

HOUSE BILL No. 5499

February 11, 1992, Introduced by Reps. Stallworth, Hoekman, Bartnik, Griffin, DeMars, Martin, Barns, London, Keith, Dobronski, Fitzgerald, Webb, Van Singel, Stopczynski, Middaugh, Weeks, Hertel, Leland, Porreca, Mathieu, Niederstadt, Kosteva, Bandstra, Gilmer, Murphy, Johnson and Hood and referred to the Committee on Insurance.

A bill to amend the title and sections 2103, 2111, 2111a, 2118, 2134, 2136, 2138, 3009, 3015, 3101, 3101a, 3104, 3107, 3107a, 3109, 3109a, 3111, 3115, 3116, 3131, 3135, 3142, 3172, 3301, 3303, 3310, 3315, 3340, 3350, 3355, 6107, and 7911 of Act No. 218 of the Public Acts of 1956, entitled as amended "The insurance code of 1956," section 2103 as amended by Act No. 305 of the Public Acts of 1990, sections 2111, 2111a, 2134, 2136, 2138, 3015, 3107, 3107a, and 3315 as amended by Act No. 191 of the Public Acts of 1991, sections 2118 and 3009 as amended by Act No. 43 of the Public Acts of 1988, section 3101 as amended by Act No. 126 of the Public Acts of 1988, section 3101a as added and section 3303 as amended by Act No. 461 of the Public Acts of 1980, section 3104 as amended by Act No. 445 of the Public Acts of 1980, section 3172 as amended by Act No. 426 of the Public Acts of 1984,

sections 3310 and 3340 as amended and section 6107 as added by Act No. 10 of the Public Acts of 1986, section 3350 as amended by Act No. 502 of the Public Acts of 1982, and section 7911 as amended by Act No. 137 of the Public Acts of 1990, being sections 500.2103, 500.2111, 500.2111a, 500.2118, 500.2134, 500.2136, 500.2138, 500.3009, 500.3015, 500.3101, 500.3101a, 500.3104, 500.3107, 500.3107a, 500.3109, 500.3109a, 500.3111, 500.3115, 500.3116, 500.3131, 500.3135, 500.3142, 500.3172, 500.3301, 500.3303, 500.3310, 500.3315, 500.3340, 500.3350, 500.3355, 500.6107, and 500.7911 of the Michigan Compiled Laws; to add sections 2106a, 2106b, 2110a, 2111f, 2112a, 2115a, 2115b, 3010, 3103a, 3104a, 3107b, 3107c, 3172a, 3320a, and 6111 and chapter 32a; and to repeal certain parts of the act on specific dates.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2103, 2111, 2111a, 2118,
2 2134, 2136, 2138, 3009, 3015, 3101, 3101a, 3104, 3107, 3107a,
3 3109, 3109a, 3111, 3115, 3116, 3131, 3135, 3142, 3172, 3301,
4 3303, 3310, 3315, 3340, 3350, 3355, 6107, and 7911 of Act No. 218
5 of the Public Acts of 1956, section 2103 as amended by Act
6 No. 305 of the Public Acts of 1990, sections 2111, 2111a, 2134,
7 2136, 2138, 3015, 3107, 3107a, and 3315 as amended by Act No. 191
8 of the Public Acts of 1991, sections 2118 and 3009 as amended by
9 Act No. 43 of the Public Acts of 1988, section 3101 as amended by
10 Act No. 126 of the Public Acts of 1988, section 3101a as added
11 and section 3303 as amended by Act No. 461 of the Public Acts of
12 1980, section 3104 as amended by Act No. 445 of the Public Acts
13 of 1980, section 3172 as amended by Act No. 426 of the Public

1 Acts of 1984, sections 3310 and 3340 as amended and section 6107
2 as added by Act No. 10 of the Public Acts of 1986, section 3350
3 as amended by Act No. 502 of the Public Acts of 1982, and section
4 7911 as amended by Act No. 137 of the Public Acts of 1990, being
5 sections 500.2103, 500.2111, 500.2111a, 500.2118, 500.2134,
6 500.2136, 500.2138, 500.3009, 500.3015, 500.3101, 500.3101a,
7 500.3104, 500.3107, 500.3107a, 500.3109, 500.3109a, 500.3111,
8 500.3115, 500.3116, 500.3131, 500.3135, 500.3142, 500.3172,
9 500.3301, 500.3303, 500.3310, 500.3315, 500.3340, 500.3350,
10 500.3355, 500.6107, and 500.7911 of the Michigan Compiled Laws,
11 are amended and sections 2106a, 2106b, 2110a, 2111f, 2112a,
12 2115a, 2115b, 3010, 3103a, 3104a, 3107b, 3107c, 3172a, 3320a, and
13 6111 and chapter 32a are added to read as follows:

14 TITLE

15 An act to revise, consolidate, and classify the laws relat-
16 ing to the insurance and surety business; to regulate the incor-
17 poration or formation of domestic insurance and surety companies
18 and associations and the admission of foreign and alien companies
19 and associations; to provide their rights, powers, and immunities
20 and to prescribe the conditions on which companies and associa-
21 tions organized, existing, or authorized under this act may exer-
22 cise their powers; to provide the rights, powers, and immunities
23 and to prescribe the conditions on which other persons, firms,
24 corporations, associations, risk retention groups, and purchasing
25 groups engaged in an insurance or surety business may exercise
26 their powers; to provide for the imposition of a privilege fee on
27 domestic insurance companies and associations and the state

1 accident fund; to provide for the imposition of a tax on the
2 business of foreign and alien companies and associations; to pro-
3 vide for the imposition of a tax on risk retention groups and
4 purchasing groups; to provide for the imposition of a tax on the
5 business of surplus line agents; to modify tort liability arising
6 out of certain accidents; to provide for limited actions with
7 respect to that modified tort liability and to prescribe certain
8 procedures for maintaining those actions; to require security for
9 losses arising out of certain accidents; to provide for the con-
10 tinued availability and affordability of automobile insurance and
11 homeowners insurance in this state, ~~and~~ to facilitate the pur-
12 chase of that insurance by all residents of this state at fair
13 and reasonable rates, AND TO PROVIDE FOR CERTAIN POWERS AND
14 DUTIES, UPON CERTAIN PERSONS, AS THEY AFFECT THE CONTINUED AVAIL-
15 ABILITY AND AFFORDABILITY OF THAT INSURANCE; to provide for cer-
16 tain reporting with respect to insurance and with respect to cer-
17 tain claims against uninsured or self-insured persons; to pre-
18 scribe duties for certain state departments and officers with
19 respect to that reporting; to provide for certain assessments; to
20 establish and continue certain state insurance funds; to modify
21 and clarify the status, rights, powers, duties, and operations of
22 the nonprofit malpractice insurance fund; to provide for the
23 departmental supervision and regulation of the insurance and
24 surety business within this state; to provide for the conserva-
25 tion, rehabilitation, or liquidation of unsound or insolvent
26 insurers; to provide for the protection of policyholders,
27 claimants, and creditors of unsound or insolvent insurers; to

1 provide for associations of insurers to protect policyholders and
2 claimants in the event of insurer insolvencies; to prescribe edu-
3 cational requirements for insurance agents and solicitors; to
4 provide for the regulation of multiple employer welfare arrange-
5 ments; to create an automobile theft prevention authority to
6 reduce the number of automobile thefts in this state; to pre-
7 scribe the powers and duties of the automobile theft prevention
8 authority; TO PROVIDE CERTAIN POWERS AND DUTIES UPON CERTAIN
9 PERSONS; to provide certain powers and duties upon certain offi-
10 cials, departments, and authorities of this state; to repeal cer-
11 tain acts and parts of acts; to repeal certain acts and parts of
12 acts on specific dates; to repeal certain parts of this act on
13 specific dates; and to provide penalties for the violation of
14 this act.

15 Sec. 2103. (1) "Eligible person", for automobile insurance,
16 means a person who is an owner or registrant of an automobile
17 registered or to be registered in this state or who holds a valid
18 Michigan license to operate a motor vehicle, but does not include
19 any of the following:

20 (a) A person who is not required to maintain security pursu-
21 ant to section 3101, unless the person intends to reside in this
22 state for 30 days or more and makes a written statement of that
23 intention on a form approved by the commissioner.

24 (b) A person whose license to operate a vehicle is under
25 suspension or revocation.

26 (c) A person who has been convicted within the immediately
27 preceding 5-year period of fraud or intent to defraud involving

1 an insurance claim or an application for insurance; or an
2 individual who has been successfully denied, within the immedi-
3 ately preceding 5-year period, payment by an insurer of a claim
4 in excess of \$1,000.00 under an automobile insurance policy, if
5 there is evidence of fraud or intent to defraud involving an
6 insurance claim or application.

7 (d) A person who, during the immediately preceding 3-year
8 period, has been convicted under, or who has been subject to an
9 order of disposition of the probate court for a violation of, any
10 of the following:

11 (i) Section 324 ~~or 325~~ of the Michigan penal code, Act
12 No. 328 of the Public Acts of 1931, as amended, being ~~sections~~
13 SECTION 750.324 ~~and 750.325~~ of the Michigan Compiled Laws; sec-
14 tion 1 of Act No. 214 of the Public Acts of 1931, being section
15 752.191 of the Michigan Compiled Laws; or under any other law of
16 this state the violation of which constitutes a felony resulting
17 from the operation of a motor vehicle.

18 (ii) Section 625 of the Michigan vehicle code, Act No. 300
19 of the Public Acts of 1949, as amended, being section 257.625 of
20 the Michigan Compiled Laws.

21 (iii) Section 617, 617a, 618, or 619 of Act No. 300 of the
22 Public Acts of 1949, as amended, being sections 257.617,
23 257.617a, 257.618, and 257.619 of the Michigan Compiled Laws.

24 (iv) Section 626 of Act No. 300 of the Public Acts of 1949,
25 as amended, being section 257.626 of the Michigan Compiled Laws;
26 or for a similar violation under the laws of any other state or a
27 municipality within or without this state.

1 ~~(v) Section 625b of Act No. 300 of the Public Acts of 1949,~~
2 ~~as amended, being section 257.625b of the Michigan Compiled~~
3 ~~Laws.~~

4 (v) SECTION 626A OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949,
5 BEING SECTION 257.626A OF THE MICHIGAN COMPILED LAWS.

6 (e) A person whose vehicle insured or to be insured under
7 the policy fails to meet the motor vehicle safety requirements of
8 sections 683 to 711 of Act No. 300 of the Public Acts of 1949, as
9 amended, being sections 257.683 to 257.711 of the Michigan
10 Compiled Laws.

11 (f) A person whose policy of automobile insurance has been
12 canceled because of nonpayment of premium or financed premium
13 within the immediately preceding 2-year period, unless the pre-
14 mium due on a policy for which application has been made is paid
15 in full before issuance or renewal of the policy.

16 (g) A person who fails to obtain or maintain membership in a
17 club, group, or organization, if membership is a uniform require-
18 ment of the insurer as a condition of providing insurance, and if
19 the dues, charges, or other conditions for membership are applied
20 uniformly throughout this state, are not expressed as a percen-
21 tage of premium, and do not vary with respect to the rating clas-
22 sification of the member except for the purpose of offering a
23 membership fee to family units. Membership fees may vary in
24 accordance with the amount or type of coverage if the purchase of
25 additional coverage, either as to type or amount, is not a condi-
26 tion for reduction of dues or fees.

1 (h) A person whose driving record for the 3-year period
2 immediately preceding application for or renewal of a policy,
3 has, pursuant to section 2119a, an accumulation of more than ~~the~~
4 following: ~~(i) Five~~ 6 insurance eligibility points. ~~, if the~~
5 ~~application or renewal occurs on or before December 31, 1982.~~
6 ~~(ii) Six insurance eligibility points, if the application~~
7 ~~or renewal occurs on or after January 1, 1983.~~

8 (2) "Eligible person", for home insurance, means a person
9 who is the owner-occupant or tenant of a dwelling of any of the
10 following types: a house, a condominium unit, a cooperative
11 unit, a room, or an apartment; or a person who is the
12 owner-occupant of a multiple unit dwelling of not more than 4
13 residential units. Eligible person does not include any of the
14 following:

15 (a) A person who has been convicted, in the immediately pre-
16 ceding 5-year period, of 1 or more of the following:

17 (i) Arson, or conspiracy to commit arson.

18 (ii) A crime under sections 72 to 77, 112, 211a, 377a, 377b,
19 or 380 of Act No. 328 of the Public Acts of 1931, as amended,
20 being sections 750.72 to 750.77, 750.112, 750.211a, 750.377a,
21 750.377b, and 750.380 of the Michigan Compiled Laws.

22 (iii) A crime under section 92, 151, 157b, or 218 of Act
23 No. 328 of the Public Acts of 1931, as amended, being sections
24 750.92, 750.151, 750.157b, and 750.218 of the Michigan Compiled
25 Laws, based upon a crime described in subparagraph (ii) committed
26 by or on behalf of the person.

1 (b) A person who has been successfully denied, within the
2 immediately preceding 5-year period, payment by an insurer of a
3 claim under a home insurance policy in excess of \$2,000.00, based
4 on evidence of arson, conspiracy to commit arson, misrepresenta-
5 tion, fraud, or conspiracy to commit fraud, committed by or on
6 behalf of the person, if the amount of the denied claim was
7 greater than any of the following:

8 (i) For a claim under a repair cost policy, 15% of the
9 amount of insurance in force.

10 (ii) For a claim under a replacement cost policy, 10% of the
11 amount of insurance in force.

12 (c) A person who insures or seeks to insure a dwelling
13 ~~which~~ THAT is being used for an illegal or demonstrably hazard-
14 ous purpose.

15 (d) A person who refuses to purchase an amount of insurance
16 equal to at least 80% of the replacement cost of the property
17 insured or to be insured under a replacement cost policy.

18 (e) A person who refuses to purchase an amount of insurance
19 equal to at least 100% of the market value of the property
20 insured or to be insured under a repair cost policy.

21 (f) A person who refuses to purchase an amount of insurance
22 equal to at least 100% of the actual cash value of the property
23 insured or to be insured under a tenant or renter's home insur-
24 ance policy.

25 (g) A person whose policy of home insurance has been
26 canceled because of nonpayment of premium within the immediately

1 preceding 2-year period, unless the premium due on the policy is
2 paid in full before issuance or renewal of the policy.

3 (h) A person who insures or seeks to insure a dwelling, if
4 the insured value is not any of the following:

5 (i) For a repair cost policy, at least \$7,500.00.

6 (ii) For a replacement policy, at least \$15,000.00 or
7 another amount ~~which~~ THAT the commissioner may establish bien-
8 nially on and after January 1, 1983, pursuant to rules promul-
9 gated by the commissioner under the administrative procedures act
10 of 1969, Act No. 306 of the Public Acts of 1969, as amended,
11 being sections 24.201 to 24.328 of the Michigan Compiled Laws,
12 based upon changes in applicable construction cost indices.

13 (j) A person who insures or seeks to insure a dwelling
14 ~~which~~ THAT does not meet minimum standards of insurability as
15 established by rules promulgated by the commissioner pursuant to
16 Act No. 306 of the Public Acts of 1969, as amended.

17 (k) A person whose real property taxes with respect to the
18 dwelling insured or to be insured have been and are delinquent
19 for 2 or more years at the time of renewal of, or application
20 for, home insurance.

21 (l) A person who has failed to procure or maintain member-
22 ship in a club, group, or organization, if membership is a uni-
23 form requirement of the insurer — and if the dues, charges, or
24 other conditions for membership are applied uniformly throughout
25 this state, are not expressed as a percentage of premium, and do
26 not vary with respect to the rating classification of the member
27 except for the purpose of offering a membership fee to family

1 units. Membership fees may vary in accordance with the amount or
2 type of coverage if the purchase of additional coverage, either
3 as to type or amount, is not a condition for reduction of dues or
4 fees.

5 (3) "Home insurance" means any of the following, but does
6 not include insurance intended to insure commercial, industrial,
7 professional, or business property, obligations, or liabilities:

8 (a) Fire insurance for an insured's dwelling of a type
9 described in subsection (2).

10 (b) If contained in or indorsed to a fire insurance policy
11 providing insurance for the insured's residence, other insurance
12 intended primarily to insure nonbusiness property, obligations,
13 and liabilities.

14 (c) Other insurance coverages for an insured's residence as
15 prescribed by rule promulgated by the commissioner pursuant to
16 Act No. 306 of the Public Acts of 1969, as amended. A rule pro-
17 posed for promulgation by the commissioner pursuant to this sec-
18 tion shall be transmitted in advance to each member of the stand-
19 ing committee in the house and in the senate ~~which~~ THAT has
20 jurisdiction over insurance.

21 (4) "Insurance eligibility points" means all of the
22 following:

23 (a) Points calculated, according to the following schedule,
24 for convictions, determinations of responsibility for civil
25 infractions, or findings of responsibility in probate court:

26 (i) For a violation of ~~any~~ A lawful speed limit by more
27 than 15 miles per hour, or careless driving, 4 points.

1 (ii) For a violation of ~~any~~ A lawful speed limit by more
2 than 10 miles per hour, but less than 16 miles per hour, 3
3 points.

4 (iii) For a violation of ~~any~~ A lawful speed limit by 10
5 miles per hour or less, 2 points.

6 (iv) For a violation of ~~any~~ A speed limit by 15 miles per
7 hour or less on a roadway which had a lawfully posted maximum
8 speed of 70 miles per hour as of January 1, 1974, 2 points.

9 (v) For all other moving violations pertaining to the opera-
10 tion of motor vehicles, 2 points.

11 (b) Points calculated, according to the following schedule,
12 for determinations that the person was substantially at-fault, as
13 defined in section 2104(4):

14 (i) For the first substantially at-fault accident, 3
15 points.

16 (ii) For the second and each subsequent substantially
17 at-fault accident, 4 points.

18 (5) "Insurer" means an insurer authorized to transact in
19 this state the kind or combination of kinds of insurance consti-
20 tuting automobile insurance or home insurance, as defined in this
21 chapter.

22 SEC. 2106A. (1) THE COMMISSIONER SHALL DEVELOP BY APRIL 1,
23 1992 A STANDARD DECLARATIONS PAGE FOR PRIVATE PASSENGER NONFLEET
24 AUTOMOBILE INSURANCE. BY JULY 1, 1992, EACH AUTOMOBILE INSURER
25 SHALL USE THE STANDARD DECLARATIONS PAGE FOR PRIVATE PASSENGER
26 NONFLEET AUTOMOBILE INSURANCE.

1 (2) THE COMMISSIONER SHALL PROVIDE THAT THE STANDARD
2 DECLARATIONS PAGE CONTAIN AT LEAST THE FOLLOWING NOTICE
3 CONCERNING COMPREHENSIVE AND COLLISION COVERAGES:

4 WARNING. COMPREHENSIVE AND COLLISION COVERAGES
5 REIMBURSE ONLY FOR THE CURRENT VALUE OF YOUR
6 MOTOR VEHICLE LESS YOUR DEDUCTIBLE.

7 SEC. 2106B. THE COMMISSIONER SHALL DEVELOP BY APRIL 1, 1992
8 A STANDARD RATE FILING FORM FOR PRIVATE PASSENGER NONFLEET AUTO-
9 MOBILE INSURANCE. BY JULY 1, 1992, EACH AUTOMOBILE INSURER SHALL
10 USE THE STANDARD RATE FILING FORM WHEN FILING A RATE WITH THE
11 COMMISSIONER FOR PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE.

12 SEC. 2110A. AN AUTOMOBILE INSURER MAY ESTABLISH AND MAIN-
13 TAIN A PREMIUM DISCOUNT PLAN BASED UPON THE OVERALL SAFETY OF THE
14 MAKE AND MODEL OF AN AUTOMOBILE OR CERTAIN SAFETY FEATURES OF THE
15 MAKE AND MODEL OF AN AUTOMOBILE PROVIDED THAT A PREMIUM DISCOUNT
16 PLAN IS UNIFORMLY OFFERED AND APPLIED TO ALL OF THE AUTOMOBILE
17 INSURER'S INSURED'S AS APPLICABLE. FEATURES THAT MAY BE CONSID-
18 ERED IN DETERMINING THE OVERALL SAFETY OF THE MAKE AND MODEL OF
19 AN AUTOMOBILE INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

20 (A) SAFETY RATINGS BASED UPON BOTH HIGHWAY ACCIDENT STATIS-
21 TICS AND THE SAFETY OF VEHICLE OCCUPANTS.

22 (B) ANTILACERATIVE GLASS.

23 (C) AIR BAGS.

24 (D) REAR SHOULDER HARNESSSES.

25 (E) ANTILOCK BRAKES.

26 (F) ENHANCED SIDEWALL PROTECTION.

1 (G) BUMPERS THAT EXCEED A COLLISION STANDARD OF 5 MILES PER
2 HOUR.

3 (H) OTHER FEATURES THAT ENHANCE THE SAFETY OF THE VEHICLE'S
4 OCCUPANTS AND ARE APPROVED BY THE COMMISSIONER.

5 Sec. 2111. (1) Notwithstanding any provision of this act
6 and this chapter to the contrary, classifications and territorial
7 base rates used by any insurer in this state with respect to
8 automobile insurance or home insurance shall conform to the
9 applicable requirements of this section.

10 (2) Classifications established pursuant to this section for
11 automobile insurance shall be based ~~only~~ upon ~~one or more~~ ALL
12 of the following factors, which shall be applied by an insurer on
13 a uniform basis throughout the state:

14 (a) With respect to all automobile insurance coverages:

15 (i) ~~Either the~~ THE age of the driver. ~~, the~~

16 (ii) THE length of driving experience. ~~, or the~~

17 (iii) THE number of years licensed to operate a motor
18 vehicle.

19 (iv) ~~(iii)~~ Driver primacy, based upon the proportionate use
20 of each vehicle insured under the policy by individual drivers
21 insured or to be insured under the policy.

22 (v) ~~(iii)~~ Average miles driven weekly, annually, or both.

23 (vi) ~~(iv)~~ Type of use, such as business, farm, or pleasure
24 use.

25 (vii) ~~(v)~~ Vehicle characteristics, features, and options,
26 such as engine displacement, ability of vehicle and its equipment

1 to protect passengers from injury and other similar items,
2 including vehicle make and model.

3 (viii) ~~(vi)~~ Daily or weekly commuting mileage.

4 (ix) ~~(vii)~~ Number of cars insured by the insurer or number
5 of licensed operators in the household. However, number of
6 licensed operators shall not be used as an indirect measure of
7 marital status.

8 (x) ~~(viii)~~ Amount of insurance.

9 (xi) CLAIM EXPERIENCE WITH THE INSURER TO THE EXTENT CONSIS-
10 TENT WITH AN INSURER'S MERIT RATING PLAN.

11 (xii) NUMBER OF YEARS INSURED WITH THE INSURER.

12 (xiii) GEOGRAPHICAL LOCATION OF WORKPLACE.

13 (xiv) DRIVING RECORD FOR THE LAST 5 YEARS.

14 (xv) WHETHER VEHICLE IS REGULARLY PARKED OVERNIGHT ON THE
15 STREET, IN A DRIVEWAY, OR IN AN ENCLOSED GARAGE.

16 (xvi) USAGE PATTERNS OF THE VEHICLE, INCLUDING REGULAR
17 DESTINATIONS.

18 (xvii) PRINCIPAL PLACE OF GARAGING OF THE INSURED VEHICLE OR
19 THE INSURED'S PLACE OF RESIDENCE.

20 (b) In addition to the factors prescribed in subdivision
21 (a), with respect to personal protection insurance coverage:

22 (i) Earned income.

23 (ii) Number of dependents of income earners insured under
24 the policy.

25 (iii) Coordination of benefits.

26 (iv) Use of a safety belt.

1 (c) In addition to the factors prescribed in subdivision
2 (a), with respect to collision and comprehensive coverages:

3 (i) The anticipated cost of vehicle repairs or replacement,
4 which may be measured by age ~~price, cost new, or~~ AND value of
5 the insured automobile, and other factors directly relating to
6 that anticipated cost.

7 (ii) Vehicle make and model.

8 (iii) Vehicle design characteristics related to vehicle
9 damageability.

