

HOUSE BILL No. 4228

February 21, 1989, Introduced by Reps. Walberg, London, O'Connor, Martin, Hoekman, Trim, DeLange, Runco, Strand, Fitzgerald, Krause, Hillegonds, Wartner, Gilmer, Nye, Emmons, Ouwinga, Dunaskiss, Stacey, Miller and Bankes and referred to the Committee on Labor.

A bill to amend sections 1207, 2301, 2303, 2312, 2402, 2409, 2409a, and 7911 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

sections 2301, 2303, 2312, 2409, and 2409a as added by Act No. 8 of the Public Acts of 1982, section 2402 as added by Act No. 7 of the Public Acts of 1982, and section 7911 as amended by Act No. 502 of the Public Acts of 1982, being sections 500.1207, 500.2301, 500.2303, 500.2312, 500.2402, 500.2409, 500.2409a, and 500.7911 of the Michigan Compiled Laws; to add chapter 51; and to repeal certain acts and parts of acts on specific dates.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1207, 2301, 2303, 2312, 2402, 2409,
2 2409a, and 7911 of Act No. 218 of the Public Acts of 1956,
3 sections 2301, 2303, 2312, 2409, and 2409a as added by Act No. 8

1 of the Public Acts of 1982, section 2402 as added by Act No. 7 of
2 the Public Acts of 1982, and section 7911 as amended by Act
3 No. 502 of the Public Acts of 1982, being sections 500.1207,
4 500.2301, 500.2303, 500.2312, 500.2402, 500.2409, 500.2409a, and
5 500.7911 of the Michigan Compiled Laws, are amended and chapter
6 51 is added to read as follows:

7 Sec. 1207. (1) An agent shall be a fiduciary for all
8 ~~moneys~~ MONEY received or held by ~~him~~ THE AGENT in his OR HER
9 capacity as an agent. Failure by an agent in a timely manner to
10 turn over the ~~moneys~~ MONEY which ~~he~~ THE AGENT holds in a
11 fiduciary capacity to the persons to whom ~~they are~~ THE MONEY IS
12 owed is prima facie evidence of violation of the agent's fidu-
13 ciary responsibility.

14 (2) An agent shall use reasonable accounting methods to
15 record funds received in his OR HER fiduciary capacity including
16 the receipt and distribution of all premiums due each of his OR
17 HER insurers. ~~He~~ AN AGENT shall record return premiums
18 received by or credited to ~~him~~ THE AGENT which are due an
19 insured on policies reduced or canceled or which are due a pro-
20 spective purchaser of insurance as a result of a rejected or
21 declined application. Records required by this section shall be
22 open to examination by the commissioner.

23 (3) Except as provided in ~~sections~~ SECTION 1212 ~~and 1860~~
24 and subsection (4), an agent shall not reward or remunerate any
25 person for procuring or inducing business in this state, furnish-
26 ing leads or prospects, or acting in any other manner as an
27 agent.

1 (4) If an agent is unable to immediately provide, through
2 his OR HER insurers that are authorized to underwrite the cover-
3 age, all or a part of the coverage requested on a risk, ~~he~~ THE
4 AGENT may obtain the part of the coverage refused by his OR HER
5 insurers through another licensed agent, through the ~~state~~
6 accident fund CREATED UNDER CHAPTER 51, or through a risk sharing
7 plan permitted by state law. An agent who attempts to place the
8 refused part of the coverage through another licensed agent shall
9 advise the buyer in writing that the refused part of the coverage
10 is not in effect until the buyer receives written evidence of
11 insurance.

12 (5) A person may not sell or attempt to sell insurance by
13 means of intimidation or threats, whether express or implied.
14 Except as provided in ~~subsection (4) of section 2077~~ SECTION
15 2077(4), a person may not induce the purchase of insurance
16 through a particular agent or from a particular insurer by means
17 of a promise to sell goods, to lend money, to provide services,
18 or by a threat to refuse to sell goods, ~~to refuse to~~ lend
19 money, or ~~to refuse to~~ provide services.

20 (6) After January 1, 1973, an insurer or an agent may not be
21 a party to a contract under which the agent assumes any responsi-
22 bility or obligation for payment, from ~~his~~ THE AGENT'S commis-
23 sion or any allocation of premium to ~~him~~ THE AGENT by the
24 insurer, of any losses on insurance policies sold by the agent
25 unless the claim adjusting is done by insurance company adjusters
26 or licensed independent adjusters.

1 Sec. 2301. The ~~state~~ accident fund CREATED UNDER CHAPTER
2 51 and every OTHER insurer authorized to write worker's
3 compensation insurance in this state shall participate in the
4 Michigan worker's compensation placement facility for the purpose
5 of doing all of the following:

6 (a) Providing worker's compensation insurance to any person
7 who is unable to procure the insurance through ordinary methods.

