

HOUSE BILL No. 4702

May 2, 2007, Introduced by Reps. Hune and Virgil Smith and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2111, 3101, 3104, 3107, 3172, and 7911 (MCL 500.2111, 500.3101, 500.3104, 500.3107, 500.3172, and 500.7911), section 2111 as amended by 2002 PA 492, section 3101 as amended by 1988 PA 126, section 3104 as amended by 2002 PA 662, section 3107 as amended by 1991 PA 191, section 3172 as amended by 1984 PA 426, and section 7911 as amended by 2006 PA 365, and by adding section 3172a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2111. (1) Notwithstanding any provision of this act and
2 this chapter to the contrary, classifications and territorial base
3 rates used by any insurer in this state with respect to automobile
4 insurance or home insurance shall conform to the applicable

1 requirements of this section.

2 (2) Classifications established pursuant to this section for
3 automobile insurance shall be based only upon 1 or more of the
4 following factors, which shall be applied by an insurer on a
5 uniform basis throughout the state:

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

7 (i) Either the age of the driver; the length of driving
8 experience; or the number of years licensed to operate a motor
9 vehicle.

10 (ii) Driver primacy, based upon the proportionate use of each
11 vehicle insured under the policy by individual drivers insured or
12 to be insured under the policy.

13 (iii) Average miles driven weekly, annually, or both.

14 (iv) Type of use, such as business, farm, or pleasure use.

15 (v) Vehicle characteristics, features, and options, such as
16 engine displacement, ability of vehicle and its equipment to
17 protect passengers from injury and other similar items, including
18 vehicle make and model.

19 (vi) Daily or weekly commuting mileage.

20 (vii) Number of cars insured by the insurer or number of
21 licensed operators in the household. However, number of licensed
22 operators shall not be used as an indirect measure of marital
23 status.

24 (viii) Amount of insurance.

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

27 (i) Earned income.

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

3 (iii) Coordination of benefits.

4 (iv) Use of a safety belt.

5 (v) **AMOUNT OF INSURANCE.**

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

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

12 (ii) Vehicle make and model.

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

15 (iv) Vehicle characteristics relating to automobile theft
16 prevention devices.

17 (d) With respect to all automobile insurance coverage other
18 than comprehensive, successful completion by the individual driver
19 or drivers insured under the policy of an accident prevention
20 education course that meets the following criteria:

21 (i) The course shall include a minimum of 8 hours of classroom
22 instruction.

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

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

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

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

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

2 (E) Accident prevention measures.

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

4 (G) Major driving hazards.

5 (H) Interaction with other highway users such as

6 motorcyclists, bicyclists, and pedestrians.

7 (3) Each insurer shall establish a secondary or merit rating
8 plan for automobile insurance, other than comprehensive coverage. A
9 secondary or merit rating plan required under this subsection shall
10 provide for premium surcharges for any or all coverages for
11 automobile insurance, other than comprehensive coverage, based upon
12 any or all of the following, when that information becomes
13 available to the insurer:

14 (a) Substantially at-fault accidents.

15 (b) Convictions for, determinations of responsibility for
16 civil infractions for, or findings of responsibility in probate
17 court for civil infractions for, violations under chapter VI of the
18 Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750.

19 However, beginning ~~90 days after the effective date of this~~
20 ~~sentence~~ **MAY 28, 1996**, an insured shall not be merit rated for a
21 civil infraction under chapter VI of the Michigan vehicle code,
22 1949 PA 300, MCL 257.601 to 257.750, for a period of time longer
23 than that which the secretary of state's office carries points for
24 that infraction on the insured's motor vehicle record.

25 (4) An insurer shall not establish or maintain rates or rating
26 classifications for automobile insurance based upon sex or marital
27 status.

1 (5) Notwithstanding other provisions of this chapter,
2 automobile insurance risks may be grouped by territory.

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

15 (7) Classifications established pursuant to this section for
16 home insurance other than inland marine insurance provided by
17 policy floaters or endorsements shall be based only upon 1 or more
18 of the following factors:

19 (a) Amount and types of coverage.

20 (b) Security and safety devices, including locks, smoke
21 detectors, and similar, related devices.

22 (c) Repairable structural defects reasonably related to risk.

23 (d) Fire protection class.

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

26 (f) Loss experience of the insured, based upon prior claims
27 attributable to factors under the control of the insured that have

1 been paid by an insurer. An insured's failure, after written notice
2 from the insurer, to correct a physical condition that presents a
3 risk of repeated loss shall be considered a factor under the
4 control of the insured for purposes of this subdivision.

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

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

7 (i) Availability of law enforcement or crime prevention
8 services.

9 (8) Notwithstanding other provisions of this chapter, home
10 insurance risks may be grouped by territory.

11 (9) An insurer may utilize factors in addition to those
12 specified in this section, if the commissioner finds, after a
13 hearing held pursuant to the administrative procedures act of 1969,
14 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage
15 innovation, would encourage insureds to minimize the risks of loss
16 from hazards insured against, and would be consistent with the
17 purposes of this chapter.

18 Sec. 3101. (1) The owner or registrant of a motor vehicle
19 required to be registered in this state shall maintain security for
20 payment of benefits under personal protection insurance ~~—~~**IN AN**
21 **AMOUNT NOT LESS THAN THAT REQUIRED UNDER SECTION 3107(1)(A)(i) AND**
22 property protection insurance ~~—~~and residual liability insurance **IN**
23 **AN AMOUNT NOT LESS THAN THAT REQUIRED UNDER SECTION 3009.** Security
24 shall only be required to be in effect during the period the motor
25 vehicle is driven or moved upon a highway. Notwithstanding any
26 other provision in this act, an insurer that has issued an
27 automobile insurance policy on a motor vehicle that is not driven

1 or moved upon a highway may allow the insured owner or registrant
2 of the motor vehicle to delete a portion of the coverages under the
3 policy and maintain the comprehensive coverage portion of the
4 policy in effect.

5 (2) As used in this chapter:

6 (a) "Automobile insurance" means that term as defined in
7 section 2102.

8 (b) "Highway" means that term as defined in section 20 of the
9 Michigan vehicle code, ~~Act No. 300 of the Public Acts of 1949,~~
10 ~~being section 257.20 of the Michigan Compiled Laws 1949 PA 300, MCL~~
11 ~~257.20.~~

12 (c) "Motorcycle" means a vehicle having a saddle or seat for
13 the use of the rider, designed to travel on not more than 3 wheels
14 in contact with the ground, which is equipped with a motor that
15 exceeds 50 cubic centimeters piston displacement. The wheels on any
16 attachment to the vehicle shall not be considered as wheels in
17 contact with the ground. Motorcycle does not include a moped, as
18 defined in section 32b of the Michigan vehicle code, ~~Act No. 300 of~~
19 ~~the Public Acts of 1949, being section 257.32b of the Michigan~~
20 ~~Compiled Laws 1949 PA 300, MCL 257.32B.~~

21 (d) "Motorcycle accident" means a loss involving the
22 ownership, operation, maintenance, or use of a motorcycle as a
23 motorcycle, but not involving the ownership, operation,
24 maintenance, or use of a motor vehicle as a motor vehicle.

25 (e) "Motor vehicle" means a vehicle, including a trailer,
26 operated or designed for operation upon a public highway by power
27 other than muscular power which has more than 2 wheels. Motor

1 vehicle does not include a motorcycle or a moped, as defined in
2 section 32b of ~~Act No. 300 of the Public Acts of 1949, being~~
3 ~~section 257.32b of the Michigan Compiled Laws~~ **THE MICHIGAN VEHICLE**
4 **CODE, 1949 PA 300, MCL 257.32B.** Motor vehicle does not include a
5 farm tractor or other implement of husbandry ~~which~~ **THAT** is not
6 subject to the registration requirements of the Michigan vehicle
7 code pursuant to section 216 of the Michigan vehicle code, ~~Act No.~~
8 ~~300 of the Public Acts of 1949, being section 257.216 of the~~
9 ~~Michigan Compiled Laws~~ **1949 PA 300, MCL 257.216.**

10 (f) "Motor vehicle accident" means a loss involving the
11 ownership, operation, maintenance, or use of a motor vehicle as a
12 motor vehicle regardless of whether the accident also involves the
13 ownership, operation, maintenance, or use of a motorcycle as a
14 motorcycle.

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

16 (i) A person renting a motor vehicle or having the use thereof,
17 under a lease or otherwise, for a period that is greater than 30
18 days.

19 (ii) A person who holds the legal title to a vehicle, other
20 than a person engaged in the business of leasing motor vehicles who
21 is the lessor of a motor vehicle pursuant to a lease providing for
22 the use of the motor vehicle by the lessee for a period that is
23 greater than 30 days.

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

26 (h) "Registrant" does not include a person engaged in the
27 business of leasing motor vehicles who is the lessor of a motor

1 vehicle pursuant to a lease providing for the use of the motor
2 vehicle by the lessee for a period that is greater than 30 days.

