PUBLIC ACTS

[No. 1]

(SB 472)

AN ACT to amend 1982 PA 249, entitled "An act to establish the state children's trust fund in the department of treasury; and to provide certain powers and duties of the department of treasury with respect to the trust fund," by amending section 1 (MCL 21.171), as amended by 2000 PA 72.

The People of the State of Michigan enact:

21.171 Children's trust fund; creation as charitable and educational endowment fund; expenditure; credits; investment; availability for disbursement; accounting of revenues and expenditures; "trust fund" defined.

Sec. 1. (1) The children's trust fund is created as a charitable and educational endowment fund in the department of treasury. The fund shall be expended only as provided in this section.

(2) The state treasurer shall credit to the trust fund all amounts appropriated for this purpose under section 475 of the income tax act of 1967, 1967 PA 281, MCL 206.475, any amounts received under section 811j of the Michigan vehicle code, 1949 PA 300, MCL 257.811j, and section 8 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.608, and any amounts received from civil fines imposed under the playground equipment safety act, 1997 PA 16, MCL 408.681 to 408.687.

(3) The state treasurer shall direct the investment of the trust fund. The state treasurer shall have the same authority to invest the assets of the trust fund as is granted to an investment fiduciary under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1140l.

(4) Until the total amount of assets in the trust fund exceeds $20,000,000.00, not more than 1/2 of the money contributed to the trust fund each year, plus the interest and earnings credited to the trust fund during the previous fiscal year, shall be available for disbursement upon the authorization of the state board as provided in section 9 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.609. If the state treasurer certifies that the assets in the trust fund exceed $20,000,000.00, only the interest and earnings credited to the trust fund shall be available for disbursement upon the authorization of the state board as provided in section 9 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.609.

(5) Money granted or received as gifts or donations to the trust fund shall be available for disbursement upon appropriation under section 8 of the child abuse and neglect prevention act, 1982 PA 250, MCL 722.608, and funds authorized for expenditure shall not be considered assets of the trust fund for the purposes of subsection (4).

(6) The state treasurer shall annually prepare an accounting of revenues and expenditures from the trust fund. This accounting shall specifically identify the interest and earnings of the trust fund, shall describe how the amount of interest and earnings has been affected by the expanded investment options provided for in subsection (3), and shall identify how the increased interest and earnings, if any, have been expended. This accounting shall be provided to the senate and house of representatives appropriations committees.

(7) As used in this section, "trust fund" means the children's trust fund created in subsection (1).

This act is ordered to take immediate effect.
Approved January 21, 2002.
Filed with Secretary of State January 23, 2002.

[No. 2]

(HB 5027)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 72.

The People of the State of Michigan enact:

250.1072 "Oscar G. Johnson Memorial Highway."

Sec. 72. The portion of highway M-69 beginning at the intersection of highway M-69 and US-2 in Delta county and continuing northwest through Menominee county to the intersection of M-69 and M-95 in Dickinson county shall be known as the "Oscar G. Johnson Memorial Highway".

This act is ordered to take immediate effect.
Approved January 21, 2002.
Filed with Secretary of State January 23, 2002.

[No. 3]

(SB 430)

AN ACT to amend 1994 PA 451, entitled "An act to protect the environment and natural resources of the state; to codify, revise, consolidate, and classify laws relating to the environment and natural resources of the state; to regulate the discharge of certain substances into the environment; to regulate the use of certain lands, waters, and other natural resources of the state; to prescribe the powers and duties of certain state and local agencies and officials; to provide for certain charges, fees, and assessments; to provide certain appropriations; to prescribe penalties and provide remedies; to repeal certain parts of this act on a specific date; and to repeal certain acts and parts of acts," by repealing section 75106 (MCL 324.75106).

The People of the State of Michigan enact:

Repeal of § 324.75106.

Enacting section 1. Section 75106 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.75106, is repealed.

Approved February 6, 2002.
Filed with Secretary of State February 7, 2002.

[No. 4]

(SB 471)

AN ACT to amend 1987 PA 173, entitled "An act to define and regulate mortgage brokers, mortgage lenders, and mortgage servicers; to prescribe the powers and duties of the financial institutions bureau and certain public officers and agencies; to provide for the promulgation of rules; and to provide remedies and penalties," by amending section 2 (MCL 445.1652), as amended by 1996 PA 210.

The People of the State of Michigan enact:

445.1652 License or registration required; exemption; residential mortgage originator; compensation; words contained in name or assumed name.

Sec. 2. (1) A person shall not act as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registering under this act, unless 1 or more of the following apply:

(a) The person is solely performing services as an employee of only 1 mortgage broker, mortgage lender, or mortgage servicer.

(b) The person is exempted from the act under section 25.

(c) The person is licensed as a class I licensee under the consumer financial services act, 1988 PA 161, MCL 487.2051 to 487.2072.

(2) A person that is licensed to make regulatory loans under the regulatory loan act of 1963, 1939 PA 21, MCL 493.1 to 493.25, or is licensed to make secondary mortgage loans under the secondary mortgage loan act, 1981 PA 125, MCL 493.51 to 493.81, and is registered with the commissioner shall file with the commissioner an application for a license under section 3(1) or shall discontinue all activities that are subject to this act.

(3) Unless a residential mortgage originator is otherwise licensed or registered under this act, a residential mortgage originator shall not receive directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits from a mortgage broker, mortgage lender, or mortgage servicer other than the employer of the residential mortgage originator.

(4) Unless a residential mortgage originator is otherwise licensed or registered under this act, a mortgage broker, mortgage lender, or mortgage servicer shall not pay directly or indirectly any compensation, commission, fee, points, or other remuneration or benefits to a residential mortgage originator other than an employee of the mortgage broker, mortgage lender, or mortgage servicer. As used in this subsection and subsection (3),

"residential mortgage originator" means a person who assists another person in obtaining a mortgage loan.

(5) A mortgage broker, mortgage lender, or mortgage servicer that was exempt from regulation under this act and is a subsidiary or affiliate of a depository financial institution or a depository financial institution holding company that does not maintain a main office or branch office in this state, shall register under section 6 or shall discontinue all activities subject to this act.

(6) Except for a state or nationally chartered bank, savings bank, or an affiliate of a bank or savings bank, the person subject to this act shall not include in its name or assumed name, the words "bank", "banker", "banking", "banc", "bankcorp", "bancorp", or any other words or phrases that would imply that the person is a bank, is engaged in the business of banking, or is affiliated with a bank or savings bank. It is not a violation of this subsection for a licensee or registrant to use the term "mortgage banker" or "mortgage banking" in its name or assumed name. A person subject to this act whose name or assumed name on January 1, 1995 contained a word prohibited by this section may continue to use the name or assumed name.

This act is ordered to take immediate effect.
Approved February 6, 2002.
Filed with Secretary of State February 7, 2002.

[No. 5]

(SB 615)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 68.

The People of the State of Michigan enact:

250.1068 "Gary Priess Memorial Highway."

Sec. 68. That portion of highway US-127 beginning at the border between Ingham county and Clinton county and extending north to the Price road exit in Clinton county shall be named the "Gary Priess Memorial Highway".

This act is ordered to take immediate effect.
Approved February 6, 2002.
Filed with Secretary of State February 7, 2002.

[No. 6]

(HB 5436)

AN ACT to authorize the state administrative board to convey certain parcels of state owned property in Tuscola county and Wayne county; to prescribe conditions for conveyance;

to provide for certain powers and duties of the department of management and budget; and to provide for the disposition of revenue derived from the conveyances.

The People of the State of Michigan enact:

Conveyance of property located in township of Indianfields, Tuscola county, to Tuscola area airport authority; consideration; jurisdiction; description.

Sec. 1. The state administrative board, on behalf of the state, may convey to the recipient determined under sections 2 to 4, for consideration as determined pursuant to sections 2 to 4, all or portions of property now under the jurisdiction of the department of community health and located in the township of Indianfields, Tuscola county, Michigan, and further described as follows:

The Southeast 40 acres, being approximately 1320 feet by 1320 feet, of the remainder of the South Half of Section 18, Town 12 North, Range 9 East, after excepting out the Southeast 1/4 of Section 18 Town 12 North, Range 9 East, which was conveyed to the City of Caro in that Quitclaim Deed dated May 16th, 1961.

Purchase price.

Sec. 2. The Tuscola area airport authority has the exclusive right, for a period of 12 months after the effective date of this act, to purchase the property described in section 1. The purchase price shall be 1 of the following:

(a) Less than fair market value, if the Tuscola area airport authority agrees to use the property for public purposes.

(b) Fair market value, if the Tuscola airport authority does not agree to use the property for public purposes.

Reversionary rights.

Sec. 3. If, at any time after purchasing the property under sections 1 and 2, the Tuscola area airport authority determines it will no longer operate as a local unit of government, or determines that the property shall no longer continue to be used for public purposes, then the Tuscola area airport authority shall notify the state in writing 180 days before any such change in organization or use. The Tuscola area airport authority shall then have the right, for 180 days, to purchase the reversionary rights. The purchase price will be the fair market value of the property exclusive of any improvements on the date of the notice to the state.

Conveyance for less than fair market value.

Sec. 4. Any conveyance of the property described in section 1 that is conveyed for public purpose for less than fair market value shall provide for all of the following:

(a) That the property shall be used exclusively for public purposes and if any fee, term, or condition is imposed on members of the public for recreational use of the conveyed property, all resident and nonresident members of the public shall be subject to the same fees, terms, and conditions, except that the grantee may waive daily fees or waive fees for the use of specific areas or facilities; and that upon termination of that use or use for any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(b) That the Tuscola area airport authority may create and record restrictions on the use of the property required for the safe operation of an airport. Those recorded restrictions

shall run with the land as long as the airport is in use and shall not be extinguished solely by reversion of the property to the state.

(c) That if the grantee disputes the state's exercise of its rights of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Appraisal.

Sec. 5. The fair market value of the property described in section 1 shall be determined by an appraisal as prepared by the state tax commission or an independent fee appraiser.

Conveyance of property located in township of Indianfields, Tuscola county, to township of Indianfields; consideration; jurisdiction; description.

Sec. 6. The state administrative board, on behalf of the state, may convey to the recipient determined under sections 7 and 8, for consideration as determined pursuant to sections 7 and 8, all or portions of property now under the jurisdiction of the department of community health and located in the township of Indianfields, Tuscola county, Michigan, and further described as follows:

That part of the South 1/2 of Section 17, Town 12 North, Range 9 East, which lies North of the Cass River, South of M-81, and 250 feet East of the Caro Center, Buildings number 7 and 9 as numbered and depicted in the States Facility Inventory dated June 1980. The parcel contains approximately 30 acres.

Purchase; rights.

Sec. 7. The township of Indianfields has the exclusive right, for a period of 12 months after the effective date of this act, to purchase the property described in section 6, for less than fair market value, if the township of Indianfields agrees to use the property for public purposes.

Conveyance for less than fair market value; provisions.

Sec. 8. Any conveyance of the property described in section 6 for less than fair market value shall provide for both of the following:

(a) That the property shall be used exclusively for public purposes and if any fee, term, or condition is imposed on members of the public for recreational use of the conveyed property, all resident and nonresident members of the public shall be subject to the same fees, terms, and conditions, except that the grantee may waive daily fees or waive fees for the use of specific areas or facilities; and that upon termination of that use or use of any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(b) That if the grantee disputes the state's exercise of its rights of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Quitclaim deed; reservation of mineral rights; revenue.

Sec. 8a. The conveyances authorized by sections 1 and 6 shall be by quitclaim deed approved by the attorney general. The conveyances shall not reserve the mineral rights to the state; however, the conveyances shall provide that if the grantee derives any revenue from the development of any minerals found on, within, or under the conveyed property, the grantee shall pay 1/2 of that revenue to the state, for deposit in the Michigan natural resources trust fund.

Conveyance of property located in Wayne county; consideration; jurisdiction; description; sale; notice.