10 (iv) VEHICLE DESIGN AND EQUIPMENT CHARACTERISTICS INCLUDING
11 STANDARD FEATURES AND OPTIONS BY VEHICLE MAKE AND MODEL, WHICH
12 BEAR UPON THE ABILITY OF THE VEHICLE TO PROTECT PASSENGERS FROM
13 INJURY OR TO AVOID ACCIDENTS, THE VEHICLE'S RESISTANCE TO DAMAGE,
14 AND THE COST OF REPAIR OF A DAMAGED VEHICLE. ON AND AFTER
15 JANUARY 1, 1993, AN INSURER IS REQUIRED TO BASE ITS RATING SYSTEM
16 FOR COLLISION COVERAGE UPON AND TO QUOTE COLLISION COVERAGE UPON
17 THE CHARACTERISTICS IN THIS SUBPARAGRAPH.

18 (v) ~~(iv)~~ Vehicle characteristics relating to automobile
19 theft prevention devices.

20 (d) With respect to all automobile insurance coverage other
21 than comprehensive, successful completion by the individual
22 driver or drivers insured under the policy of an accident preven-
23 tion education course that meets the following criteria:

24 (i) The course shall include a minimum of 8 hours of class-
25 room instruction.

26 (ii) The course shall include, but not be limited to, a
27 review of all of the following:

1 (A) The effects of aging on driving behavior.

2 (B) The shapes, colors, and types of road signs.

3 (C) The effects of alcohol and medication on driving.

4 (D) The laws relating to the proper use of a motor vehicle.

5 (E) Accident prevention measures.

6 (F) The benefits of safety belts and child restraints.

7 (G) Major driving hazards.

8 (H) Interaction with other highway users such as motorcy-
9 clists, bicyclists, and pedestrians.

10 (I) LIMITS AND BENEFITS OF THE VARIOUS AUTOMOBILE INSURANCE
11 COVERAGES.

12 (3) Each insurer shall establish and maintain premium dis-
13 count plans pursuant to the following:

14 (a) ~~Until April 1, 1992, an~~ AN automobile theft prevention
15 premium discount plan. A premium discount plan required under
16 this subdivision shall provide for a premium discount for automo-
17 bile comprehensive coverage based upon the installation of an
18 approved automobile theft prevention device. As used in this
19 subdivision, "approved automobile theft prevention device" means
20 a device that is designed to prevent the theft of an insured's
21 automobile and that is approved by the board of directors of the
22 automobile theft prevention authority.

23 (b) ~~Until April 1, 1992, an~~ AN automobile safety belt pre-
24 mium discount plan. A premium discount plan required under this
25 subdivision shall provide for a premium discount for automobile
26 personal protection insurance of not less than 20%. A premium
27 discount plan established under this subdivision may require the

1 insured individual to certify in writing that he or she will wear
 2 a safety belt while operating the insured motor vehicle in com-
 3 pliance with section 710e of the Michigan vehicle code, Act
 4 No. 300 of the Public Acts of 1949, being section 257.710e of the
 5 Michigan Compiled Laws, as a condition to receiving the premium
 6 discount. If an insured receives a premium discount after pro-
 7 viding such certification and is injured while operating a motor
 8 vehicle without wearing a safety belt at the time of the injury,
 9 an insurer may subsequently deny to the insured the right to par-
 10 ticipate in any premium discount plan established by the insurer
 11 pursuant to this subdivision for a period of 12 months. An
 12 insurer that reduces its personal protection insurance rates
 13 after December 1, 1985 by not less than 20% and does not increase
 14 those rates for a period of 12 months shall be considered to be
 15 in compliance with this subdivision.

16 (4) Each insurer shall establish a secondary or merit rating
 17 plan for automobile insurance, other than comprehensive
 18 coverage. ~~A~~ EXCEPT AS PROVIDED IN SUBSECTION (5), A secondary
 19 or merit rating plan required under this subsection shall provide
 20 for premium surcharges for any or all coverages for automobile
 21 insurance, other than comprehensive coverage, based upon any or
 22 all of the following, when that information becomes available to
 23 the insurer:

24 (a) Substantially at-fault accidents.

25 (b) ~~Convictions~~ THE HAPPENING OF OR CONVICTION for,
 26 ~~determinations~~ DETERMINATION of responsibility for A civil
 27 ~~infractions~~ INFRACTION for, or ~~findings~~ FINDING of

1 responsibility in probate court for A civil ~~infractions~~

2 INFRACTION for ~~violations~~ ANY OF THE FOLLOWING:

3 (i) A VIOLATION under chapter VI of the Michigan vehicle
4 code, Act No. 300 of the Public Acts of 1949, as amended, being
5 sections 257.601 to 257.750 of the Michigan Compiled Laws.

6 (ii) THE SUSPENSION OF THE INSURED'S LICENSE BY THE SECRE-
7 TARY OF STATE UNDER SECTION 319(1)(C) TO (F) OF ACT NO. 300 OF
8 THE PUBLIC ACTS OF 1949, BEING SECTION 257.319 OF THE MICHIGAN
9 COMPILED LAWS.

10 (iii) OPERATING A MOTOR VEHICLE WHILE LICENSE IS SUSPENDED
11 OR REVOKED.

12 (iv) OPERATING A MOTOR VEHICLE IN VIOLATION OF A LICENSE
13 RESTRICTION UNDER SECTION 312 OF ACT NO. 300 OF THE PUBLIC ACTS
14 OF 1949, BEING SECTION 257.312 OF THE MICHIGAN COMPILED LAWS.

15 (v) A VIOLATION SUBSTANTIALLY SIMILAR TO ANY OF THE VIOLA-
16 TIONS LISTED IN SUBPARAGRAPHS (i) TO (iv) UNDER THE LAWS OF
17 ANOTHER STATE OR LOCAL UNIT OF GOVERNMENT IN THIS STATE OR
18 ANOTHER STATE.

19 (5) AN INSURER MAY ELECT NOT TO SURCHARGE AN INSURED UNDER
20 SUBSECTION (4) IF THE INSURED HAS BEEN INSURED BY THE INSURER FOR
21 NOT LESS THAN 5 YEARS AND THE ELECTION IS UNIFORMLY OFFERED AND
22 APPLIED TO ALL OF THE INSURER'S INSURED.

23 (6) ~~(5)~~ An insurer shall not establish or maintain rates
24 or rating classifications for automobile insurance based upon
25 RACE, sex, or marital status.

26 (7) ~~(6)~~ Notwithstanding other provisions of this chapter,
27 automobile insurance risks shall be grouped by territory, ~~and~~

~~1 territorial base rates for coverages shall be established as
2 provided in section 2111a and as follows:~~

~~3 (a) An insurer shall not be limited as to the number of ter-
4 ritories employed in its rating plan.~~

~~5 (b) Except during the period of time from February 28, 1986
6 to April 1, 1992, an insurer shall not employ more than 20 dif-
7 ferent territorial base rates for an automobile insurance
8 coverage.~~

~~9 (c) A territorial base rate may be made applicable in 1 or
10 more territories contained in the rating plan of the insurer.~~

~~11 (d) Except during the period of time from February 28, 1986
12 to April 1, 1992, an insurer shall not employ a territorial base
13 rate for an automobile insurance package policy that is less than
14 45% of the highest territorial base rate for the same policy, all
15 other rating classifications being the same.~~

~~16 (e) Except during the period of time from February 28, 1986
17 to April 1, 1992, an insurer shall not employ a territorial base
18 rate in a territory for an automobile insurance package policy
19 that is less than 90% of the territorial base rate employed in
20 any adjacent territory for the same policy, all other rating
21 classifications being the same.~~

~~22 (f) Except during the period of time from February 28, 1986
23 to April 1, 1992, an insurer may elect at any time to exempt
24 itself from the requirements of subsection (6) by filing for an
25 exemption with the commissioner. An insurer electing this exemp-
26 tion shall initially file a rating plan in which no territorial
27 base rate for an automobile insurance package policy is less than~~

~~1 45% of the highest territorial base rate for the same policy, all
2 other rating classifications being the same. Five years from the
3 date of the initial filing the insurer shall be prohibited from
4 using a rating plan in which any territorial base rate for an
5 automobile insurance package policy will be less than 67% of the
6 highest territorial base rate for that same policy, all other
7 rating classifications being the same. An insurer's election of
8 an exemption under this subsection is permanent, final, and not
9 subject to change.~~

~~10 (8) Except during the period of time from February 28, 1986
11 to April 1, 1992, if an insurer can demonstrate to the commis-
12 sioner, after an opportunity for an evidentiary hearing held pur-
13 suant to the administrative procedures act of 1969, Act No. 306
14 of the Public Acts of 1969, as amended, being sections 24.201 to
15 24.328 of the Michigan Compiled Laws, that clear and significant
16 financial impairment exists in the geographic territory or terri-
17 tories in question because of the need for an additional territo-
18 rial base rate, or for a greater variance in the adjacent geo-
19 graphic territory differential contained in subsection (6)(e),
20 the additional territorial base rate, a greater variance, or
21 both, shall be permitted for use by the insurer or a licensed
22 rating organization on behalf of that insurer, at such time as
23 the need exists. Evidence shall not include financial impairment
24 resulting from exemptions granted to other insurers.~~

~~25 (9) Except during the period of time from February 28, 1986
26 to April 1, 1992, if the commissioner finds, solely on the
27 evidence presented, that a greater variance in the adjacent~~

~~1 geographic territory differential than that authorized under
2 subsection (6)(c) is justified, the increase in variance shall
3 not exceed 100% of that authorized under that subsection. Except
4 during the period of time from February 28, 1986 to April 1,
5 1992, if an increase in variance in the adjacent geographic ter-
6 ritory differential greater than 100% of that authorized under
7 subsection (6)(c) is justified, the commissioner shall require
8 the creation of an additional territorial base rate.~~

~~9 (10) Except during the period of time from February 28, 1986
10 to April 1, 1992, an exemption granted under subsections (8) and
11 (9) shall be applicable only to the geographic territory or ter-
12 ritories in question, and only to the insurer requesting the
13 exemption.~~

~~14 (11) Except during the period of time from February 28, 1986
15 to April 1, 1992, an insurer shall not have more than 5 exemp-
16 tions in force at any 1 time. For purposes of determining the
17 number of existing exemptions, each additional territorial base
18 rate or each increase in variance in the adjacent geographic ter-
19 ritory differential granted, shall be considered to be a separate
20 exemption. AN INSURER SHALL NOT BE LIMITED AS TO THE NUMBER OF
21 TERRITORIES EMPLOYED IN ITS RATING PLAN, A TERRITORIAL BASE RATE
22 MAY BE MADE APPLICABLE IN 1 OR MORE TERRITORIES CONTAINED IN THE
23 RATING PLAN OF AN INSURER, AND THE FACTORS USED IN DETERMINING
24 TERRITORIAL BASE RATES FOR COVERAGES SHALL BE APPLIED REASONABLY
25 AND UNIFORMLY WITHIN ALL TERRITORIES OF AN INSURER AND SHALL BE
26 LIMITED TO THE FOLLOWING:~~

- 1 (A) AVERAGE REPAIR RATES STATEWIDE.
- 2 (B) AVERAGE MEDICAL AND HOSPITAL COSTS STATEWIDE.
- 3 (C) LITIGATION RATES STATEWIDE.
- 4 (D) POPULATION DENSITY WITHIN THE TERRITORY.
- 5 (E) VEHICLE DENSITY WITHIN THE TERRITORY.
- 6 (F) AVERAGE COLLISION, BODILY INJURY, AND FATALITY CLAIMS
7 WITHIN THE TERRITORY.
- 8 (G) AVERAGE NUMBER OF UNINSURED VEHICLES WITHIN THE
9 TERRITORY.
- 10 (H) AVERAGE CLAIMS COSTS WITHIN THE TERRITORY.
- 11 (I) TOPOGRAPHY AND CLIMATIC CONDITIONS WITHIN THE
12 TERRITORY.
- 13 (J) ADEQUACY AND QUALITY OF ROAD INFRASTRUCTURE WITHIN THE
14 TERRITORY.
- 15 (K) AUTOMOBILE THEFT AND VANDALISM CLAIMS PAID WITHIN THE
16 TERRITORY.
- 17 (L) AVERAGE SIZE OF COURT SETTLEMENTS WITHIN THE TERRITORY.
- 18 (M) AVAILABILITY OF PUBLIC TRANSPORTATION WITHIN THE
19 TERRITORY.
- 20 (N) AVERAGE INCOME WITHIN THE TERRITORY.
- 21 (8) ~~-(12)-~~ This section shall not be construed as limiting
22 insurers or rating organizations from establishing and maintain-
23 ing statistical reporting territories. This section shall not be
24 construed to prohibit an insurer from establishing or maintain-
25 ing, for automobile insurance, a premium discount plan for senior
26 citizens in this state who are 65 years of age or older, if the
27 plan is uniformly applied by the insurer throughout this state.

1 If an insurer has not established and maintained such a premium
2 discount plan for senior citizens, the insurer shall offer
3 reduced premium rates to senior citizens in this state who are 65
4 years of age or older and who drive less than 3,000 miles per
5 year, regardless of statistical data.

6 (9) ~~(+3)~~ Classifications established pursuant to this sec-
7 tion for home insurance other than inland marine insurance pro-
8 vided by policy floaters or endorsements shall be based only upon
9 1 or more of the following factors:

10 (a) Amount and types of coverage.

11 (b) Security and safety devices, including locks, smoke
12 detectors, and similar, related devices.

13 (c) Repairable structural defects reasonably related to
14 risk.

15 (d) Fire protection class.

16 (e) Construction of structure, based on structure size,
17 building material components, and number of units.

18 (f) Loss experience of the insured, based upon prior claims
19 attributable to factors under the control of the insured that
20 have been paid by an insurer.

21 (g) Use of smoking materials within the structure.

22 (h) Distance of the structure from a fire hydrant.

23 (i) Availability of law enforcement or crime prevention
24 services.

25 (10) ~~(+4)~~ Notwithstanding other provisions of this chap-
26 ter, home insurance risks shall be grouped by territory, and

1 territorial base rates for coverages shall be established as
2 follows:

3 (a) An insurer shall not be limited as to the number of ter-
4 ritories employed in its rating plan. However, an insurer shall
5 not employ more than 3 different territorial base rates for a
6 home insurance coverage. A territorial base rate may be made
7 applicable in 1 or more territories contained in the rating plan
8 of the insurer.

9 (b) An insurer shall not employ a territorial base rate for
10 home insurance for owner-occupied dwelling policies that is less
11 than 70% of the highest territorial base rate for the same
12 policy, all other rating classifications being the same.

13 (c) An insurer shall not employ a territorial base rate for
14 home insurance for renter or tenant policies that is less than
15 65% of the highest territorial base rate for the same policy, all
16 other rating classifications being the same.

17 (11) ~~(+5)~~ An insurer may utilize factors in addition to
18 those specified in this section, if the commissioner finds, after
19 a hearing held pursuant to the administrative procedures act of
20 1969, Act No. 306 of the Public Acts of 1969, as amended, being
21 sections 24.201 to 24.328 of the Michigan Compiled Laws, that the
22 factors would encourage innovation, would encourage insureds to
23 minimize the risks of loss from hazards insured against, and
24 would be consistent with the purposes of this chapter.

25 (12) AN INSURER MAY OFFER A PREMIUM DISCOUNT FOR AUTOMOBILE
26 AND HOME INSURANCE IF BOTH COVERAGES ARE PURCHASED FROM THE SAME
27 INSURER.

1 (13) AN AUTOMOBILE INSURER MAY OFFER PREMIUM DISCOUNTS BASED
2 UPON THE LENGTH OF TIME THE INSURED HAS BEEN ACCIDENT-FREE WITH
3 THAT INSURER.

4 Sec. 2111a. ~~(1) Except as otherwise provided in this sec-~~
5 ~~tion, before April 1, 1986, an insurer shall not charge a terri-~~
6 ~~torial base rate for an automobile insurance package policy in a~~
7 ~~territory within an urban area that exceeds the territorial base~~
8 ~~rate that would have been charged by the Michigan automobile~~
9 ~~insurance placement facility in that territory using the weighted~~
10 ~~average of the base rates charged in each facility territory by~~
11 ~~the 5 largest insurer groups, determined by voluntary net direct~~
12 ~~automobile insurance car years written in the state for the cal-~~
13 ~~endar year ending December 31, 1984 as reported to the statisti-~~
14 ~~cal agent, and based upon the data used by the facility to deter-~~
15 ~~mine the facility rates that were effective January 1, 1986.~~
16 ~~However, this subsection does not require an insurer to reduce~~
17 ~~its territorial base rates within an urban area that are in~~
18 ~~effect on February 28, 1986.~~

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

~~1 urban area without redefinition of the territories. The insurer
2 shall not use more than 6 territories within an urban area. The
3 sum of the percentage increases for an insurer in a 12 month
4 period as permitted under this subsection shall be less than or
5 equal to 4% plus the consumer price index and each percentage
6 increase shall be computed in accordance with the following:
7 The difference between the total written premium at the
8 proposed rates minus the total written premium at current
9 rates, divided by total written premium at current rates,
10 and multiplied by 100.~~

~~11 (3) On and after February 1, 1988, an insurer may elect to
12 be subject to the limitations provided in this subsection instead
13 of the limitations provided in subsection (2). An insurer elect-
14 ing to be subject to this subsection shall not increase the rates
15 for automobile insurance package policies in territories within
16 an urban area by a percentage that is greater than the insurer's
17 nonurban average percentage increase, which nonurban average per-
18 centage increase shall be reduced by the sum of the percentage
19 increases made by the insurer under subsection (2) during the 12
20 months immediately preceding the date of the filing of the pro-
21 posed increase pursuant to this subsection. The insurer may
22 redefine rating territories for automobile insurance package pol-
23 icies in an urban area; however, such redefinition, at the time
24 of the redefinition, shall not result in a weighted average rate
25 in the urban area that is greater than the weighted average rate
26 in the urban area without redefinition of the territories. The
27 insurer shall not use more than 6 territories within an urban~~

1 ~~area. An insurer that elects to be subject to the limitation~~
 2 ~~under this subsection shall remain subject to this subsection.~~
 3 ~~(4)~~ Any rate filing for automobile insurance package policies
 4 ~~made after December 15, 1985~~ shall not be modified, changed, or
 5 altered for a period of 6 months after the effective date of the
 6 filing UNLESS THE FILING RESULTS IN AN OVERALL PREMIUM
 7 REDUCTION. This ~~subsection~~ SECTION shall not prohibit an
 8 insurer from making rate filings at any time that only provide
 9 changes to rates based upon assessments levied against insurers
 10 pursuant to section 3104 or 3330. ~~Such~~ THESE rate filings
 11 shall not be considered rate filings for purposes of this
 12 ~~subsection~~ SECTION.

13 ~~(5) As used in this section:~~

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

18 ~~(b) "Nonurban average percentage increase" means the percen-~~
 19 ~~tage increase of an insurer's weighted average rate outside of an~~
 20 ~~urban area, if any, that is obtained by dividing the weighted~~
 21 ~~average of the proposed rates of the insurer outside an urban~~
 22 ~~area by the highest weighted average rate of the insurer outside~~
 23 ~~an urban area on file with the commissioner during the 6 months~~
 24 ~~immediately preceding the date of the filing of the proposed~~
 25 ~~increase, subtracting 1 from this quotient, and multiplying the~~
 26 ~~difference by 100. The weights used in obtaining the weighted~~
 27 ~~averages in this subdivision shall be the written car years of~~

~~1 the insurer in each rating territory. If a negative percentage~~
~~2 is calculated under this subdivision, there shall be no nonurban~~
~~3 average percentage increase under this subdivision.~~

~~4 (c) "Urban area" means the area within the boundaries of a~~
~~5 city in this state that has a population of 1,000,000 or more as~~
~~6 determined by the latest of each succeeding federal decennial~~
~~7 census and includes any city located wholly within the boundaries~~
~~8 of a city in this state that has a population of 1,000,000 or~~
~~9 more as determined by the latest of each succeeding federal~~
~~10 decennial census.~~

~~11 (6) This section is repealed effective April 1, 1992.~~

SEC. 2111F. (1) BY NOT LATER THAN JULY 1, 1992, EACH
INSURER SHALL FILE BASE RATES FOR AUTOMOBILE INSURANCE THAT
REFLECT THE ANTICIPATED SAVINGS RESULTING FROM THE CHANGES MADE
IN THE AMENDATORY ACT THAT ADDED THIS SECTION. THESE RATES SHALL
BE NOT LESS THAN THE BASE RATES IN EFFECT FOR THE AUTOMOBILE
INSURER ON OCTOBER 1, 1991 REDUCED BY AT LEAST 20%.

(2) EXCEPT FOR RATE CHANGES BASED SOLELY UPON ASSESSMENTS
LEVIED AGAINST INSURERS PURSUANT TO SECTION 3104 OR 3330 OR FOR A
CHANGE TO AN INDIVIDUAL INSURED'S RATES BASED ON AN ELIGIBILITY
OR SURCHARGE FACTOR APPLICABLE TO THAT INDIVIDUAL, RATES IN
EFFECT ON AND AFTER JULY 1, 1992 SHALL NOT BE INCREASED BEFORE
JULY 1, 1993 UNLESS THE INSURER DEMONSTRATES TO THE COMMISSIONER
THAT AN INCREASE IS NECESSARY IN ORDER FOR THE INSURER ON ITS
OVERALL BOOK OF PRIVATE PASSENGER AUTOMOBILE INSURANCE IN
MICHIGAN TO EARN A FAIR RATE OF RETURN.

1 (3) BY NOT LATER THAN 3 MONTHS AFTER THE EFFECTIVE DATE OF
2 THIS SECTION, AN INSURER MAY PETITION THE COMMISSIONER FOR RELIEF
3 FROM ALL OR PART OF THE PERCENTAGE SET IN SUBSECTION (1). IN ITS
4 PETITION AN INSURER SHALL DO BOTH OF THE FOLLOWING:

5 (A) DEMONSTRATE THAT BASED ON ITS BOOK OF BUSINESS THE SAV-
6 INGS RESULTING FROM THE CHANGES MADE IN THE AMENDATORY ACT THAT
7 ADDED THIS SECTION DO NOT JUSTIFY ALL OR PART OF THE PERCENTAGE
8 SET IN SUBSECTION (1).

9 (B) SPECIFY THE PERCENTAGE OF RATE REDUCTION THAT IS JUSTI-
10 FIED, BASED ON ITS BOOK OF BUSINESS, BY THE SAVINGS RESULTING
11 FROM THE CHANGES MADE IN THE AMENDATORY ACT THAT ADDED THIS
12 SECTION.

13 (4) BY NOT LATER THAN 30 DAYS AFTER RECEIPT OF A PETITION
14 UNDER SUBSECTION (3), THE COMMISSIONER BY ORDER SHALL DENY THE
15 INSURER'S REQUEST FOR REGULATORY RELIEF OR SHALL GRANT THE
16 INSURER'S REQUEST FOR REGULATORY RELIEF IN EITHER THE PERCENTAGE
17 SPECIFIED IN THE INSURER'S PETITION OR IN SUCH PERCENTAGE THAT
18 THE COMMISSIONER DETERMINES APPROPRIATE.

19 (5) AN INSURER AGGRIEVED BY THE COMMISSIONER'S ORDER UNDER
20 SUBSECTION (4) MAY REQUEST A HEARING PURSUANT TO THE ADMINISTRA-
21 TIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
22 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
23 LAWS.

24 (6) NOTHING IN THIS SECTION PROHIBITS AN INSURER FROM REDUC-
25 ING RATES BY MORE THAN THE PERCENTAGE SET IN SUBSECTION (1).

26 SEC. 2112A. AN AUTOMOBILE INSURER SHALL NOT INCREASE THE
27 PREMIUM FOR AN AUTOMOBILE INSURANCE POLICY THAT IS BEING RENEWED

1 IF THE INCREASE IS DUE TO AN INCREASE IN RATES UNLESS THE INSURER
2 SENDS THE RENEWAL NOTICE SHOWING THE HIGHER PREMIUM TO THE
3 INSURED AT LEAST 30 DAYS BEFORE THE INSURANCE POLICY RENEWAL
4 DATE. IF AN INSURER DOES NOT SEND THE RENEWAL NOTICE SHOWING THE
5 HIGHER PREMIUM TO THE INSURED AT LEAST 30 DAYS BEFORE THE INSUR-
6 ANCE POLICY RENEWAL DATE, THE INSURED IS NOT LIABLE FOR THE PRO-
7 RATED PORTION OF THE INCREASE IN PREMIUM. AS USED IN THIS SEC-
8 TION, "PRORATED PORTION OF THE INCREASE IN PREMIUM" MEANS THE
9 AMOUNT OF INCREASE IN PREMIUM DIVIDED BY THE NUMBER OF DAYS IN
10 THE BILLING PERIOD MULTIPLIED BY THE NUMBER OF DAYS BY WHICH THE
11 INSURER FAILED TO SEND THE 30-DAY NOTICE REQUIRED BY THIS
12 SECTION.

13 SEC. 2115A. IF THE COMMISSIONER CONCLUDES BASED UPON THE
14 ANALYSIS CONTAINED IN WRITTEN FINDINGS AFTER SUCH PUBLIC HEARINGS
15 CONDUCTED ON AND AFTER JULY 1, 1994 AS THE COMMISSIONER CONSIDERS
16 APPROPRIATE THAT A SUBSTANTIAL NUMBER OF ELIGIBLE PERSONS WITHIN
17 1 OR MORE SPECIFIED GEOGRAPHICAL AREAS WITHIN THIS STATE DO NOT
18 HAVE A REASONABLE DEGREE OF ACCESS TO AUTOMOBILE INSURANCE OR
19 HOME INSURANCE WITH A REASONABLE NUMBER OF INSURERS REPRESENTING
20 THE ARRAY OF RATES FILED BY INSURERS WITH THE COMMISSIONER WITH
21 RESPECT TO SUCH ELIGIBLE PERSONS, THE COMMISSIONER SHALL IMPL-
22 MENT A PLAN REASONABLY CALCULATED TO PROVIDE ELIGIBLE PERSONS
23 WITH ACCESS TO AUTOMOBILE OR HOME INSURANCE CONSISTENT WITH THE
24 OBJECTIVES OF THIS SECTION.

25 SEC. 2115B. THE COMMISSIONER SHALL PREPARE SEMIANNUALLY A
26 BUYER'S GUIDE TO AUTOMOBILE INSURANCE IN MICHIGAN IN AT LEAST
27 8-POINT TYPE. THE BUYER'S GUIDE SHALL COMPARE RATES AMONG ALL

1 AUTOMOBILE INSURERS IN MICHIGAN IN EACH TERRITORY USED BY THE
2 PRINCIPAL ADVISORY ORGANIZATION FOR STATISTICAL REPORTING
3 PURPOSES. THE COMMISSIONER SHALL PROVIDE COPIES OF THE BUYER'S
4 GUIDE TO THE GOVERNOR, TO EACH MEMBER OF THE LEGISLATURE, AND TO
5 SECRETARY OF STATE BRANCH OFFICES FOR DISTRIBUTION TO THE
6 PUBLIC. THE SECRETARY OF STATE SHALL MAIL WITH EACH NOTICE OF
7 LICENSE PLATE RENEWAL A NOTICE THAT A BUYER'S GUIDE TO AUTOMOBILE
8 INSURANCE IS AVAILABLE AT EACH LOCAL SECRETARY OF STATE OFFICE
9 AND FROM THE INSURANCE BUREAU BY WRITING OR TELEPHONING THE
10 INSURANCE BUREAU.

11 Sec. 2118. (1) As a condition of maintaining its certifi-
12 cate of authority, an insurer shall not refuse to insure, refuse
13 to continue to insure, or limit coverage available to an eligible
14 person for automobile insurance, except in accordance with under-
15 writing rules established pursuant to this section and sections
16 2119 and 2120.

17 (2) The underwriting rules ~~which~~ THAT an insurer may
18 establish for automobile insurance shall be based only on the
19 following:

20 (a) Criteria identical to the standards set forth in section
21 2103(1).

22 (b) The insurance eligibility point accumulation in excess
23 of the amounts established by section 2103(1) of a member of the
24 household of the eligible person insured or to be insured, if the
25 member of the household usually accounts for 10% or more of the
26 use of a vehicle insured or to be insured. For purposes of this
27 subdivision, a person who is the principal driver for 1

1 automobile insurance policy shall be rebuttably presumed not to
2 usually account for more than 10% of the use of other vehicles of
3 the household not insured under the policy of that person.

4 (c) With respect to a vehicle insured or to be insured, sub-
5 stantial modifications from the vehicle's original manufactured
6 state for purposes of increasing the speed or acceleration capa-
7 bilities of the vehicle.

8 (d) Failure by the person to provide proof that insurance
9 required by section 3101 was maintained in force with respect to
10 any vehicle ~~which~~ THAT was both owned by the person and driven
11 or moved by the person or by a member of the household of the
12 person during the 6-month period immediately preceding
13 application. Such proof shall take the form of a certification
14 by the person on a form provided by the insurer that the vehicle
15 was not driven or moved without maintaining the insurance
16 required by section 3101 during the 6-month period immediately
17 preceding application.

18 (e) Type of vehicle insured or to be insured, based on 1 of
19 the following, without regard to the age of the vehicle:

20 (i) The vehicle is of limited production or of custom
21 manufacture.

22 (ii) The insurer does not have a rate lawfully in effect for
23 the type of vehicle.

24 (iii) The vehicle represents exposure to extraordinary
25 expense for repair or replacement under comprehensive or colli-
26 sion coverage.

1 (f) Use of a vehicle insured or to be insured for
2 transportation of passengers for hire, for rental purposes, or
3 for commercial purposes. Rules under this subdivision shall not
4 be based on the use of a vehicle for volunteer or charitable pur-
5 poses or for which reimbursement for normal operating expenses is
6 received.

7 (g) Payment of a minimum deposit at the time of application
8 or renewal, not to exceed the smallest deposit required under an
9 extended payment or premium finance plan customarily used by the
10 insurer.

11 (h) For purposes of requiring comprehensive deductibles of
12 not more than \$150.00, or of refusing to insure if the person
13 refuses to accept a required deductible, the claim experience of
14 the person with respect to comprehensive coverage.

15 (i) Total abstinence from the consumption of alcoholic bev-
16 erages except ~~when~~ IF such beverages are consumed as part of a
17 religious ceremony. However, an insurer shall not utilize an
18 underwriting rule based on this subdivision unless the insurer
19 has been authorized to transact automobile insurance in this
20 state prior to January 1, 1981, and has consistently utilized
21 such an underwriting rule as part of the insurer's automobile
22 insurance underwriting since being authorized to transact automo-
23 bile insurance in this state.

24 (J) A LIMIT ON THE PURCHASE OF OPTIONAL COVERAGES IF THE
25 MANDATORY COVERAGE IS PURCHASED FROM A DIFFERENT INSURER DIRECTLY
26 OR WITHIN THE FACILITY AS DEFINED IN SECTION 3303.

1 Sec. 2134. ~~-(1)-~~ Each insurer transacting automobile
2 insurance in this state shall do both of the following:

3 (a) Be a paying member of the national automobile theft
4 bureau.

5 (b) Secure from each insured the vehicle identification
6 number for each vehicle insured by the insurer.

7 ~~-(2) This section is repealed effective April 1, 1992.~~

8 Sec. 2136. Each insurer, when writing automobile comprehen-
9 sive insurance coverage for a person who was not previously a
10 policyholder with the insurer or when insuring an automobile that
11 was not previously insured by the insurer for a person who was
12 previously a policyholder with the insurer but who has filed a
13 claim with the insurer within the preceding 3 years to recover
14 for the theft of an automobile, shall verify the existence of the
15 automobile being insured. To comply with this section, an
16 insurer shall either make a personal inspection of the automobile
17 or obtain not less than 2 photographs of the automobile that
18 depict the automobile diagonally from the front and rear. This
19 section shall not apply when an agent subject to section 1209(2)
20 transfers a person's automobile comprehensive insurance coverage
21 from an insurer that has authorized the agent to another insurer
22 that has authorized the agent. ~~This section is repealed effec-~~
23 ~~tive April 1, 1992.~~

24 Sec. 2138. An insurer shall not make a claim payment on an
25 automobile insurance policy for a loss arising from the theft of
26 an automobile covered under the policy unless the insured has
27 filed a report of the theft to the state police or the law

1 enforcement agency within whose jurisdiction the theft occurred.

2 ~~This section is repealed effective April 1, 1992.~~

3 Sec. 3009. (1) ~~An~~ UNLESS WAIVED PURSUANT TO SECTION 3101,
4 AN automobile liability or motor vehicle liability policy insur-
5 ing against loss resulting from liability imposed by law for
6 property damage, bodily injury, or death suffered by any person
7 arising out of the ownership, maintenance, or use of a motor
8 vehicle shall not be delivered or issued for delivery in this
9 state with respect to any motor vehicle registered or principally
10 garaged in this state unless ~~the~~ liability coverage is subject
11 to a limit, exclusive of interest and costs, of not less than
12 \$20,000.00 because of bodily injury to or death of 1 person in
13 any 1 accident, and subject to that limit for 1 person, to a
14 limit of not less than \$40,000.00 because of bodily injury to or
15 death of 2 or more persons in any 1 accident, and to a limit of
16 not less than \$10,000.00 because of injury to or destruction of
17 property of others in any accident.

18 (2) AN INSURER SHALL HAVE AVAILABLE ADDITIONAL AUTOMOBILE
19 LIABILITY OR MOTOR VEHICLE LIABILITY COVERAGE, THAT INSURES
20 AGAINST LOSS RESULTING FROM LIABILITY IMPOSED BY LAW FOR PROPERTY
21 DAMAGE, BODILY INJURY, OR DEATH SUFFERED BY ANY PERSON ARISING
22 OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF A MOTOR VEHICLE,
23 EXCLUSIVE OF INTEREST AND COSTS, OF NOT LESS THAN \$50,000.00
24 BECAUSE OF BODILY INJURY TO OR DEATH OF 1 PERSON IN ANY 1 ACCI-
25 DENT, AND SUBJECT TO THAT LIMIT FOR 1 PERSON, TO A LIMIT OF NOT
26 LESS THAN \$100,000.00 BECAUSE OF BODILY INJURY TO OR DEATH OF 2
27 OR MORE PERSONS IN ANY 1 ACCIDENT, AND TO A LIMIT OF NOT LESS

1 THAN \$25,000.00 BECAUSE OF INJURY TO OR DESTRUCTION OF PROPERTY
2 OF OTHERS IN ANY ACCIDENT.

3 (3) ~~-(2)-~~ If authorized by the insured, automobile liability
4 or motor vehicle liability coverage may be excluded when a vehi-
5 cle is operated by a named person. Such exclusion shall not be
6 valid unless the following notice is on the face of the policy or
7 the declaration page or certificate of the policy and on the cer-
8 tificate of insurance:

9 Warning--when a named excluded person operates a vehicle all
10 liability coverage is void--no one is insured. Owners of the
11 vehicle and others legally responsible for the acts of the named
12 excluded person remain fully personally liable.

13 (4) ~~-(3)-~~ If an insurer deletes coverages from an automobile
14 insurance policy pursuant to section 3101, the insurer shall send
15 documentary evidence of the deletion to the insured.

16 SEC. 3010. (1) EACH INSURER ISSUING AUTOMOBILE LIABILITY OR
17 MOTOR VEHICLE LIABILITY POLICIES IN THIS STATE SHALL HAVE AVAIL-
18 ABLE UNINSURED MOTOR VEHICLE COVERAGE IN AMOUNTS NOT LESS THAN
19 THOSE REQUIRED IN SECTION 3009(1). UNINSURED MOTOR VEHICLE COV-
20 ERAGE SHALL PAY COMPENSATORY DAMAGES THAT AN INSURED IS LEGALLY
21 ENTITLED TO COLLECT UNDER SECTION 3135(1) FROM THE OWNER OR OPER-
22 ATOR OF AN UNINSURED MOTOR VEHICLE.

23 (2) ANY DAMAGES PAYABLE UNDER UNINSURED MOTOR VEHICLE COVER-
24 AGE SHALL BE REDUCED BY THE FOLLOWING:

25 (A) THE AMOUNT PAID OR PAYABLE UNDER ANY WORKERS COMPENSA-
26 TION OR OTHER SIMILAR LAW, EXCLUSIVE OF NONOCCUPATIONAL
27 DISABILITY BENEFITS.

1 (B) AMOUNTS PAID OR PAYABLE UNDER ANY VALID AND COLLECTIBLE
2 PERSONAL PROTECTION INSURANCE COVERAGES PURSUANT TO SECTION
3 3107.

4 (3) REGARDLESS OF THE NUMBER OF MOTOR VEHICLES INVOLVED, THE
5 NUMBER OF PERSONS COVERED OR CLAIMS MADE, VEHICLES INSURED OR
6 PREMIUMS PAID, THE LIMIT OF LIABILITY FOR UNINSURED MOTOR VEHICLE
7 COVERAGE SHALL NOT BE ADDED TO OR STACKED UPON LIMITS FOR SUCH
8 COVERAGES APPLYING TO OTHER MOTOR VEHICLES TO DETERMINE THE
9 AMOUNT OF COVERAGE AVAILABLE TO AN INSURED INJURED IN ANY 1
10 ACCIDENT. HOWEVER, IF MORE THAN 1 COVERAGE APPLIES, THE FOLLOW-
11 ING ORDER OF PRIORITY APPLIES:

12 (A) COVERAGE AFFORDED A MOTOR VEHICLE OCCUPIED BY THE
13 INJURED PERSON AT THE TIME OF THE ACCIDENT.

14 (B) COVERAGE AFFORDED A MOTOR VEHICLE NOT INVOLVED IN THE
15 ACCIDENT UNDER WHICH THE INJURED PERSON IS A NAMED INSURED.

16 (C) COVERAGE AFFORDED A MOTOR VEHICLE NOT INVOLVED IN THE
17 ACCIDENT UNDER WHICH THE INJURED PERSON IS AN INSURED OTHER THAN
18 A NAMED INSURED.

19 (4) A LOWER PRIORITY COVERAGE THAN THAT LISTED IN SUBSECTION
20 (3) APPLIES ONLY TO THE EXTENT THAT THE LIMITS AFFORDED EXCEED
21 THE LIMITS OF THE HIGHER PRIORITY COVERAGE, AND SHALL BE APPLICA-
22 BLE AFTER EXHAUSTION OF THE LIMITS OF THE HIGHER PRIORITY COVER-
23 AGE AND ONLY FOR THE ADDITIONAL AMOUNT AVAILABLE.

24 (5) IF PAYMENT UNDER UNINSURED MOTOR VEHICLE COVERAGE IS
25 MADE, THE INSURER MAKING PAYMENT SHALL BE ENTITLED TO THE PRO-
26 CEEDS OF ANY AGREEMENT, SETTLEMENT, OR JUDGMENT RESULTING FROM
27 THE EXERCISE OF ANY RIGHTS OF RECOVERY OF THE INSURED FOR

1 COMPENSATORY DAMAGES TO THE EXTENT OF THE PAYMENT MADE AND SHALL
2 BE ENTITLED TO EXERCISE A RIGHT OF SUBROGATION AGAINST ANY PERSON
3 OR ORGANIZATION LEGALLY RESPONSIBLE FOR WHICH THE PAYMENT WAS
4 MADE. IF AN INSURER HAS MADE PAYMENT UNDER UNINSURED MOTOR VEHI-
5 CLE COVERAGE BECAUSE OF AN INSURER INSOLVENCY, AS DEFINED IN
6 CHAPTER 79, THE PAYING INSURER'S RIGHTS OF REIMBURSEMENT AND SUB-
7 ROGATION DOES NOT INCLUDE ANY RIGHTS OF RECOVERY AGAINST EITHER
8 THE PROPERTY AND CASUALTY GUARANTY FUND, OR AGAINST THE INSURED
9 OF THE INSOLVENT INSURER EXCEPT FOR THE AMOUNT THAT IS IN EXCESS
10 OF THE LIMITS OF LIABILITY OF THE INSOLVENT INSURER'S POLICY.

11 (6) UNINSURED MOTOR VEHICLE COVERAGE DOES NOT APPLY TO AN
12 INSURED AS FOLLOWS:

13 (A) WHILE OCCUPYING A MOTOR VEHICLE OWNED BY, OR FURNISHED
14 OR AVAILABLE FOR THE REGULAR USE OF THE INSURED, A RESIDENT
15 SPOUSE, OR RESIDENT RELATIVE, IF THE MOTOR VEHICLE IS NOT
16 DESCRIBED IN THE POLICY UNDER WHICH A CLAIM IS MADE, OR IS NOT A
17 NEWLY ACQUIRED OR A REPLACEMENT MOTOR VEHICLE COVERED UNDER THE
18 TERMS OF THE POLICY.

19 (B) WHILE OPERATING OR OCCUPYING A MOTOR VEHICLE WITHOUT THE
20 SPECIFIC PERMISSION OF THE OWNER THEREOF, OR WITHOUT A REASONABLE
21 BELIEF THAT THE INSURED IS ENTITLED TO DO SO.

22 (C) FOR DAMAGES FOR NONECONOMIC LOSS THAT COULD NOT HAVE
23 BEEN RECOVERED HAD THE OWNER OR OPERATOR OF THE MOTOR VEHICLE
24 RESPONSIBLE FOR THE LOSS MAINTAINED THE SECURITY REQUIRED UNDER
25 ANY STATE'S NO-FAULT LAW.

26 (D) FOR PUNITIVE, EXEMPLARY, OR OTHER NONCOMPENSATORY
27 DAMAGES.

1 (E) WITH RESPECT TO WHICH THE APPLICABLE STATUTE OF
2 LIMITATIONS HAS EXPIRED ON THE INSURED'S CLAIM AGAINST THE OWNER
3 OR OPERATOR OF AN UNINSURED MOTOR VEHICLE.

4 (F) WHERE THE INSURED, WITHOUT THE WRITTEN CONSENT OF THE
5 INSURER, HAS MADE ANY AGREEMENT OR SETTLEMENT WITH ANY PERSON WHO
6 MAY BE LEGALLY LIABLE THEREFOR, IF SUCH AGREEMENT ADVERSELY
7 AFFECTS THE RIGHTS OF THE INSURER. THE INSURER SHALL NOT BE
8 BOUND BY ANY AGREEMENT, OR SETTLEMENT, OBTAINED WITHOUT ITS PRIOR
9 KNOWLEDGE AND CONSENT.

10 (7) AFTER SELECTION OF LIMITS BY AN INSURED OR APPLICANT FOR
11 INSURANCE, REJECTION OF COVERAGE, OR EXERCISE OF THE OPTION NOT
12 TO PURCHASE THE COVERAGE DESCRIBED IN THIS SECTION, THE INSURER
13 AND ANY OF ITS AFFILIATES ARE REQUIRED TO NOTIFY ANY INSURED IN
14 ANY RENEWAL, REINSTATEMENT, SUBSTITUTE, TRANSFERRED, MODIFIED,
15 ALTERED, AMENDED, OR REPLACEMENT POLICY AS TO THE AVAILABILITY OF
16 SUCH COVERAGE OR OPTIONAL LIMITS. THE SELECTION, REJECTION, OR
17 EXERCISE OF THE OPTION NOT TO PURCHASE BY AN INSURED OR AN APPLI-
18 CANT SHALL APPLY TO ALL PERSONS INSURED UNDER THE POLICY. THE
19 INSURED, SUBJECT TO THE LIMITATIONS EXPRESSED IN THIS SECTION,
20 MAY MAKE A REQUEST FOR ADDITIONAL COVERAGE OR COVERAGE MORE
21 EXTENSIVE THAN THAT PREVIOUSLY PROVIDED.

22 (8) AN INSURER SHALL NOT BE REQUIRED TO OFFER, PROVIDE, HAVE
23 AVAILABLE, OR MAKE AVAILABLE COVERAGE CONFORMING TO THIS SECTION
24 IN CONNECTION WITH AN EXCESS POLICY, UMBRELLA POLICY, OR ANY
25 OTHER POLICY THAT DOES NOT PROVIDE PRIMARY MOTOR VEHICLE INSUR-
26 ANCE FOR LIABILITIES ARISING OUT OF THE OWNERSHIP, MAINTENANCE,

1 OPERATION, OR USE OF 1 OR MORE SPECIFICALLY IDENTIFIED MOTOR
2 VEHICLES.

3 (9) THIS SECTION SHALL NOT BE CONSTRUED TO PREVENT AN
4 INSURER FROM HAVING AVAILABLE OR PROVIDING COVERAGE TERMS AND
5 CONDITIONS MORE FAVORABLE TO ITS INSURED OR LIMITS HIGHER THAN
6 ARE REQUIRED BY THIS SECTION.

7 (10) AS USED IN THIS SECTION:

8 (A) "UNINSURED MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT
9 MEETS ANY OF THE FOLLOWING:

10 (i) THERE IS NO BODILY INJURY LIABILITY INSURANCE POLICY OR
11 BOND PROVIDING EQUIVALENT LIABILITY PROTECTION IN EFFECT AT THE
12 TIME OF ACCIDENT.

13 (ii) THERE IS AN APPLICABLE BODILY INJURY LIABILITY INSUR-
14 ANCE POLICY OR BOND PROVIDING EQUIVALENT LIABILITY PROTECTION,
15 BUT THE INSURER OR ISSUER THEREOF REFUSES TO PROVIDE COVERAGE,
16 DENIES COVERAGE, OR IS OR BECOMES INSOLVENT AS DEFINED IN CHAPTER
17 79.

18 (iii) THE IDENTITY OF THE OWNER OR OPERATOR CANNOT BE ASCER-
19 TAINED, AND THE BODILY INJURY, SICKNESS, DISEASE, OR DEATH OF THE
20 INSURED IS CAUSED BY ACTUAL PHYSICAL CONTACT OF THE MOTOR VEHICLE
21 WITH THE INSURED OR WITH A MOTOR VEHICLE OCCUPIED BY THE INSURED,
22 AND THE ACCIDENT HAS BEEN REPORTED, AS REQUIRED BY LAW, TO THE
23 PROPER LAW ENFORCEMENT AUTHORITIES.

24 (B) "UNINSURED MOTOR VEHICLE" DOES NOT INCLUDE A MOTOR VEHI-
25 CLE THAT MEETS ANY OF THE FOLLOWING:

26 (i) IS INSURED UNDER THE LIABILITY COVERAGE OF THE SAME
27 POLICY OF WHICH THE UNINSURED MOTOR VEHICLE COVERAGE IS A PART.

1 (ii) IS OWNED BY OR FURNISHED FOR THE REGULAR USE OF THE
2 INSURED OR ANY RESIDENT SPOUSE OR RESIDENT RELATIVE OF THE SAME
3 HOUSEHOLD.

4 (iii) IS LOCATED FOR USE AS A RESIDENCE OR PREMISES.

5 (iv) IS OPERATED BY ANY PERSON WHO IS SPECIFICALLY EXCLUDED
6 FROM COVERAGE FOR BODILY INJURY LIABILITY UNDER THE POLICY OF
7 WHICH THE UNINSURED MOTOR VEHICLE COVERAGE IS A PART WHILE THE
8 MOTOR VEHICLE IS OPERATED BY THAT PERSON.

9 (v) IS OWNED BY ANY GOVERNMENTAL UNIT, POLITICAL SUBDIVI-
10 SION, OR AGENCY THEREOF.

11 (vi) WHICH IS SELF-INSURED WITHIN THE MEANING OF THE FINAN-
12 CIAL OR SAFETY RESPONSIBILITY LAW OF THE STATE IN WHICH THE MOTOR
13 VEHICLE IS REGISTERED, OR ANY SIMILAR STATE OR FEDERAL LAW.

14 Sec. 3015. (1) Each automobile insurance policy delivered
15 or issued for delivery in this state that provides coverage for
16 the theft of an automobile may include either or both of the fol-
17 lowing provisions:

18 (a) A provision that imposes a \$500.00 deductible to the
19 theft loss of the automobile if the automobile was unattended
20 when stolen and was stolen while the keys to the automobile were
21 located in the passenger compartment of the automobile. The
22 deductible shall not apply if the automobile is the subject of a
23 bailment contract.

24 (b) A provision that reduces the recovery under the policy
25 by 10% for the theft loss of the automobile if the automobile was
26 unattended when stolen and was stolen while the keys to the
27 automobile were located in the passenger compartment of the

1 automobile. The reduction under this subdivision shall not apply
2 if the automobile is the subject of a bailment contract.

3 (2) If an insurer includes either or both of the provisions
4 provided in subsection (1) in an automobile insurance policy that
5 provides coverage for the theft of an automobile, the insurer
6 shall include the provision or provisions in each automobile
7 insurance policy providing coverage for the theft of an automo-
8 bile that is thereafter delivered or issued for delivery by the
9 insurer.

10 ~~(3) This section is repealed effective April 1, 1992.~~

11 Sec. 3101. (1) The owner or registrant of a motor vehicle
12 required to be registered in this state shall maintain security
13 for payment of benefits under personal protection insurance IN
14 AMOUNTS NOT LESS THAN THAT REQUIRED IN SECTION 3107(1)(A)(i),
15 property protection insurance, and residual liability insurance.
16 HOWEVER, RESIDUAL LIABILITY INSURANCE WITH RESPECT TO ACCIDENTS
17 HAPPENING WITHIN THIS STATE MAY BE WAIVED IN WRITING BY AN
18 INSURED OR APPLICANT FOR INSURANCE ON A FORM APPROVED BY THE COM-
19 MISSIONER AFTER THE INSURED HAS BEEN ADVISED OF THE COSTS OF SUCH
20 INSURANCE. Security shall only be required to be in effect during
21 the period the motor vehicle is driven or moved upon a highway.
22 Notwithstanding any other provision in this act, ~~an~~ ALL OF THE
23 FOLLOWING APPLY WITH RESPECT TO THE SECURITY REQUIRED BY THIS
24 SUBSECTION:

25 (A) AN insurer that has issued an automobile insurance
26 policy on a motor vehicle that is not driven or moved upon a
27 highway may allow the insured owner or registrant of the motor

1 vehicle to delete a portion of the coverages under the policy and
2 maintain the comprehensive coverage portion of the policy in
3 effect.

4 (B) RESIDUAL LIABILITY INSURANCE WITH RESPECT TO ACCIDENTS
5 OCCURRING WITHIN THIS STATE MAY BE WAIVED IN WRITING BY AN
6 INSURED OR APPLICANT FOR INSURANCE ON A FORM APPROVED BY THE
7 COMMISSIONER. THE WAIVER FORM SHALL INCLUDE A DESCRIPTION OF THE
8 COVERAGE AND A STATEMENT OF THE DIFFERENCE IN THE COST OF THIS
9 COVERAGE WITH AND WITHOUT THE WAIVER.

10 (2) As used in this chapter:

11 (a) "Automobile insurance" means that term as defined in
12 section 2102.

13 (b) "Highway" means that term as defined in section 20 of
14 the Michigan vehicle code, Act No. 300 of the Public Acts of
15 1949, being section 257.20 of the Michigan Compiled Laws.

16 (c) "Motorcycle" means a vehicle THAT IS REQUIRED TO BE REG-
17 ISTERED FOR USE ON A PUBLIC HIGHWAY IN THIS STATE having a saddle
18 or seat for the use of the rider, designed FOR OPERATION UPON A
19 PUBLIC HIGHWAY AND to travel on not more than 3 wheels in contact
20 with the ground, ~~which~~ AND THAT is equipped with a motor that
21 exceeds 50 cubic centimeters piston displacement. The wheels on
22 any attachment to the vehicle shall not be considered as wheels
23 in contact with the ground. Motorcycle does not include a moped,
24 as defined in section 32b of the Michigan vehicle code, Act
25 No. 300 of the Public Acts of 1949, being section 257.32b of the
26 Michigan Compiled Laws, OR AN ORV AS DEFINED IN SECTION 1 OF ACT

1 NO. 319 OF THE PUBLIC ACTS OF 1975, BEING SECTION 257.1601 OF THE
2 MICHIGAN COMPILED LAWS.

3 (d) "Motorcycle accident" means a loss involving the owner-
4 ship, operation, maintenance, or use of a motorcycle as a motor-
5 cycle, but not involving the ownership, operation, maintenance,
6 or use of a motor vehicle as a motor vehicle.

7 (e) "Motor vehicle" means a vehicle THAT IS REQUIRED TO BE
8 REGISTERED FOR USE ON A PUBLIC HIGHWAY IN THIS STATE, including a
9 trailer, AND THAT IS operated or designed for operation upon a
10 public highway by power other than muscular power which has more
11 than 2 wheels. Motor vehicle does not include a motorcycle or a
12 moped, as defined in section 32b of Act No. 300 of the Public
13 Acts of 1949, being section 257.32b of the Michigan Compiled
14 Laws, OR AN ORV AS DEFINED IN SECTION 1 OF ACT NO. 319 OF THE
15 PUBLIC ACTS OF 1975, BEING SECTION 257.1601 OF THE MICHIGAN
16 COMPILED LAWS. Motor vehicle does not include a farm tractor or
17 other implement of husbandry ~~which~~ THAT is not subject to the
18 registration requirements of the Michigan vehicle code pursuant
19 to section 216 of the Michigan vehicle code, Act No. 300 of the
20 Public Acts of 1949, being section 257.216 of the Michigan
21 Compiled Laws.

22 (f) "Motor vehicle accident" means a loss involving the
23 ownership, operation, maintenance, or use of a motor vehicle as a
24 motor vehicle regardless of whether the accident also involves
25 the ownership, operation, maintenance, or use of a motorcycle as
26 a motorcycle.

(g) "Owner" means any of the following:

(i) A person renting a motor vehicle or having the use ~~thereof~~ OF A MOTOR VEHICLE, under a lease or otherwise, for a period that is greater than 30 days.

(ii) A person who holds the legal title to a vehicle, other than a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle pursuant to a lease providing for the use of the motor vehicle by the lessee for a period that is greater than 30 days.

(iii) A person who has the immediate right of possession of a motor vehicle under an installment sale contract.

(H) "OWNERSHIP, OPERATION, MAINTENANCE, OR USE OF A MOTOR VEHICLE AS A MOTOR VEHICLE" MEANS THAT THE INVOLVEMENT OF THE MOTOR VEHICLE IN THE INJURY WAS DIRECTLY RELATED TO THE TRANSPORTATION FUNCTION OF THE MOTOR VEHICLE.

(I) ~~(h)~~ "Registrant" does not include a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle pursuant to a lease providing for the use of the motor vehicle by the lessee for a period that is greater than 30 days.

(3) Security may be provided under a policy issued by an insurer duly authorized to transact business in this state ~~which~~ THAT affords insurance for the payment of benefits described in subsection (1). A policy of insurance represented or sold as providing security shall be deemed to provide insurance for the payment of the benefits.

1 (4) Security required by subsection (1) may be provided by
2 any other method approved by the secretary of state as affording
3 security equivalent to that afforded by a policy of insurance, if
4 proof of the security is filed and continuously maintained with
5 the secretary of state throughout the period the motor vehicle is
6 driven or moved upon a highway. The person filing the security
7 has all the obligations and rights of an insurer under this
8 chapter. When the context permits, "insurer" as used in this
9 chapter, includes any person filing the security as provided in
10 this section.

11 (5) A WAIVER OF RESIDUAL LIABILITY INSURANCE EXECUTED PURSU-
12 ANT TO SUBSECTION (1) SHALL DO BOTH OF THE FOLLOWING:

13 (A) APPLY TO ALL PERSONS INSURED UNDER THE POLICY.

14 (B) CONTINUE IN EFFECT FOR ANY RENEWAL, REINSTATEMENT, SUB-
15 STITUTE, TRANSFER, MODIFIED, ALTERED, AMENDED, OR REPLACEMENT
16 POLICY UNTIL SUCH TIME AS THE NAMED INSURED'S REQUEST IN WRITING
17 FOR A CHANGE IN THE WAIVER IS RECEIVED BY THE INSURER PROVIDED
18 THE INSURER ADVISES THE INSURED OF THE AVAILABILITY OF THE COVER-
19 AGE AT EACH RENEWAL.

20 (6) THERE IS NO LIABILITY ON THE PART OF, AND NO CAUSE OF
21 ACTION OF ANY NATURE SHALL ARISE AGAINST, AN INSURER OR AN
22 INSURER'S AGENT, SOLICITOR, EMPLOYEE, OFFICER, OR DIRECTOR BASED
23 UPON AN INSURED'S WAIVER OF COVERAGE UNDER SUBSECTION (1) EXCEPT
24 IN THE CASE OF FRAUD OR MISREPRESENTATION.

25 Sec. 3101a. (1) An insurer, in conjunction with the issu-
26 ance of an automobile insurance policy, as defined in section
27 3303, shall provide 2 certificates of insurance to each

1 policyholder. The insurer shall mark 1 of the certificates as
2 the secretary of state's copy, ~~which copy~~ AND THAT COPY OR AN
3 ELECTRONICALLY OR ELECTROMAGNETICALLY TRANSMITTED FACSIMILE OF
4 THAT COPY shall be filed with the secretary of state by the poli-
5 cyholder upon application for a vehicle registration. The secre-
6 tary of state shall not maintain the certificate of insurance
7 received under this subsection on file.

8 (2) A person who supplies false information to the secretary
9 of state under this section or who issues or uses an invalid cer-
10 tificate of insurance is guilty of a misdemeanor punishable by
11 imprisonment for not more than 1 year, or a fine of not more than
12 \$1,000.00, or both.

13 SEC. 3103A. A PERSON WHO IS SUCCESSFUL IN A COURT ACTION
14 AGAINST AN INSURER FOR WRONGFULLY DENYING BENEFITS DUE UNDER THIS
15 CHAPTER MAY RECOVER REASONABLE ATTORNEY FEES FROM THE INSURER.

16 Sec. 3104. (1) An unincorporated, nonprofit association to
17 be known as the catastrophic claims association, hereinafter
18 referred to as the association, is created. Each insurer engaged
19 in writing insurance coverages ~~which~~ THAT provide the security
20 required by section 3101(1) within this state, as a condition of
21 its authority to transact insurance in this state, shall be a
22 member of the association and shall be bound by the plan of oper-
23 ation of the association. Each insurer engaged in writing insur-
24 ance coverages ~~which~~ THAT provide the security required by sec-
25 tion 3103(1) within this state, as a condition of its authority
26 to transact insurance in this state, shall be considered a member
27 of the association, but only for purposes of assessments under

1 subsection (7)(d). Except as expressly provided in this section,
2 the association shall not be subject to any laws of this state
3 with respect to insurers, but in all other respects the associa-
4 tion shall be subject to the laws of this state to the extent
5 that the association would be were it an insurer organized and
6 subsisting under chapter 50.

7 (2) The association shall provide and each member shall
8 accept indemnification for 100% of the amount of ultimate loss
9 sustained under personal protection insurance coverages in excess
10 of \$250,000.00 in each loss occurrence COVERED BY A MOTOR VEHICLE
11 ACCIDENT POLICY ISSUED OR RENEWED EFFECTIVE BEFORE JULY 1, 1992,
12 BUT ONLY FOR AN INJURY THAT OCCURS BEFORE THAT POLICY'S NEXT
13 RENEWAL DATE OR THE POLICY'S CANCELLATION. As used in this sec-
14 tion, "ultimate loss" means the actual loss amounts ~~which~~ THAT
15 a member is obligated to pay and ~~which~~ THAT are paid or payable
16 by the member, and shall not include claim expenses. An ultimate
17 loss is incurred by the association on the date ~~which~~ THAT the
18 loss occurs.

19 (3) An insurer may withdraw from the association only upon
20 ceasing to write insurance ~~which~~ THAT provides the security
21 required by section 3101(1) in this state.

22 (4) An insurer whose membership in the association has been
23 terminated by withdrawal shall continue to be bound by the plan
24 of operation, and upon withdrawal, all unpaid premiums ~~which~~
25 THAT have been charged to the withdrawing member shall be payable
26 as of the effective date of the withdrawal.

1 (5) An unsatisfied net liability to the association of an
2 insolvent member shall be assumed by and apportioned among the
3 remaining members of the association as provided in the plan of
4 operation. The association shall have all rights allowed by law
5 on behalf of the remaining members against the estate or funds of
6 the insolvent member for sums due the association.

7 (6) ~~When~~ IF a member has been merged or consolidated into
8 another insurer or another insurer has reinsured a member's
9 entire business ~~which~~ THAT provides the security required by
10 section 3101(1) in this state, the member and successors in
11 interest of the member shall remain liable for the member's
12 obligations.

13 (7) The association shall do all of the following on behalf
14 of the members of the association:

15 (a) Assume 100% of all liability as provided in subsection
16 (2).

17 (b) Establish procedures by which members shall promptly
18 report to the association each claim ~~which~~ THAT, on the basis
19 of the injuries or damages sustained, may reasonably be antici-
20 pated to involve the association if the member is ultimately held
21 legally liable for the injuries or damages. Solely for the pur-
22 pose of reporting claims, the member shall in all instances con-
23 sider itself legally liable for the injuries or damages. The
24 member shall also advise the association of subsequent develop-
25 ments likely to materially affect the interest of the association
26 in the claim.

1 (c) Maintain relevant loss and expense data relative to all
2 liabilities of the association and require each member to furnish
3 statistics, in connection with liabilities of the association, at
4 the times and in the form and detail as may be required by the
5 plan of operation.

6 (d) ~~In~~ SUBJECT TO SUBSECTIONS (25) AND (26), IN a manner
7 provided for in the plan of operation, calculate and charge to
8 members of the association a total premium sufficient to cover
9 the expected losses and expenses of the association ~~which~~ THAT
10 the association will likely incur during the period for which the
11 premium is applicable. The premium shall include an amount to
12 cover incurred but not reported losses for the period and may be
13 adjusted for any excess or deficient premiums from previous
14 periods. Excesses or deficiencies from previous periods may be
15 fully adjusted in a single period or may be adjusted over several
16 periods in a manner provided for in the plan of operation. Each
17 member shall be charged an amount equal to that member's total
18 earned car years of insurance providing the security required by
19 section 3101(1) or 3103(1), or both, written in this state during
20 the period to which the premium applies, multiplied by the aver-
21 age premium per car. The average premium per car shall be the
22 total premium calculated divided by the total earned car years of
23 insurance providing the security required by section 3101(1) or
24 3103(1) written in this state of all members during the period to
25 which the premium applies. As used in this subdivision, "car"
26 includes a motorcycle.

1 (e) Require and accept the payment of premiums from members
2 of the association as provided for in the plan of operation. The
3 association shall do either of the following:

4 (i) Require payment of the premium in full within 45 days
5 after the premium charge.

6 (ii) Require payment of the premiums to be made periodically
7 to cover the actual cash obligations of the association.

8 (f) Receive and distribute all sums required by the opera-
9 tion of the association.

10 (g) Establish procedures for reviewing claims procedures and
11 practices of members of the association. If the claims proce-
12 dures or practices of a member are considered inadequate to prop-
13 erly service the liabilities of the association, the association
14 may undertake or may contract with another person, including
15 another member, to adjust or assist in the adjustment of claims
16 for the member on claims ~~which~~ THAT create a potential liabil-
17 ity to the association and may charge the cost of the adjustment
18 to the member.

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

21 (a) Sue and be sued in the name of the association. A judg-
22 ment against the association shall not create any direct liabil-
23 ity against the individual members of the association. The asso-
24 ciation may provide for the indemnification of its members, mem-
25 bers of the board of directors of the association, and officers,
26 employees, and other persons lawfully acting on behalf of the
27 association.

1 (b) Reinsure all or any portion of its potential liability
2 with reinsurers licensed to transact insurance in this state or
3 approved by the commissioner.

4 (c) Provide for appropriate housing, equipment, and person-
5 nel as may be necessary to assure the efficient operation of the
6 association.

7 (d) Pursuant to the plan of operation, adopt reasonable
8 rules for the administration of the association, enforce those
9 rules, and delegate authority, as the board considers necessary
10 to assure the proper administration and operation of the associa-
11 tion consistent with the plan of operation.

12 (e) Contract for goods and services, including independent
13 claims management, actuarial, investment, and legal services,
14 from others within or without this state to assure the efficient
15 operation of the association.

16 (f) Hear and determine complaints of a company or other
17 interested party concerning the operation of the association.

18 (g) Perform other acts not specifically enumerated in this
19 section ~~which~~ THAT are necessary or proper to accomplish the
20 purposes of the association and ~~which~~ THAT are not inconsistent
21 with this section or the plan of operation.

22 (9) A board of directors is created, hereinafter referred to
23 as the board, which shall be responsible for the operation of the
24 association consistent with the plan of operation and this
25 section.

26 (10) The plan of operation shall provide for all of the
27 following:

1 (a) The establishment of necessary facilities.

2 (b) The management and operation of the association.

3 ~~(c) A preliminary premium, payable by each member in pro-~~
4 ~~portion to its total first year premium, for initial expenses~~
5 ~~necessary to commence operation of the association.~~

6 (C) ~~(d)~~ Procedures to be utilized in charging premiums,
7 including adjustments from excess or deficient premiums from
8 prior periods.

9 (D) ~~(e)~~ Procedures governing the actual payment of premi-
10 ums to the association.

11 (E) ~~(f)~~ Reimbursement of each member of the board by the
12 association for actual and necessary expenses incurred on associ-
13 ation business.

14 (F) ~~(g)~~ The investment policy of the association.

15 (G) ~~(h)~~ Any other matters required by or necessary to
16 effectively implement this section.

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

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

8 (13) The board shall consist of 5 directors and the commis-
9 sioner shall be an ex officio member of the board without vote.

10 (14) Each director shall be appointed by the commissioner
11 and shall serve until that member's successor is selected and
12 qualified. The chairperson of the board shall be elected by the
13 board. A vacancy on the board shall be filled by the commis-
14 sioner consistent with the plan of operation.

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

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

23 (17) Not more than 60 days after the initial organizational
24 meeting of the board, the board shall submit to the commissioner
25 for approval a proposed plan of operation consistent with the
26 objectives and provisions of this section, which shall provide
27 for the economical, fair, and nondiscriminatory administration of

1 the association and for the prompt and efficient provision of
2 indemnity. If a plan is not submitted within this 60-day period,
3 then the commissioner, after consultation with the board, shall
4 formulate and place into effect a plan consistent with this
5 section.

6 (18) The plan of operation, unless approved sooner in writ-
7 ing, shall be considered to meet the requirements of this section
8 if it is not disapproved by written order of the commissioner
9 within 30 days after the date of its submission. Before disap-
10 proval of all or any part of the proposed plan of operation, the
11 commissioner shall notify the board in what respect the plan of
12 operation fails to meet the requirements and objectives of this
13 section. If the board fails to submit a revised plan of opera-
14 tion ~~which~~ THAT meets the requirements and objectives of this
15 section within the 30-day period, the commissioner shall enter an
16 order accordingly and shall immediately formulate and place into
17 effect a plan consistent with the requirements and objectives of
18 this section.

19 (19) The proposed plan of operation or amendments to the
20 plan of operation shall be subject to majority approval by the
21 board, ratified by a majority of the membership having a vote,
22 with voting rights being apportioned according to the premiums
23 charged in subsection (7)(d) and shall be subject to approval by
24 the commissioner.

25 (20) Upon approval by the commissioner and ratification by
26 the members of the plan submitted, or upon the promulgation of a
27 plan by the commissioner, each insurer authorized to write

1 insurance providing the security required by section 3101(1) in
2 this state, as ~~defined~~ PROVIDED in this section, shall be bound
3 by and shall formally subscribe to and participate in the plan
4 approved as a condition of maintaining its authority to transact
5 insurance in this state.

6 (21) The association shall be subject to all the reporting,
7 loss reserve, and investment requirements of the commissioner to
8 the same extent as would a member of the association.

9 (22) Premiums charged members by the association shall be
10 recognized in the rate-making procedures for insurance rates in
11 the same manner that expenses and premium taxes are recognized.

12 (23) The commissioner or an authorized representative of the
13 commissioner may visit the association at any time and examine
14 any and all the association's affairs.

15 (24) ~~This section shall take effect on July 1, 1978.~~ The
16 association shall not have liability for losses occurring before
17 ~~the effective date of this section~~ JULY 1, 1978. THE ASSOCIA-
18 TION SHALL NOT HAVE LIABILITY FOR ULTIMATE LOSS ARISING OUT OF AN
19 INJURY THAT OCCURS UNDER A POLICY ISSUED OR RENEWED BY A MEMBER
20 ON AND AFTER JULY 1, 1992. THE ASSOCIATION SHALL CONTINUE TO HAVE
21 LIABILITY FOR ULTIMATE LOSS ARISING OUT OF AN INJURY THAT OCCURS
22 UNDER A POLICY ISSUED OR RENEWED BY A MEMBER BEFORE JULY 1, 1992
23 BUT ONLY FOR AN INJURY THAT OCCURS BEFORE THAT POLICY'S NEXT
24 RENEWAL DATE OR THE POLICY'S CANCELLATION.

25 (25) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION,
26 ON AND AFTER JULY 1, 1992 THE ASSOCIATION IS ONLY AUTHORIZED TO

1 ASSESS MEMBERS TO RECOUP DEFICIENCIES AS PROVIDED IN
2 SUBSECTION (26).

3 (26) THE ASSOCIATION SHALL EVALUATE ANNUALLY THE ASSETS AND
4 LIABILITIES OF THE ASSOCIATION AND DETERMINE IF A DEFICIENCY
5 EXISTS. IF A DEFICIENCY DOES EXIST, THE ASSOCIATION, IN ACCORD-
6 ANCE WITH THE PLAN OF OPERATION, SHALL ASSESS MEMBERS ANNUALLY
7 FOR THE FOLLOWING:

8 (A) IF THE DEFICIENCY IS LESS THAN \$100,000,000.00, THE FULL
9 AMOUNT OF THE DEFICIENCY.

10 (B) IF THE DEFICIENCY IS LESS THAN \$500,000,000.00, BUT
11 GREATER THAN OR EQUAL TO \$100,000,000.00, 20% OF THE DEFICIENCY.

12 (C) IF THE DEFICIENCY IS GREATER THAN OR EQUAL TO
13 \$500,000,000.00, 12% OF THE DEFICIENCY.

14 (D) IF AN ASSESSMENT UNDER SUBDIVISION (A), (B), OR (C) IS
15 INSUFFICIENT TO PERMIT THE ASSOCIATION TO MEET ITS PAYMENTS, THEN
16 THE ASSESSMENT SHALL BE INCREASED TO AN AMOUNT SUFFICIENT TO MEET
17 THOSE PAYMENTS.

18 (27) LIABILITIES AND ASSETS OF THE ASSOCIATION SHALL NOT BE
19 CONSIDERED LIABILITIES AND ASSETS OF EITHER THE STATE OR THE MEM-
20 BERS OF THE ASSOCIATION. THE ASSOCIATION SHALL NOT BE CONSIDERED
21 A REINSURER. INSURERS SHALL ACT AS AGENTS ON BEHALF OF THE ASSO-
22 CIATION REGARDING THE PAYMENT OF THE OBLIGATIONS OF THE
23 ASSOCIATION. ANY ASSOCIATION DEFICIENCIES SHALL ONLY BE RECOVER-
24 ABLE BY THE ASSESSMENTS REQUIRED IN SUBSECTION (25).

25 (28) THIS SECTION SHALL NOT BE CONSTRUED TO LIMIT THE OBLI-
26 GATIONS OF A MEMBER TO THAT MEMBER'S POLICYHOLDERS.

1 (29) THE ASSOCIATION SHALL REPORT TO THE COMMISSIONER AND TO
2 THE SENATE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON
3 INSURANCE ISSUES BY JULY 1, 2002 ON THE NUMBER OF EXISTING
4 CLAIMS, THE PROJECTED COST ASSOCIATED WITH THOSE CLAIMS, AND THE
5 AMOUNT OF RESERVES.

6 SEC. 3104A. (1) AUTOMOBILE INSURERS MAY ESTABLISH A REIN-
7 SURANCE MECHANISM APPROVED BY THE COMMISSIONER TO REINSURE PER-
8 SONAL PROTECTION INSURANCE COVERAGES THAT ARE IN EXCESS OF
9 \$350,000.00.

10 (2) A REINSURANCE MECHANISM ESTABLISHED PURSUANT TO THIS
11 SECTION SHALL:

12 (A) PERMIT ALL INSURERS TRANSACTING AUTOMOBILE INSURANCE IN
13 THIS STATE TO BE MEMBERS.

14 (B) BE ESTABLISHED PURSUANT TO, AND OPERATED ACCORDING TO, A
15 PLAN OF OPERATION APPROVED BY THE COMMISSIONER.

16 (C) PERMIT REINSURANCE OF ALL OR ANY PORTION OF THE POTEN-
17 TIAL LIABILITY WITH REINSURERS LICENSED TO TRANSACT INSURANCE IN
18 THIS STATE AS APPROVED BY THE COMMISSIONER.

19 Sec. 3107. (1) Except as provided in subsection ~~(2)~~ (3),
20 personal protection insurance benefits are payable for the
21 following:

22 (a) Allowable expenses ~~consisting of all reasonable~~
23 ~~charges~~ AS PROVIDED IN SUBPARAGRAPHS (i) AND (ii) incurred for
24 ~~reasonably necessary~~ MEDICALLY APPROPRIATE products, services,
25 and accommodations for an injured person's care, recovery, or
26 rehabilitation. ~~Allowable expenses within personal protection~~
27 ~~insurance coverage shall not include charges for a hospital room~~

~~1 in excess of a reasonable and customary charge for semiprivate~~
~~2 accommodations except if the injured person requires special or~~
~~3 intensive care, or for funeral and burial expenses in the amount~~
~~4 set forth in the policy which shall not be less than \$1,750.00 or~~
~~5 more than \$5,000.00.~~ ON FORMS APPROVED BY THE COMMISSIONER, AN
6 INSURER SHALL HAVE AVAILABLE THE COVERAGES LISTED IN SUBPARA-
7 GRAPHS (i) AND (ii) AND AN INSURED SHALL SELECT IN WRITING 1 OF
8 THE FOLLOWING COVERAGES:

9 (i) COVERAGES FOR ALLOWABLE EXPENSES FOR ALL REASONABLE
10 CHARGES INCURRED UP TO A \$350,000.00 MINIMUM LIMIT FOR MEDICALLY
11 APPROPRIATE PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN INJURED
12 PERSON'S CARE, RECOVERY, OR REHABILITATION. COVERAGE LIMITS
13 UNDER THIS SUBPARAGRAPH ARE PROVIDED ON A PER INDIVIDUAL PER LOSS
14 OCCURRENCE BASIS. COVERAGE UNDER THIS SUBPARAGRAPH APPLIES ONLY
15 TO BENEFITS PAYABLE TO THE PERSON NAMED IN THE POLICY, THE SPOUSE
16 OF THE INSURED, AND ANY RELATIVE OF EITHER DOMICILED IN THE SAME
17 HOUSEHOLD.

18 (ii) COVERAGES FOR ALLOWABLE EXPENSES FOR ALL REASONABLE
19 CHARGES INCURRED FOR LIMITS OF \$500,000.00, \$1,000,000.00,
20 \$2,000,000.00, OR \$3,000,000.00 AS SELECTED BY THE INSURED, FOR
21 MEDICALLY APPROPRIATE PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR
22 AN INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION. BEGINNING
23 OCTOBER 1, 1993, THE MAXIMUM LIMIT SHALL BE ADJUSTED ANNUALLY BY
24 THE COMMISSIONER IN ACCORDANCE WITH WHAT IS REINSURABLE IN THE
25 COMMERCIAL MARKETPLACE AS DETERMINED BY THE COMMISSIONER. THE
26 COMMISSIONER SHALL NOT ADJUST THE MAXIMUM LIMIT BELOW
27 \$3,000,000.00. ANY CHANGE IN THE MAXIMUM LIMIT SHALL APPLY ONLY

1 TO BENEFITS ARISING OUT OF ACCIDENTS OCCURRING AFTER THE DATE OF
2 CHANGE IN THE MAXIMUM LIMIT. COVERAGE LIMITS UNDER THIS SUBPARA-
3 GRAPH ARE PROVIDED ON A PER INDIVIDUAL PER LOSS OCCURRENCE
4 BASIS. COVERAGE UNDER THIS SUBPARAGRAPH APPLIES ONLY TO BENEFITS
5 PAYABLE TO THE PERSON NAMED IN THE POLICY, THE SPOUSE OF THE
6 INSURED, AND ANY RELATIVE OF EITHER DOMICILED IN THE SAME
7 HOUSEHOLD.

8 (b) Work loss consisting of loss of income from work an
9 injured person would have performed, IF HE OR SHE HAD NOT BEEN
10 INJURED, during AND THROUGH the first 3 years after the date of
11 the accident ~~if he or she had not been injured~~ UNDER SUBPARA-
12 GRAPH (i) OR FOR A LONGER PERIOD OF TIME AS SELECTED BY THE
13 INSURED UNDER SUBPARAGRAPH (ii). Work loss does not include any
14 loss after the date on which the injured person dies. Because
15 the benefits received from personal protection insurance for loss
16 of income are not taxable income, the benefits payable for such
17 loss of income shall be reduced 15% unless the claimant presents
18 to the insurer in support of his or her claim reasonable proof of
19 a lower value of the income tax advantage in his or her case, in
20 which case the lower value shall apply. AN INSURER SHALL HAVE
21 AVAILABLE THE FOLLOWING WORK LOSS COVERAGES:

22 (i) Beginning March 30, 1973, the benefits payable for work
23 loss sustained in a single 30-day period and the income earned by
24 an injured person for work during the same period IN AN AMOUNT
25 THAT together shall not exceed \$1,000.00, which maximum shall
26 apply pro rata to any lesser period of work loss. Beginning
27 October 1, 1974, the maximum shall be adjusted annually to

1 reflect changes in the cost of living under rules prescribed by
2 the commissioner but any change in the maximum shall apply only
3 to benefits arising out of accidents occurring ~~subsequent to~~
4 AFTER the date of change in the maximum.

5 (ii) BEGINNING JULY 1, 1992, BENEFITS PAYABLE FOR WORK LOSS
6 SUSTAINED IN A SINGLE 30-DAY PERIOD AND INCOME EARNED BY AN
7 INJURED PERSON FOR WORK DURING THE SAME PERIOD IN AN AMOUNT THAT
8 EQUALS THE AMOUNT IN SUBPARAGRAPH (i) BUT FOR WORK LOSS CONSIST-
9 ING OF LOSS OF INCOME FROM WORK AN INJURED PERSON WOULD HAVE PER-
10 FORMED, IF HE OR SHE HAD NOT BEEN INJURED, DURING AND THROUGH
11 YEARS 4 THROUGH 6 AFTER THE DATE OF THE ACCIDENT. AN INSURER
12 SHALL HAVE AVAILABLE THIS EXTENDED COVERAGE IN YEARLY INCREMENTAL
13 ADDITIONS TO THE REQUIRED FIRST 3 YEARS OF WORK LOSS COVERAGE.

14 (c) ~~Expenses~~ BENEFITS PAYABLE FOR EXPENSES not exceeding
15 \$20.00 per day, reasonably incurred in obtaining ordinary and
16 necessary services FROM PERSONS RESIDING OUTSIDE AN INJURED
17 PERSON'S HOME in lieu of those that ~~, if he or she had not been~~
18 ~~injured, an injured person~~ HE OR SHE CUSTOMARILY PERFORMED PRIOR
19 TO THE DATE OF THE ACCIDENT AND would have performed during the
20 first 3 years after the date of the accident, not for income but
21 for the benefit of himself or herself or of his or her
22 dependent.

23 ~~(2) A person who is 60 years of age or older and in the~~
24 ~~event of an accidental bodily injury would not be eligible to~~
25 ~~receive work loss benefits under subsection (1)(b) may waive cov-~~
26 ~~erage for work loss benefits by signing a waiver on a form~~
27 ~~provided by the insurer. An insurer shall offer a reduced~~

~~1 premium rate to a person who waives coverage under this~~
~~2 subsection for work loss benefits. Waiver of coverage for work~~
~~3 loss benefits applies only to work loss benefits payable to the~~
~~4 person or persons who have signed the waiver form.~~

5 (2) FOR ALL COVERAGES FOR ALLOWABLE EXPENSES FOR ALL REASON-
6 ABLE CHARGES INCURRED FOR MEDICALLY APPROPRIATE PRODUCTS, SERV-
7 ICES, AND ACCOMMODATIONS FOR AN INJURED PERSON'S CARE, RECOVERY,
8 OR REHABILITATION UNDER SUBSECTION (1)(A), THE FOLLOWING
9 APPLIES:

10 (A) IF AN INSURED FAILS TO SELECT IN WRITING ON A FORM
11 APPROVED BY THE COMMISSIONER 1 OF THE COVERAGES IN
12 SUBSECTION (1)(A), AN INSURER SHALL PROVIDE COVERAGE IN THE MINI-
13 MUM LIMIT SET FORTH IN SUBSECTION (1)(A)(i).

14 (B) A PERSON WHO IS NOT AN INSURED NAMED IN A POLICY, THE
15 SPOUSE OF THE INSURED, OR A RELATIVE OF EITHER DOMICILED IN THE
16 SAME HOUSEHOLD IS ENTITLED ONLY TO COVERAGE IN THE MINIMUM LIMIT
17 AS SET FORTH IN SUBSECTION (1)(A)(i).

18 (C) PERSONAL PROTECTION INSURANCE BENEFITS ARE LIMITED TO
19 \$350,000.00 PER INDIVIDUAL PER LOSS OCCURRENCE FOR ACCIDENTS
20 OCCURRING IN THE STATE OF MICHIGAN IF THE INJURED PERSON IS A
21 NONRESIDENT OF MICHIGAN AND THE INJURED PERSON'S BENEFITS ARE
22 PAYABLE UNDER A POLICY DELIVERED OUTSIDE OF MICHIGAN.

23 (D) PERSONAL PROTECTION INSURANCE BENEFITS ARE NOT PAYABLE
24 TO A NONRESIDENT INJURED IN AN ACCIDENT OCCURRING OUTSIDE OF
25 MICHIGAN.

26 (E) EACH INSURER LICENSED TO WRITE AUTOMOBILE INSURANCE IN
27 THIS STATE MAY NEGOTIATE AND ENTER INTO A PRUDENT PURCHASER

1 AGREEMENT, AS SET FORTH IN THE PRUDENT PURCHASER ACT, ACT NO. 233
2 OF THE PUBLIC ACTS OF 1984, BEING SECTIONS 550.51 TO 550.63 OF
3 THE MICHIGAN COMPILED LAWS, FOR PERSONAL PROTECTION INSURANCE
4 BENEFITS THAT SHALL BE OPTIONAL TO AN INSURED. NEGOTIATIONS
5 UNDER THIS SUBDIVISION SHALL NOT BE CONDUCTED COLLECTIVELY AMONG
6 NONAFFILIATED INSURERS. EACH PRUDENT PURCHASER AGREEMENT SHALL
7 BE FILED WITH AND IS SUBJECT TO THE COMMISSIONER'S APPROVAL. AN
8 INSURER SHALL PROVIDE A REDUCED PREMIUM RATE BASED ON ACTUAL SAV-
9 INGS TO THE INSURER FOR AN INSURED WHO SELECTS A PRUDENT PUR-
10 CHASER AGREEMENT OPTION.

11 (3) A PERSON WHO IN THE EVENT OF AN ACCIDENTAL BODILY INJURY
12 WOULD BE INELIGIBLE TO RECEIVE WORK LOSS BENEFITS UNDER
13 SUBSECTION (1)(B) OR WHO CAN SHOW THAT HE OR SHE HAS OTHER WORK
14 LOSS BENEFITS THAT WOULD PAY IN THE EVENT OF AN ACCIDENTAL BODILY
15 INJURY MAY WAIVE COVERAGE FOR WORK LOSS BENEFITS BY SIGNING A
16 WAIVER ON A FORM PROVIDED BY THE INSURER. AN INSURER SHALL PRO-
17 VIDE A REDUCED PREMIUM RATE BASED ON ACTUAL SAVINGS TO THE
18 INSURER TO A PERSON WHO WAIVES COVERAGE UNDER THIS SUBSECTION FOR
19 WORK LOSS BENEFITS. AN INSURER SHALL PROVIDE NOTICE, UPON APPLI-
20 CATION AND RENEWAL, OF THE ABILITY TO WAIVE WORK LOSS COVERAGE
21 UNDER THIS SUBSECTION. WAIVER OF COVERAGE FOR WORK LOSS BENEFITS
22 APPLIES ONLY TO WORK LOSS BENEFITS PAYABLE TO THE PERSON OR PER-
23 SONS WHO HAVE WAIVED THE COVERAGE. IF AN INSURED FAILS TO SELECT
24 IN WRITING ON A FORM APPROVED BY THE COMMISSIONER 1 OF THE COVER-
25 AGE IN SUBSECTION (1)(B), AN INSURER SHALL PROVIDE THE COVERAGE
26 SET FORTH IN SUBSECTION (1)(B)(i).

1 (4) FOR ANY SELECTION OF COVERAGES UNDER SUBSECTION (1) FOR
2 PERSONAL PROTECTION INSURANCE BENEFITS, EITHER BY AFFIRMATIVE
3 ACTION OR BY DEFAULT, AN INSURER SHALL CONTINUE TO PROVIDE SUCH
4 COVERAGE UNTIL AN INSURED INDICATES, IN WRITING, A DIFFERENT
5 SELECTION.

6 (5) AS USED IN THIS SECTION:

7 (A) MEDICALLY APPROPRIATE PRODUCTS, SERVICES, AND ACCOMMODA-
8 TIONS RENDERED OR PRESCRIBED BY A HEALTH CARE FACILITY OR HEALTH
9 CARE PROVIDER DO NOT INCLUDE PRODUCTS, SERVICES, AND ACCOMMODA-
10 TIONS THAT WOULD HAVE BEEN NEEDED OR USED BY THE INJURED PERSON
11 OR A MEMBER OF THE INJURED PERSON'S HOUSEHOLD WITHOUT REGARD TO
12 THE LOSS OCCURRENCE. THE INSURER SHALL HAVE THE RIGHT TO MAKE OR
13 OBTAIN A QUALIFIED REVIEW OF THE PRODUCTS, SERVICES, AND ACCOMMO-
14 DATIONS TO DETERMINE IF THEY ARE REASONABLE AND NECESSARY FOR THE
15 BODILY INJURY SUSTAINED. UNDER NO CIRCUMSTANCES SHALL AN INSURER
16 BE REQUIRED TO PROVIDE COVERAGE FOR ANY PRODUCT, SERVICE, OR
17 ACCOMMODATION THAT IS NOT REASONABLY NECESSARY FOR AN INJURED
18 PERSON'S CARE, RECOVERY, OR REHABILITATION. DISPUTES OVER REA-
19 SONABLE CHARGES AND MEDICALLY APPROPRIATE PRODUCTS, SERVICES, AND
20 ACCOMMODATIONS SHALL BE A QUESTION OF LAW TO BE DECIDED BY THE
21 COURT.

22 (B) EXPENSES WITHIN PERSONAL PROTECTION INSURANCE COVERAGE
23 SHALL NOT INCLUDE CHARGES FOR A HOSPITAL ROOM IN EXCESS OF A REA-
24 SONABLE AND CUSTOMARY CHARGE FOR SEMIPRIVATE ACCOMMODATIONS
25 EXCEPT IF THE INJURED PERSON REQUIRES SPECIAL OR INTENSIVE CARE,
26 INCLUDING BUT NOT LIMITED TO CARE PROVIDED BY A PSYCHIATRIC UNIT,
27 OR FOR FUNERAL AND BURIAL EXPENSES IN EXCESS OF THE AMOUNT SET

1 FORTH IN THE POLICY WHICH SHALL NOT BE LESS THAN \$1,750.00 OR
2 MORE THAN \$5,000.00.

3 (C) EXPENSES WITHIN PERSONAL PROTECTION INSURANCE COVERAGE
4 SHALL NOT INCLUDE EXPERIMENTAL TREATMENT OR PARTICIPATION IN
5 RESEARCH PROJECTS.

6 (D) EXPENSES FOR ATTENDANT CARE SERVICES PROVIDED BY A HOME
7 HEALTH AGENCY ARE LIMITED TO THE REASONABLE AND CUSTOMARY CHARGE
8 OF THE AGENCY FOR THE APPROPRIATE SKILL LEVEL AND TIME INTENSITY
9 OF SERVICE. EXPENSES FOR ATTENDANT CARE SERVICES FOR HOME HEALTH
10 CARE PROVIDED BY LICENSED OR UNLICENSED PERSONS, INCLUDING A
11 MEMBER OF THE SAME HOUSEHOLD WHETHER OR NOT HE OR SHE IS EMPLOYED
12 BY A HOME HEALTH AGENCY, ARE LIMITED TO THE CUSTOMARY WAGE THE
13 INDIVIDUAL WOULD HAVE RECEIVED IF IN THE EMPLOY OF A HOME HEALTH
14 AGENCY COMMENSURATE WITH THE PERSON'S QUALIFICATIONS. EXPENSES
15 FOR ATTENDANT CARE SERVICES FOR SUPERVISION BY MEMBERS OF THE
16 SAME HOUSEHOLD WILL NOT BE COVERED IN EXCESS OF 16 HOURS PER
17 DAY. ATTENDANT CARE PROVIDED CONTINUOUSLY FOR MORE THAN 6 MONTHS
18 MAY BE LIMITED TO QUADRIPLLEGIC SPINAL CORD, BRAIN INJURED, OR
19 SIMILARLY INJURED PERSONS AS DIAGNOSED BY THE INJURED PERSON'S
20 PHYSICIAN. AS USED IN THIS SUBDIVISION, "ATTENDANT" MEANS AN
21 INDIVIDUAL WHO PROVIDES ASSISTANCE TO THE INJURED PERSON WITH
22 ACTIVITIES OF DAILY LIVING INCLUDING BUT NOT LIMITED TO FEEDING,
23 GROOMING, DRESSING, TOILETING, TRANSFERS, AND SUPERVISION THAT
24 MAY BE REQUIRED FOR SAFETY OF THE INJURED PERSON. AN ATTENDANT
25 MAY BE A TRAINED NURSE OR NURSING ASSISTANT BUT AN ATTENDANT PRO-
26 VIDING ATTENDANT CARE SHALL NOT BE REIMBURSED FOR PRACTICING THE
27 PROFESSION OF NURSING.

1 (E) EXPENSES FOR SKILLED HOME CARE PROVIDED BY A HOME HEALTH
2 AGENCY ARE LIMITED TO THE REASONABLE AND CUSTOMARY CHARGE OF THE
3 AGENCY FOR THE APPROPRIATE SKILL LEVEL AND TIME INTENSITY OF
4 SERVICE. EXPENSES FOR SKILLED HOME CARE PROVIDED BY LICENSED OR
5 UNLICENSED PERSONS, INCLUDING A MEMBER OF THE SAME HOUSEHOLD
6 WHETHER OR NOT HE OR SHE IS EMPLOYED BY A HOME HEALTH AGENCY, ARE
7 LIMITED TO THE CUSTOMARY WAGE THE INDIVIDUAL WOULD HAVE RECEIVED
8 IF IN THE EMPLOY OF A HOME HEALTH AGENCY COMMENSURATE WITH THE
9 PERSON'S QUALIFICATIONS. EXPENSES FOR SKILLED HOME CARE BY MEM-
10 BERS OF THE SAME HOUSEHOLD WILL NOT BE COVERED IN EXCESS OF 16
11 HOURS PER DAY.

12 (F) EXPENSES FOR A MANUAL WHEELCHAIR SHALL NOT BE INCURRED
13 MORE FREQUENTLY THAN ONCE EVERY 2 YEARS. POWER WHEELCHAIRS MAY
14 BE PROVIDED ONLY FOR THOSE WITH WEAKNESS OR PROBLEMS COMPARABLE
15 OR EQUIVALENT TO TRIPLEGIA. AS CERTIFIED BY A PHYSICIAN ONCE THE
16 MEDICAL CONDITION REQUIRING THE POWER WHEELCHAIR HAS STABILIZED,
17 ALLOWABLE EXPENSES FOR A REPLACEMENT POWER WHEELCHAIR SHALL NOT
18 BE INCURRED MORE FREQUENTLY THAN ONCE EVERY 3 YEARS.

19 (G) EXPENSES FOR MEDICALLY APPROPRIATE PSYCHOLOGICAL SERV-
20 ICES THAT ARE REASONABLY LIKELY TO PRODUCE SIGNIFICANT MEASURABLE
21 IMPROVEMENT IN THE INJURED PERSON'S PSYCHOLOGICAL STATUS AND THAT
22 ARE PRESCRIBED BY A PHYSICIAN SHALL BE LIMITED TO A
23 FIXED-DURATION TIME PERIOD NOT TO EXCEED 26 WEEKS AND SHALL APPLY
24 ONLY IF THE NEED FOR THE SERVICES AROSE OUT OF THE INJURED
25 PERSON'S LOSS OCCURRENCE. THE SERVICES MAY BE EXTENDED FOR 1
26 ADDITIONAL TIME PERIOD NOT TO EXCEED 26 WEEKS IF THE SERVICES ARE
27 REASONABLY LIKELY TO PRODUCE SIGNIFICANT MEASURABLE IMPROVEMENT

1 IN THE INJURED PERSON'S PSYCHOLOGICAL STATUS. PSYCHOLOGICAL
2 SERVICES SHALL BE PROVIDED BY A PERSON LICENSED UNDER PART 182 OF
3 THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978,
4 BEING SECTIONS 333.18201 TO 333.18237 OF THE MICHIGAN COMPILED
5 LAWS, OR BY A SOCIAL WORKER REGISTERED UNDER ARTICLE 16 OF THE
6 OCCUPATIONAL CODE, ACT NO. 299 OF THE PUBLIC ACTS OF 1980, BEING
7 SECTIONS 339.1601 TO 339.1610 OF THE MICHIGAN COMPILED LAWS, AND
8 WHO HAS A MASTER'S DEGREE FROM AN ACCREDITED SCHOOL OF SOCIAL
9 WORK.

10 (H) EXPENSES FOR MEDICALLY APPROPRIATE VOCATIONAL REHABILI-
11 TATION SERVICES THAT ARE REASONABLY LIKELY TO PRODUCE SIGNIFICANT
12 REHABILITATION AND THAT ARE PRESCRIBED BY A PHYSICIAN SHALL BE
13 REIMBURSED FOR A FIXED-DURATION TIME PERIOD NOT TO EXCEED 52
14 WEEKS. THE SERVICES MAY BE EXTENDED FOR 1 ADDITIONAL TIME PERIOD
15 NOT TO EXCEED 52 WEEKS IF THE SERVICES ARE REASONABLY LIKELY TO
16 PRODUCE SIGNIFICANT REHABILITATION AND SHALL CEASE ONCE THE
17 INJURED PERSON HAS ACQUIRED EMPLOYMENT SKILLS.

18 (I) EXPENSES FOR MEDICALLY APPROPRIATE HOME MODIFICATION
19 ACCOMMODATIONS SHALL NOT EXCEED \$50,000.00 ADJUSTED ANNUALLY TO
20 REFLECT CHANGES IN THE COST OF LIVING UNDER RULES PRESCRIBED BY
21 THE COMMISSIONER BUT ANY CHANGE IN THE MAXIMUM APPLIES ONLY TO
22 BENEFITS ARISING OUT OF LOSS OCCURRENCES AFTER THE DATE OF CHANGE
23 IN THE MAXIMUM.

24 (J) EXPENSES FOR A MEDICALLY APPROPRIATE SPECIAL MOTOR VEHI-
25 CLE OR MOTOR VEHICLE MODIFICATION ACCOMMODATIONS ARE LIMITED TO
26 NECESSARY MODIFICATIONS TO AN EXISTING MOTOR VEHICLE, OR IF A
27 SPECIAL MOTOR VEHICLE IS REQUIRED, THE COST OF THE SPECIAL

1 VEHICLE AND THE PRESCRIBED MEDICALLY APPROPRIATE MODIFICATIONS TO
2 IT. COSTS FOR REPLACEMENT SPECIAL MOTOR VEHICLES OR MOTOR VEHI-
3 CLE MODIFICATIONS SHALL NOT BE INCURRED MORE FREQUENTLY THAN ONCE
4 EVERY 5 YEARS AND ARE LIMITED TO A MAXIMUM OF \$25,000.00 EVERY 5
5 YEARS.

6 (6) AN INSURER MAY DIRECTLY REIMBURSE A PROVIDER OF AMBU-
7 LANCE SERVICES OR ANY OTHER PROVIDER OF SERVICES RECEIVED PURSU-
8 ANT TO THIS CHAPTER.

9 (7) REGARDLESS OF THE NUMBER OF MOTOR VEHICLES INSURED OR
10 INSURERS PROVIDING SECURITY IN ACCORDANCE WITH THIS CHAPTER, OR
11 THE PROVISIONS OF ANY OTHER LAW PROVIDING FOR DIRECT BENEFITS
12 WITHOUT REGARD TO FAULT FOR MOTOR OR ANY OTHER VEHICLE ACCIDENTS,
13 A PERSON SHALL NOT RECOVER DUPLICATE BENEFITS FOR THE SAME
14 EXPENSES OR LOSSES INCURRED UNDER SUBSECTIONS (1), (2), (3), AND
15 (4).

16 (8) THIS SECTION SHALL NOT BE INTERPRETED TO EXCLUDE ANY
17 HEALTH CARE PROVIDER PROVIDING SERVICES WITHIN THE SCOPE OF THEIR
18 LICENSURE, CERTIFICATION, OR REGISTRATION. AS USED IN THIS SUB-
19 SECTION, "HEALTH CARE PROVIDER" MEANS A PERSON LICENSED, CERTI-
20 FIED, OR REGISTERED UNDER PARTS 61 TO 65 OR 161 TO 182 OF THE
21 PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
22 SECTIONS 333.6101 TO 333.6523 AND 333.16101 TO 333.18237 OF THE
23 MICHIGAN COMPILED LAWS.

24 (9) THERE IS NO LIABILITY ON THE PART OF, AND NO CAUSE OF
25 ACTION OF ANY NATURE SHALL ARISE AGAINST, AN INSURER OR AN
26 INSURER'S AGENT, SOLICITOR, EMPLOYEE, OFFICER, OR DIRECTOR BASED
27 UPON AN INSURED'S SELECTION OF COVERAGE UNDER SUBSECTION (1),

1 (2), (3), OR (4) EXCEPT IN THE CASE OF FRAUD OR
2 MISREPRESENTATION.

3 Sec. 3107a. Subject to the provisions of section
4 3107(1)(b), work loss for an injured person who is temporarily
5 unemployed at the time of the accident or during the period of
6 disability shall be based on earned income for the last month
7 employed full time preceding the accident. AN INJURED PERSON WHO
8 WAS UNEMPLOYED FOR MORE THAN 12 MONTHS AT THE TIME OF THE ACCI-
9 DENT IS NOT ELIGIBLE FOR WORK LOSS BENEFITS UNLESS THE INJURED
10 PERSON CAN SHOW VERIFIABLE EVIDENCE OF SPECIFIC REASONABLY ANTIC-
11 IPATED EMPLOYMENT.

12 SEC. 3107B. (1) EACH INSURER TRANSACTING AUTOMOBILE INSUR-
13 ANCE IN THIS STATE MAY NEGOTIATE WITH HEALTH CARE FACILITIES AND
14 HEALTH CARE PROVIDERS TO ESTABLISH A MANAGED SYSTEM OF CARE
15 OPTION FOR PERSONAL PROTECTION INSURANCE BENEFITS IN COUNTIES
16 WITH A POPULATION OF 250,000 OR MORE. NEGOTIATIONS UNDER THIS
17 SUBSECTION SHALL NOT BE CONDUCTED COLLECTIVELY AMONG NONAFFILI-
18 ATED INSURERS. EACH MANAGED SYSTEM OF CARE SHALL INCLUDE AT
19 LEAST 1 OF THE FOLLOWING:

20 (A) UTILIZATION REVIEW.

21 (B) CASE MANAGEMENT.

22 (C) REIMBURSEMENT METHODOLOGY.

23 (2) EACH MANAGED SYSTEM OF CARE ESTABLISHED UNDER
24 SUBSECTION (1) SHALL BE FILED WITH AND IS SUBJECT TO THE APPROVAL
25 OF THE COMMISSIONER. PRIOR TO THE APPROVAL OF EACH MANAGED
26 SYSTEM OF CARE, THE COMMISSIONER SHALL SEEK, RECEIVE, AND
27 CONSIDER ANALYSIS AND RECOMMENDATION FROM THE DIRECTOR OF THE

1 DEPARTMENT OF PUBLIC HEALTH ON THE PROPOSED MANAGED SYSTEM OF
2 CARE AND HOW IT COMPARES TO MANAGED SYSTEMS OF CARE IN THE GEN-
3 ERAL FIELD OF HEALTH CARE AS TO ACHIEVING THE GOAL OF COST EFFEC-
4 TIVELY PROVIDING QUALITY CARE AND AS TO MINIMIZING EXCESSIVE
5 ADMINISTRATIVE PRACTICES.

6 (3) A MANAGED SYSTEM OF CARE UNDER SUBSECTION (1) SHALL NOT
7 INHIBIT THE EMERGENCY OR ACUTE CARE OF AN INJURED PERSON RENDERED
8 IN AN EMERGENCY ROOM OR ACUTE CARE HOSPITAL SETTING.

9 (4) AN INSURER SHALL PROVIDE A REDUCED PREMIUM RATE BASED ON
10 ACTUAL SAVINGS TO THE INSURER FOR AN INSURED WHO SELECTS A MAN-
11 AGED SYSTEM OF CARE OPTION.

12 (5) THIS SECTION SHALL NOT BE CONSTRUED AS PROHIBITING AN
13 INSURER FROM OR REQUIRING AN INSURER TO DO ANY OF THE FOLLOWING
14 SUBJECT TO THE COMMISSIONER'S APPROVAL:

15 (A) ESTABLISHING OR CONTRACTING WITH A PREFERRED PROVIDER
16 ARRANGEMENT.

17 (B) PROVIDING A CASE MANAGEMENT AGREEMENT.

18 (C) PROVIDING A MANAGED CARE PROGRAM OR OTHER CONTRACTUAL
19 SERVICE AND PROCEDURE CREATED IN THE INTEREST OF THE INSURED AND
20 FOR THE CONTAINMENT OF MEDICAL COSTS.

21 (6) AS USED IN THIS SECTION:

22 (A) "ACUTE CARE" MEANS THE CARE RENDERED TO AN INJURED INDI-
23 VIDUAL FROM THE TIME OF INJURY UNTIL SUCH TIME AS THE INDIVIDUAL
24 IS RELEASED BY THE HEALTH CARE PROVIDER IN CHARGE OF THE CASE TO
25 POST-ACUTE CARE, AND INCLUDES RECONSTRUCTIVE OR ADDITIONAL SUR-
26 GERY OR ACUTE HOSPITAL CARE REQUIRED AS A DIRECT RESULT OF THE
27 INJURY.

1 (B) "CASE MANAGEMENT" MEANS THOSE ACTIVITIES THAT IDENTIFY
2 POTENTIALLY HIGH MEDICAL COST CASES OR EXTENDED HOSPITAL STAY
3 CASES AND THAT ASSIST THE PROVIDER, PATIENT, AND FAMILY IN IDENTIFYING
4 THE MOST COST EFFECTIVE METHODS OF DELIVERING QUALITY
5 CARE TO THE PATIENT. CASE MANAGEMENT INCLUDES, BUT IS NOT
6 LIMITED TO, MONITORING PATIENT CARE PLANS, REVIEWING THE APPROPRIATENESS
7 OF THE TYPE OF CARE AND THE SETTING IN WHICH THE CARE
8 IS BEING ADMINISTERED, TO REACH A CONSENSUS IN THE DEVELOPMENT OF
9 A CARE PLAN.

10 (C) "HEALTH CARE FACILITY" MEANS:

11 (i) A FACILITY OR AGENCY LICENSED OR AUTHORIZED UNDER PARTS
12 201 TO 217 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
13 ACTS OF 1978, BEING SECTIONS 333.20101 TO 333.21799E OF THE
14 MICHIGAN COMPILED LAWS, OR A LICENSED PART THEREOF.

15 (ii) A MENTAL HOSPITAL, PSYCHIATRIC HOSPITAL, PSYCHIATRIC
16 UNIT, OR MENTAL RETARDATION FACILITY OPERATED BY THE DEPARTMENT
17 OF MENTAL HEALTH OR CERTIFIED OR LICENSED UNDER THE MENTAL HEALTH
18 CODE, ACT NO. 258 OF THE PUBLIC ACTS OF 1974, BEING SECTIONS
19 330.1001 TO 330.2106 OF THE MICHIGAN COMPILED LAWS.

20 (iii) A FACILITY PROVIDING OUTPATIENT PHYSICAL THERAPY SERVICES,
21 INCLUDING SPEECH PATHOLOGY SERVICES.

22 (iv) A KIDNEY DISEASE TREATMENT CENTER, INCLUDING A FREE-
23 STANDING HEMODIALYSIS UNIT.

24 (v) AN ORGANIZED AMBULATORY HEALTH CARE FACILITY.

25 (vi) A TERTIARY HEALTH CARE SERVICE FACILITY.

1 (vii) A SUBSTANCE ABUSE TREATMENT PROGRAM LICENSED UNDER
2 PARTS 61 TO 65 OF ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
3 SECTIONS 333.6101 TO 333.6523 OF THE MICHIGAN COMPILED LAWS.

4 (viii) AN OUTPATIENT PSYCHIATRIC CLINIC.

5 (ix) A HOME HEALTH AGENCY.

6 (D) "HEALTH CARE PROVIDER" MEANS A PERSON LICENSED, CERTI-
7 FIED, OR REGISTERED UNDER PARTS 61 TO 65 OR 161 TO 182 OF ACT
8 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.6101 TO
9 333.6523 AND 333.16101 TO 333.18237 OF THE MICHIGAN COMPILED
10 LAWS.

11 (E) "MANAGED SYSTEM OF CARE" MEANS A PROGRAM OR COMBINATION
12 OF PROGRAMS DESIGNED TO ENSURE THE DELIVERY OF QUALITY HEALTH
13 CARE SERVICES AND COST EFFECTIVE UTILIZATION OF HEALTH CARE
14 RESOURCES BY ANALYSIS AND COORDINATION OF MEDICALLY APPROPRIATE
15 HEALTH CARE SERVICES.

16 (F) "REIMBURSEMENT METHODOLOGY" MEANS THE PROCEDURE FOR
17 REIMBURSEMENT OF HEALTH CARE PROVIDERS FOR THE PROVISION OF MEDI-
18 CALLY NECESSARY HEALTH CARE SERVICES AND THE ELEMENTS TO BE CON-
19 sidered IN DETERMINING THE REIMBURSEMENT RATE.

20 (G) "UTILIZATION REVIEW" MEANS THOSE ACTIVITIES THAT EITHER
21 PROSPECTIVELY AUTHORIZE MEDICALLY APPROPRIATE CARE OR RETROSPEC-
22 TIVELY TO MONITOR THE UTILIZATION OF HEALTH CARE SERVICES.
23 PROSPECTIVE UTILIZATION REVIEWS SHALL INCLUDE AT LEAST 2 LEVELS
24 OF APPEAL. PRACTICE GUIDELINES MAY BE DEVELOPED BASED ON RETRO-
25 SPECTIVE REVIEWS, BUT THEY SHALL NOT PRECLUDE FINAL JUDGMENT BY A
26 PHYSICIAN.

1 SEC. 3107C. (1) EACH INSURER AUTHORIZED TO WRITE AUTOMOBILE
2 INSURANCE IN THIS STATE ON APRIL 1, 1992 SHALL ESTABLISH A
3 UTILIZATION REVIEW SYSTEM UNDER THIS SECTION FOR ITS PERSONAL
4 PROTECTION INSURANCE BENEFITS BY JANUARY 1, 1993 IF IT DETERMINES
5 SUCH SYSTEM WOULD BE COST EFFECTIVE. EACH INSURER THAT IS NOT
6 AUTHORIZED TO WRITE AUTOMOBILE INSURANCE IN THIS STATE ON APRIL
7 1, 1992 SHALL ESTABLISH A UTILIZATION REVIEW SYSTEM UNDER THIS
8 SECTION FOR ITS PERSONAL PROTECTION INSURANCE BENEFITS BEFORE
9 BEING AUTHORIZED TO WRITE AUTOMOBILE INSURANCE IN THIS STATE IF
10 IT DETERMINES SUCH SYSTEM WOULD BE COST EFFECTIVE.

11 (2) A UTILIZATION REVIEW SYSTEM UNDER THIS SECTION SHALL BE
12 AUTOMATED AND MAY INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE
13 FOLLOWING:

14 (A) A PROVIDER ENROLLMENT FILE.

15 (B) UNIFORM CLAIMS FORMS.

16 (C) UNIFORM DIAGNOSIS AND PROCEDURE CODE SYSTEMS.

17 (D) UNIFORM PLACE OF SERVICE CODES THAT INDICATE THE SETTING
18 WHERE THE SERVICE WAS RENDERED.

19 (E) UNIFORM CODES TO IDENTIFY OTHER LIABLE THIRD PARTY
20 PAYERS.

21 (F) TYPE OF SERVICE CODES.

22 (G) QUANTIFICATION OF THE DOLLAR AMOUNTS OF ALL CLAIMS
23 REJECTED TO AND PAID BY OTHER LIABLE PARTIES.

24 (H) A MECHANISM FOR IDENTIFYING AND REJECTING CLAIMS THAT
25 FAIL TO MEET THE REQUIREMENTS OF THE STATUTE OF LIMITATIONS.

26 (I) A MECHANISM FOR IDENTIFYING AND REJECTING NONACCIDENT
27 RELATED CLAIMS FOR REVIEW.

1 (3) EACH AUTOMOBILE INSURANCE INSURER SHALL PROVIDE ANNUALLY
2 TO THE COMMISSIONER A DESCRIPTION OF ITS UTILIZATION REVIEW SYS-
3 TEMS AND ITS RESULTS.

4 (4) AUTOMOBILE INSURANCE INSURERS SHALL NOT USE A UTILIZA-
5 TION REVIEW SYSTEM TO DO EITHER OF THE FOLLOWING:

6 (A) UNDULY DELAY PAYMENT OF LEGITIMATE CLAIMS.

7 (B) HARASS OR DISCRIMINATE AGAINST MEDICAL PROVIDERS OR
8 INJURED AUTOMOBILE ACCIDENT VICTIMS.

9 (5) THE COMMISSIONER MAY ISSUE A CEASE AND DESIST ORDER
10 AGAINST AN INSURER WHO VIOLATES SUBSECTION (4).

11 (6) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT THE
12 ENTITLEMENTS OTHERWISE PROVIDED FOR IN THIS CHAPTER.

13 Sec. 3109. (1) Benefits provided or required to be provided
14 under the laws of any state, ANY PROVINCE OF CANADA, or the fed-
15 eral government OF THE UNITED STATES OR CANADA shall be sub-
16 tracted from the personal protection insurance benefits otherwise
17 payable for the injury WHETHER OR NOT THE POLICY OR OTHER SECUR-
18 ITY FOR PERSONAL PROTECTION INSURANCE PROVIDES FOR COORDINATION
19 OF BENEFITS WITH OTHER COVERAGE OR BENEFITS.

20 (2) An injured person is a natural person suffering acciden-
21 tal bodily injury.

22 (3) An insurer providing personal protection insurance bene-
23 fits may offer, at appropriately reduced premium rates, a deduct-
24 ible of a specified dollar amount ~~which~~ THAT does not exceed
25 ~~\$300.00~~ \$1,000.00 per accident. This deductible may be appli-
26 cable to all or any specified types of personal protection
27 insurance benefits but shall apply only to benefits payable to

1 the person named in the policy, his OR HER spouse, and any
2 relative of either domiciled in the same household. Any other
3 deductible provisions require the prior approval of the
4 commissioner.

5 Sec. 3109a. (1) An insurer providing personal protection
6 insurance benefits shall ~~offer~~ PROVIDE, at appropriately
7 reduced premium rates, deductibles and exclusions reasonably
8 related to other health and accident coverage on the insured.
9 The deductibles and exclusions required to be ~~offered~~ PROVIDED
10 by this section ~~shall be~~ ARE subject to prior approval by the
11 commissioner and ~~shall~~ apply only to benefits payable to the
12 person named in the policy, the spouse of the insured, and any
13 relative of either domiciled in the same household.

14 (2) PERSONAL PROTECTION INSURANCE BENEFITS OTHERWISE PAYABLE
15 FOR THE INJURY ARE NOT PAYABLE TO THE EXTENT AN INSURED HAS OTHER
16 HEALTH AND ACCIDENT COVERAGE IN ADDITION TO HIS OR HER PERSONAL
17 PROTECTION INSURANCE BENEFITS. INDIVIDUAL HEALTH AND ACCIDENT
18 COVERAGE THAT DOES NOT BECOME EFFECTIVE UNTIL AFTER THE DATE OF
19 THE INJURY IS SECONDARY TO PERSONAL PROTECTION INSURANCE BENEFITS
20 FOR ALL SERVICES RELATED TO THE INJURY. IF AN INSURED HAS OTHER
21 HEALTH AND ACCIDENT COVERAGE IN EFFECT AT THE TIME OF THE INJURY,
22 PERSONAL PROTECTION INSURANCE BENEFITS ARE NOT PAYABLE AS LONG AS
23 THE OTHER HEALTH AND ACCIDENT COVERAGE REMAINS IN EFFECT AND TO
24 THE EXTENT THAT SERVICES PROVIDED FOR THE INJURY ARE PAID UNDER
25 THE OTHER HEALTH AND ACCIDENT COVERAGE.

26 (3) COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
27 CHAPTER 531 49 STAT. 620, 42 U.S.C. 1395 TO 1395b, 1395b-2, 1395c

1 TO 1395i, 1395i-2 TO 1395i-4, 1395j TO 1395t, 1395u TO 1395w-2,
2 1395w-4 TO 1395dd, 1395ff TO 1395yy, AND 1395bbb TO 1395ccc, OR
3 TITLE XIX OF THE SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620,
4 42 U.S.C. 1396 TO 1396d, 1396f TO 1396g, AND 1396i TO 1396s, OR
5 PURSUANT TO A MEDICARE SUPPLEMENTAL POLICY OR CERTIFICATE IS NOT
6 CONSIDERED OTHER HEALTH AND ACCIDENT COVERAGE FOR PURPOSES OF
7 THIS SECTION.

8 Sec. 3111. (1) Personal protection insurance benefits are
9 payable for accidental bodily injury suffered in an accident
10 occurring out of this state, if the accident occurs within the
11 United States, its territories and possessions, or in Canada, and
12 the person whose injury is the basis of the claim was at the time
13 of the accident a named insured under a personal protection
14 insurance policy, his OR HER spouse, a relative of either domi-
15 ciled in the same household or an occupant of a vehicle involved
16 in the accident whose owner or registrant was insured under a
17 personal protection insurance policy or has provided security
18 approved by the secretary of state under ~~subsection (4) of~~ sec-
19 tion ~~3101~~ 3101(4). THIS SUBSECTION DOES NOT APPLY TO A
20 VEHICLE'S OCCUPANTS WHO ARE NOT RESIDENTS OF MICHIGAN.

21 (2) PERSONAL PROTECTION INSURANCE BENEFITS ARE LIMITED TO
22 THE MINIMUM LIMIT UNDER SECTION 3107(1)(A)(i) PER INDIVIDUAL PER
23 LOSS OCCURRENCE FOR ACCIDENTS OCCURRING IN MICHIGAN IF THE
24 INJURED PERSON IS NOT A RESIDENT OF MICHIGAN AND THE INJURED
25 PERSON'S BENEFITS ARE PAYABLE UNDER A POLICY DELIVERED OUTSIDE OF
26 MICHIGAN.

1 Sec. 3115. (1) Except as provided in ~~subsection (1) of~~
2 section ~~3114~~ 3114(1), a person suffering accidental bodily
3 injury while not an occupant of a motor vehicle shall claim per-
4 sonal protection insurance benefits from insurers in the follow-
5 ing order of priority:

6 (a) Insurers of owners or registrants of motor vehicles
7 involved in the accident.

8 (b) Insurers of operators of motor vehicles involved in the
9 accident.

10 (2) When 2 or more insurers are in the same order of prior-
11 ity to provide personal protection insurance benefits an insurer
12 paying benefits due is entitled to partial recoupment from the
13 other insurers in the same order of priority, together with a
14 reasonable amount of partial recoupment of the expense of pro-
15 cessing the claim, in order to accomplish equitable distribution
16 of the loss among such insurers.

17 (3) A limit upon the amount of personal protection insurance
18 benefits available because of accidental bodily injury to 1
19 person arising from 1 motor vehicle accident shall be determined
20 without regard to the number of policies applicable to the acci-
21 dent AND WITHOUT REGARD TO THE NUMBER OF VEHICLES INSURED UNDER
22 ANY 1 POLICY.

23 (4) EXCEPT AS OTHERWISE PROVIDED, IF AN INJURED PERSON IS
24 ENTITLED TO RECOVER BENEFITS UNDER MORE THAN 1 POLICY, THE MAXI-
25 MUM RECOVERY SHALL NOT EXCEED THE AMOUNT THAT WOULD HAVE BEEN
26 PAYABLE UNDER THE POLICY THAT PROVIDES THE HIGHEST DOLLAR LIMIT
27 OF BENEFITS PAYABLE.

1 Sec. 3116. (1) A subtraction from personal protection
2 insurance benefits shall not be made because of the value of a
3 claim in tort based on the same accidental bodily injury.

4 (2) A subtraction from or reimbursement for personal protec-
5 tion insurance benefits paid or payable under this chapter shall
6 be made only if recovery is realized upon a tort claim ~~arising~~
7 ~~from an accident occurring outside this state, a tort claim~~
8 ~~brought within this state against the owner or operator of a~~
9 ~~motor vehicle with respect to which the security required by sec-~~
10 ~~tion 3101 (3) and (4) was not in effect, or a tort claim brought~~
11 ~~within this state based on intentionally caused harm to persons~~
12 ~~or property,~~ and shall be made only to the extent that the
13 recovery realized by the claimant is for damages for which the
14 claimant has received or would otherwise be entitled to receive
15 personal protection insurance benefits. A subtraction shall be
16 made only to the extent of the recovery, exclusive of reasonable
17 attorneys' fees and other reasonable expenses incurred in effect-
18 ing the recovery. If personal protection insurance benefits have
19 already been received, the claimant shall repay to the insurers
20 out of the recovery a sum equal to the benefits received, but not
21 more than the recovery exclusive of reasonable attorneys' fees
22 and other reasonable expenses incurred in effecting the
23 recovery. The insurer shall have a lien on the recovery to this
24 extent. A recovery by an injured person or his or her estate for
25 loss suffered by the person shall not be subtracted in calculat-
26 ing benefits due a dependent after the death and a recovery by a
27 dependent for loss suffered by the dependent after the death

1 shall not be subtracted in calculating benefits due the injured
2 person.

3 (3) A personal protection insurer with a right of reimburse-
4 ment under subsection (1), if suffering loss from inability to
5 collect reimbursement out of a payment received by a claimant
6 upon a tort claim, is entitled to indemnity from a person who,
7 with notice of the insurer's interest, made the payment to the
8 claimant without making the claimant and the insurer joint payees
9 as their interests may appear or without obtaining the insurer's
10 consent to a different method of payment.

11 (4) A subtraction or reimbursement shall not be due the
12 claimant's insurer from that portion of any recovery to the
13 extent that recovery is realized for noneconomic loss as provided
14 in section 3135(1) and (2)(b) or for allowable expenses, work
15 loss, and survivor's loss as ~~defined~~ PRESCRIBED in sections
16 3107 to 3110 in excess of the amount recovered by the claimant
17 from his or her insurer.

18 Sec. 3131. (1) Residual liability insurance shall cover
19 bodily injury and property damage which occurs within the United
20 States, its territories and possessions, or in Canada. This
21 insurance shall afford coverage equivalent to that required as
22 evidence of automobile liability insurance under the financial
23 responsibility laws of the place in which the injury or damage
24 occurs. In this state this insurance shall afford coverage for
25 automobile liability retained by section 3135.

26 (2) This section shall not require RESIDUAL LIABILITY
27 coverage in this state. ~~other than that required by section~~

1 ~~3009(1)~~— This section shall apply to all insurance contracts in
2 force as of October 1, 1973, or entered into after that date.

3 Sec. 3135. (1) A person remains subject to tort liability
4 for noneconomic loss caused by his or her ownership, maintenance,
5 or use of a motor vehicle only ~~if~~ IN EITHER OF THE FOLLOWING
6 CIRCUMSTANCES:

7 (A) IF THE PERSON WAS UNDER THE INFLUENCE OF INTOXICATING
8 LIQUOR OR A CONTROLLED SUBSTANCE OR A COMBINATION OF INTOXICATING
9 LIQUOR AND A CONTROLLED SUBSTANCE IN VIOLATION OF SECTION 625 OF
10 THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF
11 1949, BEING SECTION 257.625 OF THE MICHIGAN COMPILED LAWS, AND
12 THE INJURED PERSON HAS SUFFERED DEATH, SERIOUS IMPAIRMENT OF BODY
13 FUNCTION, OR PERMANENT SERIOUS DISFIGUREMENT.

14 (B) IF THE PERSON'S OWNERSHIP, MAINTENANCE, OR USE OF THE
15 MOTOR VEHICLE SUBSTANTIALLY DEPARTED FROM THE STANDARDS OF ORDI-
16 NARY CARE SUCH THAT THE CONDUCT RESULTED FROM MORE THAN INEXPERI-
17 ENCE, EXCITEMENT, OR CONFUSION AND WAS MORE THAN MERE MISTAKE,
18 THOUGHTLESSNESS, INADVERTENCE, OR SIMPLE INATTENTION AND the
19 injured person has suffered death, serious impairment of body
20 function, or permanent serious disfigurement.

21 (2) Notwithstanding any other provision of law, tort liabil-
22 ity arising from the ownership, maintenance, or use within this
23 state of a motor vehicle with respect to which the security
24 required by section ~~3101(3) and (4)~~ 3101(1) was in effect is
25 abolished except as to:

26 (a) Intentionally caused harm to persons or property. Even
27 though a person knows that harm to persons or property is

1 substantially certain to be caused by his or her act or omission,
2 the person does not cause or suffer such harm intentionally if he
3 or she acts or refrains from acting for the purpose of averting
4 injury to any person, including himself or herself, or for the
5 purpose of averting damage to tangible property.

6 (b) Damages for noneconomic loss as provided and limited in
7 subsection (1).

8 (c) Damages for allowable expenses, work loss, and
9 survivor's loss as ~~defined~~ PRESCRIBED in sections 3107 to 3110
10 in excess of the daily, monthly, and 3-year limitations contained
11 in those sections. The party liable for damages is entitled to
12 an exemption reducing his or her liability by the amount of taxes
13 that would have been payable on account of income the injured
14 person would have received if he or she had not been injured.

15 (d) Damages up to \$400.00 to motor vehicles, to the extent
16 that the damages are not covered by insurance. An action for
17 damages pursuant to this subdivision shall be conducted in com-
18 pliance with subsection (3).

19 (3) In an action for damages pursuant to subsection (2)(d):

20 (a) Damages shall be assessed on the basis of comparative
21 fault, except that damages shall not be assessed in favor of a
22 party who is more than 50% at fault.

23 (b) Liability shall not be a component of residual liabili-
24 ty, as prescribed in section 3131, for which maintenance of
25 security is required by this act.

26 (4) Actions under subsection (2)(d) shall be commenced,
27 whenever legally possible, in the small claims division of the

1 district court or ~~the conciliation division of the common pleas~~
 2 ~~court of the city of Detroit or~~ the municipal court. If the
 3 defendant or plaintiff removes ~~such an~~ THE action to a higher
 4 court and does not prevail, the judge may assess costs.

5 (5) A decision of a court made pursuant to subsection (2)(d)
 6 ~~—~~ shall not be res judicata in any proceeding to determine any
 7 other liability arising from the same circumstances as gave rise
 8 to the action brought pursuant to subsection (2)(d).

9 ~~(6) Subsections (2)(d), (3), (4), and (5) shall take effect~~
 10 ~~July 1, 1980.~~

11 Sec. 3142. (1) Personal protection insurance benefits are
 12 payable as loss accrues.

13 (2) Personal protection insurance benefits are overdue if
 14 not paid within 30 days after an insurer receives reasonable
 15 proof of the fact and of the amount of loss sustained. If rea-
 16 sonable proof is not supplied as to the entire claim, the amount
 17 supported by reasonable proof is overdue if not paid within 30
 18 days after the proof is received by the insurer. Any part of the
 19 remainder of the claim that is later supported by reasonable
 20 proof is overdue if not paid within 30 days after the proof is
 21 received by the insurer. For the purpose of calculating the
 22 extent to which benefits are overdue, payment shall be treated as
 23 made on the date a draft or other valid instrument was placed in
 24 the United States mail in a properly addressed, postpaid envelope
 25 ~~—~~ or, if not so posted, on the date of delivery.

26 (3) An overdue payment bears ~~simple~~ interest at the rate
 27 ~~of 12% per annum~~ SET BY SECTION 6013(6) OF THE REVISED

1 JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961,
2 BEING SECTION 600.6013 OF THE MICHIGAN COMPILED LAWS. INTEREST
3 PAID UNDER THIS SUBSECTION SHALL BE OFFSET BY INTEREST PAYABLE
4 UNDER SECTION 6013(6) OF ACT NO. 236 OF THE PUBLIC ACTS OF 1961.

5 Sec. 3172. (1) A person entitled to A claim because of
6 accidental bodily injury arising out of the ownership, operation,
7 maintenance, or use of a motor vehicle as a motor vehicle in this
8 state may obtain personal protection insurance benefits through
9 an assigned claims plan ~~if~~ IN ANY OF THE FOLLOWING SITUATIONS:

10 (A) IF no personal protection insurance is applicable to the
11 injury. ~~—~~

12 (B) IF no personal protection insurance applicable to the
13 injury can be identified. ~~—~~

14 (C) IF the personal protection insurance applicable to the
15 injury cannot be ascertained because of a dispute between 2 or
16 more automobile insurers concerning their obligation to provide
17 coverage or the equitable distribution of the loss ~~—or—~~

18 (D) IF the only identifiable personal protection insurance
19 applicable to the injury is, because of financial inability of 1
20 or more insurers to fulfill their obligations, inadequate to pro-
21 vide benefits up to the maximum prescribed. ~~In such case~~

22 (2) IN ANY OF THE SITUATIONS UNDER SUBSECTION (1), unpaid
23 benefits due or coming due are subject to being collected under
24 the assigned claims plan, and the insurer to which the claim is
25 assigned, or the assigned claims facility if the claim is
26 assigned to it, is entitled to reimbursement from the defaulting
27 insurers to the extent of their financial responsibility.

1 (3) ~~-(2)-~~ Except as otherwise provided in this subsection,
2 personal protection insurance benefits, including benefits arising
3 from accidents occurring before the effective date of this
4 subsection, payable through an assigned claims plan shall be
5 reduced to the extent that benefits covering the same loss are
6 available from other sources, regardless of the nature or number
7 of benefit sources available and regardless of the nature or form
8 of the benefits, to a person claiming personal protection insurance
9 benefits through the assigned claims plan. This subsection
10 ~~shall only apply~~ ONLY APPLIES when the personal protection
11 insurance benefits are payable through the assigned claims plan
12 because no personal protection insurance is applicable to the
13 injury, no personal protection insurance applicable to the injury
14 can be identified, or the only identifiable personal protection
15 insurance applicable to the injury is, because of financial
16 inability of 1 or more insurers to fulfill their obligations,
17 inadequate to provide benefits up to the maximum prescribed. As
18 used in this subsection "sources" and "benefit sources" do not
19 include the program for medical assistance for the medically
20 indigent under the social welfare act, Act No. 280 of the Public
21 Acts of 1939, being sections 400.1 to 400.121 of the Michigan
22 Compiled Laws, or insurance under the health insurance for the
23 aged act, title XVIII of the social security amendments of 1965.

24 (4) ~~-(3)-~~ If the obligation to provide personal protection
25 insurance benefits cannot be ascertained because of a dispute
26 between 2 or more automobile insurers concerning their obligation
27 to provide coverage or the equitable distribution of the loss,

1 and if a method of voluntary payment of benefits cannot be agreed
2 upon among or between the disputing insurers, all of the follow-
3 ing shall apply:

4 (a) The insurers who are parties to the dispute shall, or
5 the claimant may, immediately notify the assigned claims facility
6 of their inability to determine their statutory obligations.

7 (b) The claim shall be assigned by the assigned claims
8 facility to an insurer which shall immediately provide personal
9 protection insurance benefits to the claimant or claimants enti-
10 tled to benefits IN THE HIGHEST AMOUNT APPLICABLE AMONG THE POLI-
11 CIES IN DISPUTE.

12 (c) An action shall be immediately commenced on behalf of
13 the assigned claims facility by the insurer to whom the claim is
14 assigned in circuit court for the purpose of declaring the rights
15 and duties of any interested party.

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

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

23 (f) After hearing the action, the circuit court shall deter-
24 mine the insurer or insurers, if any, obligated to provide the
25 applicable personal protection insurance benefits and the equita-
26 ble distribution, if any, among the insurers obligated therefor,
27 and shall order reimbursement to the assigned claims facility

1 from the insurer or insurers to the extent of the responsibility
2 as determined by the court. The reimbursement ordered under this
3 subdivision shall include all benefits and costs paid or incurred
4 by the assigned claims facility and all benefits and costs paid
5 or incurred by insurers determined not to be obligated to provide
6 applicable personal protection insurance benefits, including rea-
7 sonable attorney fees and interest at the rate prescribed in
8 section 3175 as of December 31 of the year preceding the determi-
9 nation of the circuit court.

10 (5) IF NO PERSONAL PROTECTION INSURANCE IS APPLICABLE TO THE
11 INJURY OR NO PERSONAL PROTECTION INSURANCE APPLICABLE TO THE
12 INJURY CAN BE IDENTIFIED, PERSONAL PROTECTION INSURANCE BENEFITS
13 SHALL BE PAID ONLY TO THE MINIMUM LIMIT PROVIDED FOR IN SECTION
14 3107(1)(A)(i). IF THE ONLY IDENTIFIABLE PERSONAL PROTECTION
15 INSURANCE APPLICABLE TO THE INJURY IS, BECAUSE OF FINANCIAL
16 INABILITY OF 1 OR MORE INSURERS TO FULFILL THEIR OBLIGATIONS,
17 INADEQUATE TO PROVIDE BENEFITS UP TO THE MAXIMUM PRESCRIBED, PER-
18 SONAL PROTECTION INSURANCE BENEFITS SHALL BE PAID TO THE LIMIT
19 SELECTED BY THE INSURED UNDER SECTION 3107(1)(A).

20 (6) THIS SECTION SHALL NOT APPLY AND SECTION 3172A SHALL
21 APPLY IF APPLICABLE PERSONAL PROTECTION INSURANCE BENEFITS ARE
22 UNAVAILABLE BECAUSE AN INSURER OTHERWISE OBLIGED TO PROVIDE THAT
23 COVERAGE UNDER THIS CHAPTER BECAME, AFTER DECEMBER 1, 1991, AN
24 INSOLVENT INSURER AS DEFINED IN CHAPTER 79.

25 SEC. 3172A. (1) A PERSON ENTITLED TO A CLAIM BECAUSE OF
26 ACCIDENTAL BODILY INJURY ARISING OUT OF THE OWNERSHIP, OPERATION,
27 MAINTENANCE, OR USE OF A MOTOR VEHICLE AS A MOTOR VEHICLE IN THIS

1 STATE MAY OBTAIN THE FULL PERSONAL PROTECTION INSURANCE BENEFITS
2 ENTITLED THROUGH THE MICHIGAN PROPERTY AND CASUALTY GUARANTY
3 ASSOCIATION ESTABLISHED UNDER CHAPTER 79 IF ALL OF THE FOLLOWING
4 ARE SATISFIED:

5 (A) PERSONAL PROTECTION INSURANCE APPLICABLE TO THE INJURY
6 IS UNAVAILABLE BECAUSE AN INSURER OTHERWISE OBLIGED TO PROVIDE
7 THAT COVERAGE UNDER THIS CHAPTER BECAME, AFTER DECEMBER 1, 1991,
8 AN INSOLVENT INSURER AS DEFINED IN CHAPTER 79.

9 (B) EXCEPT AS PROVIDED IN SUBSECTION (2), THE CLAIM SATIS-
10 FIES THE REQUIREMENTS OF A COVERED CLAIM UNDER CHAPTER 79.

11 (2) NOTWITHSTANDING SECTION 7931(3), THE OBLIGATION OF THE
12 MICHIGAN PROPERTY AND CASUALTY GUARANTY ASSOCIATION UNDER THIS
13 SECTION SHALL BE IN THE SAME PRIORITY AS THAT OF THE INSOLVENT
14 INSURER, BUT FOR ITS INSOLVENCY, UNDER SECTIONS 3114 AND 3115.

15 CHAPTER 32A

16 AUTOMOBILE INSURANCE ANTIFRAUD PLANS AND PROVISIONS

17 SEC. 3275. AS USED IN THIS CHAPTER:

18 (A) "ANTIFRAUD PLAN" MEANS AN AUTOMOBILE ANTIFRAUD PLAN
19 ESTABLISHED UNDER SECTION 3277.

20 (B) "INDEX BUREAU" MEANS THE AUTOMOBILE INSURANCE FRAUD
21 INDEX BUREAU ESTABLISHED UNDER SECTION 3279.

22 SEC. 3277. EACH INSURER AUTHORIZED TO TRANSACT AUTOMOBILE
23 INSURANCE IN THIS STATE SHALL ESTABLISH AND MAINTAIN AN AUTOMO-
24 BILE INSURANCE ANTIFRAUD PLAN. THE ANTIFRAUD PLAN OF INSURERS
25 AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS STATE ON THE
26 EFFECTIVE DATE OF THIS SECTION SHALL BE FILED WITH THE
27 COMMISSIONER ON OR BEFORE JANUARY 1, 1993. AN AUTOMOBILE INSURER

1 AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS STATE AFTER
2 THE EFFECTIVE DATE OF THIS SECTION SHALL FILE AN ANTIFRAUD PLAN
3 WITHIN 6 MONTHS AFTER AUTHORIZATION. A MODIFICATION TO THE ANTI-
4 FRAUD PLAN SHALL BE FILED WITH THE COMMISSIONER WITHIN 30 DAYS
5 AFTER THE PLAN HAS BEEN MODIFIED.

6 SEC. 3279. THE COMMISSIONER AFTER CONSULTATION WITH INSUR-
7 ERS AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS STATE MAY
8 DESIGNATE A MOTOR VEHICLE INSURANCE FRAUD INDEX BUREAU. WITHIN
9 180 DAYS OF ITS DESIGNATION, THE INDEX BUREAU SHALL FILE WITH THE
10 COMMISSIONER A PLAN OF OPERATION CONSISTENT WITH THE PROVISIONS
11 OF THIS CHAPTER. THE PLAN OF OPERATION SHALL INCLUDE, BUT NOT BE
12 LIMITED TO, ALL OF THE FOLLOWING:

13 (A) A DESCRIPTION OF THE INDEX BUREAU'S ORGANIZATION MAKEUP,
14 MEMBERSHIP, STAFF COMPLEMENT, PHYSICAL LOCATION, AND SELF-FUNDING
15 METHODOLOGY.

16 (B) DETAILED PROCEDURES FOR ALL MEMBERS TO REGULARLY REPORT
17 FRAUD-RELATED DATA TO THE INDEX BUREAU.

18 (C) POLICIES AND PROCEDURES GOVERNING INSURER AND LAW
19 ENFORCEMENT AGENCY ACCESS TO INDEX BUREAU DATA, INFORMATION, AND
20 REPORTS.

21 (D) A DETAILED ACCOUNTING OF HOW INFORMATION ON INSURANCE
22 FRAUD FILED BY INSURERS WILL BE ORGANIZED AND MAINTAINED.

23 (E) ANY OTHER INFORMATION, DATA PROCEDURE, OR PROGRAM RELAT-
24 ING TO INSURANCE FRAUD AS MAY BE REQUIRED BY THE COMMISSIONER OR
25 DETERMINED NECESSARY TO FACILITATE THE REPORTING AND USE OF
26 INFORMATION AND DATA.

1 SEC. 3281. INFORMATION COLLECTED PURSUANT TO THIS CHAPTER
2 SHALL ONLY BE USED BY INSURERS AND LAW ENFORCEMENT OFFICIALS FOR
3 THE DETECTION AND PROSECUTION OF FRAUD OR ABUSE, AND INSURERS
4 SHALL NOT USE THIS INFORMATION FOR UNDERWRITING PURPOSES.

5 Sec. 3301. (1) Every insurer authorized to write automobile
6 insurance in this state shall participate in an organization for
7 the purpose of doing all of the following:

8 (a) Providing the guarantee that automobile insurance cover-
9 age will be available to any person who is unable to procure that
10 insurance through ordinary methods.

11 (B) PROVIDING AUTOMOBILE INSURANCE TO ELIGIBLE PERSONS WHO
12 WISH TO BE INSURED THEREIN FOR PRICE OR OTHER CONSIDERATIONS AND
13 ACTIVELY PROMOTING ACCESS TO THE FACILITY IN AREAS OF THE STATE
14 WHERE THE COMMISSIONER HAS REQUIRED THE LICENSING OF AGENTS BY
15 THE FACILITY.

16 (C) ~~(b)~~ Preserving to the public the benefits of price
17 competition by encouraging maximum use of the normal private
18 insurance system.

19 (2) The organization created under this chapter shall be
20 called the ~~"Michigan automobile insurance placement facility"~~
21 UNITED AUTO INSURERS FACILITY.

22 Sec. 3303. As used in this chapter:

23 (a) "Automobile insurance" means insurance for automobiles
24 ~~which~~ THAT provides any of the following:

25 (i) Security required pursuant to section 3101.

1 (ii) Personal protection, property protection, and residual
2 liability insurance for amounts in excess of the amounts required
3 under chapter 31.

4 (iii) Insurance coverage customarily known as comprehensive
5 and collision.

6 (iv) Other insurance coverages for a private passenger non-
7 fleet automobile as prescribed by rule promulgated by the
8 commissioner.

9 (b) "Qualified applicant", for automobile insurance, means a
10 person who is an owner or registrant of an automobile registered
11 or to be registered in this state or who holds a valid license to
12 operate a motor vehicle, but does not include any of the
13 following:

14 (i) A person who is not required to maintain security pursu-
15 ant to section 3101, unless the person intends to reside in this
16 state for 30 days or more and makes a written statement of that
17 intention on a form approved by the commissioner.

18 (ii) A person whose license to operate a vehicle is under
19 suspension or revocation, unless the suspension was made pursuant
20 to section 310, 310b, 310d, 315, 321a, 324, 328, 512, 515, 625,
21 ~~625b~~, 625f, 748, 801c, or 907 of THE MICHIGAN VEHICLE CODE, Act
22 No. 300 of the Public Acts of 1949, as amended, being sections
23 257.310, 257.310b, 257.310d, 257.315, 257.321a, 257.324, 257.328,
24 257.512, 257.515, 257.625, ~~257.625b~~, 257.625f, 257.748,
25 257.801c, and 257.907 of the Michigan Compiled Laws.

26 (iii) A person whose policy of automobile insurance has been
27 ~~cancelled~~ CANCELED because of nonpayment of premium or finance

1 premium within the immediately preceding 2-year period, unless
2 the applicant or insured pays in full a premium installment
3 developed under section 3350(a) before issuance, continuation, or
4 renewal of the policy.

5 (c) "Facility" means the UNITED AUTO INSURERS FACILITY
6 FORMERLY KNOWN AS THE automobile insurance placement facility
7 created pursuant to this chapter.

8 (d) "Participating member" means an insurer who is required
9 by this chapter to be a member of the facility and who in any
10 given calendar year has a participation ratio greater than zero
11 in the facility for that year.

12 (e) "Participation ratio" means the ratio of the participat-
13 ing member's Michigan premiums or exposure units to the com-
14 parable statewide totals for all participating members, as
15 follows:

16 (i) For private passenger nonfleet automobile insurance, for
17 distribution of risk or distribution of loss, the ratio shall be
18 based on voluntary net direct automobile insurance car years
19 written in this state for the calendar year ending December 31 of
20 the second prior year as reported to the statistical agent of
21 each participating member as private passenger nonfleet
22 exposure.

23 (ii) For all other automobile insurance, including insurance
24 for fleets, commercial vehicles, public vehicles, and garages,
25 the ratio for distribution of risks or distribution of loss shall
26 be based on the total Michigan automobile insurance gross direct
27 premiums written, including policy and membership fees, less

1 return premiums and premiums on policies not taken, without
2 including reinsurance assumed and without deducting reinsurance
3 ceded, reduced by the amount of premiums reported as private pas-
4 senger nonfleet for the calendar year ending December 31 of the
5 second prior year.

6 (iii) For expenses of operation of the facility and for
7 voting rights, the ratio shall be based on the total Michigan
8 automobile insurance gross direct premiums written, including
9 policy and membership fees, less return premiums and premiums on
10 policies not taken, without including reinsurance assumed and
11 without deducting reinsurance ceded for the calendar year ending
12 December 31 of the second prior year.

13 (f) "Private passenger nonfleet automobile" means a motor-
14 ized vehicle designed for transporting passengers or goods,
15 subject to specific contemporary definitions for insurance pur-
16 poses as provided in the plan of operation.

17 Sec. 3310. (1) Beginning January 1, 1985, the board of gov-
18 ernors of the facility shall consist of 11 governors. Seven of
19 the governors shall be elected as provided in the plan of
20 operation. Four governors shall be appointed by the commission-
21 er, of which 2 shall represent insurance agents subject to sec-
22 tion 1209(2) and 2 shall represent the general public. Each gov-
23 ernor appointed by the commissioner pursuant to this subsection
24 shall serve an annual term. The 7 elected members of the board
25 of governors of the facility shall be elected to serve annual
26 terms commencing within 45 days after the annual determination of

1 participation ratios. Vacancies shall be filled as provided for
2 in the plan of operation.

3 (2) The facility committee shall adopt a plan of operation
4 by majority vote of the committee and shall submit it to the com-
5 missioner for his or her approval. If the commissioner finds
6 that the plan meets the requirements of this chapter, he or she
7 shall approve it. If the commissioner finds that the plan fails
8 to meet the requirements of this chapter, he or she shall state
9 in what respects the plan is deficient and shall afford the
10 facility committee 10 days within which to correct the
11 deficiency. If the commissioner and the facility committee fail
12 to agree that the provisions of the plan so submitted meet the
13 requirements of this chapter, either party to the controversy may
14 submit the issue to the circuit court for Ingham county for a
15 determination. If the commissioner fails to render a written
16 decision on the plan of operation within 30 days after receipt of
17 the plan, the plan shall be deemed approved.

18 (3) If the facility committee fails to submit a plan of
19 operation within 120 days after April 1, 1970, the commissioner
20 shall prepare and promulgate a plan of operation in accordance
21 with the requirements of this chapter, which shall continue in
22 force until superseded by a plan of operation made effective in
23 accordance with the provisions of this section, but without
24 regard to the time limitations prescribed in this section.

25 (4) Amendments to the plan of operation shall be subject to
26 majority approval by the board of governors and ratified by
27 majority of the membership vote. The membership vote shall be

1 determined as defined in section 3303(e)(iii). Amendments to the
2 plan of operation shall be subject to the approval of the commis-
3 sioner, as provided in subsection (2).

4 (5) THE COMMISSIONER MAY REQUIRE THE FACILITY TO AMEND THE
5 PLAN OF OPERATION IN ORDER TO HAVE IT CONFORM OR RESPOND TO
6 CHANGES IN LAW AFFECTING THE FACILITY INCLUDING CHANGES CREATED
7 IN THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. THE AMENDMENTS
8 SHALL BE APPROVED BY THE BOARD OF GOVERNORS AND ARE SUBJECT TO
9 THE COMMISSIONER'S APPROVAL AS PROVIDED IN SUBSECTION (4). IF
10 THE BOARD FAILS TO SUBMIT THE REQUIRED AMENDMENTS, THEN THE PRO-
11 CEDURE PROVIDED IN SUBSECTION (3) FOR THE ADOPTION OF THE PLAN OF
12 OPERATION SHALL GOVERN THE ADOPTION OF THE AMENDMENTS.

13 (6) THE COMMISSIONER MAY REQUIRE THE FACILITY TO AMEND ITS
14 PLAN OF OPERATION TO INCLUDE FOR FACILITY PURPOSES WITHIN THE
15 CATEGORY OF ELIGIBLE PERSONS, CERTAIN PERSONS WHO WOULD NOT BE
16 CONSIDERED AN ELIGIBLE PERSON WITHIN THE MEANING OF SECTION 2103,
17 IF THE REASON THAT THEY ARE NOT CONSIDERED AN ELIGIBLE PERSON IN
18 SECTION 2103 FAILS TO BEAR SIGNIFICANTLY ON LOSS PROPENSITY.

19 (7) ~~-(5)-~~ Every insurer authorized to write automobile
20 insurance in this state shall adhere to the plan of operation.

21 Sec. 3315. The facility shall establish as part of its plan
22 of operation a program to reduce the participation ratio of an
23 insurer under section 3303(e)(i) based upon the number of private
24 passenger nonfleet automobiles voluntarily written in an urban
25 area. The program shall also include reductions to the partici-
26 pation ratio for any increases in the number of private passenger
27 nonfleet automobiles voluntarily written in an urban area.

1 However, an insurer's participation ratio shall not be increased
2 by more than 10% annually as a result of this section. As used
3 in this section "urban area" means the area within the boundaries
4 of a city in this state that has a population of 1,000,000 or
5 more as determined by the latest of each succeeding federal
6 decennial census and includes any city located wholly within the
7 boundaries of a city in this state that has a population of
8 1,000,000 or more as determined by the latest of each succeeding
9 federal decennial census. ~~This section is repealed effective~~
10 ~~April 1, 1992.~~

11 SEC. 3320A. AT LEAST ANNUALLY, IN CONJUNCTION WITH A
12 RENEWAL NOTICE, A BILL, OR OTHER NOTICE OF PAYMENT DUE ISSUED TO
13 A POLICY HOLDER IN CONJUNCTION WITH AUTOMOBILE INSURANCE CON-
14 TRACTS, THE FACILITY SHALL SEND TO EACH POLICYHOLDER A WRITTEN
15 NOTICE OF ALL OF THE FOLLOWING:

16 (A) A DESCRIPTION OF THE SPECIFIC RATING CLASSIFICATIONS BY
17 WHICH THE RATES AND PREMIUMS FOR THE POLICY HAVE BEEN
18 DETERMINED. THE NOTICE SHALL BE OF SUFFICIENT DETAIL AND CLARITY
19 SO THAT THE POLICYHOLDER CAN REASONABLY VERIFY THE APPLICABILITY
20 AND ACCURACY OF THE RATING CLASSIFICATIONS.

21 (B) A GENERAL EXPLANATION OF THE EXTENT TO WHICH RATES OR
22 PREMIUMS VARY AMONG INSURED ON THE BASIS OF THE RATING CLASSIFI-
23 CATIONS USED BY THE FACILITY.

24 (C) SOURCES AND REASONABLE PROCEDURES BY WHICH THE INDIVID-
25 UAL CAN OBTAIN FROM THE FACILITY ADDITIONAL INFORMATION SUFFI-
26 CIENT FOR THE INDIVIDUAL TO CALCULATE AND CONFIRM THE ACCURACY OF
27 HIS OR HER SPECIFIC PREMIUM.

1 (D) RELEVANT INFORMATION REGARDING THE RIGHTS OF AN INSURED,
2 UNDER SECTIONS 2113 AND 2114, TO APPEAL THE APPLICATION OF THE
3 FACILITY'S RATING PLAN IN DETERMINING HIS OR HER PREMIUM, TO
4 OBTAIN DOCUMENTATION FROM THE FACILITY REGARDING THE DETERMINA-
5 TION OF THE RATE, TO APPEAL THE APPLICATION OF THE FACILITIES
6 UNDERWRITING RULES TO THE PERSON, AND TO REQUEST AN INFORMAL CON-
7 FERENCE COMPLAINT AS AN AGGRIEVED PERSON.

8 (E) A DESCRIPTION OF ALL OF THE FACILITY'S UNDERWRITING
9 RULES BASED UPON INSURANCE ELIGIBILITY POINTS.

10 (F) A GENERAL EXPLANATION OF HOW INSURANCE PREMIUMS ARE
11 DETERMINED AND SUGGESTIONS FOR MEANS FOR REDUCING PREMIUMS.

12 Sec. 3340. (1) As agent for participating members, the
13 facility shall file with the commissioner every manual of classi-
14 fication, every manual of rules and rates, every rating plan and
15 every modification of a manual of classification, manual of rules
16 and rates, or rating plan proposed for use for private passenger
17 nonfleet automobile insurance placed through the facility. The
18 facility may incorporate by reference in its filings other mate-
19 rial on file with the commissioner. The classifications, rules
20 and rates, and any amendments thereof shall be subject to prior
21 written approval by the commissioner. Except as provided in this
22 chapter, rates filed by the facility for private passenger non-
23 fleet automobile insurance shall be in accordance with chapter 21
24 and rates by the facility for all other automobile insurance
25 shall be filed in accordance with chapter 24.

26 (2) Every participating member designated to act on behalf
27 of the facility shall be authorized to use the rates and rules

1 approved by the commissioner for use by the facility on business
2 placed through the facility and shall not use other rates for
3 automobile insurance placed through the facility.

4 (3) Laws relating to rating organizations or advisory orga-
5 nizations shall not apply to functions provided for under this
6 section.

7 (4) ~~Private~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION
8 (5), PRIVATE passenger nonfleet automobile rates for ELIGIBLE
9 PERSONS INSURED BY the facility shall comply with the following
10 requirements:

11 (a) The territories for the facility shall be defined as
12 those of the principal rating organization for the voluntary
13 market.

14 (b) ~~The~~ EXCEPT AS PROVIDED IN SUBDIVISION (C)(i), THE base
15 rates for the facility shall be derived from the weighted average
16 of the base rates currently charged in each facility territory by
17 the 5 largest insurer groups, determined by voluntary net direct
18 automobile insurance car years written in the state for the cal-
19 endar year ending December 31 of the second prior year as
20 reported to the statistical agent.

21 (c) The base rates ~~as determined in subdivision (b)~~ in
22 each facility territory shall be ~~modified~~ DETERMINED as
23 follows:

24 (i) ~~One hundred percent of the weighted average in each~~
25 ~~territory in the highest rated territory or territories in the~~
26 ~~state within a single political subdivision.~~ FOR LIABILITY
27 INSURANCE FOR ACCIDENTS OUTSIDE THIS STATE, PERSONAL PROTECTION

1 INSURANCE BENEFITS PROVIDED PURSUANT TO THE MINIMUM LIMIT UNDER
2 SECTION 3107(1)(A)(i) AND PROPERTY PROTECTION INSURANCE, A STATE-
3 WIDE AVERAGE BASE RATE SHALL BE CALCULATED AND USED IN ALL FACIL-
4 ITY TERRITORIES. THIS RATE SHALL BE CALCULATED USING LOSS
5 EXPERIENCE OF ALL INSURED PRIVATE PASSENGER VEHICLES IN THIS
6 STATE.

7 (ii) ~~From 105% to 125% of the weighted average for all~~
8 ~~other facility territories, with the highest rated such territo-~~
9 ~~ries receiving the lowest surcharge and increasing to the highest~~
10 ~~surcharge in the lowest rated facility territories in 5 percent~~
11 ~~age point increments. In no event, however, shall any such rate~~
12 ~~exceed the rate established in subdivision (i).~~ FOR ALL COVER-
13 AGES EXCEPT COMPREHENSIVE, COLLISION, AND THOSE DESCRIBED IN SUB-
14 PARAGRAPH (i) IN EACH FACILITY TERRITORY, 100% OF THE AVERAGE
15 BASE RATE CHARGED BY THE 5 LARGEST INSURERS ON A STATEWIDE
16 BASIS. ON AND AFTER JULY 1, 1992, THE FACILITY SHALL NOT
17 INCREASE IN ANY 12-MONTH PERIOD THESE RATES BY AN AMOUNT THAT IS
18 GREATER THAN 4% PLUS THE CONSUMER PRICE INDEX.

19 (iii) ONLY THE PERMISSIBLE CLASSIFICATION FACTORS OUTLINED
20 IN SECTION 2111 MAY BE APPLIED TO THE FACILITY BASE RATES TO
21 DETERMINE INDIVIDUAL PREMIUMS UNDER SUBPARAGRAPHS (i) AND (ii).

22 (d) The facility shall adjust its rates at least once each
23 year or whenever changes in private competitive insurance market
24 rate levels would produce a change in excess of 5% in the facil-
25 ity rate for any facility territory. However, changes shall not
26 be made more often than quarterly.

1 (e) ~~In the event that~~ IF underwriting losses and
2 administrative expenses resulting from the operation of the
3 facility at rates established pursuant to this subsection would
4 exceed an amount equal to 5% of the net direct private passenger
5 nonfleet automobile premiums for this state, the levels specified
6 in subdivision (c)(i) and (ii) shall be proportionately increased
7 in an amount to produce underwriting losses and administrative
8 expenses that do not exceed 5%.

9 (5) IF THE COMMISSIONER DETERMINES THAT REQUIRING THE FACIL-
10 ITY TO ESTABLISH RATES FOR ELIGIBLE INSURED FOR PRIVATE PASSEN-
11 GER NONFLEET AUTOMOBILE INSURANCE THAT DO NOT PRODUCE AN UNDER-
12 WRITING PROFIT OR LOSS IS MORE ADVANTAGEOUS TO THE CONSUMER, THE
13 COMMISSIONER MAY REQUIRE THE FACILITY TO ESTABLISH THOSE RATES BY
14 RULE PROMULGATED PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF
15 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS
16 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS.

17 (6) FOR INELIGIBLE INSURED, THE FACILITY SHALL ESTABLISH
18 RATES FOR PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE THAT
19 PRODUCE NEITHER AN UNDERWRITING PROFIT OR LOSS.

20 (7) AS USED IN THIS CHAPTER, "CONSUMER PRICE INDEX" MEANS
21 THE ANNUAL AVERAGE PERCENTAGE INCREASE IN THE DETROIT CONSUMER
22 PRICE INDEX FOR ALL ITEMS FOR THE PRIOR 12-MONTH PERIOD AS
23 REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR AND AS CERTI-
24 FIED BY THE COMMISSIONER.

25 Sec. 3350. The facility shall provide for all of the
26 following:

1 (a) One or more optional deferred premium payment plans,
2 which shall require an advance payment at least equal to 25% of
3 the total premium or \$100.00, whichever is greater.

4 (b) That policies issued on facility placed business may be
5 indorsed to exclude coverage for any named person who is operat-
6 ing a motor vehicle after his or her driver's license has been
7 refused, revoked, or suspended by governmental authority other
8 than pursuant to section 310, 310b, 310d, 315, 321a, 324, 328,
9 512, 515, 625, ~~625b~~, 625f, 748, 801c, or 907 of THE MICHIGAN
10 VEHICLE CODE, Act No. 300 of the Public Acts of 1949, as amended
11 BEING SECTIONS 257.310, 257.310B, 257.310D, 257.315, 257.321A,
12 257.324, 257.328, 257.512, 257.515, 257.625, 257.625F, 257.748,
13 257.801C, AND 257.907.

14 (c) For publicizing and developing public understanding of
15 the facility AND ADVERTISING THE RATES AVAILABLE IN ANY COUNTY OR
16 WITHIN THE CITY LIMITS OF ANY URBAN AREA.

17 (d) For the rendering of an annual financial statement to
18 all participating members and the commissioner.

19 (e) For the reinsurance of facility placed risks including,
20 if desired, a pool for reinsuring automobile insurance coverages
21 with limits in excess of those required by statute, or such other
22 underwriting arrangements as may be necessary to enable partici-
23 pating members to offer said limits of liability insurance.

24 Sec. 3355. (1) Every agent who is authorized to solicit,
25 negotiate, or effect automobile insurance on behalf of any par-
26 ticipating member shall:

1 (a) Offer to place automobile insurance through the facility
2 for any qualified applicant requesting the agent to do so.

3 (b) If the qualified applicant accepts the offer in subdivi-
4 sion (a), forward the application and any deposit premium
5 required in accordance with the plan of operation, rules, and
6 procedures of the facility.

7 (c) Be entitled to receive, and any participating member be
8 entitled to pay, a commission for placing insurance through the
9 facility at the uniform rates of commission as provided in the
10 plan of operation.

11 (2) IF THE COMMISSIONER FINDS AFTER A PUBLIC HEARING THAT
12 REASONABLE MARKET ACCESS FOR PRIVATE PASSENGER NONFLEET AUTOMO-
13 BILE INSURANCE DOES NOT EXIST IN ANY COUNTY OR WITHIN THE CITY
14 LIMITS OF ANY URBAN AREA, THE COMMISSIONER SHALL REQUIRE THE
15 FACILITY TO AUTHORIZE THE PLACEMENT OF SUCH INSURANCE THROUGH THE
16 FACILITY FOR THE RESIDENTS OF THAT COUNTY OR URBAN AREA BY AGENTS
17 NOT AUTHORIZED TO SOLICIT, NEGOTIATE, OR EFFECT SUCH INSURANCE ON
18 BEHALF OF ANY PARTICIPATING MEMBER. THE AGENTS SHALL APPLY
19 DIRECTLY TO THE FACILITY TO BE GRANTED AUTHORITY TO PLACE AUTOMO-
20 BILE INSURANCE THROUGH THE FACILITY, WHICH AUTHORITY SHALL BE
21 GRANTED UPON COMPLIANCE WITH THE PLAN OF OPERATION.

22 (3) IF THE COMMISSIONER FINDS PURSUANT TO SUBSECTION (2)
23 THAT REASONABLE MARKET ACCESS FOR PRIVATE PASSENGER NONFLEET
24 AUTOMOBILE INSURANCE DOES NOT EXIST, THE FACILITY SHALL ESTABLISH
25 AS PART OF ITS PLAN OF OPERATION A PROGRAM TO TEST, EXAMINE,
26 TRAIN, MONITOR, AND DISCIPLINE AGENTS WHO ARE NOT AUTHORIZED TO
27 REPRESENT ANY PARTICIPATING MEMBER BUT WHO ARE AUTHORIZED TO

1 PLACE AUTOMOBILE INSURANCE THROUGH THE FACILITY PURSUANT TO
2 SUBSECTION (2). THE PLAN OF OPERATION SHALL INCLUDE STANDARDS OF
3 PERFORMANCE FOR AGENTS. THE PLAN SHALL REQUIRE THE TERMINATION
4 OR SUSPENSION OF AUTHORITY TO PLACE INSURANCE THROUGH THE FACIL-
5 ITY FOR ANY VIOLATION OF THOSE STANDARDS. AGENTS WHOSE AUTHORITY
6 IS TERMINATED OR SUSPENDED MAY APPEAL BY RIGHT TO THE COMMIS-
7 SIONER UNDER SUCH RULES AS THE COMMISSIONER MAY ADOPT PURSUANT TO
8 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE
9 PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE
10 MICHIGAN COMPILED LAWS. DURING THE PENDENCY OF THAT APPEAL, THE
11 AUTHORITY OF THE AGENT SHALL REMAIN SUSPENDED.

12 (4) AS USED IN THIS CHAPTER, "URBAN AREA" MEANS THE AREA
13 WITHIN THE BOUNDARIES OF A CITY IN THIS STATE THAT HAS A POPULA-
14 TION OF 1,000,000 OR MORE AS DETERMINED BY THE LATEST OF EACH
15 SUCCEEDING FEDERAL DECENNIAL CENSUS AND INCLUDES ANY CITY LOCATED
16 WHOLLY WITHIN THE BOUNDARIES OF A CITY IN THIS STATE THAT HAS A
17 POPULATION OF 1,000,000 OR MORE AS DETERMINED BY THE LATEST OF
18 EACH SUCCEEDING FEDERAL DECENNIAL CENSUS.

19 Sec. 6107. (1) Prior ~~to April 1, 1986, and prior~~ to April
20 1 of each year, ~~thereafter,~~ each insurer engaged in writing
21 insurance coverages ~~which~~ THAT provide the security required by
22 section 3101 (1) within this state, as a condition of its author-
23 ity to transact insurance in this state, shall pay to the author-
24 ity an assessment equal to \$1.00 multiplied by the insurer's
25 total earned car years of insurance providing the security
26 required by section 3101 (1) written in this state during the
27 immediately preceding calendar year.

1 (2) Money received pursuant to subsection (1), and all other
2 money received by the authority, shall be segregated and placed
3 in a fund to be known as the automobile theft prevention fund.
4 The automobile theft prevention fund shall be administered by the
5 authority.

6 (3) Money in the automobile theft prevention fund shall be
7 expended in the following order of priority:

8 (a) To pay the costs of administration of the authority.

9 (b) To achieve the purposes and objectives of this chapter,
10 which may include, but ARE not ~~be~~ limited to, the following:

11 (i) Provide financial support to the department of state
12 police and local law enforcement agencies for economic automobile
13 theft enforcement teams.

14 (ii) Provide financial support to state or local law
15 enforcement agencies for programs designed to reduce the inci-
16 dence of economic automobile theft.

17 (iii) Provide financial support to local prosecutors for
18 programs designed to reduce the incidence of economic automobile
19 theft.

20 (iv) Provide financial support to judicial agencies for pro-
21 grams designed to reduce the incidence of economic automobile
22 theft.

23 (v) Provide financial support for neighborhood or community
24 organizations or business organizations for programs designed to
25 reduce the incidence of automobile theft.

26 (vi) Conduct educational programs designed to inform
27 automobile owners of methods of preventing automobile theft and

1 to provide equipment, for experimental purposes, to enable
2 automobile owners to prevent automobile theft.

3 (4) Money in the automobile theft prevention fund shall only
4 be used ~~to enhance~~ FOR automobile theft PREVENTION efforts AND
5 SHALL BE DISTRIBUTED ON A PRIORITY BASIS TO COMMUNITIES WITH THE
6 HIGHEST FREQUENCY AND SEVERITY OF AUTOMOBILE THEFT IF EACH COMMU-
7 NITY DEMONSTRATES THAT THE MONEY RECEIVED WILL BE EXPENDED
8 ACCORDING TO PERFORMANCE STANDARDS DESIGNED TO REDUCE AUTOMOBILE
9 THEFT THAT SATISFY THE AUTHORITY as determined by the authority.

10 (5) Money in the automobile theft prevention fund shall not
11 be considered state money.

12 SEC. 6111. BY JULY 1 OF EVERY ODD YEAR, THE AUTOMOBILE
13 THEFT PREVENTION AUTHORITY SHALL PREPARE A REPORT THAT DETAILS
14 THE THEFT OF AUTOMOBILES OCCURRING IN THIS STATE FOR THE PREVIOUS
15 2 YEARS, ASSESSES THE IMPACT OF THE THEFTS ON RATES CHARGED FOR
16 AUTOMOBILE INSURANCE, SUMMARIZES PREVENTION PROGRAMS, AND OUT-
17 LINES ALLOCATIONS MADE BY THE AUTHORITY. THE DIRECTOR OF THE
18 DEPARTMENT OF STATE POLICE, INSURERS, THE STATE COURT ADMINISTRA-
19 TIVE OFFICE, AND THE COMMISSIONER SHALL COOPERATE IN THE DEVELOP-
20 MENT OF THE REPORT AS REQUESTED BY THE AUTOMOBILE THEFT PREVEN-
21 TION AUTHORITY AND SHALL MAKE AVAILABLE RECORDS AND STATISTICS
22 CONCERNING AUTOMOBILE THEFTS, INCLUDING THE NUMBER OF AUTOMOBILE
23 THEFTS, NUMBER OF PROSECUTIONS AND CONVICTIONS INVOLVING AUTOMO-
24 BILE THEFTS, AND AUTOMOBILE THEFT RECIDIVISM. THE AUTOMOBILE
25 THEFT PREVENTION AUTHORITY SHALL EVALUATE THE IMPACT AUTOMOBILE
26 THEFT HAS ON THE CITIZENS OF THIS STATE AND THE COSTS INCURRED BY
27 THE CITIZENS THROUGH INSURANCE, POLICE ENFORCEMENT, PROSECUTION,

1 AND INCARCERATION DUE TO AUTOMOBILE THEFTS. THE REPORT REQUIRED
2 BY THIS SECTION SHALL BE SUBMITTED TO THE LEGISLATURE AND THE
3 COMMISSIONER.

4 Sec. 7911. (1) To implement this chapter, there shall be
5 maintained within this state, by all insurers authorized to
6 transact in this state insurance other than life or disability
7 insurance, except the Michigan basic property insurance associa-
8 tion created pursuant to section 2920, the Brown-McNeely insur-
9 ance fund created in section 2502(1), and on and after the effec-
10 tive date of this 1990 amendatory act, the accident fund created
11 in the worker's disability compensation act of 1969, Act No. 317
12 of the Public Acts of 1969, being sections 418.101 to 418.941 of
13 the Michigan Compiled Laws, an association of those insurers to
14 be known as the property and casualty guaranty association, here-
15 after referred to as the "association". Each insurer shall be a
16 member of the association, as a condition of its authority to
17 continue to transact insurance in this state.

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

22 (3) The association shall be subject to the requirements of
23 this chapter, ~~and of~~ chapter 78, AND SECTION 3172A, but shall
24 not be subject to the other chapters of this act. The associa-
25 tion shall be subject to other laws of this state to the extent
26 that it would be subject to those laws if it were an insurer

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

3 Section 2. Sections 2111b, 2111c, 2111e, 6115, and 6125 of
4 Act No. 218 of the Public Acts of 1956, being sections
5 500.2111b, 500.2111c, 500.2111e, 500.6115, and 500.6125 of the
6 Michigan Compiled Laws, are repealed effective April 1, 1992.

7 Section 3. (1) Sections 2102, 2103, 2104, 2111, 2111a,
8 2117, 2118, 2120, 2125, 2126, 2134, 2136, 2138, 2901, 3015, 3020,
9 3101a, 3107a, 3115, 3116, 3125, 3127, 3142, 3355, and 6107 of Act
10 No. 218 of the Public Acts of 1956, as amended by this amendatory
11 act, and sections 2106a, 2106b, 2111e, 2115a, 2115b, 3103a,
12 3107b, and 6111 of Act No. 218 of the Public Acts of 1956, as
13 added by this amendatory act, shall take effect April 1, 1992.

14 (2) Sections 3009, 3101, 3104, 3107, 3109, 3109a, 3111,
15 3131, 3135, 3172, 3301, 3303, 3310, 3315, 3340, 3350, and 7911 of
16 Act No. 218 of the Public Acts of 1956, as amended by this amen-
17 datory act, and sections 2110a, 2112a, 3010, 3104a, 3107c, 3172a,
18 and 3320a and chapter 32a of Act No. 218 of the Public Acts of
19 1956, as added by this amendatory act, shall take effect July 1,
20 1992.