

HOUSE BILL No. 6274

November 13, 1990, Introduced by Rep. Law and referred to the Committee on Insurance.

A bill to amend sections 2111a, 3104, 3107, 7837, and 7935 of Act No. 218 of the Public Acts of 1956, entitled as amended "The insurance code of 1956," section 2111a as added by Act No. 10 of the Public Acts of 1986, section 3104 as amended by Act No. 445 of the Public Acts of 1980, section 3107 as amended by Act No. 312 of the Public Acts of 1988, and sections 7837 and 7935 as amended by Act No. 41 of the Public Acts of 1980, being sections 500.2111a, 500.3104, 500.3107, 500.7837, and 500.7935 of the Michigan Compiled Laws; and to add chapter 31a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2111a, 3104, 3107, 7837, and 7935 of
2 Act No. 218 of the Public Acts of 1956, section 2111a as added by
3 Act No. 10 of the Public Acts of 1986, section 3104 as amended by
4 Act No. 445 of the Public Acts of 1980, section 3107 as amended

1 by Act No. 312 of the Public Acts of 1988, and sections 7837 and
2 7935 as amended by Act No. 41 of the Public Acts of 1980, being
3 sections 500.2111a, 500.3104, 500.3107, 500.7837, and 500.7935 of
4 the Michigan Compiled Laws, are amended and chapter 31a is added
5 to read as follows:

6 Sec. 2111a. (1) Except as otherwise provided in this sec-
7 tion, before April 1, 1986, an insurer shall not charge a terri-
8 torial base rate for an automobile insurance package policy in a
9 territory within an urban area which exceeds the territorial base
10 rate which would have been charged by the Michigan automobile
11 insurance placement facility in that territory using the weighted
12 average of the base rates charged in each facility territory by
13 the 5 largest insurer groups, determined by voluntary net direct
14 automobile insurance car years written in the state for the cal-
15 endar year ending December 31, 1984 as reported to the statisti-
16 cal agent, and based upon the data used by the facility to deter-
17 mine the facility rates which were effective January 1, 1986.
18 However, this subsection does not require an insurer to reduce
19 its territorial base rates within an urban area which are in
20 effect on the effective date of this section.

21 (2) On and after April 1, 1986, except as otherwise provided
22 in subsection (3), an insurer shall not increase in any 12-month
23 period the rates for automobile insurance package policies in
24 territories within an urban area by an amount which is greater
25 than 4% plus the consumer price index. The insurer may redefine
26 rating territories for automobile insurance package policies in
27 an urban area; however, such redefinition, at the time of the

1 redefinition, shall not result in a weighted average rate in the
2 urban area which is greater than the weighted average rate in the
3 urban area without redefinition of the territories. The insurer
4 shall not use more than 6 territories within an urban area. The
5 sum of the percentage increases for an insurer in a 12-month
6 period as permitted under this subsection shall be less than or
7 equal to 4% plus the consumer price index and each percentage
8 increase shall be computed in accordance with the following:

9 The difference between the total written premium at the
10 proposed rates minus the total written premium at cur-
11 rent rates, divided by total written premium at current
12 rates, and multiplied by 100.

13 (3) On and after February 1, 1988, an insurer may elect to
14 be subject to the limitations provided in this subsection instead
15 of the limitations provided in subsection (2). An insurer elect-
16 ing to be subject to this subsection shall not increase the rates
17 for automobile insurance package policies in territories within
18 an urban area by a percentage which is greater than the insurer's
19 nonurban average percentage increase, which nonurban average per-
20 centage increase shall be reduced by the sum of the percentage
21 increases made by the insurer under subsection (2) during the 12
22 months immediately preceding the date of the filing of the pro-
23 posed increase pursuant to this subsection. The insurer may
24 redefine rating territories for automobile insurance package
25 policies in an urban area; however, such redefinition, at the

1 time of the redefinition, shall not result in a weighted average
2 rate in the urban area which is greater than the weighted average
3 rate in the urban area without redefinition of the territories.
4 The insurer shall not use more than 6 territories within an urban
5 area. An insurer ~~which~~ THAT elects to be subject to the limi-
6 tation under this subsection shall remain subject to this
7 subsection.

8 (4) Any rate filing for automobile insurance package poli-
9 cies made after December 15, 1985 shall not be modified, changed,
10 or altered for a period of 6 months after the effective date of
11 such filing. This subsection shall not prohibit an insurer from
12 making rate filings at any time that only provide changes to
13 rates based upon assessments levied against insurers pursuant to
14 CHAPTER 31A OR section ~~3104 or~~ 3330. Such rate filings shall
15 not be considered rate filings for purposes of this subsection.

16 (5) As used in this section:

17 (a) "Consumer price index" means the annual average percen-
18 tage increase in the Detroit consumer price index for all items
19 for the prior 12-month period as reported by the United States
20 department of labor and as certified by the commissioner.

21 (b) "Nonurban average percentage increase" means the percen-
22 tage increase of an insurer's weighted average rate outside of an
23 urban area, if any, which is obtained by dividing the weighted
24 average of the proposed rates of the insurer outside an urban
25 area by the highest weighted average rate of the insurer outside
26 an urban area on file with the commissioner during the 6 months
27 immediately preceding the date of the filing of the proposed

1 increase, subtracting 1 from this quotient, and multiplying the
2 difference by 100. The weights used in obtaining the weighted
3 averages in this subdivision shall be the written car years of
4 the insurer in each rating territory. If a negative percentage
5 is calculated under this subdivision, there shall be no nonurban
6 average percentage increase under this subdivision.

7 (c) "Urban area" means the area within the boundaries of a
8 city in this state which has a population of 1,000,000 or more as
9 determined by the latest of each succeeding federal decennial
10 census and includes any city located wholly within the boundaries
11 of a city in this state which has a population of 1,000,000 or
12 more as determined by the latest of each succeeding federal
13 decennial census.

14 (6) This section is repealed effective July 1, 1991.

15 Sec. 3104. (1) ~~An unincorporated, nonprofit association~~
16 ~~to be known as the catastrophic claims association, hereinafter~~
17 ~~referred to as the association, is created.~~ Each insurer engaged
18 in writing insurance coverages which provide the security
19 required by section 3101(1) OR (4) within this state, as a condi-
20 tion of its authority to transact insurance in this state, shall
21 be a member of the CATASTROPHIC CLAIMS association and shall be
22 bound by the plan of operation of the association. Each insurer
23 engaged in writing insurance coverages which provide the security
24 required by section 3103(1) within this state, as a condition of
25 its authority to transact insurance in this state, shall be con-
26 sidered a member of the association, but only for purposes of
27 assessments under SECTION 3197(1)(E). ~~subsection (7)(d).~~ Except

~~1 as expressly provided in this section, the association shall not
2 be subject to any laws of this state with respect to insurers,
3 but in all other respects the association shall be subject to the
4 laws of this state to the extent that the association would be
5 were it an insurer organized and subsisting under chapter 50.~~

~~6 (2) The association shall provide and each member shall
7 accept indemnification for 100% of the amount of ultimate loss
8 sustained under personal protection insurance coverages in excess
9 of \$250,000.00 in each loss occurrence. As used in this section,
10 "ultimate loss" means the actual loss amounts which a member is
11 obligated to pay and which are paid or payable by the member, and
12 shall not include claim expenses. An ultimate loss is incurred
13 by the association on the date which the loss occurs.~~

~~14 (2) (3) An insurer may withdraw from the association only
15 upon ceasing to write insurance which provides the security
16 required by section 3101(1) OR (4) in this state.~~

~~17 (4) An insurer whose membership in the association has been
18 terminated by withdrawal shall continue to be bound by the plan
19 of operation, and upon withdrawal, all unpaid premiums which have
20 been charged to the withdrawing member shall be payable as of the
21 effective date of the withdrawal.~~

~~22 (5) An unsatisfied net liability to the association of an
23 insolvent member shall be assumed by and apportioned among the
24 remaining members of the association as provided in the plan of
25 operation. The association shall have all rights allowed by law
26 on behalf of the remaining members against the estate or funds of
27 the insolvent member for sums due the association.~~

1 ~~(6) When a member has been merged or consolidated into~~
2 ~~another insurer or another insurer has reinsured a member's~~
3 ~~entire business which provides the security required by section~~
4 ~~3101(1) in this state, the member and successors in interest of~~
5 ~~the member shall remain liable for the member's obligations.~~

6 ~~(7) The association shall do all of the following on behalf~~
7 ~~of the members of the association:~~

8 ~~(a) Assume 100% of all liability as provided in subsection~~
9 ~~(2):~~

10 ~~(b) Establish procedures by which members shall promptly~~
11 ~~report to the association each claim which, on the basis of the~~
12 ~~injuries or damages sustained, may reasonably be anticipated to~~
13 ~~involve the association if the member is ultimately held legally~~
14 ~~liable for the injuries or damages. Solely for the purpose of~~
15 ~~reporting claims, the member shall in all instances consider~~
16 ~~itself legally liable for the injuries or damages. The member~~
17 ~~shall also advise the association of subsequent developments~~
18 ~~likely to materially affect the interest of the association in~~
19 ~~the claim.~~

20 ~~(c) Maintain relevant loss and expense data relative to all~~
21 ~~liabilities of the association and require each member to furnish~~
22 ~~statistics, in connection with liabilities of the association, at~~
23 ~~the times and in the form and detail as may be required by the~~
24 ~~plan of operation.~~

25 ~~(d) In a manner provided for in the plan of operation, cal-~~
26 ~~culate and charge to members of the association a total premium~~
27 ~~sufficient to cover the expected losses and expenses of the~~

~~1 association which the association will likely incur during the~~
~~2 period for which the premium is applicable. The premium shall~~
~~3 include an amount to cover incurred but not reported losses for~~
~~4 the period and may be adjusted for any excess or deficient premi-~~
~~5 ums from previous periods. Excesses or deficiencies from previ-~~
~~6 ous periods may be fully adjusted in a single period or may be~~
~~7 adjusted over several periods in a manner provided for in the~~
~~8 plan of operation. Each member shall be charged an amount equal~~
~~9 to that member's total earned car years of insurance providing~~
~~10 the security required by section 3101(1) or 3103(1), or both,~~
~~11 written in this state during the period to which the premium~~
~~12 applies, multiplied by the average premium per car. The average~~
~~13 premium per car shall be the total premium calculated divided by~~
~~14 the total earned car years of insurance providing the security~~
~~15 required by section 3101(1) or 3103(1) written in this state of~~
~~16 all members during the period to which the premium applies. As~~
~~17 used in this subdivision, "car" includes a motorcycle.~~

~~18 (e) Require and accept the payment of premiums from members~~
~~19 of the association as provided for in the plan of operation. The~~
~~20 association shall do either of the following:~~

~~21 (i) Require payment of the premium in full within 45 days~~
~~22 after the premium charge.~~

~~23 (ii) Require payment of the premiums to be made periodically~~
~~24 to cover the actual cash obligations of the association.~~

~~25 (f) Receive and distribute all sums required by the opera-~~
~~26 tion of the association.~~

1 ~~(g) Establish procedures for reviewing claims procedures and~~
2 ~~practices of members of the association. If the claims~~
3 ~~procedures or practices of a member are considered inadequate to~~
4 ~~properly service the liabilities of the association, the associa-~~
5 ~~tion may undertake or may contract with another person, including~~
6 ~~another member, to adjust or assist in the adjustment of claims~~
7 ~~for the member on claims which create a potential liability to~~
8 ~~the association and may charge the cost of the adjustment to the~~
9 ~~member.~~

10 ~~(8) In addition to other powers granted to it by this sec-~~
11 ~~tion, the association may do all of the following:~~

12 ~~(a) Sue and be sued in the name of the association. A judg-~~
13 ~~ment against the association shall not create any direct liabil-~~
14 ~~ity against the individual members of the association. The asso-~~
15 ~~ciation may provide for the indemnification of its members, mem-~~
16 ~~bers of the board of directors of the association, and officers,~~
17 ~~employees, and other persons lawfully acting on behalf of the~~
18 ~~association.~~

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

22 ~~(c) Provide for appropriate housing, equipment, and person-~~
23 ~~nel as may be necessary to assure the efficient operation of the~~
24 ~~association.~~

25 ~~(d) Pursuant to the plan of operation, adopt reasonable~~
26 ~~rules for the administration of the association, enforce those~~
27 ~~rules, and delegate authority, as the board considers necessary~~

1 ~~to assure the proper administration and operation of the~~
2 ~~association consistent with the plan of operation.~~