8 (b) Preserving to the public the benefits of price competi-
9 tion by encouraging maximum use of the normal private insurance
10 system.

11 Sec. 2303. As used in this chapter:

12 (a) "Facility" means the Michigan worker's compensation
13 placement facility created under this chapter.

14 (b) "Participating member" means an insurer ~~or~~ AND the
15 ~~state~~ accident fund created ~~pursuant to Act No. 317 of the~~
16 ~~Public Acts of 1969, as amended, being sections 418.101 to~~
17 ~~418.941 of the Michigan Compiled Laws~~ UNDER CHAPTER 51, who is a
18 member of the facility and who in any given calendar year has a
19 participation ratio greater than zero in the facility for that
20 year.

21 (c) "Participation ratio" means the ratio of the participat-
22 ing member's voluntary Michigan worker's compensation premiums to
23 the comparable statewide totals of all participating members.

24 (d) "Worker's compensation insurance" means insurance which
25 provides any of the following:

26 (i) Security required pursuant to THE WORKER'S DISABILITY
27 COMPENSATION ACT OF 1969, Act No. 317 of the Public Acts of 1969,

1 as amended, being sections 418.101 to 418.941 of the Michigan
2 Compiled Laws.

3 (ii) Security required pursuant to the United States
4 longshoreman's and harbor worker's compensation act.

5 (iii) Coverage customarily known as employer's liability
6 insurance, when contained in or endorsed to a policy providing
7 the security in subparagraph (i) or (ii).

8 Sec. 2312. (1) A plan of operation of the facility shall be
9 prepared by the board of governors and shall be subject to the
10 approval of the commissioner. The commissioner shall review the
11 plan of operation on an ongoing basis, and the plan shall be
12 subject to revision at the request of the commissioner at any
13 time.

14 (2) The plan of operation shall provide for all of the
15 following:

16 (a) Appointment by the board of governors of 1 or more serv-
17 icing carriers, subject to the approval of the commissioner.
18 Appointments may be rescinded for cause by either the board
19 subject to the approval of the commissioner, or by the
20 commissioner.

21 (b) Creation of servicing carrier performance standards
22 including all of the following:

23 (i) Sufficient personnel to provide support for safety man-
24 agement services offered by the plan.

25 (ii) Providing for sufficient personnel for claims
26 adjustment.

1 (c) Agreements among the ~~state~~ accident fund CREATED UNDER
2 CHAPTER 51 and all insurers authorized to write worker's
3 compensation insurance in this state with respect to the equita-
4 ble apportionment among them of worker's compensation insurance
5 which may be afforded applicants who are in good faith entitled
6 to, but who are unable to procure such insurance through ordinary
7 methods.

8 (d) Payment of commissions to producing agents not to exceed
9 5% of a total premium.

10 (e) Creation of 3 rating plans as follows:

11 (i) Rating plan "A" which shall provide coverage for
12 insureds who have a demonstrated accident frequency problem, who
13 have a measurably adverse loss ratio over a period of years, or
14 who have demonstrated an attitude of noncompliance with safety
15 requirements. This plan shall contain a system of surcharges
16 established by the board of governors and approved by the
17 commissioner.

18 (ii) Rating plan "B" which shall provide coverage to those
19 employers who apply for worker's compensation insurance in the
20 facility and are either self-insured or a member of a
21 self-insurance group. This plan shall be established by the
22 board of governors of the facility and approved by the
23 commissioner. The commissioner shall convene and consult with an
24 advisory organization including representatives of self-insureds
25 and group self-insureds prior to approving rating plan "B". The
26 recommendations of the advisory organization shall be given
27 reasonable consideration by the commissioner.

1 (iii) Rating plan "C" which shall provide coverage to all
2 other insureds of the facility. Rating plan "C" shall not con-
3 tain any surcharge system.

4 (f) Prompt and fair hearings for purposes of section 2350.

5 (3) The application of the plans created under subsection
6 (2)(e) to insureds shall be as determined by the commissioner.
7 The plans shall be applied to insureds regardless of the number
8 of employees or amount of payroll of the insured.

9 (4) Retrospective evaluation of premiums and loss and
10 expense experience of insureds within each rating plan under sub-
11 section (2)(e) shall be performed by the board of governors, in a
12 manner approved by the commissioner. If this evaluation indi-
13 cates that a return of a portion of premiums is in order, then
14 such a return shall be accomplished, subject to the approval of
15 the commissioner.

16 Sec. 2402. (1) As used in this act with respect to worker's
17 compensation insurance:

18 (a) "Data collection agency" means an agency established for
19 the purpose of effectuating the worker's compensation data
20 requirements of this chapter.

21 (b) "Designated advisory organization" means the advisory
22 organization designated by the data collection agency pursuant to
23 section 2407(2).

24 (c) "Insurer" includes the ~~state~~ accident fund CREATED
25 UNDER CHAPTER 51.

1 (d) "Rate" means the cost of insurance per payroll before
2 adjustment for an individual insured's size, exposure, or loss
3 experience.

4 (e) "Rating system" means every classification, rating plan,
5 merit rating plan, rating values, and manual, containing the
6 rules used by an insurer in the determination of premiums.

7 (2) There is created a data collection agency for the pur-
8 pose of effectuating the worker's compensation data requirements
9 of this chapter. The governing board of the data collection
10 agency shall include all of the following:

11 (a) Three persons who represent private insurers in this
12 state.

13 (b) One person who represents the general public.

14 (c) One person who represents employers in this state.

15 (d) One person who represents the executive branch of state
16 government.

17 (e) One person who is an insurance agent.

18 (f) The commissioner of insurance.

19 (3) A member of the governing board of the data collection
20 agency shall serve for a term of 1 year.

21 (4) The members specified in subsection (2)(b), (c), and (e)
22 shall be appointed by the commissioner. The member specified in
23 subsection (2)(d) shall be appointed by the governor with the
24 advice and consent of the senate. The members specified in sub-
25 section (2)(a) shall be appointed by the commissioner from recom-
26 mendations made by the insurance industry in this state and shall

1 be generally representative of small, medium, and large
2 insurers.

3 (5) Business of the governing board of the data collection
4 agency shall be conducted at a public meeting pursuant to THE
5 OPEN MEETINGS ACT, Act No. 267 of the Public Acts of 1976, as
6 amended, being sections 15.261 to 15.275 of the Michigan Compiled
7 Laws. Notice of the date, time, and place of a public meeting of
8 the governing body shall be as prescribed in Act No. 267 of the
9 Public Acts of 1976, as amended.

10 Sec. 2409. (1) The commissioner shall hold a public hearing
11 and shall issue a tentative report detailing the state of compe-
12 tition in the worker's compensation insurance market on a state-
13 wide basis and delineating specific classifications, kinds or
14 types of insurance, if any, where competition does not exist not
15 later than January 15, 1984 and each year thereafter. The report
16 shall be based on relevant economic tests, including but not
17 limited to those in subsection (3). The findings in the report
18 shall not be based on any single measure of competition, but
19 appropriate weight shall be given to all measures of
20 competition. The report shall include a certification of whether
21 or not competition exists. Any person who disagrees with the
22 report and findings of the commissioner may request a contested
23 hearing pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
24 Act No. 306 of the Public Acts of 1969, as amended, being sec-
25 tions 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws,
26 not later than 60 days after issuance of the tentative report.

1 (2) Not later than August 1, 1984 and each year thereafter,
2 the commissioner shall issue a final report which shall include a
3 final certification of whether or not competition exists in the
4 worker's compensation insurance market. The final report and
5 certification shall be supported by substantial evidence.

6 (3) All of the following shall be considered by the commis-
7 sioner for purposes of subsections (1) and (2):

8 (a) The extent to which any insurer controls the worker's
9 compensation insurance market, or any portion thereof. With
10 respect to competition on a statewide basis, an insurer shall not
11 be considered to control the worker's compensation insurance
12 market unless it has more than a 15% market share. ~~This subdi-~~
13 ~~vision shall not apply to the state accident fund.~~

14 (b) Whether the total number of companies, INCLUDING THE
15 ACCIDENT FUND CREATED UNDER CHAPTER 51, writing worker's compen-
16 sation insurance in this state is sufficient to provide multiple
17 options to employers.

18 (c) The disparity among worker's compensation insurance
19 rates and classifications to the extent that such classifications
20 result in rate differentials.

21 (d) The availability of worker's compensation insurance to
22 employers in all geographic areas and all types of business.

23 (e) The residual market share.

24 (f) The overall rate level which is not excessive, inade-
25 quate, or unfairly discriminatory.

26 (g) Any other factors the commissioner considers relevant.

1 (4) The reports and certifications required under
2 subsections (1) and (2) shall be forwarded to the governor, the
3 clerk of the house, the secretary of the senate, all the members
4 of the house of representatives committees on insurance and
5 labor, and all the members of the senate committees on commerce
6 and labor. ~~and retirement.~~

7 (5) Not later than 90 days after receipt of the final report
8 and final certification, the legislature, by concurrent resolu-
9 tion, shall approve or disapprove the certification by a majority
10 roll-call vote in each house. ~~If the certification is approved,~~
11 ~~the commissioner shall proceed under section 2409a.~~

12 Sec. 2409a. If the commissioner certifies, and the legisla-
13 ture ~~resolves~~ APPROVES THAT CERTIFICATION pursuant to
14 section 2409, that a reasonable degree of competition does not
15 exist with respect to the worker's compensation insurance market
16 on a statewide basis or any geographic areas, classifications,
17 kinds or types of risk, or that insurance is unavailable to a
18 segment of the market who are, in good faith, entitled to obtain
19 insurance through ordinary means, the commissioner shall create
20 competition or availability where it does not exist. A plan for
21 competition or availability adopted pursuant to this section
22 shall be included in a final certification of noncompetition
23 under section 2409. The plan shall only relate to those geo-
24 graphic areas, classifications, or kinds or types of risks where
25 competition has been certified not to exist. The plan may
26 include such methods designed to create competition or

1 availability as the commissioner considers necessary, and may
2 provide for the commissioner to do 1 or more of the following:

3 (a) Order the ~~state~~ accident fund created ~~pursuant to Act~~
4 ~~No. 317 of the Public Acts of 1969, as amended, being sections~~
5 ~~418.101 to 418.941 of the Michigan Compiled Laws~~ UNDER CHAPTER
6 51, to develop, subject to the commissioner's approval, mecha-
7 nisms to create competition or availability where it does not
8 exist. In developing these mechanisms, the ~~state~~ accident fund
9 may set cost transfers or engage in other activity to stimulate
10 competition or availability. If a plan is not submitted to the
11 commissioner within 30 days after the date of the commissioner's
12 order, or if the plan does not meet the approval of the commis-
13 sioner, the commissioner shall develop such a plan and order its
14 implementation by the ~~state~~ accident fund. The plan estab-
15 lished by the commissioner shall continue in force until super-
16 seded by a plan established by the ~~state~~ accident fund and
17 approved by the commissioner.

18 (b) Authorize, by order, joint underwriting activities in a
19 manner specified in the commissioner's order.

20 (c) Modify the rate approval process in a manner to increase
21 competition or availability while at the same time providing for
22 reasonably timely rate approvals, including prior approval or
23 file and use processes.

24 (d) Order excess profits regulation. Excess profits regula-
25 tion authorized by this subdivision shall be based upon rules
26 promulgated pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF
27 1969, Act No. 306 of the Public Acts of 1969, as amended, BEING

1 SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS. Excess
2 profits shall include both underwriting profits and all after-tax
3 investment or investment profit or loss from unearned premiums
4 and loss reserves attributable to worker's compensation
5 insurance. The commissioner, pursuant to excess profits regula-
6 tion, may establish forms for the reporting of financial data of
7 AN insurer.

8 (e) Establish and require worker's compensation insurance
9 rates, by order, which insurers must use as a condition of main-
10 taining their certificate of authority. The order setting the
11 rates shall take effect not less than 90 days nor more than
12 150 days after the order is issued.

13 CHAPTER 51

14 SEC. 5101. THE ACCIDENT FUND CREATED UNDER CHAPTER 7 OF ACT
15 NO. 317 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 418.701 TO
16 418.755 OF THE MICHIGAN COMPILED LAWS, SHALL BE THE ACCIDENT FUND
17 UNDER THIS CHAPTER AND SHALL HAVE ALL THE RIGHTS, LIABILITIES,
18 AND DUTIES PROVIDED FOR IN THIS ACT. MEMBER EMPLOYERS OF THE
19 ACCIDENT FUND UNDER CHAPTER 7 OF ACT NO. 317 OF THE PUBLIC ACTS
20 OF 1969 MAY CREATE A MEMBERSHIP ORGANIZATION UNDER THIS CHAPTER
21 TO BE KNOWN AS THE "ACCIDENT FUND". THE ACCIDENT FUND SHALL PRO-
22 VIDE WORKER'S COMPENSATION INSURANCE, AND EMPLOYERS' LIABILITY
23 INSURANCE FOR EMPLOYERS WRITTEN IN CONNECTION WITH WORKER'S COM-
24 PENSATION INSURANCE, INCLUDING LONGSHOREMEN'S AND HARBOR WORKER'S
25 COMPENSATION INSURANCE, AS REQUIRED. THE ACCIDENT FUND MAY
26 ENGAGE IN THE BUSINESS OF SERVICING ANY APPROVED WORKER'S
27 COMPENSATION SELF-INSURANCE PROGRAM FOR AN INDIVIDUAL OR GROUP OF

1 EMPLOYERS. THE ACCIDENT FUND IS AN INDEPENDENT BODY CORPORATE,
2 SEPARATE AND DISTINCT FROM THE STATE, AND MAY SUE AND BE SUED,
3 PLEAD AND BE IMPEADED, CONTRACT AND BE CONTRACTED WITH, AND HAVE
4 A CORPORATE SEAL. THE ACCIDENT FUND IS NEITHER AN AGENCY NOR AN
5 INSTRUMENTALITY OF THE STATE. EXCEPT AS PROVIDED IN THIS CHAP-
6 TER, THE ACCIDENT FUND IS SUBJECT TO THIS ACT AND ANY OTHER LAWS
7 OF THE STATE OF MICHIGAN AND THE RULES PROMULGATED BY THE COMMIS-
8 SIONER THAT PERTAIN TO DOMESTIC MUTUAL INSURERS AUTHORIZED TO
9 TRANSACT THE BUSINESS OF WORKER'S COMPENSATION INSURANCE, AND
10 EMPLOYERS' LIABILITY INSURANCE WRITTEN IN CONNECTION WITH
11 WORKER'S COMPENSATION INSURANCE, AND IS VESTED WITH THE CORPORATE
12 POWERS PROVIDED BY THIS ACT AND OTHER APPLICABLE LAWS OF THE
13 STATE OF MICHIGAN. MEMBERSHIP IN AND COVERAGE BY THE ACCIDENT
14 FUND SHALL BE PROVIDED TO EMPLOYERS WHO REQUEST MEMBERSHIP AND
15 COVERAGE IN WRITING AND WHOSE RISK IS INSURABLE AND RATABLE
16 ACCORDING TO GENERALLY ACCEPTED UNDERWRITING PRACTICES AND RATING
17 PROCEDURES. THE ACCIDENT FUND SHALL LEVY AND COLLECT FROM MEMBER
18 EMPLOYERS THE PREMIUMS NECESSARY TO PAY THE SUMS WHICH BECOME DUE
19 AS A RESULT OF A CLAIM FOR WORKER'S COMPENSATION AND THE EXPENSE
20 OF ADMINISTRATION OF THE ACCIDENT FUND. THOSE SUMS SHALL BE DIS-
21 BURSED PURSUANT TO THIS CHAPTER. THE ACCIDENT FUND SHALL DETER-
22 MINE AND COLLECT FEES FOR SPECIFIC AND APPORTIONED EXPENSES OF
23 ADMINISTRATION RELEVANT TO SERVICING APPROVED WORKER'S COMPENSA-
24 TION SELF-INSURANCE PROGRAMS. ASSETS OF THE ACCIDENT FUND SHALL
25 ACCRUE TO THE BENEFIT OF THE MEMBER EMPLOYERS. THE ACCIDENT FUND
26 SHALL MAINTAIN FACILITIES NECESSARY FOR ITS OPERATIONS AND MAY

1 ACQUIRE AND HOLD REAL ESTATE IN ACCORDANCE WITH THE INSURANCE
2 LAWS OF THIS STATE.

3 SEC. 5101A. THE ACCIDENT FUND SHALL BE SUBJECT TO THE PRO-
4 VISIONS OF CHAPTER 52, IN THE SAME MANNER AS A DOMESTIC MUTUAL
5 INSURANCE COMPANY.

6 SEC. 5102. (1) THE ACCIDENT FUND IS A MEMBER OF THE PROP-
7 ERTY AND CASUALTY GUARANTY ASSOCIATION CREATED BY THIS ACT AND
8 THE LAWS OF THE STATE OF MICHIGAN.

9 (2) THE ACCIDENT FUND MAY REINSURE ITS CATASTROPHIC RISKS
10 WITH INSURERS AUTHORIZED TO DO SO UNDER THIS ACT AND ANY OTHER
11 APPLICABLE LAWS OF THE STATE OF MICHIGAN.

12 (3) THE ACCIDENT FUND MAY SECURE MEMBERSHIP IN ANY ORGANI-
13 ZATION OF INSURERS ENGAGED IN JOINT UNDERWRITING, JOINT REINSUR-
14 ANCE, OR OPERATING AN ASSIGNED RISK PLAN AUTHORIZED UNDER THIS
15 ACT AND ANY OTHER APPLICABLE LAWS OF THE STATE OF MICHIGAN AND
16 AVAILABLE TO IT.

17 (4) THE ACCIDENT FUND MAY SECURE MEMBERSHIP IN OR SUBSCRIBE
18 FOR SERVICES OF ANY ADVISORY OR STATISTICAL ORGANIZATION AUTHO-
19 RIZED UNDER THIS ACT AND ANY OTHER APPLICABLE LAWS OF THE STATE
20 OF MICHIGAN AND AVAILABLE TO IT.

21 SEC. 5102A. (1) THE ACCIDENT FUND MAY ENTER INTO PRUDENT
22 PURCHASER AGREEMENTS WITH PROVIDERS OF HOSPITAL, NURSING, MEDI-
23 CAL, SURGICAL, OR SICK CARE SERVICES PURSUANT TO THIS SECTION AND
24 THE PRUDENT PURCHASER ACT, ACT NO. 233 OF THE PUBLIC ACTS OF
25 1984, BEING SECTIONS 550.51 TO 550.63 OF THE MICHIGAN COMPILED
26 LAWS.

1 (2) THE ACCIDENT FUND MAY OFFER WORKER'S COMPENSATION
2 POLICIES TO EMPLOYERS UNDER WHICH EMPLOYEES WHO SELECT TO OBTAIN
3 HOSPITAL, NURSING, MEDICAL, SURGICAL, OR SICK CARE SERVICES FROM
4 HEALTH CARE PROVIDERS WHO HAVE ENTERED INTO PRUDENT PURCHASER
5 AGREEMENTS SHALL REALIZE A FINANCIAL ADVANTAGE OR OTHER ADVANTAGE
6 BY SELECTING SUCH A PROVIDER. POLICIES OFFERED PURSUANT TO THIS
7 SUBSECTION SHALL NOT, AS A CONDITION OF COVERAGE, REQUIRE EMPLOY-
8 EES OF AN EMPLOYER TO OBTAIN SUCH SERVICES EXCLUSIVELY FROM
9 HEALTH CARE PROVIDERS WHO HAVE ENTERED INTO PRUDENT PURCHASER
10 AGREEMENTS.

11 SEC. 5103. THE ACCIDENT FUND SHALL MAINTAIN A SUFFICIENT
12 AMOUNT OF CASH TO PAY CURRENT LOSSES AND EXPENSES AND THE BALANCE
13 MAY BE INVESTED AS AUTHORIZED BY THIS ACT AND ANY OTHER APPLICA-
14 BLE LAWS OF THE STATE OF MICHIGAN.

15 SEC. 5104. THE ACCIDENT FUND SHALL DETERMINE THE AMOUNT OF
16 THE PREMIUMS WHICH AN EMPLOYER SHALL PAY TO THE ACCIDENT FUND,
17 PRESCRIBE WHEN AND IN WHAT MANNER THE PREMIUMS SHALL BE PAID, AND
18 MAY CHANGE THE AMOUNT OF PREMIUMS WITH RESPECT TO AN EMPLOYER AS
19 CIRCUMSTANCES MAY REQUIRE AND THE CONDITION OF THE EMPLOYERS'
20 PLANTS, ESTABLISHMENTS, OR PLACES OF WORK WITH RESPECT TO THE
21 SAFETY OF THE EMPLOYEES MAY JUSTIFY. INSURANCE RATES, RATING
22 SYSTEMS, AND RATING PLANS AND PRACTICES USED TO DETERMINE PREMI-
23 UMS SHALL BE FAIR, EQUITABLE, AND JUST AMONG THE MEMBER EMPLOYERS
24 AND SHALL BE AS AUTHORIZED UNDER THIS ACT AND ANY OTHER APPLICA-
25 BLE LAWS OF THE STATE OF MICHIGAN.

26 SEC. 5105. (1) EVERY MEMBER EMPLOYER SHALL BE FURNISHED A
27 POLICY SHOWING THE PERIOD THE INSURANCE IS EFFECTIVE. THE PERIOD

1 SHALL BE FOR 1 YEAR OR MORE, BUT A SHORTER PERIOD MAY BE
2 SPECIFIED PURSUANT TO A MUTUALLY AGREED UPON ANNIVERSARY DATE.

3 (2) A POLICY OF INSURANCE ISSUED PURSUANT TO THIS CHAPTER
4 SHALL CONTAIN A CANCELLATION PROVISION WHICH DESCRIBES THE CONDI-
5 TIONS, TERMS, AND PROCEDURES WHEREBY THE ACCIDENT FUND OR THE
6 MEMBER EMPLOYER MAY CANCEL THE POLICY. THIS CANCELLATION PROVI-
7 SION SHALL CONFORM TO THE REQUIREMENTS OF THIS ACT AND ANY OTHER
8 APPLICABLE LAWS OF THE STATE OF MICHIGAN.

9 SEC. 5106. ANY CONTROVERSY BETWEEN THE ACCIDENT FUND AND A
10 MEMBER EMPLOYER IS SUBJECT TO THE REVIEW PROVIDED BY SECTION 2419
11 AND THE LAW REGARDING CONTROVERSIES ARISING BETWEEN INSURANCE
12 COMPANIES AND INSURED EMPLOYERS. A CONTROVERSY BETWEEN THE ACCI-
13 DENT FUND AND A CLAIMANT FOR BENEFITS FROM THE ACCIDENT FUND
14 SHALL BE DETERMINED PURSUANT TO THE WORKER'S DISABILITY COMPENSA-
15 TION ACT OF 1969, ACT NO. 317 OF THE PUBLIC ACTS OF 1969, BEING
16 SECTIONS 418.101 TO 418.941 OF THE MICHIGAN COMPILED LAWS, AND
17 ANY OTHER APPLICABLE LAW OF THE STATE OF MICHIGAN.

18 SEC. 5107. THE BOOKS, RECORDS, AND PAYROLLS OF EACH MEMBER
19 EMPLOYER SHALL ALWAYS BE OPEN TO INSPECTION BY THE ACCIDENT FUND
20 OR ITS DULY AUTHORIZED AGENT OR REPRESENTATIVE FOR THE PURPOSE OF
21 ASCERTAINING THE CORRECTNESS OF THE AMOUNT OF THE PAYROLL
22 REPORTED, THE NUMBER OF PERSONS EMPLOYED, AND OTHER INFORMATION
23 REQUIRED FOR THE ADMINISTRATION OF THE ACCIDENT FUND.

24 SEC. 5108. (1) THE ACCIDENT FUND SHALL KEEP COMPLETE
25 RECORDS OF ALL BUSINESS TRANSACTED BY THE FUND. THE ACCIDENT
26 FUND SHALL ANNUALLY, ON OR BEFORE MARCH 1, OR AN AUTHORIZED
27 EXTENSION OF TIME NOT TO EXCEED 30 DAYS PERMITTED BY THE

1 COMMISSIONER, PREPARE UNDER OATH AND DEPOSIT WITH THE
2 COMMISSIONER A STATEMENT CONCERNING ITS AFFAIRS UPON A FORM PRO-
3 VIDED BY THE COMMISSIONER.

4 (2) THE ACCIDENT FUND MAY EMPLOY PERSONNEL IT CONSIDERS NEC-
5 ESSARY AND AS THE GOVERNING BOARD MAY AUTHORIZE, FOR THE PROPER
6 ADMINISTRATION AND PERFORMANCE OF THE DUTIES IMPOSED UPON IT BY
7 LAW, AT SUCH COMPENSATION AS MAY BE FIXED BY THE GOVERNING
8 BOARD. THE ACCIDENT FUND MAY ALSO REMOVE THE PERSONNEL. IN ANY
9 ADMINISTRATIVE OR JUDICIAL PROCEEDING SUCH PERSONNEL SHALL BE
10 CONCLUSIVELY PRESUMED NOT TO BE IN STATE SERVICE.

11 SEC. 5109. ALL PAYMENTS FROM THE ACCIDENT FUND TO OR FOR
12 EMPLOYEES OF MEMBER EMPLOYERS SHALL BE MADE PURSUANT TO THE
13 WORKER'S DISABILITY COMPENSATION ACT OF 1969, ACT NO. 317 OF THE
14 PUBLIC ACTS OF 1969, BEING SECTIONS 418.101 TO 418.941 OF THE
15 MICHIGAN COMPILED LAWS, AND THE RULES OF THE BUREAU OF WORKER'S
16 DISABILITY COMPENSATION GOVERNING PAYMENT OF WORKERS' COMPENSA-
17 TION BY CARRIERS.

18 SEC. 5110. ANY PROCEEDINGS FOR THE LIQUIDATION OF THE ACCI-
19 DENT FUND CREATED UNDER THIS CHAPTER OR FOR APPOINTMENT OF A
20 RECEIVER SHALL COMPLY WITH THIS ACT AND ANY OTHER APPLICABLE LAWS
21 OF THE STATE OF MICHIGAN.

22 SEC. 5111. THE BUSINESS AND AFFAIRS OF THE ACCIDENT FUND
23 SHALL BE MANAGED BY ITS GOVERNING BOARD. AN ANNUAL MEETING OF
24 THE MEMBER EMPLOYERS SHALL BE CALLED BY THE CHAIRPERSON OF THE
25 GOVERNING BOARD IN LANSING IN OCTOBER, WHICH MAY BE ATTENDED BY
26 THE MEMBER EMPLOYERS IN PERSON OR BY A REPRESENTATIVE. NOTICE OF
27 THE ANNUAL MEETING SHALL BE MADE BY FIRST CLASS MAIL AT LEAST

1 10 DAYS BEFORE THE DATE OF THE MEETING. AT THE ANNUAL MEETING
2 THERE SHALL BE NOMINATED AND ELECTED BY THE MEMBERS PRESENT,
3 15 MEMBER EMPLOYERS TO CONSTITUTE A GOVERNING BOARD, WHO SHALL
4 SERVE FOR THE TERM OF 1 CALENDAR YEAR. IF A VACANCY OCCURS IN
5 THE GOVERNING BOARD, THE REMAINING MEMBERS OF THE GOVERNING BOARD
6 MAY APPOINT A MEMBER EMPLOYER TO FILL THE VACANCY PENDING THE
7 NEXT ANNUAL MEETING OF THE MEMBER EMPLOYERS. THE GOVERNING BOARD
8 SHALL ELECT 1 OF ITS MEMBERS CHAIRPERSON AND 4 OTHER MEMBERS WHO,
9 TOGETHER WITH THE CHAIRPERSON, SHALL CONSTITUTE AN EXECUTIVE
10 COMMITTEE. THE GOVERNING BOARD SHALL MEET QUARTERLY OR ON THE
11 CALL OF THE CHAIRPERSON.

12 SEC. 5112. (1) THE ASSETS AND OBLIGATIONS OF THE ACCIDENT
13 FUND, OR A PORTION THEREOF, MAY BE TRANSFERRED TO ANY OTHER
14 INSURER BY THE GOVERNING BOARD SUBJECT TO REVIEW AND APPROVAL BY
15 THE COMMISSIONER. THE COMMISSIONER SHALL NOT APPROVE THE TRANS-
16 FER UNLESS THE TRANSFER WOULD BE CONSIDERED WITHIN THE PURPOSES
17 OF THIS CHAPTER AND THE ASSETS TO BE TRANSFERRED ARE REASONABLY
18 RELATED TO THE OBLIGATIONS TO BE ASSUMED.

19 (2) THE COMMISSIONER MAY ATTACH CONDITIONS TO A TRANSFER,
20 BINDING ON BOTH THE TRANSFEREE AND THE TRANSFEROR, WHICH ARE REA-
21 SONABLE AND NECESSARY, AND WHICH MAY INCLUDE CONDITIONS WHICH
22 WILL:

23 (A) ASSURE CONTINUED WORKER'S COMPENSATION INSURANCE COVER-
24 AGE AT A REASONABLE PRICE FOR ELIGIBLE EMPLOYERS.

25 (B) REQUIRE THE INSURER TO GUARANTEE, ASSUME, OR REINSURE OR
26 CAUSE TO BE GUARANTEED, ASSUMED, OR REINSURED ALL CONTRACTS AND
27 POLICIES OF THE ACCIDENT FUND.

1 (C) ASSURE THE TERMINATION OF ALL OBLIGATIONS OF THE
2 ACCIDENT FUND.

3 (3) IF NECESSARY TO EFFECT THE TRANSFER, THE COMMISSIONER
4 MAY LEVY AN ASSESSMENT ON EMPLOYER MEMBERS OF THE ACCIDENT FUND.

5 Sec. 7911. (1) To implement this chapter, there shall be
6 maintained within this state, by all insurers authorized to
7 transact in this state insurance other than life or disability
8 insurance, except the Michigan basic property insurance associa-
9 tion created pursuant to section 2920 and the Brown-McNeely
10 insurance fund created in section 2502(1), but including the
11 accident fund created ~~by section 701 of Act No. 317 of the~~
12 ~~Public Acts of 1969, being section 418.701 of the Michigan~~
13 ~~Compiled Laws~~ UNDER CHAPTER 51, an association of those insurers
14 to be known as the property and casualty guaranty association,
15 hereafter referred to as the "association". Each insurer shall
16 be a member of the association, as a condition of its authority
17 to continue to transact insurance in this state.

18 (2) An insurer from which insurance has been or may be pro-
19 cured in this state solely by virtue of sections 1901 to 1955
20 shall not be considered to be an insurer authorized to transact
21 insurance in this state, for the purposes of this chapter.

22 (3) The association shall be subject to the requirements of
23 this chapter and of chapter 78, but shall not be subject to the
24 other chapters of this act. The association shall be subject to
25 other laws of this state to the extent that it would be subject
26 to those laws if it were an insurer organized and operating under

1 chapter 50, to the extent that those other laws are consistent
2 with this chapter.

3 Section 2. Chapter 7 of Act No. 317 of the Public Acts of
4 1969, being sections 418.701 to 418.755 of the Michigan Compiled
5 Laws, is repealed effective January 1, 1991.

6 Section 3. This amendatory act shall take effect January 1,
7 1991.