

Act No. 362
Public Acts of 2006
Approved by the Governor
September 15, 2006
Filed with the Secretary of State
September 18, 2006
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STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006

Introduced by Rep. Mortimer

ENROLLED HOUSE BILL No. 6231

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 7925 (MCL 500.7925), as amended by 1980 PA 41.

The People of the State of Michigan enact:

Sec. 7925. (1) "Covered claims" means obligations of an insolvent insurer that meet all of the following requirements:

(a) Arise out of the insurance policy contracts of the insolvent insurer issued to residents of this state or are payable to residents of this state on behalf of insureds of the insolvent insurer.

(b) Were unpaid by the insolvent insurer.

(c) Are presented as a claim to the receiver in this state or the association on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(d) Were incurred or existed before, at the time of, or within 30 days after the date the receiver was appointed.

(e) Arise out of policy contracts of the insolvent insurer issued for all kinds of insurance except life and disability insurance.

(f) Arise out of insurance policy contracts issued on or before the last date on which the insolvent insurer was a member insurer.

(2) Covered claims shall not include any of the following:

(a) Obligations to refund unearned premiums above the first \$500.00 of unearned premiums from each person from any 1 insolvent insurer. The maximum amount of unearned premiums which shall constitute a covered claim shall be adjusted annually to reflect changes in the cost of living under rules prescribed by the commissioner. A refund in an amount less than \$50.00 shall not be made for unearned premiums.

(b) Obligations incurred after the expiration date of the insurance policy, after the insurance policy has been replaced by the insured, or after the insurance policy has been canceled by the association as provided in this chapter.

(c) Obligations arising out of sections 2001 to 2050, or similar provisions of law in another jurisdiction.

(3) Covered claims shall not include any amount due any reinsurer, insurer, insurance pool, underwriting association, health maintenance organization, or health care corporation as subrogation recoveries, contribution, indemnification, or other obligation. A claim for any amount due any reinsurer, insurer, insurance pool, underwriting association, health maintenance organization, or health care corporation shall not be brought against an insured or claimant under a policy issued by the insolvent insurer unless the claim exceeds the association's obligation limitations under subsection (6).

(4) Covered claims shall not include obligations for any first party or third party claim by or against an insured whose net worth exceeds \$25,000,000.00 on December 31, or on the last date of the insured's fiscal period if that is other than December 31, of the year immediately preceding the date the insurer becomes an insolvent insurer. In determining net worth on this date, an insured's net worth shall include the aggregate net worth of the insured and all of its subsidiaries and affiliates as calculated on a consolidated basis. The \$25,000,000.00 net worth limit shall be adjusted annually to reflect the aggregate annual percentage change in the consumer price index since the previous adjustment, rounded to the nearest \$10,000.00. The effective date of the adjustment shall be January 1 of each year. This subsection applies to an insolvency that occurs on or after the effective date of the amendatory act that added this subsection.

(5) Covered claims shall not include any portion of a claim that is in excess of an applicable limit provided in the insurance policy.

(6) Covered claims shall not include that portion of a claim, other than a worker's compensation claim or a claim for personal protection insurance benefits under section 3107, that is in excess of \$5,000,000.00. The \$5,000,000.00 claim cap shall be adjusted annually to reflect the aggregate annual percentage change in the consumer price index since the previous adjustment, rounded to the nearest \$10,000.00. The effective date of the adjustment shall be January 1 of each year and shall apply to claims made on or after that date. The claim cap in effect at the time of payment of a claim shall apply.

(7) Covered claims shall not include adjustment fees and expenses, attorneys' fees and expenses, court costs, interest, or bond premiums if the fees, expenses, costs, interest, or premiums were incurred by the insolvent insurer before the receiver was appointed.

(8) As used in this section:

(a) "Consumer price index" means the consumer price index for all urban consumers in the U.S. city average, as most recently reported by the United States department of labor, bureau of labor statistics, and as certified by the commissioner.

(b) "Control" means that term as defined in section 115(b)(i).

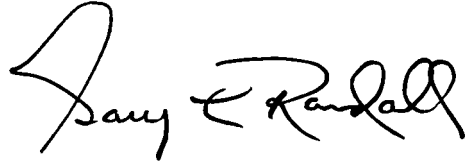
(c) "Health care corporation" means that term as defined in section 105 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1105.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) House Bill No. 6235.

- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6230.
- (f) House Bill No. 6229.
- (g) House Bill No. 6228.
- (h) House Bill No. 6227.
- (i) House Bill No. 6226.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor