

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4397**

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending sections 3009, 3109a, 3111, 3116, 3135, and 3151 (MCL  
500.3009, 500.3109a, 500.3111, 500.3116, 500.3135, and 500.3151),  
section 3009 as amended by 2016 PA 346, section 3109a as amended by  
2012 PA 454, and section 3135 as amended by 2012 PA 158, and by  
adding sections 2111f, 3107c, and 3107d.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           **Sec. 2111f. (1) Before July 1, 2020, an insurer that offers**  
2           **automobile insurance in this state shall file premium rates for**  
3           **personal protection insurance coverage for automobile insurance**  
4           **policies effective after July 1, 2020.**

5           **(2) Subject to subsections (6) and (7), the premium rates**



1 filed as required by subsection (1), and any subsequent premium  
2 rates filed by the insurer for personal protection insurance  
3 coverage under automobile insurance policies effective before July  
4 2, 2028, must result, as nearly as practicable, in an average  
5 reduction per vehicle from the premium rates for personal  
6 protection insurance coverage that were in effect for the insurer  
7 on May 1, 2019 as follows:

8 (a) For policies subject to the coverage limits under section  
9 3107c(1) (a), an average 45% or greater reduction per vehicle.

10 (b) For policies subject to the coverage limits under section  
11 3107c(1) (b), an average 35% or greater reduction per vehicle.

12 (c) For policies subject to the coverage limits under section  
13 3107c(1) (c), an average 20% or greater reduction per vehicle.

14 (d) For policies not subject to any coverage limit under  
15 section 3107c(1) (d), an average 10% or greater reduction per  
16 vehicle.

17 (3) For a policy under which an election under section 3107d  
18 has been made to not maintain coverage for personal protection  
19 insurance benefits payable under section 3107(1) (a), or for a  
20 policy to which an exclusion under section 3109a(2) applies, the  
21 premium rates filed under subsection (1), and any subsequent  
22 premium rates filed by the insurer for personal protection  
23 insurance coverage, must result in no premium charge for coverage  
24 for personal protection insurance benefits payable under section  
25 3107(1) (a).

26 (4) The director shall review a filing submitted by an insurer  
27 under subsections (1) to (3) for compliance with this section.  
28 Subject to subsection (7), the director shall disapprove a filing  
29 if after review the director determines that the filing does not



1 result in the premium reductions required by subsections (2) and  
2 (3).

3 (5) If the director disapproves a premium rate filing under  
4 subsection (4), the insurer shall submit a revised premium rate  
5 filing to the director within 15 days after the disapproval. The  
6 premium rate filing is subject to review in the same manner as an  
7 original premium rate filing under subsection (4).

8 (6) For policies issued or renewed in the year beginning July  
9 1, 2024 and in the year beginning July 1, 2026, an automobile  
10 insurer that offers automobile insurance in this state shall make  
11 filings demonstrating its compliance with this section.

12 (7) At any time, an insurer may apply to the director for  
13 approval to file rates that result in a lower premium reduction  
14 level or an exemption from the requirements of subsection (2) and  
15 the director shall approve the application if the rates otherwise  
16 comply with this act and compliance with the premium reductions  
17 required by subsection (2) will result in any of the following:

18 (a) The insurer reaching the company action level risk-based  
19 capital.

20 (b) A violation of the Fourteenth Amendment of the United  
21 States Constitution as to the insurer. This subdivision does not  
22 apply after July 1, 2023.

23 (c) A violation of section 17 of article I of the state  
24 constitution of 1963, as to deprivation of property without due  
25 process. This subdivision does not apply after July 1, 2023.

26 (8) An insurer shall pass on, in filings to which this section  
27 applies, savings realized from the application of section 3157(2)  
28 to (12) to treatment, products, services, accommodations, or  
29 training rendered to individuals who suffered accidental bodily



1 injury from motor vehicle accidents that occurred before July 2,  
 2 2021. An insurer shall provide the director with all documents and  
 3 information requested by the director that the director determines  
 4 are necessary to allow the director to evaluate the insurer's  
 5 compliance with this subsection. After July 1, 2022, the director  
 6 shall review all rate filings to which this section applies for  
 7 compliance with this subsection.

8 (9) This section does not prohibit an increase for any  
 9 individual insurance policy premium if the increase results from  
 10 applying rating factors as approved under this chapter, including  
 11 the requirements of this section.

12 (10) After July 1, 2020 and before July 2, 2028, an insurer  
 13 shall not issue or renew an automobile insurance policy in this  
 14 state unless the premium rates filed by the insurer for personal  
 15 protection insurance coverage are approved under this section.

16 (11) For purposes of calculating a personal protection  
 17 insurance premium or premium rate under this section, the premium  
 18 must include the catastrophic claims assessment imposed under  
 19 section 3104.

20 (12) If subsection (2) or the application of subsection (2) to  
 21 any insurer is found to be invalid by a court, the remaining  
 22 portions of the amendatory act that added this section are not  
 23 severable and shall be deemed invalid and inoperable.

24 (13) As used in this section:

25 (a) "Authorized control level RBC" means the number determined  
 26 under the risk-based capital formula in accordance with the RBC  
 27 report, including risk-based capital instructions adopted by the  
 28 National Association of Insurance Commissioners and the director.

29 (b) "Company action level risk-based capital" means 2 times



1 the insurer's authorized control level RBC.

2 (c) "RBC report" means the report of the insurer's RBC levels  
3 as required by the annual statement instructions.

4 Sec. 3009. (1) ~~An~~ **Subject to subsections (5) to (8), an**  
5 automobile liability or motor vehicle liability policy ~~insuring~~  
6 **that insures** against loss resulting from liability imposed by law  
7 for property damage, bodily injury, or death suffered by any person  
8 arising out of the ownership, maintenance, or use of a motor  
9 vehicle ~~shall~~ **must** not be delivered or issued for delivery in this  
10 state with respect to any motor vehicle registered or principally  
11 garaged in this state unless the liability coverage is subject to  
12 all of the following limits:

13 (a) ~~A~~ **Before July 2, 2020, a** limit, exclusive of interest and  
14 costs, of not less than \$20,000.00 because of bodily injury to or  
15 death of 1 person in any 1 accident, **and after July 1, 2020, a**  
16 **limit, exclusive of interest and costs, of not less than**  
17 **\$250,000.00 because of bodily injury to or death of 1 person in any**  
18 **1 accident.**

19 (b) ~~Subject~~ **Before July 2, 2020 and subject** to the limit for 1  
20 person in subdivision (a), a limit of not less than \$40,000.00  
21 because of bodily injury to or death of 2 or more persons in any 1  
22 accident, **and after July 1, 2020, and subject to the limit for 1**  
23 **person in subdivision (a), a limit of not less than \$500,000.00**  
24 **because of bodily injury to or death of 2 or more persons in any 1**  
25 **accident.**

26 (c) A limit of not less than \$10,000.00 because of injury to  
27 or destruction of property of others in any accident.

28 (2) If authorized by the insured, automobile liability or  
29 motor vehicle liability coverage may be excluded when a vehicle is



1 operated by a named person. An exclusion under this subsection is  
2 not valid unless the following notice is on the face of the policy  
3 or the declaration page or certificate of the policy and on the  
4 certificate of insurance:

5 Warning—when a named excluded person operates a vehicle all  
6 liability coverage is void—no one is insured. Owners of the vehicle  
7 and others legally responsible for the acts of the named excluded  
8 person remain fully personally liable.

9 (3) A liability policy described in subsection (1) may exclude  
10 coverage for liability as provided in section 3017.

11 (4) If an insurer deletes coverages from an automobile  
12 insurance policy ~~pursuant to~~ **under** section 3101, the insurer shall  
13 send documentary evidence of the deletion to the insured.

14 **(5) After July 1, 2020, an applicant for or named insured in**  
15 **the automobile liability or motor vehicle liability policy**  
16 **described in subsection (1) may choose to purchase lower limits**  
17 **than required under subsection (1) (a) and (b), but not lower than**  
18 **\$50,000.00 under subsection (1) (a) and \$100,000.00 under subsection**  
19 **(1) (b). To exercise an option under this subsection, the person**  
20 **shall complete a form issued by the director and provided as**  
21 **required by section 3107e, that meets the requirements of**  
22 **subsection (7).**

23 (6) After July 1, 2020, on application for the issuance of a  
24 new policy or renewal of an existing policy, an insurer shall do  
25 all of the following:

26 (a) Provide the applicant or named insured the liability  
27 options available under this section.

