

HOUSE BILL No. 5782

July 18, 2012, Introduced by Reps. Howze, Durhal, Talabi, Liss, Rutledge, Santana, Jackson, Nathan, Stanley, Callton, Stallworth, Ananich, Cavanagh, Greimel, Hovey-Wright, Hobbs, Geiss, Hammel, Tlaib, Meadows and Oakes and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2106, 2111, and 3104 (MCL 500.2106, 500.2111, and 500.3104), section 2111 as amended by 2002 PA 492 and section 3104 as amended by 2002 PA 662, and by adding chapter 25A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2106. Except as specifically provided in this chapter,
 2 ~~the provisions of chapter~~ **CHAPTERS** 24 and ~~chapter 26 shall~~ **DO** not
 3 apply to automobile insurance and home insurance. An insurer may
 4 use rates for automobile insurance or home insurance as soon as
 5 those rates are filed. ~~To~~ **WITH THE EXCEPTION OF CHAPTER 25A, TO** the
 6 extent that other provisions of this ~~code~~ **ACT** are inconsistent with
 7 ~~the provisions of this chapter, this chapter shall govern~~ **GOVERNS**
 8 with respect to automobile insurance and home insurance.

1 Sec. 2111. (1) ~~Notwithstanding~~ **WITH THE EXCEPTION OF CHAPTER**
2 **25A, NOTWITHSTANDING** any provision of this act ~~and~~ **OR** this chapter
3 to the contrary, classifications and territorial base rates used by
4 ~~any~~ **AN** insurer in this state with respect to automobile insurance
5 or home insurance shall conform to the applicable requirements of
6 this section.

7 (2) Classifications established ~~pursuant to~~ **UNDER** this section
8 for automobile insurance shall be based only ~~upon~~ **ON** 1 or more of
9 the following factors, which shall be applied by an insurer on a
10 uniform basis throughout ~~the~~ **THIS** state:

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

12 (i) Either the age of the driver; the length of driving
13 experience; or the number of years licensed to operate a motor
14 vehicle.

15 (ii) Driver primacy, based ~~upon~~ **ON** the proportionate use of
16 each vehicle insured under the policy by individual drivers insured
17 or to be insured under the policy.

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

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

20 (v) Vehicle characteristics, features, and options, such as
21 engine displacement, ability of **THE** vehicle and its equipment to
22 protect passengers from injury and other similar items, including
23 vehicle make and model.

24 (vi) Daily or weekly commuting mileage.

25 (vii) Number of cars insured by the insurer or number of
26 licensed operators in the household. However, number of licensed
27 operators shall not be used as an indirect measure of marital

1 status.

2 (viii) Amount of insurance.

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

5 (i) Earned income.

6 (ii) Number of dependents of income earners insured under the
7 policy.

8 (iii) Coordination of benefits.

9 (iv) Use of a safety belt.

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

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

16 (ii) Vehicle make and model.

17 (iii) Vehicle design characteristics related to vehicle
18 damageability.

19 (iv) Vehicle characteristics relating to automobile theft
20 prevention devices.

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

25 (i) The course shall include a minimum of 8 hours of classroom
26 instruction.

27 (ii) The course shall include, but not be limited to, a review

1 of all of the following:

- 2 (A) The effects of aging on driving behavior.
- 3 (B) The shapes, colors, and types of road signs.
- 4 (C) The effects of alcohol and medication on driving.
- 5 (D) The laws relating to the proper use of a motor vehicle.
- 6 (E) Accident prevention measures.
- 7 (F) The benefits of safety belts and child restraints.
- 8 (G) Major driving hazards.
- 9 (H) Interaction with other highway users such as

10 motorcyclists, bicyclists, and pedestrians.

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

18 (a) Substantially at-fault accidents.

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

23 However, ~~beginning 90 days after the effective date of this~~
24 ~~sentence,~~ an insured shall not be merit rated for a civil

25 infraction under chapter VI of the Michigan vehicle code, 1949 PA
26 300, MCL 257.601 to 257.750, for a period of time longer than that
27 which the secretary of state's office carries points for that

1 infraction on the insured's motor vehicle record.

