a reinsurance intermediary the reinsurance intermediary will keep a complete record for each transaction showing all of the following

(a) The type of contract limits underwriting restrictions classes or risks and territory

(b) Period of coverage including effective and expiration dates cancellation provisions and notice required of cancellation

- (c) Reporting and settlement requirements of balances
- (d) Rate used to compute the reinsurance premium
- (e) Names and addresses of assuming reinsurers
- (f) Rates of all reinsurance commissions including the commissions on any retrocessions handled by the reinsurance intermediary
- (g) Related correspondence and memoranda
- (h) Proof of placement
- (i) Details regarding retrocessions handled by the reinsurance intermediary including the identity of retrocessionaires and percentage of each contract assumed or ceded
- (j) Financial records including but not limited to premium and loss accounts
- (k) When the reinsurance intermediary procures a reinsurance contract on behalf of a licensed ceding insurer as follows
 - (v) If directly from any assuming reinsurer written evidence that the assuming reinsurer has agreed to assume the risk
 - (w) If placed through a representative of the assuming reinsurer other than an employee written evidence that the reinsurer has delegated binding authority to the representative

Sec 1159 (1) An insurer shall not engage the services of any person to act as a reinsurance intermediary broker on its behalf unless the person is licensed as required by section 1153

(2) An insurer may not employ an individual who is employed by a reinsurance intermediary broker with which it transacts business unless the reinsurance intermediary broker is under common control with the insurer and subject to chapter 13

(3) The insurer shall obtain annually a copy of statements of the financial condition of each reinsurance intermediary broker with which it transacts business

Sec 1161 Transactions between a reinsurance intermediary manager and the reinsurer it represents in such capacity shall only be entered into pursuant to a written contract specifying the responsibilities of each party which shall be approved by the reinsurer's board of directors At least 30 days before the reinsurer assumes or cedes business through such person a true copy of the approved contract shall be filed with the commissioner for approval The contract shall at a minimum provide for all of the following

(a) That the reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary manager The reinsurer may immediately suspend the authority of the reinsurance intermediary manager to assume or cede business during the pendency of any dispute regarding the cause for termination

(b) That the reinsurance intermediary manager will render accounts to the reinsurer accurately detailing all material transactions including information necessary to support all commissions charges and other fees received by or owing to the reinsurance intermediary manager and remit all funds due under the contract to the reinsurer on not less than a monthly basis

(c) That all funds collected for the reinsurer's account will be held by the reinsurance intermediary manager in a fiduciary capacity in a bank that is a qualified United States financial institution The reinsurance intermediary manager may retain no more than 3 months estimated claims payments and allocated loss adjustment expenses The reinsurance intermediary manager shall maintain a separate bank account for each reinsurer that it represents

(d) That the reinsurance intermediary manager will comply with the record keeping requirements of section 1157 In addition to all the records required by section 1157 the reinsurance intermediary manager will keep a complete record of all outstanding reserves on covered risks

(e) That the reinsurer will have access and the right to copy all accounts and records maintained by the reinsurance intermediary manager related to its business in a form usable by the reinsurer

(f) That the contract cannot be assigned in whole or in part by the reinsurance intermediary manager

(g) That the reinsurance intermediary manager will comply with the written underwriting and rating standards established by the insurer for the acceptance rejection or cession of all risks

(h) That the rates terms and purposes of commissions charges and other fees that the reinsurance intermediary manager may levy against the reinsurer are set forth

(i) That if the contract permits the reinsurance intermediary manager to settle claims on behalf of the reinsurer then all of the following are required

(v) That all claims will be reported to the reinsurer in a timely manner

(u) That a copy of the claim file will be sent to the reinsurer at its request or as soon as it becomes known that the claim meets any of the following

(A) Has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer

(B) Involves a coverage dispute

(C) May exceed the reinsurance intermediary manager's claims settlement authority

(D) Is open for more than 6 months

(E) Is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer

(uu) That all claim files will be the joint property of the reinsurer and the reinsurance intermediary manager. However, upon an order of liquidation of the reinsurer, the files shall become the sole property of the reinsurer or its estate. The reinsurance intermediary manager shall have reasonable access to and the right to copy the files on a timely basis.

(vv) That any settlement authority granted to the reinsurance intermediary manager may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of any dispute regarding the cause of termination.

(j) That if the contract provides for a sharing of interim profits by the reinsurance intermediary manager, that such interim profits will not be paid until 1 year after the end of each underwriting period for policies providing property coverages and 5 years after the end of each underwriting period for policies providing casualty coverages, and in any event, not until the adequacy of reserves on remaining claims has been verified pursuant to section 1165.

(k) That the reinsurance intermediary manager will provide the reinsurer annually with a statement of its financial condition prepared by an independent certified accountant.

(l) That the reinsurer shall periodically, but at least semiannually, conduct an on-site review of the underwriting and claims processing operations of the reinsurance intermediary manager.

(m) That the reinsurance intermediary manager will disclose to the reinsurer any relationship it has with any insurer prior to ceding or assuming any business with the insurer pursuant to this contract.

(n) That within the scope of its actual or apparent authority, the acts of the reinsurance intermediary manager shall be considered to be the acts of the reinsurer on whose behalf it is acting.

Sec 1163 A reinsurance intermediary manager shall not do any of the following:

(a) Cede retrocessions on behalf of the reinsurer, except that the reinsurance intermediary manager may cede facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for such retrocessions. These guidelines shall include a list of reinsurers with which the automatic agreements are in effect, and for each reinsurer, the coverages and amounts or percentages that may be reinsured and commission schedules.

(b) Commit the reinsurer to participate in reinsurance syndicates.

(c) Appoint any agent without assuring that the agent is lawfully licensed to transact the type of reinsurance for which he or she is appointed.

(d) Without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim net of retrocessions that exceeds the lesser of an amount specified by the reinsurer or 1% of the reinsurer's policyholder's surplus as of December 31 of the preceding calendar year.

