

HOUSE BILL No. 5215

October 2, 1991, Introduced by Reps. Brown and Hoekman and referred to the Committee on Insurance.

A bill to amend sections 150, 222, 224, 228, 244, 402a, 402b, 403, 404, 408, 410, 411, 416, 424, 435, 436, 437, 438, 1301, 1305, 1311, 1312, 1315, 1316, 1317, 1319, 1324, 1325, 1327, 1341, 1342, 1343, 1351, 1361, 1367, 1371, and 1375 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

section 150 as amended by Act No. 7 of the Public Acts of 1984, section 222 as amended and section 416 as added by Act No. 302 of the Public Acts of 1989, section 402b as amended by Act No. 1 of the Public Acts of 1990, section 410 as amended by Act No. 501 of the Public Acts of 1982, section 411 as amended by Act No. 321 of the Public Acts of 1986, section 438 as amended by Act No. 173 of the Public Acts of 1986, and sections 1311 and 1324 as amended by Act No. 85 of the Public Acts of 1990, being sections 500.150, 500.222, 500.224, 500.228, 500.244, 500.402a, 500.402b, 500.403,

500.404, 500.408, 500.410, 500.411, 500.416, 500.424, 500.435, 500.436, 500.437, 500.438, 500.1301, 500.1305, 500.1311, 500.1312, 500.1315, 500.1316, 500.1317, 500.1319, 500.1324, 500.1325, 500.1327, 500.1341, 500.1342, 500.1343, 500.1351, 500.1361, 500.1367, 500.1371, and 500.1375 of the Michigan Compiled Laws; to add sections 115, 116, 405, 436a, 436b, 438a, 1334, 1344, 1377, and 1378; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 150, 222, 224, 228, 244, 402a, 402b,
2 403, 404, 408, 410, 411, 416, 424, 435, 436, 437, 438, 1301,
3 1305, 1311, 1312, 1315, 1316, 1317, 1319, 1324, 1325, 1327, 1341,
4 1342, 1343, 1351, 1361, 1367, 1371, and 1375 of Act No. 218 of
5 the Public Acts of 1956, section 150 as amended by Act No. 7 of
6 the Public Acts of 1984, section 222 as amended and section 416
7 as added by Act No. 302 of the Public Acts of 1989, section 402b
8 as amended by Act No. 1 of the Public Acts of 1990, section 410
9 as amended by Act No. 501 of the Public Acts of 1982, section 411
10 as amended by Act No. 321 of the Public Acts of 1986, section 438
11 as amended by Act No. 173 of the Public Acts of 1986, and sec-
12 tions 1311 and 1324 as amended by Act No. 85 of the Public Acts
13 of 1990, being sections 500.150, 500.222, 500.224, 500.228,
14 500.244, 500.402a, 500.402b, 500.403, 500.404, 500.408, 500.410,
15 500.411, 500.416, 500.424, 500.435, 500.436, 500.437, 500.438,
16 500.1301, 500.1305, 500.1311, 500.1312, 500.1315, 500.1316,
17 500.1317, 500.1319, 500.1324, 500.1325, 500.1327, 500.1341,
18 500.1342, 500.1343, 500.1351, 500.1361, 500.1367, 500.1371, and

1 500.1375 of the Michigan Compiled Laws, are amended and sections
2 115, 116, 405, 436a, 436b, 438a, 1334, 1344, 1377, and 1378 are
3 added to read as follows:

4 SEC. 115. AS USED IN THIS ACT UNLESS THE CONTEXT CLEARLY
5 INDICATES OTHERWISE:

6 (A) "AFFILIATE" OF OR A PERSON "AFFILIATED" WITH A SPECIFIC
7 PERSON MEANS A PERSON THAT DIRECTLY, OR INDIRECTLY THROUGH 1 OR
8 MORE INTERMEDIARIES, CONTROLS, IS CONTROLLED BY, OR IS UNDER
9 COMMON CONTROL WITH THE PERSON SPECIFIED.

10 (B) "CONTROL" INCLUDING THE TERMS "CONTROLLING", "CONTROLLED
11 BY", AND "UNDER COMMON CONTROL WITH" MEAN THE POSSESSION OR THE
12 CONTINGENT OR NONCONTINGENT RIGHT TO ACQUIRE POSSESSION, DIRECT
13 OR INDIRECT, OF THE POWER TO DIRECT OR CAUSE THE DIRECTION OF THE
14 MANAGEMENT AND POLICIES OF A PERSON, WHETHER THROUGH THE OWNER-
15 SHIP OF VOTING SECURITIES, BY CONTRACT INCLUDING ACQUISITION OF
16 ASSETS OR BULK REINSURANCE, OTHER THAN A COMMERCIAL CONTRACT FOR
17 GOODS OR NONMANAGEMENT SERVICES, OR OTHERWISE, UNLESS THE POWER
18 IS THE RESULT OF AN OFFICIAL POSITION WITH OR CORPORATE OFFICE
19 HELD BY THE PERSON. CONTROL IS PRESUMED TO EXIST IF ANY PERSON,
20 BY FORMAL OR INFORMAL ARRANGEMENT, DEVICE, OR UNDERSTANDING,
21 DIRECTLY OR INDIRECTLY, OWNS, CONTROLS, HOLDS WITH THE POWER TO
22 VOTE, OR HOLDS PROXIES REPRESENTING 10% OR MORE OF THE VOTING
23 SECURITIES OF ANY OTHER PERSON OR FOR A MUTUAL INSURER OWNS 10%
24 OR MORE OF THE INSURER'S SURPLUS THROUGH SURPLUS NOTES, GUARANTEE
25 FUND CERTIFICATES OR OTHER EVIDENCE OF INDEBTEDNESS ISSUED BY THE
26 INSURER. THIS PRESUMPTION MAY BE REBUTTED BY A SHOWING MADE IN
27 THE MANNER PROVIDED BY SECTION 1332 THAT CONTROL DOES NOT IN FACT

1 EXIST. THE COMMISSIONER MAY DETERMINE AFTER FURNISHING TO ALL
2 PERSONS IN INTEREST NOTICE AND OPPORTUNITY TO BE HEARD AND MAKING
3 SPECIFIC FINDINGS OF FACT TO SUPPORT THE DETERMINATION THAT CON-
4 TROL IN FACT EXISTS NOTWITHSTANDING THE ABSENCE OF A PRESUMPTION
5 TO THAT EFFECT.

6 (C) "INSURANCE HOLDING COMPANY SYSTEM" MEANS 2 OR MORE
7 AFFILIATED PERSONS, 1 OR MORE OF WHICH IS AN INSURER.

8 (D) "SECURITYHOLDER" OF A SPECIFIED PERSON MEANS A PERSON
9 WHO OWNS ANY SECURITY OF THE PERSON, INCLUDING COMMON STOCK, PRE-
10 FERRED STOCK, DEBT OBLIGATIONS, AND ANY OTHER SECURITY CONVERT-
11 IBLE INTO OR EVIDENCING THE RIGHT TO ACQUIRE ANY OF THE
12 FOREGOING.

13 (E) "SUBSIDIARY" OF A SPECIFIED PERSON MEANS AN AFFILIATE
14 CONTROLLED BY THAT PERSON DIRECTLY OR INDIRECTLY THROUGH 1 OR
15 MORE INTERMEDIARIES.

16 (F) "VOTING SECURITY" INCLUDES ANY SECURITY CONVERTIBLE INTO
17 OR EVIDENCING A RIGHT TO ACQUIRE A VOTING SECURITY.

18 SEC. 116. AS USED IN THIS ACT:

19 (A) "HAZARDOUS TO POLICYHOLDERS, CREDITORS, OR THE PUBLIC"
20 MEANS THAT AN INSURER, WITH RESPECT TO THE FINANCIAL CONDITION OF
21 ITS BUSINESS, IS NOT SAFE, RELIABLE, AND ENTITLED TO PUBLIC
22 CONFIDENCE.

23 (B) "INTEREST SENSITIVE CONTRACTS" MEANS ALL INDIVIDUAL
24 ANNUITY AND PURE ENDOWMENT CONTRACTS, ALL GROUP ANNUITY AND PURE
25 ENDOWMENT CONTRACTS, ALL SINGLE PREMIUM WHOLE LIFE CONTRACTS, AND
26 ALL UNALLOCATED ANNUITY CONTRACTS, AS DEFINED IN SECTION 7705(N),
27 BUT DOES NOT INCLUDE ANY OF THE FOLLOWING:

1 (i) SINGLE PREMIUM IMMEDIATE ANNUITIES AND ANNUITY BENEFITS
2 INVOLVING LIFE CONTINGENCIES ARISING FROM OTHER ANNUITIES WITH
3 CASH SETTLEMENT OPTIONS AND FROM GUARANTEED INTEREST CONTRACTS
4 WITH CASH SETTLEMENT OPTIONS.

5 (ii) ANNUITIES WITH NO CASH SETTLEMENT OPTIONS AND GUARAN-
6 TEED INTEREST CONTRACTS WITH NO CASH SETTLEMENT OPTIONS.

7 (iii) ANNUITIES WITH NO CASH SETTLEMENT OPTIONS WITHIN 3
8 YEARS AND GUARANTEED INTEREST CONTRACTS WITH NO CASH SETTLEMENT
9 OPTIONS WITHIN 3 YEARS.

10 (iv) ANY CONTRACTS THAT ALLOW THE POLICYHOLDER TO WITHDRAW
11 FUNDS ONLY WITH AN ADJUSTMENT TO REFLECT CHANGES IN INTEREST
12 RATES OR ASSET VALUES SINCE RECEIPT OF THE FUNDS BY THE INSURER,
13 OR WITHOUT SUCH AN ADJUSTMENT BUT ONLY IN INSTALLMENTS OVER 5
14 YEARS OR MORE, OR AS AN IMMEDIATE LIFE ANNUITY.

15 (v) SEPARATE ACCOUNTS.

16 (vi) ANY VARIABLE CONTRACTS WHOSE VALUE REFLECTS ASSET VALUE
17 CHANGES IN SEPARATE ACCOUNTS.

18 (vii) ANY CONTRACTS WHERE THE RESERVE EXCEEDS THE CASH SUR-
19 RENDER VALUE.

20 (C) "SAFE, RELIABLE, AND ENTITLED TO PUBLIC CONFIDENCE"
21 MEANS THAT AN INSURER MEETS ALL OF THE FOLLOWING:

22 (i) HAS COMPLIED AND CONTINUES TO COMPLY STRICTLY WITH THE
23 SPECIFIC REQUIREMENTS OF THIS ACT AND, IF RELEVANT, THE INSURANCE
24 CODES OR ACTS OF ITS STATE OF DOMICILE AND OTHER STATES IN WHICH
25 IT IS AUTHORIZED TO CONDUCT AN INSURANCE BUSINESS CONCERNING
26 FINANCIAL STANDARDS AND CONDUCT AND DISCHARGE OF ITS OBLIGATIONS
27 TO POLICYHOLDERS.

1 (ii) HAS MADE AND CONTINUES TO MAKE REASONABLE FINANCIAL
2 PROVISIONS AND APPLY SOUND INSURANCE PRINCIPLES SO AS TO PROVIDE
3 REASONABLE MARGINS OF FINANCIAL SAFETY WITH RESPECT TO THE INSUR-
4 ANCE AND OTHER OBLIGATIONS IT HAS ASSUMED AND CONTINUES TO ASSUME
5 SUCH THAT THE INSURER WILL BE ABLE TO DISCHARGE OBLIGATIONS UNDER
6 ANY REASONABLE CONDITIONS AND CONTINGENCIES TAKING INTO ACCOUNT
7 WITHOUT LIMITATION REASONABLY ANTICIPATED CONTINGENCIES, INCLUD-
8 ING THOSE AFFECTING CHANGES IN THE PROJECTIONS OF LIABILITIES,
9 FLUCTUATIONS IN VALUE OF ASSETS, ALTERATIONS IN PROJECTIONS AS TO
10 WHEN OBLIGATIONS MAY BECOME DUE, AND EXPECTED AND UNEXPECTED NEW
11 CLAIMS WITH RESPECT TO OBLIGATIONS.

12 Sec. 150. (1) Any person who violates any provision of this
13 ~~code~~ ACT for which a ~~fine or imprisonment~~ SPECIFIC PENALTY is
14 not provided under any other provision of this ~~code~~ ACT or of
15 other laws applicable to ~~such~~ THE violation ~~, shall , upon~~
16 ~~conviction thereof, be guilty of a misdemeanor, and in addition~~
17 ~~to any other penalty which may be applicable to the violation~~
18 ~~under this code, shall be subject to a fine of not more than~~
19 ~~\$5,000.00, or by imprisonment not exceeding 6 months, or both, in~~
20 ~~the discretion of the court~~ BE AFFORDED AN OPPORTUNITY FOR A
21 HEARING BEFORE THE COMMISSIONER PURSUANT TO THE ADMINISTRATIVE
22 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,
23 BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.
24 IF THE COMMISSIONER FINDS THAT A VIOLATION HAS OCCURRED, THE COM-
25 MISSIONER SHALL REDUCE THE FINDINGS AND DECISION TO WRITING AND
26 SHALL ISSUE AND CAUSE TO BE SERVED UPON THE PERSON CHARGED WITH
27 THE VIOLATION A COPY OF THE FINDINGS AND AN ORDER REQUIRING THE

1 PERSON TO CEASE AND DESIST FROM THE VIOLATION. IN ADDITION, THE
2 COMMISSIONER MAY ORDER ANY OF THE FOLLOWING:

3 (A) PAYMENT OF A CIVIL FINE OF NOT MORE THAN \$500.00 FOR
4 EACH VIOLATION. HOWEVER, IF THE PERSON KNEW OR REASONABLY SHOULD
5 HAVE KNOWN THAT HE OR SHE WAS IN VIOLATION OF THIS ACT, THE COM-
6 MISSIONER MAY ORDER THE PAYMENT OF A CIVIL FINE OF NOT MORE THAN
7 \$2,500.00 FOR EACH VIOLATION. AN ORDER OF THE COMMISSIONER UNDER
8 THIS SUBDIVISION SHALL NOT REQUIRE THE PAYMENT OF CIVIL FINES
9 EXCEEDING \$25,000.00. A FINE COLLECTED UNDER THIS SUBDIVISION
10 SHALL BE TURNED OVER TO THE STATE TREASURER AND CREDITED TO THE
11 GENERAL FUND.

12 (B) A REFUND OF ANY OVERCHARGES.

13 (C) RESTITUTION TO BE MADE TO THE INSURED OR OTHER CLAIMANT
14 TO COVER INCURRED LOSSES, DAMAGES, OR OTHER HARM ATTRIBUTABLE TO
15 THE ACTS OF THE PERSON.

16 (D) THE SUSPENSION, LIMITATION, OR REVOCATION OF THE
17 PERSON'S LICENSE OR CERTIFICATE OF AUTHORITY.

18 (2) AFTER NOTICE AND OPPORTUNITY FOR HEARING, THE COMMIS-
19 SIONER MAY BY ORDER REOPEN AND ALTER, MODIFY, OR SET ASIDE, IN
20 WHOLE OR IN PART, AN ORDER ISSUED UNDER THIS SECTION IF, IN THE
21 OPINION OF THE COMMISSIONER, CONDITIONS OF FACT OR LAW HAVE
22 CHANGED TO REQUIRE THAT ACTION OR THE PUBLIC INTEREST REQUIRES
23 THAT ACTION.

24 (3) IF A PERSON KNOWINGLY VIOLATES A CEASE AND DESIST ORDER
25 UNDER THIS SECTION AND HAS BEEN GIVEN NOTICE AND AN OPPORTUNITY
26 FOR A HEARING HELD PURSUANT TO ACT NO. 306 OF THE PUBLIC ACTS OF
27 1969, THE COMMISSIONER MAY ORDER A CIVIL FINE OF \$10,000.00 FOR

1 EACH VIOLATION, OR A SUSPENSION, LIMITATION, OR REVOCATION OF A
2 PERSON'S LICENSE, OR BOTH. A FINE COLLECTED UNDER THIS SUBSEC-
3 TION SHALL BE TURNED OVER TO THE STATE TREASURER AND CREDITED TO
4 THE GENERAL FUND.

5 (4) THE COMMISSIONER MAY APPLY TO THE INGHAM COUNTY CIRCUIT
6 COURT FOR AN ORDER OF THE COURT ENJOINING A VIOLATION OF THIS
7 ACT.

8 Sec. 222. (1) The commissioner in person or by any of his
9 or her authorized deputies or examiners may examine any or all of
10 the books, records, documents, and papers of any ~~insurance~~
11 ~~corporation~~ INSURER at any time after its articles of incorpora-
12 tion have been executed and filed, or after it has been autho-
13 rized to do business in this state. The commissioner at his or
14 her discretion shall examine into the affairs of any ~~fire~~
15 DOMESTIC insurer, ~~incorporated under any law of this state,~~ and
16 whenever he or she ~~deems~~ CONSIDERS it expedient so to do, to
17 examine into the affairs of any ~~such~~ FOREIGN OR ALIEN insurer
18 ~~incorporated under the laws of any other state of the United~~
19 ~~States~~ doing business by its agents in this state. The commis-
20 sioner in person or by any of his or her authorized deputies or
21 examiners shall once every 5 years examine the books, records,
22 documents, and papers of each domestic insurer. The commissioner
23 may examine an insurer more frequently and upon its request shall
24 examine a domestic insurer that has not been examined for the 3
25 years immediately preceding the request.

26 (2) The business affairs, assets, and contingent liabilities
27 of ~~reciprocal~~ insurers shall be subject to examination by the

1 commissioner at any time. The commissioner may supervise and
2 make the same examination of the business and affairs of every
3 foreign or alien insurer doing business in this state as of
4 domestic insurers doing the same kind of business and of its
5 assets, books, accounts, and general condition. Every ~~such~~
6 foreign or alien insurer and its agents and officers ~~shall~~
7 ~~always be~~ ARE subject to ~~and be~~ THE SAME OBLIGATION; ARE
8 required to make ~~the same~~ statements and answer ~~the same~~
9 inquiries; and ~~be~~ ARE subject to the same examinations, and, in
10 case of default therein, to the same penalties and liabilities as
11 domestic ~~insurance corporations~~ INSURERS doing the same kind of
12 business, or any of the agents or officers thereof, are or may be
13 liable to under the laws of this state or the regulations of the
14 insurance department. The commissioner may, whenever he or she
15 deems it necessary, either in person or by a proper person
16 appointed by him or her, repair to the general office of ~~such~~
17 THE foreign or alien insurer, wherever the same may be, and make
18 an investigation and examination of its affairs and condition.

19 (3) Upon such an examination the commissioner, his or her
20 deputy or any examiner authorized by him or her, may examine IN
21 PERSON, BY WRITING, AND IF APPROPRIATE, under oath the officers
22 or agents of the insurer or all persons ~~deemed~~ CONSIDERED to
23 have material information regarding the insurer's property or
24 business. THE COMMISSIONER MAY COMPEL THE ATTENDANCE AND TESTI-
25 MONY OF WITNESSES AND THE PRODUCTION OF ANY BOOKS, ACCOUNTS,
26 PAPERS, RECORDS, DOCUMENTS, AND FILES RELATING TO THE INSURER'S
27 BUSINESS OR AFFAIRS, AND MAY SIGN SUBPOENAS, ADMINISTER OATHS AND

1 AFFIRMATIONS, EXAMINE WITNESSES, AND RECEIVE EVIDENCE FOR THIS
2 PURPOSE. The insurer ~~—~~ AND its officers and agents ~~—~~ shall
3 produce its books and all papers in its or their possession
4 relating to its business or affairs, and any other person may be
5 required to produce any books or papers ~~deemed to be~~ CONSIDERED
6 relevant to the examination for the inspection of the commission-
7 er, OR his or her deputy or examiners, whenever required. ~~—, and~~
8 ~~the~~ THE INSURER'S officers or agents ~~of the insurer~~ shall
9 facilitate the examination and aid in making the same so far as
10 it is in their power to do so. IF THE COMMISSIONER'S ORDER OR
11 SUBPOENA IS NOT FOLLOWED, THE COMMISSIONER MAY REQUEST THE INGHAM
12 COUNTY CIRCUIT COURT TO ISSUE AN ORDER REQUIRING COMPLIANCE WITH
13 THE COMMISSIONER'S ORDER OR SUBPOENA.

14 (4) The deputy or examiners shall make a full and true
15 report, and furnish the insurer a copy of the examination report
16 that shall comprise only facts appearing on the INSURER'S books,
17 records, or documents ~~of the insurer~~ or ascertained from ~~sworn~~
18 ~~testimony~~ EXAMINATION of its officers or agents or other persons
19 ~~examined under oath,~~ concerning its affairs and the conclusions
20 and recommendations as may be reasonably warranted from the facts
21 disclosed. ~~The commissioner shall grant a hearing to any~~ ANY
22 insurer examined, upon its request, SHALL BE PROVIDED WITH A CON-
23 FERENCE TO REVIEW THE FACTS, CONCLUSIONS, AND RECOMMENDATIONS ON
24 THE REPORT WITH THE COMMISSIONER before ~~filing~~ the report IS
25 FILED. Upon request of the insurer, ~~subject to the hearing, the~~
26 ~~hearing~~ THE REVIEW CONFERENCE shall be closed to the public.
27 Each examination report shall be withheld from public inspection

1 until the report is final and filed with the commissioner. In
2 addition, the commissioner may withhold any examination report
3 from public inspection for such time as he or she may ~~deem~~
4 CONSIDER proper. In any event, all ~~insurance bureau materials~~
5 WORK PAPERS related to an examination report shall be withheld
6 from public inspection, ~~and~~ shall be confidential, SHALL NOT BE
7 SUBJECT TO SUBPOENA, AND SHALL NOT BE DIVULGED TO ANY PERSON,
8 EXCEPT AS PROVIDED IN THIS SECTION. THE INFORMATION MAY BE DIS-
9 CLOSED AS FOLLOWS:

10 (A) TO THE ATTORNEY GENERAL.

11 (B) TO ANY REGULATORY AGENCY, INCLUDING REGULATORY AGENCIES
12 OF OTHER STATES OR THE FEDERAL GOVERNMENT.

13 (C) IN CONNECTION WITH AN ENFORCEMENT ACTION BROUGHT PURSU-
14 ANT TO THIS OR ANOTHER APPLICABLE ACT.

15 (D) TO LAW ENFORCEMENT OFFICIALS.

16 (E) TO PERSONS AUTHORIZED BY THE INGHAM COUNTY CIRCUIT COURT
17 TO RECEIVE THE INFORMATION. ~~This subsection shall not be con-~~
18 ~~strued as prohibiting the commissioner from releasing to another~~
19 ~~state's insurance commissioner information relating to the exami-~~
20 ~~nation of an insurer if the commissioner from the other state~~
21 ~~provides assurances that the information will be kept~~
22 ~~confidential.~~

23 (5) Notwithstanding the other provisions of this section,
24 the commissioner is not required to finalize and file an examina-
25 tion report for an insurer for a year in which an examination
26 report was not finalized and filed, if the insurer is currently

1 undergoing an examination subsequent to the year for which an
2 examination report was not finalized and filed.

3 (6) The examination of an alien insurer shall be limited to
4 its United States business, except as otherwise required by the
5 commissioner.

6 Sec. 224. (1) All actual and necessary expenses incurred in
7 connection with the examination or other investigation of ~~any~~
8 AN insurer ~~made pursuant to this code~~ OR OTHER PERSON REGULATED
9 BY THIS ACT shall be certified by the commissioner, together with
10 a statement of the number of days spent by THE COMMISSIONER AND
11 each of ~~his~~ THE COMMISSIONER'S deputies, assistants, and
12 employees ~~or the commissioner himself,~~ upon ~~such~~ THE examina-
13 tion or investigation, to the ~~accounting~~ DEPARTMENT OF
14 COMMERCE'S BUDGET/FINANCE division. ~~of the department of admin-~~
15 ~~istration, who shall, if~~ IF correct, THE DEPARTMENT OF
16 COMMERCE'S BUDGET/FINANCE DIVISION SHALL approve the ~~same,~~
17 EXPENSES and ~~such~~ THE expenses shall be paid to the persons by
18 whom they were incurred, upon the warrant of the state treasurer
19 payable from appropriations made by the legislature for this
20 purpose.

21 (2) The commissioner shall prepare and present to the
22 insurer ~~so~~ OR OTHER PERSON examined or investigated a statement
23 of ~~such~~ THE expenses and a ~~per diem~~ REASONABLE COST for each
24 person engaged upon ~~such~~ THE examination or investigation, ~~not~~
25 ~~to exceed an amount~~ INCLUDING AMOUNTS necessary to cover the pay
26 and allowances granted to ~~each such person~~ THE PERSONS by the
27 Michigan civil service commission, and the administration and

1 supervisory expense including an amount necessary to cover fringe
2 benefits in conjunction with ~~such~~ THE examination or
3 investigation. The insurer OR OTHER PERSON, upon receiving
4 ~~such~~ THE statement, shall pay to the commissioner the STATED
5 amount. ~~stated therein.~~ The commissioner shall deposit ~~such~~
6 THE funds with the state treasurer.

7 (3) The commissioner may employ ~~such~~ AT THE INSURER'S OR
8 OTHER PERSON'S EXPENSE THE ATTORNEYS, ACTUARIES, ACCOUNTANTS,
9 INVESTMENT ADVISERS, AND OTHER expert personnel ~~as may be~~ NOT
10 OTHERWISE EMPLOYEES OF THIS STATE REASONABLY necessary ~~for other~~
11 ~~than routine~~ TO ASSIST IN THE CONDUCT OF THE examination OR
12 INVESTIGATION of ~~any~~ AN insurer ~~, organized, authorized, or~~
13 ~~incorporated under the provisions of~~ OR OTHER PERSON REGULATED
14 BY THE COMMISSIONER PURSUANT TO this ACT. ~~code, and the per diem~~
15 ~~compensation and expenses of such expert personnel shall be that~~
16 ~~charged by such expert personnel but shall not include the provi-~~
17 ~~sions previously set forth, and shall be paid out by and reim-~~
18 ~~bursed to the state treasurer.~~ UPON CERTIFICATION BY THE COMMIS-
19 SIONER, THE INSURER OR OTHER PERSON SHALL PAY THE EXPENSES
20 INCURRED UNDER THIS SECTION DIRECTLY TO THE PERSON OR FIRM
21 RENDERING ASSISTANCE TO THE COMMISSIONER.

22 (4) AN INSURER SUBJECT TO REGULATORY ASSESSMENT UNDER THIS
23 ACT AND NOT DELINQUENT IN PAYING THAT ASSESSMENT SHALL RECEIVE A
24 CREDIT TOWARD FUTURE ANNUAL ASSESSMENTS EQUAL TO THE COSTS
25 INCURRED AND PAID BY THE INSURER UNDER THIS SECTION.

26 Sec. 228. If it appears from ~~any~~ AN examination OR OTHER
27 INVESTIGATION made by the commissioner or IF IT APPEARS from

1 ~~any~~ A report made to ~~him~~ THE COMMISSIONER pursuant to this
2 ~~code,~~ ACT that ~~any provisions~~ A CRIME HAS BEEN COMMITTED
3 UNDER A PROVISION of this ~~code~~ ACT or ~~of any laws~~ OTHER LAW
4 of the state, ~~have been violated,~~ the commissioner shall
5 ~~immediately~~ report ~~such violation~~ IMMEDIATELY THE CRIME to
6 the attorney general in writing, and the attorney general shall
7 take such action ~~thereon~~ ON THE REPORT as the facts warrant.

8 Sec. 244. ~~(1) Any final order or decision made, issued, or~~
9 ~~executed by the commissioner under this insurance code shall be~~
10 ~~subject to review, after hearing had before the commissioner or a~~
11 ~~deputy commissioner without leave by the circuit court of Ingham~~
12 ~~county or the circuit court of the county in which the principal~~
13 ~~office in this state of the insurer aggrieved by such order or~~
14 ~~decision is located, or where the person resides against whom~~
15 ~~such order is directed.~~

16 ~~(2) A petition as of right for the review of such order or~~
17 ~~decision shall be filed within 30 days from the date of service~~
18 ~~of a copy of said order or decision upon the insurer or other~~
19 ~~person against whom said order or decision shall run. Copy of~~
20 ~~such petition for review as filed with and certified by the clerk~~
21 ~~of the court shall be served upon the commissioner, or in his~~
22 ~~absence upon someone in active charge of the department of insur-~~
23 ~~ance, within 5 days after the filing thereof. If no such peti-~~
24 ~~tion for review is filed within the said 30 days, the party~~
25 ~~aggrieved shall be deemed to have waived the right to have the~~
26 ~~merits of the order or decision reviewed, and there shall be no~~
27 ~~trial of the merits thereof by any court to which application may~~

1 ~~be made by petition or otherwise. Within 10 days after the~~
2 ~~service of copy of the petition for review, unless the time be~~
3 ~~extended by order of court, the commissioner shall prepare and~~
4 ~~file with the clerk of the court in which the petition for review~~
5 ~~was filed, a complete transcript of the record of the hearing had~~
6 ~~before him, and a true and certified copy of his order or~~
7 ~~decision.~~

8 ~~(3) The cause shall be heard before the said court as a~~
9 ~~civil case in chancery upon such transcript of the record and~~
10 ~~such additional evidence as may be offered by any of the parties~~
11 ~~at the hearing of said cause before the court. It shall be the~~
12 ~~duty of the court to hear and determine such petition with all~~
13 ~~convenient speed. If on the hearing before the court it shall~~
14 ~~appear that the record filed by the commissioner is incomplete,~~
15 ~~the court by appropriate order may direct the commissioner to~~
16 ~~certify any or all parts of the records so omitted. The com-~~
17 ~~mencement of proceedings under this section shall not operate as~~
18 ~~a stay of the commissioner's order or decision unless so ordered~~
19 ~~by the court, and under such conditions as the court may impose.~~
20 ~~The court shall have the jurisdiction to affirm, modify, or to~~
21 ~~set aside the order or decision of the commissioner and to~~
22 ~~restrain the enforcement thereof.~~

23 ~~(4) Appeals from all final orders and decrees entered by the~~
24 ~~circuit court in reviewing the orders and decisions of the com-~~
25 ~~missioner may be taken to the supreme court of Michigan by any~~
26 ~~party to the action as in other civil cases.~~

1 (1) A PERSON AGGRIEVED BY A FINAL ORDER, DECISION, FINDING,
2 RULING, OPINION, RULE, ACTION, OR INACTION PROVIDED FOR UNDER
3 THIS ACT MAY SEEK JUDICIAL REVIEW IN THE MANNER PROVIDED FOR IN
4 CHAPTER 6 OF THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT
5 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.301 TO
6 24.328.

7 (2) IN APPEALS INVOLVING ORDERS ISSUED PURSUANT TO SECTIONS
8 436A, 436B, 437, OR ANY OTHER PROCEEDING FOR THE SUSPENSION,
9 REVOCATION, OR LIMITATION OF A CERTIFICATE OF AUTHORITY, A COURT
10 SHALL NOT ISSUE A STAY OF THE COMMISSIONER'S ORDER DURING THE
11 PENDENCY OF THE APPEAL UNLESS THE COURT HOLDS A SPECIAL HEARING
12 ON THE ISSUE AND FINDS THAT ISSUANCE OF A STAY IS NOT HAZARDOUS
13 TO POLICYHOLDERS, CREDITORS, OR THE PUBLIC. AN ORDER OF A COURT
14 ISSUING A STAY MAY BE APPEALED ON AN EMERGENCY BASIS, AND DURING
15 THE PENDENCY OF AN APPEAL THE STAY ISSUED SHALL BE WITHOUT FORCE
16 OR EFFECT. THE COURT MAY AFFIRM, MODIFY, OR SET ASIDE THE
17 COMMISSIONER'S ORDER AND RESTRAIN THE ENFORCEMENT OF THE ORDER.
18 TO THE EXTENT THAT THE COMMISSIONER'S ORDER IS AFFIRMED, THE
19 COURT SHALL ISSUE ITS OWN ORDER COMMANDING OBEDIENCE TO THE TERMS
20 OF THE COMMISSIONER'S ORDER.

21 Sec. 402a. The following constitute transactions of insur-
22 ance in this state, whether effected by mail or otherwise, FOR
23 WHICH A CERTIFICATE OF AUTHORITY IS REQUIRED:

24 (A) ~~-(+)-~~ The issuance or delivery of INSURANCE contracts
25 ~~of insurance to persons resident in this state, or~~ STATE
26 RESIDENTS.

1 (B) ~~-(2)-~~ The solicitation of applications for ~~-such-~~
2 INSURANCE contracts ~~or~~ FROM STATE RESIDENTS.

3 (C) ~~-(3)-~~ The collection of premiums, membership fees,
4 assessments, or other consideration for ~~-such-~~ INSURANCE con-
5 tracts ~~or~~ FROM STATE RESIDENTS.

6 (D) ~~-(4)-~~ The doing or proposing to do any act in substance
7 equivalent to ~~any of the foregoing~~ SUBDIVISIONS (A) TO (C).

8 Sec. 402b. The following do not constitute transactions of
9 insurance in this state ~~within the meaning of sections 402 and~~
10 ~~402a~~ FOR WHICH A CERTIFICATE OF AUTHORITY IS REQUIRED:

11 (a) Transaction of insurance under chapter 19.

12 (b) Transaction of reinsurance.

13 (c) Transaction of insurance on a risk not resident or
14 located in this state at the time the insurance took effect,
15 ~~when~~ IF the insurance was not written in this state.

16 (d) Transaction of group or blanket insurance or group annu-
17 ities in which a master policy was lawfully issued ~~and delivered~~
18 ~~in states in which the insurer was authorized to transact~~
19 ~~insurance. However, the delivery in this state of certificates~~
20 ~~for out of state group policies under trusts which are estab-~~
21 ~~lished or marketed by an entity not insured or subject to the~~
22 ~~laws of Michigan, shall constitute the transaction of insurance,~~
23 ~~and shall be subject to the requirements of chapter 22.~~ TO AN
24 EMPLOYER LOCATED IN ANOTHER STATE FOR THE BENEFIT OF EMPLOYEES
25 RESIDING IN THIS STATE.

26 (e) Transaction of PROPERTY OR CASUALTY insurance, under the
27 same policy, on 1 or more risks resident or located both within

1 and outside this state, ~~when~~ IF, under all the circumstances of
 2 the transaction, any appropriate part of the premium on the
 3 policy was apportioned to this state. ~~However, the delivery in~~
 4 ~~this state of certificates for out of state group policies under~~
 5 ~~trusts which are established or marketed by an entity not insured~~
 6 ~~or subject to the laws of Michigan, shall constitute the transac-~~
 7 ~~tion of insurance, and shall be subject to the requirements of~~
 8 ~~chapter 22.~~

9 (f) Transaction of insurance as defined in sections 614 and
 10 616.

11 (g) Transaction of insurance independently procured through
 12 negotiations occurring entirely outside of this state.

13 (h) Transaction of insurance by a nonprofit life insurance
 14 company, ~~when~~ IF the transactions involve life insurance, dis-
 15 ability, or annuity contracts issued direct from the home office
 16 of the company, without agents or representatives in this state
 17 other than representatives servicing life insurance, disability,
 18 annuity contracts, or providing information upon request concern-
 19 ing other products of the company, only to or for the benefit of
 20 employees of nonprofit educational, scientific, or religious
 21 institutions. The transactions defined in this subdivision
 22 ~~shall~~ DO not include those of a fraternal benefit society, as
 23 defined in section 8164.

24 Sec. 403. ~~(1) No~~ A DOMESTIC, foreign, or alien insurer
 25 shall NOT be authorized to do business in this state ~~nor given~~
 26 ~~renewed certificates of authority, that~~ OR CONTINUE TO BE
 27 AUTHORIZED TO DO BUSINESS IN THIS STATE IF THE INSURER is not

1 ~~and~~ OR does not continue to be ~~solvent~~ SAFE, RELIABLE, AND
2 ENTITLED TO PUBLIC CONFIDENCE.

3 ~~(2) No life insurer shall be permitted to transact business~~
4 ~~within this state, unless the amount of its assets shall equal~~
5 ~~the net value of all its outstanding obligations, or, in the case~~
6 ~~of an alien insurer, the net value of all its outstanding obliga-~~
7 ~~tions to residents of these United States, as determined accord-~~
8 ~~ing to the assumptions in regard to rates of interest and mortal-~~
9 ~~ity as hereinafter provided in sections 830 through 838.~~

10 Sec. 404. Every foreign OR ALIEN insurer doing business in
11 this state shall AT ALL TIMES be ~~possessed of such an amount of~~
12 ~~capital or surplus or assets as the case may be~~ SUBJECT TO THE
13 SAME STANDARDS AND REQUIREMENTS CONCERNING FINANCIAL CONDITIONS
14 as are required of ~~,~~ and ~~computed by the same rules as are~~
15 applied to ~~,~~ like domestic insurers. ~~,~~ and the commissioner
16 shall not authorize any foreign insurer to transact any kind of
17 insurance in this state unless and until such insurer is pos-
18 sessed of such required amount of capital or surplus or assets.

19 SEC. 405. THE CERTIFICATE OF AUTHORITY OF A FOREIGN INSURER
20 WITH RESPECT TO WHOM CONTROL WITHIN THE MEANING OF THIS ACT
21 CHANGES AFTER THE EFFECTIVE DATE OF THIS SECTION WITHOUT BEING
22 SUBJECT TO THE COMMISSIONER'S APPROVAL SHALL BE AUTOMATICALLY
23 SUSPENDED WITHOUT FURTHER ACTION BY THE COMMISSIONER UNLESS,
24 WITHIN 90 DAYS OF THE CHANGE OF CONTROL OR A LONGER PERIOD IF THE
25 COMMISSIONER ALLOWS, THE INSURER QUALIFIES FOR A CERTIFICATE OF
26 AUTHORITY UNDER THE PROVISIONS OF THIS ACT IN FORCE AS OF THE
27 CHANGE OF CONTROL. THE CERTIFICATE OF AUTHORITY SHALL BE REVOKED

1 UNDER SUCH CONDITIONS FOR THE PROTECTION OF POLICYHOLDERS,
 2 CREDITORS, AND THE PUBLIC AS THE COMMISSIONER MAY REQUIRE UNLESS
 3 THE INSURER HAS QUALIFIED FOR A CERTIFICATE OF AUTHORITY WITHIN
 4 THE TIME LIMITS SET BY THE COMMISSIONER.

5 Sec. 408. (1) To qualify for authority to transact insur-
 6 ance in this state a domestic, foreign, or alien ~~stock or~~
 7 ~~mutual~~ insurer ~~, or a domestic or foreign reciprocal insurer,~~
 8 shall possess and thereafter maintain paid-in capital or surplus
 9 or assets in amount of not less than as shown by the applicable
 10 portion of the following schedule:

11 * * * * ILLUSTRATION MISSING--SEE 1979 MCL BOOK * * * *

12 Multiple lines: Any ~~stock or mutual casualty insurer, or~~
 13 ~~any stock property & marine insurer, or general mutual insurer~~
 14 ~~authorized to transact the kinds of insurance permitted under~~
 15 ~~section 5814, or reciprocal~~ insurer ~~, may reinsure risks of~~
 16 every kind or description and write any and all kinds of insur-
 17 ance other than life insurance ~~, FOR WHICH IT IS AUTHORIZED~~
 18 while it maintains paid-up capital ~~of~~ AND SURPLUS OF not less
 19 than \$500,000.00. ~~, or a minimum capital and surplus of~~
 20 ~~\$500,000.00 (if a stock insurer) or surplus as regards policy~~
 21 ~~holders (if a mutual or reciprocal insurer) of not less than~~
 22 ~~\$500,000.00.~~

23 ~~The following provisos are respectively applicable to the~~
 24 ~~foregoing schedules and provisions as indicated by like Roman~~
 25 ~~numerals appearing in such schedules and provisions:~~

26 ~~(i) Special automobile insurers (stock) are as identified in~~
 27 ~~section 6006.~~

1 ~~(ii) Special automobile insurers (mutual) are as identified~~
2 ~~in section 6014.~~

3 ~~(iii) Special automobile insurers (stock) insuring powers~~
4 ~~are subject to section 6006.~~

5 ~~(iv) Special automobile insurers (mutual) insuring powers~~
6 ~~are subject to section 6014.~~

7 ~~(v) Property & marine as here used includes property, inland~~
8 ~~navigation and transportation, automobile (limited), and marine~~
9 ~~insurances as defined in chapter 6.~~

10 ~~(vi) General mutual insuring powers are subject to section~~
11 ~~5814.~~

12 ~~(vii) To include insurance of workmen's compensation, assets~~
13 ~~must be at least \$100,000.00.~~

14 ~~(viii) Alien life insurer must also maintain deposit of~~
15 ~~reserves as provided by section 414.~~

16 ~~(ix) Subject to section 413(2).~~

17 ~~(x) The capital of a stock insurer to do a fidelity and~~
18 ~~surety business shall, in addition to the capital required in any~~
19 ~~other business in which it may be lawfully engaged, be not less~~
20 ~~than \$250,000.00.~~

21 (2) An insurer authorized to transact casualty insurance
22 shall ALSO have authority to transact ~~also~~ disability insurance
23 without additional capital, surplus, or assets, as the case may
24 be. ~~—, but subject to the provisions of section 5814 in the case~~
25 ~~of domestic and foreign mutual insurers, section 6006 in the case~~
26 ~~of special automobile insurers (stock), and section 6014 in the~~
27 ~~case of special automobile insurers (mutual).~~

1 (3) A domestic stock insurer ~~heretofore~~ organized to
2 insure on the monthly or weekly premium payment plan any person
3 ~~or persons~~ against bodily injury or death by accident ~~—~~ or
4 against disability on account of sickness, or to provide a cash
5 funeral benefit not exceeding \$500.00, shall have paid-in capital
6 stock of not less than \$25,000.00.

7 (4) As to a reciprocal insurer the authority to transact
8 disability insurance, either alone or in combination with other
9 insuring powers, ~~shall~~ DOES not include authority to transact
10 health insurance.

11 (5) Financial requirements as to cooperative assessment
12 life, disability, and loss of position insurers, as identified in
13 chapter 64, ~~of this code,~~ shall be as provided in ~~such~~ THAT
14 chapter. ~~64.~~ Financial requirements as to domestic stock insur-
15 ers formed to insure railway employees against loss of position,
16 ~~and~~ to transact disability and life insurance, and to make
17 annuities ~~—~~ as identified in section 6604 ~~—~~ shall be as pro-
18 vided in section 6608.

19 (6) This section applies to domestic insurers organized
20 prior to ~~the effective date of section 410~~ JULY 21, 1965 and to
21 foreign and alien insurers not subject to the provisions of sec-
22 tion 410. HOWEVER, DOMESTIC INSURERS ORGANIZED PRIOR TO JULY 21,
23 1965 AND ANY FOREIGN AND ALIEN INSURERS NOT SUBJECT TO THE PROVI-
24 SIONS OF SECTION 410 THAT SUBSEQUENTLY ATTAIN THE LEVEL OF CAPI-
25 TAL OR SURPLUS REQUIRED BY SECTION 410 ARE REQUIRED THEREAFTER TO
26 MAINTAIN COMPLIANCE WITH SECTION 410.

1 (7) NOTWITHSTANDING THE SPECIFIC REQUIREMENTS OF THIS
2 SECTION, DOMESTIC, FOREIGN, AND ALIEN INSURERS SHALL ALSO COMPLY
3 WITH THE STANDARD SET FORTH IN SECTION 403.

4 Sec. 410. (1) To qualify for AND MAINTAIN authority to
5 transact insurance in this state after July 21, 1965, a domestic,
6 foreign, or alien insurer shall possess and thereafter maintain
7 unimpaired ~~paid in~~ capital ~~if a stock insurer or unimpaired~~
8 AND surplus ~~if a mutual or reciprocal insurer~~ in an amount
9 CONSIDERED ADEQUATE BY THE COMMISSIONER TO COMPLY WITH SECTION
10 403 BUT not less than \$1,000,000.00.

11 (2) In addition to the minimum ~~paid in~~ capital ~~or~~
12 ~~minimum~~ AND surplus specified in subsection (1), an insurer
13 ~~hereafter~~ applying for an initial certificate of authority in
14 this state shall possess AND MAINTAIN surplus or additional sur-
15 plus in an amount ~~deemed~~ CONSIDERED by the commissioner ade-
16 quate TO COMPLY WITH SECTION 403 for the kind or kinds of insur-
17 ance it writes or proposes to write, but in no event less than
18 \$500,000.00. ~~After issuance of its initial certificate of~~
19 ~~authority the insurer may use the surplus required under this~~
20 ~~subsection in the normal course of its business, however the min-~~
21 ~~imum capital or surplus required by subsection (1) must never be~~
22 ~~impaired.~~

23 (3) Except as provided by section 407, every insurer autho-
24 rized to transact insurance in this state may transact life
25 insurance or property insurance but not both, unless it was
26 authorized to transact such other kind or kinds of insurance in
27 this state immediately prior to January 1, 1965. For the purpose

1 of this section, life insurance includes any ~~one~~ 1 or more of
2 the insurances described in sections 602 and 606; property insur-
3 ance includes any ~~one~~ 1 or more of the insurances described in
4 chapter 6, excepting only section 602 and those provisions of
5 section 632 ~~which~~ THAT apply to insurances described in section
6 602. Nothing ~~herein~~ IN THIS SECTION shall be construed to
7 broaden the authority of reciprocal insurers.

8 (4) This section ~~shall~~ DOES not apply to a domestic mutual
9 insurer organized under chapter 58, all of whose contracts comply
10 with section 5828(1).

11 (5) Except as provided in subsection (6), an insurer autho-
12 rized to transact insurance prior to July 21, 1965 may continue
13 to transact insurance so long as it maintains the minimum finan-
14 cial requirements of section 408. HOWEVER, AN INSURER AUTHORIZED
15 TO TRANSACT INSURANCE PRIOR TO JULY 21, 1965, THAT SUBSEQUENTLY
16 ATTAINS THE LEVEL OF MINIMUM CAPITAL OR SURPLUS REQUIRED BY SUB-
17 SECTION (1) SHALL MAINTAIN COMPLIANCE WITH THIS SECTION.

18 (6) An insurer shall not be authorized to transact legal
19 expense insurance unless it meets the capital and surplus
20 requirements of subsections (1) and (2).

21 (7) NOTWITHSTANDING THE SPECIFIC REQUIREMENTS OF THIS SEC-
22 TION, DOMESTIC, FOREIGN, AND ALIEN INSURERS SHALL ALSO COMPLY
23 WITH THE STANDARD SET FORTH IN SECTION 403.

24 Sec. 411. (1) To qualify for AND MAINTAIN authority to
25 transact insurance in this state a domestic insurer shall main-
26 tain a deposit with the state treasurer of \$300,000.00 OR SUCH
27 LARGER AMOUNT AS THE COMMISSIONER CONSIDERS APPROPRIATE TAKING

1 INTO CONSIDERATION THE ACTUAL OR ANTICIPATED PREMIUM VOLUME OF
2 THE INSURER AND THE CHARACTERISTICS OF, AND THE DEGREE OF RISK
3 INHERENT IN, THE INSURANCE BUSINESS WRITTEN BY THE INSURER. If a
4 domestic insurer doing business on ~~the effective date of this~~
5 ~~section~~ JANUARY 9, 1973 has assets of less than \$750,000.00, the
6 commissioner may approve a smaller deposit appropriate to the
7 size of the insurer and the character of its business but not
8 less than \$50,000.00. The deposit shall consist of cash or
9 securities at market value, exclusive of interest, of the kinds
10 defined in section 912. The deposit shall be held by the state
11 treasurer for the benefit of the policyholders of the insurer and
12 shall be administered as directed in section 464. A policyholder
13 of an insurer includes any person having a legal or equitable
14 right arising out of an insurance or annuity contract issued by
15 the insurer.

16 (2) To qualify for AND MAINTAIN authority to transact insur-
17 ance in this state a foreign insurer shall maintain a deposit ~~of~~
18 ~~\$300,000.00~~ with the state treasurer or with the treasurer or
19 other state officer of the state in which the insurer is
20 ~~incorporated~~ DOMICILED of the same kinds, IN THE SAME AMOUNTS,
21 and for the same purpose as required in subsection (1) for domes-
22 tic insurers.

23 (3) To qualify for AND MAINTAIN authority to transact insur-
24 ance in this state an alien insurer entering through this state
25 to transact insurance in the United States shall maintain a
26 deposit ~~of \$300,000.00~~ with the state treasurer and an alien
27 insurer entering through a state other than this state to

1 transact insurance in the United States shall maintain a deposit
2 ~~of \$300,000.00~~ with the state treasurer or with the treasurer
3 or other state officer of the state through which the insurer
4 entered of the same kinds, IN THE SAME AMOUNTS, and for the same
5 purpose as required in subsection (1) for domestic insurers.

6 (4) To qualify for authority to transact insurance in this
7 state an alien insurer shall maintain deposits, including those
8 required in subsection (3), with the state treasurer, with offi-
9 cers of states other than this state or with trustees resident in
10 the United States or with any combination of such persons, under
11 trust indentures approved by the commissioner. The insurer shall
12 cause the persons holding the deposits to make to the insurance
13 regulatory authority of the state through which the insurer
14 entered to transact insurance in the United States, a report,
15 under oath on or before March 1 of each year, of the insurer's
16 deposits as of December 31 of the preceding year. The deposits
17 shall be in cash or in securities of the kinds defined by sec-
18 tions 910 to 947 ~~—~~ AND shall not include any securities issued
19 by the insurer or by a person affiliated with the insurer.
20 ~~unless the person is at least 51% controlled and is an autho-~~
21 ~~rized subsidiary organized and formed within the boundaries of~~
22 ~~the United States or Canada and~~ HOWEVER, IF THE ALIEN INSURER
23 DOES NOT ISSUE INTEREST SENSITIVE CONTRACTS IN THE UNITED STATES,
24 THE DEPOSITS REQUIRED MAY INCLUDE SECURITIES ISSUED BY A PERSON
25 AFFILIATED WITH THE INSURER THAT IS AT LEAST 51% CONTROLLED AND
26 IS AN AUTHORIZED SUBSIDIARY ORGANIZED AND FORMED WITHIN THE
27 BOUNDARIES OF THE UNITED STATES OR CANADA. REGARDLESS OF THE

1 APPLICABILITY OF THIS EXCEPTION, ALL DEPOSITS OF ALIEN INSURERS
2 shall satisfy the following conditions:

3 (a) The deposits shall be not less than the amount of
4 liabilities with respect to the insurer's business in the United
5 States.

6 (b) The deposits, if the insurer is a life insurer, shall be
7 held for the benefit of policyholders who were residents of the
8 United States on the date of issuance of the policy and for the
9 benefit of creditors of the insurer within the United States.

10 (c) The deposits, if the insurer is not a life insurer,
11 shall be held for the benefit of policyholders and creditors
12 within the United States.

13 (d) The value of the securities deposited by an alien
14 insurer ~~which~~ THAT is an insurer authorized to transact the
15 business of life insurance ~~—~~ issued by an affiliate shall not
16 exceed the following:

17 (i) Not more than 5% of the total assets of the insurer for
18 securities of each affiliate ~~which~~ THAT holds a certificate of
19 authority to transact the business of life insurance, subject to
20 an aggregate limit of not more than 35% of trusted assets for
21 investments in all affiliates described in this subparagraph.

22 (ii) Not more than 5% of the total assets of the insurer for
23 securities of each affiliate ~~which~~ THAT does not hold a certifi-
24 cate of authority to transact the business of life insurance,
25 subject to an aggregate limit of 15% of trusted assets for
26 investments in all affiliates described in this subparagraph.

1 ~~(e) The value of the securities deposited by an alien~~
 2 ~~insurer which is not an insurer authorized to transact the~~
 3 ~~business of life insurance, issued by an affiliate shall be~~
 4 ~~limited to 2% of trusted assets except that, with the prior~~
 5 ~~approval of the commissioner, the maximum may be 4% of trusted~~
 6 ~~assets.~~

7 (E) ~~(f)~~ The value of the securities deposited under this
 8 subsection shall be determined in accordance with section
 9 ~~901(4)~~ 901.

10 Sec. 416. As a condition of ~~transacting~~ QUALIFYING FOR
 11 AND MAINTAINING AUTHORITY TO TRANSACT insurance in this state,
 12 the commissioner may require an insurer to maintain a special
 13 deposit with the state treasurer in such amount as the commis-
 14 sioner considers necessary for the protection of Michigan policy-
 15 holders and claimants. The special deposit is subject to special
 16 deposit claims pursuant to section 8141a.

17 Sec. 424. (1) ~~No~~ A foreign or alien insurer shall
 18 ~~hereafter~~ NOT be admitted to this state until ~~such~~ THE
 19 insurer ~~shall file~~ FILES with the commissioner an application
 20 ~~therefor~~ FOR ADMISSION upon ~~such~~ A form as ~~the commissioner~~
 21 ~~shall prescribe.~~ ~~Such~~ PRESCRIBED BY THE COMMISSIONER. THE
 22 application shall be accompanied by a copy of the insurer's
 23 charter, compact, or articles of incorporation or agreement, and
 24 bylaws, duly certified by the commissioner of insurance or corre-
 25 sponding officer of the state of origin or entry, together with a
 26 sworn statement of ~~such~~ THE insurer's business affairs up to
 27 any date required by the commissioner ~~of insurance of this~~

1 ~~state~~ to be furnished ~~him,~~ and any other information, under
2 oath or otherwise, that the commissioner may demand of ~~such~~ THE
3 applicant.

4 (2) In addition to ~~the foregoing~~ SUBSECTION (1), an alien
5 insurer shall make and execute ~~—~~ under oath ~~—~~ a report of its
6 financial standing ~~—~~ and of its deposit together with a full
7 statement of its business in the United States for the year
8 ~~next~~ preceding ~~such~~ THE statement ~~—, in the same manner and~~
9 ~~form and at the same time as is now required by law of insurers~~
10 ~~of other states of the United States~~ PURSUANT TO SECTION 438.

11 (3) The commissioner shall examine ~~such~~ THE application
12 and if satisfied that ~~such~~ THE applicant is safe, reliable, and
13 entitled to public confidence and ~~is possessed of the capital~~
14 ~~and assets~~ MEETS THE SAME FINANCIAL CONDITIONS required of like
15 insurers organized in this state, is authorized to do the kind or
16 class of insurance it seeks to transact, and has complied in all
17 other respects with the APPLICABLE laws of this state, ~~as appli-~~
18 ~~cable thereto, he~~ THE COMMISSIONER shall issue ~~his~~ A certifi-
19 cate of authority to ~~such~~ THE applicant.

20 (4) The applicant shall pay the filing fee as provided by
21 section 240.

22 ~~(5) This section does not apply to reciprocal insurers, nor~~
23 ~~to mutual insurers, other than life insurers, governed by section~~
24 ~~425.~~

25 Sec. 435. (1) The certificate of authority issued by the
26 commissioner to an insurer is evidence of its authority to.

1 transact the kind or kinds of insurance specified in the
2 certificate in this state.

3 (2) A certificate of authority shall remain in force until
4 terminated at the request of the insurer or suspended or revoked
5 by the commissioner.

6 (3) A certificate of authority at all times remains the
7 property of the state. Upon termination at the request of the
8 insurer or revocation by the commissioner, the certificate of
9 authority shall be delivered promptly by the insurer to the
10 commissioner.

11 (4) The commissioner shall not grant the request of an
12 insurer to terminate its certificate of authority as long as the
13 insurer has any obligations outstanding UNDER A POLICY OF
14 INSURANCE to policyholders or claimants ~~under a policy of~~
15 ~~insurance~~ who are STATE residents ~~of this state, unless the~~
16 UNLESS EITHER OF THE FOLLOWING OCCURS:

17 (A) THE insurer has deposited with the state treasurer
18 securities acceptable to the commissioner in an amount equal to
19 its liabilities including its reserves as required by this act in
20 respect to its business in this state, as computed by the commis-
21 sioner, for the sole benefit of its policyholders and creditors
22 resident in this state. The deposits shall be held by the state
23 treasurer and administered as directed by section 464.

24 (B) THE INSURER HAS MADE OTHER PROVISIONS SATISFACTORY TO
25 THE COMMISSIONER TO SECURE OBLIGATIONS TO THE STATE RESIDENT POL-
26 ICYHOLDERS OR CLAIMANTS.

1 Sec. 436. The commissioner may suspend, revoke, or limit
2 the certificate of authority of an insurer if he OR SHE
3 determines that any of the following conditions exist:

4 (a) The insurer no longer meets the requirements of this act
5 REGARDING FINANCIAL CONDITIONS OR CONDUCT INCLUDING THOSE
6 respecting capital, surplus, deposits, or assets.

7 (b) The insurer's condition is SUCH THAT IT IS NO LONGER
8 SAFE, RELIABLE, OR ENTITLED TO PUBLIC CONFIDENCE OR IS unsound,
9 ~~or it is in a condition~~ or THE INSURER is using financial
10 methods and practices in the conduct of its business ~~which~~ THAT
11 render further transaction of insurance by the insurer in this
12 state hazardous ~~or injurious~~ to ~~its~~ policyholders, CREDITORS,
13 or ~~to~~ the public.

14 (c) The insurer's certificate of authority to transact busi-
15 ness in its state of domicile, or in the case of an alien insur-
16 er, in its state of entry, has been suspended or revoked.

17 (d) The insurer has failed, after written request by the
18 commissioner, to remove or discharge an officer or director WHOSE
19 RECORD OF BUSINESS CONDUCT IN THE COMMISSIONER'S OPINION DOES NOT
20 SATISFY THE REQUIREMENTS OF SECTION 436A(1)(K) OR 1315(1)(F) OR
21 who has been convicted of any crime involving fraud, dishonesty,
22 or like moral turpitude.

23 (e) The insurer ~~refuses~~ FAILS to PROMPTLY comply with sec-
24 tions 222 or 438.

25 (f) The insurer has failed for an unreasonable period to pay
26 any final judgment rendered against it in this state on any

1 policy, bond, recognizance, or undertaking issued or guaranteed
2 by it.

3 (g) The insurer has failed, within 30 days after notice of
4 delinquency from the commissioner, to cure its failure to pay the
5 taxes or fees required by ~~the insurance code~~ THIS ACT.

6 (h) The insurer has violated any other provision of this act
7 ~~which~~ THAT provides for suspension or revocation of its certif-
8 icate of authority.

9 SEC. 436A. (1) IN ADDITION TO ANY OTHER RELEVANT STANDARDS,
10 THE COMMISSIONER MAY CONSIDER 1 OR MORE OF THE FOLLOWING TO
11 DETERMINE WHETHER THE CONTINUED OPERATION OF AN INSURER TRANSACT-
12 ING AN INSURANCE BUSINESS IN THIS STATE IS SAFE, RELIABLE, AND
13 ENTITLED TO PUBLIC CONFIDENCE, IS UNSOUND, OR MIGHT BE CONSIDERED
14 HAZARDOUS TO POLICYHOLDERS, CREDITORS, OR THE PUBLIC:

15 (A) AFFIRMATIVE OR ADVERSE FINDINGS REPORTED IN FINANCIAL
16 CONDITION AND MARKET CONDUCT EXAMINATION REPORTS.

17 (B) THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS
18 INSURANCE REGULATORY INFORMATION SYSTEM AND ITS RELATED REPORTS.

19 (C) WHETHER THE RATIOS OF COMMISSION EXPENSE, GENERAL INSUR-
20 ANCE EXPENSE, POLICY BENEFITS, AND RESERVE INCREASES AS TO ANNUAL
21 PREMIUM AND NET INVESTMENT INCOME COULD LIKELY LEAD TO AN IMPAIR-
22 MENT OF CAPITAL AND SURPLUS.

23 (D) WHETHER THE INSURER'S ASSET PORTFOLIO, WHEN VIEWED IN
24 LIGHT OF CURRENT ECONOMIC CONDITIONS, IS OF SUFFICIENT VALUE,
25 LIQUIDITY, OR DIVERSITY TO ASSURE THE INSURER'S ABILITY TO MEET
26 ITS OUTSTANDING OBLIGATIONS AS THEY MATURE.

1 (E) WHETHER THE ABILITY OF AN ASSUMING REINSURER TO PERFORM
2 AND WHETHER THE INSURER'S REINSURANCE PROGRAM PROVIDE SUFFICIENT
3 PROTECTION FOR THE INSURER'S REMAINING SURPLUS AFTER TAKING INTO
4 ACCOUNT THE INSURER'S CASH FLOW, THE CLASSES OF BUSINESS WRITTEN,
5 AND THE FINANCIAL CONDITION OF THE ASSUMING REINSURER.

6 (F) WHETHER THE INSURER'S OPERATING LOSS IN THE LAST
7 12-MONTH PERIOD OR ANY SHORTER PERIOD OF TIME, INCLUDING, BUT NOT
8 LIMITED TO, NET CAPITAL GAIN OR LOSS, CHANGE IN NONADMITTED
9 ASSETS, AND CASH DIVIDENDS PAID TO SHAREHOLDERS, IS LESS THAN OR
10 GREATER THAN 50% OF THE INSURER'S REMAINING SURPLUS CONCERNING
11 POLICYHOLDERS IN EXCESS OF THE MINIMUM REQUIRED.

12 (G) WHETHER ANY AFFILIATE, SUBSIDIARY, OR REINSURER IS
13 INSOLVENT, THREATENED WITH INSOLVENCY, OR DELINQUENT IN PAYMENT
14 OF ITS MONETARY OR OTHER OBLIGATION.

15 (H) CONTINGENT LIABILITIES, PLEDGES, OR GUARANTIES THAT
16 EITHER INDIVIDUALLY OR COLLECTIVELY INVOLVE A TOTAL AMOUNT THAT
17 IN THE OPINION OF THE COMMISSIONER MAY AFFECT THE INSURER'S
18 SOLVENCY.

19 (I) WHETHER ANY CONTROLLING PERSON OF AN INSURER IS DELIN-
20 QUENT IN THE TRANSMITTING TO, OR PAYMENT OF, NET PREMIUMS TO THAT
21 INSURER OR HAS CAUSED THE INSURER TO DIVERT ASSETS, MAKE INVEST-
22 MENTS, OR ASSUME LIABILITIES WITH RESPECT TO THE AFFILIATES OF
23 THE INSURER THAT HAVE HAD A MATERIAL ADVERSE EFFECT ON THE
24 INSURER'S FINANCIAL SOLIDITY.

25 (J) THE AGE AND COLLECTIBILITY OF RECEIVABLES.

26 (K) WHETHER THE MANAGEMENT OF AN INSURER, INCLUDING
27 OFFICERS, DIRECTORS, OR ANY OTHER PERSON WHO DIRECTLY OR

1 INDIRECTLY CONTROLS THE OPERATION OF THE INSURER, POSSESSES AND
2 DEMONSTRATES THE COMPETENCE, FITNESS, AND REPUTATION CONSIDERED
3 NECESSARY TO SERVE THE INSURER IN SUCH A POSITION.

4 (L) WHETHER MANAGEMENT OF AN INSURER HAS FAILED TO RESPOND
5 TO INQUIRIES RELATIVE TO THE INSURER'S CONDITION OR HAS FURNISHED
6 FALSE AND MISLEADING INFORMATION CONCERNING AN INQUIRY.

7 (M) WHETHER MANAGEMENT OF AN INSURER HAS FILED ANY FALSE OR
8 MISLEADING FINANCIAL STATEMENT, HAS RELEASED ANY FALSE OR MIS-
9 LEADING FINANCIAL STATEMENT TO LENDING INSTITUTIONS OR TO THE
10 GENERAL PUBLIC, OR HAS MADE A FALSE OR MISLEADING ENTRY OR HAS
11 OMITTED AN ENTRY OF MATERIAL AMOUNT IN THE INSURER'S BOOKS.

12 (N) WHETHER THE INSURER HAS GROWN SO RAPIDLY AND TO SUCH AN
13 EXTENT THAT IT LACKS ADEQUATE FINANCIAL AND ADMINISTRATIVE CAPAC-
14 ITY TO TIMELY MEET ITS OBLIGATIONS.

15 (O) WHETHER THE COMPANY HAS EXPERIENCED OR WILL EXPERIENCE
16 IN THE FORESEEABLE FUTURE CASH FLOW OR LIQUIDITY PROBLEMS.

17 (P) RATINGS AND RATING REPORTS CONCERNING THE INSURER BY
18 RECOGNIZED RATING AGENCIES.

19 (Q) WHETHER THE INSURER DEMONSTRATES MATERIAL ADVERSE DEVIAT-
20 TIONS FROM INDUSTRY AVERAGES WITH RESPECT TO SIGNIFICANT INDICAT-
21 ORS OF FINANCIAL SOLIDITY SUCH AS LEVERAGE, LIQUIDITY, PROFITA-
22 BILITY, REINSURANCE, INVESTMENT RISK, AND RESERVE ADEQUACY.

23 (R) THE EXTENT TO WHICH THE INSURER MEETS STANDARDS OF
24 FINANCIAL SOLIDITY SUCH AS RISK BASED CAPITAL REQUIREMENTS AS
25 DEVELOPED BY ORGANIZATIONS WITH RECOGNIZED EXPERTISE IN EVALUAT-
26 ING THE FINANCIAL CONDITION OF INSURERS SUCH AS THE NATIONAL
27 ASSOCIATION OF INSURANCE COMMISSIONERS.

1 (S) THE SIZE OF THE INSURER AS MEASURED BY ITS ASSETS,
2 CAPITAL AND SURPLUS RESERVES, PREMIUM WRITINGS, INSURANCE IN
3 FORCE, AND OTHER APPROPRIATE CRITERIA.

4 (T) THE EXTENT TO WHICH THE INSURER'S BUSINESS IS DIVERSI-
5 FIED AMONG THE SEVERAL LINES OF INSURANCE, THE NUMBER AND SIZE OF
6 RISKS INSURED IN EACH LINE OF BUSINESS, AND THE EXTENT OF THE
7 GEOGRAPHICAL DISPERSION OF THE INSURER'S INSURED RISKS.

8 (U) THE NATURE AND EXTENT OF THE INSURER'S REINSURANCE
9 PROGRAM.

10 (V) THE QUALITY, DIVERSIFICATION, AND LIQUIDITY OF THE
11 INSURER'S INVESTMENT PORTFOLIO.

12 (W) THE RECENT PAST AND PROJECTED FUTURE TREND IN THE SIZE
13 OF THE INSURER'S SURPLUS CONCERNING POLICYHOLDERS AND THE SURPLUS
14 CONCERNING POLICYHOLDERS MAINTAINED BY OTHER COMPARABLE
15 INSURERS.

16 (X) THE ADEQUACY OF THE INSURER'S RESERVES.

17 (Y) THE QUALITY AND LIQUIDITY OF INVESTMENTS IN AFFILIATES.

18 (Z) COMPLIANCE BY THE INSURER WITH SECTION 901.

19 (2) THE COMMISSIONER MAY DO ANY OF THE FOLLOWING IN MAKING A
20 DETERMINATION OF AN INSURER'S FINANCIAL CONDITION UNDER THIS
21 SECTION:

22 (A) DISREGARD ANY CREDIT OR AMOUNT RECEIVABLE RESULTING FROM
23 TRANSACTIONS WITH A REINSURER THAT IS INSOLVENT, IMPAIRED, OR
24 OTHERWISE SUBJECT TO A DELINQUENCY PROCEEDING.

25 (B) MAKE APPROPRIATE ADJUSTMENTS INCLUDING DISALLOWANCE TO
26 ASSET VALUES ATTRIBUTABLE TO INVESTMENTS IN OR TRANSACTIONS WITH
27 PARENTS, SUBSIDIARIES, OR AFFILIATES.

1 (C) REFUSE TO RECOGNIZE THE STATED VALUE OF ACCOUNTS
2 RECEIVABLE IF THE ABILITY TO COLLECT RECEIVABLES IS HIGHLY SPECU-
3 LATIVE IN VIEW OF THE ACCOUNT'S AGE OR THE DEBTOR'S FINANCIAL
4 CONDITION.

5 (D) INCREASE THE INSURER'S LIABILITY IN AN AMOUNT EQUAL TO
6 ANY CONTINGENT LIABILITY, PLEDGE, OR GUARANTEE NOT OTHERWISE
7 INCLUDED IF THERE IS A SUBSTANTIAL RISK THAT THE INSURER WILL BE
8 CALLED UPON TO MEET THE OBLIGATION UNDERTAKEN WITHIN THE NEXT
9 12-MONTH PERIOD.

10 (3) IF THE COMMISSIONER DETERMINES THAT AN INSURER AUTHO-
11 RIZED TO TRANSACT BUSINESS IN THIS STATE HAS CEASED TO BE SAFE,
12 RELIABLE, AND ENTITLED TO PUBLIC CONFIDENCE OR THAT THE INSURER'S
13 CONTINUED OPERATION MAY BE HAZARDOUS TO POLICYHOLDERS, CREDITORS,
14 OR THE PUBLIC, THEN THE COMMISSIONER, IN ADDITION TO HIS OR HER
15 AUTHORITY UNDER SECTION 437, MAY ISSUE AN ORDER REQUIRING THE
16 INSURER TO DO ANY OF THE FOLLOWING:

17 (A) REDUCE THE TOTAL AMOUNT OF PRESENT AND POTENTIAL LIABIL-
18 ITY FOR POLICY BENEFITS BY REINSURANCE.

19 (B) REDUCE, SUSPEND, OR LIMIT THE VOLUME OF BUSINESS BEING
20 ACCEPTED OR RENEWED.

21 (C) REDUCE GENERAL INSURANCE AND COMMISSION EXPENSES BY
22 SPECIFIED METHODS.

23 (D) INCREASE THE INSURER'S CAPITAL AND SURPLUS

24 (E) SUSPEND OR LIMIT THE DECLARATION AND PAYMENT OF DIVIDEND
25 BY AN INSURER TO ITS STOCKHOLDERS OR TO ITS POLICYHOLDERS.

26 (F) FILE REPORTS IN A FORM ACCEPTABLE TO THE COMMISSIONER
27 CONCERNING THE MARKET VALUE OF AN INSURER'S ASSETS.

1 (G) LIMIT OR WITHDRAW FROM CERTAIN INVESTMENTS OR
2 DISCONTINUE CERTAIN INVESTMENT PRACTICES TO THE EXTENT THE COM-
3 MISSIONER CONSIDERS NECESSARY.

4 (H) DOCUMENT THE ADEQUACY OF PREMIUM RATES IN RELATION TO
5 THE RISKS INSURED.

6 (I) FILE, IN ADDITION TO REGULAR ANNUAL STATEMENTS, INTERIM
7 FINANCIAL REPORTS ON THE FORM OR IN THE FORMAT PROMULGATED BY THE
8 COMMISSIONER.

9 (4) AN INSURER SUBJECT TO AN ORDER UNDER SUBSECTION (3) MAY
10 REQUEST A HEARING AS IN A CONTESTED CASE PURSUANT TO THE ADMINIS-
11 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
12 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
13 LAWS, TO REVIEW THAT ORDER. THE NOTICE OF HEARING SHALL BE
14 SERVED UPON THE INSURER AND SHALL STATE THE TIME AND PLACE OF
15 HEARING AND THE CONDUCT, CONDITIONS, OR GROUNDS UPON WHICH THE
16 COMMISSIONER BASED THE ORDER. UNLESS MUTUALLY AGREED BETWEEN THE
17 COMMISSIONER AND THE INSURER, THE HEARING SHALL OCCUR NOT LESS
18 THAN 10 DAYS OR MORE THAN 30 DAYS AFTER NOTICE IS SERVED. THE
19 COMMISSIONER SHALL HOLD ALL HEARINGS UNDER THIS SUBSECTION PRI-
20 VATELY UNLESS THE INSURER REQUESTS A PUBLIC HEARING IN WHICH CASE
21 THE HEARING SHALL BE PUBLIC.

22 SEC. 436B. IF THE COMMISSIONER FINDS ON THE BASIS OF APPRO-
23 PRIATE INVESTIGATION AND PUBLIC HEARINGS THAT A TYPE OF INSURANCE
24 OR A SUBSET OF A TYPE OF INSURANCE OR OF OTHER CONTRACTS ENTERED
25 INTO BY INSURERS AUTHORIZED TO DO BUSINESS IN THIS STATE PRESENT
26 A DEGREE OF RISK OR HAZARD TO THE INSURER NOT ADEQUATELY TAKEN
27 INTO ACCOUNT BY INSURANCE ACCOUNTING TECHNIQUES OR NORMAL METHODS

1 OF MEASURING INSURANCE OR OTHER CONTRACTUAL RISK, THE
2 COMMISSIONER MAY CONCLUDE THAT ONLY THOSE AUTHORIZED INSURERS
3 POSSESSED OF A SUFFICIENT DEGREE OF FINANCIAL STRENGTH, MEASURED
4 BY RELEVANT METHODS, TECHNIQUES, ANALYSIS, RATING SYSTEMS, AND
5 OTHER APPROPRIATE FINANCIAL STANDARDS UNIFORMLY APPLIED, MAY
6 ENGAGE WITH SAFETY TO POLICYHOLDERS, CREDITORS, OR THE PUBLIC IN
7 ASSUMING OBLIGATIONS OF SUCH A TYPE OR SUBSET OF A TYPE OF INSUR-
8 ANCE OR OTHER CONTRACTS. IN THESE CIRCUMSTANCES, THE COMMIS-
9 SIONER MAY LIMIT BY APPROPRIATE ORDER THE CERTIFICATE OF AUTHOR-
10 ITY OF AN INSURER THAT DOES NOT POSSESS SUCH A SUFFICIENT DEGREE
11 OF FINANCIAL STRENGTH SO AS TO PRECLUDE PROSPECTIVELY THE AUTHOR-
12 ITY OF THE INSURER TO ENGAGE IN ASSUMING OBLIGATIONS IN THIS
13 STATE OF SUCH A TYPE OR SUBSET OF A TYPE OF INSURANCE OR OTHER
14 CONTRACTS.

15 Sec. 437. (1) ~~Proceedings for suspension, revocation or~~
16 ~~limitation of a~~ A PROCEEDING TO SUSPEND, REVOKE, OR LIMIT AN
17 INSURER'S certificate of authority shall be ~~conducted in accord-~~
18 ~~ance with and subject to the provisions of Act No. 306 of the~~
19 ~~Public Acts of 1969, as amended, being sections 24.201 to 24.315~~
20 ~~of the Compiled Laws of 1948~~ INITIATED BY THE COMMISSIONER BY
21 GRANTING THE INSURER AN OPPORTUNITY TO SHOW COMPLIANCE WITH ALL
22 LAWFUL REQUIREMENTS AS PROVIDED UNDER SECTION 92 OF THE ADMINIS-
23 TRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
24 1969, BEING SECTION 24.292 OF THE MICHIGAN COMPILED LAWS. IF THE
25 COMMISSIONER SUBSEQUENTLY DETERMINES PURSUANT TO SECTION 436 TO
26 SUSPEND, REVOKE, OR LIMIT THE INSURER'S CERTIFICATE OF AUTHORITY,

1 THE DETERMINATION AND THE REASONS FOR THE DETERMINATION SHALL BE
2 STATED IN THE ORDER OF SUSPENSION, REVOCATION, OR LIMITATION.

3 (2) THE INSURER AGGRIEVED BY THE COMMISSIONER'S DETERMINA-
4 TION AND ORDER ISSUED UNDER SECTION 436 SHALL BE ENTITLED TO A
5 CONTESTED CASE HEARING PURSUANT TO ACT NO. 306 OF THE PUBLIC ACTS
6 OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
7 LAWS. DURING THE PENDENCY OF THE CONTESTED CASE PROCEEDING, THE
8 ORDER OF THE COMMISSIONER SHALL REMAIN IN EFFECT, EXCEPT AS MODI-
9 FIED BY THE COMMISSIONER.

10 (3) THE COMMISSIONER'S ORDER AND DETERMINATION MAY BE CON-
11 FIRMED OR MODIFIED BY THE COMMISSIONER AS THE RESULT OF A CON-
12 TESTED CASE HEARING AND SHALL BE THE FINAL DECISION OR ORDER IN
13 THE CONTESTED CASE.

14 (4) ~~(2)~~ Upon suspension, revocation, or limitation of an
15 insurer's certificate of authority, if the commissioner ~~deems~~
16 CONSIDERS it necessary or desirable for the protection of the
17 public, he OR SHE may mail notice of the action to the INSURER'S
18 agents ~~of the insurer~~ and publish notice of the suspension,
19 revocation, or limitation in 1 or more newspapers of general cir-
20 culation in the state.

21 ~~(3) An order by the commissioner which suspends or limits~~
22 ~~an insurer's certificate of authority shall be for a period not~~
23 ~~to exceed 1 year and, after opportunity of hearing, the commis-~~
24 ~~sioner for good cause may extend the period of suspension or lim-~~
25 ~~itation for additional periods not to exceed 1 year.~~

26 (5) ~~(4)~~ The commissioner's order of limitation may
27 restrict the solicitation of new business within the state, may

1 restrict the renewal of business in force within the state, may
2 require the reinsurance of business in force within the state
3 and, if reinsurance is not effected within 30 days after the
4 order requiring reinsurance is issued, may require cancellation
5 of business in force within the state and may impose such other
6 conditions to continued authorization as are reasonably necessary
7 to protect ~~the~~ policyholders, CREDITORS, and the public.

8 Sec. 438. (1) Each insurer, foreign, alien, or domestic,
9 transacting business within this state, shall annually, on or
10 before March 1, prepare under oath and deposit with the commis-
11 sioner a statement concerning its affairs ~~upon~~ IN a form
12 ~~provided~~ AND MANNER AS PRESCRIBED by the commissioner. The
13 annual statement shall be filed on or before March 1 of the year
14 following that covered by the statement. Upon request and for
15 good cause shown, the commissioner may grant to any company ~~a~~
16 reasonable ~~extension of time not to exceed 30 days within which~~
17 ~~the statement shall be filed~~ EXTENSIONS OF THE MARCH 1 FILING
18 DATE FOR PERIODS NOT TO EXCEED 30 DAYS. The insurer shall pay
19 the filing fee prescribed in section 240(1)(b).

20 (2) The commissioner shall ~~prepare forms~~ PRESCRIBE THE
21 FORMAT AND CONTENT of statements ~~which~~ THAT are suitable and
22 adaptable to each kind of insurance authorized by this ~~code~~
23 ACT. The commissioner shall include ~~in the forms,~~ requests for
24 information upon any and all important elements of an insurer's
25 business, including any matter, condition, or requirement regu-
26 lated by this ~~code~~ ACT. AN ANNUAL STATEMENT FILED BY AN
27 INSURER UNDER THIS SECTION SHALL BE PREPARED IN ACCORDANCE WITH

1 INSTRUCTIONS PROVIDED BY, AND ACCOUNTING PRACTICES AND PROCEDURES
2 DESIGNATED BY, THE COMMISSIONER.

3 ~~(3) The commissioner shall prepare and furnish to each~~
4 ~~insurer doing business in this state, printed forms of the annual~~
5 ~~statements required by this section, which shall be printed at~~
6 ~~the expense of this state.~~

7 (3) ~~(4)~~ The commissioner may address inquiries to any
8 insurer, in relation to the insurer's activities or conditions,
9 or any matter connected with the insurer's transactions. An
10 insurer SO addressed shall promptly reply in writing to each
11 inquiry by the commissioner.

12 (4) ~~(5)~~ Each report filed with the commissioner pursuant
13 to this section shall be made available to the public in compli-
14 ance with the freedom of information act, Act No. 442 of the
15 Public Acts of 1976, being sections 15.231 to 15.246 of the
16 Michigan Compiled Laws.

17 (5) ~~(6) Each domestic insurance company failing~~ EACH
18 AUTHORIZED INSURER THAT FAILS to make ~~and~~ OR deposit the annual
19 statement required by this section, or ~~failing~~ FAILS to reply
20 within 30 days to an inquiry of the commissioner, ~~shall be~~ IS
21 subject to a civil penalty of not less than ~~\$100.00 nor~~
22 \$1,000.00 OR more than ~~\$500.00~~ \$5,000.00, and an additional
23 \$50.00 for every ~~month~~ DAY that the ~~company~~ INSURER fails to
24 make and deposit the annual statement or reply to the inquiry.
25 ~~Each foreign or alien~~ IN ADDITION, EACH insurer ~~failing~~ THAT
26 FAILS to make and deposit an annual statement, or ~~failing~~ FAILS
27 to make a satisfactory reply to an inquiry of the commissioner,

1 concerning the insurer's affairs shall be subject to ~~the same~~
2 ~~penalties and to a revocation of its authority to do business in~~
3 ~~this state~~ PROCEEDINGS UNDER SECTION 436.

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

7 SEC. 438A. (1) EACH DOMESTIC, FOREIGN, AND ALIEN INSURER
8 AUTHORIZED TO TRANSACT INSURANCE IN THIS STATE SHALL FILE ANNU-
9 ALLY ON OR BEFORE MARCH 1 OF EACH YEAR, WITH THE NATIONAL ASSOCI-
10 ATION OF INSURANCE COMMISSIONERS A COPY OF ITS ANNUAL STATEMENT
11 ALONG WITH ADDITIONAL FILINGS FOR THE PRECEDING YEAR AS PRE-
12 SCRIBED BY THE COMMISSIONER. THE INFORMATION FILED WITH THE
13 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS SHALL BE IN THE
14 SAME FORMAT AND SCOPE AS THAT REQUIRED BY THE COMMISSIONER AND
15 SHALL INCLUDE THE SIGNED JURAT PAGE AND THE ACTUARIAL
16 CERTIFICATION. AN AMENDMENT OR ADDENDUM TO THE ANNUAL STATEMENT
17 FILING SUBSEQUENTLY FILED WITH THE COMMISSIONER SHALL ALSO BE
18 FILED WITH THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.

19 (2) A FOREIGN INSURER THAT IS DOMICILED IN A STATE THAT HAS
20 A LAW SUBSTANTIALLY SIMILAR TO SUBSECTION (1) SHALL BE CONSIDERED
21 IN COMPLIANCE WITH THIS SECTION.

22 (3) IN THE ABSENCE OF ACTUAL MALICE, MEMBERS OF THE NATIONAL
23 ASSOCIATION OF INSURANCE COMMISSIONERS, THEIR DULY AUTHORIZED
24 COMMITTEES, SUBCOMMITTEES, AND TASK FORCES, THEIR DELEGATES,
25 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS EMPLOYEES, AND
26 ALL OTHERS CHARGED WITH THE RESPONSIBILITY OF COLLECTING,
27 REVIEWING, ANALYZING, AND DISSEMINATING THE INFORMATION DEVELOPED

1 FROM THE FILING OF AN ANNUAL STATEMENT SHALL BE ACTING AS THE
2 COMMISSIONER'S AGENTS UNDER THE AUTHORITY OF THIS ACT AND SHALL
3 NOT BE SUBJECT TO CIVIL LIABILITY FOR LIBEL, SLANDER, OR ANY
4 OTHER CAUSE OF ACTION BECAUSE OF THEIR COLLECTION, REVIEW, AND
5 ANALYSIS OR DISSEMINATION OF THE DATA AND INFORMATION COLLECTED
6 FROM THE FILINGS.

7 (4) ALL FINANCIAL ANALYSIS RATIOS AND EXAMINATION SYNOPSES
8 CONCERNING INSURERS THAT ARE SUBMITTED TO THE COMMISSIONER BY THE
9 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS' INSURANCE REGU-
10 LATORY INFORMATION SYSTEM ARE CONFIDENTIAL AND MAY NOT BE DIS-
11 CLOSED BY THE COMMISSIONER OR THOSE ACTING UNDER THE
12 COMMISSIONER'S AUTHORITY.

13 Sec. 1301. As used in this chapter:

14 ~~(a) "Affiliate" of, or a person "affiliated" with, a spe-~~
15 ~~cific person, means a person that directly, or indirectly through~~
16 ~~+ or more intermediaries, controls, or is controlled by, or is~~
17 ~~under common control with, the person specified.~~

18 ~~(b) "Commissioner" means the commissioner of insurance, his~~
19 ~~deputies or the insurance bureau.~~

20 ~~(c) "Control", including the terms "controlling",~~
21 ~~"controlled by" and "under common control with", means the pos-~~
22 ~~session, direct or indirect, of the power to direct or cause the~~
23 ~~direction of the management and policies of a person, whether~~
24 ~~through the ownership of voting securities, by contract other~~
25 ~~than a commercial contract for goods or nonmanagement services,~~
26 ~~or otherwise, unless the power is the result of an official~~
27 ~~position with or corporate office held by the person. Control is~~

~~1 presumed to exist if any person, directly or indirectly, owns,
2 controls, holds with the power to vote, or holds proxies repre-
3 senting 10% or more of the voting securities of any other
4 person. This presumption may be rebutted by a showing made in
5 the manner provided by section 1332 that control does not in fact
6 exist. The commissioner may determine, after furnishing to all
7 persons in interest, notice and opportunity to be heard and
8 making specific findings of fact to support such determination,
9 that control in fact exists, notwithstanding the absence of a
10 presumption to that effect.~~

~~11 (d) "Insurance holding company system" means 2 or more
12 affiliated persons, 1 or more of which is an insurer.~~

~~13 (A) (e) "Insurer" means the same as set forth THAT TERM
14 AS DEFINED in section 106, except that it does not include agen-
15 cies, authorities, or instrumentalities of the United States, its
16 possessions and territories, the commonwealth of Puerto Rico, the
17 District of Columbia or a state or political subdivision of a
18 state, — fraternal benefit societies, or nonprofit —medical or
19 hospital service associations— HEALTH CARE CORPORATION.~~

~~20 (B) (f) "Person" means the same as set forth THAT TERM
21 AS DEFINED in section 114, except that it does not include any
22 securities broker performing no more than the usual and customary
23 broker's function, SO LONG AS THE SECURITIES BROKER HOLDS LESS
24 THAN 10% OF THE VOTING SECURITIES OF ANY PERSON THAT CONTROLS AN
25 INSURER.~~

~~26 (g) "Securityholder" of a specified person means a person
27 who owns any security of such person, including common stock,~~

1 ~~preferred stock, debt obligations and any other security~~
2 ~~convertible into or evidencing the right to acquire any of the~~
3 ~~foregoing.~~

4 ~~(h) "Subsidiary" of a specified person means an affiliate~~
5 ~~controlled by such person directly or indirectly through~~ ~~or~~
6 ~~more intermediaries.~~

7 ~~(i) "Voting security" includes any security convertible into~~
8 ~~or evidencing a right to acquire a voting security.~~

9 Sec. 1305. A domestic insurer, EITHER BY ITSELF OR IN COOP-
10 ERATION WITH 1 OR MORE PERSONS, may organize or acquire 1 or more
11 subsidiaries IF consistent with ~~the~~ OTHER provisions of
12 ~~chapter 9~~ THIS ACT. THESE SUBSIDIARIES MAY CONDUCT ANY KIND OF
13 BUSINESS AND THEIR AUTHORITY TO DO SO SHALL NOT BE LIMITED BY
14 REASON OF THE FACT THAT THEY ARE SUBSIDIARIES OF A DOMESTIC
15 INSURER. THIS PROVISION SHALL NOT BE CONSTRUED TO PROVIDE
16 AUTHORITY FOR CONDUCT OR ACTIVITIES BY THESE SUBSIDIARIES THAT
17 WOULD OTHERWISE BE INCONSISTENT WITH OTHER PROVISIONS OF THIS
18 ACT.

19 Sec. 1311. (1) A person other than the issuer shall not
20 make a tender offer for or a request or invitation for tenders
21 of, or enter into any agreement to exchange securities for, seek
22 to acquire or acquire, in the open market or otherwise, any
23 voting security of a domestic insurer if, after the consummation
24 thereof, the person directly or indirectly, or by conversion or
25 by exercise of any right to acquire, would be in control of the
26 insurer. A person shall not enter into an agreement to merge
27 with or otherwise to acquire control of a domestic insurer OR ANY

1 PERSON CONTROLLING A DOMESTIC INSURER unless, at the time ~~any~~
2 AN offer, request, or invitation is made or ~~any~~ AN agreement is
3 entered into, or prior to the acquisition of the securities if no
4 offer or agreement is involved, the person has filed with the
5 commissioner and has sent to the insurer which has sent to its
6 shareholders, a statement containing the information required by
7 this chapter and the offer, request, invitation, agreement, or
8 acquisition has been approved by the commissioner IN THE MANNER
9 PRESCRIBED IN THIS CHAPTER.

10 (2) The person who proposes to enter into an agreement to
11 merge with or otherwise acquire control of a domestic insurer
12 shall file a ~~preacquisition~~ notification with the commissioner,
13 in such form and containing the information prescribed by
14 ~~R 500.710 of the Michigan administrative code or other applica-~~
15 ble rule promulgated OR ORDER ISSUED by the commissioner. ~~, not~~
16 ~~less than 30 days prior to the proposed effective date of the~~
17 ~~acquisition.~~

18 (3) For purposes of this ~~section and sections 1312 to 1319~~
19 CHAPTER, a domestic insurer shall include any ~~other~~ person con-
20 trolling a domestic insurer, ANY FOREIGN INSURER WHOSE WRITTEN
21 INSURANCE PREMIUM IN THIS STATE FOR EACH OF THE MOST RECENT 3
22 YEARS EXCEEDS THE PREMIUMS WRITTEN IN ITS STATE OF DOMICILE AND
23 WHOSE WRITTEN PREMIUM IN THIS STATE WAS 20% OR MORE OF ITS TOTAL
24 WRITTEN PREMIUM IN EACH OF THE MOST RECENT 3 YEARS, AND ANY FOR-
25 EIGN INSURER WHOSE MARKET SHARE IN THIS STATE FOR A TYPE OF
26 INSURANCE OR SIGNIFICANT SEGMENT OF A TYPE OF INSURANCE EXCEEDS
27 10% OF THE TOTAL PREMIUMS WRITTEN FOR THAT TYPE OR SEGMENT.

1 Sec. 1312. The statement to be filed with the commissioner
2 shall be made under oath or affirmation and shall contain the
3 following information:

4 (a) The name and address of each person by whom or on whose
5 behalf the merger or other acquisition of control referred to in
6 section 1311 is to be effected, hereinafter called the acquiring
7 party. ~~, and (i)~~ If the person is an individual, his OR HER
8 principal occupation, ~~and~~ all offices and positions held during
9 the past 5 years, ANY CIVIL JUDGMENTS AGAINST THE PERSON FOR
10 \$25,000.00 OR MORE IN CIVIL FINES OR PENALTIES OR INJUNCTIVE OR
11 OTHER EQUITABLE RELIEF, and any conviction of crimes other than
12 minor traffic violations during the past 10 years. ~~(ii)~~ If the
13 person is not an individual, a report of the nature of its busi-
14 ness operations during the past 5 years or for such lesser period
15 as the person and any predecessors ~~thereof~~ OF THE PERSON have
16 been in existence, an informative description of the business
17 intended to be done by ~~such~~ THE person and ~~such~~ THE person's
18 subsidiaries, and a list of all individuals who are or who have
19 been selected to become directors or executive officers of the
20 person or who perform or will perform functions appropriate to
21 ~~such~~ THOSE positions. The list shall include for each individ-
22 ual the ~~information required by paragraph (i) of this~~
23 ~~subdivision~~ INDIVIDUAL'S PRINCIPAL OCCUPATION, ALL OFFICES AND
24 POSITIONS HELD DURING THE PAST 5 YEARS, ANY CIVIL JUDGMENTS
25 AGAINST THE PERSON FOR \$25,000.00 OR MORE IN CIVIL FINES OR PEN-
26 ALTIES OR INJUNCTIVE OR OTHER EQUITABLE RELIEF, AND ANY

1 CONVICTION OF CRIMES OTHER THAN MINOR TRAFFIC VIOLATIONS DURING
2 THE PAST 10 YEARS.

3 (b) The source, nature, and amount of the consideration used
4 or to be used in effecting the merger or other acquisition of
5 control, a description of any transaction ~~wherein~~ WHERE funds
6 were or are to be obtained for ~~any~~ such purpose, INCLUDING ANY
7 PLEDGE OF THE INSURER'S STOCK, OR THE STOCK OF ANY OF ITS SUBSID-
8 IARIES OR CONTROLLING AFFILIATES, and the identity of persons
9 furnishing the consideration. ~~Where~~ IF a source of the consid-
10 eration is a loan made in the lender's ordinary course of busi-
11 ness, the identity of the lender shall BE DISCLOSED BUT remain
12 confidential if the person filing the statement so requests.

13 (c) Fully audited financial information as to the earnings
14 and financial condition of each acquiring party for the preceding
15 5 fiscal years ~~of each acquiring party,~~ or for such lesser
16 period as the acquiring party and any predecessors ~~thereof~~ OF
17 THE ACQUIRING PARTY have been in existence and similar unaudited
18 information as of a date not earlier than 90 days prior to the
19 filing of the statement.

20 (d) Any plans or proposals ~~which~~ THAT each acquiring party
21 may have UNDER CONSIDERATION CONCERNING THE INSURER'S BUSINESS
22 OPERATIONS, INCLUDING, BUT NOT LIMITED TO, PLANS OR PROPOSALS to
23 liquidate the insurer, to sell its assets, ~~or~~ TO merge or con-
24 solidate it with any person, or to make any other material change
25 in its business or corporate structure or management.

26 (e) The number of shares of any security referred to in
27 section 1311 ~~which~~ THAT each acquiring party proposes to

1 acquire, ~~and~~ the terms of the offer, request, invitation,
2 agreement, or acquisition referred to in section 1311, and a
3 statement as to ~~the method by which the~~ HOW THE PROPOSAL'S
4 fairness ~~of the proposal~~ was arrived at.

5 (f) The amount of each class of any security referred to in
6 section 1311 ~~which~~ THAT is beneficially owned or concerning
7 which there is a right to acquire beneficial ownership by each
8 acquiring party.

9 (g) A full description of any contracts, arrangements, or
10 understanding ~~with respect to~~ CONCERNING any security referred
11 to in section 1311 in which any acquiring party is involved,
12 including but not limited to transfer of any of the securities,
13 joint ventures, loan or option arrangements, puts or calls, guar-
14 antees of loans, guarantees against loss or guarantees of prof-
15 its, division of losses or profits, or the giving or withholding
16 of proxies. The description shall identify the persons with whom
17 the contracts, arrangements, or understanding have been entered
18 into.

19 (h) A description of the purchase of any security referred
20 to in section 1311 during the 12 calendar months preceding the
21 filing of the statement, by any acquiring party, including the
22 dates of purchase, names of the purchasers, and consideration
23 paid or agreed to be paid ~~therefor~~ FOR THE SECURITY.

24 (i) A description of any recommendations to purchase any
25 security referred to in section 1311 made during the 12 calendar
26 months preceding the filing of the statement, by any acquiring

1 party ~~—~~ or by anyone based upon interviews or at the suggestion
2 of the acquiring party.

3 (j) Copies of all tender offers for, requests or invitations
4 for tenders of, exchange offers for, and agreements to acquire or
5 exchange any securities referred to in section 1311 and addi-
6 tional RELATED distributed soliciting material. ~~—relating~~
7 ~~thereto.—~~

8 (k) The terms of any agreement, contract, or understanding
9 made with OR PROPOSED TO BE MADE WITH any broker-dealer as to
10 solicitation of securities referred to in section 1311 for
11 tender, and the amount of any fees, commissions, or other compen-
12 sation to be paid to broker-dealers. ~~—with regard thereto.—~~

13 (l) Such additional information as the commissioner pre-
14 scribes by ORDER OR rule as necessary or appropriate for the pro-
15 tection of THE INSURER'S policyholders and ~~—security holders of~~
16 ~~the insurer—~~ SECURITYHOLDERS or in the public interest.

17 Sec. 1315. (1) The commissioner shall approve any merger or
18 other acquisition of control referred to in section 1311 ~~—unless,~~
19 ~~after a hearing thereon, he finds that any of the following con-~~
20 ~~ditions exist—~~ OF A DOMESTIC INSURER UNLESS THE COMMISSIONER
21 DETERMINES ON THE BASIS OF INFORMATION FURNISHED TO THE COMMIS-
22 SIONER ON THE MERGER OR OTHER ACQUISITION OF CONTROL 1 OR MORE OF
23 THE FOLLOWING:

24 (a) After the change of control the domestic insurer
25 referred to in section 1311 would not be able to satisfy the
26 requirements for the issuance of a ~~—license—~~ CERTIFICATE OF

1 AUTHORITY to write the ~~lines~~ TYPES of insurance for which it is
2 presently licensed.

3 (b) The effect of the merger or other acquisition of control
4 would be substantially to lessen competition in insurance in this
5 state or tend to create a monopoly ~~therein~~ IN THIS STATE.

6 (c) The financial condition of any acquiring party is such
7 as might jeopardize the financial stability of the insurer, or
8 prejudice the interest of its policyholders or the interests of
9 any remaining securityholders who are unaffiliated with the
10 acquiring party.

11 (d) The terms of the offer, request, invitation, agreement,
12 or acquisition referred to in section 1311 are unfair and unrea-
13 sonable to the INSURER'S POLICYHOLDERS OR securityholders. ~~of~~
14 ~~the insurer.~~

15 (e) The plans or proposals ~~which~~ THAT the acquiring party
16 has to liquidate the insurer, sell its assets, ~~or~~ consolidate
17 or merge it with any person, or to make any other material change
18 in its business or corporate structure or management, are unfair
19 and unreasonable to THE INSURER'S policyholders, ~~of the insurer~~
20 and not in the public interest.

21 (f) The competence, experience, and integrity of those per-
22 sons who would control the operation of the insurer are such that
23 it would not be in the ~~interest of~~ INSURER'S policyholders ~~of~~
24 ~~the insurer and of the~~ OR THE GENERAL public INTEREST to permit
25 the merger or other acquisition of control.

26 ~~(2) The hearing shall be held within 60 days after the~~
27 ~~statement required by section 1311 is filed and at least 20 days~~

~~1 notice thereof shall be given by the commissioner to the person
2 filing the statement, to the insurer and to such other persons as
3 the commissioner deems appropriate. The person filing the state-
4 ment shall give not less than 10 days' notice of the hearing to
5 such persons as may be designated by the commissioner. The
6 insurer shall give the notice to its securityholders. The com-
7 missioner shall make a determination within 30 days after the
8 conclusion of the hearing. At the hearing, the person filing the
9 statement, the insurer, any person to whom notice of hearing was
10 sent and any other person whose interest may be affected thereby
11 may present evidence, examine and cross examine witnesses and
12 offer oral and written arguments and in connection therewith may
13 conduct discovery proceedings in the same manner as is presently
14 allowed in the circuit court. All discovery proceedings shall be
15 concluded not later than the commencement of the hearing.~~

16 (2) A PERSON AGGRIEVED BY THE COMMISSIONER'S ORDER UNDER
17 THIS SECTION SHALL BE ENTITLED TO A CONTESTED CASE HEARING BEFORE
18 THE COMMISSIONER PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
19 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
20 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS. THE COMMISSIONER
21 SHALL MAKE A FINAL DECISION WITHIN 30 DAYS AFTER THE CONCLUSION
22 OF THE HEARING.

23 Sec. 1316. All statements, amendments, or other material
24 filed pursuant to ~~sections~~ SECTION 1311 or 1312 and all notices
25 of hearings held pursuant to section 1315, shall be mailed by the
26 insurer to its shareholders within 5 business days after the
27 insurer has received them. The expenses of mailing shall be

1 borne by the person making the filing. As security for the
2 payment of the expenses, the person shall file with the commis-
3 sioner an acceptable bond or other deposit in an amount to be
4 determined by the commissioner. AT THE ACQUIRING PARTY'S
5 EXPENSE, THE COMMISSIONER MAY CONDUCT SUCH EXAMINATION OR INVES-
6 TIGATION AS THE COMMISSIONER IS EMPOWERED TO DO UNDER SECTION
7 224.

8 Sec. 1317. The provisions of sections 1311 to 1319 ~~shall~~
9 DO not apply to:

10 ~~(a) Any offers, requests, invitations, agreements or acqui-~~
11 ~~sitions by the person referred to in section 1311 of any voting~~
12 ~~security referred to in section 1311 which, immediately prior to~~
13 ~~the consummation of the offer, request, invitation, agreement or~~
14 ~~acquisition, was not issued and outstanding.~~

15 (A) ~~(b)~~ Any transaction ~~which is~~ subject to the provi-
16 sions of chapter 76.

17 (B) ~~(c)~~ Any offer, request, invitation, agreement, or
18 acquisition ~~which~~ THAT the commissioner by order exempts
19 ~~therefrom~~ as not having been made or entered into for the pur-
20 pose and not having the effect of changing or influencing the
21 control of a domestic insurer or as otherwise not comprehended
22 within the purposes of sections 1311 to 1319.

23 Sec. 1319. The courts of this state have jurisdiction over
24 every person not resident, domiciled, or authorized to do busi-
25 ness in this state who files OR FAILS TO FILE a statement with
26 the commissioner ~~under section 1311~~ AS REQUIRED BY THIS CHAPTER
27 and over all actions involving ~~such~~ THE person arising out of

1 violations of sections 1311 to ~~1319~~ 1318. Each such person
 2 shall be ~~deemed~~ CONSIDERED to have performed acts equivalent to
 3 and constituting an appointment by him OR HER of the commissioner
 4 to be his OR HER true and lawful attorney upon whom may be served
 5 all lawful process in any action, suit, or proceeding arising out
 6 of violations of this section. Copies of all lawful process
 7 shall be served on the commissioner and transmitted by registered
 8 or certified mail by the commissioner to the person at his OR HER
 9 last known address.

10 Sec. 1324. ~~Every~~ AN insurer ~~which~~ THAT is a member of
 11 an insurance holding company system and is authorized to do busi-
 12 ness in this state shall register with the commissioner. A for-
 13 eign insurer is not required to register if it is subject to dis-
 14 closure requirements and standards adopted by statute or regula-
 15 tion in the jurisdiction of its domicile ~~which~~ THAT are sub-
 16 stantially similar to those contained in ~~sections 1324~~ THIS
 17 SECTION AND SECTIONS 1325 to 1343 ~~inclusive and under which~~ AND
 18 THAT EXEMPT insurers domiciled in this state ~~are exempt~~ from
 19 the requirements of registration or ~~are permitted~~ THAT PERMIT
 20 INSURERS DOMICILED IN THIS STATE to satisfy the registration
 21 requirement by filing copies of materials required to be filed
 22 under this chapter. ~~Until May 1, 1991, a domestic insurer is~~
 23 ~~not required to register if it does not transact insurance in any~~
 24 ~~other state.~~ An insurer subject to registration under this chap-
 25 ter shall register ~~within 60 days after the effective date of~~
 26 ~~this chapter or 15 days after it becomes subject to registration,~~
 27 ~~whichever is later,~~ BY MAY 1 OF EACH YEAR FOR THE IMMEDIATELY

1 PRECEDING CALENDAR YEAR unless the commissioner for good cause
2 shown extends the time for registration. ~~and then within the~~
3 ~~extended time.~~ The commissioner may require an authorized
4 insurer ~~which~~ THAT is a member of a holding company system not
5 subject to registration under this section to furnish a copy of
6 the registration statement or other information filed by the
7 ~~insurance company~~ INSURER with the insurance regulatory author-
8 ity of domiciliary jurisdiction.

9 Sec. 1325. ~~Every~~ AN insurer subject to registration shall
10 file a registration statement on a form provided by the commis-
11 sioner ~~, which shall contain~~ CONTAINING THE FOLLOWING current
12 information: ~~about.~~

13 (a) The capital structure, comprehensive financial condi-
14 tion, ownership, and management of the insurer and any person
15 controlling the insurer.

16 (b) The identity AND RELATIONSHIP of every member of the
17 insurance holding company system.

18 (c) The following agreements in force, relationships
19 subsisting, and transactions currently outstanding OR THAT HAVE
20 OCCURRED DURING THE LAST CALENDAR YEAR between the insurer and
21 its affiliates:

22 (i) Loans, other investments or purchases, sales, or
23 exchanges of securities of the affiliates by the insurer or of
24 the insurer by its affiliates.

25 (ii) Purchases, sales, or exchanges of assets.

26 (iii) Transactions not in the ordinary course of business.

1 (iv) Guarantees or undertakings for the benefit of an
2 affiliate ~~which~~ THAT result in an actual contingent exposure of
3 the insurer's assets to liability, other than insurance contracts
4 entered into in the ordinary course of the insurer's business.

5 (v) All management and service contracts and all cost shar-
6 ing arrangements. ~~, other than cost allocation arrangements~~
7 ~~based upon generally accepted accounting principles.~~

8 (vi) Reinsurance agreements. ~~covering all or substantially~~
9 ~~all of + or more lines of insurance of the ceding company.~~

10 (vii) DIVIDENDS AND OTHER DISTRIBUTIONS TO SHAREHOLDERS.

11 (viii) CONSOLIDATED TAX ALLOCATION AGREEMENTS.

12 (D) ANY PLEDGE OF THE INSURER'S STOCK, INCLUDING STOCK OF
13 ANY SUBSIDIARY OR CONTROLLING AFFILIATE FOR A LOAN MADE TO ANY
14 MEMBER OF THE INSURANCE HOLDING SYSTEM.

15 (E) ALL REGISTRATION STATEMENTS SHALL CONTAIN A SUMMARY OUT-
16 LINING ALL ITEMS IN THE CURRENT REGISTRATION STATEMENT REPRESENT-
17 ING CHANGES FROM THE PRIOR REGISTRATION STATEMENT.

18 (F) ~~(d)~~ Other matters concerning transactions between reg-
19 istered insurers and any affiliates as may be included from time
20 to time in any registration forms adopted or approved by the
21 commissioner.

22 Sec. 1327. Each registered insurer shall keep current the
23 information required to be disclosed in its registration state-
24 ment by reporting all material changes or additions ~~on amendment~~
25 ~~forms provided by the commissioner~~ within 15 days after the end
26 of the month in which it learns of each change or addition.

27 Subject to section 1343, each registered insurer shall report all

1 dividends and other distributions to shareholders within 2
2 business days following the declaration. ~~thereof.~~

3 SEC. 1334. A PERSON WITHIN AN INSURANCE HOLDING COMPANY
4 SYSTEM SUBJECT TO REGISTRATION IS REQUIRED TO PROVIDE COMPLETE
5 AND ACCURATE INFORMATION TO AN INSURER IF THE INFORMATION IS REA-
6 SONABLY NECESSARY TO ENABLE THE INSURER TO COMPLY WITH THE PROVI-
7 SIONS OF THIS CHAPTER.

8 Sec. 1341. (1) ~~Material transactions by registered insur-~~
9 ~~ers with their affiliates shall be~~ TRANSACTIONS WITHIN A HOLDING
10 COMPANY SYSTEM TO WHICH AN INSURER SUBJECT TO REGISTRATION IS A
11 PARTY ARE subject to all OF the following standards:

12 (a) The terms shall be fair and reasonable.

13 (B) THE CHARGES OR FEES FOR SERVICES PERFORMED SHALL BE
14 REASONABLE.

15 (C) THE EXPENSES INCURRED AND PAYMENT RECEIVED SHALL BE
16 ALLOCATED TO THE INSURER IN CONFORMITY WITH CUSTOMARY INSURANCE
17 ACCOUNTING PRACTICES CONSISTENTLY APPLIED.

18 (D) ~~(b)~~ The books, accounts, and records of each party
19 shall be so maintained as to clearly and accurately disclose the
20 precise nature and details of the transactions INCLUDING SUCH
21 ACCOUNTING INFORMATION AS IS NECESSARY TO SUPPORT THE REASONABLE-
22 NESS OF THE CHARGES OR FEES TO THE RESPECTIVE PARTIES.

23 (E) ~~(c)~~ The insurer's surplus as regards policyholders
24 following any dividends or distributions to shareholder affili-
25 ates shall be reasonable in relation to the insurer's outstanding
26 liabilities and adequate to its financial needs SO THAT THE
27 INSURER CONTINUES TO COMPLY WITH SECTION 403.

1 (2) THE COMMISSIONER'S PRIOR APPROVAL SHALL BE REQUIRED FOR
2 SALES, PURCHASES, EXCHANGES, LOANS OR EXTENSIONS OF CREDIT, OR
3 INVESTMENTS, INVOLVING 5% OR MORE OF THE INSURER'S ADMITTED
4 ASSETS AT THE IMMEDIATELY PRECEDING YEAR'S END, BETWEEN A DOMES-
5 TIC CONTROLLED INSURER AND ANY PERSON IN ITS HOLDING COMPANY
6 SYSTEM.

7 (3) A DOMESTIC INSURER AND ANY PERSON IN ITS HOLDING COMPANY
8 SYSTEM SHALL NOT ENTER INTO THE FOLLOWING TRANSACTIONS UNLESS THE
9 INSURER HAS NOTIFIED THE COMMISSIONER IN WRITING OF ITS INTENTION
10 TO ENTER INTO THE TRANSACTION AT LEAST 30 DAYS, OR A SHORTER
11 PERIOD AS THE COMMISSIONER ALLOWS, PRIOR TO ENTERING INTO THE
12 TRANSACTION AND THE COMMISSIONER HAS NOT DISAPPROVED IT WITHIN
13 THAT PERIOD:

14 (A) SALES, PURCHASES, EXCHANGES, LOANS OR EXTENSIONS OF
15 CREDIT, OR INVESTMENTS, PROVIDED THE TRANSACTION IS EQUAL TO OR
16 GREATER THAN THE LESSER OF 3% OF THE INSURER'S ADMITTED ASSETS OR
17 25% OF CAPITAL AND SURPLUS AS OF DECEMBER 31 OF THE IMMEDIATELY
18 PRECEDING YEAR.

19 (B) REINSURANCE TREATIES OR AGREEMENTS.

20 (C) RENDERING OF SERVICES ON A REGULAR SYSTEMATIC BASIS.

21 (D) ANY MATERIAL TRANSACTIONS, SPECIFIED BY REGULATION, THAT
22 THE COMMISSIONER DETERMINES MAY ADVERSELY AFFECT THE INTERESTS OF
23 THE INSURER'S POLICYHOLDERS.

24 (4) NOTHING CONTAINED IN SUBSECTION (3) SHALL BE CONSIDERED
25 TO AUTHORIZE OR PERMIT ANY TRANSACTIONS THAT, IN THE CASE OF AN
26 INSURER NOT A MEMBER OF THE SAME HOLDING COMPANY SYSTEM, WOULD BE
27 OTHERWISE CONTRARY TO LAW.

1 (5) A DOMESTIC INSURER SHALL NOT ENTER INTO TRANSACTIONS
2 THAT ARE PART OF A PLAN OR SERIES OF LIKE TRANSACTIONS WITH PER-
3 SONS WITHIN THE HOLDING COMPANY SYSTEM IF THE PURPOSE OF THOSE
4 SEPARATE TRANSACTIONS IS TO AVOID THE STATUTORY THRESHOLD AMOUNT
5 AND THUS AVOID THE REVIEW THAT WOULD OTHERWISE OCCUR. IF THE
6 COMMISSIONER DETERMINES THAT THE SEPARATE TRANSACTIONS WERE
7 ENTERED INTO OVER ANY RELEVANT PERIOD FOR THAT PURPOSE, HE OR SHE
8 MAY EXERCISE HIS OR HER AUTHORITY UNDER SECTION 1371.

9 (6) IN REVIEWING A TRANSACTION PURSUANT TO SUBSECTION (2),
10 THE COMMISSIONER SHALL CONSIDER WHETHER THE TRANSACTION COMPLIES
11 WITH THE STANDARDS SET FORTH IN SUBSECTION (1) AND WHETHER IT MAY
12 OTHERWISE ADVERSELY AFFECT THE INTERESTS OF POLICYHOLDERS, CREDI-
13 TORS, OR THE PUBLIC.

14 (7) THE COMMISSIONER SHALL BE NOTIFIED WITHIN 30 DAYS OF ANY
15 INVESTMENT OF THE DOMESTIC INSURER IN ANY 1 CORPORATION IF THE
16 TOTAL INVESTMENT IN THE CORPORATION BY THE INSURANCE HOLDING COM-
17 PANY SYSTEM EXCEEDS 10% OF THE CORPORATION'S VOTING SECURITIES.

18 Sec. 1342. ~~For the purposes of sections 1324 to 1343~~
19 ~~inclusive in determining whether an insurer's surplus as regards~~
20 ~~policyholders is reasonable in relation to the insurer's out-~~
21 ~~standing liabilities and adequate to its financial needs, the~~
22 ~~following factors, among others, shall be considered:~~ IN DETER-
23 MINING WHETHER AN INSURER REMAINS SAFE, RELIABLE, AND ENTITLED TO
24 PUBLIC CONFIDENCE FOR THE PURPOSES OF SECTIONS 1324 TO 1343, THE
25 COMMISSIONER SHALL APPLY THE STANDARDS OF SECTION 436A.

~~(a) The size of the insurer as measured by its assets, capital and surplus reserves, premium writings, insurance in force and other appropriate criteria.~~

~~(b) The extent to which the insurer's business is diversified among the several lines of insurance.~~

~~(c) The number and size of risks insured in each line of business.~~

~~(d) The extent of the geographical dispersion of the insurer's insured risks.~~

~~(e) The nature and extent of the insurer's reinsurance program.~~

~~(f) The quality, diversification and liquidity of the insurer's investment portfolio.~~

~~(g) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.~~

~~(h) The surplus as regards policyholders maintained by other comparable insurers.~~

~~(i) The adequacy of the insurer's reserves.~~

~~(j) The compliance with section 901.~~

Sec. 1343. (1) An insurer subject to registration under section 1324 shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until 30 days after the commissioner has received notice of the declaration thereof and has not disapproved the payment within such period or the commissioner OR has approved the payment within such THAT period.

1 (2) An extraordinary dividend or distribution includes ANY
2 DIVIDEND THAT CONTRIBUTES TO A REDUCTION IN CAPITAL AND SURPLUS
3 FROM DECEMBER 31 OF THE IMMEDIATELY PRECEDING YEAR AND any divi-
4 dend or distribution of cash or other property, whose fair market
5 value together with that of other dividends or distributions made
6 within the preceding 12 months exceeds the ~~greater~~ LESSER of
7 10% of the insurer's surplus ~~as regards~~ FOR policyholders as of
8 December 31 ~~next preceding~~ OF THE IMMEDIATELY PRECEDING YEAR,
9 or the net gain from operations of the insurer, if the insurer is
10 a life insurer, or the net investment income, if the insurer is
11 not a life insurer, NOT INCLUDING REALIZED CAPITAL GAINS, for the
12 12-month period ending December 31 ~~next preceding~~ OF THE IMME-
13 DIATELY PRECEDING YEAR but shall not include pro rata distribu-
14 tions of any class of the insurer's own securities. IN DETERMIN-
15 ING NET GAINS FROM OPERATIONS, AN INSURER OTHER THAN A LIFE
16 INSURER MAY CARRY FORWARD NET INCOME FROM THE PREVIOUS 2 CALENDAR
17 YEARS THAT HAS NOT ALREADY BEEN PAID OUT AS DIVIDENDS. THIS
18 CARRYFORWARD SHALL BE COMPUTED BY TAKING THE NET INCOME FROM THE
19 SECOND AND THIRD IMMEDIATELY PRECEDING CALENDAR YEARS, NOT
20 INCLUDING REALIZED CAPITAL GAINS, LESS DIVIDENDS PAID IN THE
21 SECOND AND IMMEDIATELY PRECEDING CALENDAR YEARS.

22 (3) Notwithstanding any other provision of law, an insurer
23 may declare an extraordinary dividend or distribution ~~which~~
24 THAT is conditional upon the commissioner's approval. ~~thereof.~~
25 ~~Such a~~ THE declaration shall confer no rights upon shareholders
26 until the commissioner has approved OR HAS NOT DISAPPROVED the

1 payment of the dividend or distribution ~~or has not disapproved~~
2 ~~the payment~~ within the 30-day period.

3 (4) NOTWITHSTANDING SUBSECTIONS (1) TO (3), A DIVIDEND SHALL
4 NOT BE DECLARED AND PAID BY AN INSURER TO AN AFFILIATE IF AFTER
5 THE PAYMENT THE INSURER COULD NOT SATISFY THE STANDARDS SET FORTH
6 IN SECTION 403.

7 SEC. 1344. (1) NOTWITHSTANDING THE CONTROL OF A DOMESTIC
8 INSURER BY ANY PERSON, THE INSURER'S OFFICERS AND DIRECTORS SHALL
9 NOT BE RELIEVED OF ANY OBLIGATION OR LIABILITY TO WHICH THEY
10 WOULD OTHERWISE BE SUBJECT BY LAW AND THE INSURER SHALL BE MAN-
11 AGED SO AS TO ASSURE ITS SEPARATE OPERATING IDENTITY CONSISTENT
12 WITH THIS ACT.

13 (2) NOTHING IN THIS SECTION SHALL PRECLUDE A DOMESTIC
14 INSURER FROM HAVING OR SHARING A COMMON MANAGEMENT OR COOPERATIVE
15 OR JOINT USE OF PERSONNEL, PROPERTY, OR SERVICES WITH 1 OR MORE
16 OTHER PERSONS UNDER ARRANGEMENTS MEETING THE STANDARDS OF THIS
17 ACT.

18 (3) NOT LESS THAN 1/3 OF THE DIRECTORS OF A DOMESTIC INSURER
19 AND NOT LESS THAN 1/3 OF THE MEMBERS OF EACH COMMITTEE OF THE
20 BOARD OF DIRECTORS OF ANY DOMESTIC INSURER SHALL BE PERSONS WHO
21 ARE NOT OFFICERS OR EMPLOYEES OR RETIREES OF THE INSURER OR OF
22 ANY PERSON CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL
23 WITH THE INSURER AND WHO ARE NOT BENEFICIAL OWNERS OF A CONTROL-
24 LING INTEREST IN THE VOTING STOCK OF THE INSURER OR THE PERSON.
25 AT LEAST 1 PERSON SHALL BE INCLUDED IN ANY QUORUM FOR THE TRANS-
26 ACTION OF BUSINESS AT ANY MEETING OF THE BOARD OF DIRECTORS OR
27 ANY COMMITTEE OF THE BOARD OF DIRECTORS.

1 (4) THE BOARD OF DIRECTORS OF A DOMESTIC INSURER SHALL
2 ESTABLISH 1 OR MORE COMMITTEES COMPRISED SOLELY OF DIRECTORS WHO
3 ARE NOT OFFICERS OR EMPLOYEES OR RETIREES OF THE INSURER OR OF A
4 PERSON CONTROLLING, CONTROLLED BY, OR UNDER COMMON CONTROL WITH
5 THE INSURER AND WHO ARE NOT BENEFICIAL OWNERS OF A CONTROLLING
6 INTEREST IN THE VOTING STOCK OF THE INSURER OR THE PERSON. THE
7 COMMITTEE SHALL HAVE RESPONSIBILITY FOR RECOMMENDING THE SELEC-
8 TION OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS, REVIEWING THE
9 INSURER'S FINANCIAL CONDITION, THE SCOPE AND RESULTS OF THE INDE-
10 PENDENT AUDIT AND ANY INTERNAL AUDIT, NOMINATING CANDIDATES FOR
11 DIRECTOR FOR ELECTION BY SHAREHOLDERS OR POLICYHOLDERS, EVALUAT-
12 ING THE PERFORMANCE OF OFFICERS CONSIDERED TO BE PRINCIPAL OFFI-
13 CERS OF THE INSURER AND RECOMMENDING TO THE BOARD OF DIRECTORS
14 THE SELECTION AND COMPENSATION OF THE PRINCIPAL OFFICERS.

15 (5) SUBSECTIONS (3) AND (4) DO NOT APPLY TO A DOMESTIC
16 INSURER IF THE PERSON CONTROLLING THE INSURER IS AN INSURER
17 HAVING A BOARD OF DIRECTORS AND COMMITTEES OF THE BOARD OF DIREC-
18 TORS THAT MEET THE REQUIREMENTS OF SUBSECTIONS (3) AND (4).

19 Sec. 1351. (1) Subject to the limitation contained in this
20 section and in addition to the powers ~~which~~ THAT the commis-
21 sioner has under chapters 2 and 4 relating to the examination of
22 insurers, the commissioner may order any insurer registered under
23 section 1324 to produce ~~such~~ records, books, or other informa-
24 tion papers in the possession of the insurer or its affiliates as
25 are necessary to ascertain the INSURER'S financial condition or
26 legality of conduct. ~~of the insurer.~~ If the insurer fails to

1 comply with the order, the commissioner may examine the
2 affiliates to obtain the information.

3 ~~(2) The commissioner shall exercise his power under subsec-~~
4 ~~tion (1) only if the examination of the insurer under chapters 2~~
5 ~~and 4 is inadequate or the interests of the policyholders of the~~
6 ~~insurer may be adversely affected.~~

7 (2) ~~(3)~~ The commissioner may retain at the registered
8 insurer's expense ~~such~~ attorneys, actuaries, accountants, and
9 other experts not otherwise a part of the commissioner's staff as
10 are reasonably necessary to assist in the conduct of the examina-
11 tion under subsection (1). The expense of ~~such~~ THE attorneys,
12 actuaries, accountants, and other experts shall be certified by
13 the commissioner and paid as prescribed in sections 216 and 224.
14 ~~Any~~ THE person ~~so~~ retained shall be under the direction and
15 control of the commissioner and shall act in a purely advisory
16 capacity.

17 (3) ~~(4)~~ Each registered insurer producing for examination
18 records, books, and papers pursuant to subsection (1) shall be
19 liable for and shall pay the expense of the examination in
20 accordance with sections 216 and 224.

21 Sec. 1361. Upon notice and opportunity for all interested
22 persons to be heard, the commissioner may ~~issue such~~ PROMULGATE
23 rules and ISSUE orders as ~~shall be~~ ARE necessary to carry out
24 the provisions of this chapter.

25 Sec. 1367. A security ~~which~~ THAT is the subject of any
26 agreement or arrangement regarding acquisition, or ~~which~~ THAT
27 is acquired or to be acquired, in contravention of ~~the~~

1 ~~provisions of~~ this chapter or of any rule or order issued by the
2 commissioner, ~~may~~ SHALL not be voted at any shareholders' meet-
3 ing ~~nor~~ OR counted for quorum purposes and any action of share-
4 holders requiring the affirmative vote of a percentage of shares
5 may be taken as though ~~such~~ THE securities were not issued and
6 outstanding. AN ACTION TAKEN AT THE MEETING SHALL NOT BE INVALI-
7 DATED BY THE VOTING OF THE SECURITIES, UNLESS THE ACTION WOULD
8 MATERIALLY AFFECT CONTROL OF THE INSURER OR UNLESS SO ORDERED BY
9 THE COURT. If an insurer or the commissioner has reason to
10 believe that any security of the insurer has been or is about to
11 be acquired in contravention of ~~the provisions of~~ this chapter
12 or of any rule or order issued by the commissioner, the insurer
13 or the commissioner may apply to the INGHAM COUNTY circuit court
14 ~~for Ingham county~~ or to the circuit court for the county in
15 which the insurer has its principal place of business to enjoin
16 any offer, request, invitation, agreement, or acquisition made in
17 contravention of sections 1311 to 1319 ~~inclusive~~ or any rule or
18 order issued by the commissioner to enjoin the voting of any
19 security so acquired, to void any vote of ~~such~~ THE security
20 already cast at any meeting of shareholders and for ~~such~~ other
21 equitable relief as the nature of the case and the interests of
22 the insurer's policyholders, creditors, and shareholders or the
23 public may require.

24 Sec. 1371. (1) AN INSURER FAILING, WITHOUT JUST CAUSE, TO
25 FILE A REGISTRATION STATEMENT AS REQUIRED IN THIS CHAPTER SHALL
26 BE REQUIRED, AFTER NOTICE AND HEARING, TO PAY A PENALTY OF
27 \$1,000.00 FOR EACH DAY'S DELAY, UP TO A MAXIMUM OF \$50,000.00, TO

1 BE RECOVERED BY THE COMMISSIONER AND PAID INTO THE GENERAL
2 REVENUE FUND OF THIS STATE. THE COMMISSIONER MAY REDUCE THE PEN-
3 ALTY IF THE INSURER DEMONSTRATES TO THE COMMISSIONER THAT THE
4 IMPOSITION OF THE PENALTY WOULD CONSTITUTE A FINANCIAL HARDSHIP
5 TO THE INSURER.

6 (2) EVERY DIRECTOR OR OFFICER OF AN INSURANCE HOLDING COM-
7 PANY SYSTEM WHO KNOWINGLY VIOLATES OR KNOWINGLY PARTICIPATES IN,
8 ASSENTS TO, OR PERMITS ANY OF THE OFFICERS OR AGENTS OF THE
9 INSURER TO ENGAGE IN TRANSACTIONS OR MAKE INVESTMENTS THAT HAVE
10 NOT BEEN PROPERLY REPORTED OR SUBMITTED PURSUANT TO SECTION 1324,
11 1341, OR 1343, OR THAT VIOLATE THIS CHAPTER, SHALL PAY, IN THEIR
12 INDIVIDUAL CAPACITY, A CIVIL FORFEITURE OF NOT MORE THAN
13 \$10,000.00 PER VIOLATION, AFTER NOTICE AND HEARING BEFORE THE
14 COMMISSIONER. IN DETERMINING THE AMOUNT OF THE CIVIL FORFEITURE,
15 THE COMMISSIONER SHALL TAKE INTO ACCOUNT THE APPROPRIATENESS OF
16 THE FORFEITURE WITH RESPECT TO THE GRAVITY OF THE VIOLATION, THE
17 HISTORY OF PREVIOUS VIOLATIONS, AND OTHER MATTERS AS JUSTICE
18 REQUIRES.

19 (3) IF IT APPEARS TO THE COMMISSIONER THAT AN INSURER
20 SUBJECT TO THIS CHAPTER OR ANY INSURER'S DIRECTOR, OFFICER,
21 EMPLOYEE, OR AGENT HAS ENGAGED IN ANY TRANSACTION OR ENTERED INTO
22 A CONTRACT THAT IS SUBJECT TO SECTION 1341 OR 1344 AND THAT WOULD
23 NOT HAVE BEEN APPROVED HAD APPROVAL BEEN REQUESTED, THE COMMIS-
24 SIONER MAY ORDER THE INSURER TO CEASE AND DESIST IMMEDIATELY ANY
25 FURTHER ACTIVITY UNDER THAT TRANSACTION OR CONTRACT. AFTER
26 NOTICE AND HEARING, THE COMMISSIONER MAY ALSO ORDER THE INSURER
27 TO VOID ANY SUCH CONTRACT, TRANSACTION, OR DISTRIBUTION, AND

1 RESTORE THE STATUS QUO IF THAT ACTION IS IN THE BEST INTEREST OF
2 THE POLICYHOLDERS, CREDITORS, OR THE PUBLIC.

3 (4) ~~When~~ IF it appears to the commissioner that ~~any~~ AN
4 insurer or ~~any~~ AN INSURER'S director, officer, employee, or
5 agent ~~thereof~~ has committed a ~~wilful~~ WILLFUL violation of
6 this chapter, the commissioner may cause criminal proceedings to
7 be instituted in the circuit court for the county in which the
8 principal office of the insurer is located or if the insurer has
9 no such office in the state, then in the INGHAM COUNTY circuit
10 court ~~for Ingham county~~ against the insurer or the INSURER'S
11 responsible director, officer, employee, or agent. ~~thereof.~~
12 ~~Any~~ AN insurer ~~wilfully~~ WILLFULLY violating this chapter may
13 be fined not more than \$50,000.00. ~~Any~~ AN individual
14 ~~wilfully~~ WILLFULLY violating this chapter may be fined not more
15 than \$10,000.00 or, if the ~~wilful~~ WILLFUL violation involves
16 the deliberate perpetration of a fraud upon the commissioner,
17 imprisoned not more than 2 years, or both.

18 (5) AN OFFICER, DIRECTOR, OR EMPLOYEE OF AN INSURANCE HOLD-
19 ING COMPANY SYSTEM WHO WILLFULLY AND KNOWINGLY SUBSCRIBES TO OR
20 MAKES OR CAUSES TO BE MADE ANY FALSE STATEMENT, FALSE REPORT, OR
21 FALSE FILING WITH THE INTENT TO DECEIVE THE COMMISSIONER IN THE
22 PERFORMANCE OF HIS OR HER DUTIES UNDER THIS CHAPTER, SHALL BE
23 IMPRISONED FOR NOT MORE THAN 2 YEARS, OR FINED \$10,000.00, OR
24 BOTH. ANY FINES IMPOSED SHALL BE PAID BY THE OFFICER, DIRECTOR,
25 OR EMPLOYEE IN HIS OR HER INDIVIDUAL CAPACITY.

26 Sec. 1375. ~~When~~ IF it appears to the commissioner that
27 ~~any~~ A person has committed a violation of this chapter ~~which~~

1 THAT so impairs the financial condition of a domestic insurer as
2 to threaten insolvency or make the further transaction of busi-
3 ness by it hazardous to its policyholders, creditors,
4 shareholders, or the public, the commissioner may proceed as pro-
5 vided in chapter ~~78~~ 81 to take possession of the property of
6 the domestic insurer and conduct the INSURER'S business.
7 ~~thereof.~~

8 SEC. 1377. (1) IF AN ORDER FOR LIQUIDATION OR REHABILITA-
9 TION OF A DOMESTIC INSURER HAS BEEN ENTERED, THE RECEIVER
10 APPOINTED UNDER THE ORDER SHALL HAVE A RIGHT TO RECOVER ON BEHALF
11 OF THE INSURER BOTH OF THE FOLLOWING:

12 (A) FROM ANY PARENT CORPORATION, HOLDING COMPANY, OR PERSON
13 WHO OTHERWISE CONTROLS THE INSURER, THE AMOUNT OF DISTRIBUTIONS,
14 OTHER THAN DISTRIBUTIONS OF SHARES OF THE SAME CLASS OF STOCK,
15 PAID BY THE INSURER ON ITS CAPITAL STOCK IF MADE AT ANY TIME
16 DURING THE 1 YEAR PRECEDING THE PETITION FOR LIQUIDATION, CONSER-
17 VATION, OR REHABILITATION.

18 (B) ANY PAYMENT IN THE FORM OF A BONUS, TERMINATION SETTLE-
19 MENT, OR EXTRAORDINARY LUMP SUM SALARY ADJUSTMENT MADE BY THE
20 INSURER OR ITS SUBSIDIARY TO A DIRECTOR, OFFICER, OR EMPLOYEE IF
21 MADE AT ANY TIME DURING THE 1 YEAR PRECEDING THE PETITION FOR
22 LIQUIDATION, CONSERVATION, OR REHABILITATION.

23 (2) A DISTRIBUTION SHALL NOT BE RECOVERABLE UNDER THIS SEC-
24 TION IF THE PARENT OR AFFILIATE SHOWS THAT WHEN PAID THE DISTRI-
25 BUTION WAS LAWFUL AND REASONABLE AND THAT THE INSURER DID NOT
26 KNOW AND COULD NOT REASONABLY HAVE KNOWN THAT THE DISTRIBUTION

1 MIGHT ADVERSELY AFFECT THE ABILITY OF THE INSURER TO FULFILL ITS
2 CONTRACTUAL OBLIGATIONS.

3 (3) A PERSON WHO WAS A PARENT CORPORATION, HOLDING COMPANY,
4 OR A PERSON WHO OTHERWISE CONTROLLED THE INSURER OR AFFILIATE AT
5 THE TIME THE DISTRIBUTION WAS PAID SHALL BE LIABLE UP TO THE
6 AMOUNT OF DISTRIBUTIONS OR PAYMENTS UNDER SUBSECTION (1) THAT THE
7 PERSON RECEIVED. A PERSON WHO OTHERWISE CONTROLLED THE INSURER
8 AT THE TIME THE DISTRIBUTION WAS DECLARED SHALL BE LIABLE UP TO
9 THE AMOUNT OF DISTRIBUTIONS HE OR SHE WOULD HAVE RECEIVED IF THEY
10 HAD BEEN PAID IMMEDIATELY. IF 2 OR MORE PERSONS ARE LIABLE WITH
11 RESPECT TO THE SAME DISTRIBUTION, THEY ARE JOINTLY AND SEVERALLY
12 LIABLE.

13 (4) THE MAXIMUM AMOUNT RECOVERABLE UNDER THIS SECTION SHALL
14 BE THE AMOUNT NEEDED IN EXCESS OF ALL OTHER AVAILABLE ASSETS OF
15 THE IMPAIRED OR INSOLVENT INSURER TO PAY THE CONTRACTUAL OBLIGA-
16 TIONS OF THE IMPAIRED OR INSOLVENT INSURER AND TO REIMBURSE ANY
17 GUARANTY FUNDS.

18 (5) TO THE EXTENT THAT ANY PERSON LIABLE UNDER SUBSECTION
19 (3) IS INSOLVENT OR OTHERWISE FAILS TO PAY CLAIMS DUE FROM IT
20 PURSUANT TO SUBSECTION (3), ITS PARENT CORPORATION, HOLDING COM-
21 PANY, OR PERSON WHO OTHERWISE CONTROLLED IT AT THE TIME THE DIS-
22 TRIBUTION WAS PAID, IS JOINTLY AND SEVERALLY LIABLE FOR ANY
23 RESULTING DEFICIENCY IN THE AMOUNT RECOVERED FROM THAT PERSON.

24 SEC. 1378. A PERSON AGGRIEVED BY FAILURE OF THE COMMIS-
25 SIONER TO ACT OR MAKE A DETERMINATION REQUIRED BY THIS CHAPTER
26 MAY PETITION THE INGHAM COUNTY CIRCUIT COURT FOR A WRIT OF
27 SUPERINTENDING CONTROL.

1 Section 2. Sections 142, 236, 425, 426, 430, 439, and 470
2 of Act No. 218 of the Public Acts of 1956, being sections
3 500.142, 500.236, 500.425, 500.426, 500.430, 500.439, and 500.470
4 of the Michigan Compiled Laws, are repealed.