Sec. 9. (1) The state administrative board, on behalf of the state, may convey for consideration of not less than fair market value as determined pursuant to section 11, certain state owned property now under the jurisdiction of the department of community health and located in Wayne county, and further described as follows:

A parcel of land in the N 1/2 of sections 11 & 12, T1S, R8E, Northville Township, Wayne County, Michigan and more particularly described as commencing at the E 1/4 corner of said section 12; thence S86°48' 28"W 1384.05 feet, on the E-W 1/4 line of said section 12 to the point of beginning of this description; thence S86°48'28"W 1300.57 feet, on said E-W 1/4 line to the center of said section 12; thence S86°53'56"W 2726.05 feet, on said E-W 1/4 line to the W 1/4 corner of said section 12; thence N84°54'43"W 2725.96 feet, on the E-W 1/4 line of said section 11 to the center of said section 11; thence N85°00'14"W 200.15 feet, on the E-W 1/4 line of said section 11; thence N01°28'26"E 1.14 feet; thence N00°00'34"W 72.00 feet; thence N49°05'26"E 131.49 feet; thence N23°49'26"E 94.98 feet; thence N07°25'34"W 69.92 feet; thence N32°28'34"W 81.37 feet; thence N15°56'34"W 309.92 feet; thence N64°56'07"W 282.85 feet; thence 2284.99 feet, on the arc of a curve to the left with a central angle of 122°12'37", a radius of 1071.28 feet, and a long chord bearing and distance of S53°56'34"W 1875.81 feet; thence S82°56'46"W 4.24 feet, to the east right of way line of the CSX railroad; thence N12°56'16"W 479.57 feet, on said railroad right of way to the E-W 1/4 line of said section 11; thence N12°56'16"W 1042.64 feet, on said railroad right of way; thence N38°54'25"E 299.77 feet; thence N83°24'25"E 145.50 feet; thence N69°54'25"E 198.00 feet; thence N39°24'25"E 99.30 feet; thence N62°24'25"E 108.87 feet; thence S62°50'35"E 103.70 feet; thence S41°34'35"E 205.39 feet; thence N63°04'10"E 169.60 feet; thence N89°07'10"E 74.80 feet; thence S36°20'50"E 344.00 feet; thence S36°20'50"E 106.31 feet; thence S68°13'14"E 188.90 feet; thence S82°35'18"E 67.44 feet; thence S88°15'37"E 1017.15 feet; thence N01°56'53"E 684.47 feet; thence S89°26'24"E 699.89 feet; thence S01°57'25"W 707.88 feet; thence S89°26'24"E 490.88 feet; thence N01°57'25"E 100.07 feet; thence N14°37'29"E 219.23 feet; thence S89°26'24"E 68.17 feet; thence N07°37'01"W 1045.59 feet, to the south right of way line of Seven Mile Road; thence S89°26'24"E 1202.88 feet, on said right of way to the east line of said section 11; thence N89°45'40"E 2643.20 feet, on said right of way to the N-S 1/4 line of said section 12; thence N84°12'47"E 1734.38 feet, on said right of way; thence N85°33'26"E 266.11 feet, on said right of way; thence S88°29'21"E 148.63 feet, on said right of way; thence N87°57'11"E 197.69 feet, on said right of way; thence S85°42'03"E 197.80 feet, on said right of way; thence S88°37'57"E 148.01 feet, on said right of way to the west right of way line of Haggerty Road; thence S00°00'12"W 350.00 feet, on said right of way; thence S89°59'48"W 10.00 feet, on said right of way; thence S00°00'12"W 806.77 feet, on said right of way; thence N89°59'48"W 651.16 feet; thence S54°17'10"W 793.19 feet; thence S01°37'45"W 942.94 feet, to the point of beginning, containing 422.62 acres. This description is subject to survey, easements and deeds of record, and the Department of Natural Resources' Oil and Gas Leases No. N-24954 and No. N-24957, as may be amended.

(2) The sale of the property described in this section shall be conducted in a manner to realize the highest price for the sale and the highest return to the state. The sale of this property shall be done in an open manner that uses one or more of the following:

(a) A competitive sealed bid.

(b) Oral bid.

(c) Public auction.

(d) Use of broker services.

Broker services for the sale of this property shall only be used if there are three or more bidders for this property. The minimum selling price for the property shall be the higher value of either its fair market value or the result of a professional concept plan value as determined by a real estate professional qualified to make such valuations. This real estate professional shall be selected through a request for proposal and competitive bid process.

(3) A notice of a sealed or oral bid, public auction sale, or use of broker negotiation services, regarding the property described in this section shall be published at least once in a newspaper as defined in section 1461 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1461, not less than 10 days before the sale. The newspaper shall be one that is published in the county where the property is located. If a newspaper is not published in the county where the property is located, the notice shall be published in a newspaper in a county nearest to the county in which the property is located. A notice shall describe the general location of the property and the date, time, and place of the sale.

Report.

Sec. 9a. Not later than May 1, 2002, the department of management and budget shall provide a written report to the chairpersons of the house of representatives and senate appropriations committees on the progress of the sale of the property in section 9. This report shall describe the sale process or processes under section 9, subsection (2), which will be used, the name of the broker or brokers used in the sale, and other information to apprise lawmakers of the status of this sale. This report is in addition to other reporting requirements of this act or other state laws.

Quitclaim deed; approval by attorney general.

Sec. 10. The conveyance authorized under section 9 shall be by quitclaim deed approved by the attorney general and shall provide for all of the following:

(a) The northwesterly boundary of the Hawthorn center in the southeastern corner of the property shall be determined in conjunction with the director of community health to provide a parcel of land adequate to support the Hawthorn center's program and operations.

(b) The conveyance is subject to lease No. N-24954 and No. N-24957, as may be amended, and shall reserve oil, gas, and mineral rights to the state.

(c) In order to allow the department of community health sufficient time to make alternative plans for the patients at the Northville psychiatric hospital, the department will retain the use of necessary buildings and facilities for patient care and related activities for a minimum of 3 years based on need. Payment for deferred use of property for the use of these structures will be paid to the developer based on a specified amount agreed to by the department of community health and the developer.

Conveyance; conditions.

Sec. 10a. The conveyance under section 9 is subject to all of the following:

(a) The department of community health shall not implement the closure or consolidation of the Northville psychiatric hospital until the community mental health service providers have programs and services in place for persons residing in the Northville psychiatric hospital.

(b) The closure or consolidation of the Northville psychiatric hospital is contingent upon adequate department-approved community mental health service provider program plans that include a discharge and aftercare plan for each person in the facility. A discharge and aftercare plan shall address the person's housing needs. A homeless shelter

or similar temporary shelter arrangement is inadequate to meet the person's housing needs.

(c) By April 15, 2003, the department of community health shall submit to the house of representatives and senate appropriations committees a status report detailing, by the admitting community mental health service provider, the number of patients remaining in Northville psychiatric hospital.

(d) Four months after the certification of closure required in section 19(6) of the state employees' retirement act, 1943 PA 240, MCL 38.19, the department shall provide a closure plan to the house of representatives and senate appropriations committees.

Appraisal.

Sec. 11. The fair market value of the property described in section 9 shall be determined by an appraisal as prepared by the state tax commission and an independent fee appraiser.

Descriptions as approximate; adjustments.

Sec. 12. The descriptions of the parcels in sections 1, 6, and 9 are approximate and for purposes of the conveyance are subject to adjustments as the state administrative board or the attorney general considers necessary by survey or other legal description.

Disposition of net revenue; definition.

Sec. 13. (1) The net revenue received under this act shall be deposited in the state treasury and credited to the general fund. However, 5% of the net revenue from the sale authorized in section 9 shall be placed in a reserve fund to cover transitional costs. The department of community health shall provide the house of representatives and the senate appropriations subcommittees on community health with its transition plan for approval 9 months before the final closure of the facility.

(2) For the purposes of this act, "net revenue" means the proceeds from the sale of the property less reimbursement for any costs to the state associated with the sale of the property.

This act is ordered to take immediate effect.
Approved February 14, 2002.
Filed with Secretary of State February 14, 2002.

[No. 7]

(SB 682)

AN ACT to amend 1846 RS 84, entitled "Of divorce," by amending section 17a (MCL 552.17a), as amended by 1990 PA 243.

The People of the State of Michigan enact:

552.17a Jurisdiction of court; application for modification of judgment or order; waiver of contempt.

Sec. 17a. (1) The court has jurisdiction to make an order or judgment relative to the minor children of the parties as authorized in this chapter to award custody of each child to 1 of the parties or a third person until each child has attained the age of 18 years and may require either parent to pay for the support of each child until each child attains that

age. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the court may also order support as authorized in this chapter for a child of the parties to provide support for the child after the child reaches 18 years of age.

(2) Upon an application for modification of a judgment or order when applicant is in contempt, for cause shown, the court may waive the contempt and proceed to a hearing without prejudice to applicant's rights and render a determination on the merits.

This act is ordered to take immediate effect.
Approved February 14, 2002.
Filed with Secretary of State February 14, 2002.

[No. 8]

(SB 683)

AN ACT to amend 1966 PA 138, entitled "An act to confer jurisdiction upon the circuit courts to order and enforce the payment of money for the support, in certain cases, of parents having physical custody of minor children or children who have reached the age of majority and of minor children or children who have reached the age of majority by noncustodial parents; to provide for the termination of the effectiveness of the orders; and to provide for the payment of fees and assessment of costs in those cases," by amending sections 1, 1a, and 5 (MCL 552.451, 552.451a, and 552.455), sections 1 and 1a as amended by 1990 PA 237 and section 5 as amended by 1996 PA 5.

The People of the State of Michigan enact:

552.451 Proceedings for support of custodial parent and children; complaint; service; prohibition.

Sec. 1. A married parent who has a minor child or children living with him or her and who is living separate and away from his or her spouse who is the noncustodial parent of the child or children, and who is refused financial assistance by the noncustodial parent to provide necessary shelter, food, care, and clothing for the child or children, if the spouse is of sufficient financial ability to provide that assistance, may complain to the circuit court for the county where either parent resides for an order for support for himself or herself and the minor child or children. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, the parent may also complain to the circuit court for support for a child or children after they reach 18 years of age. The proceedings shall be commenced by the filing of a complaint verified by the petitioner and by issuance of a summons that shall be personally served upon the noncustodial parent of the children and spouse of the petitioner. A complaint shall not be filed nor shall any summons issue if divorce or separate maintenance proceedings are then pending between the petitioner and his or her spouse.

552.451a Proceedings for support of children; support order; burden of proof; applicability of section.

Sec. 1a. A custodial parent or guardian of a minor child or children or a child or children who have reached 18 years of age may proceed in the same manner, and under the same circumstances as provided in section 1, against the noncustodial parent for the support of the child or children. The order of support shall provide only for the support of

the child or children, and the burden of proof shall be the same as provided in section 2. This section applies only to legitimate, legitimated, and lawfully adopted minor children and, subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, children after they reach 18 years of age.

552.455 Modification of order; application and notice; order void upon entry of judgment of divorce or separate maintenance.

Sec. 5. An order entered under section 2 may be modified by the court upon proper application to the court and due notice to the opposite party. If a judgment of divorce or of separate maintenance is entered by a court having personal jurisdiction over the parties, an order entered under this act is null and void upon the effective date of the judgment.

This act is ordered to take immediate effect.
Approved February 14, 2002.
Filed with Secretary of State February 14, 2002.

[No. 9]

(SB 684)

AN ACT to amend 1970 PA 91, entitled "An act to declare the inherent rights of minor children; to establish rights and duties to their custody, support, and parenting time in disputed actions; to establish rights and duties to provide support for a child after the child reaches the age of majority under certain circumstances; to provide for certain procedure and appeals; and to repeal certain acts and parts of acts," by amending section 2 (MCL 722.22), as amended by 1999 PA 156.

The People of the State of Michigan enact:

722.22 Definitions.

Sec. 2. As used in this act:

(a) "Agency" means a legally authorized public or private organization, or governmental unit or official, whether of this state or of another state or country, concerned in the welfare of minor children, including a licensed child placement agency.

(b) "Attorney" means, if appointed to represent a child under this act, an attorney serving as the child's legal advocate in a traditional attorney-client relationship with the child, as governed by the Michigan rules of professional conduct. An attorney defined under this subdivision owes the same duties of undivided loyalty, confidentiality, and zealous representation of the child's expressed wishes as the attorney would to an adult client.

(c) "Child" means minor child and children. Subject to section 5b of the support and parenting time enforcement act, 1982 PA 295, MCL 552.605b, for purposes of providing support, child includes a child and children who have reached 18 years of age.

(d) "Guardian ad litem" means an individual whom the court appoints to assist the court in determining the child's best interests. A guardian ad litem does not need to be an attorney.

(e) "Lawyer-guardian ad litem" means an attorney appointed under section 4. A lawyer-guardian ad litem represents the child, and has the powers and duties, as set forth in section 4.

(f) "State disbursement unit" or "SDU" means the entity established in section 6 of the office of child support act, 1971 PA 174, MCL 400.236.

(g) "Third person" means an individual other than a parent.

This act is ordered to take immediate effect.
Approved February 14, 2002.
Filed with Secretary of State February 14, 2002.

[No. 10]

(SB 434)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 3 (MCL 722.623), as amended by 1994 PA 177.

The People of the State of Michigan enact:

722.623 Persons required to report child abuse or neglect; written report; transmitting report and results of investigation to prosecuting attorney or county family independence agency; pregnancy of or venereal disease in child less than 12 years of age.

Sec. 3. (1) An individual is required to report under this act as follows:

(a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, certified social worker, social worker, social work technician, school administrator, school counselor or teacher, law enforcement officer, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school shall be considered

adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or neglect shall make a report of suspected child abuse or neglect to the department:

(*i*) Eligibility specialist.

(*ii*) Family independence manager.

(*iii*) Family independence specialist.

(*iv*) Social services specialist.

(*v*) Social work specialist.

(*vi*) Social work specialist manager.

(*vii*) Welfare services specialist.

(2) The written report shall contain the name of the child and a description of the abuse or neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the abuse or neglect, and the manner in which the abuse or neglect occurred.

(3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.

(4) The written report required in this section shall be mailed or otherwise transmitted to the county family independence agency of the county in which the child suspected of being abused or neglected is found.

(5) Upon receipt of a written report of suspected child abuse or neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.

(6) If the report or subsequent investigation indicates a violation of sections 136b and 145c or sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and 750.520b to 750.520g, or if the report or subsequent investigation indicates that the suspected abuse was not committed by a person responsible for the child's health or welfare, and the department believes that the report has basis in fact, the department shall transmit a copy of the written report and the results of any investigation to the prosecuting attorney of the counties in which the child resides and is found.

(7) If a local law enforcement agency receives a written report of suspected child abuse or neglect, whether from the reporting person or the department, the report or subsequent investigation indicates that the abuse or neglect was committed by a person responsible for the child's health or welfare, and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall provide a copy of the written report and the results of any investigation to the county family independence agency of the county in which the abused or neglected child is found. Nothing in this subsection or subsection (6) shall be construed to relieve the department of its responsibility to investigate reports of suspected child abuse or neglect under this act.

(8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age shall be reasonable cause to suspect child abuse and neglect have occurred.

This act act is ordered to take immediate effect.

Approved February 14, 2002.

Filed with Secretary of State February 14, 2002.

[No. 11]

(HB 4195)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," (MCL 333.1101 to 333.25211) by adding section 21723.

The People of the State of Michigan enact:

333.21723 Individual responsible for receiving complaints and conducting investigations; posting information in nursing home; communication procedure; information posted on internet website; nursing home receiving medicaid reimbursement.

Sec. 21723. (1) A nursing home shall post in an area accessible to residents, employees, and visitors the name, title, location, and telephone number of the individual in the nursing home who is responsible for receiving complaints and conducting complaint investigations and a procedure for communicating with that individual.

(2) An individual responsible for receiving complaints and conducting complaint investigations in a nursing home shall be on duty and on site not less than 24 hours per day, 7 days a week.

(3) The individual described in subsection (2) who receives a complaint, inquiry, or request from a nursing home resident or the resident's surrogate decision maker shall respond using the nursing home's established procedures pursuant to R 325.20113 of the Michigan administrative code.

(4) To assist the individual described in subsection (2) in performing his or her duties, the department of consumer and industry services shall post on its internet website all of the following information:

(a) Links to federal and state regulations and rules governing the nursing home industry.

(b) The scheduling of any training or joint training sessions concerning nursing home or elderly care issues being put on by the department of consumer and industry services.

(c) A list of long-term care contact phone numbers including, but not limited to, the consumer and industry services complaint hotline, the consumer and industry services

nursing home licensing division, any commonly known nursing home provider groups, the state long-term care ombudsman, and any commonly known nursing home patient care advocacy groups.

(d) When it becomes available, information on the availability of electronic mail access to file a complaint concerning nursing home violations directly with the department of consumer and industry services.

(e) Any other information that the department of consumer and industry services believes is helpful in responding to complaints, requests, and inquiries of a nursing home resident or his or her surrogate decision maker.

(5) A nursing home receiving reimbursement pursuant to the medicaid program shall designate 1 or more current employees to fulfill the duties and responsibilities outlined in this section. This section does not constitute a basis for increasing nursing home staffing levels. As used in this subsection, "medicaid" means the program for medical assistance created under title XIX of the social security act, chapter 53, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6, and 1396r-8 to 1396v.

This act is ordered to take immediate effect.
Approved February 18, 2002.
Filed with Secretary of State February 19, 2002.

[No. 12]

(HB 4980)

AN ACT to amend 2001 PA 142, entitled "An act to consolidate prior acts naming certain Michigan highways; to provide for the naming of certain highways; to prescribe certain duties of the state transportation department; and to repeal acts and parts of acts and certain resolutions," (MCL 250.1001 to 250.1100) by adding section 65.

The People of the State of Michigan enact:

250.1065 "Purple Heart Highway."

Sec. 65. That portion of highway I-69 beginning at the intersection of I-69 east and U.S. 27 north in Clinton county and extending east to exit 105 in Shiawassee county shall be named the "Purple Heart Highway".

This act is ordered to take immediate effect.
Approved February 18, 2002.
Filed with Secretary of State February 19, 2002.

[No. 13]

(HB 5005)

AN ACT to amend 1984 PA 44, entitled "An act to provide purity and quality standards for motor fuels; to regulate the transfer, sale, dispensing, or offering motor fuels for sale; to provide for an inspection and testing program; to provide for the powers

and duties of certain state agencies; to provide for the licensing of certain persons engaged in the transfer, sale, dispensing, or offering of motor fuels for sale; to regulate stage I and stage II vapor-recovery systems at certain facilities; to provide for fees; and to provide remedies and prescribe penalties," by amending sections 3, 4a, 5, 6, 9i, 10a, and 10b (MCL 290.643, 290.644a, 290.645, 290.646, 290.649i, 290.650a, and 290.650b), section 3 as amended by 2000 PA 206, section 4a as added by 1986 PA 127, and sections 5 and 6 as amended and sections 9i, 10a, and 10b as added by 1993 PA 236.

The People of the State of Michigan enact:

290.643 Establishment of standards by rules.

Sec. 3. (1) The director shall establish standards pursuant to this act to ensure the purity and quality of gasoline sold or offered for sale in this state.

(2) The director shall establish standards for the amount and type of additives allowed to be included in gasoline.

(3) The director shall establish standards for the grading of gasoline, including, but not limited to, subregular with a minimum 85 AKI, regular with a minimum 87 AKI and a minimum 82 MON, midgrade 88 with a minimum 88 AKI and a minimum 82 MON, midgrade 89 with a minimum 89 AKI and a minimum 83 MON, premium with a minimum 90 AKI, premium 91 with a minimum 91 AKI, premium 92 with a minimum 92 AKI, premium 93 with a minimum 93 AKI, and premium 94 with a minimum 94 AKI.

(4) The director shall establish standards for Reid vapor pressure as specified by the American society for testing and materials, except as otherwise required to conform to federal or state law. The director shall establish the Reid vapor pressure as 9.0 pounds per square inch (psi) for retail outlets during the period beginning June 1 through September 15 of each year, except for dispensing facilities where the director shall establish the Reid vapor pressure as 7.8 psi in the year 1996 and thereafter. As used in this subsection and section 10d, "Reid vapor pressure" means the vapor pressure of gasoline or gasoline oxygenate blend as determined by ASTM test method D323, standard test method for vapor pressure of petroleum products (Reid method) or test method D4953, standard test method for vapor pressure of gasoline and gasoline oxygenate blends (dry method).

(5) In establishing additive and grading standards the director shall adopt the latest standards for gasoline established by the American society for testing and materials and shall adopt the latest standards for gasoline established by federal law or regulation. The standards established by the director shall not prohibit a gasoline blend that is permitted by a valid waiver granted by the United States environmental protection agency pursuant to the fuel or fuel additive waiver in section 211(f)(4) of part A of title II of the clean air act, chapter 360, 81 Stat. 502, 42 U.S.C. 7545, and the ethanol waiver of 1.0 psi in section 211(h)(4) of part A of title II of the clean air act, chapter 360, 81 Stat. 502, 42 U.S.C. 7545, if the gasoline blend meets all of the conditions set forth in the waiver. Beginning June 1, 2003, the director shall not permit the use of the additive methyl tertiary butyl ether (MTBE) in this state. The director, in consultation with the department of environmental quality, shall determine if the additive is likely to cause harmful effects on the environment or public health within the state. By June 1, 2002, the director, in consultation with the director of the department of environmental quality, shall review the status of the use of MTBE in this state. The review shall include the following:

(a) The amount of the additive methyl tertiary butyl ether (MTBE) currently in use in gasoline in this state.

(b) An estimate of the amount of MTBE that is imported in gasoline transported into this state from other states or countries.

(c) Recommendations as to whether the June 1, 2003 prohibition can be achieved and, if not, determine a more feasible date.

(d) Any other information considered appropriate.

(6) Standards established pursuant to this section shall be by rules promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

290.644a Testing storage tank at retail outlet to determine water or water-alcohol level; prohibited sales; testing supplies; rules.

Sec. 4a. A storage tank at a retail outlet shall be periodically tested by the retail dealer to insure that the tank does not have water or water-alcohol at the bottom of that tank in an amount greater than 2 inches. If there is more than 2 inches of water or water-alcohol at the bottom of the storage tank, gasoline shall not be sold to a consumer from that tank until the water or water-alcohol level is reduced to a level of less than 2 inches. Adequate testing supplies, as determined by the department, shall be maintained at the retail outlet and shall also be made available to the department to determine the water or water-alcohol level in the storage tank. The department may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section.

290.645 Prohibitions; contents of bill, invoice, or other instrument evidencing delivery of gasoline; violation; liability; disposition of civil fine.

Sec. 5. (1) Except as provided by federal law or regulation, in the manufacture of gasoline at any refinery in this state, a refiner shall not manufacture gasoline at a refinery in this state unless the gasoline meets the requirements in section 3. Except as provided by federal law or regulation, a blender shall not blend gasoline unless the finished blend meets the requirements in section 3.

(2) Except as provided by federal law or regulation, a distributor shall not sell or transfer to any distributor, retail dealer, or bulk purchaser-end user any gasoline unless that gasoline meets the requirements in section 3.

(3) A carrier or an employee or agent of a carrier, whether operating under contract or tariff, shall not cause gasoline tendered to the carrier for shipment or transfer to another carrier, distributor, or retail dealer to fail to comply, at the time of delivery, with the requirements in section 3.

(4) A person shall not knowingly sell, dispense, or offer for sale gasoline unless that gasoline meets the requirements in section 3.

(5) A refiner or distributor shall not transfer, sell, dispense, or offer gasoline for sale in this state to a distributor unless the refiner or distributor indicates on each bill, invoice, or other instrument evidencing a delivery of gasoline, the name of the wholesale distributor who received delivery of the gasoline.

(6) A distributor or refiner shall not transfer, sell, dispense, or offer gasoline for sale in this state to a retail dealer unless the distributor indicates on each bill, invoice, or other instrument evidencing a delivery of gasoline, the name and license number issued pursuant to this act, of the retail dealer who received delivery of the gasoline.

(7) A bill, invoice, or other instrument evidencing a delivery of gasoline issued by a refiner or distributor for deliveries of gasoline to purchasers who are not required to hold a license issued pursuant to the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, or this act shall clearly indicate the name and address and other information necessary to identify the purchaser of the gasoline.

(8) A bill, invoice, or other instrument evidencing a delivery of gasoline required by subsection (5), (6), or (7) shall include a guarantee that the gasoline delivered meets the requirements in section 3 and shall indicate the concentration range of alcohol in the gasoline, except for alcohols or ethers that have a molecular weight greater than ethanol and are not mixed with methanol or ethanol, or both, and shall indicate the possible presence, without regard to concentration range, of any alcohols or ethers that have a molecular weight greater than ethanol and are not mixed with methanol or ethanol, or both.

(9) A refiner, distributor, bulk purchaser-end user, or retail dealer shall not transfer, sell, dispense, or offer gasoline for sale unless that gasoline is visibly free of undissolved water, sediments, and other suspended matter and is clear and bright at an ambient temperature or 70 degrees Fahrenheit, whichever is greater.

(10) A person who violates this section or rules promulgated under this section is liable for a civil fine not to exceed $10,000.00 for each day of the continuance of the violation. A civil fine ordered pursuant to this section shall be submitted to the state treasurer for deposit in the gasoline inspection and testing fund created by section 8.

290.646 License required; coordination of licensing; expiration and renewal of license; license fee; disposition of fees; application for license; grounds for suspending, denying, or revoking license; applicability of section; conviction under weights and measures act; effect of suspension, revocation, or denial of license on other licenses; registering blended products.

Sec. 6. (1) Before a distributor or retail dealer engages in transferring, selling, dispensing, or the offering for sale gasoline in this state, the distributor or retail dealer shall obtain a license from the department for each retail outlet operated by that person. In administering the licensing under this section, the department may attempt to coordinate such licensing with the licensing applicable to gasoline administered by the department of treasury pursuant to the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170, and the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.

(2) A license expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the department.

(3) The fee for a license is $15.00 for each year or portion of a year through July 31, 2002, $50.00 for each year or portion of a year through July 31, 2003, $75.00 for each year or portion of a year through July 31, 2004, and $100.00 beginning August 1, 2004 and each year or portion of a year thereafter. A license shall not be issued or renewed until the fee and any administrative fines issued under section 10a have been paid. A hearing is not required before the refusal to issue or renew a license under this subsection. Fees collected shall be deposited in the gasoline inspection and testing fund. The department shall conduct a review of the fee structure provided by this subsection and the status of the gasoline inspection and testing fund in the 2003 calendar year and report its recommendations for any change or adjustment in the fee schedule to the house and senate transportation committees not later than January 1, 2004.

(4) An application for a license shall be made to the department upon a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fee specified in subsection (3).

(5) The director may suspend, deny, or revoke a license issued pursuant to this act for failure to comply with the requirements provided for in section 3, for failure to provide notice as provided in section 4, for violating section 31 of the weights and measures act of 1964, 1964 PA 283, MCL 290.631, if that violation occurs at any of the licensee's retail

outlets and involves the transferring, selling, dispensing, or the offering for sale of gasoline in this state, or for otherwise failing to comply with this act or a rule promulgated under this act or an order issued under this act.

(6) This section does not apply until June 29, 1985.

(7) If a person licensed under this act is convicted of a willful violation under section 31 of the weights and measures act of 1964, 1964 PA 283, MCL 290.631, any license issued pursuant to this act shall be revoked for 2 years.

