

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4224**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 240, 438, 3101a, 3111, 3114, 3115, 3163, 3172,
3173, 3173a, 3174, 3175, and 3177 (MCL 500.240, 500.438, 500.3101a,
500.3111, 500.3114, 500.3115, 500.3163, 500.3172, 500.3173,
500.3173a, 500.3174, 500.3175, and 500.3177), section 240 as
amended by 2000 PA 252, section 438 as amended by 1994 PA 227,
section 3101a as amended by 2014 PA 419, section 3114 as amended by
2002 PA 38, section 3163 as amended by 2002 PA 697, sections 3172,
3173a, 3174, and 3175 as amended by 2012 PA 204, and section 3177
as amended by 1984 PA 426.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 240. (1) The ~~commissioner~~**DIRECTOR** shall collect, and the

1 person affected shall pay to the ~~commissioner~~, **DIRECTOR**, the
 2 following fees:

3 (a) Filing fee for original authorization to
 4 transact insurance or health maintenance organization
 5 business in this state, for each domestic, foreign,
 6 and alien insurer, and each health maintenance
 7 organization..... \$ 25.00.

8 (b) ~~Filing~~ **UNTIL THE EFFECTIVE DATE OF THE 2016**
 9 **AMENDATORY ACT THAT AMENDED THIS SUBDIVISION, FILING**
 10 fee for annual statement of foreign and alien insurers,
 11 each year, subject to section 476a..... \$ 25.00.

12 (c) ~~Agent's~~ **PRODUCER'S** appointment fee, resident or
 13 nonresident, payable by insurer or health maintenance
 14 organization so represented, for each ~~agent~~, **PRODUCER**,
 15 each year..... \$ 5.00.

16 (d) Application fee payable by each initial
 17 applicant for license as resident ~~agent~~, **PRODUCER**,
 18 nonresident ~~agent~~, **PRODUCER**, surplus lines ~~agent~~,
 19 **PRODUCER**, solicitor, counselor, or adjuster, not
 20 transferable or refundable..... \$ 10.00.

21 (e) Solicitor's license, each year..... \$ 10.00.

22 (f) Insurance counselor license, each year..... \$ 10.00.

23 (g) Adjuster's license, each year..... \$ 5.00.

24 (h) License examination fee, payable by applicant
 25 for all subjects covered in any 1 examination, or
 26 portion of an examination, for license as resident
 27 ~~agent~~, **PRODUCER**, surplus lines ~~agent~~, **PRODUCER**,

1 solicitor, counselor, or adjuster, each examination,
 2 not transferable or refundable..... \$ 10.00.

3 (i) Surplus lines ~~agent~~**PRODUCER** license each
 4 year..... \$ 100.00.

5 (2) ~~Each~~**AN** incorporated domestic insurer shall pay to the
 6 attorney general, for the examination of the insurer's articles of
 7 incorporation or any amendments to the articles of incorporation,
 8 ~~the sum of~~ \$25.00.

9 (3) The fees and charges for official services performed by
 10 the ~~commissioner~~**DIRECTOR** or the ~~commissioner's~~**DIRECTOR'S** deputies
 11 or employees, when collected, ~~shall~~**MUST** be turned over to the
 12 state treasurer and a receipt taken. The fees and charges provided
 13 for in this section ~~shall~~**MUST** be deposited in the state treasury
 14 to the credit of the general fund.

15 (4) ~~The provisions of subsection (1)(h), insofar as they~~
 16 ~~provide for~~**THE** examination fees **DESCRIBED IN SUBSECTION (1)(H)** ~~7~~
 17 are applicable only if the examinations are administered by the
 18 ~~commissioner~~**DIRECTOR**. If the examinations are administered by
 19 ~~some~~**A** designated authority other than the ~~commissioner~~**DIRECTOR**,
 20 appropriate examination fees ~~shall be~~**ARE** payable directly to the
 21 designated authority.

22 Sec. 438. (1) ~~Each~~**AN** insurer, foreign, alien, U.S. branch, or
 23 domestic, transacting business within this state, shall annually,
 24 on or before March 1, prepare under oath and deposit with the
 25 ~~commissioner~~**DIRECTOR** a statement concerning its affairs in a form
 26 and manner as prescribed by the ~~commissioner~~**DIRECTOR**. The annual
 27 statement ~~shall~~**MUST** be filed on or before March 1 of the year

1 following that covered by the statement. ~~Upon~~ **ON** request and for
 2 good cause shown, the ~~commissioner~~ **DIRECTOR** may grant to ~~any~~ **A**
 3 company reasonable extensions of the March 1 filing date for
 4 periods not to exceed 30 days. ~~The insurer shall pay the filing fee~~
 5 ~~prescribed in section 240(1)(b).~~

6 (2) The ~~commissioner~~ **DIRECTOR** shall prescribe the format and
 7 content of statements that are suitable and adaptable to each kind
 8 of insurer authorized by this act. The ~~commissioner~~ **DIRECTOR** shall
 9 include requests for information ~~upon any and all~~ **ON** important
 10 elements of an insurer's business, including any matter, condition,
 11 or requirement regulated by this act. An annual statement filed by
 12 an insurer under this section ~~shall~~ **MUST** be prepared in accordance
 13 with instructions provided by, and accounting practices and
 14 procedures designated by, the ~~commissioner~~ **DIRECTOR**.

15 (3) The ~~commissioner~~ **DIRECTOR** may address inquiries to ~~any~~ **AN**
 16 insurer, in relation to the insurer's activities or conditions, or
 17 any matter connected with the insurer's transactions. ~~An~~ **THE**
 18 insurer ~~so addressed~~ shall promptly reply in writing to each
 19 inquiry ~~by the commissioner~~ **DESCRIBED IN THIS SUBSECTION**.

20 (4) ~~Each~~ **A** report filed with the ~~commissioner~~ pursuant to
 21 **DIRECTOR UNDER** this section ~~shall~~ **MUST** be made available to the
 22 public in compliance with the freedom of information act, ~~Act No.~~
 23 ~~442 of the Public Acts of 1976, being sections 15.231 to 15.246 of~~
 24 ~~the Michigan Compiled Laws.~~ **1976 PA 442, MCL 15.231 TO 15.246.**

25 (5) ~~Each~~ **AN** authorized insurer that ~~fails to~~ **DOES NOT** make or
 26 deposit the annual statement required by this section, or ~~fails to~~
 27 **DOES NOT** reply within 30 days to an inquiry of the ~~commissioner~~,

DIRECTOR, is subject to a civil penalty of not less than \$1,000.00 or more than \$5,000.00, and an additional \$50.00 for every day that the insurer ~~fails to~~ **DOES NOT** make and deposit the annual statement or reply to the inquiry. In addition, ~~each~~ **AN** insurer that ~~fails to~~ **DOES NOT** make and deposit an annual statement, or ~~fails to~~ **DOES NOT** make a satisfactory reply to an inquiry of the ~~commissioner~~, **DIRECTOR**, concerning the insurer's affairs ~~shall be~~ **IS** subject to proceedings under section 436.

(6) The annual statement of an alien insurer ~~shall~~ **MUST** relate only to the insurer's assets, transactions, and affairs in the United States unless the ~~commissioner~~ **DIRECTOR** requires otherwise.

(7) As used in this section, "U.S. branch" means that term as defined in section 431.

Sec. 3101a. ~~(1) Except as otherwise provided in this section, an insurer, in conjunction with the issuance of an automobile insurance policy, as defined in section 3303, shall provide 2 certificates of insurance for each insured vehicle. The insurer shall mark 1 of the certificates as the secretary of state's copy, which copy, except as otherwise provided in this section, shall be filed with the secretary of state by the policyholder upon application for a vehicle registration. The secretary of state shall not maintain the certificate of insurance received under this subsection on file.~~

(1) ~~(2)~~ Beginning December 30, 2011, an **AN** insurer, in conjunction with the issuance of an automobile insurance policy, shall provide to the insured 1 certificate of insurance for each insured vehicle, and for private passenger nonfleet automobiles

1 listed on the policy shall supply to the secretary of state ~~in~~
 2 ~~the format and timeline as required by the secretary of state,~~
 3 ~~which shall not be required more frequently than every 14 days,~~ the
 4 automobile insurer's name, the **NAME OF THE** named insured, the named
 5 insured's address, the vehicle identification number for each ~~such~~
 6 **PRIVATE PASSENGER NONFLEET** vehicle listed on the policy, and the
 7 policy number. **THE INSURER SHALL SUPPLY THE INFORMATION REQUIRED**
 8 **UNDER THIS SUBSECTION IN THE FORMAT AND ON A TIMELINE AS REQUIRED**
 9 **BY THE SECRETARY OF STATE. THE SECRETARY OF STATE SHALL NOT REQUIRE**
 10 **THE SUBMISSION OF INFORMATION UNDER THIS SUBSECTION MORE FREQUENTLY**
 11 **THAN EVERY 14 DAYS. IN DETERMINING THE FORMAT UNDER THIS**
 12 **SUBSECTION, THE SECRETARY OF STATE SHALL CONSULT WITH INSURERS. AS**
 13 **USED IN THIS SUBSECTION, "PRIVATE PASSENGER NONFLEET AUTOMOBILE"**
 14 **MEANS THAT TERM AS DEFINED IN SECTION 3303.**

15 (2) THE SECRETARY OF STATE SHALL PROVIDE POLICY INFORMATION
 16 RECEIVED UNDER SUBSECTION (1) TO THE MICHIGAN AUTOMOBILE INSURANCE
 17 PLACEMENT FACILITY AS REQUIRED FOR THE MICHIGAN AUTOMOBILE
 18 INSURANCE PLACEMENT FACILITY TO COMPLY WITH THIS ACT.