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

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

19 Sec. 3104. (1) An unincorporated, nonprofit association to be
20 known as the catastrophic claims association, hereinafter referred
21 to as the association, is created. Each insurer engaged in writing
22 insurance coverages that provide the security required by section
23 3101(1) within this state, as a condition of its authority to
24 transact insurance in this state, shall be a member of the
25 association and shall be bound by the plan of operation of the
26 association. Each insurer engaged in writing insurance coverages
27 that provide the security required by section 3103(1) within this

1 state, as a condition of its authority to transact insurance in
2 this state, shall be considered a member of the association, but
3 only for purposes of premiums under subsection (7)(d). Except as
4 expressly provided in this section, the association is not subject
5 to any laws of this state with respect to insurers, but in all
6 other respects the association is subject to the laws of this state
7 to the extent that the association would be if it were an insurer
8 organized and subsisting under chapter 50.

9 (2) The association shall provide and each member shall accept
10 indemnification for 100% of the amount of ultimate loss sustained
11 under personal protection insurance coverages in excess of the
12 following amounts in each loss occurrence:

13 (a) For a motor vehicle accident policy issued or renewed
14 before July 1, 2002, \$250,000.00.

15 (b) For a motor vehicle accident policy issued or renewed
16 during the period July 1, 2002 to June 30, 2003, \$300,000.00.

17 (c) For a motor vehicle accident policy issued or renewed
18 during the period July 1, 2003 to June 30, 2004, \$325,000.00.

19 (d) For a motor vehicle accident policy issued or renewed
20 during the period July 1, 2004 to June 30, 2005, \$350,000.00.

21 (e) For a motor vehicle accident policy issued or renewed
22 during the period July 1, 2005 to June 30, 2006, \$375,000.00.

23 (f) For a motor vehicle accident policy issued or renewed
24 during the period July 1, 2006 to June 30, 2007, \$400,000.00.

25 (g) For a motor vehicle accident policy issued or renewed
26 during the period July 1, 2007 to June 30, 2008, \$420,000.00.

27 (h) For a motor vehicle accident policy issued or renewed

1 during the period July 1, 2008 to June 30, 2009, \$440,000.00.

2 (i) For a motor vehicle accident policy issued or renewed
3 during the period July 1, 2009 to June 30, 2010, \$460,000.00.

4 (j) For a motor vehicle accident policy issued or renewed
5 during the period July 1, 2010 to June 30, 2011, \$480,000.00.

6 (k) For a motor vehicle accident policy issued or renewed
7 during the period July 1, 2011 to June 30, 2013, \$500,000.00.
8 Beginning July 1, 2013, this \$500,000.00 amount shall be increased
9 biennially on July 1 of each odd-numbered year, for policies issued
10 or renewed before July 1 of the following odd-numbered year, by the
11 lesser of 6% or the consumer price index, and rounded to the
12 nearest \$5,000.00. This biennial adjustment shall be calculated by
13 the association by January 1 of the year of its July 1 effective
14 date.

15 (3) An insurer may withdraw from the association only upon
16 ceasing to write insurance that provides the security required by
17 section 3101(1) in this state.

18 (4) An insurer whose membership in the association has been
19 terminated by withdrawal shall continue to be bound by the plan of
20 operation, and upon withdrawal, all unpaid premiums that have been
21 charged to the withdrawing member are payable as of the effective
22 date of the withdrawal.

23 (5) An unsatisfied net liability to the association of an
24 insolvent member shall be assumed by and apportioned among the
25 remaining members of the association as provided in the plan of
26 operation. The association has all rights allowed by law on behalf
27 of the remaining members against the estate or funds of the

1 insolvent member for sums due the association.

2 (6) If a member has been merged or consolidated into another
3 insurer or another insurer has reinsured a member's entire business
4 that provides the security required by section 3101(1) in this
5 state, the member and successors in interest of the member remain
6 liable for the member's obligations.

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

9 (a) Assume 100% of all liability as provided in subsection
10 (2).

11 (b) Establish procedures by which members shall promptly
12 report to the association each claim that, on the basis of the
13 injuries or damages sustained, may reasonably be anticipated to
14 involve the association if the member is ultimately held legally
15 liable for the injuries or damages. Solely for the purpose of
16 reporting claims, the member shall in all instances consider itself
17 legally liable for the injuries or damages. The member shall also
18 advise the association of subsequent developments likely to
19 materially affect the interest of the association in the claim.

20 (c) Maintain relevant loss and expense data relative to all
21 liabilities of the association and require each member to furnish
22 statistics, in connection with liabilities of the association, at
23 the times and in the form and detail as may be required by the plan
24 of operation.

25 (d) In a manner provided for in the plan of operation,
26 calculate and charge to members of the association a total premium
27 sufficient to cover the expected losses and expenses of the

1 association that the association will likely incur during the
2 period for which the premium is applicable. The premium shall
3 include an amount to cover incurred but not reported losses for the
4 period and may be adjusted for any excess or deficient premiums
5 from previous periods. Excesses or deficiencies from previous
6 periods may be fully adjusted in a single period or may be adjusted
7 over several periods in a manner provided for in the plan of
8 operation. Each member shall be charged an amount equal to that
9 member's total written car years of insurance providing the
10 security required by section 3101(1) or 3103(1), or both, written
11 in this state during the period to which the premium applies,
12 multiplied by the average premium per car **AND ADJUSTED TO REFLECT**
13 **THE AMOUNT OF COVERAGE SELECTED BY EACH MEMBER'S INSUREDS UNDER**
14 **SECTION 3107**. The average premium per car shall be the total
15 premium calculated divided by the total written car years of
16 insurance providing the security required by section 3101(1) or
17 3103(1) written in this state of all members during the period to
18 which the premium applies. A member shall be charged a premium for
19 a historic vehicle that is insured with the member of 20% of the
20 premium charged for a car insured with the member. As used in this
21 subdivision:

22 (i) "Car" includes a motorcycle but does not include a historic
23 vehicle.

24 (ii) "Historic vehicle" means a vehicle that is a registered
25 historic vehicle under section 803a or 803p of the Michigan vehicle
26 code, 1949 PA 300, MCL 257.803a and 257.803p.

27 (e) Require and accept the payment of premiums from members of

1 the association as provided for in the plan of operation. The
2 association shall do either of the following:

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

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

7 (f) Receive and distribute all sums required by the operation
8 of the association.

9 (g) Establish procedures for reviewing claims procedures and
10 practices of members of the association. If the claims procedures
11 or practices of a member are considered inadequate to properly
12 service the liabilities of the association, the association may
13 undertake or may contract with another person, including another
14 member, to adjust or assist in the adjustment of claims for the
15 member on claims that create a potential liability to the
16 association and may charge the cost of the adjustment to the
17 member.

18 (8) In addition to other powers granted to it by this section,
19 the association may do all of the following:

20 (a) Sue and be sued in the name of the association. A judgment
21 against the association shall not create any direct liability
22 against the individual members of the association. The association
23 may provide for the indemnification of its members, members of the
24 board of directors of the association, and officers, employees, and
25 other persons lawfully acting on behalf of the association.

26 (b) Reinsure all or any portion of its potential liability
27 with reinsurers licensed to transact insurance in this state or

1 approved by the commissioner.

2 (c) Provide for appropriate housing, equipment, and personnel
3 as may be necessary to assure the efficient operation of the
4 association.

5 (d) Pursuant to the plan of operation, adopt reasonable rules
6 for the administration of the association, enforce those rules, and
7 delegate authority, as the board considers necessary to assure the
8 proper administration and operation of the association consistent
9 with the plan of operation.

10 (e) Contract for goods and services, including independent
11 claims management, actuarial, investment, and legal services, from
12 others within or without this state to assure the efficient
13 operation of the association.

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

16 (g) Perform other acts not specifically enumerated in this
17 section that are necessary or proper to accomplish the purposes of
18 the association and that are not inconsistent with this section or
19 the plan of operation.

20 (9) A board of directors is created, hereinafter referred to
21 as the board, which shall be responsible for the operation of the
22 association consistent with the plan of operation and this section.

23 (10) The plan of operation shall provide for all of the
24 following:

25 (a) The establishment of necessary facilities.

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

27 (c) Procedures to be utilized in charging premiums, including

1 adjustments from excess or deficient premiums from prior periods.

2 (d) Procedures governing the actual payment of premiums to the
3 association.

4 (e) Reimbursement of each member of the board by the
5 association for actual and necessary expenses incurred on
6 association business.

7 (f) The investment policy of the association.

8 (g) Any other matters required by or necessary to effectively
9 implement this section.

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

14 (12) As part of the plan of operation, the board shall adopt
15 rules providing for the composition and term of successor boards to
16 the initial board, consistent with the membership composition
17 requirements in subsections (11) and (13). Terms of the directors
18 shall be staggered so that the terms of all the directors do not
19 expire at the same time and so that a director does not serve a
20 term of more than 4 years.

21 (13) The board shall consist of 5 directors, and the
22 commissioner shall be an ex officio member of the board without
23 vote.

24 (14) Each director shall be appointed by the commissioner and
25 shall serve until that member's successor is selected and
26 qualified. The chairperson of the board shall be elected by the
27 board. A vacancy on the board shall be filled by the commissioner

1 consistent with the plan of operation.

2 (15) After the board is appointed, the board shall meet as
3 often as the chairperson, the commissioner, or the plan of
4 operation shall require, or at the request of any 3 members of the
5 board. The chairperson shall retain the right to vote on all
6 issues. Four members of the board constitute a quorum.

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

10 (17) Not more than 60 days after the initial organizational
11 meeting of the board, the board shall submit to the commissioner
12 for approval a proposed plan of operation consistent with the
13 objectives and provisions of this section, which shall provide for
14 the economical, fair, and nondiscriminatory administration of the
15 association and for the prompt and efficient provision of
16 indemnity. If a plan is not submitted within this 60-day period,
17 then the commissioner, after consultation with the board, shall
18 formulate and place into effect a plan consistent with this
19 section.

20 (18) The plan of operation, unless approved sooner in writing,
21 shall be considered to meet the requirements of this section if it
22 is not disapproved by written order of the commissioner within 30
23 days after the date of its submission. Before disapproval of all or
24 any part of the proposed plan of operation, the commissioner shall
25 notify the board in what respect the plan of operation fails to
26 meet the requirements and objectives of this section. If the board
27 fails to submit a revised plan of operation that meets the

1 requirements and objectives of this section within the 30-day
2 period, the commissioner shall enter an order accordingly and shall
3 immediately formulate and place into effect a plan consistent with
4 the requirements and objectives of this section.

5 (19) The proposed plan of operation or amendments to the plan
6 of operation are subject to majority approval by the board,
7 ratified by a majority of the membership having a vote, with voting
8 rights being apportioned according to the premiums charged in
9 subsection (7)(d) and are subject to approval by the commissioner.

10 (20) Upon approval by the commissioner and ratification by the
11 members of the plan submitted, or upon the promulgation of a plan
12 by the commissioner, each insurer authorized to write insurance
13 providing the security required by section 3101(1) in this state,
14 as provided in this section, is bound by and shall formally
15 subscribe to and participate in the plan approved as a condition of
16 maintaining its authority to transact insurance in this state.

17 (21) The association is subject to all the reporting, loss
18 reserve, and investment requirements of the commissioner to the
19 same extent as would a member of the association.

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

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

26 (24) The association does not have liability for losses
27 occurring before July 1, 1978.

1 (25) As used in this section:

2 (a) "Consumer price index" means the percentage of change in
3 the consumer price index for all urban consumers in the United
4 States city average for all items for the 24 months prior to
5 October 1 of the year prior to the July 1 effective date of the
6 biennial adjustment under subsection (2)(k) as reported by the
7 United States department of labor, bureau of labor statistics, and
8 as certified by the commissioner.

9 (b) "Motor vehicle accident policy" means a policy providing
10 the coverages required under section 3101(1).

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

15 Sec. 3107. (1) ~~Except as provided in subsection (2), personal~~
16 **PERSONAL** protection insurance benefits are payable for the
17 following:

18 (a) Allowable expenses ~~consisting of all reasonable charges~~
19 **THAT ARE AS PROVIDED IN SUBPARAGRAPHS (i), (ii), (iii), AND (iv)**
20 incurred for reasonably necessary products, services and
21 accommodations for an injured person's care, recovery, or
22 rehabilitation. ~~Allowable expenses within personal protection~~
23 ~~insurance coverage shall not include charges for a hospital room in~~
24 ~~excess of a reasonable and customary charge for semiprivate~~
25 ~~accommodations except if the injured person requires special or~~
26 ~~intensive care, or for funeral and burial expenses in the amount~~
27 ~~set forth in the policy which shall not be less than \$1,750.00 or~~

1 ~~more than \$5,000.00.~~ ANY CHANGE IN A LIMIT SELECTED UNDER
2 SUBPARAGRAPH (i), (ii), (iii), OR (iv) APPLIES ONLY TO BENEFITS ARISING
3 OUT OF ACCIDENTS OCCURRING AFTER THE DATE OF THE CHANGE IN THE
4 LIMIT. AN INSURER SHALL OFFER, ON FORMS APPROVED BY THE
5 COMMISSIONER, THE FOLLOWING COVERAGES, AND AN INSURED SHALL SELECT
6 IN WRITING 1 OF THE FOLLOWING COVERAGES:

7 (i) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL
8 REASONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$250,000.00 FOR
9 REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN
10 INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION.

11 (ii) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL
12 REASONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$500,000.00 FOR
13 REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN
14 INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION.

15 (iii) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL
16 REASONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$750,000.00 FOR
17 REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN
18 INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION.

19 (iv) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL
20 REASONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$1,000,000.00 FOR
21 REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN
22 INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION.

23 (v) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL
24 REASONABLE CHARGES INCURRED FOR REASONABLY NECESSARY PRODUCTS,
25 SERVICES, AND ACCOMMODATIONS FOR AN INJURED PERSON'S CARE,
26 RECOVERY, OR REHABILITATION.

27 (b) ~~Work~~—EXCEPT AS PROVIDED IN SUBSECTION (2), WORK loss

1 consisting of loss of income from work an injured person would have
2 performed during the first 3 years after the date of the accident
3 if he or she had not been injured. Work loss does not include any
4 loss after the date on which the injured person dies. Because the
5 benefits received from personal protection insurance for loss of
6 income are not taxable income, the benefits payable for such loss
7 of income shall be reduced 15% unless the claimant presents to the
8 insurer in support of his or her claim reasonable proof of a lower
9 value of the income tax advantage in his or her case, in which case
10 the lower value shall apply. ~~Beginning March 30, 1973~~ **FOR THE**
11 **PERIOD BEGINNING OCTOBER 1, 2006 THROUGH SEPTEMBER 30, 2007**, the
12 benefits payable for work loss sustained in a single 30-day period
13 and the income earned by an injured person for work during the same
14 period together shall not exceed ~~\$1,000.00~~ **\$4,589.00**, which maximum
15 shall apply pro rata to any lesser period of work loss. Beginning
16 October 1, ~~1974~~ **2007**, the maximum shall be adjusted annually to
17 reflect changes in the cost of living under rules prescribed by the
18 commissioner but any change in the maximum shall apply only to
19 benefits arising out of accidents occurring subsequent to the date
20 of change in the maximum.

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

27 (2) A person who is 60 years of age or older and in the event

1 of an accidental bodily injury would not be eligible to receive
2 work loss benefits under subsection (1)(b) may waive coverage for
3 work loss benefits by signing a waiver on a form provided by the
4 insurer. An insurer shall offer a reduced premium rate to a person
5 who waives coverage under this subsection for work loss benefits.
6 Waiver of coverage for work loss benefits applies only to work loss
7 benefits payable to the person or persons who have signed the
8 waiver form.

9 (3) THE FOLLOWING APPLY TO SUBSECTION (1):

10 (A) IF AN INSURED FAILS TO SELECT IN WRITING ON A FORM
11 APPROVED BY THE COMMISSIONER 1 OF THE COVERAGES IN SUBSECTION
12 (1) (A), AN INSURER SHALL PROVIDE COVERAGE IN THE AMOUNT SET FORTH
13 IN SUBSECTION (1) (A) (i).

14 (B) COVERAGE LIMITS UNDER SUBSECTION (1) (A) ARE PROVIDED ON A
15 PER INDIVIDUAL PER LOSS OCCURRENCE BASIS. COVERAGE UNDER SUBSECTION
16 (1) (A) APPLIES ONLY TO BENEFITS PAYABLE TO THE INSURED NAMED IN THE
17 POLICY, THE INSURED'S SPOUSE, AND ANY RELATIVE OF EITHER DOMICILED
18 IN THE SAME HOUSEHOLD.

19 (C) A PERSON WHO IS NOT AN INSURED NAMED IN A POLICY, THE
20 INSURED'S SPOUSE, OR A RELATIVE OF EITHER DOMICILED IN THE SAME
21 HOUSEHOLD IS ENTITLED ONLY TO COVERAGE IN THE LIMIT SET FORTH IN
22 SUBSECTION (1) (A) (i).

23 (D) PERSONAL PROTECTION INSURANCE BENEFITS ARE LIMITED TO THE
24 LIMIT SET FORTH IN SECTION 3163 FOR ACCIDENTS OCCURRING IN THE
25 STATE OF MICHIGAN IF THE INJURED PERSON IS A NONRESIDENT OF
26 MICHIGAN AND THE INJURED PERSON'S BENEFITS ARE PAYABLE UNDER A
27 POLICY DELIVERED OUTSIDE OF MICHIGAN ONLY IF ELIGIBLE UNDER SECTION

1 3163.

2 (E) PERSONAL PROTECTION INSURANCE BENEFITS ARE NOT PAYABLE TO
3 A NONRESIDENT INJURED IN AN ACCIDENT OCCURRING OUTSIDE OF MICHIGAN
4 TO THE EXTENT THAT BENEFITS COVERING THE SAME LOSS ARE AVAILABLE
5 FROM OTHER SOURCES, REGARDLESS OF THE NATURE AND NUMBER OF BENEFIT
6 SOURCES AVAILABLE AND REGARDLESS OF THE NATURE OR FORM OF THE
7 BENEFITS. IF PERSONAL PROTECTION INSURANCE BENEFITS ARE PAYABLE TO
8 A NONRESIDENT UNDER THIS SUBDIVISION, THE BENEFITS ARE LIMITED TO
9 THE LIMIT SET FORTH IN SUBSECTION (1) (A) (i) PER INDIVIDUAL PER LOSS
10 OCCURRENCE.

11 (F) ALLOWABLE EXPENSES WITHIN PERSONAL PROTECTION INSURANCE
12 COVERAGE SHALL NOT INCLUDE CHARGES FOR A HOSPITAL ROOM IN EXCESS OF
13 A REASONABLE AND CUSTOMARY CHARGE FOR SEMIPRIVATE ACCOMMODATIONS
14 EXCEPT IF THE INJURED PERSON REQUIRES SPECIAL OR INTENSIVE CARE OR
15 FOR FUNERAL AND BURIAL EXPENSES IN EXCESS OF THE AMOUNT SET FORTH
16 IN THE POLICY, WHICH SHALL NOT BE LESS THAN \$1,750.00 OR MORE THAN
17 \$5,000.00.

18 Sec. 3172. (1) A person entitled to claim because of
19 accidental bodily injury arising out of the ownership, operation,
20 maintenance, or use of a motor vehicle as a motor vehicle in this
21 state may obtain personal protection insurance benefits through an
22 assigned claims plan ~~if~~ **IN ANY OF THE FOLLOWING SITUATIONS:**

23 (A) **IF** no personal protection insurance is applicable to the
24 injury. 7

25 (B) **IF** no personal protection insurance applicable to the
26 injury can be identified. 7

27 (C) **IF** the personal protection insurance applicable to the

1 injury cannot be ascertained because of a dispute between 2 or more
2 automobile insurers concerning their obligation to provide coverage
3 or the equitable distribution of the loss. ~~or~~

4 (D) IF the only identifiable personal protection insurance
5 applicable to the injury is, because of financial inability of 1 or
6 more insurers to fulfill their obligations, inadequate to provide
7 benefits up to the maximum prescribed. ~~In such case~~

8 (2) IN ANY OF THE SITUATIONS UNDER SUBSECTION (1), unpaid
9 benefits due or coming due are subject to being collected under the
10 assigned claims plan, and the insurer to which the claim is
11 assigned, or the assigned claims facility if the claim is assigned
12 to it, is entitled to reimbursement from the defaulting insurers to
13 the extent of their financial responsibility.

14 (3) ~~(2)~~ Except as otherwise provided in this subsection,
15 personal protection insurance benefits, including benefits arising
16 from accidents occurring before the effective date of this
17 subsection, payable through an assigned claims plan shall be
18 reduced to the extent that benefits covering the same loss are
19 available from other sources, regardless of the nature or number of
20 benefit sources available and regardless of the nature or form of
21 the benefits, to a person claiming personal protection insurance
22 benefits through the assigned claims plan. This subsection ~~shall~~
23 ~~only apply~~ **ONLY APPLIES** when the personal protection insurance
24 benefits are payable through the assigned claims plan because no
25 personal protection insurance is applicable to the injury, no
26 personal protection insurance applicable to the injury can be
27 identified, or the only identifiable personal protection insurance

1 applicable to the injury is, because of financial inability of 1 or
2 more insurers to fulfill their obligations, inadequate to provide
3 benefits up to the maximum prescribed. As used in this subsection
4 "sources" and "benefit sources" do not include the program for
5 medical assistance for the medically indigent under the social
6 welfare act, ~~Act No. 280 of the Public Acts of 1939, being sections~~
7 ~~400.1 to 400.121 of the Michigan Compiled Laws, or insurance under~~
8 ~~the health insurance for the aged act, title XVIII of the social~~
9 ~~security amendments of 1965-1939 PA 280, MCL 400.1 TO 400.119B, OR~~
10 **THE FEDERAL MEDICARE PROGRAM ESTABLISHED UNDER TITLE XVIII OF THE**
11 **SOCIAL SECURITY ACT, 42 USC 1395 TO 1395HHH.**

12 (4) ~~(3)~~—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, and
16 if a method of voluntary payment of benefits cannot be agreed upon
17 among or between the disputing insurers, all of the following shall
18 apply:

19 (a) The insurers who are parties to the dispute shall, or the
20 claimant may, immediately notify the assigned claims facility of
21 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 entitled
25 to benefits **IN THE HIGHEST AMOUNT APPLICABLE AMONG THE POLICIES IN**
26 **DISPUTE.**

27 (c) An action shall be immediately commenced on behalf of the

1 assigned claims facility by the insurer to whom the claim is
2 assigned in circuit court for the purpose of declaring the rights
3 and duties of any interested party.

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

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

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

25 **(5) IF NO PERSONAL PROTECTION INSURANCE IS APPLICABLE TO THE**
26 **INJURY OR NO PERSONAL PROTECTION INSURANCE APPLICABLE TO THE INJURY**
27 **CAN BE IDENTIFIED, PERSONAL PROTECTION INSURANCE BENEFITS SHALL BE**

1 PAID ONLY TO THE LIMIT PROVIDED FOR IN SECTION 3107(1) (A) (i) . IF THE
2 ONLY IDENTIFIABLE PERSONAL PROTECTION INSURANCE APPLICABLE TO THE
3 INJURY IS, BECAUSE OF FINANCIAL INABILITY OF 1 OR MORE INSURERS TO
4 FULFILL THEIR OBLIGATIONS, INADEQUATE TO PROVIDE BENEFITS UP TO THE
5 MAXIMUM PRESCRIBED, PERSONAL PROTECTION INSURANCE BENEFITS SHALL BE
6 PAID TO THE LIMIT SELECTED BY THE INSURED UNDER SECTION 3107(1) (A) .

7 (6) THIS SECTION DOES NOT APPLY AND SECTION 3172A DOES APPLY
8 IF APPLICABLE PERSONAL PROTECTION INSURANCE BENEFITS ARE
9 UNAVAILABLE BECAUSE AN INSURER OTHERWISE OBLIGED TO PROVIDE THAT
10 COVERAGE UNDER THIS CHAPTER BECAME AN INSOLVENT INSURER AS DEFINED
11 IN CHAPTER 79 .

12 SEC. 3172A. (1) A PERSON ENTITLED TO A CLAIM BECAUSE OF
13 ACCIDENTAL BODILY INJURY ARISING OUT OF THE OWNERSHIP, OPERATION,
14 MAINTENANCE, OR USE OF A MOTOR VEHICLE AS A MOTOR VEHICLE IN THIS
15 STATE MAY OBTAIN THE FULL PERSONAL PROTECTION INSURANCE BENEFITS
16 ENTITLED THROUGH THE MICHIGAN PROPERTY AND CASUALTY GUARANTY
17 ASSOCIATION ESTABLISHED UNDER CHAPTER 79 IF ALL OF THE FOLLOWING
18 ARE SATISFIED:

19 (A) PERSONAL PROTECTION INSURANCE APPLICABLE TO THE INJURY IS
20 UNAVAILABLE BECAUSE AN INSURER OTHERWISE OBLIGED TO PROVIDE THAT
21 COVERAGE UNDER THIS CHAPTER BECAME AN INSOLVENT INSURER AS DEFINED
22 IN CHAPTER 79 .

23 (B) EXCEPT AS PROVIDED IN SUBSECTION (2) , THE CLAIM SATISFIES
24 THE REQUIREMENTS OF A COVERED CLAIM UNDER CHAPTER 79 .

25 (2) NOTWITHSTANDING SECTION 7931(3) , THE OBLIGATION OF THE
26 MICHIGAN PROPERTY AND CASUALTY GUARANTY ASSOCIATION UNDER THIS
27 SECTION SHALL BE IN THE SAME PRIORITY AS THAT OF THE INSOLVENT

1 **INSURER, BUT FOR ITS INSOLVENCY, UNDER SECTIONS 3114 AND 3115.**

2 Sec. 7911. (1) To implement this chapter, there shall be
3 maintained within this state, by all insurers authorized to
4 transact in this state insurance other than life or disability
5 insurance, except the Michigan basic property insurance association
6 created pursuant to section 2920, an association of those insurers
7 to be known as the property and casualty guaranty association,
8 hereafter referred to as the "association". Each insurer shall be a
9 member of the association as a condition of its authority to
10 continue to transact insurance in this state.

11 (2) An insurer from which insurance has been or may be
12 procured in this state solely by virtue of chapter 19 shall not be
13 considered to be an insurer authorized to transact insurance in
14 this state for the purposes of this chapter.

15 (3) The association is subject to the requirements of this
16 chapter and chapter 81, **AND SECTION 3172A**, but is not subject to
17 the other chapters of this act. The association shall be subject to
18 other laws of this state to the extent that it would be subject to
19 those laws if it were an insurer organized and operating under
20 chapter 50, to the extent that those other laws are consistent with
21 this chapter.

22 Enacting section 1. This amendatory act takes effect 120 days
23 after the date it is enacted and applies to policies issued or
24 renewed on or after 120 days after the date it is enacted.