



# HOUSE BILL No. 4963

July 15, 1993, Introduced by Reps. Martin, Griffin, Kaza, Porreca, Jaye, Goschka, Cropsey, Lowe, Nye, Vorva, Walberg, Hill and Rhead and referred to the Committee on Insurance.

A bill to amend the title and sections 2110, 2111, 2118, 2120, 3037, 3101, 3101a, 3104, 3107, 3109a, 3115, 3116, 3135, 3142, 3145, 3157, 3172, 3320, 3330, 3340, 3355, and 7911 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

as amended by Act No. \_\_\_ of the Public Acts of 1993, being sections 500.2110, 500.2111, 500.2118, 500.2120, 500.3037, 500.3101, 500.3101a, 500.3104, 500.3107, 500.3109a, 500.3115, 500.3116, 500.3135, 500.3142, 500.3145, 500.3157, 500.3172, 500.3320, 500.3330, 500.3340, 500.3355, and 500.7911 of the Michigan Compiled Laws; and to repeal certain parts of the act.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Section 1. The title and sections 2110, 2111, 2118, 2120,

3037, 3101, 3101a, 3104, 3107, 3109a, 3115, 3116, 3135, 3142,

3145, 3157, 3172, 3320, 3330, 3340, 3355, and 7911 of Act No. 218

1 of the Public Acts of 1956, as amended by Act No. \_\_\_\_ of the  
2 Public Acts of 1993, being sections 500.2110, 500.2111, 500.2118,  
3 500.2120, 500.3037, 500.3101, 500.3101a, 500.3104, 500.3107,  
4 500.3109a, 500.3115, 500.3116, 500.3135, 500.3142, 500.3145,  
5 500.3157, 500.3172, 500.3320, 500.3330, 500.3340, 500.3355, and  
6 500.7911 of the Michigan Compiled Laws, are amended to read as  
7 follows:

8 TITLE

9 An act to revise, consolidate, and classify the laws relat-  
10 ing to the insurance and surety business; to regulate the incor-  
11 poration or formation of domestic insurance and surety companies  
12 and associations and the admission of foreign and alien companies  
13 and associations; to provide their rights, powers, and immunities  
14 and to prescribe the conditions on which companies and associa-  
15 tions organized, existing, or authorized under this act may exer-  
16 cise their powers; to provide the rights, powers, and immunities  
17 and to prescribe the conditions on which other persons, firms,  
18 corporations, associations, risk retention groups, and purchasing  
19 groups engaged in an insurance or surety business may exercise  
20 their powers; to provide for the imposition of a privilege fee on  
21 domestic insurance companies and associations and the state acci-  
22 dent fund; to provide for the imposition of a tax on the business  
23 of foreign and alien companies and associations; to provide for  
24 the imposition of a tax on risk retention groups and purchasing  
25 groups; to provide for the imposition of a tax on the business of  
26 surplus line agents; to modify tort liability arising out of  
27 certain accidents; to provide for limited actions with respect to

1 that modified tort liability and to prescribe certain procedures  
2 for maintaining those actions; to require security for losses  
3 arising out of certain accidents; to provide for the continued  
4 availability and AFFORDABILITY OF AUTOMOBILE INSURANCE AND HOME-  
5 OWNERS INSURANCE IN THIS state — AND to facilitate the purchase  
6 of that insurance by all residents of this state at fair and rea-  
7 sonable rates; ~~—, and to provide for certain powers and duties,~~  
8 ~~upon certain persons, as they affect the continued availability~~  
9 ~~and affordability of that insurance;~~ to provide for certain  
10 reporting with respect to insurance and with respect to certain  
11 claims against uninsured or self-insured persons; to prescribe  
12 duties for certain state departments and officers with respect to  
13 that reporting; to provide for certain assessments; to establish  
14 and continue certain state insurance funds; to modify and clarify  
15 the status, rights, powers, duties, and operations of the non-  
16 profit malpractice insurance fund; to provide for the departmen-  
17 tal supervision and regulation of the insurance and surety busi-  
18 ness within this state; to provide for the conservation, rehabil-  
19 itation, or liquidation of unsound or insolvent insurers; to pro-  
20 vide for the protection of policyholders, claimants, and credi-  
21 tors of unsound or insolvent insurers; to provide for associa-  
22 tions of insurers to protect policyholders and claimants in the  
23 event of insurer insolvencies; to prescribe educational require-  
24 ments for insurance agents and solicitors; to provide for the  
25 regulation of multiple employer welfare arrangements; to create  
26 an automobile theft prevention authority to reduce the number of  
27 automobile thefts in this state; to prescribe the powers and

1 duties of the automobile theft prevention authority; ~~to provide~~  
 2 ~~certain powers and duties upon certain persons;~~ to provide cer-  
 3 tain powers and duties upon certain officials, departments, and  
 4 authorities of this state; to repeal certain acts and parts of  
 5 acts; to repeal certain acts and parts of acts on specific dates;  
 6 to repeal certain parts of this act on specific dates; and to  
 7 provide penalties for the violation of this act.

8       Sec. 2110. (1) In developing and evaluating rates pursuant  
 9 to the standards prescribed in ~~sections 2109 and 2109a~~ SECTION  
 10 2109, due consideration shall be given to past and prospective  
 11 loss experience within and outside this state, to catastrophe  
 12 hazards, if any; to a reasonable margin for underwriting profit  
 13 and contingencies; to dividends, savings, or unabsorbed premium  
 14 deposits allowed or returned by insurers to their policyholders,  
 15 members, or subscribers; to past and prospective expenses, both  
 16 countrywide and those specially applicable to this state exclu-  
 17 sive of assessments under this ~~act~~ CODE; to assessments under  
 18 this ~~act~~ CODE; to underwriting practice and judgment; and to  
 19 all other relevant factors within and outside this state. ~~In~~  
 20 ~~determining the reasonableness of rates for automobile insurance,~~  
 21 ~~consideration shall be given to expenses, investment income~~  
 22 ~~earned on loss reserves, investment income earned on unearned~~  
 23 ~~premium reserves, and investment income earned on that portion of~~  
 24 ~~capital and surplus attributable to automobile insurance, as well~~  
 25 ~~as the factors used to determine the amount of the reserves.~~

26       (2) The systems of expense provisions included in the rates  
 27 for use by ~~an~~ ANY insurer or group of insurers may differ from

1 those of other insurers or groups of insurers to reflect the  
 2 requirements of the operating methods of the insurer or group  
 3 with respect to any kind of insurance, or with respect to any  
 4 subdivision or combination thereof for which subdivision or com-  
 5 bination separate expense provisions are applicable.

6 (3) Risks may be grouped by classifications for the estab-  
 7 lishment of rates and minimum premiums. The classifications  
 8 ~~shall~~ MAY measure differences in losses, expenses, or both.

9 Sec. 2111. (1) Notwithstanding any provision of this act  
 10 and this chapter to the contrary, classifications and territorial  
 11 base rates used by any insurer in this state with respect to  
 12 automobile insurance or home insurance shall conform to the  
 13 applicable requirements of this section.

14 (2) Classifications established pursuant to this section for  
 15 automobile insurance shall be based only upon 1 or more of the  
 16 following factors, which shall be applied by an insurer on a uni-  
 17 form basis throughout the state:

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

19 (i) ~~The~~ EITHER THE age of the driver; ~~.(ii) The~~ THE  
 20 length of driving experience; ~~.(iii) The~~ OR THE number of  
 21 years licensed to operate a motor vehicle.

22 (ii) ~~(iv)~~ Driver primacy, based upon the proportionate use  
 23 of each vehicle insured under the policy by individual drivers  
 24 insured or to be insured under the policy.

25 (iii) ~~(v)~~ Average miles driven weekly, annually, or both.

26 (iv) ~~(vi)~~ Type of use, such as business, farm, or pleasure  
 27 use.

1       (v) ~~(vii)~~ Vehicle design and equipment characteristics  
 2 including standard features and options, grouped together as much  
 3 as practicable by vehicle make and model, that bear upon the  
 4 ability of the vehicle to protect passengers from injury or to  
 5 avoid accidents. VEHICLE CHARACTERISTICS, FEATURES, AND OPTIONS,  
 6 SUCH AS ENGINE DISPLACEMENT, ABILITY OF VEHICLE AND ITS EQUIPMENT  
 7 TO PROTECT PASSENGERS FROM INJURY AND OTHER SIMILAR ITEMS,  
 8 INCLUDING VEHICLE MAKE AND MODEL.

9       (vi) ~~(viii)~~ Daily or weekly commuting mileage.

10       (vii) ~~(ix)~~ Number of cars insured by the insurer or number  
 11 of licensed operators in the household. However, number of  
 12 licensed operators shall not be used as an indirect measure of  
 13 marital status.

14       (viii) ~~(x)~~ Amount of insurance.

15       ~~(xi)~~ Deductibles.

16       ~~(xii)~~ Characteristics of vehicle usage that have a demon-  
 17 strable relationship to severity or frequency of accidents.  
 18 These characteristics may include conditions of customary or fre-  
 19 quent vehicle use such as time of day, density of traffic and  
 20 other driving conditions, and accident frequency and severity in  
 21 use zones or areas where the insured vehicle is customarily or  
 22 frequently driven by the insured or members of the insured's  
 23 household.

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

26       (i) Earned income.

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

3 (iii) Coordination of benefits.

4 (iv) Use of a safety belt.

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

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

11 (ii) Vehicle make and model.

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

14 ~~(iv) Vehicle design and equipment characteristics including~~  
15 ~~standard features and options by vehicle make and model and that~~  
16 ~~bear upon the vehicle's ability to avoid accidents, the vehicle's~~  
17 ~~resistance to damage, and the cost of repair of a damaged~~  
18 ~~vehicle. On and after January 1, 1994, an insurer is required to~~  
19 ~~base its rating system for collision coverage upon and to quote~~  
20 ~~collision coverage upon the characteristics in this~~  
21 ~~subparagraph.~~

22 (iv) ~~(v)~~ Vehicle characteristics relating to automobile  
23 theft prevention devices.

24 ~~(d) In addition to the factors prescribed in~~  
25 ~~subdivisions (a) and (c) with respect to comprehensive coverages~~  
26 ~~only.~~

1       ~~(i) The presence of passive theft prevention devices on the~~  
2 ~~insured vehicle.~~

3       ~~(ii) Conditions under which the vehicle is garaged or parked~~  
4 ~~that relate to the risk of loss from hazards insured against.~~

5       (D) ~~(e)~~ With respect to all automobile insurance coverage  
6 other than comprehensive, successful completion by the individual  
7 driver or drivers insured under the policy of an accident preven-  
8 tion education course that meets the following criteria:

9       (i) The course shall include a minimum of 8 hours of class-  
10 room instruction.

11       (ii) The course shall include, but not be limited to, a  
12 review of all of the following:

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

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

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

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

17       (E) Accident prevention measures.

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

19       (G) Major driving hazards.

20       (H) Interaction with other highway users such as motorcy-  
21 clists, bicyclists, and pedestrians.

22       ~~(I) Limits and benefits of the various automobile insurance~~  
23 ~~coverages.~~

24       ~~(f) Additional rating factors that the commissioner shall~~  
25 ~~approve if the commissioner finds, on the basis of appropriate~~  
26 ~~investigation and any public hearings the commissioner considers~~  
27 ~~necessary, that the factors are consistent with the purposes of~~



~~1 this chapter and that they would encourage innovation or~~  
~~2 encourage insureds to minimize the risks of loss from hazards~~  
~~3 insured against.~~

4 (3) Each insurer shall establish and maintain premium dis-  
5 count plans pursuant to the following:

6 (a) ~~An~~ UNTIL APRIL 1, 1992, AN automobile theft prevention  
7 ~~and automobile recovery~~ premium discount plan. A premium dis-  
8 count plan required under this subdivision shall provide for a  
9 premium discount for automobile comprehensive coverage based upon  
10 the installation of an approved automobile theft prevention ~~or~~  
11 ~~automobile recovery~~ device. As used in this subdivision,  
12 "approved automobile theft prevention ~~or automobile recovery~~  
13 device" means a device that is designed to prevent the theft of  
14 an insured's automobile ~~or aid the police in the recovery of an~~  
15 ~~insured's automobile~~ and that is approved by the board of direc-  
16 tors of the automobile theft prevention authority.

17 (b) ~~An~~ UNTIL APRIL 1, 1992, AN automobile safety belt pre-  
18 mium discount plan. A premium discount plan required under this  
19 subdivision shall provide for a premium discount for automobile  
20 personal protection insurance ~~in an amount that is actuarially~~  
21 ~~sound~~ OF NOT LESS THAN 20%. A premium discount plan established  
22 under this subdivision may require the insured individual to cer-  
23 tify in writing that he or she will wear a safety belt while  
24 operating the insured motor vehicle in compliance with section  
25 710e of the Michigan vehicle code, Act No. 300 of the Public Acts  
26 of 1949, being section 257.710e of the Michigan Compiled Laws, as  
27 a condition to receiving the premium discount. If an insured

1 receives a premium discount after providing ~~this~~ SUCH  
2 certification and is injured while operating a motor vehicle  
3 without wearing a safety belt at the time of the injury, an  
4 insurer ~~may impose a \$500.00 deductible with respect to that~~  
5 ~~loss in addition to any deductible provided in the policy and~~  
6 may subsequently deny to the insured the right to participate in  
7 any premium discount plan established by the insurer pursuant to  
8 this subdivision for a period of 12 months. AN INSURER THAT  
9 REDUCES ITS PERSONAL PROTECTION INSURANCE RATES AFTER DECEMBER 1,  
10 1985 BY NOT LESS THAN 20% AND DOES NOT INCREASE THOSE RATES FOR A  
11 PERIOD OF 12 MONTHS SHALL BE CONSIDERED TO BE IN COMPLIANCE WITH  
12 THIS SUBDIVISION.

13 (4) Each insurer shall establish a secondary or merit rating  
14 plan for automobile insurance, other than comprehensive  
15 coverage. A secondary or merit rating plan required under this  
16 subsection shall provide for premium surcharges for any or all  
17 coverages for automobile insurance, other than comprehensive cov-  
18 erage, based upon any or all of the following, when that informa-  
19 tion becomes available to the insurer:

20 (a) Substantially at-fault accidents.

21 ~~(b) The suspension of the insured's license by the secre-~~  
22 ~~tary of state under section 319(1)(c) to (f) of Act No. 300 of~~  
23 ~~the Public Acts of 1949, being section 257.319 of the Michigan~~  
24 ~~Compiled Laws, or a suspension under a substantially similar law~~  
25 ~~of another state.~~

26 (B) ~~(c)~~ Convictions for, determinations of responsibility  
27 for civil infractions for, or findings of responsibility in

1 probate court for civil infractions for, ~~any of the following:~~

2 ~~(i) Violations~~ VIOLATIONS under chapter VI of the Michigan vehi-  
3 cle code, Act No. 300 of the Public Acts of 1949, as amended,  
4 being sections 257.601 to 257.750 of the Michigan Compiled Laws.

5 ~~(ii) Operating a motor vehicle while license is suspended~~  
6 ~~or revoked.~~

7 ~~(iii) Operating a motor vehicle in violation of a license~~  
8 ~~restriction under section 312 of Act No. 300 of the Public Acts~~  
9 ~~of 1949, being section 257.312 of the Michigan Compiled Laws.~~

10 ~~(iv) A violation substantially similar to any of the viola-~~  
11 ~~tions listed in subparagraphs (i) to (iii) under the laws of~~  
12 ~~another state or local unit of government in this state or~~  
13 ~~another state.~~

14 ~~(5) Beginning 300 days after the effective date of the~~  
15 ~~amendatory act that added this subsection and if uniformly~~  
16 ~~offered and applied to all of the insurer's insureds, an insurer~~  
17 ~~may elect not to surcharge an insured under subsection (4). A~~  
18 ~~secondary or merit rating plan under subsection (4) shall provide~~  
19 ~~for a flat dollar surcharge.~~

20 (5) ~~(6)~~ An insurer shall not establish or maintain rates  
21 or rating classifications for automobile insurance based upon sex  
22 or marital status.

23 (6) ~~(7)~~ Notwithstanding other provisions of this chapter,  
24 automobile insurance risks shall be grouped by territory, and  
25 territorial base rates for coverages shall be established AS PRO-  
26 VIDED IN SECTION 2111A AND as follows:

1 (a) ~~Except as provided in subdivision (b), an~~ AN insurer  
2 shall not be limited as to the number of territories employed in  
3 its rating plan. ~~and a territorial base rate may be made appli-~~  
4 ~~cable in 1 or more territories contained in the rating plan of~~  
5 ~~the insurer.~~

6 ~~(b) Beginning 120 days after the effective date of the~~  
7 ~~amendatory act that added this subdivision, each territory shall~~  
8 ~~include at least 60,000 registered automobiles and shall consist~~  
9 ~~of a single contiguous area. A territory that includes any por-~~  
10 ~~tion of a city shall include the entire city except that any por-~~  
11 ~~tion of a city that has 60,000 registered automobiles may be a~~  
12 ~~separate territory if the remaining portion or portions of the~~  
13 ~~city also have at least 60,000 registered automobiles. If a por-~~  
14 ~~tion of a city that has 60,000 registered automobiles is made a~~  
15 ~~separate territory, the dividing lines of that territory shall be~~  
16 ~~comprised only of roadways that are state trunklines, county pri-~~  
17 ~~mary, or municipal major streets.~~

18 (B) EXCEPT DURING THE PERIOD OF TIME FROM FEBRUARY 28, 1986  
19 TO APRIL 1, 1992, AN INSURER SHALL NOT EMPLOY MORE THAN 20 DIF-  
20 FERENT TERRITORIAL BASE RATES FOR AN AUTOMOBILE INSURANCE  
21 COVERAGE.

22 (C) A TERRITORIAL BASE RATE MAY BE MADE APPLICABLE IN 1 OR  
23 MORE TERRITORIES CONTAINED IN THE RATING PLAN OF THE INSURER.

24 (D) EXCEPT DURING THE PERIOD OF TIME FROM FEBRUARY 28, 1986  
25 TO APRIL 1, 1992, AN INSURER SHALL NOT EMPLOY A TERRITORIAL BASE  
26 RATE FOR AN AUTOMOBILE INSURANCE PACKAGE POLICY THAT IS LESS THAN

1 45% OF THE HIGHEST TERRITORIAL BASE RATE FOR THE SAME POLICY, ALL  
2 OTHER RATING CLASSIFICATIONS BEING THE SAME.

3 (E) EXCEPT DURING THE PERIOD OF TIME FROM FEBRUARY 28, 1986  
4 TO APRIL 1, 1992, AN INSURER SHALL NOT EMPLOY A TERRITORIAL BASE  
5 RATE IN A TERRITORY FOR AN AUTOMOBILE INSURANCE PACKAGE POLICY  
6 THAT IS LESS THAN 90% OF THE TERRITORIAL BASE RATE EMPLOYED IN  
7 ANY ADJACENT TERRITORY FOR THE SAME POLICY, ALL OTHER RATING  
8 CLASSIFICATIONS BEING THE SAME.

9 (7) EXCEPT DURING THE PERIOD OF TIME FROM FEBRUARY 28, 1986  
10 TO APRIL 1, 1992, AN INSURER MAY ELECT AT ANY TIME TO EXEMPT  
11 ITSELF FROM THE REQUIREMENTS OF SUBSECTION (6) BY FILING FOR AN  
12 EXEMPTION WITH THE COMMISSIONER. AN INSURER ELECTING THIS EXEMP-  
13 TION SHALL INITIALLY FILE A RATING PLAN IN WHICH NO TERRITORIAL  
14 BASE RATE FOR AN AUTOMOBILE INSURANCE PACKAGE POLICY IS LESS THAN  
15 45% OF THE HIGHEST TERRITORIAL BASE RATE FOR THE SAME POLICY, ALL  
16 OTHER RATING CLASSIFICATIONS BEING THE SAME. FIVE YEARS FROM THE  
17 DATE OF THE INITIAL FILING THE INSURER SHALL BE PROHIBITED FROM  
18 USING A RATING PLAN IN WHICH ANY TERRITORIAL BASE RATE FOR AN  
19 AUTOMOBILE INSURANCE PACKAGE POLICY WILL BE LESS THAN 67% OF THE  
20 HIGHEST TERRITORIAL BASE RATE FOR THAT SAME POLICY, ALL OTHER  
21 RATING CLASSIFICATIONS BEING THE SAME. AN INSURER'S ELECTION OF  
22 AN EXEMPTION UNDER THIS SUBSECTION IS PERMANENT, FINAL, AND NOT  
23 SUBJECT TO CHANGE.

24 (8) EXCEPT DURING THE PERIOD OF TIME FROM FEBRUARY 28, 1986  
25 TO APRIL 1, 1992, IF AN INSURER CAN DEMONSTRATE TO THE COMMIS-  
26 SIONER, AFTER AN OPPORTUNITY FOR AN EVIDENTIARY HEARING HELD  
27 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT

1 NO. 306 OF THE PUBLIC ACTS OF 1969, AS AMENDED, BEING SECTIONS  
2 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS, THAT CLEAR AND  
3 SIGNIFICANT FINANCIAL IMPAIRMENT EXISTS IN THE GEOGRAPHIC TERRI-  
4 TORY OR TERRITORIES IN QUESTION BECAUSE OF THE NEED FOR AN ADDI-  
5 TIONAL TERRITORIAL BASE RATE, OR FOR A GREATER VARIANCE IN THE  
6 ADJACENT GEOGRAPHIC TERRITORY DIFFERENTIAL CONTAINED IN SUBSEC-  
7 TION (6)(E), THE ADDITIONAL TERRITORIAL BASE RATE, A GREATER  
8 VARIANCE, OR BOTH, SHALL BE PERMITTED FOR USE BY THE INSURER OR A  
9 LICENSED RATING ORGANIZATION ON BEHALF OF THAT INSURER, AT SUCH  
10 TIME AS THE NEED EXISTS. EVIDENCE SHALL NOT INCLUDE FINANCIAL  
11 IMPAIRMENT RESULTING FROM EXEMPTIONS GRANTED TO OTHER INSURERS.

12 (9) EXCEPT DURING THE PERIOD OF TIME FROM FEBRUARY 28, 1986  
13 TO APRIL 1, 1992, IF THE COMMISSIONER FINDS, SOLELY ON THE EVI-  
14 DENCE PRESENTED, THAT A GREATER VARIANCE IN THE ADJACENT GEO-  
15 GRAPHIC TERRITORY DIFFERENTIAL THAN THAT AUTHORIZED UNDER SUBSEC-  
16 TION (6)(E) IS JUSTIFIED, THE INCREASE IN VARIANCE SHALL NOT  
17 EXCEED 100% OF THAT AUTHORIZED UNDER THAT SUBSECTION. EXCEPT  
18 DURING THE PERIOD OF TIME FROM FEBRUARY 28, 1986 TO APRIL 1,  
19 1992, IF AN INCREASE IN VARIANCE IN THE ADJACENT GEOGRAPHIC TER-  
20 RITORY DIFFERENTIAL GREATER THAN 100% OF THAT AUTHORIZED UNDER  
21 SUBSECTION (6)(E) IS JUSTIFIED, THE COMMISSIONER SHALL REQUIRE  
22 THE CREATION OF AN ADDITIONAL TERRITORIAL BASE RATE.

23 (10) EXCEPT DURING THE PERIOD OF TIME FROM FEBRUARY 28, 1986  
24 TO APRIL 1, 1992, AN EXEMPTION GRANTED UNDER SUBSECTIONS (8) AND  
25 (9) SHALL BE APPLICABLE ONLY TO THE GEOGRAPHIC TERRITORY OR TER-  
26 RITORIES IN QUESTION, AND ONLY TO THE INSURER REQUESTING THE  
27 EXEMPTION.

1 (11) EXCEPT DURING THE PERIOD OF TIME FROM FEBRUARY 28, 1986  
2 TO APRIL 1, 1992, AN INSURER SHALL NOT HAVE MORE THAN 5 EXEMP-  
3 TIONS IN FORCE AT ANY 1 TIME. FOR PURPOSES OF DETERMINING THE  
4 NUMBER OF EXISTING EXEMPTIONS, EACH ADDITIONAL TERRITORIAL BASE  
5 RATE OR EACH INCREASE IN VARIANCE IN THE ADJACENT GEOGRAPHIC TER-  
6 RITORY DIFFERENTIAL GRANTED, SHALL BE CONSIDERED TO BE A SEPARATE  
7 EXEMPTION.

8 (12) ~~-(8)-~~ This section shall not be construed as limiting  
9 insurers or rating organizations from establishing and maintain-  
10 ing statistical reporting territories. This section shall not be  
11 construed to prohibit an insurer from establishing or maintain-  
12 ing, for automobile insurance, a premium discount plan for senior  
13 citizens in this state who are 65 years of age or older, if the  
14 plan is uniformly applied by the insurer throughout this state.  
15 If an insurer has not established and maintained such a premium  
16 discount plan for senior citizens, the insurer shall offer  
17 reduced premium rates to senior citizens in this state who are 65  
18 years of age or older and who drive less than 3,000 miles per  
19 year, regardless of statistical data.

20 (13) ~~-(9)-~~ Classifications established pursuant to this sec-  
21 tion for home insurance other than inland marine insurance pro-  
22 vided by policy floaters or endorsements shall be based only upon  
23 1 or more of the following factors:

24 (a) Amount and types of coverage.

25 (b) Security and safety devices, including locks, smoke  
26 detectors, and similar, related devices.

1 (c) Repairable structural defects reasonably related to  
2 risk.

3 (d) Fire protection class.

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

6 (f) Loss experience of the insured, based upon prior claims  
7 attributable to factors under the control of the insured that  
8 have been paid by an insurer.

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

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

11 (i) Availability of law enforcement or crime prevention  
12 services.

13 (14) ~~(10)~~ Notwithstanding other provisions of this chap-  
14 ter, home insurance risks shall be grouped by territory, and ter-  
15 ritorial base rates for coverages shall be established as  
16 follows:

17 (a) An insurer shall not be limited as to the number of ter-  
18 ritories employed in its rating plan. However, an insurer shall  
19 not employ more than 3 different territorial base rates for a  
20 home insurance coverage. A territorial base rate may be made  
21 applicable in 1 or more territories contained in the rating plan  
22 of the insurer.

23 (b) An insurer shall not employ a territorial base rate for  
24 home insurance for owner-occupied dwelling policies that is less  
25 than 70% of the highest territorial base rate for the same  
26 policy, all other rating classifications being the same.



1 (c) An insurer shall not employ a territorial base rate for  
 2 home insurance for renter or tenant policies that is less than  
 3 65% of the highest territorial base rate for the same policy, all  
 4 other rating classifications being the same.

5 (15) ~~(11)~~ An insurer may utilize factors in addition to  
 6 those specified in this section, ~~for home insurance,~~ if the  
 7 commissioner finds, after a hearing held pursuant to the adminis-  
 8 trative procedures act of 1969, Act No. 306 of the Public Acts of  
 9 1969, as amended, being sections 24.201 to 24.328 of the Michigan  
 10 Compiled Laws, that the factors would encourage innovation, would  
 11 encourage insureds to minimize the risks of loss from hazards  
 12 insured against, and would be consistent with the purposes of  
 13 this chapter.

14 ~~(12) If uniformly offered and applied to all the insurer's~~  
 15 ~~insureds, an automobile insurer may offer premium discounts based~~  
 16 ~~upon the length of time the insured has been free of substan-~~  
 17 ~~tially at fault accidents with the insurer.~~

18 ~~(13) If uniformly offered and applied to all the insurer's~~  
 19 ~~insureds, an automobile insurer may offer premium discounts based~~  
 20 ~~upon the length of time the insured has been insured with the~~  
 21 ~~insurer.~~

22 Sec. 2118. (1) As a condition of maintaining its certifi-  
 23 cate of authority, an insurer shall not refuse to insure, refuse  
 24 to continue to insure, or limit coverage available to an eligible  
 25 person for automobile insurance, except in accordance with under-  
 26 writing rules established pursuant to this section and sections  
 27 2119 and 2120.

1 (2) The underwriting rules ~~that~~ WHICH an insurer may  
2 establish for automobile insurance shall be based only on the  
3 following:

4 (a) Criteria identical to the standards set forth in section  
5 2103(1).

6 (b) The insurance eligibility point accumulation in excess  
7 of the amounts established by section 2103(1) of a member of the  
8 household of the eligible person insured or to be insured, if the  
9 member of the household usually accounts for 10% or more of the  
10 use of a vehicle insured or to be insured. For purposes of this  
11 subdivision, a person who is the principal driver for 1 automo-  
12 bile insurance policy shall be rebuttably presumed not to usually  
13 account for more than 10% of the use of other vehicles of the  
14 household not insured under the policy of that person.

15 (c) With respect to a vehicle insured or to be insured, sub-  
16 stantial modifications from the vehicle's original manufactured  
17 state for purposes of increasing the speed or acceleration capa-  
18 bilities of the vehicle.

19 (D) FAILURE BY THE PERSON TO PROVIDE PROOF THAT INSURANCE  
20 REQUIRED BY SECTION 3101 WAS MAINTAINED IN FORCE WITH RESPECT TO  
21 ANY VEHICLE WHICH WAS BOTH OWNED BY THE PERSON AND DRIVEN OR  
22 MOVED BY THE PERSON OR BY A MEMBER OF THE HOUSEHOLD OF THE PERSON  
23 DURING THE 6-MONTH PERIOD IMMEDIATELY PRECEDING APPLICATION.  
24 SUCH PROOF SHALL TAKE THE FORM OF A CERTIFICATION BY THE PERSON  
25 ON A FORM PROVIDED BY THE INSURER THAT THE VEHICLE WAS NOT DRIVEN  
26 OR MOVED WITHOUT MAINTAINING THE INSURANCE REQUIRED BY SECTION  
27 3101 DURING THE 6-MONTH PERIOD IMMEDIATELY PRECEDING APPLICATION.

1 (E) ~~(d)~~ Type of vehicle insured or to be insured, based on  
2 of the following, without regard to the age of the vehicle:

3 (i) The vehicle is of limited production or of custom  
4 manufacture.

5 (ii) The insurer does not have a rate lawfully in effect for  
6 the type of vehicle.

7 (iii) The vehicle represents exposure to extraordinary  
8 expense for repair or replacement under comprehensive or colli-  
9 sion coverage.

10 (F) ~~(e)~~ Use of a vehicle insured or to be insured for  
11 transportation of passengers for hire, for rental purposes, or  
12 for commercial purposes. Rules under this subdivision shall not  
13 be based on the use of a vehicle for volunteer or charitable pur-  
14 poses or for which reimbursement for normal operating expenses is  
15 received.

16 (G) ~~(f)~~ Payment of a minimum deposit at the time of appli-  
17 cation or renewal, not to exceed the smallest deposit required  
18 under an extended payment or premium finance plan customarily  
19 used by the insurer.

20 (H) ~~(g)~~ For purposes of requiring comprehensive deducti-  
21 bles of not more than \$150.00, or of refusing to insure if the  
22 person refuses to accept a required deductible, the claim  
23 experience of the person with respect to comprehensive coverage.

24 (I) ~~(h)~~ Total abstinence from the consumption of alcoholic  
25 beverages except ~~if~~ WHEN such beverages are consumed as part of  
26 a religious ceremony. However, an insurer shall not utilize an  
27 underwriting rule based on this subdivision unless the insurer

1 has been authorized to transact automobile insurance in this  
2 state prior to January 1, 1981, and has consistently utilized  
3 such an underwriting rule as part of the insurer's automobile  
4 insurance underwriting since being authorized to transact automo-  
5 bile insurance in this state.

6       Sec. 2120. (1) Affiliated insurers may establish underwrit-  
7 ing rules so that each affiliate will provide automobile insur-  
8 ance only to certain eligible persons. This subsection shall  
9 apply only if an eligible person can obtain automobile insurance  
10 from 1 of the affiliates. The underwriting rules shall be in  
11 compliance with this section, ~~and sections~~ SECTION 2118, and  
12 SECTION 2119.

13       (2) An insurer may establish separate rating plans so that  
14 certain eligible persons are provided automobile insurance under  
15 1 rating plan and other eligible persons are provided automobile  
16 insurance under another rating plan. This subsection shall apply  
17 only if all eligible persons can obtain automobile insurance  
18 under a rating plan of the insurer. Underwriting rules consis-  
19 tent with this section, ~~and sections~~ SECTION 2118, and SECTION  
20 2119 shall be established to define the rating plan applicable to  
21 each eligible person.

22       (3) Underwriting rules under this section shall be based  
23 only on the following:

24       (a) ~~For~~ WITH RESPECT TO a vehicle insured or to be  
25 insured, substantial modifications from the vehicle's original  
26 manufactured state for purposes of increasing the speed or  
27 acceleration capabilities of the vehicle.

1 (B) FAILURE OF THE PERSON TO PROVIDE PROOF THAT INSURANCE  
2 REQUIRED BY SECTION 3101 WAS MAINTAINED IN FORCE WITH RESPECT TO  
3 ANY VEHICLE OWNED AND OPERATED BY THE PERSON OR BY A MEMBER OF  
4 THE HOUSEHOLD OF THE PERSON DURING THE 6-MONTH PERIOD IMMEDIATELY  
5 PRECEDING APPLICATION OR RENEWAL OF THE POLICY. SUCH PROOF SHALL  
6 TAKE THE FORM OF A CERTIFICATION BY THE PERSON THAT THE REQUIRED  
7 INSURANCE WAS MAINTAINED IN FORCE FOR THE 6-MONTH PERIOD WITH  
8 RESPECT TO SUCH VEHICLE.

9 (C) ~~(b)~~ For purposes of insuring persons who have refused  
10 a deductible lawfully required under section ~~2118(2)(g)~~  
11 2118(2)(H), the claim experience of the person with respect to  
12 comprehensive coverage.

13 (D) ~~(c)~~ Refusal of the person to pay a minimum deposit  
14 required under section ~~2118(2)(f)~~ 2118(2)(G).

15 (E) ~~(d)~~ A person's insurance eligibility point accumula-  
16 tion under section 2103 (1)(h), or the total insurance eligibil-  
17 ity point accumulation of all persons who account for 10% or more  
18 of the use of 1 or more vehicles insured or to be insured under  
19 the policy.

20 (F) ~~(e)~~ The type of vehicle insured or to be insured as  
21 provided in section ~~2118(2)(d)~~ 2118(2)(E).

22 Sec. 3037. (1) At the time a new applicant for the insur-  
23 ance required by section 3101 for a private passenger nonfleet  
24 automobile makes an initial written application to the insurer,  
25 an insurer shall offer both of the following collision coverages  
26 to the applicant:

1 (a) Limited collision coverage ~~that pays~~ WHICH SHALL PAY  
2 for collision damage to the insured vehicle without a deductible  
3 amount ~~if~~ WHEN the operator of the vehicle is not substantially  
4 at fault in the accident from which the damage arose.

5 (b) Broad form collision coverage ~~that pays~~ WHICH SHALL  
6 PAY for collision damage to the insured vehicle regardless of  
7 fault, with deductibles in such amounts as may be approved by the  
8 commissioner, which deductibles shall be waived if the operator  
9 of the vehicle is not substantially at fault in the accident from  
10 which the damage arose.

11 ~~(2) Any payment of a claim under subsection (2) by an~~  
12 ~~insurer shall be payable jointly to the policyholder and repair~~  
13 ~~facility.~~

14 (2) ~~(3)~~ In addition to the coverages offered pursuant to  
15 subsection (1), standard and limited collision coverage may be  
16 offered with deductibles as approved by the commissioner.

17 (3) ~~(4) If~~ WHERE the applicant is required by the insurer  
18 to sign the written application form described in subsection (1),  
19 if the applicant chooses to reject both of the collision cover-  
20 ages, or limited collision without a deductible, offered under  
21 subsection (1), the rejection shall be made in writing either on  
22 a separate form or as part of the application, or some combina-  
23 tion thereof, as approved by the commissioner. The rejection  
24 statement shall inform the applicant of his or her rights ~~if~~ IN  
25 THE EVENT OF damage ~~occurs~~ to the insured vehicle under the  
26 alternative coverage option selected.

1 (4) ~~(5) If~~ IN THE CASE OF a written application ~~is~~ made  
2 by mail, ~~and~~ IF the applicant fails to sign or return a written  
3 rejection statement as required by subsection ~~(4)~~ (3), the  
4 requirements of subsection ~~(4)~~ (3) shall be considered to have  
5 been satisfied with respect to the insurer if all of the follow-  
6 ing occur:

7 (a) The application provides the applicant with an opportu-  
8 nity to select the coverages required to be offered under subsec-  
9 tion (1).

10 (b) The applicant is requested to sign the rejection state-  
11 ment, either as part of the application or as a separate form  
12 issued with the application, if the applicant fails to select  
13 ~~any~~ EITHER of the coverages specified in subsection (1).

14 (c) The applicant signed the application as otherwise  
15 required by the insurer.

16 (5) ~~(6)~~ At the time of the initial written application  
17 specified in subsection (1), an agent or insurer shall provide  
18 the applicant with a written explanation of collision coverage  
19 options in easily understandable language, if that information is  
20 not contained in the application form.

21 (6) ~~(7)~~ At least annually in conjunction with the renewal  
22 of a private passenger nonfleet automobile insurance policy, or  
23 at the time of an addition, deletion, or substitution of a vehi-  
24 cle under an existing policy, other than a group policy, an  
25 insurer shall inform the policyholder, on a form approved by the  
26 commissioner, of all of the following:

1 (a) The current status of collision coverage, if any, for  
 2 the vehicle or vehicles affected by the renewal or change and the  
 3 rights of the insured ~~if damage occurs~~ IN THE EVENT OF DAMAGES  
 4 to the insured vehicle under the current coverage.

5 (b) The collision coverages available under the policy and  
 6 the rights of the insured ~~if~~ IN THE EVENT OF damage ~~occurs~~ to  
 7 the insured vehicle under each collision option.

8 (c) Procedures for the policyholder to follow if he or she  
 9 wishes to change the current collision coverage.

10 (7) ~~(8)~~ As used in this section:

11 (a) "Collision damage" does not include losses customarily  
 12 insured under comprehensive coverages.

13 ~~(b) "Repair facility" means a motor vehicle repair facility~~  
 14 ~~as defined in section 1302 of the motor vehicle service and~~  
 15 ~~repair act, Act No. 300 of the Public Acts of 1974, being~~  
 16 ~~section 257.1302 of the Michigan Compiled Laws.~~

17 (B) ~~(c)~~ "Substantially at fault" means a person's action  
 18 or inaction was more than 50% of the cause of the accident.

19 ~~(9) If damage occurs to an insured vehicle, an insured may~~  
 20 ~~use any repair facility for an estimate or the providing of~~  
 21 ~~repair services covered by the automobile insurance policy.~~

22 ~~(10) An insurer may establish a direct repair program. If~~  
 23 ~~an insurer establishes a direct repair program, the insurer shall~~  
 24 ~~make available to all repair facilities the criteria necessary to~~  
 25 ~~participate in the direct repair program. Any repair facility~~  
 26 ~~that meets the established criteria is eligible to participate in~~  
 27 ~~the direct repair program. An insurer shall not prohibit an~~



~~1 eligible repair facility from participating in the direct repair  
2 program, and an insurer shall not limit the number of repair  
3 facilities participating in a direct repair program.~~

4 (8) THIS SECTION SHALL TAKE EFFECT MARCH 1, 1980.

5 Sec. 3101. (1) The owner or registrant of a motor vehicle  
6 required to be registered in this state shall maintain security  
7 for payment of benefits under personal protection insurance, ~~in~~  
8 ~~an amount not less than that required in section 3107(1)(a)(i),~~  
9 property protection insurance, and residual liability insurance.  
10 Security shall only be required to be in effect during the period  
11 the motor vehicle is driven or moved upon a highway.

12 Notwithstanding any other provision in this act, an insurer that  
13 has issued an automobile insurance policy on a motor vehicle that  
14 is not driven or moved upon a highway may allow the insured owner  
15 or registrant of the motor vehicle to delete a portion of the  
16 coverages under the policy and maintain the comprehensive cover-  
17 age portion of the policy in effect.

18 (2) As used in this chapter:

19 (a) "Automobile insurance" means that term as defined in  
20 section 2102.

21 (b) "Highway" means that term as defined in section 20 of  
22 the Michigan vehicle code, Act No. 300 of the Public Acts of  
23 1949, being section 257.20 of the Michigan Compiled Laws.

24 (c) "Motorcycle" means a vehicle ~~that is required to be~~  
25 ~~registered for use on a public highway in this state~~ having a  
26 saddle or seat for the use of the rider, designed ~~for operation~~  
27 ~~upon a public highway and~~ to travel on not more than 3 wheels in

1 contact with the ground, ~~and that~~ WHICH is equipped with a  
2 motor that exceeds 50 cubic centimeters piston displacement. The  
3 wheels on any attachment to the vehicle shall not be considered  
4 as wheels in contact with the ground. Motorcycle does not  
5 include a moped, as defined in section 32b of the Michigan vehi-  
6 cle code, Act No. 300 of the Public Acts of 1949, being section  
7 257.32b of the Michigan Compiled Laws. ~~, or an ORV as defined in~~  
8 ~~section 1 of Act No. 319 of the Public Acts of 1975, being sec-~~  
9 ~~tion 257.1601 of the Michigan Compiled Laws.~~

10 (d) "Motorcycle accident" means a loss involving the owner-  
11 ship, operation, maintenance, or use of a motorcycle as a motor-  
12 cycle, but not involving the ownership, operation, maintenance,  
13 or use of a motor vehicle as a motor vehicle.

14 (e) "Motor vehicle" means a vehicle, ~~that is required to be~~  
15 ~~registered for use on a public highway in this state,~~ including  
16 a trailer, ~~and that is~~ operated or designed for operation upon  
17 a public highway by power other than muscular power which has  
18 more than 2 wheels. Motor vehicle does not include a motorcycle  
19 or a moped, as defined in section 32b of Act No. 300 of the  
20 Public Acts of 1949, being section 257.32b of the Michigan  
21 Compiled Laws. ~~, or an ORV as defined in section 1 of Act~~  
22 ~~No. 319 of the Public Acts of 1975, being section 257.1601 of the~~  
23 ~~Michigan Compiled Laws.~~ Motor vehicle does not include a farm  
24 tractor or other implement of husbandry ~~that~~ WHICH is not  
25 subject to the registration requirements of the Michigan vehicle  
26 code pursuant to section 216 of the Michigan vehicle code, Act

1 No. 300 of the public Acts of 1949, being section 257.216 of the  
2 Michigan Compiled Laws.

3 (f) "Motor vehicle accident" means a loss involving the  
4 ownership, operation, maintenance, or use of a motor vehicle as a  
5 motor vehicle regardless of whether the accident also involves  
6 the ownership, operation, maintenance, or use of a motorcycle as  
7 a motorcycle.

8 (g) "Owner" means any of the following:

9 (i) A person renting a motor vehicle or having the use ~~of a~~  
10 ~~motor vehicle~~ THEREOF, under a lease or otherwise, for a period  
11 that is greater than 30 days.

12 (ii) A person who holds the legal title to a vehicle, other  
13 than a person engaged in the business of leasing motor vehicles  
14 who is the lessor of a motor vehicle pursuant to a lease provid-  
15 ing for the use of the motor vehicle by the lessee for a period  
16 that is greater than 30 days.

17 (iii) A person who has the immediate right of possession of  
18 a motor vehicle under an installment sale contract.

19 ~~(h) "Ownership, operation, maintenance, or use of a motor~~  
20 ~~vehicle as a motor vehicle" means that the involvement of the~~  
21 ~~motor vehicle in the injury was directly related to the transpor-~~  
22 ~~tation function of the motor vehicle.~~

23 (H) ~~(i)~~ "Registrant" does not include a person engaged in  
24 the business of leasing motor vehicles who is the lessor of a  
25 motor vehicle pursuant to a lease providing for the use of the  
26 motor vehicle by the lessee for a period that is greater than 30  
27 days.

1       (3) Security may be provided under a policy issued by an  
2 insurer duly authorized to transact business in this state ~~that~~  
3 WHICH affords insurance for the payment of benefits described in  
4 subsection (1). A policy of insurance represented or sold as  
5 providing security shall be deemed to provide insurance for the  
6 payment of the benefits.

7       (4) Security required by subsection (1) may be provided by  
8 any other method approved by the secretary of state as affording  
9 security equivalent to that afforded by a policy of insurance, if  
10 proof of the security is filed and continuously maintained with  
11 the secretary of state throughout the period the motor vehicle is  
12 driven or moved upon a highway. The person filing the security  
13 has all the obligations and rights of an insurer under this  
14 chapter. When the context permits, "insurer" as used in this  
15 chapter, includes any person filing the security as provided in  
16 this section.

17       Sec. 3101a. (1) An insurer, in conjunction with the issu-  
18 ance of an automobile insurance policy, as defined in section  
19 3303, shall provide 2 certificates of insurance to each  
20 policyholder. ~~Each certificate of insurance shall list the~~  
21 ~~market assistance plan's toll free telephone number established~~  
22 ~~pursuant to section 2115a.~~ The insurer shall mark 1 of the cer-  
23 tificates as the secretary of state's copy, ~~and that copy or an~~  
24 ~~electronically or electromagnetically transmitted facsimile of~~  
25 ~~that copy~~ WHICH COPY shall be filed with the secretary of state  
26 by the policyholder upon application for a vehicle registration.

1 The secretary of state shall not maintain the certificate of  
2 insurance received under this subsection on file.

3 (2) A person who supplies false information to the secretary  
4 of state under this section or who issues or uses an invalid cer-  
5 tificate of insurance is guilty of a misdemeanor punishable by  
6 imprisonment for not more than 1 year, or a fine of not more than  
7 \$1,000.00, or both.

8 Sec. 3104. (1) An unincorporated, nonprofit association to  
9 be known as the ~~excess PIP~~ CATASTROPHIC CLAIMS association,  
10 hereinafter referred to as the association, is created. Each  
11 insurer engaged in writing insurance coverages ~~that~~ WHICH pro-  
12 vide the security required by section 3101(1) within this state,  
13 as a condition of its authority to transact insurance in this  
14 state, shall be a member of the association and shall be bound by  
15 the plan of operation of the association. Each insurer engaged  
16 in writing insurance coverages ~~that~~ WHICH provide the security  
17 required by section 3103(1) within this state, as a condition of  
18 its authority to transact insurance in this state, shall be con-  
19 sidered a member of the association, but only for purposes of  
20 assessments under subsection (7)(d). Except as expressly pro-  
21 vided in this section, the association shall not be subject to  
22 any laws of this state with respect to insurers, but in all other  
23 respects the association shall be subject to the laws of this  
24 state to the extent that the association would be were it an  
25 insurer organized and subsisting under chapter 50.

26 (2) The association shall provide and each member shall  
27 accept indemnification for 100% of the amount of ultimate loss

1 sustained under personal protection insurance coverages in excess  
2 of ~~the following amounts in each loss occurrence:~~ \$250,000.00  
3 IN EACH LOSS OCCURRENCE. AS USED IN THIS SECTION, "ULTIMATE  
4 LOSS" MEANS THE ACTUAL LOSS AMOUNTS WHICH A MEMBER IS OBLIGATED  
5 TO PAY AND WHICH ARE PAID OR PAYABLE BY THE MEMBER, AND SHALL NOT  
6 INCLUDE CLAIM EXPENSES. AN ULTIMATE LOSS IS INCURRED BY THE  
7 ASSOCIATION ON THE DATE WHICH THE LOSS OCCURS.

8 ~~(a) For an automobile policy issued or renewed before 300~~  
9 ~~days after the effective date of the amendatory act that added~~  
10 ~~this subdivision, \$250,000.00.~~

11 ~~(b) For an automobile policy issued or renewed 300 days to~~  
12 ~~and including 665 days after the effective date of the amendatory~~  
13 ~~act that added this subdivision, \$300,000.00.~~

14 ~~(c) For an automobile policy issued or renewed 666 days to~~  
15 ~~and including 1031 days after the effective date of the amenda-~~  
16 ~~tory act that added this subdivision, \$400,000.00.~~

17 ~~(d) For an automobile policy issued or renewed on and after~~  
18 ~~1032 days after the effective date of the amendatory act that~~  
19 ~~added this subdivision, \$500,000.00, adjusted annually every~~  
20 ~~October 1 by the lesser of 5% or the consumer price index, and~~  
21 ~~rounded up to the nearest \$25,000.00.~~

22 (3) An insurer may withdraw from the association only upon  
23 ceasing to write insurance ~~that~~ WHICH provides the security  
24 required by section 3101(1) in this state.

25 (4) An insurer whose membership in the association has been  
26 terminated by withdrawal shall continue to be bound by the plan  
27 of operation, and upon withdrawal, all unpaid premiums ~~that~~

1 WHICH have been charged to the withdrawing member shall be  
2 payable as of the effective date of the withdrawal.

3 (5) An unsatisfied net liability to the association of an  
4 insolvent member shall be assumed by and apportioned among the  
5 remaining members of the association as provided in the plan of  
6 operation. The association shall have all rights allowed by law  
7 on behalf of the remaining members against the estate or funds of  
8 the insolvent member for sums due the association.

9 (6) ~~if~~ WHEN a member has been merged or consolidated into  
10 another insurer or another insurer has reinsured a member's  
11 entire business ~~that~~ WHICH provides the security required by  
12 section 3101(1) in this state, the member and successors in  
13 interest of the member shall remain liable for the member's  
14 obligations.

15 (7) The association shall do all of the following on behalf  
16 of the members of the association:

17 (a) Assume 100% of all liability as provided in subsection  
18 (2).

19 (b) Establish procedures by which members shall promptly  
20 report to the association each claim ~~that~~ WHICH, on the basis  
21 of the injuries or damages sustained, may reasonably be antici-  
22 pated to involve the association if the member is ultimately held  
23 legally liable for the injuries or damages. Solely for the pur-  
24 pose of reporting claims, the member shall in all instances con-  
25 sider itself legally liable for the injuries or damages. The  
26 member shall also advise the association of subsequent

1 developments likely to materially affect the interest of the  
2 association in the claim.

3 (c) Maintain relevant loss and expense data relative to all  
4 liabilities of the association and require each member to furnish  
5 statistics, in connection with liabilities of the association, at  
6 the times and in the form and detail as may be required by the  
7 plan of operation.

8 (d) ~~Subject to subsection (25), in~~ IN a manner provided  
9 for in the plan of operation, calculate and charge to members of  
10 the association a total premium sufficient to cover the expected  
11 losses and expenses of the association ~~that~~ WHICH the associa-  
12 tion will likely incur during the period for which the premium is  
13 applicable. The premium shall include an amount to cover  
14 incurred but not reported losses for the period and may be  
15 adjusted for any excess or deficient premiums from previous  
16 periods. Excesses or deficiencies from previous periods may be  
17 fully adjusted in a single period or may be adjusted over several  
18 periods in a manner provided for in the plan of operation. Each  
19 member shall be charged an amount equal to that member's total  
20 earned car years of insurance providing the security required by  
21 section 3101(1) or 3103(1), or both, written in this state during  
22 the period to which the premium applies, multiplied by the aver-  
23 age premium per car. ~~and adjusted to reflect the amount of cov-~~  
24 ~~erage selected by each member's insureds under section 3107.~~ The  
25 average premium per car shall be the total premium calculated  
26 divided by the total earned car years of insurance providing the  
27 security required by section 3101(1) or 3103(1) written in this



1 state of all members during the period to which the premium  
2 applies. As used in this subdivision, "car" includes a  
3 motorcycle.

4 (e) Require and accept the payment of premiums from members  
5 of the association as provided for in the plan of operation. The  
6 association shall do either of the following:

7 (i) Require payment of the premium in full within 45 days  
8 after the premium charge.

9 (ii) Require payment of the premiums to be made periodically  
10 to cover the actual cash obligations of the association.

11 (f) Receive and distribute all sums required by the opera-  
12 tion of the association.

13 (g) Establish procedures for reviewing claims procedures and  
14 practices of members of the association. If the claims proce-  
15 dures or practices of a member are considered inadequate to prop-  
16 erly service the liabilities of the association, the association  
17 may undertake or may contract with another person, including  
18 another member, to adjust or assist in the adjustment of claims  
19 for the member on claims ~~that~~ WHICH create a potential liabil-  
20 ity to the association and may charge the cost of the adjustment  
21 to the member.

22 (8) In addition to other powers granted to it by this sec-  
23 tion, the association may do all of the following:

24 (a) Sue and be sued in the name of the association. A judg-  
25 ment against the association shall not create any direct liabil-  
26 ity against the individual members of the association. The  
27 association may provide for the indemnification of its members,

1 members of the board of directors of the association, and  
2 officers, employees, and other persons lawfully acting on behalf  
3 of the association.

4 (b) Reinsure all or any portion of its potential liability  
5 with reinsurers licensed to transact insurance in this state or  
6 approved by the commissioner.

7 (c) Provide for appropriate housing, equipment, and person-  
8 nel as may be necessary to assure the efficient operation of the  
9 association.

10 (d) Pursuant to the plan of operation, adopt reasonable  
11 rules for the administration of the association, enforce those  
12 rules, and delegate authority, as the board considers necessary  
13 to assure the proper administration and operation of the associa-  
14 tion consistent with the plan of operation.

15 (e) Contract for goods and services, including independent  
16 claims management, actuarial, investment, and legal services,  
17 from others within or without this state to assure the efficient  
18 operation of the association.

19 (f) Hear and determine complaints of a company or other  
20 interested party concerning the operation of the association.

21 (g) Perform other acts not specifically enumerated in this  
22 section ~~that~~ WHICH are necessary or proper to accomplish the  
23 purposes of the association and ~~that~~ WHICH are not inconsistent  
24 with this section or the plan of operation.

25 (9) A board of directors is created, hereinafter referred to  
26 as the board, which shall be responsible for the operation of the

1 association consistent with the plan of operation and this  
2 section.

3 (10) The plan of operation shall provide for all of the  
4 following:

5 (a) The establishment of necessary facilities.

6 (b) The management and operation of the association.

7 (C) A PRELIMINARY PREMIUM, PAYABLE BY EACH MEMBER IN PROPOR-  
8 TION TO ITS TOTAL FIRST-YEAR PREMIUM, FOR INITIAL EXPENSES NECES-  
9 SARY TO COMMENCE OPERATION OF THE ASSOCIATION.

10 (D) ~~(c)~~ Procedures to be utilized in charging premiums,  
11 including adjustments from excess or deficient premiums from  
12 prior periods.

13 (E) ~~(d)~~ Procedures governing the actual payment of premi-  
14 ums to the association.

15 (F) ~~(e)~~ Reimbursement of each member of the board by the  
16 association for actual and necessary expenses incurred on associ-  
17 ation business.

18 (G) ~~(f)~~ The investment policy of the association.

19 (H) ~~(g)~~ Any other matters required by or necessary to  
20 effectively implement this section.

21 (11) ~~Each~~ NOT MORE THAN 30 DAYS AFTER THE EFFECTIVE DATE  
22 OF THIS SECTION, THE COMMISSIONER SHALL CONVENE AN ORGANIZATIONAL  
23 MEETING OF THE BOARD. THE BOARD SHALL BE INITIALLY COMPOSED OF 5  
24 MEMBERS OF THE ASSOCIATION APPOINTED BY THE COMMISSIONER TO SERVE  
25 AS DIRECTORS, AND THE COMMISSIONER OR A DESIGNATED REPRESENTATIVE  
26 OF THE COMMISSIONER SERVING AS AN EX OFFICIO MEMBER OF THE BOARD  
27 WITHOUT VOTE. THE INITIAL BOARD AND EACH SUCCESSOR board shall

1 include members ~~that~~ WHICH would contribute a total of not less  
2 than 40% of the total premium calculated pursuant to subsection  
3 (7)(d). Each director shall be entitled to 1 vote. The initial  
4 term of office of a director shall be 2 years.

5 (12) As part of the plan of operation, the board shall adopt  
6 rules providing for the composition and term of successor boards  
7 to the initial board, consistent with the membership composition  
8 requirements in subsections (11) and (13). Terms of the direc-  
9 tors shall be staggered so that the terms of all the directors do  
10 not expire at the same time and so that a director does not serve  
11 a term of more than 4 years.

12 (13) The board shall consist of 5 directors and the commis-  
13 sioner shall be an ex officio member of the board without vote.

14 (14) Each director shall be appointed by the commissioner  
15 and shall serve until that member's successor is selected and  
16 qualified. The chairperson of the board shall be elected by the  
17 board. A vacancy on the board shall be filled by the commis-  
18 sioner consistent with the plan of operation.

19 (15) After the board is appointed, the board shall meet as  
20 often as the chairperson, the commissioner, or the plan of opera-  
21 tion shall require, or at the request of any 3 members of the  
22 board. The chairperson shall retain the right to vote on all  
23 issues. Four members of the board shall constitute a quorum.

24 (16) An annual report of the operations of the association  
25 in a form and detail as may be determined by the board shall be  
26 furnished to each member.

1       (17) Not more than 60 days after the initial organizational  
2 meeting of the board, the board shall submit to the commissioner  
3 for approval a proposed plan of operation consistent with the  
4 objectives and provisions of this section, which shall provide  
5 for the economical, fair, and nondiscriminatory administration of  
6 the association and for the prompt and efficient provision of  
7 indemnity. If a plan is not submitted within this 60-day period,  
8 then the commissioner, after consultation with the board, shall  
9 formulate and place into effect a plan consistent with this  
10 section.

11       (18) The plan of operation, unless approved sooner in writ-  
12 ing, shall be considered to meet the requirements of this section  
13 if it is not disapproved by written order of the commissioner  
14 within 30 days after the date of its submission. Before disap-  
15 proval of all or any part of the proposed plan of operation, the  
16 commissioner shall notify the board in what respect the plan of  
17 operation fails to meet the requirements and objectives of this  
18 section. If the board fails to submit a revised plan of opera-  
19 tion ~~that~~ WHICH meets the requirements and objectives of this  
20 section within the 30-day period, the commissioner shall enter an  
21 order accordingly and shall immediately formulate and place into  
22 effect a plan consistent with the requirements and objectives of  
23 this section.

24       (19) The proposed plan of operation or amendments to the  
25 plan of operation shall be subject to majority approval by the  
26 board, ratified by a majority of the membership having a vote,  
27 with voting rights being apportioned according to the premiums

1 charged in subsection (7)(d) and shall be subject to approval by  
2 the commissioner.

3 (20) Upon approval by the commissioner and ratification by  
4 the members of the plan submitted, or upon the promulgation of a  
5 plan by the commissioner, each insurer authorized to write insur-  
6 ance providing the security required by section 3101(1) in this  
7 state, as ~~provided~~ DEFINED in this section, shall be bound by  
8 and shall formally subscribe to and participate in the plan  
9 approved as a condition of maintaining its authority to transact  
10 insurance in this state.

11 (21) The association shall be subject to all the reporting,  
12 loss reserve, and investment requirements of the commissioner to  
13 the same extent as would a member of the association.

14 (22) Premiums charged members by the association shall be  
15 recognized in the rate-making procedures for insurance rates in  
16 the same manner that expenses and premium taxes are recognized.

17 (23) The commissioner or an authorized representative of the  
18 commissioner may visit the association at any time and examine  
19 any and all the association's affairs.

20 (24) THIS SECTION SHALL TAKE EFFECT ON JULY 1, 1978. The  
21 association shall not have liability for losses occurring before  
22 ~~July 1, 1978~~ THE EFFECTIVE DATE OF THIS SECTION.

23 ~~(25) Notwithstanding any other provisions of this section,~~  
24 ~~the association is authorized to assess members to recoup a defi-~~  
25 ~~ciency that exists in the MCCA account established under~~  
26 ~~subsection (27) only as provided in this subsection. The~~  
27 ~~association shall evaluate annually the assets and liabilities of~~

~~1 the association and determine if a deficiency exists. If a  
2 deficiency does exist, the association, in accordance with the  
3 plan of operation, shall assess members annually as follows:~~

~~4 (a) If the deficiency is less than \$100,000,000.00, the full  
5 amount of the deficiency.~~

~~6 (b) If the deficiency is greater than or equal to  
7 \$100,000,000.00, the greater of \$100,000,000.00 or 12% of the  
8 deficiency.~~

~~9 (c) If an assessment under subdivision (a) or (b) is insuf-  
10 ficient to permit the association to meet its payments, then the  
11 assessment shall be increased to an amount sufficient to meet  
12 those payments.~~

~~13 (26) Any change in the amounts listed in subsection (2)  
14 applies only to policies issued or renewed on and after the date  
15 of the change in the amount.~~

~~16 (27) The association shall maintain 2 separate accounts out  
17 of which members shall be indemnified for ultimate loss. An MECA  
18 account shall indemnify for losses arising under policies issued  
19 or renewed effective before 120 days after the effective date of  
20 the amendatory act that added this subsection. An excess PIP  
21 account shall indemnify for losses arising out of policies issued  
22 or renewed on and after 120 days after the effective date of the  
23 amendatory act that added this subsection. Each account shall be  
24 self-supporting and there shall be no transfer of assets or  
25 liabilities between accounts.~~

~~26 (28) Beginning 120 days after the effective date of the  
27 amendatory act that added this subsection, an insurer shall be~~

1 ~~prohibited from separating the premium paid to either association~~  
2 ~~from the personal protection premium stated on an automobile~~  
3 ~~insurance declaration page.~~

4 ~~(29) As used in this section:~~

5 ~~(a) "Consumer price index" means the annual average percent~~  
6 ~~age increase in the Detroit consumer price index for all items~~  
7 ~~for the prior 12 month period as reported by the United States~~  
8 ~~department of labor and as certified by the commissioner.~~

9 ~~(b) "Ultimate loss" means the actual loss amounts that a~~  
10 ~~member is obligated to pay and that are paid or payable by the~~  
11 ~~member, and shall not include claim expenses. An ultimate loss~~  
12 ~~is incurred by the association on the date that the loss occurs.~~

13 Sec. 3107. (1) Except as provided in subsection ~~(3)~~ (2),  
14 personal protection insurance benefits are payable for the  
15 following:

16 (a) Allowable expenses ~~that, for policies issued or renewed~~  
17 ~~on or after 120 days after the effective date of the amendatory~~  
18 ~~act that added subsection (7), are as provided in subparagraphs~~  
19 ~~(i) and (ii),~~ CONSISTING OF ALL REASONABLE CHARGES incurred for  
20 ~~medically appropriate~~ REASONABLY NECESSARY products, services  
21 ~~and accommodations for an injured person's care, recovery, or~~  
22 ~~rehabilitation. For policies issued or renewed on or after 120~~  
23 ~~days after the effective date of the amendatory act that added~~  
24 ~~subsection (7) and on forms approved by the commissioner, an~~  
25 ~~insurer shall offer the following coverages and an insured shall~~  
26 ~~select in writing 1 of the following coverages.~~ ALLOWABLE  
27 EXPENSES WITHIN PERSONAL PROTECTION INSURANCE COVERAGE SHALL NOT



1 INCLUDE CHARGES FOR A HOSPITAL ROOM IN EXCESS OF A REASONABLE AND  
2 CUSTOMARY CHARGE FOR SEMIPRIVATE ACCOMMODATIONS EXCEPT IF THE  
3 INJURED PERSON REQUIRES SPECIAL OR INTENSIVE CARE, OR FOR FUNERAL  
4 AND BURIAL EXPENSES IN THE AMOUNT SET FORTH IN THE POLICY WHICH  
5 SHALL NOT BE LESS THAN \$1,750.00 OR MORE THAN \$5,000.00.

6 ~~(i) Coverage for allowable expenses consisting of all rea-~~  
7 ~~sonable charges incurred up to a maximum of \$1,000,000.00 for~~  
8 ~~medically appropriate products, services, and accommodations for~~  
9 ~~an injured person's care, recovery, or rehabilitation. This~~  
10 ~~limit shall be adjusted up annually by the commissioner beginning~~  
11 ~~October 1, 1993 so that 99% of personal protection insurance ben-~~  
12 ~~efit claims are fully covered by the limit provided for in this~~  
13 ~~subparagraph. Any change in the limit applies only to benefits~~  
14 ~~arising out of accidents occurring after the date of the change~~  
15 ~~in the limit.~~

16 ~~(ii) Coverage for allowable expenses consisting of all rea-~~  
17 ~~sonable charges incurred up to \$2,000,000.00, \$3,000,000.00,~~  
18 ~~\$4,000,000.00, or \$5,000,000.00 maximums as selected by the~~  
19 ~~insured, and the insurer may offer additional coverage limits,~~  
20 ~~for medically appropriate products, services, and accommodations~~  
21 ~~for an injured person's care, recovery, or rehabilitation. Any~~  
22 ~~change in the limits applies only to benefits arising out of~~  
23 ~~accidents occurring after the date of the change in the limit.~~

24 (b) Work loss consisting of loss of income from work an  
25 injured person would have performed during the first 3 years  
26 after the date of the accident if he or she had not been  
27 injured. Work loss does not include any loss after the date on

1 which the injured person dies. Because the benefits received  
 2 from personal protection insurance for loss of income are not  
 3 taxable income, the benefits payable for such loss of income  
 4 shall be reduced 15% unless the claimant presents to the insurer  
 5 in support of his or her claim reasonable proof of a lower value  
 6 of the income tax advantage in his or her case, in which case the  
 7 lower value shall apply. Beginning March 30, 1973, the benefits  
 8 payable for work loss sustained in a single 30-day period and THE  
 9 income earned by an injured person for work during the same  
 10 period ~~in an amount that~~ together shall not exceed \$1,000.00,  
 11 which maximum ~~applies~~ SHALL APPLY pro rata to any lesser period  
 12 of work loss. Beginning October 1, 1974, the maximum shall be  
 13 adjusted annually ~~every October 1~~ to reflect changes in the  
 14 cost of living under rules prescribed by the commissioner but any  
 15 change in the maximum ~~applies~~ SHALL APPLY only to benefits  
 16 arising out of accidents occurring ~~after~~ SUBSEQUENT TO the date  
 17 of change in the maximum.

18 (c) Expenses not exceeding \$20.00 per day, reasonably  
 19 incurred in obtaining ordinary and necessary services in lieu of  
 20 those that, if he or she had not been injured, an injured person  
 21 would have performed during the first 3 years after the date of  
 22 the accident, not for income but for the benefit of himself or  
 23 herself or of his or her dependent.

24 ~~(2) The following apply to subsection (1):~~

25 ~~(a) If an insured fails to select in writing on a form~~  
 26 ~~approved by the commissioner of the coverages in~~

~~1 subsection (1)(a), an insurer shall provide coverage in the  
2 amount set forth in subsection (1)(a)(i).~~

~~3 (b) Coverage limits under subsection (1)(a) are provided on  
4 a per individual per loss occurrence basis. Coverage under  
5 subsection (1)(a) applies only to benefits payable to the insured  
6 named in the policy, the insured's spouse, and any relative of  
7 either domiciled in the same household.~~

~~8 (c) A person who is not an insured named in a policy, the  
9 insured's spouse, or a relative of either domiciled in the same  
10 household is entitled only to coverage in the limit set forth in  
11 subsection (1)(a)(i).~~

~~12 (d) Personal protection insurance benefits are limited to  
13 the limit set forth in subsection (1)(a)(i) per individual per  
14 loss occurrence for accidents occurring in the state of Michigan  
15 if the injured person is a nonresident of Michigan and the  
16 injured person's benefits are payable under a policy delivered  
17 outside of Michigan only if eligible under section 3163.~~

~~18 (e) Personal protection insurance benefits are not payable  
19 to a nonresident injured in an accident occurring outside of  
20 Michigan to the extent the nonresident recovers medical or dis-  
21 ability benefits under any other policy. If personal protection  
22 insurance benefits are payable to a nonresident under this subdi-  
23 vision, the benefits are limited to the limit set forth in  
24 subsection (1)(a)(i) per individual per loss occurrence.~~

~~25 (2) (3) Each insurer transacting automobile insurance in  
26 this state shall offer a waiver to each A person who is 60 years  
27 of age or older and in the event of an accidental bodily injury~~

1 would not be eligible to receive work loss benefits under  
2 subsection (1)(b) MAY WAIVE COVERAGE FOR WORK LOSS BENEFITS BY  
3 SIGNING A WAIVER ON A FORM PROVIDED BY THE INSURER. An insurer  
4 shall offer a reduced premium rate to a person who waives cover-  
5 age under this subsection for work loss benefits. Waiver of cov-  
6 erage for work loss benefits applies only to work loss benefits  
7 payable to the person or persons who have signed the waiver  
8 form.

9 ~~(4) As used in this section:~~

10 ~~(a) Medically appropriate products, services, and accommoda-~~  
11 ~~tions rendered or prescribed by a health care facility or health~~  
12 ~~care provider are those that are medically necessary and do not~~  
13 ~~include products, services, and accommodations that would have~~  
14 ~~been needed or used by the injured person or a member of the~~  
15 ~~injured person's household without regard to the loss~~  
16 ~~occurrence. Under no circumstances shall an insurer be required~~  
17 ~~to provide coverage for any product, service, or accommodation~~  
18 ~~that is not medically appropriate and medically necessary for an~~  
19 ~~injured person's care, recovery, or rehabilitation and reasonably~~  
20 ~~likely to provide continued effectiveness with respect to the~~  
21 ~~injured person's care, recovery, or rehabilitation. If an~~  
22 ~~insured wants durable medical equipment that is more expensive~~  
23 ~~than what the insurer has determined is actually medically appro-~~  
24 ~~priate and medically necessary, the cost of the equipment that~~  
25 ~~the insurer has determined is medically appropriate and medically~~  
26 ~~necessary shall be paid as partial payment for the durable~~  
27 ~~medical equipment that the insured desires. If reimbursement for~~

~~1 a product, service, or accommodation rendered or prescribed is  
2 initially rejected in whole or in part by an insurer as not being  
3 medically appropriate and medically necessary, the insurer, at  
4 the provider's request, shall have the decision reexamined by a  
5 provider who has the same license, certification, or registration  
6 as the provider who provided the product, service, or accommoda-  
7 tion being reexamined or who has a license, registration, or cer-  
8 tification with a scope of practice that includes the scope of  
9 practice of the license, registration, or certification of the  
10 provider who provided the product, service, or accommodation  
11 being reexamined. Each insurer shall designate a person with  
12 whom providers can discuss insurer determinations of what is med-  
13 ically appropriate and medically necessary. Disputes over rea-  
14 sonable charges and medically appropriate and medically necessary  
15 products, services, and accommodations shall be a question of law  
16 to be decided by the court.~~

~~17 (b) Expenses within personal protection insurance coverage  
18 shall not include charges for a hospital room in excess of a rea-  
19 sonable and customary charge for semiprivate accommodations  
20 except if the injured person requires special or intensive care,  
21 including but not limited to care provided by a psychiatric unit,  
22 or for funeral and burial expenses in excess of the amount set  
23 forth in the policy which shall not be less than \$1,750.00 or  
24 more than \$5,000.00.~~

~~25 (c) Expenses within personal protection insurance coverage  
26 shall not include experimental treatment or participation in  
27 research projects.~~

1       ~~(d) Expenses for attendant care services provided by a home~~  
2 ~~health agency are limited to the reasonable and customary charge~~  
3 ~~of the agency for the appropriate skill level and time intensity~~  
4 ~~of service. Expenses for attendant care services for home health~~  
5 ~~care provided by licensed or unlicensed persons, including a~~  
6 ~~member of the same household whether or not he or she is employed~~  
7 ~~by a home health agency, are limited to the customary wage the~~  
8 ~~individual would have received if in the employ of a home health~~  
9 ~~agency commensurate with the person's qualifications. Expenses~~  
10 ~~for attendant care services for supervision by members of the~~  
11 ~~same household will not be covered in excess of 16 hours per~~  
12 ~~day. Attendant care provided continuously for more than 6 months~~  
13 ~~may be limited to quadriplegic spinal cord, brain injured, or~~  
14 ~~similarly injured persons as diagnosed by the injured person's~~  
15 ~~physician. As used in this subdivision, "attendant" means an~~  
16 ~~individual who provides assistance to the injured person with~~  
17 ~~activities of daily living including but not limited to ambulat-~~  
18 ~~ing, feeding, grooming, dressing, toileting, transfers, and~~  
19 ~~supervision that may be required for safety of the injured~~  
20 ~~person. An attendant may be a trained nurse or nursing assistant~~  
21 ~~but an attendant providing attendant care shall not be reimbursed~~  
22 ~~for practicing the profession of nursing.~~

23       ~~(e) Expenses for skilled home care provided by a home health~~  
24 ~~agency are limited to the reasonable and customary charge of the~~  
25 ~~agency for the appropriate skill level and time intensity of~~  
26 ~~service. Expenses for skilled home care provided by licensed or~~  
27 ~~unlicensed persons, including a member of the same household~~

~~1 whether or not he or she is employed by a home health agency, are~~  
~~2 limited to the customary wage the individual would have received~~  
~~3 if in the employ of a home health agency commensurate with the~~  
~~4 person's qualifications. Expenses for skilled home care by mem-~~  
~~5 bers of the same household will not be covered in excess of 16~~  
~~6 hours per day.~~

~~7 (f) Expenses for medically appropriate psychological serv-~~  
~~8 ices that are reasonably likely to produce significant measurable~~  
~~9 improvement in the injured person's psychological status and that~~  
~~10 are prescribed by a physician or licensed psychologist shall be~~  
~~11 limited to a fixed duration time period not to exceed 26 weeks~~  
~~12 and shall apply only if the need for the services arose out of~~  
~~13 the injured person's loss occurrence. The services may be~~  
~~14 extended for 1 additional time period not to exceed 26 weeks if~~  
~~15 the services are reasonably likely to produce significant measur-~~  
~~16 able improvement in the injured person's psychological status.~~  
~~17 The 26 and 52 week period may be extended if it is reasonably~~  
~~18 likely that treatment of a longer duration, which may be inter-~~  
~~19 mittent over the years the case is managed, may produce signifi-~~  
~~20 cant measurable improvement in the injured person's psychological~~  
~~21 or neuropsychological status. Psychological services shall be~~  
~~22 provided by a person licensed under part 182 of the public health~~  
~~23 code, Act No. 368 of the Public Acts of 1978, being sections~~  
~~24 333.18201 to 333.18237 of the Michigan Compiled Laws, or by a~~  
~~25 social worker registered under article 16 of the occupational~~  
~~26 code, Act No. 299 of the Public Acts of 1980, being sections~~  
~~27 339.1601 to 339.1610 of the Michigan Compiled Laws.~~

1       ~~(g) Expenses for medically appropriate vocational~~  
2 ~~rehabilitation services that are reasonably likely to produce~~  
3 ~~significant rehabilitation shall be reimbursed for a~~  
4 ~~fixed duration time period not to exceed 52 weeks. The services~~  
5 ~~may be extended for 1 additional time period not to exceed 52~~  
6 ~~weeks if the services are reasonably likely to produce signifi-~~  
7 ~~cant rehabilitation and shall cease once the injured person has~~  
8 ~~acquired employment skills.~~

9       ~~(h) Expenses for home modification accommodations that are~~  
10 ~~functionally necessary to meet the injured person's treatment,~~  
11 ~~rehabilitation, maintenance, and daily living needs that are a~~  
12 ~~result of his or her injuries shall not exceed \$50,000.00~~  
13 ~~adjusted annually to reflect changes in the cost of living under~~  
14 ~~rules prescribed by the commissioner but any change in the maxi-~~  
15 ~~mum applies only to benefits arising out of loss occurrences~~  
16 ~~after the date of change in the maximum.~~

17       ~~(i) Expenses for a special motor vehicle or motor vehicle~~  
18 ~~modification accommodations that are functionally necessary for~~  
19 ~~the vehicular mobility of the injured person are limited to nec-~~  
20 ~~essary modifications to an existing motor vehicle, or if a spe-~~  
21 ~~cial motor vehicle is required, the cost of the special vehicle~~  
22 ~~and the functionally necessary modifications to it that are~~  
23 ~~directly necessitated by and related to the injured person's~~  
24 ~~injuries. Costs for replacement special motor vehicles or motor~~  
25 ~~vehicle modifications shall not be incurred more frequently than~~  
26 ~~once every 7 years and are limited to a maximum of \$50,000.00~~



~~1 Every 7 years adjusted annually to reflect changes in the cost of  
2 living under rules prescribed by the commissioner.~~

~~3 (5) An insurer shall directly reimburse a provider of serv-  
4 ces received pursuant to this chapter unless the insured has  
5 already directly reimbursed the provider of services.~~

~~6 (6) Regardless of the number of motor vehicles insured or  
7 insurers providing security in accordance with this chapter, or  
8 the provisions of any other law providing for direct benefits  
9 without regard to fault for motor or any other vehicle accidents,  
10 a person shall not recover duplicate benefits for the same  
11 expenses or losses incurred under this section.~~

~~12 (7) A health care facility or health care provider shall  
13 not bill an insured or report to a credit reporting agency an  
14 insured's failure to pay for products, services, and accommoda-  
15 tions rendered when an amount is disputed by the insurer or when  
16 that amount exceeds the payment made by the insurer. If an  
17 insured receives medical care from a health care facility or  
18 health care provider for an automobile accident injury, an  
19 assignment of the insured's rights to enforce coverage and col-  
20 lect medical care payments for services rendered and products  
21 provided by that health care facility or health care provider  
22 automatically passes to the health care facility or health care  
23 provider that rendered the services or provided the products.~~

~~24 (8) This section shall not be interpreted to exclude any  
25 health care provider providing services within the scope of their  
26 licensure, certification, or registration. As used in this  
27 subsection, "health care provider" means a person licensed,~~

~~1 certified, or registered under parts 61 to 65 or 161 to 182 of~~  
~~2 the public health code, Act No. 368 of the Public Acts of 1970,~~  
~~3 being sections 333.6101 to 333.6523 and 333.16101 to 333.18237 of~~  
~~4 the Michigan Compiled Laws.~~

5       Sec. 3109a. ~~(1)~~ An insurer providing personal protection  
 6 insurance benefits shall offer, at appropriately reduced premium  
 7 rates, deductibles and exclusions reasonably related to other  
 8 health and accident coverage on the insured. The deductibles and  
 9 exclusions required to be offered by this section ~~are~~ SHALL BE  
 10 subject to prior approval by the commissioner and SHALL apply  
 11 only to benefits payable to the person named in the policy, the  
 12 spouse of the insured ~~—~~ and any relative of either domiciled in  
 13 the same household.

14       ~~(2) Health and accident coverage that does not become~~  
 15 ~~effective until after the date of the injury is secondary to per-~~  
 16 ~~sonal protection insurance benefits for all services related to~~  
 17 ~~the injury.~~

18       ~~(3) Coverage under title XVIII of the social security act,~~  
 19 ~~chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b 2,~~  
 20 ~~1395c to 1395i, 1395i 2 to 1395i 4, 1395j to 1395t, 1395u to~~  
 21 ~~1395w 2, 1395w 4 to 1395ccc, or title XIX of the social security~~  
 22 ~~act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f and 1396i~~  
 23 ~~to 1396u, or coverage pursuant to a medicare supplemental policy~~  
 24 ~~or certificate or a contract issued by a health maintenance orga-~~  
 25 ~~nization to an individual eligible for medicare is not considered~~  
 26 ~~other health and accident coverage for purposes of this section.~~

1       Sec. 3115.   (1) Except as provided in SUBSECTION (1) OF  
2 section ~~3114(1)~~ 3114, a person suffering accidental bodily  
3 injury while not an occupant of a motor vehicle shall claim per-  
4 sonal protection insurance benefits from insurers in the follow-  
5 ing order of priority:

6       (a) Insurers of owners or registrants of motor vehicles  
7 involved in the accident.

8       (b) Insurers of operators of motor vehicles involved in the  
9 accident.

10       (2) When 2 or more insurers are in the same order of prior-  
11 ity to provide personal protection insurance benefits an insurer  
12 paying benefits due is entitled to partial recoupment from the  
13 other insurers in the same order of priority, together with a  
14 reasonable amount of partial recoupment of the expense of pro-  
15 cessing the claim, in order to accomplish equitable distribution  
16 of the loss among such insurers.

17       (3) A limit upon the amount of personal protection insurance  
18 benefits available because of accidental bodily injury to 1  
19 person arising from 1 motor vehicle accident shall be determined  
20 without regard to the number of policies applicable to the  
21 accident.

22       ~~(4) Regardless of the number of vehicles insured under the~~  
23 ~~policy, in no event shall the limit of liability for 2 or more~~  
24 ~~motor vehicles or 2 or more policies be added together, combined,~~  
25 ~~or stacked to determine the limit of insurance coverage available~~  
26 ~~for each injured person covered under the policy.~~

1       Sec. 3116. (1) A subtraction from personal protection  
2 insurance benefits shall not be made because of the value of a  
3 claim in tort based on the same accidental bodily injury.

4       (2) A subtraction from or reimbursement for personal protec-  
5 tion insurance benefits paid or payable under this chapter shall  
6 be made only if recovery is realized upon a tort claim arising  
7 from an accident occurring outside this state, a tort claim  
8 brought within this state against the owner or operator of a  
9 motor vehicle with respect to which the security required by sec-  
10 tion 3101 (3) and (4) was not in effect, or a tort claim brought  
11 within this state based on intentionally caused harm to persons  
12 or property, and shall be made only to the extent that the recov-  
13 ery realized by the claimant is for damages for which the claim-  
14 ant has received or would otherwise be entitled to receive per-  
15 sonal protection insurance benefits. A subtraction shall be made  
16 only to the extent of the recovery, exclusive of reasonable  
17 attorneys' fees and other reasonable expenses incurred in effect-  
18 ing the recovery. If personal protection insurance benefits have  
19 already been received, the claimant shall repay to the insurers  
20 out of the recovery a sum equal to the benefits received, but not  
21 more than the recovery exclusive of reasonable attorneys' fees  
22 and other reasonable expenses incurred in effecting the  
23 recovery. The insurer shall have a lien on the recovery to this  
24 extent. A recovery by an injured person or his or her estate for  
25 loss suffered by the person shall not be subtracted in calculat-  
26 ing benefits due a dependent after the death and a recovery by a  
27 dependent for loss suffered by the dependent after the death

1 shall not be subtracted in calculating benefits due the injured  
2 person.

3 (3) A personal protection insurer with a right of reimburse-  
4 ment under subsection (1), if suffering loss from inability to  
5 collect reimbursement out of a payment received by a claimant  
6 upon a tort claim ~~is~~ is entitled to indemnity from a person who,  
7 with notice of the insurer's interest, made the payment to the  
8 claimant without making the claimant and the insurer joint payees  
9 as their interests may appear or without obtaining the insurer's  
10 consent to a different method of payment.

11 (4) A subtraction or reimbursement shall not be due the  
12 claimant's insurer from that portion of any recovery to the  
13 extent that recovery is realized for noneconomic loss as provided  
14 in section 3135(1) and ~~(3)(b)~~ (2)(B) or for allowable expenses,  
15 work loss, and survivor's loss as ~~prescribed~~ DEFINED in sec-  
16 tions 3107 to 3110 in excess of the amount recovered by the  
17 claimant from his or her insurer.

18 Sec. 3135. (1) A person remains subject to tort liability  
19 for noneconomic loss caused by his or her ownership, maintenance,  
20 or use of a motor vehicle only if the injured person has suffered  
21 death, serious impairment of body function, or permanent serious  
22 disfigurement.

23 ~~(2) For a cause of action for damages pursuant to~~  
24 ~~subsection (1) filed on or after 120 days after the effective~~  
25 ~~date of the amendatory act that added this subsection, all of the~~  
26 ~~following apply:~~

1       ~~(a) The injured person shall not have suffered serious~~  
2 ~~impairment of body function unless the person has suffered an~~  
3 ~~objectively manifested impairment of an important body function~~  
4 ~~that affects his or her general ability to lead his or her normal~~  
5 ~~life. The issue of whether an injured person has suffered seri-~~  
6 ~~ous impairment of body function shall be a question of law for~~  
7 ~~the court.~~

8       ~~(b) Damages shall be assessed on the basis of comparative~~  
9 ~~fault, except that damages shall not be assessed in favor of a~~  
10 ~~party who is more than 50% at fault.~~

11       ~~(c) Damages shall not be assessed in favor of a party who~~  
12 ~~was operating his or her own vehicle at the time the damage~~  
13 ~~occurred and did not have in effect for the same motor vehicle~~  
14 ~~involved in the accident the security required by section 3101 at~~  
15 ~~the time the damage occurred.~~

16       (2) ~~-(3)-~~ Notwithstanding any other provision of law, tort  
17 liability arising from the ownership, maintenance, or use within  
18 this state of a motor vehicle with respect to which the security  
19 required by section ~~-3101-~~ 3101(3) AND (4) was in effect is abol-  
20 ished except as to:

21       (a) Intentionally caused harm to persons or property. Even  
22 though a person knows that harm to persons or property is sub-  
23 stantially certain to be caused by his or her act or omission,  
24 the person does not cause or suffer such harm intentionally if he  
25 or she acts or refrains from acting for the purpose of averting  
26 injury to any person, including himself or herself, or for the  
27 purpose of averting damage to tangible property.

1 (b) Damages for noneconomic loss as provided and limited in  
2 ~~subsections (1) and (2)~~ SUBSECTION (1).

3 (c) Damages for allowable expenses, work loss, and  
4 survivor's loss as defined in sections 3107 to 3110 in excess of  
5 the daily, monthly, and 3-year limitations contained in those  
6 sections. The party liable for damages is entitled to an exemp-  
7 tion reducing his or her liability by the amount of taxes that  
8 would have been payable on account of income the injured person  
9 would have received if he or she had not been injured.

10 (d) Damages up to ~~\$500.00~~ \$400.00 to motor vehicles, to  
11 the extent that the damages are not covered by insurance. An  
12 action for damages pursuant to this subdivision shall be con-  
13 ducted in compliance with subsection ~~(4)~~ (3).

14 (3) ~~(4)~~ In an action for damages pursuant to subsection  
15 ~~(3)(d)~~ (2)(D):

16 (a) Damages shall be assessed on the basis of comparative  
17 fault, except that damages shall not be assessed in favor of a  
18 party who is more than 50% at fault.

19 (b) Liability shall not be a component of residual liabili-  
20 ty, as prescribed in section 3131, for which maintenance of  
21 security is required by this act.

22 (4) ~~(5)~~ Actions under subsection ~~(3)(d)~~ (2)(D) shall be  
23 commenced, whenever legally possible, in the small claims divi-  
24 sion of the district court or THE CONCILIATION DIVISION OF THE  
25 COMMON PLEAS COURT OF THE CITY OF DETROIT OR the municipal  
26 court. If the defendant or plaintiff removes ~~the~~ SUCH AN

1 action to a higher court and does not prevail, the judge may  
2 assess costs.

3       (5) ~~(6)~~ A decision of a court made pursuant to subsection  
4 ~~(3)(d)~~ (2)(D), shall not be res judicata in any proceeding to  
5 determine any other liability arising from the same circumstances  
6 as gave rise to the action brought pursuant to subsection  
7 ~~(3)(d)~~ (2)(D).

8       ~~(7) In an action for damages pursuant to subsection (1) or~~  
9 ~~(3)(a) filed on or after 120 days after the effective date of the~~  
10 ~~amendatory act that added this subsection:~~

11       ~~(a) The court presiding over the action shall, after a jury~~  
12 ~~verdict, do 1 of the following within 21 days after entry of the~~  
13 ~~judgment:~~

14       ~~(i) Concur in the award.~~

15       ~~(ii) On its own motion or on the motion of any party, review~~  
16 ~~the excessiveness or inadequacy of the amount awarded and deter-~~  
17 ~~mine the appropriate amount.~~

18       ~~(b) In determining the excessiveness or inadequacy of the~~  
19 ~~amount awarded under subdivision (a)(ii), the court shall con-~~  
20 ~~sider all of the following factors:~~

21       ~~(i) The evidence presented at trial.~~

22       ~~(ii) Whether the amount awarded was within the limits of~~  
23 ~~what reasonable minds would consider just compensation for the~~  
24 ~~injury and damages sustained.~~

25       ~~(iii) Whether the amount awarded is comparable to awards in~~  
26 ~~similar cases within the state and in other jurisdictions.~~



1 ~~(iv) Whether the amount awarded was the result of improper~~  
2 ~~methods, prejudice, passion, partiality, sympathy, corruption, or~~  
3 ~~mistake of law or fact.~~

4 ~~(c) If the court finds that the only error in the trial is~~  
5 ~~the inadequacy or excessiveness of the amount awarded, the court~~  
6 ~~may grant a new trial on the issue of the amount of damages only~~  
7 ~~unless, within 14 days, the parties consent in writing to the~~  
8 ~~entry of a judgment in an amount determined by the court.~~

9 (6) SUBSECTIONS (2)(D), (3), (4), AND (5) SHALL TAKE EFFECT  
10 JULY 1, 1980.

11 Sec. 3142. (1) Personal protection insurance benefits are  
12 payable as loss accrues.

13 (2) Personal protection insurance benefits are overdue if  
14 not paid within 30 days after an insurer receives reasonable  
15 proof of the fact and of the amount of loss sustained. If rea-  
16 sonable proof is not supplied as to the entire claim, the amount  
17 supported by reasonable proof is overdue if not paid within 30  
18 days after the proof is received by the insurer. Any part of the  
19 remainder of the claim that is later supported by reasonable  
20 proof is overdue if not paid within 30 days after the proof is  
21 received by the insurer. For the purpose of calculating the  
22 extent to which benefits are overdue, payment shall be treated as  
23 made on the date a draft or other valid instrument was placed in  
24 the United States mail in a properly addressed, postpaid  
25 envelope, or, if not so posted, on the date of delivery.

26 (3) An overdue payment bears SIMPLE interest at the rate  
27 ~~set by section 6013(f) of the revised judicature act of 1961,~~

~~1 Act No. 236 of the Public Acts of 1961, being section 600.6013 of~~  
~~2 the Michigan Compiled Laws OF 12% PER ANNUM. Interest paid~~  
~~3 under this subsection shall be offset by interest payable under~~  
~~4 section 6013(6) of Act No. 236 of the Public Acts of 1961.~~

5       Sec. 3145. (1) ~~Beginning 120 days after the effective date~~  
~~6 of the amendatory act that added this subsection, an action for~~  
~~7 recovery of insurance benefits payable under this chapter shall~~  
~~8 not be commenced unless the claimant has appealed the denial of~~  
~~9 benefits through the informal dispute resolution process~~  
~~10 described in section 3118. Any statute of limitations period~~  
~~11 applicable to the recovery of insurance benefits payable under~~  
~~12 this chapter excluding the period listed in subsection (2) is~~  
~~13 tolled until the claimant has appealed the denial of benefits~~  
~~14 through the informal dispute resolution process described in~~  
~~15 section 3118. (2) An action for recovery of personal protection~~  
~~16 insurance benefits payable under this chapter for accidental~~  
~~17 bodily injury shall~~ MAY not be commenced later than 1 year  
~~18 after the date of the accident causing the injury unless written~~  
~~19 notice of injury as provided herein has been given to the insurer~~  
~~20 within 1 year after the accident causing the injury or unless~~  
~~21 the insurer has previously made a payment of personal protection~~  
~~22 insurance benefits for the injury. (3) If the notice has been~~  
~~23 given or a payment has been made, under subsection (2), the~~  
~~24 action may be commenced at any time within 1 year after the most~~  
~~25 recent allowable expense, work loss, or survivor's loss has~~  
~~26 been incurred. However, the claimant may not recover benefits~~  
~~27 for any portion of the loss incurred more than 1 year before the~~

1 date on which the action was commenced. ~~-(4)-~~ The notice of  
 2 injury required by THIS subsection ~~-(2)-~~ may be given to the  
 3 insurer or any of its authorized agents by a person claiming to  
 4 be entitled to benefits therefor, or by someone in his ~~or her~~  
 5 behalf. The notice shall give the name and address of the claim-  
 6 ant and indicate in ordinary language the name of the person  
 7 injured and the time, place ~~—~~ and nature of his ~~or her~~  
 8 injury.

9 (2) ~~-(5)-~~ An action for recovery of property protection  
 10 insurance benefits shall not be commenced later than 1 year after  
 11 the accident.

12 Sec. 3157. ~~-(1) Subject to subsections (2) and (3), a~~ A  
 13 physician, hospital, clinic ~~—~~ or other person or institution  
 14 lawfully rendering treatment to an injured person for an acciden-  
 15 tal bodily injury covered by personal protection insurance, and a  
 16 person or institution providing rehabilitative occupational  
 17 training following the injury, may charge a reasonable amount for  
 18 the products, services ~~—~~ and accommodations rendered. The  
 19 charge ~~to an injured person or his or her personal protection~~  
 20 ~~insurer~~ shall not exceed the amount the person or institution  
 21 customarily charges ~~and accepts as payment in full~~ for like  
 22 products, services ~~—~~ and accommodations in cases not involving  
 23 ~~personal protection~~ insurance.

24 ~~-(2) By not later than 90 days after the effective date of~~  
 25 ~~the amendatory act that added this subsection and continuing~~  
 26 ~~until a schedule of fees is implemented pursuant to~~  
 27 ~~subsection (3), a physician, hospital, clinic, or other person or~~

~~1 institution lawfully rendering treatment to an injured person for  
2 an accidental bodily injury covered by personal protection insur-  
3 ance, and a person or institution providing rehabilitative occu-  
4 pational training following the injury are limited to, and shall  
5 be paid by the automobile insurer at, either of the following as  
6 selected by the provider:~~

~~7 (a) The amount paid for treatment, service, accommodation,  
8 and medicine pursuant to payment under, or schedules of maximum  
9 fees for worker's compensation contained in, R 418.101 to  
10 R 418.2324 of the Michigan administrative code.~~

~~11 (b) For a health care facility, 113% of the ratio of a par-  
12 ticipating health care facility's costs to its charges for the  
13 prior calendar year as used in the development of reimbursement  
14 to that provider by a payer authorized under the nonprofit health  
15 care corporation reform act, Act No. 350 of the Public Acts of  
16 1980, being sections 550.1101 to 550.1704 of the Michigan  
17 Compiled Laws, multiplied by the prior calendar year's charges  
18 for specific automobile accident injury treatments, services,  
19 accommodations, and medicines. For a health care provider, 110%  
20 of the amount paid for treatment, service, accommodation, and  
21 medicine pursuant to schedules of maximum fees issued by a payer  
22 authorized under Act No. 350 of the Public Acts of 1980. For  
23 facilities in a provider class plan where controlled charges are  
24 paid by a nonprofit health care corporation, controlled charges  
25 shall also be paid by automobile insurers. This subdivision  
26 shall not be interpreted as requiring a nonprofit health care  
27 corporation to reveal any participating provider plans. Any~~

~~1 information needed for reimbursement under this subdivision shall~~  
~~2 come from health care facilities and health care providers who~~  
~~3 elect to be paid pursuant to this subdivision.~~

~~4 (3) The commissioner shall establish schedules of fees pur-~~  
~~5 suant to rules promulgated by the administrative procedures act~~  
~~6 of 1969, Act No. 306 of the Public Acts of 1969, being~~  
~~7 sections 24.201 to 24.328 of the Michigan Compiled Laws, that a~~  
~~8 physician, hospital, clinic, or other person or institution law-~~  
~~9 fully rendering treatment to an injured person for an accidental~~  
~~10 bodily injury covered by personal protection insurance and a~~  
~~11 person or institution providing rehabilitative occupational~~  
~~12 training following the injury shall be limited to for~~  
~~13 reimbursement. The rules shall be submitted for a public hearing~~  
~~14 by 21 months after the effective date of the amendatory act that~~  
~~15 added this subsection. The commissioner shall provide for an~~  
~~16 advisory committee to aid and assist the commissioner in estab-~~  
~~17 lishing the schedules of maximum fees under this subsection for~~  
~~18 any charges or fees that are payable under this subsection. The~~  
~~19 advisory committee shall be appointed by and serve at the plea-~~  
~~20 sure of the commissioner.~~

~~21 (4) Unless an automobile insurer can demonstrate to the~~  
~~22 commissioner's satisfaction that a utilization review system will~~  
~~23 not be cost effective, each insurer shall implement a utilization~~  
~~24 review system. A utilization review system shall be automated~~  
~~25 and include all of the following:~~

~~26 (a) A provider enrollment file.~~

- 1       ~~(b) Uniform claims forms.~~
- 2       ~~(c) Uniform diagnosis and procedure code systems.~~
- 3       ~~(d) Uniform place of service codes that indicate the setting~~  
4 ~~where the service was rendered.~~
- 5       ~~(e) Uniform codes to identify other liable third party~~  
6 ~~payers.~~
- 7       ~~(f) Type of service codes.~~
- 8       ~~(g) Quantification of the dollar amounts of all claims~~  
9 ~~rejected to and paid by other liable parties.~~
- 10       ~~(h) A mechanism for identifying and rejecting claims that~~  
11 ~~fail to meet the requirements of the statute of limitations.~~
- 12       ~~(i) A mechanism for identifying and rejecting nonaccident~~  
13 ~~related claims for review.~~
- 14       ~~(5) Each automobile insurer shall report annually to the~~  
15 ~~commissioner in a form designated by the commissioner the results~~  
16 ~~of its utilization review system established under subsection~~  
17 ~~(4). The report shall include at a minimum the following~~  
18 ~~information:~~
- 19       ~~(a) The savings derived through coordination of benefits~~  
20 ~~with health care coverage carriers.~~
- 21       ~~(b) The savings derived from identification of duplicate~~  
22 ~~claims.~~
- 23       ~~(c) The savings derived from identification of rejection of~~  
24 ~~nonaccident related claims.~~
- 25       ~~(d) All procedures identified as having been performed at~~  
26 ~~facilities not licensed for those procedures including the names~~  
27 ~~of the facilities involved.~~

~~(e) Number of claims and amounts expended, by type of medical and rehabilitative and therapeutic services, for claims processed and paid for the year.~~

~~(6) Automobile insurers shall not use a utilization review system in bad faith or to do either of the following:~~

~~(a) Unduly delay payment of legitimate claims.~~

~~(b) Harass or discriminate against medical providers or injured automobile accident victims.~~

~~(7) A health care facility and health care provider shall accept the amount reimbursed under subsections (2) and (3) as payment in full.~~

~~(8) Nothing in this section requires a health care facility or health care provider to accept a payment at a rate less than what is provided for in subsections (2) and (3) and an insurer is not required to pay more than the health care facility's or health care provider's usual and customary charge.~~

~~(9) This act does not preclude health care facilities or health care providers from contracting with insurers for reimbursement levels that vary from those in this section.~~

Sec. 3172. (1) A person entitled to ~~a~~ claim because of accidental bodily injury arising out of the ownership, operation, maintenance, or use of a motor vehicle as a motor vehicle in this state may obtain personal protection insurance benefits through an assigned claims plan ~~in any of the following situations: (a) If~~ IF no personal protection insurance is applicable to the injury, ~~— (b) If~~ no personal protection insurance applicable to the injury can be identified, ~~— (c) If~~ the personal

1 protection insurance applicable to the injury cannot be  
2 ascertained because of a dispute between 2 or more automobile  
3 insurers concerning their obligation to provide coverage or the  
4 equitable distribution of the loss, ~~(d) If~~ OR the only identi-  
5 fiable personal protection insurance applicable to the injury is,  
6 because of financial inability of 1 or more insurers to fulfill  
7 their obligations, inadequate to provide benefits up to the maxi-  
8 mum prescribed. ~~(2) In any of the situations under subsection~~  
9 ~~(1),~~ IN SUCH CASE unpaid benefits due or coming due are subject  
10 to being collected under the assigned claims plan, and the  
11 insurer to which the claim is assigned, or the assigned claims  
12 facility if the claim is assigned to it, is entitled to reim-  
13 bursement from the defaulting insurers to the extent of their  
14 financial responsibility.

15       (2) ~~(3)~~ Except as otherwise provided in this subsection,  
16 personal protection insurance benefits, including benefits aris-  
17 ing from accidents occurring before the effective date of this  
18 subsection, payable through an assigned claims plan shall be  
19 reduced to the extent that benefits covering the same loss are  
20 available from other sources, regardless of the nature or number  
21 of benefit sources available and regardless of the nature or form  
22 of the benefits, to a person claiming personal protection insur-  
23 ance benefits through the assigned claims plan. This subsection  
24 ~~only applies~~ SHALL ONLY APPLY when the personal protection  
25 insurance benefits are payable through the assigned claims plan  
26 because no personal protection insurance is applicable to the  
27 injury, no personal protection insurance applicable to the injury



1 can be identified, or the only identifiable personal protection  
 2 insurance applicable to the injury is, because of financial  
 3 inability of 1 or more insurers to fulfill their obligations,  
 4 inadequate to provide benefits up to the maximum prescribed. As  
 5 used in this subsection "sources" and "benefit sources" do not  
 6 include the program for medical assistance for the medically  
 7 indigent under the social welfare act, Act No. 280 of the Public  
 8 Acts of 1939, being sections 400.1 to ~~400.119b~~ 400.121 of the  
 9 Michigan Compiled Laws, or insurance under the health insurance  
 10 for the aged act, title XVIII of the social security amendments  
 11 of 1965.

12 (3) ~~(4)~~ If the obligation to provide personal protection  
 13 insurance benefits cannot be ascertained because of a dispute  
 14 between 2 or more automobile insurers concerning their obligation  
 15 to provide coverage or the equitable distribution of the loss,  
 16 and if a method of voluntary payment of benefits cannot be agreed  
 17 upon among or between the disputing insurers, all of the follow-  
 18 ing shall apply:

19 (a) The insurers who are parties to the dispute shall, or  
 20 the claimant may, immediately notify the assigned claims facility  
 21 of their inability to determine their statutory obligations.

22 (b) The claim shall be assigned by the assigned claims  
 23 facility to an insurer which shall immediately provide personal  
 24 protection insurance benefits to the claimant or claimants enti-  
 25 tled to benefits. ~~in the highest amount applicable among the~~  
 26 ~~policies in dispute.~~

1 (c) An action shall be immediately commenced on behalf of  
2 the assigned claims facility by the insurer to whom the claim is  
3 assigned in circuit court for the purpose of declaring the rights  
4 and duties of any interested party.

5 (d) The insurer to whom the claim is assigned shall join as  
6 parties defendant each insurer disputing either the obligation to  
7 provide personal protection insurance benefits or the equitable  
8 distribution of the loss among the insurers.

9 (e) The circuit court shall declare the rights and duties of  
10 any interested party whether or not other relief is sought or  
11 could be granted.

12 (f) After hearing the action, the circuit court shall deter-  
13 mine the insurer or insurers, if any, obligated to provide the  
14 applicable personal protection insurance benefits and the equita-  
15 ble distribution, if any, among the insurers obligated therefor,  
16 and shall order reimbursement to the assigned claims facility  
17 from the insurer or insurers to the extent of the responsibility  
18 as determined by the court. The reimbursement ordered under this  
19 subdivision shall include all benefits and costs paid or incurred  
20 by the assigned claims facility and all benefits and costs paid  
21 or incurred by insurers determined not to be obligated to provide  
22 applicable personal protection insurance benefits, including rea-  
23 sonable attorney fees and interest at the rate prescribed in  
24 section 3175 as of December 31 of the year preceding the determi-  
25 nation of the circuit court.

26 ~~(5) If no personal protection insurance is applicable to~~  
27 ~~the injury or no personal protection insurance applicable to the~~

~~1 injury can be identified, personal protection insurance benefits~~  
~~2 shall be paid only to the limit provided for in section~~  
~~3 3107(1)(a)(i). If the only identifiable personal protection~~  
~~4 insurance applicable to the injury is, because of financial~~  
~~5 inability of 1 or more insurers to fulfill their obligations,~~  
~~6 inadequate to provide benefits up to the maximum prescribed, per-~~  
~~7 sonal protection insurance benefits shall be paid to the limit~~  
~~8 selected by the insured under section 3107(1)(a).~~

~~9 (6) This section does not apply and section 3172a does~~  
~~10 apply if applicable personal protection insurance benefits are~~  
~~11 unavailable because an insurer otherwise obliged to provide that~~  
~~12 coverage under this chapter became, after October 1, 1993, an~~  
~~13 insolvent insurer as defined in chapter 79.~~

~~14 Sec. 3320. (1) Effective 300 days after the effective date~~  
~~15 of the amendatory act that added this subsection, the facility~~  
~~16 shall establish rates that are designed to be self supporting for~~  
~~17 eligible private passenger nonfleet automobile insureds, ineligi-~~  
~~18 ble private passenger nonfleet automobile insureds, and all other~~  
~~19 automobile insurance.~~

~~20 (1) (2) The facility, with respect to private passenger~~  
~~21 nonfleet automobiles, shall provide for all of the following:~~

~~22 (a) The equitable distribution of applicants to designated~~  
~~23 participating members in accordance with the plan of operation.~~

~~24 (b) Issuance of policies of automobile insurance to quali-~~  
~~25 fied applicants as provided in the plan of operation.~~

~~26 (c) The appointment of a number of participating members~~  
~~27 appointed by the facility to act on behalf of the facility for~~

1 the distribution of risks or for the servicing of insureds, as  
2 provided in the plan of operation and consistent with this  
3 section. The facility shall do all of the following:

4 (i) Appoint those members having the 5 highest participation  
5 ratios, as defined in section 3303(e)(i) to act on behalf of the  
6 facility.

7 (ii) Appoint other members to act on behalf of the facility  
8 who volunteer to so act and who meet reasonable servicing stan-  
9 dards established in the plan of operation, up to a maximum of 5  
10 in addition to those appointed pursuant to subparagraph (i).

11 (iii) Appoint additional members to act on behalf of the  
12 facility as necessary to do all of the following:

13 (A) Assure convenient access to the facility for all citi-  
14 zens of this state.

15 (B) Assure a reasonable quality of service for persons  
16 insured through the facility.

17 (C) Assure a reasonable representation of the various insur-  
18 ance marketing systems.

19 (D) Assure reasonable claims handling.

20 (E) Assure a reasonable range of choice of insurers for per-  
21 sons insured through the facility.

22 (d) Standards and monitoring procedures to assure that par-  
23 ticipating members acting on behalf of the facility do all of the  
24 following:

25 (i) Provide service to persons insured through the facility  
26 equivalent to the service provided to persons insured by the  
27 insurer voluntarily.

1 (ii) Handle claims in an efficient and reasonable manner.

2 (iii) Provide internal review procedures for persons insured  
3 through the facility identical to those established pursuant to  
4 chapter 21 for persons insured voluntarily.

5 (e) Establish procedures and guidelines for the issuance of  
6 binders by agents upon receipt of the application for coverage.

7 (f) Provide for the issuance of policies of automobile  
8 insurance to qualified applicants whose licenses to operate a  
9 vehicle have been suspended pursuant to section 310, 310b, 310d,  
10 315, 321a, 324, 328, 512, 515, 625, 625B, 625f, 748, 801c, or 907  
11 of Act No. 300 of the Public Acts of 1949, as amended, being sec-  
12 tions 257.310, 257.310b, 257.310d, 257.315, 257.321a, 257.324,  
13 257.328, 257.512, 257.515, 257.625, 257.625B, 257.625f, 257.748,  
14 257.801c, and 257.907 of the Michigan Compiled Laws, as provided  
15 in the plan of operation. These policies may be canceled after a  
16 period of not less than 30 days if the insured fails to produce  
17 proof that the suspended license has been reinstated.

18 (2) ~~(3)~~ Automobile insurance made available under this  
19 section shall be equivalent to the automobile insurance normally  
20 available in the voluntary competitive market in forms as  
21 approved by the commissioner with such changes, additions, and  
22 amendments as are adopted by the board of governors and approved  
23 by the commissioner.

24 Sec. 3330. (1) The board of governors shall have all power  
25 to direct the operation of the facility, including, at a minimum,  
26 all of the following:

1 (a) To sue and be sued in the name of the facility. A  
2 judgment against the facility shall not create any liabilities in  
3 the individual participating members of the facility.

4 (b) To delegate ministerial duties, to hire a manager, to  
5 hire legal counsel, and to contract for goods and services from  
6 others.

7 (c) To assess participating members on the basis of partici-  
8 pation ratios pursuant to section 3303 to cover anticipated costs  
9 of operation and administration of the facility, to provide for  
10 equitable servicing fees, and to share losses, profits, and  
11 expenses pursuant to the plan of operation.

12 (d) To impose limitations on cancellation or nonrenewal by  
13 participating members of facility-placed business, in addition to  
14 the limitations imposed by chapters 21 and 32.

15 (e) To provide for a limited number of participating members  
16 to receive equitable distribution of applicants; or to provide  
17 for a limited number of participating members to service appli-  
18 cants in a plan of sharing of losses in accordance with ~~section~~  
19 ~~3320(2)(c)~~ THE SUBSECTION 3320(1)(C) and the plan ~~of~~  
20 operation.

21 (f) To provide for standards of performance of service for  
22 the participating members designated pursuant to subdivision  
23 (e).

24 (g) To adopt a plan of operation and any amendments to the  
25 plan, not inconsistent with this chapter, necessary to assure the  
26 fair, reasonable, equitable, and nondiscriminatory manner of  
27 administering the facility, including compliance with chapter 21,

1 and to provide for such other matters as are necessary or  
2 advisable to implement this chapter, including matters necessary  
3 to comply with the requirements of chapter 21.

4 ~~(h) To provide for servicing fees.~~

5 (2) The board of governors shall institute or cause to be  
6 instituted by the facility or on its behalf an automatic data  
7 processing system for recording and compiling data relative to  
8 individuals insured through the facility. An automatic data pro-  
9 cessing system established under this subsection shall, to the  
10 greatest extent possible, be made compatible with the automatic  
11 data processing system maintained by the secretary of state, to  
12 provide for the identification and review of individuals insured  
13 through the facility.

14 Sec. 3340. (1) As agent for participating members, the  
15 facility shall file with the commissioner every manual of classi-  
16 fication, every manual of rules and rates, every rating plan and  
17 every modification of a manual of classification, manual of rules  
18 and rates, or rating plan proposed for use for private passenger  
19 nonfleet automobile insurance placed through the facility. The  
20 facility may incorporate by reference in its filings other mate-  
21 rial on file with the commissioner. The classifications, rules  
22 and rates ~~—~~ and any amendments thereof shall be subject to  
23 prior written approval by the commissioner. Except as provided  
24 in this chapter, rates filed by the facility for private passen-  
25 ger nonfleet automobile insurance shall be in accordance with  
26 chapter 21 and rates by the facility for all other automobile  
27 insurance shall be filed in accordance with chapter 24.

1 (2) Every participating member designated to act on behalf  
2 of the facility shall be authorized to use the rates and rules  
3 approved by the commissioner for use by the facility on business  
4 placed through the facility and shall not use other rates for  
5 automobile insurance placed through the facility.

6 (3) Laws relating to rating organizations or advisory orga-  
7 nizations shall not apply to functions provided for under this  
8 section.

9 (4) Private passenger nonfleet automobile rates for the  
10 facility shall comply with the following requirements:

11 (a) The territories for the facility shall be defined as  
12 those of the principal rating organization ~~or principal advisory~~  
13 ~~organization~~ for the voluntary market.

14 ~~(b) The rates for the facility shall conform with the~~  
15 ~~requirements of chapter 21 governing voluntary market rates.~~

16 ~~(5) If it appears that the income to be derived by the~~  
17 ~~facility from premiums paid by policyholders and from investment~~  
18 ~~income is not adequate to cover the anticipated losses and~~  
19 ~~expenses for the facility's fiscal year, the facility shall imme-~~  
20 ~~diately increase premiums, reduce administrative expenses and~~  
21 ~~servicing carrier fees, or both, as approved by the commissioner~~  
22 ~~in order to assure that the facility continues to be~~  
23 ~~self supporting.~~

24 (B) THE BASE RATES FOR THE FACILITY SHALL BE DERIVED FROM  
25 THE WEIGHTED AVERAGE OF THE BASE RATES CURRENTLY CHARGED IN EACH  
26 FACILITY TERRITORY BY THE 5 LARGEST INSURER GROUPS, DETERMINED BY  
27 VOLUNTARY NET DIRECT AUTOMOBILE INSURANCE CAR YEARS WRITTEN IN



1 THE STATE FOR THE CALENDAR YEAR ENDING DECEMBER 31 OF THE SECOND  
2 PRIOR YEAR AS REPORTED TO THE STATISTICAL AGENT.

3 (C) THE BASE RATES AS DETERMINED IN SUBDIVISION (B) IN EACH  
4 FACILITY TERRITORY SHALL BE MODIFIED AS FOLLOWS:

5 (i) ONE HUNDRED PERCENT OF THE WEIGHTED AVERAGE IN EACH TER-  
6 RITORY IN THE HIGHEST RATED TERRITORY OR TERRITORIES IN THE STATE  
7 WITHIN A SINGLE POLITICAL SUBDIVISION.

8 (ii) FROM 105% TO 125% OF THE WEIGHTED AVERAGE FOR ALL OTHER  
9 FACILITY TERRITORIES, WITH THE HIGHEST RATED SUCH TERRITORIES  
10 RECEIVING THE LOWEST SURCHARGE AND INCREASING TO THE HIGHEST SUR-  
11 CHARGE IN THE LOWEST RATED FACILITY TERRITORIES IN 5 PERCENTAGE  
12 POINT INCREMENTS. IN NO EVENT, HOWEVER, SHALL ANY SUCH RATE  
13 EXCEED THE RATE ESTABLISHED IN SUBDIVISION (i).

14 (D) THE FACILITY SHALL ADJUST ITS RATES AT LEAST ONCE EACH  
15 YEAR OR WHENEVER CHANGES IN PRIVATE COMPETITIVE INSURANCE MARKET  
16 RATE LEVELS WOULD PRODUCE A CHANGE IN EXCESS OF 5% IN THE FACIL-  
17 ITY RATE FOR ANY FACILITY TERRITORY. HOWEVER, CHANGES SHALL NOT  
18 BE MADE MORE OFTEN THAN QUARTERLY.

19 (E) IN THE EVENT THAT UNDERWRITING LOSSES AND ADMINISTRATIVE  
20 EXPENSES RESULTING FROM THE OPERATION OF THE FACILITY AT RATES  
21 ESTABLISHED PURSUANT TO THIS SUBSECTION WOULD EXCEED AN AMOUNT  
22 EQUAL TO 5% OF THE NET DIRECT PRIVATE PASSENGER NONFLEET AUTOMO-  
23 BILE PREMIUMS FOR THIS STATE, THE LEVELS SPECIFIED IN SUBDIVISION  
24 (C)(i) AND (ii) SHALL BE PROPORTIONATELY INCREASED IN AN AMOUNT  
25 TO PRODUCE UNDERWRITING LOSSES AND ADMINISTRATIVE EXPENSES THAT  
26 DO NOT EXCEED 5%.

1       Sec. 3355. Every agent who is authorized to solicit,  
2 negotiate or effect automobile insurance on behalf of any  
3 participating member shall:

4       (a) Offer to place automobile insurance through the facility  
5 for any qualified applicant requesting the agent to do so.

6       (b) If the qualified applicant accepts the offer in subdivi-  
7 sion (a), forward the application and any deposit premium  
8 required in accordance with the plan of operation, rules, and  
9 procedures of the facility.

10       (c) Be entitled to receive, and any participating member be  
11 entitled to pay, a commission for placing insurance through the  
12 facility at the uniform rates of commission as provided in the  
13 plan of operation. ~~which, effective 300 days after the effective~~  
14 ~~date of the amendatory act that added section 3340(5), shall not~~  
15 ~~be greater than 5% for insurance for eligible drivers placed~~  
16 ~~through the facility.~~

17       Sec. 7911. (1) To implement this chapter, there shall be  
18 maintained within this state, by all insurers authorized to  
19 transact in this state insurance other than life or disability  
20 insurance, except the Michigan basic property insurance associa-  
21 tion created pursuant to section 2920, THE BROWN-MCNEELY INSUR-  
22 ANCE FUND CREATED IN SECTION 2502(1), and on and after ~~June 29,~~  
23 ~~1990~~ THE EFFECTIVE DATE OF THIS 1990 AMENDATORY ACT, the acci-  
24 dent fund created in the worker's disability compensation act of  
25 1969, Act No. 317 of the Public Acts of 1969, being sections  
26 418.101 to 418.941 of the Michigan Compiled Laws, an association  
27 of those insurers to be known as the property and casualty

1 guaranty association, hereafter referred to as the  
 2 "association". Each insurer shall be a member of the  
 3 association, as a condition of its authority to continue to  
 4 transact insurance in this state.

5 (2) An insurer from which insurance has been or may be pro-  
 6 cured in this state solely by virtue of sections 1901 to 1955  
 7 shall not be considered to be an insurer authorized to transact  
 8 insurance in this state, for the purposes of this chapter.

9 (3) The association shall be subject to the requirements of  
 10 this chapter ~~—, AND OF chapter 78, and section 3172a,~~ but  
 11 shall not be subject to the other chapters of this act. The  
 12 association shall be subject to other laws of this state to the  
 13 extent that it would be subject to those laws if it were an  
 14 insurer organized and operating under chapter 50, to the extent  
 15 that those other laws are consistent with this chapter.

16 Section 2. Sections 2106a, 2106b, 2106c, 2109a, 2110a,  
 17 2111b, 2111f, 2111g, 2111h, 2112a, 2115a, 2115b, 2115c, 2115d,  
 18 2115e, 2134, 2136, 2138, 2140, 3015, 3103a, 3104a, 3104b, 3118,  
 19 and 3172a and chapter 32a of Act No. 218 of the Public Acts of  
 20 1956, being sections 500.2106a, 500.2106b, 500.2106c, 500.2109a,  
 21 500.2110a, 500.2111b, 500.2111f, 500.2111g, 500.2111h, 500.2112a,  
 22 500.2115a, 500.2115b, 500.2115c, 500.2115d, 500.2115e, 500.2134,  
 23 500.2136, 500.2138, 500.2140, 500.3015, 500.3103a, 500.3104a,  
 24 500.3104b, 500.3118, 500.3172a, and 500.3275 to 500.3297 of the  
 25 Michigan Compiled Laws, are repealed.

26 Section 3. This amendatory act shall not take effect unless  
 27 submitted to the qualified electors of the state at the general

1 election to be held on November 8, 1994, in the same manner as  
2 provided by law for proposed amendments to the state constitution  
3 of 1963, and approved by a majority of the electors voting on the  
4 question. If approved by the electors in the manner prescribed  
5 in this section, this amendatory act shall take effect 10 days  
6 after the date of the official declaration of the vote.