2 (4) An insurer shall not establish or maintain rates or rating
3 classifications for automobile insurance based ~~upon~~**ON** sex or
4 marital status.

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

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

19 (7) Classifications established ~~pursuant to~~**UNDER** this section
20 for home insurance other than inland marine insurance provided by
21 policy floaters or endorsements shall be based only ~~upon~~**ON** 1 or
22 more of the following factors:

23 (a) Amount and types of coverage.

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

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

27 (d) Fire protection class.

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

3 (f) Loss experience of the insured, based ~~upon~~**ON** prior claims
4 attributable to factors under the control of the insured that have
5 been paid by an insurer. An insured's failure, after written notice
6 from the insurer, to correct a physical condition that presents a
7 risk of repeated loss shall be considered a factor under the
8 control of the insured for purposes of this subdivision.

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

15 (9) An insurer may ~~utilize~~**USE** factors in addition to those
16 specified in this section, if the commissioner finds, after a
17 hearing held ~~pursuant to~~**UNDER** the administrative procedures act of
18 1969, 1969 PA 306, MCL 24.201 to 24.328, that the factors would
19 encourage innovation, would encourage insureds to minimize the
20 risks of loss from hazards insured against, and would be consistent
21 with the purposes of this chapter.

22 **CHAPTER 25A**

23 **SILVER LINING INSURANCE RENAISSANCE ZONES**

24 **SEC. 2511. AS USED IN THIS CHAPTER:**

25 (A) "AUTOMOBILE INSURANCE" MEANS THAT TERM AS DEFINED IN
26 SECTION 2102.

27 (B) "FUND" MEANS THE SILVER LINING INSURANCE FUND CREATED IN

1 SECTION 2517.

2 (C) "HOME INSURANCE" MEANS THAT TERM AS DEFINED IN SECTION
3 2103.

4 (D) "INSURANCE RENAISSANCE ZONE" MEANS A GEOGRAPHIC AREA
5 DESIGNATED UNDER SECTION 2513.

6 (E) "LOCAL UNIT OF GOVERNMENT" MEANS A TOWNSHIP, CITY, OR
7 VILLAGE.

8 (F) "QUALIFIED CITY" MEANS A CITY WHOSE POPULATION AS
9 DETERMINED BY THE LATEST FEDERAL DECENNIAL CENSUS DECREASED 10% OR
10 MORE FROM THE POPULATION AS DETERMINED BY THE PREVIOUS FEDERAL
11 DECENNIAL CENSUS.

12 (G) "QUALIFIED RESIDENT" MEANS AN INDIVIDUAL WHOSE PRINCIPAL
13 RESIDENCE IS IN THE INSURANCE RENAISSANCE ZONE AND WHO HAS
14 MAINTAINED HOME INSURANCE ON THE RESIDENCE FOR THE 5 YEARS
15 PRECEDING THE CLAIM AND, IF THE CLAIM IS MADE UNDER AN AUTOMOBILE
16 INSURANCE POLICY, ON THE AUTOMOBILE FOR THE PART OF THE 5-YEAR
17 PERIOD DURING WHICH THE INDIVIDUAL OWNED THE AUTOMOBILE.

18 SEC. 2512. THE LEGISLATURE OF THIS STATE FINDS AND DECLARES
19 THAT THERE IS A CONTINUING NEED FOR PROGRAMS TO ASSIST CERTAIN
20 CITIES IN THIS STATE IN ENCOURAGING DENSITY OF POPULATION, THE
21 RETENTION OF RESIDENTS, AND REPOPULATION. TO ACHIEVE THESE
22 PURPOSES, IT IS NECESSARY TO CREATE INSURANCE RENAISSANCE ZONES AS
23 PROVIDED IN THIS CHAPTER.

24 SEC. 2513. (1) THE CITY COUNCIL OF A QUALIFIED CITY MAY
25 DECLARE 1 OR MORE DISTINCT GEOGRAPHIC AREAS WITHIN THE CITY TO BE
26 INSURANCE RENAISSANCE ZONES.