(8) A suspension, revocation, or denial of a license of a person who is an individual shall result in the suspension, revocation, or denial of any other license held or applied for by that individual under this act. The license of a corporation, partnership, or other association shall be suspended when a license or license application of a partner, trustee, director, or officer, member, or a person exercising control of the corporation, partnership, or other association is suspended, revoked, or denied. The suspension shall remain in force until the director determines that the disability created by the suspension, revocation, or denial has been removed.

(9) Before a blender engages in the transferring, selling, dispensing, or offering for sale blended gasoline in this state, the blender shall register the finished product with the department and provide to the department test results as the department considers necessary. If the product does not comply with the requirements of section 3, the blender shall provide the department with a written list of the business names and addresses to whom the blended product is sold.

290.649i Dispensing permit; requirements; fees.

Sec. 9i. (1) A dispensing facility constructed after November 15, 1990, shall obtain a dispensing permit. The fee for a dispensing permit is $25.00 for each year or portion of a year.

(2) Before a dispensing permit is issued, a dispensing facility shall install an approved stage I and, if required, stage II vapor-recovery system and, in addition to the fee for the dispensing permit, shall pay a registration fee for each dispensing unit located at the dispensing facility. A permit shall not be issued or renewed until all fees and administrative fines issued under section 10a are paid. A hearing shall not be required before the refusal to issue or renew a permit under this subsection.

(3) A dispensing permit expires annually on November 30 unless renewed before December 1 of each year or unless suspended, denied, or revoked by the department. Application for a dispensing permit shall be made on a form furnished by the department. The completed form shall contain the information requested by the department and shall be accompanied by the fees specified.

(4) The director may suspend, deny, or revoke a dispensing permit issued pursuant to this act for failure to pay the fee required by subsection (1) or (2), or for failure to comply with the requirements of sections 9a to 10c.

(5) A fee shall be charged to the operator of stage I and stage II vapor-recovery or gasoline-dispensing equipment for its inspection if any of the following occur:

(a) The inspection is a reinspection of equipment that has already been tested and found to contain a substantial defect as defined under section 9c.

(b) The inspection is performed at the request of the operator.

(6) The department shall establish the fees and expenses for special services, including the fee for an operator requested inspection or reinspection, for registrations, for training courses, and for accreditation of a trainer, to provide that each fee is sufficient to cover

the cost of an operator requested inspection, reinspection, registration, training, or trainer accreditation, respectively, and that the aggregate of all fees collected is sufficient to pay for all salaries and other expenses connected with the activity. The department shall review and adjust the fees at the end of each year and have all fees approved by the director before they are adopted. Fees collected under this section shall be deposited in the gasoline inspection and testing fund and reserved for conducting the vapor-recovery program.

290.650a Violation; administrative fine; hearing; judicial review; action brought by attorney general; payment and disposition of fine, costs, and economic benefit.

Sec. 10a. (1) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another violates this act or a rule promulgated under this act is subject to an administrative fine. Upon the request of a person to whom an administrative fine is issued, the director shall conduct a hearing conducted pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A fine authorized by this section shall be as follows:

(a) For a first violation, not less than $100.00 or more than $500.00, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(b) For a second violation within 5 years after the first violation, not less than $500.00 or more than $1,000.00, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(c) For a third violation within 5 years after the date of the first violation, not less than $1,000.00 or more than $2,000.00, plus actual costs of the investigation and double the amount of any economic benefit associated with the violation.

(2) A decision of the director under this section is subject to judicial review as provided by law.

(3) The director shall advise the attorney general of the failure of any person to pay an administrative fine imposed under this section. The attorney general shall bring an action in court of competent jurisdiction to recover the fine.

(4) Any administrative fine, costs, and the recovery of any economic benefit associated with a violation collected under this section shall be paid to the state treasury and deposited into the gasoline inspection and testing fund.

290.650b Conduct as misdemeanor or felony; assessment of costs.

Sec. 10b. (1) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than $1,000.00 or more than $2,000.00, or both:

(a) Renders less effective or inoperable any part of a stage I or stage II vapor-recovery system.

(b) Makes a false statement, representation, or certification on an application, report, plan, label, or other document that is required to be maintained under this act or rules promulgated under this act.

(c) Fails to disclose to the department any knowledge or information relating to or observation of any modification of a stage I or stage II vapor-recovery system which

makes the system less effective or inoperable, or falsification of records required to be maintained under this act or rules promulgated under this act.

(d) Removes a tag, seal, or mark placed on a dispensing device by the director.

(e) Violates this act or a rule promulgated under this act for which a specific penalty is not prescribed.

(2) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following acts is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than $2,000.00 or more than $10,000.00, or both:

(a) Violates a prohibited act listed in this section within 24 months after another violation of this section that results in a conviction.

(b) Impersonates in any way the director or any department inspector.

(3) A person who individually, or by the action of his or her agent or employee, or as the agent or employee of another, performs any of the following acts is guilty of a felony punishable by imprisonment for not more than 2 years, or a fine of not less than $10,000.00 or more than $15,000.00, or both:

(a) Intentionally commits a prohibited act under this section.

(b) Violates a prohibited act listed in this section within 24 months after 2 previous violations of this section that result in convictions.

(4) If a violation of this section results in a conviction, the court shall assess against the defendant the costs of the department's investigation, and these costs shall be paid to the state treasury and deposited in the gasoline inspection and testing fund to be used for the enforcement of this act.

Effective date.

Enacting section 1. Except as otherwise provided in this amendatory act, this amendatory act takes effect January 1, 2002.

This act is ordered to take immediate effect.
Approved February 18, 2002.
Filed with Secretary of State February 19, 2002.

[No. 14]

(HB 5009)

AN ACT to amend 1975 PA 238, entitled "An act to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for

the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts," by amending section 13 (MCL 722.633), as amended by 1996 PA 309.

The People of the State of Michigan enact:

722.633 Failure to report suspected child abuse or neglect; damages; violation as misdemeanor; unauthorized dissemination of information as misdemeanor; civil liability; maintaining report or record required to be expunged as misdemeanor; false report of child abuse or neglect.

Sec. 13. (1) A person who is required by this act to report an instance of suspected child abuse or neglect and who fails to do so is civilly liable for the damages proximately caused by the failure.

(2) A person who is required by this act to report an instance of suspected child abuse or neglect and who knowingly fails to do so is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(3) Except as provided in section 7, a person who disseminates, or who permits or encourages the dissemination of, information contained in the central registry and in reports and records made as provided in this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both, and is civilly liable for the damages proximately caused by the dissemination.

(4) A person who willfully maintains a report or record required to be expunged under section 7 is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(5) A person who intentionally makes a false report of child abuse or neglect under this act knowing that the report is false is guilty of a crime as follows:

(a) If the child abuse or neglect reported would not constitute a crime or would constitute a misdemeanor if the report were true, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $100.00, or both.

(b) If the child abuse or neglect reported would constitute a felony if the report were true, the person is guilty of a felony punishable by the lesser of the following:

(*i*) The penalty for the child abuse or neglect falsely reported.

(*ii*) Imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

This act is ordered to take immediate effect.
Approved February 18, 2002.
Filed with Secretary of State February 19, 2002.

[No. 15]

(HB 4487)

AN ACT to amend 1962 PA 174, entitled "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank

deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, leases, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," by amending section 2201 (MCL 440.2201).

The People of the State of Michigan enact:

440.2201 Formal requirements; statute of frauds.

Sec. 2201. (1) Except as otherwise provided in this section, a contract for the sale of goods for the price of $1,000.00 or more is not enforceable by way of action or defense unless there is a writing sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his or her authorized agent or broker. A writing is not insufficient because it omits or incorrectly states a term agreed upon but the contract is not enforceable under this subsection beyond the quantity of goods shown in the writing.

(2) Between merchants, if within a reasonable time a writing in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of subsection (1) against the party unless written notice of objection to its contents is given within 10 days after it is received.

(3) A contract that does not satisfy the requirements of subsection (1) but is valid in other respects is enforceable in any of the following circumstances:

(a) If the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement.

(b) If the party against whom enforcement is sought admits in his or her pleading or testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this section beyond the quantity of goods admitted.

(c) With respect to goods for which payment has been made and accepted or that have been received and accepted under section 2606.

This act is ordered to take immediate effect.
Approved February 21, 2002.
Filed with Secretary of State February 21, 2002.

[No. 16]

(HB 4009)

AN ACT to amend 1855 PA 105, entitled "An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by

certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies," by amending section 2a (MCL 21.142a), as amended by 1987 PA 27.

The People of the State of Michigan enact:

21.142a Investment of surplus funds; conditions and restrictions; valid public purpose; approval of documentation; agricultural loans; disposition of earnings; reducing general fund by amount of interest deficiency or loss of principal; duration of certain investments; compliance; separate reports; definitions; value of qualified agricultural loans; deduction of grant; use of existing deposits for loans to farmers; appropriation; reduction of maximum amount of investments; effect of money not invested for qualified agricultural loans; action to ensure successful operation of section; disposition of affidavit; use of federal grant.

Sec. 2a. (1) The state treasurer may invest surplus funds under the state treasurer's control in certificates of deposit or in a financial institution which qualifies with proof of financial viability acceptable to the state treasurer under this act to receive deposits or investments of surplus funds. In addition to terms that may be prescribed in the investment agreement by the state treasurer, an investment under this section shall be subject to all of the following conditions and restrictions:

(a) The interest accruing on the investment shall not be more than the interest earned by the financial institution on qualified agricultural loans made after the date of the investment.

(b) The financial institution shall provide good and ample security as the state treasurer requires and shall identify the qualified agricultural loans and the terms and conditions of those loans that are made after the date of the investment which are attributable to that investment together with other information required by this act.

(c) As established in the investment agreement by the state treasurer, a qualified agricultural loan shall be made at a rate or rates of interest, if any.

(d) To the extent the financial institution has not made qualified agricultural loans as defined by subsection (9)(a) in an amount at least equal to the amount of the investment within 90 days after the investment, the rate of interest payable on that portion of the outstanding investment shall be increased to a rate of interest provided in the investment agreement, with the increase in the rate of interest applied retroactively to the date on which the state treasurer invested the surplus funds.

(e) For a qualified agricultural loan as defined by subsection (9)(a), the investment agreement shall provide that the financial institution does not have to repay any principal within the first 24 months after which the investment is made unless the investment is no longer being used to make a qualified agricultural loan as defined by subsection (9)(a), or to the extent the qualified agricultural loan has been repaid.

(f) For a qualified agricultural loan as defined by subsection (9)(a), the investment agreement may include incentives for the early repayment of the investment and for the acceleration of payments in the event of a state cash shortfall as prescribed by the investment agreement.

(2) An investment made under this section is found and declared to be a valid public purpose.

(3) The attorney general shall approve documentation for an investment pursuant to this section as to legal form.

(4) The state treasurer shall deposit before May 1, 2002 up to $30,000,000.00 of surplus funds with the financial institutions participating in making qualified agricultural loans under this section for the purpose of making those qualified agricultural loans. Not more than $10,000,000.00 of this deposit shall be allocated to qualified agricultural loans made to businesses under subsection (9)(a)(*iii*).

(5) Earnings from an investment made pursuant to this section which are in excess of the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or 2, shall be credited to the general fund of the state. If interest from an investment made pursuant to this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or 2, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made pursuant to this section shall reduce the earnings of the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.

(6) A new investment to which a qualified agricultural loan as defined by subsection (9)(a)(*ii*) is attributed shall not be made pursuant to this section after October 1, 2002, and shall not be made with a term which extends beyond October 1, 2007. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(*iii*) is attributed shall not be made pursuant to this section after October 1, 2002, and shall not be made with a term extending beyond October 1, 2007. The terms of the qualified agricultural loan as defined by subsection (9)(a) shall provide that zero-interest loans under this section be for a term not more than 5 years and that the first payment made by the recipient occur not later than 24 months after the date of the loan. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(*i*) is attributed shall not be made with a term extending beyond October 1, 2007.

(7) Annually, each financial institution in which the state treasurer has made an investment under this section shall file an affidavit, signed by a senior executive officer of the financial institution, stating that the financial institution is in compliance with the terms of the investment agreement and this act.

(8) Before October 1, 2003, the state treasurer shall prepare separate reports to the legislature and the house and senate agriculture appropriations subcommittees regarding the disposition of money invested for purposes of qualified agricultural loans as defined by subsection (9)(a)(*i*) and for qualified agricultural loans as defined by subsection (9)(a)(*ii*) and (*iii*). The reports for each type of loan shall include all of the following information:

(a) The total number of farmers and the total number of agricultural businesses who have received such a loan.

(b) By county, the total number and amounts of the loans.

(c) The name of each financial institution participating in the loan program and the amount invested in each financial institution for purposes of such loan program.

(d) Any action undertaken by the state treasurer under subsection (15).

(9) As used in this section:

(a) "Qualified agricultural loan" means 1 or more of the following types of loans, as applicable:

(*i*) Until October 1, 2002, a loan to a natural or corporate person who is engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 35(1)(h) of the single business tax act, 1975 PA 228, MCL 208.35, who is experiencing

financial stress and difficulty in meeting existing or projected debt obligations owed to financial institutions due to an agricultural disaster as requested by the governor at rates commensurate with rates charged by financial institutions for loans of comparable type and terms at the time the loan is to be made, and who certifies to the financial institution that the owner-operator will not have more than $150,000.00 in outstanding loans otherwise considered qualified agricultural loans under this subparagraph, including the loan for which the owner-operator is applying. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or $50,000.00, whichever is less. A qualified agricultural loan under this subparagraph may be made for either or both of the following purposes:

(A) Operating capital including, but not limited to, capital necessary for the rental, lease, and repair of equipment or machinery, crop insurance premiums, and the purchase of seed, feed, livestock, breeding stock, fertilizer, fuel, and chemicals.

(B) Refinancing all or a portion of a loan entered into before October 1, 2002 for a purpose identified in sub-subparagraph (A).

(*ii*) A loan to an individual, sole proprietorship, partnership, corporation, or other legal entity that is engaged and intends to remain engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 35(1)(h) of the single business tax act, 1975 PA 228, MCL 208.35, who has suffered a 25% or more loss in major enterprises or a 50% or more production loss in any 1 crop due to an agricultural disaster on a farm located in this state, as requested by the governor and as certified by the producer by means of an affidavit demonstrating an accurate and valid production loss.

(*iii*) A loan to an individual, sole proprietorship, partnership, corporation, or other legal entity that is engaged in an agricultural business of buying, exchanging, or selling farm produce, or is engaged in the business of making retail sales directly to farmers and has 75% or more of its gross retail sales volume exempted from sales tax under the Michigan agricultural sales tax exemption, as provided in section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a. Businesses engaged in the buying, exchanging, or selling of farm produce must have suffered a 50% or greater loss in volume of 1 commodity as compared with the average volume of that commodity which the business handled over the last 3 years to qualify for loans under this subparagraph. Businesses engaged in making retail sales directly to farmers must have suffered a 50% or greater reduction in gross retail sales volume subject to the Michigan agricultural sales tax exemption as compared with that business's average retail sales volume subject to that exemption over the last 3 years to qualify for loans under this subparagraph. All losses claimed by businesses attempting to qualify for loans under this subparagraph must be directly attributable to a natural disaster occurring after January 1, 2001, as requested by the governor and as certified by the agricultural business by means of an affidavit demonstrating an accurate and valid loss.

(b) "Surplus funds" means, at any given date, the excess of cash and other recognized assets that are expected to be resolved into cash or its equivalent in the natural course of events and with a reasonable certainty, over the liabilities and necessary reserves at the same date.

(c) "Financial institution" includes, but is not limited to, entities of the farm credit system or a state or federally chartered savings bank. For purposes of this section, entities of the farm credit system or a state or federally chartered savings bank may be qualified as a financial institution eligible to receive an investment under this section notwithstanding that its principal office is not located in this state if the proceeds of the investment will be committed to qualified agricultural loans in this state.

(d) "Corporate person" or "corporation" means, except in relation to a qualified agricultural loan under subdivision (a)(*iii*), a corporation in which a majority of the corporate stock is owned by persons operating the farm applying for a loan.

(e) "Facility" means a plant designed for receiving or storing farm produce or a retail sales establishment of a business engaged in making retail sales directly to farmers, which establishment has 75% or more of its gross retail sales volume exempted from sales tax under the Michigan agricultural sales tax exemption, as provided in section 4a(1)(e) of the general sales tax act, 1933 PA 167, MCL 205.54a.

(10) A qualified agricultural loan as defined by subsection (9)(a)(*ii*) shall be equal to not more than the value of the crop loss as certified by the producer by means of an affidavit demonstrating an accurate and valid production loss. The qualified agricultural loan shall not exceed the lesser of $200,000.00 or the value of the crop loss minus the amount of any grant under federal disaster assistance or insurance proceeds received by the owner-operator as a result of the same crop loss. If crop insurance was available for a particular crop and the producer did not purchase the crop insurance for that crop, the amount of the loan shall be reduced by 30% or $50,000.00, whichever is less.

(11) A qualified agricultural loan as defined by subsection (9)(a)(*iii*) shall not exceed the lesser of the following:

(a) $300,000.00 per facility.

(b) An amount not to exceed the value of the direct loss of the individual, sole proprietorship, partnership, corporation, or other legal entity making application for the loan, as determined by the department of treasury under subsection (9)(a)(*iii*).

(c) $400,000.00 per individual, sole proprietorship, partnership, corporation, or other legal entity making application for the loan.

(12) The financial institutions participating in the loan program pursuant to subsection (9)(a) shall have the option of making state subsidized loans to farmers or to businesses described in subsection (9)(a)(*iii*) before October 1, 2002, with terms approved by the state treasurer by using their existing deposits for the loans and receiving from the state treasurer an interest rate subsidy equal to 120% of the state treasurer's common cash earnings rate. The state's reimbursement to financial institutions participating in the loan program pursuant to subsection (9)(a) shall not be made before October 1, 2002.

(13) There is hereby appropriated an amount sufficient to make the distributions required under subsections (4) and (12) in the 2001-02 fiscal year for not to exceed $210,000,000.00 in qualified agricultural loans. For each qualified agricultural loan for which a distribution is made pursuant to subsection (12), the maximum amount of investments authorized by subsection (4) shall be reduced by an amount equal to 100% or more of the qualified agricultural loan, as determined by the department of treasury, for which a distribution is made pursuant to subsection (12).

(14) Any money for purposes of qualified agricultural loans as defined by subsection (9)(a)(*ii*) that has not been invested by the state treasurer by October 1, 2002, shall increase the maximum amount available under this section for qualified agricultural loans as defined by subsection (9)(a)(*i*).

(15) The state treasurer may take any necessary action to ensure the successful operation of this section, including making investments with financial institutions to cover the administrative and risk-related costs associated with a qualified agricultural loan.

(16) Upon request by the department of treasury, a financial institution shall forward a copy of any affidavits executed and filed under this section to the department of treasury. The financial institution and the department of treasury shall destroy the affidavit or its copy after the qualified agricultural loan is paid off.

(17) If the recipient of a qualified agricultural loan as defined by subsection (9)(a) receives a federal grant after the receipt of a qualified agricultural loan under this section, then any federal grant money remaining after all federal obligations are met shall be allocated by the recipient to payment of the balance of any outstanding loan made under this section.

This act is ordered to take immediate effect.
Approved February 27, 2002.
Filed with Secretary of State February 28, 2002.

[No. 17]

(HB 4812)

AN ACT to amend 1981 PA 155, entitled "An act to provide for ownership rights in dies, molds, and forms for use in the fabrication of plastic parts under certain conditions and to establish a lien on certain dies, molds, and forms," by amending sections 1 and 8a (MCL 445.611 and 445.618a), section 8a as added by 1986 PA 103, and by adding sections 9, 10, 10a, 10b, and 10c.

The People of the State of Michigan enact:

445.611 Definitions.

Sec. 1. For purposes of this act:

(a) "Customer" means a person who causes a moldbuilder to fabricate, cast, or otherwise make a die, mold, or form for use in the manufacture, assembly, or fabrication of plastic parts, or a person who causes a molder to use a die, mold, or form to manufacture, assemble, or fabricate a plastic product.

(b) "Moldbuilder" means a person who fabricates, casts, or otherwise makes, repairs, or modifies a die, mold, or form for use in the manufacture, assembly, or fabrication of plastic parts.

(c) "Molder" means a person who uses a die, mold, or form to manufacture, assemble, or fabricate plastic parts.

(d) "Person" means an individual, firm, partnership, association, corporation, limited liability company, or other legal entity.

445.618a Enforcement of lien; notice.

Sec. 8a. Before enforcing a lien granted to a molder under section 8, notice in writing shall be given to the customer, whether delivered personally or sent by registered mail to the last known address of the customer. The notice shall state that a lien is claimed for the amount due for plastic fabrication work or for making or improving the die, mold, or form. The notice shall include a demand for payment.

445.619 Moldbuilder; lien; requirements.

Sec. 9. (1) A moldbuilder shall permanently record on every die, mold, or form that the moldbuilder fabricates, repairs, or modifies the moldbuilder's name, street address, city, and state.

(2) A moldbuilder shall file a financing statement in accordance with the requirements of section 9502 of the uniform commercial code, 1962 PA 174, MCL 440.9502.

(3) A moldbuilder has a lien on any die, mold, or form identified pursuant to subsection (1). The amount of the lien is the amount that a customer or molder owes the moldbuilder for the fabrication, repair, or modification of the die, mold, or form. The information that the moldbuilder is required to record on the die, mold, or form under subsection (1) and the financing statement required under subsection (2) shall constitute actual and constructive notice of the moldbuilder's lien on the die, mold, or form.

(4) The moldbuilder's lien attaches when actual or constructive notice is received. The moldbuilder retains the lien that attaches under this section even if the moldbuilder is not in physical possession of the die, mold, or form for which the lien is claimed.

(5) The lien remains valid until the first of the following events takes place:

(a) The moldbuilder is paid the amount owed by the customer or molder.

(b) The customer receives a verified statement from the molder that the molder has paid the amount for which the lien is claimed.

(c) The financing statement is terminated.

(6) The priority of a lien created under this act on the same die, mold, or form shall be determined by the time the lien attaches. The first lien to attach shall have priority over liens that attach subsequent to the first lien.

445.620 Moldbuilder; lien; enforcement; notice.

Sec. 10. To enforce a lien that attaches under section 9, the moldbuilder shall give notice in writing to the customer and the molder. The notice shall be given by hand delivery or certified mail, return receipt requested, to the last known address of the customer and to the last known address of the molder. The notice shall state that a lien is claimed, the amount that the moldbuilder claims it is owed for fabrication, repair, or modification of the die, mold, or form, and a demand for payment.

445.620a Moldbuilder; right to possession of die, mold, or form.

Sec. 10a. Subject to section 10b, if the moldbuilder has not been paid the amount claimed in the notice required under section 10 within 90 days after the notice required under section 10 has been received by the customer and the molder, the moldbuilder has a right to possession of the die, mold, or form and may enforce the right to possession of the die, mold, or form by judgment, foreclosure, or any available judicial procedure. The moldbuilder may do 1 or more of the following:

(a) Take possession of the mold, die, or form. The moldbuilder may take possession without judicial process if this can be done without breach of the peace.

(b) Sell the die, mold, or form in a public auction.

445.620b Sale of die, mold, or form; notice of intent.

Sec. 10b. (1) Before a moldbuilder may sell a die, mold, or form for which a lien is claimed and for which the required notice has been sent under section 10, the moldbuilder shall notify the customer, the molder, and all other persons that have a perfected security interest in the die, mold, or form under part 5 of article 9 of the uniform commercial code, 1962 PA 174, MCL 440.9501 to 440.9527, by certified mail, return receipt requested, of all of the following:

(a) The moldbuilder's intention to sell the die, mold, or form 60 days after the receipt of the notice.

(b) A description of the die, mold, or form to be sold.

(c) The last known location of the die, mold, or form.

(d) The time and place of the sale.

(e) An itemized statement of the amount due.

(f) A statement that the die, mold, or form was accepted and the acceptance was not subsequently rejected.

(2) If there is no return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the moldbuilder shall publish notice of the moldbuilder's intention to sell the die, mold, or form in a newspaper of general circulation in the place where the die, mold, or form is last known to be located, in the place of the customer's last known address, and in the place of the molder's last known address. The published notice shall include a description of the die, mold, or form and the name of the customer and the molder.

(3) If a customer or molder against whom the lien is asserted disagrees that the die, mold, or form was accepted or that the acceptance was not subsequently rejected, the customer or molder shall notify the moldbuilder in writing by certified mail, return receipt requested, that the die, mold, or form was not accepted or that the acceptance was subsequently rejected. A moldbuilder who receives this notice shall not sell the die, mold, or form until the dispute is resolved.

445.620c Sale; proceeds; prohibition.

Sec. 10c. (1) If the proceeds of the sale are greater than the amount of the lien, the proceeds shall first be paid to the moldbuilder in the amount necessary to satisfy the lien. All proceeds in excess of the lien shall be paid to the customer.

(2) A sale shall not be made or possession shall not be obtained under section 10a if it would be in violation of any right of a customer or molder under federal patent, bankruptcy, or copyright law.

This act is ordered to take immediate effect.
Approved February 28, 2002.
Filed with Secretary of State March 1, 2002.

[No. 18]

(HB 5382)

AN ACT to amend 1962 PA 174, entitled "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, leases, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," by amending section 9201 (MCL 440.9201), as amended by 2000 PA 348.

The People of the State of Michigan enact:

440.9201 General effectiveness of security agreement.

Sec. 9201. (1) Except as otherwise provided in this act, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers and to each of the following, as applicable:

(a) The regulatory loan act of 1963, 1939 PA 21, MCL 493.1 to 493.26.

(b) 1939 PA 305, MCL 566.301 to 566.302.

(c) The motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.

(d) The mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(e) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(f) 1978 PA 387, MCL 257.931 to 257.937.

(g) 1986 PA 87, MCL 257.1401 to 257.1410.

(h) The grain dealers act, 1939 PA 141, MCL 285.61 to 285.82a.

(i) The Michigan family farm development act, 1982 PA 220, MCL 285.251 to 285.279.

(j) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(k) 1982 PA 459, MCL 325.851 to 325.858.

(*l*) 1970 PA 90, MCL 442.311 to 442.315.

(m) 1971 PA 227, MCL 445.111 to 445.117.

(n) The retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.

(o) The Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922.

(p) The home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

(q) 1941 PA 238, MCL 566.1.

(r) The garage keeper's lien act, 1915 PA 312, MCL 570.301 to 570.309.

(s) 1939 PA 3, MCL 460.1 to 460.10cc.

(t) 1981 PA 155, MCL 445.611 to 445.620c.

(3) In case of conflict between this article and a rule of law, statute, or regulation described in subsection (2), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (2) has only the effect the statute or regulation specifies.

(4) This article does not validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (2), or extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 4812 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved February 28, 2002.

Filed with Secretary of State March 1, 2002.

Compiler's note: House Bill No. 4812, referred to in enacting section 1, was filed with the Secretary of State March 1, 2002, and became P.A. 2002, No. 17, Imd. Eff. Mar. 1, 2002.

[No. 19]

(HB 5023)

AN ACT to amend 1937 PA 103, entitled "An act to prescribe certain conditions relative to the execution of instruments entitled to be recorded in the office of the register of deeds," by amending section 1 (MCL 565.201), as amended by 1996 PA 459.

The People of the State of Michigan enact:

565.201 Requirements for recording with register of deeds.

Sec. 1. (1) An instrument executed after October 29, 1937 by which the title to or any interest in real estate is conveyed, assigned, encumbered, or otherwise disposed of shall not be received for record by the register of deeds of any county of this state unless that instrument complies with each of the following requirements:

(a) The name of each person purporting to execute the instrument is legibly printed, typewritten, or stamped beneath the original signature or mark of the person.

(b) A discrepancy does not exist between the name of each person as printed, typewritten, or stamped beneath their signature and the name as recited in the acknowledgment or jurat on the instrument.

(c) The name of any notary public whose signature appears upon the instrument is legibly printed, typewritten, or stamped upon the instrument immediately beneath the signature of that notary public.

(d) The address of each of the grantees in each deed of conveyance or assignment of real estate, including the street number address if located within territory where street number addresses are in common use, or, if not, the post office address, is legibly printed, typewritten, or stamped on the instrument.

(e) If the instrument is executed before April 1, 1997, each sheet of the instrument is all of the following:

(*i*) Typewritten or printed in type not smaller than 8-point size.

(*ii*) Not more than 8-1/2 by 14 inches.

(*iii*) Legible.

(*iv*) On paper of not less than 13 (17x22—500) pound weight.

(f) If the instrument is executed after April 1, 1997, each sheet of the instrument complies with all of the following requirements:

(*i*) Has a margin of unprinted space that is at least 2-1/2 inches at the top of the first page and at least 1/2 inch on all remaining sides of each page.

(*ii*) Subject to subsection (3), displays on the first line of print on the first page of the instrument a single statement identifying the recordable event that the instrument evidences.

(*iii*) Is electronically, mechanically, or hand printed in 10-point type or the equivalent of 10-point type.

(*iv*) Is legibly printed in black ink on white paper that is not less than 20-pound weight.

(*v*) Is not less than 8-1/2 inches wide and 11 inches long or more than 8-1/2 inches wide and 14 inches long.

(*vi*) Contains no attachment that is less than 8-1/2 inches wide and 11 inches long or more than 8-1/2 inches wide and 14 inches long.

(2) Subsection (1)(e) and (f) do not apply to instruments executed outside this state or to the filing or recording of a plat or other instrument, the size of which is regulated by law.

(3) A register of deeds shall not record an instrument executed after April 1, 1997 if the instrument purports to evidence more than 1 recordable event.

(4) Any instrument received and recorded by a register of deeds shall be conclusively presumed to comply with this act. The requirements contained in this act are cumulative to the requirements imposed by any other act relating to the recording of instruments.

(5) An instrument that complies with the provisions of this act and any other act relating to the recording of instruments shall not be rejected for recording because of the content of the instrument.

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 20]

(HB 5024)

AN ACT to amend 1879 PA 237, entitled "An act to provide for the execution, acknowledgment, and recording of contracts for the sale of land," by amending section 1 (MCL 565.351), as amended by 1991 PA 140.

The People of the State of Michigan enact:

565.351 Land contract; acknowledgment; endorsement.

Sec. 1. A contract for the sale of land or any interest in that land shall be executed by the vendor named in the contract, and acknowledged before any judge or before any notary public within this state, and the officer taking the acknowledgment shall endorse a certificate of the acknowledgment and the date of making the acknowledgment under his or her hand.

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 21]

(HB 5025)

AN ACT to amend 1967 PA 288, entitled "An act to regulate the division of land; to promote the public health, safety, and general welfare; to further the orderly layout and use of land; to require that the land be suitable for building sites and public improvements and that there be adequate drainage of the land; to provide for proper ingress and egress to lots and parcels; to promote proper surveying and monumenting of land subdivided and

conveyed by accurate legal descriptions; to provide for the approvals to be obtained prior to the recording and filing of plats and other land divisions; to provide for the establishment of special assessment districts and for the imposition of special assessments to defray the cost of the operation and maintenance of retention basins for land within a final plat; to establish the procedure for vacating, correcting, and revising plats; to control residential building development within floodplain areas; to provide for reserving easements for utilities in vacated streets and alleys; to provide for the filing of amended plats; to provide for the making of assessors plats; to provide penalties for the violation of the provisions of this act; to repeal certain parts of this act on specific dates; and to repeal acts and parts of acts," by amending section 144 (MCL 560.144).

The People of the State of Michigan enact:

560.144 Proprietor's certificate.

Sec. 144. (1) The proprietor's certificate on the plat shall include the following:

(a) The caption of the plat.

(b) A statement that the proprietor has caused the land described on the plat to be surveyed, divided, monumented, mapped, and dedicated as shown on the plat.

(c) A statement that the streets, alleys, parks, and other places shown on it that are usually public are dedicated to the use of the public.

(d) A statement that all public utility easements are private easements and that all other easements are reserved to the uses shown on the plat.

(e) The name of each street, park, or other place that is usually public and that is intended to be reserved to other than public use, and the character and purpose of that use.

(f) A statement that the plat includes all land to the water's edge.

(2) The proprietor's certificate shall be signed by the following, and each signature shall be acknowledged as deeds conveying lands are required to be acknowledged:

(a) All persons holding the title by deed of the lands.

(b) All persons holding any other title of record.

(c) All persons holding title as mortgagee or vendee under land contract or who are in possession but are not renters.

(d) The spouses of persons named in subdivisions (a), (b), and (c).

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 22]

(HB 5186)

AN ACT to amend 1953 PA 181, entitled "An act relative to investigations in certain instances of the causes of death within this state due to violence, negligence or other act or omission of a criminal nature or to protect public health; to provide for the taking of statements from injured persons under certain circumstances; to abolish the office of

coroner and to create the office of county medical examiner in certain counties; to prescribe the powers and duties of county medical examiners; to prescribe penalties for violations of the provisions of this act; and to prescribe a referendum thereon," by amending section 1 (MCL 52.201); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

52.201 Coroner; abolition of office; county medical examiner; appointment; terms; vacancies; civil service; qualifications; agreement among counties.

Sec. 1. (1) The board of commissioners of each county of this state shall by resolution abolish the office of coroner and appoint a county medical examiner to hold office for a period of 4 years. If the office of county medical examiner becomes vacant before the expiration of the term of office, the board of commissioners may appoint a successor to complete the term of office. In counties with a civil service system, the appointment and tenure of the medical examiner shall be made in accordance with the provisions of that civil service system.

(2) County medical examiners shall be physicians licensed to practice within this state.

(3) Two or more counties, by resolution of the respective boards of commissioners, may enter into an agreement to employ the same person to act as medical examiner for all of the counties.

Repeal of § 52.201b.

Enacting section 1. Section 1b of 1953 PA 181, MCL 52.201b, is repealed.

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 23]

(HB 5022)

AN ACT to amend 1846 RS 65, entitled "Of alienation by deed, and the proof and recording of conveyances, and the canceling of mortgages," by amending sections 8 and 47 (MCL 565.8 and 565.47), section 8 as amended by 1980 PA 488.

The People of the State of Michigan enact:

565.8 Deeds; execution; witnesses; acknowledgment; endorsement; validity and legality of certain acknowledgments and recordations of deeds; recorded deed lacking 1 or more witnesses.

Sec. 8. Deeds executed within this state of lands, or any interest in lands, shall be acknowledged before any judge, clerk of a court of record, or notary public within this state. The officer taking the acknowledgment shall endorse on the deed a certificate of the acknowledgment, and the true date of taking the acknowledgment, under his or her hand. Any deed that was acknowledged before any county clerk or clerk of any circuit court, before September 18, 1903, and the acknowledgment of the deed, and, if recorded, the

record of the deed, shall be as valid for all purposes so far as the acknowledgment and record are concerned, as if the deed had been acknowledged before any other officer named in this section, and the legality of the acknowledgment and record shall not be questioned in any court or place. If a deed has been recorded that lacks 1 or more witnesses and the deed has been of record for a period of 10 years or more, and is otherwise eligible to record, the record of the deed shall be effectual for all purposes of a legal record and the record of the deed or a transcript of the record may be given in evidence in all cases and the deed shall be as valid and effectual as if it had been duly executed in compliance with this section.

565.47 Recording by register of deeds; acknowledgment required.

Sec. 47. A deed, mortgage, or other instrument in writing that by law is required to be acknowledged affecting the title to lands, or any interest therein, shall not be recorded by the register of deeds of any county unless the deed, mortgage, or other instrument is acknowledged or proved as provided by this chapter.

This act is ordered to take immediate effect.
Approved March 4, 2002.
Filed with Secretary of State March 4, 2002.

[No. 24]

(SB 505)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 12 of chapter XVII (MCL 777.12), as amended by 2001 PA 160.

The People of the State of Michigan enact:

CHAPTER XVII

777.12 Chapters 200 to 299 of Michigan Compiled Laws; felonies to which chapter applicable.

Sec. 12. This chapter applies to the following felonies enumerated in chapters 200 to 299 of the Michigan Compiled Laws:

M.C.L.	Category	Class	Description	Stat Max
205.27(1)(a)	Pub trst	G	Failure to file or false tax return or payment	5
205.27(1)(b)	Pub trst	G	Aiding and abetting tax evasion or filing false returns	5
205.27(1)(c)	Pub trst	G	Making/permitting false tax returns or payments	5
205.27(3)	Pub trst	G	False tax returns/perjury	15
205.28(1)(e)	Pub trst	G	State employee compromising taxes	5
205.28(1)(f)	Pub trst	G	Unauthorized disclosure of tax information	5
205.428(2)	Pub trst	G	Tobacco products tax act violations	5
205.428(3)	Pub trst	G	Illegal sale of cigarettes or other tobacco products with wholesale price of $250.00 or more	5
205.428(6)	Pub trst	F	Illegal tobacco stamp or tobacco stamp device	10
205.428(7)	Pub trst	G	Illegal vending machine license, disk, or marker	5
207.118a	Pub ord	G	Gasoline tax — embezzlement over $100	10
207.119	Pub trst	G	Gasoline or motor fuel tax violation	4
207.127c	Pub ord	G	Diesel fuel tax — embezzlement over $100	10
207.754(3)	Pub trst	G	State treasurer — municipality tax — divulging confidential information	5
252.311	Property	H	Destroying a tree or shrub to make a sign more visible	2
257.233a(7)	Pub ord	G	Odometer tampering	5
257.254	Property	E	Possessing stolen vehicle title	10
257.257(1)	Property	G	Altering or forging vehicle documents — first offense	5
257.257(2)	Property	G	Altering or forging vehicle documents — second offense	7
257.257(3)	Property	E	Altering or forging vehicle documents — third or subsequent offense	15
257.309(6)	Pub ord	F	Corrupting an examining officer	5
257.309(7)	Pub ord	F	Deviating from road test criteria	5
257.309(8)	Pub ord	F	Forging, counterfeiting, or altering road test certification	5

257.312b(6)	Pub ord	F	Corrupting a person or agency conducting a motorcycle driving test	5
257.312b(7)	Pub ord	F	Deviating from motorcycle road test criteria	5
257.312b(8)	Pub ord	F	Forging, counterfeiting, or altering motorcycle road test certification	5
257.329(1)	Property	G	Possession/sale of stolen or counterfeit insurance certificates	5
257.329(2)	Property	E	Possession/sale of stolen or counterfeit insurance certificates — second offense	7
257.329(3)	Property	E	Possession/sale of stolen or counterfeit insurance certificates — third or subsequent offense	15
257.601b(3)	Person	C	Moving violation causing death to construction worker	15
257.601c(2)	Person	C	Moving violation causing death to operator of implement of husbandry	15
257.602a(2)	Pub saf	G	Fleeing and eluding — fourth degree	2
257.602a(3)	Pub saf	E	Fleeing and eluding — third degree	5
257.602a(4)	Person	D	Fleeing and eluding — second degree	10
257.602a(5)	Person	C	Fleeing and eluding — first degree	15
257.617(2)	Person	E	Failure to stop at scene of accident resulting in serious impairment or death	5
257.617(3)	Person	C	Failure to stop at scene of accident resulting in death when at fault	15
257.625(4)(a)	Person	C	Operating a vehicle under the influence or while impaired causing death	15
257.625(4)(b)	Person	B	Operating a vehicle under the influence or while impaired causing death to certain persons	20
257.625(5)	Person	E	Operating a vehicle under the influence or while impaired causing serious impairment	5
257.625(7)(a)(*ii*)	Person	E	Operating a vehicle under the influence or while impaired with a minor in the vehicle — subsequent offense	5
257.625(8)(c)	Pub saf	E	Operating a vehicle under the influence — third or subsequent offense	5
257.625(9)(b)	Person	E	Allowing a vehicle to be operated while under the influence or impaired causing death	5
257.625(9)(c)	Person	G	Allowing a vehicle to be operated while under the influence or impaired causing serious impairment	2
257.625(10)(c)	Pub saf	E	Impaired driving — third or subsequent offense	5

257.625k(7)	Pub saf	D	Knowingly providing false information concerning an ignition interlock device	10
257.625k(9)	Pub saf	D	Failure to report illegal ignition interlock device	10
257.625m(5)	Pub saf	E	Commercial drunk driving — third or subsequent offense	5
257.626c	Person	G	Felonious driving	2
257.653a(3)	Person	G	Failure to use due care and caution causing injury to emergency personnel	2
257.653a(4)	Person	C	Failure to use due care and caution causing death to emergency personnel	15
257.744a	Pub saf	D	False statement in citation — perjury	15
257.902	Pub saf	E	Motor vehicle code violations	5
257.903(1)	Property	E	Motor vehicle code — false certification — first offense	5
257.903(2)	Property	E	Motor vehicle code — false certification — second offense	7
257.903(3)	Property	D	Motor vehicle code — false certification — third or subsequent offense	15
257.904(4)	Person	C	Operating a vehicle without a license causing death	15
257.904(5)	Person	E	Operating a vehicle without a license causing serious impairment	5
257.904(7)	Person	G	Allowing a vehicle to be operated without a license causing serious impairment	2
	Person	E	Allowing a vehicle to be operated without a license causing death	5
257.1353(2)	Pub trst	H	Motor vehicle — fail to record material matter — subsequent offense	2
257.1354(2)	Pub trst	H	Motor vehicle — general violations — subsequent offense	2
257.1355	Pub trst	H	Motor vehicle — fail to record transaction/falsify records	2
259.80f(3)	Pub saf	D	Possessing weapon in sterile area of commercial airport	10
259.83(2)(b)	Pub saf	G	Aircraft — failure to comply with certification requirements — second violation	2
259.83(2)(c)	Pub saf	F	Aircraft — failure to comply with certification requirements — third or subsequent violation	4
259.83b(2)(a)	Pub saf	F	Conducting flight operations without certificate	4
259.83b(2)(b)	Pub saf	E	Conducting flight operations without certificate — second violation	5

259.83b(2)(c)	Pub saf	D	Conducting flight operations without certificate — third or subsequent violation	10
259.183	Property	E	Aircraft — unlawful taking or tampering	5
259.185(4)	Person	C	Operating or serving as crew of aircraft while under the influence causing death	15
259.185(5)	Person	E	Operating or serving as crew of aircraft while under the influence causing serious impairment	5
259.185(8)	Pub saf	E	Operating or serving as crew of aircraft while under the influence — third or subsequent offense	5
285.82	Pub trst	H	Grain dealers act violations	5
285.279(c)	Property	E	False pretenses under Michigan family farm development act involving $1,000 to $20,000 or with prior convictions	5
285.279(d)	Property	D	False pretenses under Michigan family farm development act involving $20,000 or more or with prior convictions	10
286.455(2)	Pub saf	G	Agriculture — hazardous substance	5
286.929(4)	Pub trst	G	Organic products act violations	4
287.323(1)	Person	C	Dangerous animal causing death	15
287.323(2)	Person	G	Dangerous animal causing serious injury	4
287.679	Pub ord	H	Dead animals — third or subsequent violation	1
287.744(1)	Pub ord	G	Animal industry act violations	5
287.855	Pub saf	G	Agriculture — contaminating livestock/falsestatement/violation of quarantine	5
287.967(5)	Pub ord	G	Cervidae producer violations	4
288.223	Pub saf	G	Sale or labeling of oleomargarine violations	3
288.257	Pub saf	G	Margarine violations	3
288.284	Pub trst	H	Selling falsely branded cheese	2
289.5107(2)	Pub saf	F	Adulterated, misbranded, or falsely identified food	4
290.629(1)	Person	G	Weights and measures — assaults enforcement officer	2
290.631(3)	Pub trst	G	Weights and measures	5
290.650	Person	G	Motor fuels — assaulting/obstructing director or authorized representative	2
290.650b(3)	Pub trst	H	Motor fuels violations	2

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 91st Legislature are enacted into law:

(a) Senate Bill No. 502.

(b) Senate Bill No. 541.

Effective date.

Enacting section 2. This amendatory act takes effect April 1, 2002.

Approved March 5, 2002.
Filed with Secretary of State March 6, 2002.

Compiler's note: Senate Bill No. 502, referred to in enacting section 1, was filed with the Secretary of State January 2, 2002, and became P.A. 2001, No. 225, Eff. Apr. 1, 2002.

Senate Bill No. 541, also referred to in enacting section 1, was filed with the Secretary of State March 7, 2002, and became P.A. 2002, No. 35, Eff. May 15, 2002.

[No. 25]

(SB 718)

AN ACT to amend 1969 PA 317, entitled "An act to revise and consolidate the laws relating to worker's disability compensation; to increase the administrative efficiency of the adjudicative processes of the worker's compensation system; to improve the qualifications of the persons having adjudicative functions within the worker's compensation system; to prescribe certain powers and duties; to create the board of worker's compensation magistrates and the worker's compensation appellate commission; to create certain other boards; to provide certain procedures for the resolution of claims, including mediation and arbitration; to prescribe certain benefits for persons suffering a personal injury under the act; to prescribe certain limitations on obtaining benefits under the act; to create, and provide for the transfer of, certain funds; to prescribe certain fees; to prescribe certain remedies and penalties; to repeal certain parts of this act on specific dates; and to repeal certain acts and parts of acts," by amending section 551 (MCL 418.551), as amended by 1992 PA 269.

The People of the State of Michigan enact:

418.551 Assessments; notice; payment; assessments as elements of loss in establishing rates; continuation of liability; certification of receipts; delinquencies; disposition of money; investments; disposition of earnings; reports and accounting.

Sec. 551. (1) As soon as practicable after January 1 of each year, the director shall assess pursuant to subsection (3) a sum that in total is equal to 175% of the total disbursements made from the second injury fund during the preceding calendar year, less the amount of net assets in excess of $200,000.00 in that fund as of December 31 of the preceding calendar year.

(2) As soon as practicable after January 1 of each year, the director shall assess pursuant to subsection (3) a sum that in total is equal to 175% of the total disbursements made from the silicosis, dust disease, and logging industry compensation fund during the

preceding calendar year, less the amount of net assets in excess of $200,000.00 in that fund as of December 31 of the preceding calendar year.

(3) The portion of the total assessment amounts under subsections (1) and (2) allocated to self-insurers shall be equal to a percentage determined as follows: The total paid losses of all self-insurers for the preceding calendar year divided by the total paid losses of all carriers during the preceding calendar year. The portion of the total assessment amounts under subsections (1) and (2) allocated to insurers shall be equal to a percentage determined as follows: The total paid losses of all insurers for the preceding calendar year divided by the total paid losses of all carriers during the preceding calendar year. The portion of the total assessments allocated to self-insurers that shall be collected from each self-insurer shall be equal to a percentage determined as follows: The total paid losses of each self-insurer divided by the total paid losses of all self-insurers during the preceding calendar year. The portion of the total assessment allocated to insurers that shall be collected from each insurer shall be equal to a percentage determined as follows: The amount of total direct premiums written as reported by each insurer divided by the amount of total direct premiums written as reported by all insurers during the preceding calendar year. As used in this subsection:

(a) "Direct premiums written" means standard written Michigan workers' compensation premium prior to the application of deductible credits, as reported to the designated advisory organization, through policy declarations and unit statistical reports compiled pursuant to the authority in section 2407 of the insurance code of 1956, 1956 PA 218, MCL 500.2407. For the purposes of determining assessments under this section, the reported data for the most recent full calendar year on file with the designated advisory organization shall be used.

(b) "Total paid losses" means total compensation benefits paid under this act, exclusive of payments made pursuant to sections 315, 319, and 345.

(4) The director, upon the advice of the trustee representing the self-insurers, may make additional assessments upon private self-insurers as the trustee considers necessary to keep the self-insurers' security fund solvent. The assessment shall not exceed 3% in any calendar year exclusive of payments made pursuant to sections 315, 319, and 345.

(5) Notice of the assessments shall be sent by the director by first class mail to each carrier. Payment of assessments shall be made so as to be received in the Lansing office of the bureau on or before a date specified uniformly in the notice, but not less than 90 days after the date of mailing.

(6) All assessments constitute elements of loss for the purpose of establishing rates for worker's compensation insurance.

(7) An employer who has stopped being a self-insurer shall continue to be liable for a second injury fund; silicosis, dust disease, and logging industry compensation fund; or self-insurers' security fund assessment on account of any compensation benefits, exclusive of payments made pursuant to sections 315, 319, and 345, paid by the employer during the previous calendar year.

(8) The director shall certify to the trustees the collection and receipt of all money from assessments, noting any delinquencies. The trustees shall immediately notify delinquent carriers, including private self-insurers, of their delinquency in writing by certified mail, return receipt requested. The trustees shall take action as in their judgment is proper to effect collection of any delinquent assessment. All money received from assessments under this section shall be turned over to the state treasurer who shall be the custodian of the self-insurers' security fund; the second injury fund; and the silicosis, dust disease, and logging industry compensation fund. The treasurer may make

those investments as in the treasurer's judgment are in the best interest of the funds. The earnings from the investment of the money from the funds shall be credited to the funds. The state treasurer, at the end of each fiscal year, shall determine what amount represents a pro rata earnings share due to each fund, shall credit the pro rata earning share to each fund, and shall notify the trustee of the amount credited and the balance of the respective fund as of September 30. The trustees shall make separate annual reports and accountings for each fund, which reports shall be included in the annual report of the bureau.

Effective date.

Enacting section 1. This amendatory act takes effect January 1, 2002.

This act is ordered to take immediate effect.
Approved March 5, 2002.
Filed with Secretary of State March 6, 2002.

[No. 26]

(SB 496)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe

educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 456 (MCL 500.456), as amended by 1989 PA 214.

The People of the State of Michigan enact:

500.456 Legal process served on resident agent effective as personal service on company, association, or group; stipulation; filing copy of appointment; fee; duration of appointment.

Sec. 456. (1) Every insurance company, association, risk retention group, or purchasing group not organized under the statutes of this state shall file with the commissioner, as a condition precedent to doing business in this state, the name and address of a resident agent upon which any local process affecting the company, association, or group may be served. Service upon the resident agent designated under this section is service on the company, association, or group. This designation shall remain in force as long as any liability remains within this state.

(2) As a condition of doing business in this state, an unauthorized insurer who does not have a resident agent shall file with the commissioner an irrevocable written stipulation agreeing that any legal process affecting the company, association, or group that is served upon the commissioner or his or her designee has the same effect as if personally served upon the company, association, or group. A copy of the appointment shall be filed with the commissioner. Service upon the commissioner is service upon the company, association, or group and the fee for service is $10.00 payable at time of service. This appointment remains in force as long as any liability remains within this state.

This act is ordered to take immediate effect.
Approved March 5, 2002.
Filed with Secretary of State March 6, 2002.

[No. 27]

(HB 4028)

AN ACT to establish procedures for municipalities to designate individual lots or structures as blighting; to purchase or condemn blighting property; to transfer blighting property for development; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

125.2801 Scope of act.

Sec. 1. The powers granted in this act relating to the designation and transfer for development of blighting property constitute the performance by this state or a political subdivision of this state of essential public purposes and functions.

125.2802 Definitions.

Sec. 2. As used in this act:

(a) "Attractive nuisance" means a condition on property that children are reasonably likely to come in contact with or be exposed to and that involves an unreasonable risk of death or serious bodily harm to children.

(b) "Blighting property", subject to subdivision (c), means property that is likely to have a negative financial impact on the value of surrounding property or on the increase in value of surrounding property and that meets any of the following criteria:

(*i*) The property has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(*ii*) The property is an attractive nuisance because of physical condition, use, or occupancy. A structure or lot is not blighting property under this subparagraph because of an activity that is inherent to the functioning of a lawful business.

(*iii*) The property is a fire hazard or is otherwise dangerous to the safety of persons or property.

(*iv*) The property has had the utilities, plumbing, heating, or sewerage permanently disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use.

(*v*) A portion of a building or structure located on the property has been damaged by any event so that the structural strength or stability of the building or structure is appreciably less than it was before the event and does not meet the minimum requirements of the housing law of Michigan, 1917 PA 167, MCL 125.401 to 125.543, or a building code of the city, village, or township in which the building or structure is located for a new building or structure.

(*vi*) A building or structure or part of a building or structure located on the property is likely to fall, become detached or dislodged, or collapse and injure persons or damage property.

(*vii*) A building or structure located on the property used or intended to be used as a dwelling, including the adjoining grounds, because of dilapidation, decay, damage, or faulty construction; accumulation of trash or debris; an infestation of rodents or other vermin; or any other reason, is unsanitary or unfit for human habitation, is in a condition that a local health officer determines is likely to cause sickness or disease, or is likely to injure the health, safety, or general welfare of people living in the dwelling.

(c) "Blighting property" does not include any of the following:

(*i*) Structures or lots, whether improved or unimproved, that are inherent to the functioning of a farm or farm operation as those terms are defined in section 2 of the Michigan right to farm act, 1981 PA 93, MCL 286.472.

(*ii*) Structures or lots, whether improved or unimproved, that are industrial properties in an area zoned industrial and that are current on tax obligations.

(*iii*) Track belonging to a railroad company, right-of-way belonging to a railroad company, rolling stock belonging to a railroad company, or any other property necessarily used in operating a railroad in this state belonging to a railroad company.

(*iv*) A single family dwelling for which the owner claims a homestead exemption under section 7cc of the general property tax act, 1893 PA 206, MCL 211.7cc.

(d) "Dwelling" means any house, building, structure, tent, shelter, trailer, or vehicle, or portion thereof, which is occupied in whole or in part as the home, residence, or living

or sleeping place of 1 or more human beings, either permanently or transiently. Dwelling does not include railroad rolling stock on tracks or rights-of-way.

(e) "Fire hazard" means that term as defined in section 1 of the fire prevention code, 1941 PA 207, MCL 29.1.

(f) "Municipality" means a city, village, or township in this state or a county described in section 3(1)(b).

(g) "Person" means an individual, partnership, association, trust, or corporation, or any other legal entity.

(h) "Public nuisance" means an unreasonable interference with a common right enjoyed by the general public involving conduct that significantly interferes, or that is known or should have been known to significantly interfere, with the public's health, safety, peace, comfort, or convenience, including conduct prescribed by law.

(i) "Taxing jurisdiction" means a jurisdiction, including, but not limited to, this state, an agency of this state, a state authority, an intergovernmental authority of this state, a school district, or a municipality, that levies taxes under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157.

125.2803 Designation of property as blighting; powers and duties of municipality.

Sec. 3. (1) Except as provided in subsection (3), a city, village, or township may do 1 of the following:

(a) Designate a structure or lot within its jurisdiction as blighting property and acquire title to the blighting property by purchase, gift, exchange, or condemnation under the procedures set forth in sections 4 through 7, except that a township may take these actions within a village only upon adoption by a village of a resolution under subdivision (c).

(b) Upon entering into a written agreement with the county within which the city, village, or township is located, adopt a resolution transferring the authority provided in subdivision (a) to that county. The written agreement shall be entered into with the county executive of a county that elects a county executive or with the county board of commissioners of any other county.

(c) In the case of a village, adopt a resolution transferring the authority provided in subdivision (a) to the township within which the village is located.

(2) Except as provided in subsection (3), upon adoption by a city, village, or township of a resolution under subsection (1)(b), a county may designate a structure or lot as blighting property and acquire fee simple title in the blighting property by purchase, gift, exchange, or condemnation under the procedures set forth in sections 4 through 7.

(3) A municipality shall not designate a property as blighting property if the property has been forfeited to a county treasurer under section 78g of the general property tax act, 1893 PA 206, MCL 211.78g, and remains subject to foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k.

(4) A municipality shall not designate a property as blighting property based solely on the presence of native grasses or plants indigenous to Michigan that are planted or maintained as part of a garden or designated wildlife area or for landscaping, erosion control, or weed control purposes.

125.2804 Designation of property as blighting; hearing; notice.

Sec. 4. (1) A municipality that proposes to designate a property as blighting property under section 3 shall hold a hearing on the designation. The hearing shall take place not

less than 42 days, and not more than 119 days, after the municipality provides written notice of the hearing and the proposed designation as required by this section. A municipality may hold the hearing more than 119 days after it provides written notice only if an extension is requested by a person with a legal interest in the property that is contesting the blighting designation.

(2) The written notice provided under this section shall explain, in plain English, that the property is subject to designation as blighting property, and shall include all of the following:

(a) The time, date, and location of the hearing.

(b) A description, including the street address, of the property subject to designation as blighting property.

(c) An explanation of the reasons the municipality considers the property to be blighting property.

(d) The name, address, and telephone number of the person to whom communications about the hearing may be addressed.

(e) Names, addresses, and telephone numbers of public and private agencies or other resources that may be available to assist an occupant of the property to avoid the designation of the property as blighting property or to obtain comparable safe, decent, and quality affordable housing.

(f) A description of the improvements that should be made to the property before the hearing to avoid designation of the property as blighting.

(3) The municipality shall perform a thorough title search to identify all persons with a legal interest in the property. The municipality shall take the following steps to provide notice to any person with a legal interest in the property:

(a) Determine the address reasonably calculated to apprise those persons with a legal interest in the property of the pendency of the hearing under this section and send notice of the hearing to each person with a legal interest in the property by certified mail, return receipt requested, not less than 42 days before the hearing.

(b) Send a representative to the property to ascertain personally whether or not the property is occupied. If the property appears to be occupied, the municipality shall do all of the following not less than 42 days before the hearing:

(*i*) Make reasonable efforts in good faith personally to serve upon a person occupying the property a copy of the written notice described in subsection (2).

(*ii*) If a person occupying the property is personally served, orally inform the occupant of both of the following:

(A) That the property may be designated as blighting property.

(B) Public and private agencies or other resources that may be available to assist the occupant to avoid the designation of the property as blighting property or to obtain comparable safe, decent, and quality affordable housing.

(*iii*) If the occupant indicates that he or she has a health problem that affects his or her ability to make improvements that will cause the property no longer to meet the definition of blighting property or if it should be apparent to the representative of the municipality that the occupant has such a health problem, place the occupant with an appropriate public or private agency to assist the occupant to avoid the designation of the property as blighting property.

(*iv*) If the occupant appears to lack the ability to understand the advice given or is unwilling to cooperate, provide the occupant with the names and telephone numbers of public and private agencies that may be able to assist the occupant.

(*v*) If an authorized representative of the municipality is not able personally to meet with the occupant, place the written notice at a conspicuous location on the property.

(c) Correct any deficiency that the municipality may know of in the provision of the notice required by this section as soon as practicable before designating the property as blighting property.

(d) If the municipality is unable to ascertain the address reasonably calculated to apprise all persons with a legal interest in the property of the pendency of the hearing, or is unable to deliver notice to any occupant of the property, service of the notice shall be made by publication. The notice shall be published for 3 successive weeks, once each week, in a newspaper published and circulated in the county in which the property is located, if there is one. If no paper is published in that county, publication shall be made in a newspaper published and circulated in an adjoining county.

(4) Any notice provided under this section shall include an explanation of any tax benefits or other incentives offered by the municipality that may encourage the transfer of the blighting property.

125.2805 Proof of notice; affidavit.

Sec. 5. (1) Upon the mailing of the notice under section 4, the representative of the municipality responsible for the mailing of the notice shall file proof of the notice provided with the register of deeds of the county within which the property subject to designation as blighting property is located. The proof of notice shall be in the form of an affidavit and shall include all of the following:

(a) A description of the content of the notice provided.

(b) The name or names of the person or persons to whom the notice was addressed.

(c) A statement that the property is subject to designation as blighting property and subsequent transfer or condemnation.

(2) An affidavit recorded under subsection (1) creates a rebuttable presumption in the courts of this state that any person obtaining a legal interest in property subject to designation as blighting property following the recording of the affidavit by the representative of the municipality was properly notified that the property was subject to designation as blighting property and of the consequences of that designation, including, but not limited to, the condemnation of the property or the transfer of the property to the municipality or another person.

(3) If a representative of a municipality records an affidavit under subsection (1) and the municipality subsequently does not designate the property as blighting property, the municipality shall record as soon as practicable notice properly certified by a representative of the municipality and in the form of an affidavit that the property was not designated as blighting property and that the municipality no longer seeks to designate the property as blighting property.

125.2806 Designation of property as blighting; contest; property improvements causing delay of designation; certificate; determination; suspension of proceedings; appeal; costs.

Sec. 6. (1) A person with a legal interest in the property may contest the proposed designation of any property as blighting property at the hearing held by the municipality under section 4 by doing 1 of the following:

(a) Appear at the hearing and show cause why the property should not be designated as blighting property.

(b) If incarcerated, impaired, or otherwise unable to attend a public hearing, submit a written presentation to show cause why the property should not be designated as blighting property.

(2) If a person with a legal interest in the property demonstrates at the hearing that improvements to the property have been made or are actively being made that will cause the property no longer to meet the definition of blighting property, the municipality shall delay the designation of the property as blighting for 91 days. If at the end of that 91 days the municipality finds that the property no longer meets the definition of blighting property, the municipality shall issue a certificate stating that the property is not blighting property.

(3) If after the notice and hearing required by this act the municipality determines that the property is blighting property, the municipality shall designate the property as blighting property and provide public notice of the designation.

(4) A municipality may at any time suspend proceedings leading to the designation of property as blighting property if a person with a legal interest in the property enters into an agreement with the municipality establishing an improvement plan for the property and a schedule for completion of the improvements.

(5) A person with a legal interest in property that a municipality has designated as blighting property may appeal that decision to the circuit court in the jurisdiction within which the property is located within 28 days of the designation. The circuit court shall review the municipal decision using the standard of review for administrative decisions that is set forth in section 28 of article VI of the state constitution of 1963.

(6) If a person with a legal interest in a property that a municipality designates as blighting appeals the municipal decision and the decision is reversed by a court of appropriate jurisdiction and the court determines that the municipality was acting arbitrarily or in bad faith, the court may award the successful appellant the costs, including, but not limited to, attorney fees, actually and reasonably incurred by the person in making the appeal.

125.2807 Acquisition of property by purchase or condemnation; transfer by municipality; classification of property as residential; order restoring person's legal interest in property.

Sec. 7. (1) A municipality may offer to purchase property designated as blighting property under this act at the fair market value or to acquire the property by donation or exchange. If the offer is rejected, the municipality may institute proceedings under the power of eminent domain under the laws of this state or provisions of any local charter relative to condemnation.

(2) Except as otherwise provided in subsection (3), within 119 days after a municipality acquires title to a blighting property or a condemnation award for the blighting property is ordered under the uniform condemnation procedures act, 1980 PA 87, MCL 213.5 to 213.75, whichever is later, the municipality shall either transfer the property for development or have adopted a written development plan for the property.

(3) A municipality that under subsection (2) transfers title to a blighting property that is classified as residential may transfer the property for affordable low income housing to a person that has experience with and is able to demonstrate financial capacity developing affordable low income housing. A municipality that does not transfer title to a blighting property that is classified as residential under subsection (2) shall develop the property in accordance with the written development plan adopted under subsection (2).

(4) If a municipality fails to comply with subsection (2) or (3), a person whose legal interest in the property was conveyed by sale, donation, exchange, or condemnation as provided for under subsection (1) may bring an action in the circuit court to compel the municipality to convey that legal interest back to that person. Upon a finding that the person bringing the action has a plan likely to result in the development of that property consistent with applicable law and that the municipality has not complied with subsection (2) or (3), the court shall enter an order restoring the person's legal interest in the property. An order entered under this subsection shall require all of the following:

(a) That all amounts paid in consideration for the property, including any taxes extinguished under section 8, be repaid and, if applicable, distributed to the appropriate taxing jurisdiction.

(b) That all costs incurred by the municipality for demolition, environmental response activities, title clearance, and site preparation be repaid.

(c) That the court retain jurisdiction to determine if the development plan presented by the petitioner is implemented.

125.2808 Acceptance of deed in lieu of foreclosure.

Sec. 8. (1) To encourage the donation or transfer of property designated as blighting property under this act, the municipality may accept from all persons with a legal interest in the blighting property a deed conveying those persons' interests in the blighting property in lieu of foreclosure of the blighting property for delinquent property taxes. A municipality shall not offer or accept a deed in lieu of foreclosure if either of the following applies:

(a) The blighting property has been forfeited to a county treasurer under section 78g of the general property tax act, 1893 PA 206, MCL 211.78g, and remains subject to foreclosure under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k.

(b) The blighting property has been foreclosed under section 78k of the general property tax act, 1893 PA 206, MCL 211.78k, and has not been transferred by the foreclosing governmental unit under section 78m of the general property tax act, 1893 PA 206, MCL 211.78m.

(2) If, under subsection (1), the municipality accepts a deed in lieu of foreclosure, all of the following shall occur:

(a) Any unpaid taxes levied under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, are extinguished.

(b) All liens against the property, except future installments of special assessments and liens recorded by this state pursuant to the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106, are extinguished.

(c) All existing recorded and unrecorded interests in that property are extinguished, except a visible or recorded easement or right-of-way, private deed restriction, or restriction imposed under the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(3) Not less than 28 days prior to acceptance of a deed in lieu of foreclosure under this section, a municipality shall inform each taxing jurisdiction that has levied taxes on the blighting property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157. Each taxing jurisdiction shall be afforded the opportunity to inform the municipality of the revenue impact of the issuance of a deed in lieu of foreclosure and to show cause why the municipality should not accept a deed in lieu of foreclosure.