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

7 ~~(f) Hear and determine complaints of a company or other~~
8 ~~interested party concerning the operation of the association.~~

9 ~~(g) Perform other acts not specifically enumerated in this~~
10 ~~section which are necessary or proper to accomplish the purposes~~
11 ~~of the association and which are not inconsistent with this sec-~~
12 ~~tion or the plan of operation.~~

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

17 ~~(10) The plan of operation shall provide for all of the~~
18 ~~following:~~

19 ~~(a) The establishment of necessary facilities.~~

20 ~~(b) The management and operation of the association.~~

21 ~~(c) A preliminary premium, payable by each member in propor-~~
22 ~~tion to its total first year premium, for initial expenses neces-~~
23 ~~sary to commence operation of the association.~~

24 ~~(d) Procedures to be utilized in charging premiums, includ-~~
25 ~~ing adjustments from excess or deficient premiums from prior~~
26 ~~periods.~~

1 ~~(e) Procedures governing the actual payment of premiums to~~
2 ~~the association.~~

3 ~~(f) Reimbursement of each member of the board by the associ-~~
4 ~~ation for actual and necessary expenses incurred on association~~
5 ~~business.~~

6 ~~(g) The investment policy of the association.~~

7 ~~(h) Any other matters required by or necessary to effec-~~
8 ~~tively implement this section.~~

9 ~~(11) Not more than 30 days after the effective date of this~~
10 ~~section, the commissioner shall convene an organizational meeting~~
11 ~~of the board. The board shall be initially composed of 5 members~~
12 ~~of the association appointed by the commissioner to serve as~~
13 ~~directors, and the commissioner or a designated representative of~~
14 ~~the commissioner serving as an ex officio member of the board~~
15 ~~without vote. The initial board and each successor board shall~~
16 ~~include members which would contribute a total of not less than~~
17 ~~40% of the total premium calculated pursuant to subsection~~
18 ~~(7)(d). Each director shall be entitled to 1 vote. The initial~~
19 ~~term of office of a director shall be 2 years.~~

20 ~~(12) As part of the plan of operation, the board shall adopt~~
21 ~~rules providing for the composition and term of successor boards~~
22 ~~to the initial board, consistent with the membership composition~~
23 ~~requirements in subsections (11) and (13). Terms of the direc-~~
24 ~~tors shall be staggered so that the terms of all the directors do~~
25 ~~not expire at the same time and so that a director does not serve~~
26 ~~a term of more than 4 years.~~

1 ~~(13) The board shall consist of 5 directors and the~~
2 ~~commissioner shall be an ex officio member of the board without~~
3 ~~vote.~~

4 ~~(14) Each director shall be appointed by the commissioner~~
5 ~~and shall serve until that member's successor is selected and~~
6 ~~qualified. The chairperson of the board shall be elected by the~~
7 ~~board. A vacancy on the board shall be filled by the commis-~~
8 ~~sioner consistent with the plan of operation.~~

9 ~~(15) After the board is appointed, the board shall meet as~~
10 ~~often as the chairperson, the commissioner, or the plan of opera-~~
11 ~~tion shall require, or at the request of any 3 members of the~~
12 ~~board. The chairperson shall retain the right to vote on all~~
13 ~~issues. Four members of the board shall constitute a quorum.~~

14 ~~(16) An annual report of the operations of the association~~
15 ~~in a form and detail as may be determined by the board shall be~~
16 ~~furnished to each member.~~

17 ~~(17) Not more than 60 days after the initial organizational~~
18 ~~meeting of the board, the board shall submit to the commissioner~~
19 ~~for approval a proposed plan of operation consistent with the~~
20 ~~objectives and provisions of this section, which shall provide~~
21 ~~for the economical, fair, and nondiscriminatory administration of~~
22 ~~the association and for the prompt and efficient provision of~~
23 ~~indemnity. If a plan is not submitted within this 60 day period,~~
24 ~~then the commissioner, after consultation with the board, shall~~
25 ~~formulate and place into effect a plan consistent with this~~
26 ~~section.~~

1 ~~(18) The plan of operation, unless approved sooner in~~
2 ~~writing, shall be considered to meet the requirements of this~~
3 ~~section if it is not disapproved by written order of the commis-~~
4 ~~sioner within 30 days after the date of its submission. Before~~
5 ~~disapproval of all or any part of the proposed plan of operation,~~
6 ~~the commissioner shall notify the board in what respect the plan~~
7 ~~of operation fails to meet the requirements and objectives of~~
8 ~~this section. If the board fails to submit a revised plan of~~
9 ~~operation which meets the requirements and objectives of this~~
10 ~~section within the 30 day period, the commissioner shall enter an~~
11 ~~order accordingly and shall immediately formulate and place into~~
12 ~~effect a plan consistent with the requirements and objectives of~~
13 ~~this section.~~

14 ~~(19) The proposed plan of operation or amendments to the~~
15 ~~plan of operation shall be subject to majority approval by the~~
16 ~~board, ratified by a majority of the membership having a vote,~~
17 ~~with voting rights being apportioned according to the premiums~~
18 ~~charged in subsection (7)(d) and shall be subject to approval by~~
19 ~~the commissioner.~~

20 ~~(20) Upon approval by the commissioner and ratification by~~
21 ~~the members of the plan submitted, or upon the promulgation of a~~
22 ~~plan by the commissioner, each insurer authorized to write insur-~~
23 ~~ance providing the security required by section 3101(1) in this~~
24 ~~state, as defined in this section, shall be bound by and shall~~
25 ~~formally subscribe to and participate in the plan approved as a~~
26 ~~condition of maintaining its authority to transact insurance in~~
27 ~~this state.~~

1 ~~(21) The association shall be subject to all the reporting,~~
2 ~~loss reserve, and investment requirements of the commissioner to~~
3 ~~the same extent as would a member of the association.~~

4 ~~(22) Premiums charged members by the association shall be~~
5 ~~recognized in the rate making procedures for insurance rates in~~
6 ~~the same manner that expenses and premium taxes are recognized.~~

7 ~~(23) The commissioner or an authorized representative of the~~
8 ~~commissioner may visit the association at any time and examine~~
9 ~~any and all the association's affairs.~~

10 ~~(24) This section shall take effect on July 1, 1978. The~~
11 ~~association shall not have liability for losses occurring before~~
12 ~~the effective date of this section.~~

13 Sec. 3107. Personal protection insurance benefits are pay-
14 able for the following:

15 (a) Allowable expenses consisting of all reasonable charges
16 incurred for reasonably necessary products, services, and accom-
17 modations for an injured person's care, recovery, or rehabilita-
18 tion AND, FOR BENEFITS PAYABLE BY THE CATASTROPHIC CLAIMS ASSOCI-
19 ATION, SUBJECT TO THE ASSOCIATION'S CASE MANAGEMENT RULES.

20 Allowable expenses within personal protection insurance coverage
21 shall not include charges for a hospital room in excess of a rea-
22 sonable and customary charge for semiprivate accommodations
23 except ~~when~~ IF the injured person requires special or intensive
24 care, or ~~before October 1, 1988 charges~~ for funeral and burial
25 expenses in ~~excess of \$1,000.00. Beginning October 1, 1988,~~
26 ~~benefits for funeral and burial expenses shall be payable in the~~

1 amount set forth in the policy ~~but~~ WHICH shall not be less than
2 \$1,750.00 ~~nor~~ OR more than \$5,000.00.

3 (b) Work loss consisting of loss of income from work an
4 injured person would have performed during the first 3 years
5 after the date of the accident if he or she had not been injured
6 and expenses not exceeding \$20.00 per day, reasonably incurred in
7 obtaining ordinary and necessary services in lieu of those that,
8 if he or she had not been injured, an injured person would have
9 performed during the first 3 years after the date of the acci-
10 dent, not for income but for the benefit of himself or herself or
11 of his or her dependent. Work loss does not include any loss
12 after the date on which the injured person dies. Because the
13 benefits received from personal protection insurance for loss of
14 income are not taxable income, the benefits payable for such loss
15 of income shall be reduced 15% unless the claimant presents to
16 the insurer in support of his or her claim reasonable proof of a
17 lower value of the income tax advantage in his or her case, in
18 which case the lower value shall apply. Beginning March 30,
19 1973, the benefits payable for work loss sustained in a single
20 30-day period and the income earned by an injured person for work
21 during the same period together shall not exceed \$1,000.00, which
22 maximum shall apply pro rata to any lesser period of work loss.
23 Beginning October 1, 1974, the maximum shall be adjusted annually
24 to reflect changes in the cost of living under rules prescribed
25 by the commissioner but any change in the maximum shall apply
26 only to benefits arising out of accidents occurring subsequent to
27 the date of change in the maximum.

CHAPTER 31A

SEC. 3181. AS USED IN THIS CHAPTER:

(A) "ADVISORY BOARD" MEANS THE ADVISORY BOARD CREATED IN SECTION 3186.

(B) "ASSOCIATION" MEANS THE CATASTROPHIC CLAIMS ASSOCIATION CREATED IN SECTION 3183.

(C) "BOARD" MEANS THE CATASTROPHIC CLAIMS ASSOCIATION BOARD OF DIRECTORS CREATED IN SECTION 3185.

(D) "ULTIMATE LOSS" MEANS THE ACTUAL LOSS AMOUNTS THAT AN ASSOCIATION MEMBER IS OBLIGATED TO PAY AND THAT ARE PAID OR PAYABLE BY THE MEMBER. ULTIMATE LOSS DOES NOT INCLUDE CLAIM EXPENSES.

SEC. 3183. (1) AN UNINCORPORATED, NONPROFIT ASSOCIATION TO BE KNOWN AS THE CATASTROPHIC CLAIMS ASSOCIATION IS CREATED.

EXCEPT AS EXPRESSLY PROVIDED IN THIS CHAPTER, THE ASSOCIATION SHALL NOT BE SUBJECT TO ANY LAWS OF THIS STATE WITH RESPECT TO INSURERS, BUT IN ALL OTHER RESPECTS THE ASSOCIATION SHALL BE SUBJECT TO THE LAWS OF THIS STATE TO THE EXTENT THAT THE ASSOCIATION WOULD BE WERE IT AN INSURER ORGANIZED AND SUBSISTING UNDER CHAPTER 50.

(2) THE ASSOCIATION IS SUBJECT TO ALL THE REPORTING, LOSS RESERVE, AND INVESTMENT REQUIREMENTS OF THE COMMISSIONER TO THE SAME EXTENT AS IS A MEMBER OF THE ASSOCIATION.

(3) THE COMMISSIONER OR AN AUTHORIZED REPRESENTATIVE OF THE COMMISSIONER MAY VISIT THE ASSOCIATION AT ANY TIME AND EXAMINE ANY AND ALL THE ASSOCIATION'S AFFAIRS.

1 SEC. 3185. (1) A BOARD OF DIRECTORS IS CREATED AND IS
2 RESPONSIBLE FOR THE OPERATION OF THE ASSOCIATION CONSISTENT WITH
3 THE PLAN OF OPERATION AND THIS CHAPTER. THE BOARD SHALL CONSIST
4 OF 5 DIRECTORS AND THE COMMISSIONER OR HIS OR HER DESIGNATED REP-
5 RESENTATIVE WHO SHALL BE AN EX OFFICIO MEMBER OF THE BOARD WITH-
6 OUT VOTE.

7 (2) EACH DIRECTOR SHALL BE APPOINTED BY THE COMMISSIONER AND
8 SHALL SERVE UNTIL THAT MEMBER'S SUCCESSOR IS SELECTED AND
9 QUALIFIED. EACH DIRECTOR SERVING ON THE BOARD IMMEDIATELY PRIOR
10 TO JANUARY 1, 1990 SHALL FINISH HIS OR HER TERM OF OFFICE. EACH
11 BOARD APPOINTED AFTER JANUARY 1, 1990 SHALL INCLUDE MEMBERS THAT
12 HAVE SKILL AND EXPERTISE IN THE MANAGEMENT OF SPECIFIC CASES OF
13 LONG-TERM HEALTH CARE. THE CHAIRPERSON OF THE BOARD SHALL BE
14 ELECTED BY THE BOARD. A VACANCY ON THE BOARD SHALL BE FILLED BY
15 THE COMMISSIONER CONSISTENT WITH THE PLAN OF OPERATION.

16 (3) EACH DIRECTOR SHALL BE ENTITLED TO 1 VOTE. THE INITIAL
17 TERM OF OFFICE OF A DIRECTOR SHALL BE 2 YEARS.

18 (4) THE BOARD SHALL MEET AS OFTEN AS THE CHAIRPERSON, THE
19 COMMISSIONER, OR THE PLAN OF OPERATION REQUIRES, OR AT THE
20 REQUEST OF ANY 3 MEMBERS OF THE BOARD. THE CHAIRPERSON MAY VOTE
21 ON ALL ISSUES. FOUR MEMBERS OF THE BOARD SHALL CONSTITUTE A
22 QUORUM.

23 SEC. 3186. (1) AN ADVISORY BOARD TO THE BOARD OF DIRECTORS
24 IS CREATED. THE ADVISORY BOARD SHALL CONSIST OF THE COMMISSIONER
25 OR HIS OR HER DESIGNATED REPRESENTATIVE WHO SHALL BE AN EX OFFI-
26 CIO MEMBER WITHOUT VOTE AND 4 MEMBERS APPOINTED BY THE
27 COMMISSIONER AS FOLLOWS: 2 MEMBERS HAVING CLAIMS BEING SERVICED

1 BY THE ASSOCIATION AT THE TIME OF APPOINTMENT AND 2 MEMBERS
2 REPRESENTING HEALTH CARE PROVIDERS PROVIDING LONG-TERM HEALTH
3 CARE SERVICES TO INDIVIDUALS WITH CLAIMS BEING SERVICED BY THE
4 ASSOCIATION AT THE TIME OF APPOINTMENT.

5 (2) THE CHAIRPERSON OF THE ADVISORY BOARD SHALL BE ELECTED
6 BY THE ADVISORY BOARD. A VACANCY ON THE ADVISORY BOARD SHALL BE
7 FILLED BY THE COMMISSIONER CONSISTENT WITH THE REVISED PLAN OF
8 OPERATION.

9 (3) EACH ADVISORY BOARD MEMBER SHALL BE ENTITLED TO 1 VOTE.
10 THE TERM OF OFFICE OF AN ADVISORY BOARD MEMBER SHALL BE 2 YEARS.

11 (4) THE ADVISORY BOARD SHALL MEET AS OFTEN AS THE CHAIR-
12 PERSON, THE COMMISSIONER, OR THE REVISED PLAN OF OPERATION
13 REQUIRES, OR AT THE REQUEST OF ANY 3 MEMBERS OF THE ADVISORY
14 BOARD. THE CHAIRPERSON MAY VOTE ON ALL ISSUES. FOUR MEMBERS OF
15 THE ADVISORY BOARD CONSTITUTE A QUORUM.

16 SEC. 3187. (1) BY MARCH 1, 1990, THE BOARD SHALL SUBMIT TO
17 THE COMMISSIONER FOR APPROVAL A REVISED PLAN OF OPERATION CONSIS-
18 TENT WITH THE OBJECTIVES AND PROVISIONS OF THIS CHAPTER, WHICH
19 SHALL PROVIDE FOR THE ECONOMICAL, FAIR, AND NONDISCRIMINATORY
20 ADMINISTRATION OF THE ASSOCIATION AND FOR THE PROMPT AND EFFI-
21 CIENT PAYMENT AND MANAGEMENT OF COVERED CLAIMS. IF A PLAN IS NOT
22 SUBMITTED BY MARCH 1, 1990, THEN THE COMMISSIONER, AFTER CONSUL-
23 TATION WITH THE BOARD, SHALL FORMULATE AND PLACE INTO EFFECT A
24 PLAN CONSISTENT WITH THIS CHAPTER.

25 (2) THE PLAN OF OPERATION SHALL PROVIDE FOR ALL OF THE
26 FOLLOWING:

1 (A) THE ESTABLISHMENT OF NECESSARY FACILITIES.

2 (B) THE MANAGEMENT AND OPERATION OF THE ASSOCIATION.

3 (C) THE ADOPTION OF RULES PROVIDING FOR COST-EFFICIENT
4 HEALTH CARE MANAGEMENT OF INDIVIDUAL COVERED CLAIMS.

5 (D) PROCEDURES TO BE USED IN CHARGING PREMIUMS, INCLUDING
6 ADJUSTMENTS FROM EXCESS OR DEFICIENT PREMIUMS FROM PRIOR
7 PERIODS.

8 (E) PROCEDURES GOVERNING THE ACTUAL PAYMENT OF PREMIUMS TO
9 THE ASSOCIATION.

10 (F) REIMBURSEMENT OF EACH MEMBER OF THE BOARD BY THE ASSOCI-
11 ATION FOR ACTUAL AND NECESSARY EXPENSES INCURRED ON ASSOCIATION
12 BUSINESS.

13 (G) THE INVESTMENT POLICY OF THE ASSOCIATION.

14 (H) THE ADOPTION OF RULES PROVIDING FOR THE COMPOSITION AND
15 TERM OF SUCCESSOR BOARDS AND ADVISORY BOARDS TO THE INITIAL BOARD
16 AND ADVISORY BOARD, CONSISTENT WITH THE REVISED MEMBERSHIP COMPO-
17 SITION REQUIREMENTS IN THIS CHAPTER. TERMS OF THE DIRECTORS AND
18 ADVISORY BOARD MEMBERS SHALL BE STAGGERED SO THAT THE TERMS OF
19 ALL THE DIRECTORS AND ADVISORY BOARD MEMBERS DO NOT EXPIRE AT THE
20 SAME TIME AND SO THAT A DIRECTOR AND AN ADVISORY BOARD MEMBER DO
21 NOT SERVE A TERM OF MORE THAN 4 YEARS.

22 (I) ANY OTHER MATTERS REQUIRED BY OR NECESSARY TO EFFEC-
23 TIVELY IMPLEMENT THIS SECTION.

24 (3) THE REVISED PLAN OF OPERATION, UNLESS APPROVED SOONER IN
25 WRITING, SHALL BE CONSIDERED TO MEET THE REQUIREMENTS OF THIS
26 CHAPTER IF IT IS NOT DISAPPROVED BY WRITTEN ORDER OF THE
27 COMMISSIONER WITHIN 30 DAYS AFTER THE DATE OF ITS SUBMISSION.

1 BEFORE DISAPPROVAL OF ALL OR ANY PART OF THE PROPOSED REVISED
2 PLAN OF OPERATION, THE COMMISSIONER SHALL NOTIFY THE BOARD IN
3 WHAT RESPECT THE REVISED PLAN OF OPERATION FAILS TO MEET THE
4 REQUIREMENTS AND OBJECTIVES OF THIS CHAPTER. IF THE BOARD FAILS
5 TO SUBMIT A SECOND REVISED PLAN OF OPERATION WHICH MEETS THE
6 REQUIREMENTS AND OBJECTIVES OF THIS SECTION WITHIN THE 30-DAY
7 PERIOD, THE COMMISSIONER SHALL ENTER AN ORDER ACCORDINGLY AND
8 SHALL IMMEDIATELY FORMULATE AND PLACE INTO EFFECT A PLAN CONSIS-
9 TENT WITH THE REQUIREMENTS AND OBJECTIVES OF THIS CHAPTER.

10 (4) THE REVISED PLAN OF OPERATION OR AMENDMENTS THERETO
11 SHALL BE SUBJECT TO MAJORITY APPROVAL BY THE BOARD, RATIFIED BY A
12 MAJORITY OF THE MEMBERSHIP HAVING A VOTE, WITH VOTING RIGHTS
13 BEING APPORTIONED ACCORDING TO THE PREMIUMS CHARGED IN
14 SECTION 3197(1)(E) AND SHALL BE SUBJECT TO APPROVAL BY THE
15 COMMISSIONER.

16 (5) UPON APPROVAL BY THE COMMISSIONER AND RATIFICATION BY
17 THE MEMBERS OF THE PLAN SUBMITTED, OR UPON THE PROMULGATION OF A
18 PLAN BY THE COMMISSIONER, EACH INSURER AUTHORIZED TO WRITE INSUR-
19 ANCE PROVIDING THE SECURITY REQUIRED BY SECTION 3101(1) OR (4) IN
20 THIS STATE, AS DEFINED IN THIS SECTION, SHALL BE BOUND BY AND
21 SHALL FORMALLY SUBSCRIBE TO AND PARTICIPATE IN THE PLAN APPROVED
22 AS A CONDITION OF MAINTAINING ITS AUTHORITY TO TRANSACT INSURANCE
23 IN THIS STATE.

24 (6) AN ANNUAL REPORT OF THE OPERATIONS OF THE ASSOCIATION IN
25 A FORM AND DETAIL AS MAY BE DETERMINED BY THE BOARD SHALL BE FUR-
26 NISHED TO EACH MEMBER.

1 SEC. 3189. THE ASSOCIATION SHALL PROVIDE PAYMENT FOR AND
2 MANAGEMENT OF AND EACH MEMBER SHALL ACCEPT PAYMENT FOR AND
3 MANAGEMENT OF 100% OF THE AMOUNT OF ULTIMATE LOSS SUSTAINED UNDER
4 PERSONAL PROTECTION INSURANCE COVERAGES IN EXCESS OF \$250,000.00
5 IN EACH LOSS OCCURRENCE. AN ULTIMATE LOSS IS INCURRED BY THE
6 ASSOCIATION ON THE DATE THAT THE LOSS OCCURS. THE ASSOCIATION
7 SHALL MANAGE EACH CLAIM THAT IT PROVIDES PAYMENT FOR AND THAT IT
8 MAY BE ANTICIPATED TO PROVIDE PAYMENT FOR UNDER A REPORT RECEIVED
9 BY THE ASSOCIATION PURSUANT TO PROCEDURES ESTABLISHED BY
10 SECTION 3197(1)(B) AND (C).

11 SEC. 3191. AN INSURER WHOSE MEMBERSHIP IN THE ASSOCIATION
12 HAS BEEN TERMINATED BY WITHDRAWAL SHALL CONTINUE TO BE BOUND BY
13 THE PLAN OF OPERATION, AND UPON WITHDRAWAL, ALL UNPAID PREMIUMS
14 THAT HAVE BEEN CHARGED TO THE WITHDRAWING MEMBER SHALL BE PAYABLE
15 AS OF THE EFFECTIVE DATE OF THE WITHDRAWAL.

16 SEC. 3193. AN UNSATISFIED NET LIABILITY TO THE ASSOCIATION
17 OF AN INSOLVENT MEMBER SHALL BE ASSUMED BY AND APPORTIONED AMONG
18 THE REMAINING MEMBERS OF THE ASSOCIATION AS PROVIDED IN THE PLAN
19 OF OPERATION. THE ASSOCIATION SHALL HAVE ALL RIGHTS ALLOWED BY
20 LAW ON BEHALF OF THE REMAINING MEMBERS AGAINST THE ESTATE OR
21 FUNDS OF THE INSOLVENT MEMBER FOR SUMS DUE THE ASSOCIATION.

22 SEC. 3195. IF A MEMBER IS MERGED OR CONSOLIDATED INTO
23 ANOTHER INSURER OR ANOTHER INSURER HAS REINSURED A MEMBER'S
24 ENTIRE BUSINESS THAT PROVIDES THE SECURITY REQUIRED BY SECTION
25 3101(1) OR (4) IN THIS STATE, THE MEMBER AND SUCCESSORS IN INTER-
26 EST OF THE MEMBER REMAIN LIABLE FOR THE MEMBER'S OBLIGATIONS.

1 SEC. 3197. (1) THE ASSOCIATION SHALL DO ALL OF THE
2 FOLLOWING ON BEHALF OF THE MEMBERS OF THE ASSOCIATION:

3 (A) ASSUME ALL PAYMENT AND MANAGEMENT AS PROVIDED IN
4 SECTION 3189.

5 (B) ESTABLISH PROCEDURES BY WHICH MEMBERS SHALL PROMPTLY
6 REPORT TO THE ASSOCIATION EACH CLAIM THAT, ON THE BASIS OF THE
7 INJURIES OR DAMAGES SUSTAINED, MAY REASONABLY BE ANTICIPATED TO
8 INVOLVE THE ASSOCIATION IF THE MEMBER IS ULTIMATELY HELD LEGALLY
9 LIABLE FOR THE INJURIES OR DAMAGES. SOLELY FOR THE PURPOSE OF
10 REPORTING CLAIMS, THE MEMBER SHALL IN ALL INSTANCES CONSIDER
11 ITSELF LEGALLY LIABLE FOR THE INJURIES OR DAMAGES. THE MEMBER
12 SHALL ALSO ADVISE THE ASSOCIATION OF SUBSEQUENT DEVELOPMENTS
13 LIKELY TO MATERIALLY AFFECT THE INTEREST OF THE ASSOCIATION IN
14 THE CLAIM.

15 (C) ESTABLISH PROCEDURES BY WHICH THE ASSOCIATION ASSUMES
16 RESPONSIBILITY FOR MANAGING EACH CLAIM THAT IS REASONABLY ANTICI-
17 PATED TO INVOLVE THE ASSOCIATION REGARDLESS OF WHICH MEMBER OF
18 THE ASSOCIATION MAY ULTIMATELY BE HELD LIABLE FOR THE INJURIES OR
19 DAMAGES.

20 (D) MAINTAIN RELEVANT LOSS AND EXPENSE DATA RELATIVE TO ALL
21 LIABILITIES OF THE ASSOCIATION AND REQUIRE EACH MEMBER TO FURNISH
22 STATISTICS, IN CONNECTION WITH LIABILITIES OF THE ASSOCIATION, AT
23 THE TIMES AND IN THE FORM AND DETAIL AS MAY BE REQUIRED BY THE
24 REVISED PLAN OF OPERATION.

25 (E) IN A MANNER PROVIDED FOR IN THE PLAN OF OPERATION, CAL-
26 CULATE AND CHARGE TO MEMBERS OF THE ASSOCIATION A TOTAL PREMIUM
27 SUFFICIENT TO COVER THE EXPECTED LOSSES AND EXPENSES THAT THE

1 ASSOCIATION WILL LIKELY INCUR DURING THE PERIOD THAT THE PREMIUM
2 IS APPLICABLE. THE PREMIUM SHALL INCLUDE AN AMOUNT TO COVER
3 INCURRED BUT NOT REPORTED LOSSES FOR THE PERIOD AND MAY BE
4 ADJUSTED FOR ANY EXCESS OR DEFICIENT PREMIUMS FROM PREVIOUS
5 PERIODS. EXCESSES OR DEFICIENCIES FROM PREVIOUS PERIODS MAY BE
6 FULLY ADJUSTED IN A SINGLE PERIOD OR MAY BE ADJUSTED OVER SEVERAL
7 PERIODS IN A MANNER PROVIDED FOR IN THE PLAN OF OPERATION. EACH
8 MEMBER SHALL BE CHARGED AN AMOUNT EQUAL TO THAT MEMBER'S TOTAL
9 EARNED CAR YEARS OF INSURANCE PROVIDING THE SECURITY REQUIRED BY
10 SECTION 3101(1) OR (4) OR 3103(1), WRITTEN IN THIS STATE DURING
11 THE PERIOD TO WHICH THE PREMIUM APPLIES, MULTIPLIED BY THE AVER-
12 AGE PREMIUM PER CAR. THE AVERAGE PREMIUM PER CAR SHALL BE THE
13 TOTAL PREMIUM CALCULATED DIVIDED BY THE TOTAL EARNED CAR YEARS OF
14 INSURANCE PROVIDING THE SECURITY REQUIRED BY SECTION 3101(1) OR
15 (4) OR 3103(1) WRITTEN IN THIS STATE OF ALL MEMBERS DURING THE
16 PERIOD TO WHICH THE PREMIUM APPLIES. AS USED IN THIS SUBDIVI-
17 SION, "CAR" INCLUDES A MOTORCYCLE.

18 (F) REQUIRE AND ACCEPT THE PAYMENT OF PREMIUMS FROM MEMBERS
19 OF THE ASSOCIATION AS PROVIDED FOR IN THE PLAN OF OPERATION. THE
20 ASSOCIATION SHALL DO EITHER OF THE FOLLOWING:

21 (i) REQUIRE PAYMENT OF THE PREMIUM IN FULL WITHIN 45 DAYS
22 AFTER THE PREMIUM CHARGE.

23 (ii) REQUIRE PAYMENT OF THE PREMIUMS TO BE MADE PERIODICALLY
24 TO COVER THE ACTUAL CASH OBLIGATIONS OF THE ASSOCIATION.

25 (G) RECEIVE AND DISTRIBUTE ALL SUMS REQUIRED BY THE OPERA-
26 TION OF THE ASSOCIATION.

1 (H) ESTABLISH PROCEDURES FOR REVIEWING CLAIMS PROCEDURES AND
2 PRACTICES OF MEMBERS OF THE ASSOCIATION. IF THE CLAIMS
3 PROCEDURES OR PRACTICES OF A MEMBER ARE CONSIDERED INADEQUATE TO
4 PROPERLY SERVICE THE LIABILITIES OF THE ASSOCIATION, THE ASSOCIA-
5 TION MAY UNDERTAKE OR MAY CONTRACT WITH ANOTHER PERSON, INCLUDING
6 ANOTHER MEMBER, TO ADJUST OR ASSIST IN THE ADJUSTMENT OF CLAIMS
7 FOR THE MEMBER ON CLAIMS THAT CREATE A POTENTIAL LIABILITY TO THE
8 ASSOCIATION AND MAY CHARGE THE COST OF THE ADJUSTMENT TO THE
9 MEMBER.

10 (2) PREMIUMS CHARGED MEMBERS BY THE ASSOCIATION SHALL BE
11 RECOGNIZED IN THE RATE-MAKING PROCEDURES FOR INSURANCE RATES IN
12 THE SAME MANNER THAT EXPENSES AND PREMIUM TAXES ARE RECOGNIZED.

13 SEC. 3199. IN ADDITION TO OTHER POWERS GRANTED TO THE ASSO-
14 CIATION BY THIS CHAPTER, THE ASSOCIATION MAY DO ALL OF THE
15 FOLLOWING:

16 (A) SUE AND BE SUED IN THE NAME OF THE ASSOCIATION. A JUDG-
17 MENT AGAINST THE ASSOCIATION SHALL NOT CREATE ANY DIRECT LIABIL-
18 ITY AGAINST THE INDIVIDUAL MEMBERS OF THE ASSOCIATION. THE ASSO-
19 CIATION MAY PROVIDE FOR THE INDEMNIFICATION OF ITS MEMBERS, MEM-
20 BERS OF THE BOARD OF DIRECTORS OF THE ASSOCIATION, AND OFFICERS,
21 EMPLOYEES, AND OTHER PERSONS LAWFULLY ACTING ON BEHALF OF THE
22 ASSOCIATION.

23 (B) REINSURE ALL OR ANY PORTION OF ITS POTENTIAL LIABILITY
24 WITH REINSURERS LICENSED TO TRANSACT INSURANCE IN THIS STATE OR
25 APPROVED BY THE COMMISSIONER.

1 (C) PROVIDE FOR APPROPRIATE HOUSING, EQUIPMENT, AND
2 PERSONNEL AS MAY BE NECESSARY TO ASSURE THE EFFICIENT OPERATION
3 OF THE ASSOCIATION.

4 (D) PURSUANT TO THE PLAN OF OPERATION, ADOPT REASONABLE
5 RULES FOR THE ADMINISTRATION OF THE ASSOCIATION, ENFORCE THOSE
6 RULES, AND DELEGATE AUTHORITY, AS THE BOARD CONSIDERS NECESSARY
7 TO ASSURE THE PROPER ADMINISTRATION AND OPERATION OF THE ASSOCIA-
8 TION CONSISTENT WITH THE PLAN OF OPERATION.

9 (E) CONTRACT FOR GOODS AND SERVICES, INCLUDING INDEPENDENT
10 CLAIMS MANAGEMENT, ACTUARIAL, INVESTMENT, AND LEGAL SERVICES,
11 FROM OTHERS WITHIN OR WITHOUT THIS STATE TO ASSURE THE EFFICIENT
12 OPERATION OF THE ASSOCIATION.

13 (F) HEAR AND DETERMINE COMPLAINTS OF A COMPANY OR OTHER
14 INTERESTED PARTY CONCERNING THE OPERATION OF THE ASSOCIATION.

15 (G) PERFORM OTHER ACTS NOT SPECIFICALLY ENUMERATED IN THIS
16 SECTION THAT ARE NECESSARY OR PROPER TO ACCOMPLISH THE PURPOSES
17 OF THE ASSOCIATION AND THAT ARE NOT INCONSISTENT WITH THIS SEC-
18 TION OR THE PLAN OF OPERATION.

19 Sec. 7837. As used in sections 7836 to 7868:

20 (a) "Insurer" means a person, firm, corporation, associa-
21 tion, or aggregation of persons doing an insurance business and
22 subject to the insurance supervisory authority of, or to liquida-
23 tion, rehabilitation, reorganization, or conservation by, the
24 commissioner, or the equivalent insurance supervisory official of
25 another state.

1 (b) "Delinquency proceeding" means a proceeding commenced
2 against an insurer for the purpose of liquidating,
3 rehabilitating, reorganizing, or conserving the insurer.

4 (c) "State" means any state of the United States, the
5 District of Columbia, and Puerto Rico.

6 (d) "Foreign country" means territory not in any state.

7 (e) "Domiciliary state" means the state in which an insurer
8 is incorporated or organized, or, in the case of an insurer
9 incorporated or organized in a foreign country, the state in
10 which the insurer, having become authorized to do business in a
11 state, has designated as its domiciliary state, state of entry
12 into the United States, or both.

13 (f) "Ancillary state" means a state other than a domiciliary
14 state.

15 (g) "Reciprocal state" means a state other than this state
16 in which in substance and effect the provisions of this act are
17 in force, including the provisions requiring that the commis-
18 sioner or equivalent insurance supervisory official be the
19 receiver of a delinquent insurer.

20 (h) "General assets" means all property, real, personal, or
21 otherwise, not specifically mortgaged, pledged, deposited, or
22 otherwise encumbered for the security or benefit of specified
23 persons or a limited class or classes of persons, and, as to this
24 specifically encumbered property, general assets includes all
25 property or proceeds from property in excess of the amount neces-
26 sary to discharge the sum or sums secured by the property.
27 Assets held in trust and assets held on deposit for the security

1 or benefit of all policyholders, or all policyholders and
2 creditors in the United States, shall be considered general
3 assets. Amounts due an insolvent insurer as indemnification from
4 the catastrophic claims association created in section ~~3104~~
5 3183 shall not be considered to be assets of the receivership,
6 but shall be paid directly to the property and casualty guaranty
7 association under section 7935.

8 (i) "Preferred claim" means a claim with respect to which
9 the law of a state or of the United States accords priority of
10 payment from the general assets of the insurer.

11 (j) "Special deposit claim" means a claim secured by a
12 deposit made pursuant to statute for the security or benefit of a
13 limited class or classes of persons, but not including any gen-
14 eral assets.

15 (k) "Secured claim" means a claim secured by mortgage,
16 trust, deed, pledge, deposit as security, escrow, or otherwise,
17 but not including special deposit claims or claims against gen-
18 eral assets. Secured claim also includes claims which have
19 become liens upon specific assets by reason of judicial process
20 more than 4 months before the commencement of delinquency pro-
21 ceedings in the insurer's domiciliary state.

22 (l) "Receiver" means receiver, liquidator, rehabilitator, or
23 conservator, as the context may require.

24 Sec. 7935. (1) Each insured entitled to the protection of
25 this chapter shall cooperate with the association in accordance
26 with the insured's policy in the same manner as the insured would
27 have been required to cooperate with his or her insurer if it

1 were not in receivership. Each insured shall be considered to
2 have assigned to the association any right to make claim against
3 the receiver for a refund of unearned premium for the period of
4 coverage provided by the association beginning on the date of
5 receivership.

6 (2) An insured or claimant entitled to the benefits of this
7 chapter shall be considered to have assigned to the association,
8 to the extent of any payment received from the association, his
9 or her rights against the estate of the insolvent insurer, rights
10 under the policy under which his or her claim arose, and any
11 other rights the insured or claimant may have against another
12 person for payment of the covered claim paid by the association.

13 (3) The association shall be entitled to receive, to the
14 extent of the amount paid or payable by the association by reason
15 of a covered claim, any amount recoverable by the receiver or the
16 insolvent insurer by way of right of indemnification from the
17 catastrophic claims association created in section ~~3104~~ 3183.

18 (4) The association shall be entitled to any option to take
19 possession of, right of salvage in, or other right to proceeds
20 from the sale or disposition of insured property which is the
21 subject matter of a covered claim, to which the insolvent insurer
22 would have been entitled had it paid the claim.

23 Section 2. This amendatory act shall take effect January 1,
24 1990.