(e) Collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire without prior approval of the reinsurer. If prior approval is given, a report must be promptly forwarded to the reinsurer.

(f) Jointly employ an individual who is employed by the reinsurer unless the reinsurance intermediary manager is under common control with the reinsurer subject to chapter 13.

(g) Appoint a subreinsurance intermediary manager.

Sec 1165 (1) A reinsurer shall not engage the services of any person to act as a reinsurance intermediary manager on its behalf unless the person is licensed as required by section 1153.

(2) The reinsurer shall obtain annually a copy of statements of the financial condition of each reinsurance intermediary manager that the reinsurer has engaged. The statements shall be prepared by an independent certified accountant and shall be in a form acceptable to the commissioner.

(3) If a reinsurance intermediary manager establishes loss reserves, the reinsurer shall obtain annually the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary manager. This opinion shall be in addition to any other required loss reserve certification.

(4) Binding authority for all retrocessional contracts or participation in reinsurance syndicates shall rest with an officer of the reinsurer who shall not be affiliated with the reinsurance intermediary manager

(5) Within 30 days of termination of a contract with a reinsurance intermediary manager the reinsurer shall provide written notification of the termination to the commissioner

(6) A reinsurer shall not appoint to its board of directors any officer director employee controlling shareholder or subproducer of its reinsurance intermediary manager This subsection shall not apply to relationships governed by chapter 13 or if applicable chapter 14a

Sec 1167 (1) A reinsurance intermediary shall be subject to examination by the commissioner The commissioner shall have access to all books bank accounts and records of the reinsurance intermediary in a form usable to the commissioner

(2) A reinsurance intermediary manager may be examined as if it were the reinsurer

Sec 1169 (1) A reinsurance intermediary insurer or reinsurer found by the commissioner to be in violation of any of the provisions of this chapter after a hearing held pursuant to the administrative procedures act of 1969 Act No 306 of the Public Acts of 1969 being sections 24 201 to 24 328 of the Michigan Compiled Laws is subject to all of the following penalties

(a) For each separate violation payment of a civil fine of not more than \$5 000 00

(b) The suspension limitation or revocation of its license

(c) If a violation was committed by the reinsurance intermediary the reinsurance intermediary shall make restitution to the insurer reinsurer rehabilitator or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to the violation

(2) This section does not preclude the commissioner from imposing any other penalties provided in this act

(3) This chapter shall not in any manner confer any rights upon or limit or restrict the rights of policyholders claimants creditors or other third parties

Sec 1171 Neither an insurer nor a reinsurer shall continue to use the services of a reinsurance intermediary on or after December 31 1994 except in compliance with this chapter

Sec 1903 (1) As used in this chapter

(a) Eligible unauthorized insurer means an insurer not authorized to transact insurance in this state but eligible to write insurance business under this chapter

(b) Association means an association registered under section 1930

(c) Licensee means a person licensed under this chapter

(d) Surplus lines insurance means insurance in this state procured from or continued or renewed with an unauthorized insurer and includes all of the following whether effected by mail or otherwise

(i) Insurance for which applications are solicited from persons resident or located in this state

(ii) Insurance for which contracts of insurance are issued or delivered to persons resident or located in this state

(iii) Insurance that is procured through negotiations or by an application occurring in whole or in part in this state or made within or from within this state

(iv) Insurance for which premiums in whole or in part are remitted directly or indirectly within or from within this state

(2) The definitions contained in subsection (1) unless the context otherwise requires shall apply to the use of the defined terms in this chapter and shall control in the interpretation of this chapter

(3) The definitions contained in other chapters of this act shall apply to the terms used in this chapter unless otherwise specifically provided in this chapter

(4) Nothing contained in this section shall supersede the provisions of section 402b and in the event of conflict between the provision herein and section 402b the latter shall govern

Sec 4012 Each life insurance policy shall contain the following provisions

(a) A grace period of 1 month for the payment of every premium after the first year which may be subject to an interest charge during which month the insurance shall continue in force and which provision may contain a stipulation that if the insured dies during the month of the grace period the overdue premium will be deducted in any settlement under the policy

(b) That written notice shall be sent by the insurer to the policyowner's last known address at least 30 days prior to termination of coverage. This subdivision does not apply to an insurer that collects a majority of its annual premium in person.

Sec 4037 Each universal life insurance policy shall contain all of the following provisions:

(a) That the insurer will send to the policyholder without charge at least annually a report advising the policyholder as to the policy status. The end of the current report period shall be not more than 3 months prior to the date of the mailing of the report. The report shall include all of the following:

- (i) The beginning and end of the current report period
- (ii) The policy value at the end of the previous report period and at the end of the current report period
- (iii) The total of all amounts identifying each by type such as interest, mortality, expense, and riders that have been credited or debited to the policy value during the current report period
- (iv) The current death benefit at the end of the current report period on each life covered by the policy
- (v) The net cash surrender value of the policy as of the end of the current report period
- (vi) The amount of outstanding loans, if any, as of the end of the current report period
- (vii) For fixed premium universal life insurance policies, if assuming guaranteed interest, mortality, and expense loads and continued scheduled premium payments, the policy's net cash surrender value is such that it would not maintain insurance in force until the end of the next reporting period, a notice to this effect
- (viii) For flexible premium universal life insurance policies, if assuming guaranteed interest, mortality, and expense loads, the policy's net cash surrender value will not maintain insurance in force until the end of the next reporting period unless further premium payments are made, a notice to this effect

(b) An illustrative report that will be sent to the policyowner upon request. This report shall contain the same minimum requirements as those set forth in the universal life disclosure requirements in section 4038.

(c) Guarantees of minimum interest credits and maximum mortality and expense charges. All values and data shown in the policy are based on guarantees; figures based on nonguarantees are not included in the policy. Minimum and maximum guarantees are in addition to any index guarantees, and if guaranteed credits or charges are also the current credits or charges, the amounts may be included in the policy if clearly labelled. The maturity date is not considered a guarantee for purposes of this section.

(d) At least a general description of the calculation of cash surrender values including all of the following information:

- (i) The guaranteed maximum expense charges and loads
 - (ii) Any limitation on the crediting of additional interest. Interest credits shall not remain conditional for a period longer than 12 months.
 - (iii) The guaranteed minimum rate or rates of interest
 - (iv) The guaranteed maximum mortality charges
 - (v) Any other guaranteed charges
 - (vi) Any surrender or partial withdrawal charges
- (e) If the policyowner has the right to change the basic coverage, a statement of any limitation on the amount or timing of the change. If the policyowner has the right to increase the basic coverage, a statement as to whether a new period of contestability or suicide is applicable to the additional coverage.
- (f) If a policy provides for a maturity date, end date, or similar date, then a statement in close proximity to that date that it is possible that coverage may not continue to the maturity date even if scheduled premiums are paid in a timely manner, if such is the case.

(g) That written notice shall be sent by the insurer to the policyowner's last known address at least 30 days prior to termination of coverage. A flexible premium universal life insurance policy shall provide for a grace period of at least 30 days after lapse with lapse occurring on that date on which the net cash surrender value first equals zero or as otherwise defined in the policy.

Sec 5008 (1) The commissioner shall prepare and keep on hand blank forms of articles of incorporation for insurers desiring to incorporate under this act, which forms may be had on application.

(2) The incorporators shall subscribe articles of incorporation in duplicate, which articles shall contain all of the following:

- (a) The names of the incorporators and their places of residence respectively
- (b) The location of the principal office for the transaction of business in this state

(c) The name by which the incorporation shall be known which if it be upon the mutual plan shall contain the word mutual

(d) The purposes of the incorporation and the reference to the chapter of this act under which the purposes are enumerated and under which the company intends to operate

(e) The manner in which the corporate powers are to be exercised the number of directors and other officers the manner of electing the directors and other officers and how many of the directors shall constitute a quorum and the manner of filling all vacancies and in the case of mutual life or life and disability insurers the names and mailing addresses of the directors who shall serve until the first annual meeting of the corporation

(f) The amount of capital stock if any what proportion is to be paid in before the corporation commences business and the value of the stock as provided in section 5014

(g) The term of existence of the corporation subject to section 5010

(h) The time for the holding of the annual meetings of the corporation

(i) Any terms and conditions of membership that the incorporators have agreed upon and which they consider important to have set forth in the articles

(j) Any other terms and conditions prescribed by law for that class of insurer

(k) If a mutual company operating on the assessment plan the number of classes or divisions of members and the object or purpose of the classification or division all of which shall be definitely and correctly stated and in what manner assessments premiums or payments are to be required from the members the purpose and objects for which the money so realized are to be appropriated and the names and objects of each fund into which any the money shall be paid

(3) The articles of any stock insurer formed or existing under this act may contain or may be amended to contain a provision that the shareholders shall have no preemptive rights to subscribe for any additional shares of capital stock and authorizing the board of directors to prescribe the terms and conditions upon which additional shares of capital stock shall be offered for subscription including the price of the stock which shall not be less than the par value of the stock and to offer shares that have not been subscribed by stockholders within the time duly fixed by the board of directors for subscription to any other person or persons at a price and upon terms not less favorable than those offered to the stockholders

(4) The articles of incorporation may contain a provision providing that a director is not personally liable to the corporation or its shareholders or policyholders for monetary damages for a breach of the director's fiduciary duty. However the provision does not eliminate or limit the liability of a director for any of the following

(a) A breach of the director's duty of loyalty to the corporation or its shareholders or policyholders

(b) Acts or omissions not in good faith or that involve intentional misconduct or knowing violation of law

(c) A violation of section 5036 5276 or 5280

(d) A transaction from which the director derived an improper personal benefit

(e) An act or omission occurring before January 1 1989

(5) The articles shall be acknowledged by the person signing the articles before some officer of this state authorized to take acknowledgments of deeds who shall attach his or her certificate of acknowledgment

Sec 5024 (1) Before securing subscribers stockholders or members of an insurance company or taking subscriptions for or negotiating for the sale of any of the capital stock of the company or subscriptions for membership in the company the incorporators shall do all of the following

(a) Deliver to the commissioner such bond deposit or security for the protection of subscribers as the commissioner may require

(b) Prepare and file with the commissioner duplicate copies of the articles of incorporation with the certificate of the attorney general attached a statement showing in full detail the plan upon which the company proposes to transact business a copy of all contracts stocks or other instruments that it proposes to make with or sell to its stockholders or members together with a copy of its prospectus and the proposed advertisements to be used in the solicitation of members or stockholders. The statement shall also show the name and location and main office of the company the name home and business address of each of the incorporators the amount subscribed and paid in by each of them and the manner in which future payments shall be made together with 4 references as to the character and financial standing of each of the incorporators with the business address of each of the references

(2) The commissioner shall examine the statements and documents presented and shall have power to conduct any investigation that the commissioner considers necessary and to hear the incorporators and to examine under oath any persons interested or connected with the proposed insurance company. If in the opinion of the commissioner the sale of capital stock in the proposed insurance company or soliciting of membership therein would work a fraud upon the persons subscribing to the capital stock or to such membership the commissioner may refuse to license the persons so

associating to proceed in the organization and promotion of the insurance company. If upon examination of the articles of incorporation, the documents and instruments above mentioned and any further investigation as the commissioner may make, the commissioner is satisfied that the sale of the capital stock of the proposed insurance company or the subscription to membership therein would not work a fraud upon the persons solicited to become purchasers of such capital stock or members of the insurance company, the commissioner shall return to the incorporators 1 copy of the articles of incorporation certified by the commissioner for the records of the company and shall retain 1 copy for the insurance bureau files. The commissioner shall then issue a certificate authorizing the incorporators to proceed with the organization of the insurance company through the sale of stock or taking of memberships.