28 (b) Provide the applicant or named insured a price for each  
29 option available under this section.



1 (c) Offer the applicant or named insured the option and form  
2 under this subsection.

3 (7) The form required under subsection (5) must do all of the  
4 following:

5 (a) State, in a conspicuous manner, the risks of choosing  
6 liability limits lower than those required by subsection (1)(a) and  
7 (b).

8 (b) Provide a way for the person to mark the form to  
9 acknowledge that he or she has received a list of the liability  
10 options available under this section and the price for each option.

11 (c) Provide a way for the person to mark the form to  
12 acknowledge that he or she has read the form and understands the  
13 risks of choosing the lower liability limits.

14 (d) Allow the person to sign the form.

15 (8) After July 1, 2020, if an insurance policy is issued or  
16 renewed as described in subsection (1) and the person named in the  
17 policy has not made an effective choice under subsection (5), the  
18 limits under subsection (1)(a) and (b) apply to the policy.

19 Sec. 3107c. (1) Except as provided in sections 3107d and  
20 3109a, and subject to subsection (5), for an insurance policy that  
21 provides the security required under section 3101(1) and is issued  
22 or renewed after July 1, 2020, the applicant or named insured  
23 shall, in a way required under section 3107e and on a form approved  
24 by the director, select 1 of the following coverage levels for  
25 personal protection insurance benefits under section 3107(1)(a):

26 (a) A limit of \$50,000.00 per individual per loss occurrence  
27 for any personal protection insurance benefits under section  
28 3107(1)(a). The selection of a limit under this subdivision is only  
29 available to an applicant or named insured if both of the following



1 apply:

2 (i) The applicant or named insured is enrolled in Medicaid, as  
3 that term is defined in section 3157.

4 (ii) The applicant's or named insured's spouse and any relative  
5 of either who resides in the same household has qualified health  
6 coverage, as that term is defined in section 3107d, is enrolled in  
7 Medicaid, or has coverage for the payment of benefits under section  
8 3107(1) (a) from an insurer that provides the security required by  
9 section 3101(1).

10 (b) A limit of \$250,000.00 per individual per loss occurrence  
11 for any personal protection insurance benefits under section  
12 3107(1) (a).

13 (c) A limit of \$500,000.00 per individual per loss occurrence  
14 for any personal protection insurance benefits under section  
15 3107(1) (a).

16 (d) No limit for personal protection insurance benefits under  
17 section 3107(1) (a).

18 (2) The form required under subsection (1) must do all of the  
19 following:

20 (a) State, in a conspicuous manner, the benefits and risks  
21 associated with each coverage option.

22 (b) Provide a way for the applicant or named insured to mark  
23 the form to acknowledge that he or she has read the form and  
24 understands the options available.

25 (c) Allow the applicant or named insured to mark the form to  
26 make the selection of coverage level under subsection (1).

27 (d) Require the applicant or named insured to sign the form.

28 (3) If an insurance policy is issued or renewed as described  
29 in subsection (1) and the applicant or named insured has not made





1 an effective selection under subsection (1) but a premium or  
2 premium installment has been paid, there is a rebuttable  
3 presumption that the amount of the premium or installment paid  
4 accurately reflects the level of coverage applicable to the policy  
5 under subsection (1).

6 (4) If an insurance policy is issued or renewed as described  
7 in subsection (1), the applicant or named insured has not made an  
8 effective selection under subsection (1), and a presumption under  
9 subsection (3) does not apply, subsection (1)(d) applies to the  
10 policy.

11 (5) The coverage level selected under subsection (1) applies  
12 to the named insured, the named insured's spouse, and a relative of  
13 either domiciled in the same household, and any other person with a  
14 right to claim personal protection insurance benefits under the  
15 policy.

16 (6) If benefits are payable under section 3107(1)(a) under 2  
17 or more insurance policies, the benefits are only payable up to an  
18 aggregate coverage limit that equals the highest available coverage  
19 limit under any 1 of the policies.

20 (7) This section applies for a transportation network company  
21 vehicle, but an applicant or named insured that is a transportation  
22 network company shall only select limits under either subsection  
23 (1)(b), (c), or (d). As used in this subsection:

24 (a) "Transportation network company" means that term as  
25 defined in section 2 of the limousine, taxicab, and transportation  
26 network company act, 2016 PA 345, MCL 257.2102.

27 (b) "Transportation network company vehicle" means that term  
28 as defined in section 3114.

29 (8) An insurer shall offer, for a policy that provides the



1 security required under section 3101(1) to which a limit under  
 2 subsection (1) (a) to (c) applies, a rider that will provide  
 3 coverage for attendant care in excess of the applicable limit.

4 Sec. 3107d. (1) For an insurance policy that provides the  
 5 security required under section 3101(1) and is issued or renewed  
 6 after July 1, 2020, the applicant or named insured may, in a way  
 7 required under section 3107e and on a form approved by the  
 8 director, elect to not maintain coverage for personal protection  
 9 insurance benefits payable under section 3107(1) (a) if the  
 10 applicant or named insured is a qualified person, and if the  
 11 applicant's or named insured's spouse and any relative of either  
 12 that resides in the same household have qualified health coverage  
 13 or have coverage for benefits payable under section 3107(1) (a) from  
 14 an insurer that provides the security required by section 3101(1).

15 (2) An applicant or named insured shall, when requesting  
 16 issuance or renewal of a policy under subsection (1), provide to  
 17 the insurer a document from the person that provides the qualified  
 18 health coverage stating the names of all persons covered under the  
 19 qualified health coverage.

20 (3) The form required under subsection (1) must do all of the  
 21 following:

22 (a) Require the applicant or named insured to mark the form to  
 23 certify whether all persons required to be qualified persons under  
 24 subsection (1) are qualified persons.

25 (b) Disclose in a conspicuous manner that qualified persons  
 26 are not obligated to but may purchase coverage for personal  
 27 protection insurance coverage benefits payable under section  
 28 3107(1) (a).

29 (c) State, in a conspicuous manner, the coverage levels



1 available under section 3107c.

2 (d) State, in a conspicuous manner, the benefits and risks  
3 associated with not maintaining the coverage.

4 (e) State, in a conspicuous manner, that if during the term of  
5 the policy the qualified health coverage ceases, the person has 30  
6 days after the effective date of the termination of qualified  
7 health coverage to obtain insurance that provides coverage under  
8 section 3107(1)(a) or the person will be excluded from all personal  
9 protection insurance coverage benefits under section 3107(1)(a)  
10 during the period in which coverage under this section was not  
11 maintained.

12 (f) Provide a way for the applicant or named insured to mark  
13 the form to acknowledge that he or she has read the form and  
14 understands it and that he or she understands the options available  
15 to him or her.

16 (g) If all persons required to be qualified persons under  
17 subsection (1) are qualified persons, provide the person a way to  
18 mark the form to elect to not maintain the coverage.

19 (h) Require the applicant or named insured to sign the form.

20 (4) If an insurance policy is issued or renewed as described  
21 in subsection (1) and the applicant or named insured has not made  
22 an effective election under subsection (1), the policy is  
23 considered to provide personal protection benefits under section  
24 3107c(1)(d).

25 (5) An election under this section applies to the applicant or  
26 named insured, the applicant or named insured's spouse, a relative  
27 of either domiciled in the same household, and any other person who  
28 would have had a right to claim personal protection insurance  
29 benefits under the policy but for the election.



1 (6) If, during the term of an insurance policy under which  
 2 coverage for personal protection insurance benefits payable under  
 3 section 3107(1) (a) are not maintained under this section, the  
 4 persons required to have qualified health coverage under subsection  
 5 (1) cease to have qualified health coverage, all of the following  
 6 apply under this subsection:

7 (a) Within 30 days after the effective date of the termination  
 8 of qualified health coverage, the named insured shall obtain  
 9 insurance that includes coverage under section 3107(1) (a) .