19 (3) Until December 31, 2018, the secretary of state shall
 20 provide policy information received under ~~this subsection (1)~~ to
 21 the department of ~~community health~~ **AND HUMAN SERVICES** as required
 22 for the department of ~~community health~~ **AND HUMAN SERVICES** to comply
 23 with 2006 PA 593, MCL 550.281 to 550.289. ~~In determining the format~~
 24 ~~under this subsection, the secretary of state shall consult with~~
 25 ~~insurers. As used in this subsection, "private passenger nonfleet~~
 26 ~~automobile" means that term as defined in section 3303.~~

27 (4) ~~(3)~~ The secretary of state shall accept as proof of

1 vehicle insurance a transmission of the insured vehicle's vehicle
2 identification number. Policy information submitted by an insurer
3 and received by the secretary of state under this section is
4 confidential, is not subject to the freedom of information act,
5 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to
6 any person except the department of ~~community-health~~ **AND HUMAN**
7 **SERVICES** for purposes of 2006 PA 593, MCL 550.281 to 550.289, or
8 pursuant to an order by a court of competent jurisdiction in
9 connection with a claim or fraud investigation or prosecution. The
10 transmission to the secretary of state of a vehicle identification
11 number is proof of insurance to the secretary of state for motor
12 vehicle registration purposes only and is not evidence that a
13 policy of insurance actually exists between an insurer and an
14 individual.

15 (5) ~~(4)~~—A person who supplies false information to the
16 secretary of state under this section or who issues or uses an
17 altered, fraudulent, or counterfeit certificate of insurance is
18 guilty of a misdemeanor punishable by imprisonment for not more
19 than 1 year or a fine of not more than \$1,000.00, or both.

20 (6) ~~(5)~~—The department of ~~community-health~~ **AND HUMAN SERVICES**
21 shall report to the senate and house of representatives
22 appropriations committees and standing committees concerning
23 insurance issues on the number of claims and total dollar amount
24 recovered from automobile insurers ~~pursuant to~~ **UNDER** 2006 PA 593,
25 MCL 550.281 to 550.289. The reports required by this subsection
26 ~~shall~~ **MUST** be given to the appropriations committees and standing
27 committees concerning insurance issues by December 30 of each year

1 through December 30, 2018 and ~~shall~~**MUST** cover the preceding 12-
2 month period.

3 Sec. 3111. (1) ~~Personal~~**EXCEPT AS PROVIDED IN SUBSECTION (2),**
4 **PERSONAL** protection insurance benefits are payable for accidental
5 bodily injury suffered in an accident occurring out of this state,
6 if the accident occurs within the United States, its territories
7 and possessions, or ~~in~~Canada, and the person whose injury is the
8 basis of the claim was at the time of the accident a named insured
9 under a personal protection insurance policy, ~~his~~**THE spouse OF A**
10 **NAMED INSURED**, a relative of either domiciled in the same
11 household, or an occupant of a vehicle involved in the accident
12 whose owner or registrant was insured under a personal protection
13 insurance policy or ~~has~~**WHO** provided security approved by the
14 secretary of state under ~~subsection (4) of section 3101.~~**3101(4).**

15 **(2) IF AN INSURER IS REQUIRED TO PROVIDE PERSONAL PROTECTION**
16 **BENEFITS UNDER THIS CHAPTER TO AN OUT-OF-STATE RESIDENT FOR**
17 **ACCIDENTAL BODILY INJURY SUFFERED IN AN ACCIDENT THAT OCCURS**
18 **OUTSIDE OF THIS STATE AND THE OUT-OF-STATE RESIDENT WAS NOT AT THE**
19 **TIME OF THE ACCIDENT A NAMED INSURED UNDER A PERSONAL PROTECTION**
20 **INSURANCE POLICY UNDER THIS CHAPTER, THE SPOUSE OF A NAMED INSURED,**
21 **OR A RELATIVE OF EITHER DOMICILED IN THE SAME HOUSEHOLD, THE**
22 **INSURER IS ONLY LIABLE FOR THE AMOUNT OF ULTIMATE LOSS SUSTAINED UP**
23 **TO \$275,000.00.**

24 Sec. 3114. (1) Except as provided in subsections (2), (3), and
25 (5), a personal protection insurance policy described in section
26 3101(1) applies to accidental bodily injury to the person named in
27 the policy, the person's spouse, and a relative of either domiciled

1 in the same household, if the injury arises from a motor vehicle
2 accident. A personal injury insurance policy described in section
3 3103(2) applies to accidental bodily injury to the person named in
4 the policy, the person's spouse, and a relative of either domiciled
5 in the same household, if the injury arises from a motorcycle
6 accident. ~~When~~**IF** personal protection insurance benefits or
7 personal injury benefits described in section 3103(2) are payable
8 to or for the benefit of an injured person under his or her own
9 policy and would also be payable under the policy of his or her
10 spouse, relative, or relative's spouse, the injured person's
11 insurer shall pay all of the benefits and is not entitled to
12 recoupment from the other insurer.

13 (2) A person suffering accidental bodily injury while an
14 operator or a passenger of a motor vehicle operated in the business
15 of transporting passengers shall receive the personal protection
16 insurance benefits to which the person is entitled from the insurer
17 of the motor vehicle. This subsection does not apply to a passenger
18 in the following, unless that passenger is not entitled to personal
19 protection insurance benefits under any other policy:

20 (a) A school bus, as defined by the department of education,
21 providing transportation not prohibited by law.

22 (b) A bus operated by a common carrier of passengers certified
23 by the department of transportation.

24 (c) A bus operating under a government sponsored
25 transportation program.

26 (d) A bus operated by or providing service to a nonprofit
27 organization.

(e) A taxicab insured as prescribed in section 3101 or 3102.

(f) A bus operated by a canoe or other watercraft, bicycle, or horse livery used only to transport passengers to or from a destination point.

(3) An employee, his or her spouse, or a relative of either domiciled in the same household, who suffers accidental bodily injury while an occupant of a motor vehicle owned or registered by the employer, shall receive personal protection insurance benefits to which the employee is entitled from the insurer of the furnished vehicle.

(4) Except as provided in subsections ~~(1) to (2)~~ **AND** (3), a person ~~suffering~~ **WHO SUFFERS** accidental bodily injury arising from a motor vehicle accident while an occupant of a motor vehicle **WHO IS NOT COVERED UNDER A PERSONAL PROTECTION INSURANCE POLICY AS PROVIDED IN SUBSECTION (1)** shall claim personal protection insurance benefits ~~from insurers in the following order of priority:~~

~~—— (a) The insurer of the owner or registrant of the vehicle occupied.~~

~~—— (b) The insurer of the operator of the vehicle occupied.~~ **UNDER THE ASSIGNED CLAIMS PLAN UNDER SECTIONS 3171 TO 3175.**

(5) A person ~~suffering~~ **WHO SUFFERS** accidental bodily injury arising from a motor vehicle accident ~~which~~ **THAT** shows evidence of the involvement of a motor vehicle while an operator or passenger of a motorcycle shall claim personal protection insurance benefits from insurers in the following order of priority:

(a) The insurer of the owner or registrant of the motor

1 vehicle involved in the accident.

2 (b) The insurer of the operator of the motor vehicle involved
3 in the accident.

4 (c) The motor vehicle insurer of the operator of the
5 motorcycle involved in the accident.

6 (d) The motor vehicle insurer of the owner or registrant of
7 the motorcycle involved in the accident.

8 (6) If 2 or more insurers are in the same order of priority to
9 provide personal protection insurance benefits under subsection

10 (5), an insurer ~~paying~~ **THAT PAYS** benefits due is entitled to
11 partial recoupment from the other insurers in the same order of
12 priority, ~~together with~~ **AND** a reasonable amount of partial
13 recoupment of the expense of processing the claim, in order to
14 accomplish equitable distribution of the loss among all of the
15 insurers.

16 Sec. 3115. (1) Except as provided in ~~subsection (1) of section~~
17 ~~3114, 3114(1)~~, a person ~~suffering~~ **WHO SUFFERS** accidental bodily
18 injury while not an occupant of a motor vehicle shall claim
19 personal protection insurance benefits ~~from insurers in the~~
20 ~~following order of priority:~~

21 ~~—— (a) Insurers of owners or registrants of motor vehicles~~
22 ~~involved in the accident.~~

23 ~~—— (b) Insurers of operators of motor vehicles involved in the~~
24 ~~accident.~~ **UNDER THE ASSIGNED CLAIMS PLAN UNDER SECTIONS 3171 TO**
25 **3175.**

26 (2) ~~When~~ **IF** 2 or more insurers are in the same order of
27 priority to provide personal protection insurance benefits, an

1 insurer paying benefits due is entitled to partial recoupment from
2 the other insurers in the same order of priority, together with a
3 reasonable amount of partial recoupment of the expense of
4 processing the claim, in order to accomplish equitable distribution
5 of the loss among ~~such~~**THE** insurers.

6 (3) A limit ~~upon~~**ON** the amount of personal protection
7 insurance benefits available because of accidental bodily injury to
8 1 person arising from 1 motor vehicle accident shall be determined
9 without regard to the number of policies applicable to the
10 accident.

11 Sec. 3163. (1) An insurer authorized to transact automobile
12 liability insurance and personal and property protection insurance
13 in this state shall file and maintain a written certification that
14 any accidental bodily injury or property damage occurring in this
15 state arising from the ownership, operation, maintenance, or use of
16 a motor vehicle as a motor vehicle by an out-of-state resident who
17 is insured under its automobile liability insurance policies ~~—~~is
18 subject to the personal and property protection insurance system
19 under this act.

20 (2) A nonadmitted insurer may voluntarily file the
21 certification described in subsection (1).

22 (3) Except as otherwise provided in subsection (4), if a
23 certification filed under subsection (1) or (2) applies to
24 accidental bodily injury or property damage, the insurer and its
25 insureds with respect to that injury or damage have the rights and
26 immunities under this act for personal and property protection
27 insureds, and claimants have the rights and benefits of personal

1 and property protection insurance claimants, including the right to
2 receive benefits from the electing insurer as if it were an insurer
3 of personal and property protection insurance applicable to the
4 accidental bodily injury or property damage.

5 (4) If an insurer of an out-of-state resident is required to
6 provide benefits under subsections (1) to (3) to ~~that~~ **ANY** out-of-
7 state resident for accidental bodily injury ~~for an accident in~~
8 ~~which the out-of-state resident was not an occupant of a motor~~
9 ~~vehicle registered in this state,~~ **ARISING OUT OF THE OWNERSHIP,**
10 **OPERATION, OR USE OF A MOTOR VEHICLE AS A MOTOR VEHICLE,** the
11 insurer is only liable for the amount of ultimate loss sustained up
12 to ~~\$500,000.00.~~ **\$275,000.00. IF AN INSURER OF AN OUT-OF-STATE**
13 **RESIDENT IS REQUIRED TO PROVIDE BENEFITS UNDER SUBSECTIONS (1) TO**
14 **(3) TO ANY RESIDENT OF THIS STATE WHO IS NOT COVERED UNDER A**
15 **PERSONAL PROTECTION INSURANCE POLICY DESCRIBED IN SECTION 3101(1)**
16 **FOR ACCIDENTAL BODILY INJURY ARISING FROM THE OWNERSHIP, OPERATION,**
17 **OR USE OF A MOTOR VEHICLE IN THIS STATE, THE INSURER IS ONLY LIABLE**
18 **FOR THE AMOUNT OF ULTIMATE LOSS SUSTAINED UP TO THE AMOUNT OF**
19 **PERSONAL PROTECTION INSURANCE BENEFITS AN UNINSURED RESIDENT OF**
20 **THIS STATE WOULD BE ABLE TO RECEIVE UNDER THE ASSIGNED CLAIMS PLAN**
21 **UNDER SECTIONS 3171 TO 3175.** Benefits under this subsection are not
22 recoverable to the extent that benefits covering the same loss are
23 available from other sources, regardless of the nature or number of
24 benefit sources available and regardless of the nature or form of
25 the benefits.

26 Sec. 3172. (1) A person entitled to claim because of
27 accidental bodily injury arising out of the ownership, operation,

1 maintenance, or use of a motor vehicle as a motor vehicle in this
2 state may obtain personal protection insurance benefits through the
3 assigned claims plan if ~~no~~ **ANY OF THE FOLLOWING EXIST:**

4 (A) NO personal protection insurance is applicable to the
5 injury. ~~no~~

6 (B) NO personal protection insurance applicable to the injury
7 can be identified. ~~the~~

8 (C) THE personal protection insurance applicable to the injury
9 cannot be ascertained because of a dispute between 2 or more
10 automobile insurers concerning their obligation to provide coverage
11 or the equitable distribution of the loss. ~~or the~~

12 (D) THE only identifiable personal protection insurance
13 applicable to the injury is, because of financial inability of 1 or
14 more insurers to fulfill their obligations, inadequate to provide
15 benefits up to the maximum prescribed. ~~In that case, unpaid~~

16 (2) A PERSON MAKING A CLAIM UNDER SUBSECTION (1) HAS THE
17 BURDEN OF PROVING THAT HE OR SHE IS ENTITLED TO THE BENEFITS BEING
18 CLAIMED.

19 (3) UNPAID benefits due or coming due AS DESCRIBED IN
20 SUBSECTION (1) may be collected under the assigned claims plan, and
21 the insurer to which the claim is assigned is entitled to
22 reimbursement from the defaulting insurers to the extent of their
23 financial responsibility.

24 (4) THE ASSIGNED CLAIMS PLAN OF OPERATION GOVERNS THE
25 REQUIREMENTS FOR AN APPLICATION FOR PAYMENT OF BENEFITS.

26 (5) ~~(2)~~ Except as otherwise provided in this subsection,
27 personal protection insurance benefits, including benefits arising

1 from accidents occurring before March 29, 1985, payable through the
 2 assigned claims plan ~~shall~~ **MUST** be reduced to the extent that
 3 benefits covering the same loss are available from other sources,
 4 regardless of the nature or number of benefit sources available and
 5 regardless of the nature or form of the benefits, to a person
 6 claiming personal protection insurance benefits through the
 7 assigned claims plan. This subsection only applies if the personal
 8 protection insurance benefits are payable through the assigned
 9 claims plan ~~because no personal protection insurance is applicable~~
 10 ~~to the injury, no personal protection insurance applicable to the~~
 11 ~~injury can be identified, or the only identifiable personal~~
 12 ~~protection insurance applicable to the injury is, because of~~
 13 ~~financial inability of 1 or more insurers to fulfill their~~
 14 ~~obligations, inadequate to provide benefits up to the maximum~~
 15 ~~prescribed.~~ **UNDER SUBSECTION (1) (A), (B), OR (D).** As used in this
 16 subsection, "sources" and "benefit sources" do not include the
 17 program for medical assistance for the medically indigent under the
 18 social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or
 19 ~~insurance under the health insurance for the aged act, title~~ **AND**
 20 **DISABLED UNDER SUBCHAPTER XVIII** of the social security act, 42 USC
 21 1395 to ~~1395kkk-1.~~ **1395///.**

22 (6) ~~(3)~~ If the obligation to provide personal protection
 23 insurance benefits cannot be ascertained because of a dispute
 24 between 2 or more automobile insurers concerning their obligation
 25 to provide coverage or the equitable distribution of the loss, and
 26 if a method of voluntary payment of benefits cannot be agreed upon
 27 among or between the disputing insurers, all of the following

1 apply:

2 (a) The insurers who are parties to the dispute shall, or the
3 claimant may, immediately notify the Michigan automobile insurance
4 placement facility of their inability to determine their statutory
5 obligations.

6 (b) The ~~claim shall be assigned by the~~ Michigan automobile
7 insurance placement facility **SHALL ASSIGN THE CLAIM** to an insurer
8 and the insurer shall immediately provide personal protection
9 insurance benefits to the claimant or claimants entitled to
10 benefits.

11 (c) ~~An action~~ **THE INSURER TO WHOM THE CLAIM IS ASSIGNED** shall
12 ~~be immediately commenced~~ **COMMENCE AN ACTION** on behalf of the
13 Michigan automobile insurance placement facility ~~by the insurer to~~
14 ~~whom the claim is assigned~~ in circuit court to declare the rights
15 and duties of any interested party.

16 (d) The insurer to whom the claim is assigned shall join as
17 parties defendant to the action commenced under subdivision (c)
18 each insurer disputing either the obligation to provide personal
19 protection insurance benefits or the equitable distribution of the
20 loss among the insurers.

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

24 (f) After hearing the action, the circuit court shall
25 determine the insurer or insurers, if any, obligated to provide the
26 applicable personal protection insurance benefits and the equitable
27 distribution, if any, among the insurers obligated, and shall order

1 reimbursement to the Michigan automobile insurance placement
 2 facility from the insurer or insurers to the extent of the
 3 responsibility as determined by the court. The reimbursement
 4 ordered under this subdivision ~~shall~~ **MUST** include all benefits and
 5 costs paid or incurred by the Michigan automobile insurance
 6 placement facility and all benefits and costs paid or incurred by
 7 insurers determined not to be obligated to provide applicable
 8 personal protection insurance benefits, including ~~reasonable,~~
 9 ~~actually~~ incurred attorney fees and interest at the rate prescribed
 10 in section 3175 ~~as of~~ **APPLICABLE ON** December 31 of the year
 11 preceding the determination of the circuit court.

12 **(7) PERSONAL PROTECTION INSURANCE BENEFITS PAYABLE TO A PERSON**
 13 **ELIGIBLE TO RECEIVE BENEFITS UNDER THE ASSIGNED CLAIMS PLAN ARE**
 14 **LIMITED TO THE AMOUNT OF ULTIMATE LOSS SUSTAINED UP TO \$275,000.00.**

15 **(8) AS USED IN THIS CHAPTER, "ASSIGNED CLAIMS PLAN" MEANS THE**
 16 **MICHIGAN ASSIGNED CLAIMS PLAN MAINTAINED BY THE MICHIGAN AUTOMOBILE**
 17 **INSURANCE PLACEMENT FACILITY, INCLUDING THE MICHIGAN ASSIGNED**
 18 **CLAIMS PLAN OF OPERATION APPROVED BY THE DIRECTOR UNDER SECTION**
 19 **3171.**

20 Sec. 3173. A person ~~who because of a limitation or exclusion~~
 21 ~~in sections 3105 to 3116~~ is disqualified from receiving personal
 22 protection insurance benefits **THROUGH THE ASSIGNED CLAIMS PLAN IF**
 23 **ANY OF THE FOLLOWING APPLY:**

24 **(A) BECAUSE OF AN EXCLUSION IN SECTIONS 3105 TO 3116, THE**
 25 **PERSON IS DISQUALIFIED** under a policy otherwise applying to his **OR**
 26 **HER** accidental bodily injury. ~~is also disqualified from receiving~~
 27 ~~benefits under the assigned claims plan.~~

1 (B) BECAUSE OF A LIMITATION OR EXCLUSION UNDER A POLICY OF
2 AUTOMOBILE INSURANCE OTHERWISE APPLYING TO HIS OR HER ACCIDENTAL
3 BODILY INJURY, THE PERSON IS DISQUALIFIED FROM RECEIVING PERSONAL
4 PROTECTION INSURANCE BENEFITS.

5 (C) THE PERSON IS ELIGIBLE TO RECEIVE BENEFITS FOR HIS OR HER
6 ACCIDENTAL BODILY INJURY THROUGH THE MICHIGAN PROPERTY AND CASUALTY
7 GUARANTY ASSOCIATION MAINTAINED UNDER CHAPTER 79.

8 Sec. 3173a. (1) The Michigan automobile insurance placement
9 facility shall ~~make an initial determination of a claimant's~~
10 ~~eligibility~~ REVIEW A CLAIM for benefits under the assigned claims
11 plan and shall deny ~~an obviously ineligible~~ A claim THAT IS
12 DETERMINED TO BE INELIGIBLE IN ACCORDANCE WITH THIS CHAPTER OR THE
13 MICHIGAN ASSIGNED CLAIMS PLAN OF OPERATION. The MICHIGAN AUTOMOBILE
14 INSURANCE PLACEMENT FACILITY SHALL NOTIFY THE claimant ~~shall be~~
15 ~~notified~~ promptly in writing of the denial and the reasons for the
16 denial. IF A CLAIM IS NOT DETERMINED TO BE INELIGIBLE AFTER THE
17 REVIEW, THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL
18 ASSIGN THE CLAIM TO A SERVICING INSURER. IF THE CLAIM IS ASSIGNED
19 TO A SERVICING INSURER, THE SERVICING INSURER SHALL MAKE THE FINAL
20 DETERMINATION REGARDING THE ELIGIBILITY OF THE CLAIM. A PERSON WHO
21 FAILS TO COOPERATE WITH THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT
22 FACILITY IN ACCORDANCE WITH ITS PLAN OF OPERATION OR WITH A
23 SERVICING INSURER IS INELIGIBLE FOR BENEFITS UNDER THE ASSIGNED
24 CLAIMS PLAN.

25 (2) A person who presents or causes to be presented an oral or
26 written statement, including computer-generated information, as
27 part of or in support of a claim to the Michigan automobile

1 insurance placement facility **OR TO AN INSURER ASSIGNED A CLAIM BY**
2 **THE MICHIGAN AUTOMOBILE PLACEMENT FACILITY** for payment or another
3 benefit knowing that the statement contains false information
4 concerning a fact or thing material to the claim commits a
5 fraudulent insurance act under section 4503 that is subject to the
6 penalties imposed under section 4511. A claim that contains or is
7 supported by a fraudulent insurance act as described in this
8 subsection is ineligible for payment ~~or~~ **OF ANY** benefits under the
9 assigned claims plan.

10 (3) **THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY MAY**
11 **CONTRACT WITH OTHER PERSONS FOR ALL OR A PORTION OF THE GOODS AND**
12 **SERVICES NECESSARY FOR OPERATING AND MAINTAINING THE ASSIGNED**
13 **CLAIMS PLAN.**

14 Sec. 3174. A person claiming through the assigned claims plan
15 shall notify the Michigan automobile insurance placement facility
16 of his or her claim ~~within the time that would have been allowed~~
17 ~~for filing an action for personal protection insurance benefits if~~
18 ~~identifiable coverage applicable to the claim had been in effect.~~
19 ~~The~~ **IN ACCORDANCE WITH SECTION 3145. ON AN INITIAL DETERMINATION OF**
20 **A CLAIMANT'S ELIGIBILITY FOR BENEFITS THROUGH THE ASSIGNED CLAIMS**
21 **PLAN, THE** Michigan automobile insurance placement facility shall
22 promptly assign the claim in accordance with the plan **OF OPERATION**
23 and notify the claimant of the identity and address of the insurer
24 to which the claim is assigned. An action by ~~the~~ **A** claimant shall
25 ~~not be commenced more than 30 days after receipt of notice of the~~
26 ~~assignment or the last date on which the action could have been~~
27 ~~commenced against an insurer of identifiable coverage applicable to~~

~~the claim, whichever is later.~~**MUST BE COMMENCED AS PROVIDED IN**
SECTION 3145.

Sec. 3175. (1) The assignment of claims under the assigned claims plan shall be made according to procedures established in the assigned claims plan that assure fair allocation of the burden of assigned claims among insurers doing business in this state on a basis reasonably related to the volume of automobile liability and personal protection insurance they write on motor vehicles or the number of self-insured motor vehicles. An insurer to whom claims have been assigned shall make prompt payment of loss in accordance with this act. An insurer is entitled to reimbursement by the Michigan automobile insurance placement facility for the payments, the established loss adjustment cost, and an amount determined by use of the average annual 90-day United States treasury bill yield rate, as reported by the council of economic advisers as of December 31 of the year for which reimbursement is sought, as follows:

(a) For the calendar year in which claims are paid by the insurer, the amount shall be determined by applying the specified annual yield rate specified in this subsection to 1/2 of the total claims payments and loss adjustment costs.

(b) For the period from the end of the calendar year in which claims are paid by the insurer to the date payments for the operation of the assigned claims plan are due, the amount shall be determined by applying the annual yield rate specified in this subsection to the total claims payments and loss adjustment costs multiplied by a fraction, the denominator of which is 365 and the

1 numerator of which is equal to the number of days that have elapsed
2 between the end of the calendar year and the date payments for the
3 operation of the assigned claims plan are due.

4 (2) ~~The~~ **AN INSURER ASSIGNED A CLAIM BY THE MICHIGAN AUTOMOBILE**
5 **INSURANCE PLACEMENT FACILITY UNDER THE ASSIGNED CLAIMS PLAN OR A**
6 **PERSON AUTHORIZED TO ACT ON BEHALF OF THE PLAN MAY BRING AN ACTION**
7 **FOR REIMBURSEMENT AND INDEMNIFICATION OF THE CLAIM ON BEHALF OF THE**
8 **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY. THE** insurer to
9 ~~whom claims have~~ **WHICH THE CLAIM HAS** been assigned shall preserve
10 and enforce rights to indemnity or reimbursement against third
11 parties and account to the Michigan automobile insurance placement
12 facility for the rights and shall assign the rights to the Michigan
13 automobile insurance placement facility on reimbursement by the
14 Michigan automobile insurance placement facility. This section does
15 not preclude an insurer from entering into reasonable compromises
16 and settlements with third parties against whom rights to indemnity
17 or reimbursement exist. The insurer shall account to the Michigan
18 automobile insurance placement facility for any compromises and
19 settlements. The procedures established under the assigned claims
20 plan ~~shall~~ **OF OPERATION MUST** establish reasonable standards for
21 enforcing rights to indemnity or reimbursement against third
22 parties, including a standard establishing an amount below which
23 actions to preserve and enforce the rights need not be pursued.

24 (3) An action to enforce rights to indemnity or reimbursement
25 against a third party ~~shall~~ **MUST** not be commenced after the later
26 of 2-**THE FOLLOWING:**

27 (A) **TWO** years after the assignment of the claim to the

1 insurer. ~~or 1~~

2 (B) ONE year after the date of the last payment to the
3 claimant.

4 (C) ONE YEAR AFTER THE DATE THE RESPONSIBLE THIRD PARTY IS
5 IDENTIFIED.

6 (4) Payments for the operation of the assigned claims plan not
7 paid by the due date ~~shall~~ bear interest at the rate of 20% per
8 annum.

9 (5) The Michigan automobile insurance placement facility may
10 enter into a written agreement with the debtor permitting the
11 payment of the judgment or acknowledgment of debt in installments
12 payable to the Michigan automobile insurance placement facility. A
13 default in payment of installments under a judgment as agreed
14 subjects the debtor to suspension or revocation of his or her motor
15 vehicle license or registration in the same manner as for the
16 failure by an uninsured motorist to pay a judgment by installments
17 under section 3177, **INCLUDING RESPONSIBILITY FOR EXPENSES AS**
18 **PROVIDED IN SECTION 3177(4).**

19 Sec. 3177. (1) ~~An~~ **THE** insurer obligated to pay personal
20 protection insurance benefits for accidental bodily injury to a
21 person arising out of the ownership, maintenance, or use of an
22 uninsured motor vehicle as a motor vehicle may recover ~~such~~ **ALL**
23 **benefits paid, and appropriate INCURRED** loss adjustment costs **AND**
24 **EXPENSES, AND incurred ATTORNEY FEES** from the owner or registrant
25 of the uninsured motor vehicle or from his or her estate. Failure
26 of ~~such a person~~ **THE OWNER OR REGISTRANT** to make payment within 30
27 days after **A judgment IS ENTERED IN AN ACTION FOR RECOVERY UNDER**

1 **THIS SUBSECTION** is a ground for suspension or revocation of his or
 2 her motor vehicle registration and license as defined in section 25
 3 of the Michigan vehicle code, ~~Act No. 300 of the Public Acts of~~
 4 ~~1949, being section 257.25 of the Michigan Compiled Laws. An 1949~~
 5 **PA 300, MCL 257.25. FOR PURPOSES OF THIS SECTION, AN** uninsured
 6 motor vehicle ~~for the purpose of this section is a motor vehicle~~
 7 with respect to which security as required by sections 3101 and
 8 3102 is not in effect at the time of the accident.

9 (2) **THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY MAY**
 10 **MAKE A WRITTEN AGREEMENT WITH THE OWNER OR REGISTRANT OF AN**
 11 **UNINSURED VEHICLE OR HIS OR HER ESTATE PERMITTING THE PAYMENT OF A**
 12 **JUDGMENT DESCRIBED IN SUBSECTION (1) IN INSTALLMENTS PAYABLE TO THE**
 13 **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY.** The motor vehicle
 14 registration and license **OF AN OWNER OR REGISTRANT WHO MAKES A**
 15 **WRITTEN AGREEMENT UNDER THIS SUBSECTION** shall not be suspended or
 16 revoked and, ~~the motor vehicle registration and license IF ALREADY~~
 17 **SUSPENDED OR REVOKED UNDER SUBSECTION (1),** shall be restored ~~if the~~
 18 ~~debtor enters into a written agreement with the secretary of state~~
 19 ~~permitting the payment of the judgment in installments, if the~~
 20 payment of any installments is not in default.

21 (3) The secretary of state upon receipt of a certified
 22 abstract of court record of a judgment **DESCRIBED IN SUBSECTION (1)**
 23 or notice from ~~the~~ **AN insurer OR THE MICHIGAN AUTOMOBILE INSURANCE**
 24 **PLACEMENT FACILITY OR ITS DESIGNEE** of an acknowledgment of **A debt**
 25 **DESCRIBED IN SUBSECTION (1)** shall notify the owner or registrant ~~of~~
 26 ~~an uninsured vehicle of the provisions of subsection (1) at that~~
 27 ~~person's~~ **THE OWNER OR REGISTRANT'S** last recorded address **RECORDED**

1 with the secretary of state and inform ~~that person~~ **THE OWNER OR**
2 **REGISTRANT** of the right to enter into a written agreement **UNDER**
3 **THIS SECTION** with the ~~secretary of state~~ **MICHIGAN AUTOMOBILE**
4 **INSURANCE PLACEMENT FACILITY OR ITS DESIGNEE** for the payment of the
5 judgment or debt in installments.

6 (4) **EXPENSES FOR THE SUSPENSION, REVOCATION, OR REINSTATEMENT**
7 **OF A MOTOR VEHICLE REGISTRATION OR LICENSE UNDER THIS SECTION ARE**
8 **THE RESPONSIBILITY OF THE OWNER OR REGISTRANT OR OF HIS OR HER**
9 **ESTATE. AN OWNER OR REGISTRANT WHOSE REGISTRATION OR LICENSE IS**
10 **SUSPENDED UNDER THIS SECTION SHALL PAY ANY REINSTATEMENT FEE AS**
11 **REQUIRED UNDER SECTION 320E OF THE MICHIGAN VEHICLE CODE, 1949 PA**
12 **300, MCL 257.320E.**

13 Enacting section 1. This amendatory act takes effect 90 days
14 after the date it is enacted into law.