(3) The commissioner shall have authority at any time to revoke any certificate, order or consent made by him or her to such company to procure applications for stock or membership upon being satisfied that the further solicitation of stockholders or members in the corporation will work a fraud upon the persons so solicited and the commissioner may make any investigation from time to time as he or she considers best and to grant hearings to the incorporators concerning the revocation.

(4) The action of the commissioner provided for in this section shall not be in place of any action provided by law to be taken by the corporations and securities bureau of the state of Michigan in relation to the sale, taking, subscriptions for or offering for sale any stocks or securities within this state.

Sec 5205. If it is necessary in any legal proceedings to prove the corporate existence of a domestic insurer, a copy of the articles of incorporation with a certificate by the commissioner attached that the copy is a duplicate of the copy on file in the insurance bureau and by the certificate of the state treasurer in proper cases that the securities required to be deposited with the state treasurer have been deposited together with a certified copy of the insurer's certificate of authority shall be prima facie evidence of the corporate existence of the insurer and except in proceedings by or under the authority of the state to question its corporate right by information in the nature of quo warranto or otherwise shall be conclusive evidence of the authority of the insurer to issue policies and transact business as contemplated by its articles until such authority has been terminated.

Sec 5214. (1) An insurer may amend its articles of incorporation at any annual meeting of the stockholders or members or at any special meeting called by the directors for that purpose.

(2) Notice of any annual or special meeting and of the purpose for which it is called shall be served on each of the stockholders or if it is a mutual company on each of the members in the following prescribed manner:

(a) Notice by mail shall be considered sufficient if directed to the last known address of each stockholder or member at least 21 days immediately preceding the meeting.

(b) Notice by publication shall be considered sufficient if published in a newspaper printed and published within this state and having general circulation within the county or counties in which the company is transacting business. The notice shall be published each week for 3 consecutive weeks immediately preceding the date of the meeting provided that the last notice must be published at least 5 days before the meeting.

(3) The insurer shall furnish the commissioner with a true copy of the notice supported by evidence of mailing or publication and shall also furnish the commissioner with an extract subscribed to by the president and secretary from so much of the minutes of the meeting as relates to the adoption of any amendment or amendments.

(4) Amendments to the articles of incorporation shall not take effect until submitted to the attorney general and certified by him or her as not in conflict with the constitution or laws of this state. The insurer shall pay to the attorney general the examination fee provided for in section 240(2). The amendments shall be filed in duplicate with the commissioner, 1 copy to be retained by the commissioner and 1 copy to be returned to the insurer with a certified copy of the certificate of approval of the commissioner attached.

(5) All amendments to the articles of incorporation shall be upon the form prescribed by the commissioner.

Sec 5215. (1) A domestic stock insurer may increase or decrease its authorized capital stock or reclassify the same by changing the number, par value, designations, preferences or relative participating, optional or other special rights of the shares or the qualifications, limitations or restrictions of such rights as provided in this section. The par value of stock provided for in any amendment shall conform to the same limitations as to par value as provided for stock issued pursuant to original articles of incorporation.

(2) If a domestic stock insurer proposes to increase, decrease or reclassify its capital stock, it shall first present its petition to the commissioner setting forth the reasons for the increase, decrease or reclassification. The commissioner, if satisfied that the proposed increase or decrease is for the best interests of the insurer and its policyholders and that no reasonable objection exists, may authorize and approve the proposed plan of increase or decrease or may direct such modification of the plan as may seem proper. After the approval of the petition by the commissioner, the increase or decrease must be approved and the articles of incorporation amended in this respect by written consent given without a meeting or by the affirmative vote in person or by proxy at a regular or special meeting of the stockholders of not less than a majority of the capital stock of the insurer having voting power. Notice of the meeting and the purpose for

which the meeting is called shall be served on each of the stockholders either personally or by mail to the last known address of each stockholder at least 3 weeks prior to the meeting. However, if any proposed amendment would alter or change the preferences, special rights, or powers given to any 1 or more classes of stock by the articles of incorporation so as to affect that class or those classes of stock adversely or would increase or decrease the amount of the authorized stock of that class or those classes of stock adversely or would increase or decrease the par value of 1 or more classes of stock, then the holders of the stock of each class of stock so affected by the amendment shall be entitled to give written consent or vote as a class upon the amendment regardless of whether the terms of the articles of incorporation entitle the class to vote or not, and the affirmative action of a majority in interest of each class of stock so affected by the amendment shall be necessary for its adoption in addition to the affirmative action of the majority of all stock entitled to vote on an amendment as is required by law for its adoption. Separate action of any class of stock proposed to be increased or decreased shall not be required if the provisions of the articles of incorporation or amendment to the articles creating the class shall have authorized the increase or decrease without separate action.

(3) An amendment to the articles of incorporation shall not become effective until finally approved by the commissioner and until submitted to the attorney general and certified by him or her as not to be in conflict with the constitution or laws of this state. Amendments to the articles of incorporation shall be filed in duplicate with the commissioner, 1 copy to be retained by the commissioner and 1 copy to be returned to the insurer with a certified copy of the certificate of the approval of the commissioner attached.