10 (b) An insurer that issues policies that provide the security  
 11 required by section 3101(1) shall not refuse to prospectively  
 12 insure, limit coverage available to, charge a reinstatement fee to,  
 13 or increase the insurance premiums for a person who is an eligible  
 14 person, as that term is defined in section 2103, solely because the  
 15 person previously failed to obtain insurance that provides coverage  
 16 for benefits under section 3107(1) (a) in the time required under  
 17 subdivision (a) .

18 (c) If the applicant or named insured does not obtain  
 19 insurance as required under subdivision (a) and a person to whom  
 20 the election under this section applies as described in subsection  
 21 (5) suffers accidental bodily injury arising from a motor vehicle  
 22 accident within the 30-day period, unless the injured person is  
 23 entitled to coverage under some other policy, the injured person is  
 24 not entitled to be paid personal protection insurance benefits  
 25 under section 3107(1) (a) for the injury but is entitled to claim  
 26 benefits under the assigned claims plan.

27 (7) As used in this section:

28 (a) "Consumer Price Index" means the most comprehensive index  
 29 of consumer prices available for this state from the United States



1 Department of Labor, Bureau of Labor Statistics.

2 (b) "Qualified health coverage" means either of the following:

3 (i) Other health or accident coverage to which both of the  
4 following apply:

5 (A) The coverage does not exclude or limit coverage for  
6 injuries related to motor vehicle accidents.

7 (B) Any annual deductible for the coverage is \$6,000.00 or  
8 less per individual. The director shall adjust the amount in this  
9 sub-subparagraph on July 1 of each year by the percentage change in  
10 the medical component of the Consumer Price Index for the preceding  
11 calendar year. However, the director shall not make the adjustment  
12 unless the adjustment, or the total of the adjustment and previous  
13 unadded adjustments, is \$500.00 or more.

14 (ii) Coverage under parts A and B of the federal Medicare  
15 program established under subchapter XVIII of the social security  
16 act, 42 USC 1395 to 1395III.

17 (c) "Qualified person" means a person who has qualified health  
18 coverage under subdivision (b) (ii).

19 Sec. 3109a. (1) An insurer ~~providing~~ **that provides** personal  
20 protection insurance benefits under this chapter may offer ~~, at~~  
21 ~~appropriately reduced premium rates,~~ deductibles and exclusions  
22 reasonably related to other health and accident coverage on the  
23 insured. Any deductibles and exclusions offered under this section  
24 **must be offered at a reduced premium that reflects reasonably**  
25 **anticipated reductions in losses, expenses, or both,** are subject to  
26 prior approval by the ~~commissioner~~ **director**, and ~~shall~~ **must** apply  
27 only to benefits payable to the person named in the policy, the  
28 spouse of the insured, and any relative of either domiciled in the  
29 same household.



1 (2) For an insurance policy issued or renewed after July 1,  
2 2020, the insurer shall offer to an applicant or named insured that  
3 selects a personal protection benefit limit under section  
4 3107c(1)(b) an exclusion related to qualified health coverage. All  
5 of the following apply to that exclusion:

6 (a) If the named insured has qualified health coverage as  
7 defined in section 3107d(7)(b)(i) that will cover injuries that  
8 occur as the result of a motor vehicle accident and if the named  
9 insured's spouse and any relatives of either the named insured or  
10 the spouse domiciled in the same household have qualified health  
11 coverage that will cover injuries that occur as the result of a  
12 motor vehicle accident, the premium for the personal protection  
13 insurance benefits payable under section 3107(1)(a) under the  
14 policy must be reduced by 100%.

15 (b) If a member, but not all members, of the household covered  
16 by the insurance policy has qualified health coverage that will  
17 cover injuries that occur as the result of a motor vehicle  
18 accident, the insurer shall offer a reduced premium that reflects  
19 reasonably anticipated reductions in losses, expenses, or both. The  
20 reduction must be in addition to the rate rollback required by  
21 section 2111f and the share of the premium reduction for the policy  
22 attributable to any person with qualified health coverage must be  
23 100%.

24 (c) Subject to subdivision (d), a person subject to an  
25 exclusion under this subsection is not eligible for personal  
26 protection benefits under the insurance policy.