27 (2) AFTER AN AREA IS DESIGNATED AS AN INSURANCE RENAISSANCE

1 ZONE UNDER SUBSECTION (1), IF A QUALIFIED RESIDENT SUBMITS A CLAIM
2 UNDER THE QUALIFIED RESIDENT'S HOME INSURANCE OR AUTOMOBILE
3 INSURANCE POLICY AND THE CLAIM IS THE FIRST CLAIM OF THAT TYPE MADE
4 BY THE QUALIFIED RESIDENT, THE INSURER SHALL NOT INCREASE THE
5 PREMIUM CHARGED FOR THE POLICY BECAUSE OF THE CLAIM OR THE LOSS ON
6 WHICH THE CLAIM IS BASED.

7 SEC. 2515. (1) THE COMMISSIONER SHALL MONITOR THE HOME
8 INSURANCE AND AUTOMOBILE INSURANCE PREMIUMS AND RATES AND THE
9 CLAIMS SUBMITTED IN EACH INSURANCE RENAISSANCE ZONE.

10 (2) THE COMMISSIONER SHALL COMPARE THE PREMIUMS CHARGED FOR
11 HOME INSURANCE AND AUTOMOBILE INSURANCE IN EACH INSURANCE
12 RENAISSANCE ZONE WITH PREMIUMS CHARGED FOR HOME INSURANCE AND
13 AUTOMOBILE INSURANCE IN EACH SURROUNDING LOCAL UNIT OF GOVERNMENT
14 WHOSE CLOSEST BOUNDARY IS 20 MILES OR MORE FROM THE BOUNDARY OF THE
15 CITY IN WHICH THE INSURANCE RENAISSANCE ZONE IS LOCATED. A LOCAL
16 UNIT OF GOVERNMENT SHALL NOT BE COMPARED UNDER THIS SUBSECTION IF
17 THERE IS ANOTHER LOCAL UNIT OF GOVERNMENT THAT QUALIFIES TO BE
18 INCLUDED FOR COMPARISON THAT IS LOCATED BETWEEN THE LOCAL UNIT OF
19 GOVERNMENT AND THE CITY.

20 (3) WITHIN 30 DAYS AFTER EACH ANNIVERSARY DATE OF THE
21 ESTABLISHMENT OF AN INSURANCE RENAISSANCE ZONE, THE COMMISSIONER
22 SHALL DETERMINE WHETHER THERE IS A DISPARITY OF 50% OR MORE BETWEEN
23 THE AVERAGE INSURANCE PREMIUM CHARGED IN THE RENAISSANCE ZONE AND
24 THE AVERAGE INSURANCE PREMIUM CHARGED FOR THE SAME TYPE OF
25 INSURANCE IN THE LOCAL UNITS OF GOVERNMENT TO WHICH THE PREMIUMS
26 FOR THE INSURANCE RENAISSANCE ZONE IS COMPARED UNDER SUBSECTION
27 (2). THE COMMISSIONER SHALL PUBLISH THE DETERMINATION MADE UNDER

1 THIS SUBSECTION AND INCLUDE A SUMMARY OF THE DATA ON WHICH THE
2 DETERMINATION IS BASED.

3 (4) IF THE COMMISSIONER MAKES A DETERMINATION UNDER SUBSECTION
4 (3) THAT THERE IS A DISPARITY OF 50% OR MORE AND THE DETERMINATION
5 IS THE FIRST SUCH DETERMINATION FOR THE INSURANCE RENAISSANCE ZONE,
6 AN INSURER THAT ISSUES HOME INSURANCE OR AUTOMOBILE INSURANCE
7 POLICIES TO RESIDENTS OF THE INSURANCE RENAISSANCE ZONE SHALL
8 REDUCE THE FIRST RENEWAL PREMIUM CHARGED FOR A HOME INSURANCE OR
9 AUTOMOBILE INSURANCE POLICY IN THE INSURANCE RENAISSANCE ZONE
10 DURING THE 12 MONTHS FOLLOWING THE DETERMINATION BY 20% FROM THE
11 MOST RECENT PREMIUM CHARGED FOR THE POLICY.

12 (5) IF THE COMMISSIONER MAKES A DETERMINATION UNDER SUBSECTION
13 (3) THAT THERE IS A DISPARITY OF 50% OR MORE, THE DETERMINATION IS
14 NOT THE FIRST SUCH DETERMINATION FOR THE INSURANCE RENAISSANCE
15 ZONE, AND AN INSURER THAT ISSUES HOME INSURANCE OR AUTOMOBILE
16 INSURANCE POLICIES TO RESIDENTS OF THE INSURANCE RENAISSANCE ZONE
17 CANNOT DEMONSTRATE TO THE COMMISSIONER THAT IT WOULD BE ENTITLED TO
18 REIMBURSEMENT UNDER SECTION 2517(6) IF REDUCTIONS UNDER THIS
19 SUBSECTION ARE REQUIRED, THE INSURER SHALL REDUCE ITS FIRST RENEWAL
20 PREMIUM CHARGED FOR A HOME INSURANCE OR AUTOMOBILE INSURANCE POLICY
21 IN THE INSURANCE RENAISSANCE ZONE DURING THE 12 MONTHS FOLLOWING
22 THE DETERMINATION BY 20% FROM THE MOST RECENT PREMIUM CHARGED FOR
23 THE POLICY.

24 SEC. 2517. (1) THE SILVER LINING INSURANCE FUND IS CREATED
25 WITHIN THE STATE TREASURY.

26 (2) THE STATE TREASURER MAY RECEIVE MONEY FROM THE
27 CATASTROPHIC CLAIMS ASSOCIATION AS PROVIDED IN SECTION 3104 AND

1 MONEY OR OTHER ASSETS FROM ANY OTHER SOURCE FOR DEPOSIT INTO THE
2 FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND.
3 THE STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS
4 FROM FUND INVESTMENTS.

5 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
6 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

7 (4) THE OFFICE OF FINANCIAL AND INSURANCE REGULATION SHALL BE
8 THE ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.

9 (5) THE OFFICE OF FINANCIAL AND INSURANCE REGULATION SHALL
10 EXPEND MONEY FROM THE FUND, UPON APPROPRIATION, ONLY TO REIMBURSE
11 INSURERS AS PROVIDED IN SUBSECTION (6).

12 (6) TO THE EXTENT THAT MONEY IS AVAILABLE IN THE FUND, AN
13 INSURER IS ENTITLED TO REIMBURSEMENT FROM THE FUND FOR MONEY LOST
14 BECAUSE OF REDUCTIONS IN PREMIUMS UNDER SECTION 2515(4). AN INSURER
15 IS ENTITLED TO REIMBURSEMENT UNDER THIS SECTION AND IS NOT REQUIRED
16 TO REDUCE PREMIUMS UNDER SECTION 2515(5) IF THE INSURER
17 DEMONSTRATES TO THE SATISFACTION OF THE COMMISSIONER THAT, FOR THE
18 YEAR PRECEDING THE 12-MONTH PERIOD FOR WHICH THE REDUCTIONS WERE OR
19 WOULD BE MADE, THERE WAS AN INCREASE IN THE NUMBER OF CLAIMS MADE
20 AND THE AGGREGATE AMOUNT OF CLAIMS PAID UNDER HOME INSURANCE AND
21 AUTOMOBILE INSURANCE POLICIES ISSUED BY THE INSURER TO RESIDENTS OF
22 THE INSURANCE RENAISSANCE ZONE.

23 SEC. 2519. (1) AN INSURER THAT ISSUES HOME INSURANCE OR
24 AUTOMOBILE INSURANCE POLICIES TO INDIVIDUALS WHO RESIDE IN AN
25 INSURANCE RENAISSANCE ZONE SHALL PROVIDE TO THE COMMISSIONER ALL
26 INFORMATION IN ITS POSSESSION THAT IS NECESSARY TO ALLOW THE
27 COMMISSIONER TO PERFORM HIS OR HER DUTIES UNDER SECTIONS 2515 AND

1 2517.

2 (2) WITHIN 5 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
3 ACT THAT ADDED THIS CHAPTER, THE COMMISSIONER SHALL REPORT TO THE
4 MEMBERS OF THE STANDING COMMITTEES OF THE HOUSE OF REPRESENTATIVES
5 AND SENATE WITH PRIMARY JURISDICTION OVER INSURANCE MATTERS ON THE
6 PROGRESS AND DEVELOPMENTS OF THE INSURANCE RENAISSANCE PROGRAM
7 UNDER THIS CHAPTER. THE REPORT SHALL INCLUDE, BUT NOT BE LIMITED
8 TO, INFORMATION RECEIVED AND COMPARISONS MADE UNDER THIS SECTION.

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

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

1 under personal protection insurance coverages in excess of the
2 following amounts in each loss occurrence:

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

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

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

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

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

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

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

17 (h) For a motor vehicle accident policy issued or renewed
18 during the period July 1, 2008 to June 30, 2009, \$440,000.00.

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

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

23 (k) For a motor vehicle accident policy issued or renewed
24 during the period July 1, 2011 to June 30, 2013, \$500,000.00.

25 Beginning July 1, 2013, this \$500,000.00 amount shall be increased
26 biennially on July 1 of each odd-numbered year, for policies issued
27 or renewed before July 1 of the following odd-numbered year, by the

1 lesser of 6% or the consumer price index, and rounded to the
2 nearest \$5,000.00. This biennial adjustment shall be calculated by
3 the association by January 1 of the year of its July 1 effective
4 date.

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

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

13 (5) An unsatisfied net liability to the association of an
14 insolvent member shall be assumed by and apportioned among the
15 remaining members of the association as provided in the plan of
16 operation. The association has all rights allowed by law on behalf
17 of the remaining members against the estate or funds of the
18 insolvent member for ~~sums~~**MONEY** due the association.

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

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

26 (a) Assume 100% of all liability as provided in subsection
27 (2).

1 (b) Establish procedures by which members shall promptly
2 report to the association each claim that, on the basis of the
3 injuries or damages sustained, may reasonably be anticipated to
4 involve the association if the member is ultimately held legally
5 liable for the injuries or damages. Solely for the purpose of
6 reporting claims, the member shall in all instances consider itself
7 legally liable for the injuries or damages. The member shall also
8 advise the association of subsequent developments likely to
9 materially affect the interest of the association in the claim.

10 (c) Maintain relevant loss and expense data relative to all
11 liabilities of the association and require each member to furnish
12 statistics, in connection with liabilities of the association, at
13 the times and in the form and detail as may be required by the plan
14 of operation.

15 (d) In a manner provided for in the plan of operation,
16 calculate and charge to members of the association a total premium
17 sufficient to cover the expected losses and expenses of the
18 association that the association will likely incur during the
19 period for which the premium is applicable. The premium shall
20 include an amount to cover incurred but not reported losses for the
21 period and may be adjusted for any excess or deficient premiums
22 from previous periods. Excesses or deficiencies from previous
23 periods may be fully adjusted in a single period or may be adjusted
24 over several periods in a manner provided for in the plan of
25 operation. Each member shall be charged an amount equal to that
26 member's total written car years of insurance providing the
27 security required by section 3101(1) or 3103(1), or both, written

1 in this state during the period to which the premium applies,
2 multiplied by the average premium per car. The average premium per
3 car shall be the total premium calculated divided by the total
4 written car years of insurance providing the security required by
5 section 3101(1) or 3103(1) written in this state of all members
6 during the period to which the premium applies. A member shall be
7 charged a premium for a historic vehicle that is insured with the
8 member of 20% of the premium charged for a car insured with the
9 member. As used in this subdivision:

10 (i) "Car" includes a motorcycle but does not include a historic
11 vehicle.

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

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

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

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

22 (f) Receive and distribute all ~~sums~~ **MONEY** required by the
23 operation of the association.

24 (g) Establish procedures for reviewing claims procedures and
25 practices of members of the association. If the claims procedures
26 or practices of a member are considered inadequate to properly
27 service the liabilities of the association, the association may

1 undertake or may contract with another person, including another
2 member, to adjust or assist in the adjustment of claims for the
3 member on claims that create a potential liability to the
4 association and may charge the cost of the adjustment to the
5 member.