Sec 5222 An insurance corporation whose term is about to expire by limitation may at any time within 2 years before the expiration of the term by a vote of a majority of its capital stock or its members present and voting or if a fraternal benefit society by a majority vote of its governing body or board as the case may be at any annual meeting or at any special meeting of its stockholders or members or governing body or board as the case may be called for that purpose upon such notice as is provided for in the case of amendments to articles of incorporation by section 5214 direct the continuance of its corporate existence for a further term not less than 30 years from the expiration of the existing term as may be expressed in a resolution for that purpose. The president and secretary of the members or governing body or board or stockholders meeting shall make and sign duplicate copies of the resolution and its passage shall be verified by the oath of the secretary attached to each of the copies. One of the copies shall be filed in the office of the commissioner and the filed copy or a certified copy of it shall be prima facie evidence of the passage of the resolution and of the extension of the corporate life. However, the filing fee prescribed by section 240(1)(a) for insurers organized in this state shall be paid before the term shall be extended. This action may also be taken after the expiration of a charter with the consent in writing of the commissioner. The commissioner shall give this consent only if the commissioner has determined after examination of the corporation that the corporation is safe, reliable, and entitled to public confidence. The renewal term of the corporation shall begin from the expiration of the former term and the corporation whose term has thus been renewed shall be the same corporation and own all its property and be subject to all its liabilities and shall have the same stockholders and members and the same officers. The rights of all persons interested in the corporation shall continue as before such extension. The articles of incorporation and bylaws shall continue the same until changed or amended by the corporation in the manner required by law.

Sec 5228 (1) The stockholders or members of a corporation may adopt bylaws that they consider advisable.

(2) The directors of a domestic insurer may make bylaws not inconsistent with the constitution and laws of this state or with their articles of incorporation as they consider necessary for the government of the officers and members of the insurer and the conduct of its affairs. All bylaws and any amendments thereto shall be filed with the commissioner before becoming operative.

Sec 5430 A mutual insurer organized under this chapter may borrow or assume liability for the repayment of a sum of money sufficient to defray the reasonable expenses of its organization or to provide the securities to be deposited with the state treasurer as required under this act or to enable it to comply with any requirement of law upon an agreement that has first been submitted to and approved by the commissioner that the sum shall be repaid with interest accrued in a manner and at a rate approved by the commissioner. The agreement under which the sum is obtained shall provide that any claim for its return shall be inferior and subordinate to all claims of and reserves for policyholders and creditors. Interest shall be paid and principal shall be retired only out of the surplus earnings of the insurer and with the approval of the commissioner whenever in his or her judgment the financial condition of the insurer warrants it, except that approval shall be withheld if repayment will reduce the surplus to an amount that is less than the amount determined adequate to comply with section 403. Any sum advanced shall not form a part of the legal liabilities of the insurer but until repaid all statements published by the insurer or filed with the commissioner shall show the amount remaining unpaid.

Sec 5836 A mutual insurer organized under this chapter may borrow or assume liability for the repayment of a sum of money sufficient to defray the reasonable expenses of its organization or to provide the securities to be deposited with the state treasurer as required under this act or to enable it to comply with any requirement of law upon an agreement that has first been submitted to and approved by the commissioner that the sum shall be repaid with

interest accrued in a manner and at a rate approved by the commissioner. The agreement under which the sum is obtained shall provide that any claim for its return shall be inferior and subordinate to all claims of and reserves for policyholders and creditors. Interest shall be paid and principal shall be retired only out of the surplus earnings of the insurer and with the approval of the commissioner whenever in his or her judgment the financial condition of the insurer warrants it except that approval shall be withheld if repayment will reduce the surplus to an amount that is less than the amount determined adequate to comply with section 403. Any sum advanced shall not form a part of the legal liabilities of the insurer but until repaid all statements published by the insurer or filed with the commissioner shall show the amount remaining unpaid.

Sec 6450 Any insurer may secure its required funds for reserve purposes by means of contributions or loans but subject to the limitations set forth in this section. Any fund so secured is hereinafter described as a guaranty fund. The agreement upon which a guaranty fund is secured shall provide that any claim for its return is inferior and subordinate to all claims of and reserves for policyholders and insured members and to the statutory required contingency reserve deposit and is subject to the approval of the commissioner. The guaranty fund and agreed interest on the guaranty fund accrued in a manner and at a rate approved by the commissioner shall not be liabilities or claims against the insurer or any of its assets except as provided in this section. Interest shall be paid and principal shall be retired only out of surplus of the insurer in excess of current obligations and of reserves required by this chapter. No part of principal shall be retired or interest paid unless the surplus remaining after repayment is determined adequate to comply with section 403 and the insurer has received the written consent of the commissioner. No commission or promotion expense of any kind shall be paid or allowed in connection with the raising of the guaranty fund and the amount of the guaranty fund together with interest on the fund and any portion of the fund retired during any year shall be reported in the insurer's annual statement. This section does not bar any insurer subject to this section from borrowing money but the amount borrowed with accrued interest shall be carried by the insurer as an immediate liability as distinguished from the deferred or contingent liability status of the guaranty fund.

Sec 6460 No new insurer shall be organized under this chapter after December 31 1993.

Sec 6550 Any pool organized under this chapter may secure its required funds for the deposit required under section 411 contingency reserve and other reserve purposes and to defray the reasonable expenses of its organization by means of loans upon an agreement that has first been submitted to and approved by the commissioner that the funds shall be repaid with interest accrued in a manner and at a rate approved by the commissioner. The agreement under which the funds are obtained shall provide that any claim for their return shall be inferior and subordinate to all claims of and reserves for policyholders and creditors and shall not be liabilities or claims against the pool or any of its assets except as provided in this section. Interest shall be paid and principal shall be retired only out of surplus of the pool in excess of current obligations and of reserves required by this chapter. No part of principal shall be retired or interest paid unless the surplus remaining after repayment is determined adequate to comply with section 403 and the pool has received the written consent of the commissioner. The amount of funds obtained pursuant to this section and any portion retired during any year shall be reported in the pool's annual statement.

Sec 6806 No company organized or operating under section 6804 shall carry an insurance or assume a liability on any single hazard in excess of the amount set forth in section 640.

Sec 6822 (1) An insurance company organized or operating under this chapter shall not transact any business without a certificate of authority from the commissioner.

(2) All such certificates of authority shall expire on the last day of June of each year and shall be renewed annually upon full compliance with the provisions of this chapter and such certificates of authority shall be revocable by the commissioner for violation of any of the provisions of this chapter after due notice to the company and a hearing on the question of the violation.