27 (d) If a person subject to an exclusion under this subsection  
28 is no longer covered by the qualified health coverage, the named  
29 insured shall notify the insurer that the named insured or resident



1 relative is no longer eligible for an exclusion. All of the  
2 following apply under this subdivision:

3 (i) The named insured shall, within 30 days after the effective  
4 date of the termination of the qualified health coverage, obtain  
5 insurance that provides the security required under section 3101(1)  
6 that includes coverage that was excluded under this subsection.

7 (ii) During the period described in subparagraph (i), if any  
8 person excluded suffers accidental bodily injury arising from a  
9 motor vehicle accident, the person is entitled to claim benefits  
10 under the assigned claims plan.

11 (e) If the named insured does not obtain insurance that  
12 provides the security required under section 3101(1) that includes  
13 the coverage excluded under this subsection during the period  
14 described in subdivision (d) (i) and the named insured or any person  
15 excluded under the policy suffers accidental bodily injury arising  
16 from a motor vehicle accident, unless the injured person is  
17 entitled to coverage under some other policy, the injured person is  
18 not entitled to be paid personal protection insurance benefits  
19 under section 3107(1) (a) for the injury that occurred during the  
20 period in which coverage under this section was excluded.

21 (3) An automobile insurer shall not refuse to prospectively  
22 insure, limit coverage available to, charge a reinstatement fee  
23 for, or increase the premiums for automobile insurance for an  
24 eligible person, as that term is defined in section 2103, solely  
25 because the person previously failed to obtain insurance that  
26 provides the security required under section 3101(1) in the time  
27 period provided under subsection (2) (d) (i) .

28 (4) The amount of a premium reduction under subsection (1)  
29 must appear in a conspicuous manner in the declarations for the



1 policy, and be expressed as a dollar amount or a percentage.

2 (5) As used in this section, "qualified health coverage" means  
3 that term as defined in section 3107d.

4 Sec. 3111. Personal protection insurance benefits are payable  
5 for accidental bodily injury suffered in an accident occurring out  
6 of this state, if the accident occurs within the United States, its  
7 territories and possessions, or ~~in~~ Canada, and the person whose  
8 injury is the basis of the claim was at the time of the accident a  
9 named insured under a personal protection insurance policy, ~~his~~ **the**  
10 spouse **of a named insured**, a relative of either domiciled in the  
11 same household, or an occupant of a vehicle involved in the  
12 accident, ~~whose~~ **if the occupant was a resident of this state or if**  
13 **the** owner or registrant **of the vehicle** was insured under a personal  
14 protection insurance policy or ~~has~~ provided security approved by  
15 the secretary of state under ~~subsection (4) of section~~  
16 ~~3101.~~ **3101(5)**.

17 Sec. 3116. (1) A subtraction from personal protection  
18 insurance benefits ~~shall~~ **must** not be made because of the value of a  
19 claim in tort based on the same accidental bodily injury.

20 (2) A subtraction from or reimbursement for personal  
21 protection insurance benefits paid or payable under this chapter  
22 ~~shall~~ **may** be made only if recovery is realized ~~upon~~ **on** a tort claim  
23 arising from an accident ~~occurring~~ **that occurred** outside this  
24 state, a tort claim brought ~~within~~ **in** this state against the owner  
25 or operator of a motor vehicle with respect to which the security  
26 required by section 3101 ~~(3) and (4)~~ was not in effect, or a tort  
27 claim brought ~~within~~ **in** this state based on intentionally caused  
28 harm to persons or property, and ~~shall~~ **may** be made only to the  
29 extent that the recovery realized by the claimant is for damages





1 for which the claimant has received or would otherwise be entitled  
 2 to receive personal protection insurance benefits. A subtraction  
 3 ~~shall~~**may** be made only to the extent of the recovery, exclusive of  
 4 reasonable ~~attorneys'~~**attorney** fees and other reasonable expenses  
 5 incurred in effecting the recovery. If personal protection  
 6 insurance benefits have already been received, the claimant shall  
 7 repay to the insurers out of the recovery ~~a sum~~**an amount** equal to  
 8 the benefits received, but not more than the recovery exclusive of  
 9 reasonable ~~attorneys'~~**attorney** fees and other reasonable expenses  
 10 incurred in effecting the recovery. The insurer ~~shall have~~**has** a  
 11 lien on the recovery to this extent. A recovery by an injured  
 12 person or his or her estate for loss suffered by the person ~~shall~~  
 13 **may** not be subtracted in calculating benefits due a dependent after  
 14 the death and a recovery by a dependent for loss suffered by the  
 15 dependent after the death ~~shall~~**may** not be subtracted in  
 16 calculating benefits due the injured person.

17 (3) A personal protection insurer with a right of  
 18 reimbursement under subsection (1), if suffering loss from  
 19 inability to collect reimbursement out of a payment received by a  
 20 claimant ~~upon~~**on** a tort claim, is entitled to indemnity from a  
 21 person who, with notice of the insurer's interest, made the payment  
 22 to the claimant without making the claimant and the insurer joint  
 23 payees as their interests may appear or without obtaining the  
 24 insurer's consent to a different method of payment.

25 (4) A subtraction or reimbursement ~~shall~~**is** not ~~be~~ due the  
 26 claimant's insurer from that portion of any recovery to the extent  
 27 that recovery is realized for noneconomic loss as provided in  
 28 section 3135(1) and (2)(b) or for allowable expenses, work loss,  
 29 and survivor's loss as defined in sections 3107 to 3110 in excess



1 of the amount recovered by the claimant from his or her insurer.

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

7 (2) For a cause of action for damages ~~pursuant to~~**under**  
8 subsection (1) ~~filed on or after July 26, 1996, or (3) (d)~~, all of  
9 the following apply:

10 (a) The issues of whether the injured person has suffered  
11 serious impairment of body function or permanent serious  
12 disfigurement are questions of law for the court if the court finds  
13 either of the following:

14 (i) There is no factual dispute concerning the nature and  
15 extent of the person's injuries.

16 (ii) There is a factual dispute concerning the nature and  
17 extent of the person's injuries, but the dispute is not material to  
18 the determination whether the person has suffered a serious  
19 impairment of body function or permanent serious disfigurement.  
20 However, for a closed-head injury, a question of fact for the jury  
21 is created if a licensed allopathic or osteopathic physician who  
22 regularly diagnoses or treats closed-head injuries testifies under  
23 oath that there may be a serious neurological injury.

24 (b) Damages ~~shall~~**must** be assessed on the basis of comparative  
25 fault, except that damages ~~shall~~**must** not be assessed in favor of a  
26 party who is more than 50% at fault.

27 (c) Damages ~~shall~~**must** not be assessed in favor of a party who  
28 was operating his or her own vehicle at the time the injury  
29 occurred and did not have in effect for that motor vehicle the



1 security required by section ~~3101~~**3101(1)** at the time the injury  
2 occurred.

3 (3) Notwithstanding any other provision of law, tort liability  
4 arising from the ownership, maintenance, or use within this state  
5 of a motor vehicle with respect to which the security required by  
6 section ~~3101~~**3101(1)** was in effect is abolished except as to:

7 (a) Intentionally caused harm to persons or property. Even  
8 though a person knows that harm to persons or property is  
9 substantially certain to be caused by his or her act or omission,  
10 the person does not cause or suffer that harm intentionally if he  
11 or she acts or refrains from acting for the purpose of averting  
12 injury to any person, including himself or herself, or for the  
13 purpose of averting damage to tangible property.

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

16 (c) Damages for allowable expenses, work loss, and survivor's  
17 loss as defined in sections 3107 to 3110, **including all future**  
18 **allowable expenses and work loss**, in excess of **any applicable limit**  
19 **under section 3107c or** the daily, monthly, and 3-year limitations  
20 contained in those sections, **or without limit for allowable**  
21 **expenses if an election to not maintain that coverage was made**  
22 **under section 3107d or if an exclusion under section 3109a(2)**  
23 **applies**. The party liable for damages is entitled to an exemption  
24 reducing his or her liability by the amount of taxes that would  
25 have been payable on account of income the injured person would  
26 have received if he or she had not been injured.

27 (d) Damages for economic loss by a nonresident. ~~in excess of~~  
28 ~~the personal protection insurance benefits provided under section~~  
29 ~~3163(4). Damages under this subdivision are not recoverable to the~~



1 ~~extent that benefits covering the same loss are available from~~  
 2 ~~other sources, regardless of the nature or number of benefit~~  
 3 ~~sources available and regardless of the nature or form of the~~  
 4 ~~benefits.~~**However, to recover under this subdivision, the**  
 5 **nonresident must have suffered death, serious impairment of body**  
 6 **function, or permanent serious disfigurement.**

7 (e) Damages up to \$1,000.00 to a motor vehicle **or, for motor**  
 8 **vehicle accidents that occur after July 1, 2020, up to \$3,000.00 to**  
 9 **a motor vehicle,** to the extent that the damages are not covered by  
 10 insurance. An action for damages under this subdivision ~~shall~~**must**  
 11 be conducted as provided in subsection (4).

12 (4) All of the following apply to an action for damages under  
 13 subsection (3) (e):

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

17 (b) Liability is not a component of residual liability, as  
 18 prescribed in section 3131, for which maintenance of security is  
 19 required by this act.

20 (c) The action ~~shall~~**must** be commenced, whenever legally  
 21 possible, in the small claims division of the district court or the  
 22 municipal court. If the defendant or plaintiff removes the action  
 23 to a higher court and does not prevail, the judge may assess costs.

24 (d) A decision of the court is not res judicata in any  
 25 proceeding to determine any other liability arising from the same  
 26 circumstances that gave rise to the action.

27 (e) Damages ~~shall~~**must** not be assessed if the damaged motor  
 28 vehicle was being operated at the time of the damage without the  
 29 security required by section ~~3101~~**3101(1)**.



1 (5) As used in this section, "serious impairment of body  
2 function" means an **impairment that satisfies all of the following**  
3 **requirements:**

4 (a) **It is** objectively manifested, **meaning it is observable or**  
5 **perceivable from actual symptoms or conditions by someone other**  
6 **than the injured person.**

7 (b) **It is an** impairment of an important body function, ~~that~~  
8 **which is a body function of great value, significance, or**  
9 **consequence to the injured person.**

10 (c) **It** affects the **injured** person's general ability to lead  
11 his or her normal life, **meaning it has had an influence on some of**  
12 **the person's capacity to live in his or her normal manner of**  
13 **living. Although temporal considerations may be relevant, there is**  
14 **no temporal requirement for how long an impairment must last. This**  
15 **examination is inherently fact and circumstance specific to each**  
16 **injured person, must be conducted on a case-by-case basis, and**  
17 **requires comparison of the injured person's life before and after**  
18 **the incident.**

19 Sec. 3151. ~~(1) When~~**If** the mental or physical condition of a  
20 person is material to a claim that has been or may be made for past  
21 or future personal protection insurance benefits, **at the request of**  
22 **an insurer** the person shall submit to mental or physical  
23 examination by physicians. A personal protection insurer may  
24 include reasonable provisions **that are in accord with this section**  
25 in a personal protection insurance policy for mental and physical  
26 examination of persons claiming personal protection insurance  
27 benefits.

28 (2) **A physician who conducts a mental or physical examination**  
29 **under this section must be licensed as a physician in this state or**



1 another state and meet the following criteria, as applicable:

2 (a) If care is being provided to the person to be examined by  
3 a specialist, the examining physician must specialize in the same  
4 specialty as the physician providing the care, and if the physician  
5 providing the care is board certified in the specialty, the  
6 examining physician must be board certified in that specialty.

7 (b) During the year immediately preceding the examination, the  
8 examining physician must have devoted a majority of his or her  
9 professional time to either or both of the following:

10 (i) The active clinical practice of medicine and, if  
11 subdivision (a) applies, the active clinical practice relevant to  
12 the specialty.

13 (ii) The instruction of students in an accredited medical  
14 school or in an accredited residency or clinical research program  
15 for physicians and, if subdivision (a) applies, the instruction of  
16 students is in the specialty.

17 Enacting section 1. Section 3135 of the insurance code of  
18 1956, 1956 PA 218, MCL 500.3135, as amended by this amendatory act,  
19 is intended to codify and give full effect to the opinion of the  
20 Michigan supreme court in *McCormick v Carrier*, 487 Mich 180 (2010).