6 **(H) FROM MONEY RECEIVED BY THE ASSOCIATION, PAY \$50,000,000.00**
7 **PER YEAR INTO THE SILVER LINING INSURANCE FUND CREATED UNDER**
8 **SECTION 2517.**

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

11 (a) Sue and be sued in the name of the association. A judgment
12 against the association shall not create any direct liability
13 against the individual members of the association. The association
14 may provide for the indemnification of its members, members of the
15 board of directors of the association, and officers, employees, and
16 other persons lawfully acting on behalf of the association.

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

20 (c) Provide for appropriate housing, equipment, and personnel
21 as may be necessary to assure the efficient operation of the
22 association.

23 (d) Pursuant to the plan of operation, adopt reasonable rules
24 for the administration of the association, enforce those rules, and
25 delegate authority, as the board considers necessary to assure the
26 proper administration and operation of the association consistent
27 with the plan of operation.

1 (e) Contract for goods and services, including independent
2 claims management, actuarial, investment, and legal services, from
3 others within or without this state to assure the efficient
4 operation of the association.

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

7 (g) Perform other acts not specifically enumerated in this
8 section that are necessary or proper to accomplish the purposes of
9 the association and that are not inconsistent with this section or
10 the plan of operation.

11 (9) A board of directors is created, ~~hereinafter referred to~~
12 ~~as the board,~~ which shall be **IS** responsible for the operation of
13 the association consistent with the plan of operation and this
14 section.

15 (10) The plan of operation shall provide for all of the
16 following:

17 (a) The establishment of necessary facilities.

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

19 (c) Procedures to be utilized in charging premiums, including
20 adjustments from excess or deficient premiums from prior periods.

21 (d) Procedures governing the actual payment of premiums to the
22 association.

23 (e) Reimbursement of each member of the board by the
24 association for actual and necessary expenses incurred on
25 association business.

26 (f) The investment policy of the association.

27 (g) Any other matters required by or necessary to effectively

1 implement this section.

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

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

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

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

21 (15) ~~After the board is appointed, the~~ **THE** board shall meet as
22 often as the chairperson, the commissioner, or the plan of
23 operation ~~shall require,~~ **REQUIRES,** or at the request of any 3
24 members of the board. The chairperson ~~shall retain the right to~~ **MAY**
25 vote on all issues. Four members of the board constitute a quorum.

26 (16) An annual report of the operations of the association in
27 a form and detail as ~~may be~~ determined by the board shall be

1 furnished to each member.

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

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

24 (17) ~~(19) The proposed plan of operation or ANY~~ amendments to
25 the plan of operation **OF THE ASSOCIATION** are subject to majority
26 approval by the board ~~, ratified AND RATIFICATION~~ by a majority of
27 the membership having a vote, with voting rights being apportioned

1 according to the premiums charged in subsection (7)(d) and are
2 subject to approval by the commissioner.

3 ~~(18) (20) Upon approval by the commissioner and ratification~~
4 ~~by the members of the plan submitted, or upon the promulgation of a~~
5 ~~plan by the commissioner, each~~ **EACH** insurer authorized to write
6 insurance providing the security required by section 3101(1) in
7 this state, as provided in this section, is bound by and shall
8 formally subscribe to and participate in the plan ~~approved~~ **OF**
9 **OPERATION** as a condition of maintaining its authority to transact
10 insurance in this state.

11 ~~(19) (21)~~The association is subject to all the reporting,
12 loss reserve, and investment requirements of the commissioner to
13 the same extent as ~~would a member~~ **ARE THE MEMBERS** of the
14 association.

15 ~~(20) (22)~~Premiums charged members by the association shall be
16 recognized in the rate-making procedures for insurance rates in the
17 same manner that expenses and premium taxes are recognized.

18 ~~(21) (23)~~The commissioner or an authorized representative of
19 the commissioner may visit the association at any time and examine
20 any and all **OF** the association's affairs.

21 ~~(22) (24)~~The association does not have liability for losses
22 occurring before July 1, 1978.

23 ~~(23) (25)~~As used in this section:

24 **(A) "ASSOCIATION" MEANS THE CATASTROPHIC CLAIMS ASSOCIATION**
25 **CREATED IN SUBSECTION (1).**

26 **(B) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE ASSOCIATION**
27 **CREATED IN SUBSECTION (9).**

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

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

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