(3) An insurance company hereafter organized under this chapter shall not be granted a certificate of authority and shall not commence business until bona fide agreements have been entered into for insurance with at least 200 individuals covering property to be insured to the amount of not less than \$500 000 00.

Sec 6823 No company shall hereafter be organized under the provisions of this chapter for the purpose of insuring property other than that mentioned in section 6804. Any mutual insurance company whose business is limited by law or its charter to 1 or more counties may provide in its charter or by amendment to its charter for insuring for its resident members any real or personal property owned by them and situated outside the county or counties in which the company is authorized to insure but in an adjoining county and may also provide for extending the insurance on personal property that may be temporarily absent not to exceed 6 months in a county adjoining a county or counties in which the company is authorized to do business during which time the insurance on the personal property shall be in force as fixed in the company's charter or bylaws so long as upon the adoption of any such article or amendment the

same shall automatically extend to all existing policies of the company and that the insurance is subject to the same limitations as provided in section 6804

Sec 6886 Domestic mutual insurers transacting insurance under this chapter are also subject to the following additional chapters and provisions of this act as applicable

- (a) Chapter 1
- (b) Chapter 2
- (c) Sections 403 454 460 and 476a
- (d) Chapter 9
- (e) Chapter 12
- (f) Chapter 20
- (g) Section 2236
- (h) Chapter 50
- (i) Chapter 52
- (j) Chapter 76
- (k) Chapter 81
- (l) Chapter 83

Sec 7604 (1) An insurer organized under the laws of this state and transacting business under this act may consolidate or merge with or reinsure all or any part of its outstanding risks for the purpose of effecting a merger or consolidating with an insurer of generally like character authorized to transact business in this state under terms that are reasonable and just Consolidation and merger as used in this chapter include a transaction where an insurer authorized to transact business in this state which is a wholly owned subsidiary of a controlling corporation which need not be an insurer distributes shares of the capital stock of the controlling corporation in merging another insurer into the subsidiary or in merging the subsidiary into another insurer If an insurer proposes to consolidate or merge with or reinsure all of its outstanding risk with another insurer for the purpose of effecting a merger or consolidation the following procedure shall be followed

(a) The insurers shall petition the commissioner setting forth the terms and conditions of the proposed consolidation merger or agreement of reinsurance to which the commissioner may in his or her discretion grant preliminary tentative or conditional approval

(b) After securing the approval from the commissioner the insurers shall give notice either personally or through mailing at least 21 days before the time fixed for the meeting to the last known postal address of each stockholder subscriber or member that the question of the consolidation merger or reinsurance will be voted upon at a regular or special meeting of the stockholders subscribers or members which notice shall fairly but briefly describe the proposed procedure

(c) The consolidation merger or contract of reinsurance for the purpose of effecting a merger or consolidation shall be approved at the regular or special meeting held in pursuance of the call and notice by the affirmative vote of not less than a majority of the members or subscribers voting in person or by proxy if it is a mutual or a cooperative or assessment corporation or a reciprocal or interinsurance exchange or not less than a majority of the outstanding capital stock if it is a stock company

(d) The consolidation or merger agreement or contract of reinsurance for the purpose of effecting a merger or consolidation together with proper proof that it has been approved by the stockholders subscribers or members as provided in this section shall be submitted to the commissioner for final approval This contract shall not become effective until the commissioner in his or her discretion issues a certificate of final approval to the petitioner If the terms of the consolidation or merger or reinsurance contract for the purpose of effecting a merger or consolidation provide that securities shall pass to an insurer assuming the liabilities for which the securities are held a public official or other person or company holding the securities shall upon the written order of the commissioner deliver the securities to or credit the securities to the account of the corporation corporations person or persons entitled to the securities by the terms of the contract and the order of the commissioner

(2) Consolidation merger or reinsurance for the purpose of effecting a merger or consolidation of all of the insurance risk of any membership corporation under this section shall act as a dissolution of the corporation except in the case of a stock company which shall be dissolved in accordance with the business corporation act Act No 284 of the Public Acts of 1972 being sections 450 1101 to 450 2098 of the Michigan Compiled Laws All liability upon a stock company's certificates or contracts shall cease upon the expiration of 5 days following the consolidation merger or reinsurance for the purpose of effecting a merger or consolidation but its officers may thereafter perform any act or acts necessary to close its affairs with the approval of the commissioner

(3) This section shall not be construed to prohibit an insurer from reinsuring a fractional part or all of an individual risk in the usual or incidental conduct of its business

(4) Consolidation merger or reinsurance for the purpose of effecting a merger or consolidation of all or a substantial portion of the risks of a fraternal benefit society shall be governed by this section insofar as not otherwise regulated by chapter 81a specifically governing fraternal benefit societies

(5) This section shall not be construed to prohibit a title insurance corporation from acquiring by merger exchange of stock or otherwise if permitted by and pursuant to Act No 284 of the Public Acts of 1972 a corporation engaged in the general abstract business or the assets of such a corporation

(6) Notwithstanding subsection (1) when a farmers mutual insurer organized under chapter 68 proposes to merge with any other mutual insurer the surviving insurer may give notice to its members by publication as provided in section 5214(2)

Sec 8128 (1) A preference is a transfer of any of the property of an insurer to or for the benefit of a creditor for or on account of an antecedent debt made or suffered by the insurer within 1 year before the filing of a successful petition for liquidation under this chapter the effect of which transfer may be to enable the creditor to obtain a greater percentage of this debt than another creditor of the same class would receive If a liquidation order is entered while the insurer is already subject to a rehabilitation order then a transfer shall be considered a preference if made or suffered within 1 year before the filing of the successful petition for rehabilitation or within 2 years before the filing of the successful petition for liquidation whichever time is shorter

(2) A preference may be avoided by the liquidator if any of the following occurs

(a) The insurer was insolvent at the time of the transfer

(b) The transfer was made within 4 months before the filing of the petition

(c) The creditor receiving the transfer or benefited by the transfer or his or her agent acting with reference to the transfer had at the time the transfer was made reasonable cause to believe that the insurer was insolvent or was about to become insolvent

(d) The creditor receiving the transfer was any of the following

(i) An officer of the insurer

(ii) An employee attorney or other person who was in fact in a position of comparable influence with the insurer as an officer whether or not he or she held an officer position

(iii) A shareholder holding directly or indirectly more than 5% of any class of any equity security issued by the insurer

(iv) Another person firm corporation or association with whom the insurer did not deal at arm's length

(3) If the preference is voidable the liquidator may recover the property or if the property has not been converted the property's value from a person who has received or converted the property However if a bona fide purchaser or lienor has given less than fair equivalent value he or she shall have a lien upon the property to the extent of the consideration actually given by him or her If a preference by way of lien or security title is voidable the court may on due notice order the lien or title to be preserved for the benefit of the estate and if so ordered the lien or title shall pass to the liquidator

(4) A transfer of property other than real property shall be considered to be made or suffered when it becomes so far perfected that no subsequent lien obtainable by legal or equitable proceedings on a simple contract could become superior to the rights of the transferee A transfer of real property shall be considered to be made or suffered when it becomes so far perfected that no subsequent bona fide purchaser from the insurer could obtain rights superior to the rights of the transferee A transfer that creates an equitable lien shall not be considered to be perfected if there are available means by which a legal lien could be created A transfer not perfected prior to the filing of a petition for liquidation shall be considered to be made immediately before the filing of the successful petition The provisions of this subsection apply whether or not there are or were creditors who might have obtained liens or persons who might have become bona fide purchasers

(5) A lien obtainable by legal or equitable proceedings upon a simple contract is a lien arising in the ordinary course of such proceedings upon the entry or docketing of a judgment or decree or upon attachment garnishment execution or like process whether before upon or after judgment or decree and whether before or upon levy It does not include liens that under applicable law are given a special priority over other liens that are prior in time

(6) A lien obtainable by legal or equitable proceedings could become superior to the rights of a transferee or a purchaser could obtain rights superior to the rights of a transferee within the meaning of subsection (4) if that superiority would follow only from the lien or purchase itself or from the lien or purchase followed by any step wholly within the control of the respective lienholder or purchaser with or without the aid of ministerial action by public officials Such a lien could not however become superior and such a purchase could not create superior rights for the purpose of subsection (4) through any acts subsequent to the obtaining of the lien or subsequent to the purchase which require the agreement or concurrence of a third party or which require further judicial action or ruling

(7) A transfer of property for or on account of a new and contemporaneous consideration which is considered under subsection (4) to be made or suffered after the transfer because of delay in perfecting it does not thereby become a transfer for or on account of an antecedent debt if any acts required by the applicable law to be performed in order to perfect the transfer as against liens or bona fide purchasers' rights are performed within 21 days or a period expressly allowed by the law whichever is less. A transfer to secure a future loan if the loan is actually made or a transfer that becomes security for a future loan shall have the same effect as a transfer for or on account of a new and contemporaneous consideration.

(8) If a lien considered voidable under subsection (2) has been dissolved by the furnishing of a bond or other obligation and the surety on which has been indemnified directly or indirectly by the transfer of or the creation of a lien upon the insurer's property before the filing of a petition under this chapter which results in a liquidation order then that indemnifying transfer or lien shall also be considered voidable.

(9) The property affected by a lien considered voidable under subsections (1) and (8) shall be discharged from the lien and that property and any of the indemnifying property transferred to or for the benefit of a surety shall pass to the liquidator except that the court upon due notice may order the lien to be preserved for the estate's benefit and the court may direct that a conveyance be executed as may be proper or adequate to evidence the liquidator's title.

(10) The circuit court shall have summary jurisdiction of a proceeding by the liquidator to hear and determine the rights of parties under this section. Reasonable notice of each hearing in the proceeding shall be given to all parties in interest including the obligee of a releasing bond or other like obligation. If an order is entered for the recovery of indemnifying property or for the avoidance of an indemnifying lien the court upon application of any party in interest shall ascertain in the same proceeding the value of the property or lien and if the value is less than the amount for which the property is indemnity or than the amount of the lien the transferee or lienholder may elect to retain the property or lien upon payment of its value as ascertained by the court to the liquidator within such reasonable times as the court shall fix.

(11) The liability of the surety under a releasing bond or other like obligation shall be discharged to the extent of the value of the indemnifying property recovered or the indemnifying lien nullified and avoided by the liquidator or if the property is retained under subsection (10) to the extent of the amount paid to the liquidator.

(12) If a creditor has been preferred and afterward in good faith gives the insurer further credit without security of any kind for property that becomes a part of the insurer's estate the amount of the new credit remaining unpaid at the time of the petition may be set off against the preference that would otherwise be recoverable from him or her.

(13) If an insurer directly or indirectly within 4 months before the filing of a successful petition for liquidation under this chapter or at any time in contemplation of a proceeding to liquidate pays money or transfers property to an attorney for services rendered or to be rendered the transactions may be examined by the court on its own motion or shall be examined by the court on petition of the liquidator and shall be held valid only to the extent of a reasonable amount to be determined by the court and the excess may be recovered by the liquidator for the estate's benefit. If the attorney is in a position of influence with the insurer or an affiliate of the insurer payment of any money or the transfer of any property to the attorney for services rendered or to be rendered shall be governed by the provision of subsection (2)(d).

(14) An officer, manager, employee, shareholder, member, subscriber, attorney or other person acting on behalf of the insurer who knowingly participates in giving a preference if he or she has reasonable cause to believe the insurer is or is about to become insolvent at the time of the preference shall be personally liable to the liquidator for the amount of the preference. If a transfer was made within 4 months before the date of filing of a successful petition for liquidation an inference may be made that reasonable cause existed to believe the insurer was or was about to become insolvent at the time of the preference. A person receiving property or the benefit of the property from the insurer as a preference voidable under subsection (1) shall be personally liable for the property or benefit and shall be bound to account to the liquidator. Nothing in this subsection shall prejudice any other claim by the liquidator against any person.

(15) For delinquency proceedings commenced after January 1, 1990 and notwithstanding any other provision of law commissions paid to insurance agents or agencies by an insurer in the ordinary course of business at a time when the insurer was authorized to transact such business are not recoverable unless the agent or agency is affiliated with the insurer or produces more than 10% of the insurer's premium.

Sec. 8130 (1) Mutual debts or mutual credits whether arising out of 1 or more contracts between the insurer and another person in connection with an action or proceeding under this chapter shall be set off and the balance only shall be allowed or paid except as provided in subsection (2) and section 8133.

(2) A setoff or counterclaim shall not be allowed in favor of a person if

(a) The insurer's obligation to the person would not at the date of the filing of a petition for receivership entitle the person to share as a claimant in the assets of the insurer.

(b) The insurer's obligation to the person was purchased by or transferred to the person with a view to its being used as a setoff.

(c) The insurer's obligation is owed to an affiliate of the person or any other entity or association other than the person

(d) The person's obligation is owed to an affiliate of the insurer or any other entity or association other than the insurer

(e) The person's obligation is to pay an assessment levied against the insurer's members or subscribers is to pay a balance upon a subscription to the capital stock of the insurer or is in any other way in the nature of a capital contribution

(f) The obligations between the person and the insurer arise from business where either the person or the insurer has assumed risks and obligations from the other party and then has ceded back to that party substantially the same risks and obligations

(3) The receiver shall provide persons with accounting statements identifying all debts that are due and payable. If a person owes to the insurer amounts that are due and payable against which the person asserts setoff of mutual credits that may become due and payable from the insurer in the future, the person shall promptly pay to the receiver the amounts due and payable provided that notwithstanding section 8142 or any other provision of this chapter the receiver shall promptly and fully refund to the extent of the person's prior payments any mutual credits that become due and payable to the person by the insurer. Prior to the termination of any proceeding under this chapter the amount due the person shall be determined for the purpose of the receiver making a final refund if any.

(4) Subsections (2)(c), (d), and (f) and (3) apply to all contracts entered into, renewed, extended, or amended on or after 1 year after the effective date of this subsection and to debts or credits arising from any business written or transactions occurring after the effective date of this subsection pursuant to any such contract. For purposes of this section any change in the terms of or consideration for any such contract shall be considered an amendment.

Sec 8158 (1) In a liquidation proceeding in this state involving 1 or more reciprocal states, the order of distribution of the domiciliary state shall control as to all claims of residents of this and reciprocal states. All claims of residents of reciprocal states shall be given equal priority of payment from general assets regardless of where the assets are located.

(2) The owners of special deposit claims against an insurer for which a liquidator is appointed in this or any other state shall be given priority against the special deposits in accordance with the statutes governing the creation and maintenance of the deposits. If there is a deficiency in any deposit so that the claims secured by it are not fully discharged from it, the claimants may claim against a security fund or share in the general assets, but the sharing shall be deferred until general creditors having the same priority and also claimants against other special deposits having the same priority who have received smaller percentages from their respective special deposits have been paid percentages of their claims equal to the percentage paid from the special deposit.

(3) The owner of a secured claim against an insurer for which a liquidator has been appointed in this or any other state may surrender his or her security for the claim and file his or her claim as a general creditor or the claim may be discharged by resort to the security in accordance with section 8141 in which case the deficiency, if any, shall be treated as a claim against the general assets of the insurer or the appropriate security fund on the same basis as claims of unsecured creditors having the same priority.

Sec 8160 (1) By September 1, 1994, the commissioner shall submit a report to the senate and house of representatives standing committees on insurance issues and to the senate and house of representatives appropriations regulatory subcommittees on all receivership activities of the commissioner and the insurance bureau pertaining to the liquidation of insolvent insurers for the 1992 and 1993 calendar years. By September 1, 1995 and annually thereafter, the commissioner shall submit a report to the senate and house of representatives standing committees on insurance issues and to the senate and house of representatives appropriations regulatory subcommittees on all receivership activities of the commissioner and the insurance bureau pertaining to the liquidation of insolvent insurers for the immediately preceding calendar year.

(2) Reports under subsection (1) shall include a summary schedule of all insurance bureau expenditures and a detailed schedule of all insurance bureau contractual expenditures for legal, accounting, and administrative expenditures made or incurred for the liquidation of insurers in receivership and paid for out of the insurer's assets during the calendar year being reported on.

Sec 8199a A fraternal benefit society transacting business in this state and not exempt from the provisions of this chapter under section 8199 is also subject to the following additional chapters and provisions of this act as applicable:

(a) Chapter 1

(b) Chapter 2. However, as to section 240, only subsection (1)(c), (d), (h), and (j) shall apply except as provided in section 5222.

(c) Sections 403, 405a, 436, 436a, 437, 476a, 5222, and 5256.

(d) Chapter 9

- (e) Chapter 11
- (f) Chapter 34
- (g) Chapter 38
- (h) Chapter 39
- (i) Chapter 40 except as to section 4004
- (j) Chapter 81

Section 2 (1) Section 901 as amended by this amendatory act is retroactively effective and applies on and after December 31 1993

(2) Sections 4012 and 4037 as amended by this amendatory act are effective October 1 1994

Section 3 Sections 422 636 945 6810 6812 6814 6816 6818 6820 and 7222 of Act No 218 of the Public Acts of 1956 being sections 500 422 500 636 500 945 500 6810 500 6812 500 6814 500 6816 500 6818 500 6820 and 500 7222 of the Michigan Compiled Laws are repealed

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor