

SENATE BILL No. 154

March 7, 1991, Introduced by Senators WARTNER, CRUCE,
DE GROW, CISKY, MC MANUS, O'BRIEN, EMMONS and CARL
and referred to the Committee on Commerce.

A bill to amend sections 2102, 2103, 2104, 2117, 2118, 2120,
2901, 3020, 3104, 3107, 3109, and 3135 of Act No. 218 of the
Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

sections 2103 and 2901 as amended by Act No. 305 of the Public
Acts of 1990, sections 2104 and 2117 as amended by Act No. 461 of
the Public Acts of 1980, section 2118 as amended by Act No. 43 of
the Public Acts of 1988, section 2120 as amended by Act No. 350
of the Public Acts of 1984, section 3020 as amended by Act
No. 170 of the Public Acts of 1990, section 3104 as amended by
Act No. 445 of the Public Acts of 1980, and section 3107 as
amended by Act No. 312 of the Public Acts of 1988, being sections
500.2102, 500.2103, 500.2104, 500.2117, 500.2118, 500.2120,
500.2901, 500.3020, 500.3104, 500.3107, 500.3109, and 500.3135 of

the Michigan Compiled Laws; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2102, 2103, 2104, 2117, 2118, 2120,
2 2901, 3020, 3104, 3107, 3109, and 3135 of Act No. 218 of the
3 Public Acts of 1956, sections 2103 and 2901 as amended by Act
4 No. 305 of the Public Acts of 1990, sections 2104 and 2117 as
5 amended by Act No. 461 of the Public Acts of 1980, section 2118
6 as amended by Act No. 43 of the Public Acts of 1988, section 2120
7 as amended by Act No. 350 of the Public Acts of 1984, section
8 3020 as amended by Act No. 170 of the Public Acts of 1990,
9 section 3104 as amended by Act No. 445 of the Public Acts of
10 1980, and section 3107 as amended by Act No. 312 of the Public
11 Acts of 1988, being sections 500.2102, 500.2103, 500.2104,
12 500.2117, 500.2118, 500.2120, 500.2901, 500.3020, 500.3104,
13 500.3107, 500.3109, and 500.3135 of the Michigan Compiled Laws,
14 are amended to read as follows:

15 Sec. 2102. ~~-(1)-~~ AS USED IN THIS CHAPTER:

16 (A) "Affiliate of" ~~—~~ or an insurer "affiliated with" an
17 insurer ~~—~~ means an insurer that directly, or indirectly through
18 1 or more intermediaries, controls, or is controlled by, or is
19 under common control with, the insurer specified.

20 (B) ~~-(2)-~~ "Automobile insurance" means insurance for private
21 passenger nonfleet automobiles ~~—which—~~ THAT provides any of the
22 following:

23 (i) ~~-(a)-~~ Security required pursuant to section 3101.

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

4 (iii) ~~(e)~~ Insurance coverages customarily known as compre-
5 hensive and collision.

6 (iv) ~~(d)~~ Other insurance coverages for a private passenger
7 nonfleet automobile as prescribed by rule promulgated by the com-
8 missioner pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
9 Act No. 306 of the Public Acts of 1969, as amended, being sec-
10 tions 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled Laws. A
11 rule proposed for promulgation by the commissioner pursuant to
12 this section shall be transmitted in advance to each member of
13 the standing committee in the house and in the senate ~~which~~
14 THAT has jurisdiction over insurance.

15 (C) ~~(3)~~ "Automobile insurance package policy" means a
16 policy ~~which~~ THAT includes more than 1 of the automobile insur-
17 ance coverages described in ~~section 2102(2)(a), (b), (c), or~~
18 ~~(d),~~ SUBDIVISION (B) in any combination.

19 (D) ~~(4)~~ "Declination" means any of the following:

20 (i) ~~(a)~~ Refusal by an agent to submit an application on
21 behalf of an applicant to any of the insurers represented by the
22 agent.

23 (ii) ~~(b)~~ Refusal by an insurer to issue insurance to a
24 person upon receipt of an application for insurance.

25 (iii) ~~(e)~~ Offering insurance at higher rates with a dif-
26 ferent insurer than that requested by a person.

1 (iv) ~~-(d)-~~ Offering coverage with less favorable terms or
2 conditions than those requested by a person.

3 Sec. 2103. ~~-(1)-~~ AS USED IN THIS CHAPTER:

4 (A) "Eligible person", for automobile insurance, means a
5 person who is an owner or registrant of an automobile registered
6 or to be registered in this state or who holds a valid Michigan
7 license to operate a motor vehicle, but does not include any of
8 the following:

9 (i) ~~-(a)-~~ A person who is not required to maintain security
10 pursuant to section 3101, unless the person intends to reside in
11 this state for 30 days or more and makes a written statement of
12 that intention on a form approved by the commissioner.

13 (ii) ~~-(b)-~~ A person whose license to operate a vehicle is
14 under suspension or revocation.

15 (iii) ~~-(c)-~~ A person who has been convicted within the imme-
16 diately preceding 5-year period of fraud or intent to defraud
17 involving an insurance claim or an application for insurance; or
18 an individual who has been successfully denied, within the imme-
19 diately preceding 5-year period, payment by an insurer of a claim
20 in excess of \$1,000.00 under an automobile insurance policy, if
21 there is evidence of fraud or intent to defraud involving an
22 insurance claim or application.

23 (iv) ~~-(d)-~~ A person who, during the immediately preceding
24 3-year period, has been convicted under, or who has been subject
25 to an order of disposition of the probate court for a violation
26 of, any of the following:

1 (A) ~~-(i)-~~ Section 324 ~~or 325~~ of the Michigan penal code,
2 Act No. 328 of the Public Acts of 1931, as amended, being
3 ~~sections~~ SECTION 750.324 ~~and 750.325~~ of the Michigan Compiled
4 Laws; section 1 of Act No. 214 of the Public Acts of 1931, being
5 section 752.191 of the Michigan Compiled Laws; or under any other
6 law of this state the violation of which constitutes a felony
7 resulting from the operation of a motor vehicle.

8 (B) ~~-(ii)-~~ Section 625 of the Michigan vehicle code, Act
9 No. 300 of the Public Acts of 1949, as amended, being section
10 257.625 of the Michigan Compiled Laws.

11 (C) ~~-(iii)-~~ Section 617, 617a, 618, or 619 of Act No. 300 of
12 the Public Acts of 1949, as amended, being sections 257.617,
13 257.617a, 257.618, and 257.619 of the Michigan Compiled Laws.

14 (D) ~~-(iv)-~~ Section 626 of Act No. 300 of the Public Acts of
15 1949, as amended, being section 257.626 of the Michigan Compiled
16 Laws; or for a similar violation under the laws of any other
17 state or a municipality within or without this state.

18 (E) ~~-(v)-~~ Section 625b of Act No. 300 of the Public Acts of
19 1949, as amended, being section 257.625b of the Michigan Compiled
20 Laws.

21 (v) ~~-(e)-~~ A person whose vehicle insured or to be insured
22 under the policy fails to meet the motor vehicle safety require-
23 ments of sections 683 to 711 of Act No. 300 of the Public Acts of
24 1949, as amended, being sections 257.683 to 257.711 of the
25 Michigan Compiled Laws.

26 (vi) ~~-(f)-~~ A person whose policy of automobile insurance has
27 been canceled because of nonpayment of premium or financed

1 premium within the immediately preceding 2-year period, unless
 2 the premium due on a policy for which application has been made
 3 is paid in full before issuance or renewal of the policy.

4 (vii) ~~-(g)-~~ A person who fails to obtain or maintain member-
 5 ship in a club, group, or organization, if membership is a uni-
 6 form requirement of the insurer as a condition of providing
 7 insurance, and if the dues, charges, or other conditions for mem-
 8 bership are applied uniformly throughout this state, are not
 9 expressed as a percentage of premium, and do not vary with
 10 respect to the rating classification of the member except for the
 11 purpose of offering a membership fee to family units. Membership
 12 fees may vary in accordance with the amount or type of coverage
 13 if the purchase of additional coverage, either as to type or
 14 amount, is not a condition for reduction of dues or fees.

15 (viii) ~~-(h)-~~ A person whose driving record for the 3-year
 16 period immediately preceding application for or renewal of a
 17 policy, has, pursuant to section 2119a, an accumulation of more
 18 than ~~the following:~~ ~~-(i)-~~ Five 6 insurance eligibility points.
 19 ~~, if the application or renewal occurs on or before December 31,~~
 20 ~~1982.~~

21 ~~-(ii)-~~ Six insurance eligibility points, ~~if the application~~
 22 ~~or renewal occurs on or after January 1, 1983.~~

23 (B) ~~-(2)-~~ "Eligible person", for home insurance, means a
 24 person who is the owner-occupant or tenant of a dwelling of any
 25 of the following types: a house, a condominium unit, a coopera-
 26 tive unit, a room, or an apartment; or a person who is the
 27 owner-occupant of a multiple unit dwelling of not more than 4

1 residential units. Eligible person does not include any of the
2 following:

3 (i) ~~-(a)-~~ A person who has been convicted, in the immedi-
4 ately preceding 5-year period, of 1 or more of the following:

5 (A) ~~-(i)-~~ Arson, or conspiracy to commit arson.

6 (B) ~~-(ii)-~~ A crime under sections 72 to 77, 112, 211a, 377a,
7 377b, or 380 of Act No. 328 of the Public Acts of 1931, as
8 amended, being sections 750.72 to 750.77, 750.112, 750.211a,
9 750.377a, 750.377b, and 750.380 of the Michigan Compiled Laws.

10 (C) ~~-(iii)-~~ A crime under section 92, 151, 157b, or 218 of
11 Act No. 328 of the Public Acts of 1931, as amended, being sec-
12 tions 750.92, 750.151, 750.157b, and 750.218 of the Michigan
13 Compiled Laws, based upon a crime described in subparagraph

14 ~~-(ii)-~~ (i) (B) committed by or on behalf of the person.

15 (ii) ~~-(b)-~~ A person who has been successfully denied, within
16 the immediately preceding 5-year period, payment by an insurer of
17 a claim under a home insurance policy in excess of \$2,000.00,
18 based on evidence of arson, conspiracy to commit arson, misrepre-
19 sentation, fraud, or conspiracy to commit fraud, committed by or
20 on behalf of the person, if the amount of the denied claim was
21 greater than any of the following:

22 (A) ~~-(i)-~~ For a claim under a repair cost policy, 15% of the
23 amount of insurance in force.

24 (B) ~~-(ii)-~~ For a claim under a replacement cost policy, 10%
25 of the amount of insurance in force.

1 (iii) ~~—(e)—~~ A person who insures or seeks to insure a
 2 dwelling ~~—which—~~ THAT is being used for an illegal or
 3 demonstrably hazardous purpose.

4 (iv) ~~—(d)—~~ A person who refuses to purchase an amount of
 5 insurance equal to at least 80% of the replacement cost of the
 6 property insured or to be insured under a replacement cost
 7 policy.

8 (v) ~~—(e)—~~ A person who refuses to purchase an amount of
 9 insurance equal to at least 100% of the market value of the prop-
 10 erty insured or to be insured under a repair cost policy.

11 (vi) ~~—(f)—~~ A person who refuses to purchase an amount of
 12 insurance equal to at least 100% of the actual cash value of the
 13 property insured or to be insured under a tenant or renter's home
 14 insurance policy.

15 (vii) ~~—(g)—~~ A person whose policy of home insurance has been
 16 canceled because of nonpayment of premium within the immediately
 17 preceding 2-year period, unless the premium due on the policy is
 18 paid in full before issuance or renewal of the policy.

19 (viii) ~~—(h)—~~ A person who insures or seeks to insure a
 20 dwelling, if the insured value is not any of the following:

21 (A) ~~—(i)—~~ For a repair cost policy, at least \$7,500.00.

22 (B) ~~—(ii)—~~ For a replacement policy, at least \$15,000.00 or
 23 another amount ~~—which—~~ THAT the commissioner may establish bien-
 24 nially on and after January 1, 1983, pursuant to rules promul-
 25 gated by the commissioner under the administrative procedures act
 26 of 1969, Act No. 306 of the Public Acts of 1969, as amended,

1 being sections 24.201 to 24.328 of the Michigan Compiled Laws,
2 based upon changes in applicable construction cost indices.

3 (ix) ~~-(j)-~~ A person who insures or seeks to insure a dwell-
4 ing ~~-which-~~ THAT does not meet minimum standards of insurability
5 as established by rules promulgated by the commissioner pursuant
6 to Act No. 306 of the Public Acts of 1969, as amended.

7 (x) ~~-(k)-~~ A person whose real property taxes with respect to
8 the dwelling insured or to be insured have been and are delin-
9 quent for 2 or more years at the time of renewal of, or applica-
10 tion for, home insurance.

11 (xi) ~~-(l)-~~ A person who has failed to procure or maintain
12 membership in a club, group, or organization, if membership is a
13 uniform requirement of the insurer — and if the dues, charges,
14 or other conditions for membership are applied uniformly through-
15 out this state, are not expressed as a percentage of premium, and
16 do not vary with respect to the rating classification of the
17 member except for the purpose of offering a membership fee to
18 family units. Membership fees may vary in accordance with the
19 amount or type of coverage if the purchase of additional cover-
20 age, either as to type or amount, is not a condition for reduc-
21 tion of dues or fees.

22 (C) ~~-(3)-~~ "Home insurance" means any of the following, but
23 does not include insurance intended to insure commercial, indus-
24 trial, professional, or business property, obligations, or
25 liabilities:

26 (i) ~~-(a)-~~ Fire insurance for an insured's dwelling of a type
27 described in ~~-subsection (2)-~~ SUBDIVISION (B).

1 (ii) ~~-(b)-~~ If contained in or indorsed to a fire insurance
2 policy providing insurance for the insured's residence, other
3 insurance intended primarily to insure nonbusiness property,
4 obligations, and liabilities.

5 (iii) ~~-(e)-~~ Other insurance coverages for an insured's resi-
6 dence as prescribed by rule promulgated by the commissioner pur-
7 suant to Act No. 306 of the Public Acts of 1969, as amended. A
8 rule proposed for promulgation by the commissioner pursuant to
9 this section shall be transmitted in advance to each member of
10 the standing committee in the house and in the senate ~~which~~
11 THAT has jurisdiction over insurance.

12 (D) ~~-(4)-~~ "Insurance eligibility points" means all of the
13 following:

14 (i) ~~-(a)-~~ Points calculated, according to the following
15 schedule, for convictions, determinations of responsibility for
16 civil infractions, or findings of responsibility in probate
17 court:

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

20 (B) ~~-(ii)-~~ For a violation of ~~any~~ A lawful speed limit by
21 more than 10 miles per hour, but less than 16 miles per hour, 3
22 points.

23 (C) ~~-(iii)-~~ For a violation of ~~any~~ A lawful speed limit by
24 10 miles per hour or less, 2 points.

25 (D) ~~-(iv)-~~ For a violation of ~~any~~ A speed limit by 15
26 miles per hour or less on a roadway which had a lawfully posted

1 maximum speed of 70 miles per hour as of January 1, 1974, 2
2 points.

3 (E) ~~-(v)-~~ For all other moving violations pertaining to the
4 operation of motor vehicles, 2 points.

5 (ii) ~~-(b)-~~ Points calculated, according to the following
6 schedule, for determinations that the person was substantially
7 at-fault, as defined in section ~~-2104(4)-~~ 2104(D):

8 (A) ~~-(i)-~~ For the first substantially at-fault accident, 3
9 points.

10 (B) ~~-(ii)-~~ For the second and each subsequent substantially
11 at-fault accident, 4 points.

12 (E) ~~-(5)-~~ "Insurer" means an insurer authorized to transact
13 in this state the kind or combination of kinds of insurance con-
14 stituting automobile insurance or home insurance, as defined in
15 this chapter.

16 Sec. 2104. ~~-(1)-~~ AS USED IN THIS CHAPTER:

17 (A) "Private passenger nonfleet automobile" means a motor-
18 ized land vehicle designed for transporting passengers or goods,
19 subject to specific contemporary definitions for insurance pur-
20 poses pursuant to section 3303.

21 (B) ~~-(2)-~~ "Repair cost policy" means a home insurance policy
22 for which the amount of coverage under the policy is based sub-
23 stantially on the market value of the property, and which pro-
24 vides for payment for repair, rebuilding, or replacement of
25 losses or damages to real property with materials of like kind
26 and quality, without depreciation, pursuant to section 2826, or

1 with conventional materials and construction methods, pursuant to
2 the standards of section 2827.

3 (C) ~~-(3)-~~ "Replacement cost policy" means a home insurance
4 policy for which the amount of coverage under the policy is based
5 substantially on the replacement cost of the property, which pro-
6 vides for settlement of losses to real property pursuant to the
7 standards prescribed in section 2826.

8 (D) ~~-(4)-~~ "Substantially at-fault" means a person's action
9 or inaction was more than 50% of the cause of an accident.

10 (E) ~~-(5)-~~ "Termination" means a refusal to continue to
11 insure, for reasons other than nonpayment of premium, and
12 includes both of the following:

13 (i) ~~-(a)-~~ The transfer of coverage for an insured between
14 affiliated insurers, when the transfer results in higher rates or
15 less coverage, unless the transfer was requested by the insured.

16 (ii) ~~-(b)-~~ The offering of coverage with less favorable
17 terms or conditions than those previously provided, unless so
18 requested by the insured, or unless the terms or conditions of
19 coverage previously provided are no longer available from the
20 insurer anywhere in this state.

21 (F) ~~-(6)-~~ "Underwriting rules" means the written statements,
22 guidelines, or criteria of an insurer, phrased in terms under-
23 standable to a person of ordinary intelligence, which describe
24 the standards under which the insurer issues, refuses to issue,
25 renews, refuses to renew, or limits coverage for automobile
26 insurance or home insurance to persons within this state.

1 Sec. 2117. (1) As a condition of maintaining its
2 certificate of authority, an insurer shall not refuse to insure,
3 refuse to continue to insure, or limit the coverage available to
4 an eligible person for home insurance, except in accordance with
5 underwriting rules established pursuant to this section and sec-
6 tion 2119. An insurer shall not establish underwriting rules for
7 home insurance for contracts providing identical coverages that
8 differ from those of any affiliate of the insurer.

9 (2) The underwriting rules ~~which~~ THAT an insurer may
10 establish for home insurance shall be based only on the
11 following:

12 (a) Criteria identical to the standards set forth in section
13 ~~2103(2)~~ 2103(B).

14 (b) The physical condition of the property insured or to be
15 insured, provided the underwriting rules are objective, are
16 directly related to the perils insured against, and, without
17 regard to the age of the structure, are based upon the specific
18 provisions of a national, state, or local housing and safety
19 code, a manufacturer's specification, or standards of similar
20 specificity. If an applicant or insured obtains a certificate of
21 compliance or habitation issued by an appropriate governmental
22 unit or agency, certifying that a building is in substantial com-
23 pliance with local housing and safety codes, the certificate
24 shall create a rebuttable presumption that the dwelling meets the
25 insurer's underwriting rules relating to physical condition.

26 (c) For the renewal of a home insurance policy, the
27 liability claim history of the person insured or to be insured

1 during the 3-year period immediately preceding renewal of the
2 policy, if that history is based on 1 or both of the following:

3 (i) Claim experience arising out of an insured's
4 negligence.

5 (ii) Failure by the insured, after written notice from the
6 insurer, to correct a physical condition ~~which~~ THAT is directly
7 related to a paid liability claim or ~~which~~ THAT presents a
8 clear risk of a significant loss under the liability portion of a
9 homeowners policy.

10 (d) For new policies only, physical conditions ~~which~~ THAT
11 clearly present an extreme likelihood of a significant loss under
12 the liability coverages of a home insurance policy.

13 (e) The relationship between market value and replacement
14 cost of a dwelling insured or to be insured for a replacement
15 cost policy, if a repair cost policy is offered by that insurer
16 pursuant to subsection (3).

17 (f) For nonrenewal of home insurance policies, the claim
18 history under the policy, excluding liability claims, if there
19 has been 1 or more of the following:

20 (i) Three paid claims within the immediately preceding
21 3-year period totaling \$750.00 or more, exclusive of
22 weather-related claims.

23 (ii) Three paid claims within the immediately preceding
24 3-year period totaling \$1,000.00 or more, including
25 weather-related claims.

1 (g) The number of residences within the dwelling are
2 inconsistent with the policy forms approved by the commissioner
3 for the insurer.

4 (h) The unoccupancy of a dwelling for more than 60 days, if
5 there is evidence of an intent to vacate or keep the premises
6 vacant or unoccupied, as to the applicant or insured.

7 (i) The existence of an adjacent physical hazard, if the
8 hazard presents a significant risk of loss directly related to
9 the perils insured or to be insured against for which a rate sur-
10 charge is not applicable. For purposes of this subdivision only,
11 residential property or traffic patterns shall not be considered
12 to cause a significant risk of loss. Nonrenewals based upon an
13 adjacent physical hazard shall be due to a change in the hazard
14 from that which existed at the original date of issuance of the
15 policy.

16 (j) The failure of the insured or applicant to purchase an
17 amount of insurance in excess of 80% of the replacement cost of
18 the property to be insured under a replacement cost policy, if
19 both of the following conditions are met:

20 (i) The purchase of an amount of insurance in excess of 80%
21 of the replacement cost is a condition for sale of the policy.

22 (ii) The insurer offers in this state at least 1 form of a
23 replacement cost policy for which the insurer requires only a
24 minimum amount of insurance equal to 80% of the replacement cost
25 of the dwelling as a condition of purchase.

26 (3) If an insurer establishes an underwriting rule based
27 upon the relationship between the market value and replacement

1 cost pursuant to subsection (2)(e), all the following shall apply
2 as to the repair cost policy:

3 (a) The insurer shall offer for sale a repair cost policy
4 with deductibles, terms and conditions, perils insured against,
5 and types and amounts of coverage, ~~which~~ THAT are substantially
6 equivalent to the deductibles, terms and conditions, perils
7 insured against, and types and amounts of coverage provided by
8 the replacement cost policy of the insurer at least equivalent to
9 the HO-2 form replacement cost policy filed and in effect in this
10 state for the principal rating organization as of October 1,
11 1979.

12 (b) The insurer shall not utilize an underwriting rule based
13 upon the relationship between the market value and replacement
14 cost for the repair cost policy.

15 (4) The rates of an insurer for a repair cost policy shall
16 be established so that the premium for a repair cost policy shall
17 not exceed 105% of the premium for an amount of insurance equal
18 to 80% of the replacement cost of the dwelling under the equiva-
19 lent replacement cost policy described in subsection (3)(a).
20 Premiums for dwellings with identical replacement costs shall
21 vary on a schedule determined by the insurer in accordance with
22 the market value of the dwellings.

23 (5) Off-premises claims may be aggregated for the purposes
24 of subsection (2)(f), irrespective of the location of the insured
25 dwelling. All claims other than off-premises losses utilized in
26 a determination for purposes of subsection (2)(f) shall be
27 aggregated only as to an insured dwelling. The minimum dollar

1 amounts prescribed in subsection (2)(f) shall be adjusted
2 biennially pursuant to rules promulgated by the commissioner
3 under THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of
4 the Public Acts of 1969, ~~as amended,~~ BEING SECTIONS 24.201 TO
5 24.328 OF THE MICHIGAN COMPILED LAWS, based upon an appropriate
6 index relating to the cost of claims.

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

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

16 (a) Criteria identical to the standards set forth in section
17 ~~2103(1)~~ 2103(A).

18 (b) The insurance eligibility point accumulation in excess
19 of the amounts established by section ~~2103(1)~~ 2103(A) of a
20 member of the household of the eligible person insured or to be
21 insured, if the member of the household usually accounts for 10%
22 or more of the use of a vehicle insured or to be insured. For
23 purposes of this subdivision, a person who is the principal
24 driver for 1 automobile insurance policy shall be rebuttably pre-
25 sumed not to usually account for more than 10% of the use of
26 other vehicles of the household not insured under the policy of
27 that person.

1 (c) With respect to a vehicle insured or to be insured,
2 substantial modifications from the vehicle's original manufac-
3 tured state for purposes of increasing the speed or acceleration
4 capabilities of the vehicle.

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

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

17 (i) The vehicle is of limited production or of custom
18 manufacture.

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

21 (iii) The vehicle represents exposure to extraordinary
22 expense for repair or replacement under comprehensive or colli-
23 sion coverage.

24 (f) Use of a vehicle insured or to be insured for transpor-
25 tation of passengers for hire, for rental purposes, or for com-
26 mercial purposes. Rules under this subdivision shall not be
27 based on the use of a vehicle for volunteer or charitable

1 purposes or for which reimbursement for normal operating expenses
2 is received.

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

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

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

20 Sec. 2120. (1) Affiliated insurers may establish underwrit-
21 ing rules so that each affiliate will provide automobile insur-
22 ance only to certain eligible persons. This subsection shall
23 apply only if an eligible person can obtain automobile insurance
24 from 1 of the affiliates. The underwriting rules shall be in
25 compliance with this section ~~section~~ AND SECTIONS 2118 ~~section~~
26 and ~~section~~ 2119.

1 (2) An insurer may establish separate rating plans so that
2 certain eligible persons are provided automobile insurance under
3 1 rating plan and other eligible persons are provided automobile
4 insurance under another rating plan. This subsection shall apply
5 only if all eligible persons can obtain automobile insurance
6 under a rating plan of the insurer. Underwriting rules consis-
7 tent with this section ~~—, section—~~ AND SECTIONS 2118 ~~—,~~ and
8 ~~—section—~~ 2119 shall be established to define the rating plan
9 applicable to each eligible person.

10 (3) Underwriting rules under this section shall be based
11 only on the following:

12 (a) ~~With respect to—~~ FOR a vehicle insured or to be
13 insured, substantial modifications from the vehicle's original
14 manufactured state for purposes of increasing the speed or accel-
15 eration capabilities of the vehicle.

16 (b) Failure of the person to provide proof that insurance
17 required by section 3101 was maintained in force with respect to
18 any vehicle owned and operated by the person or by a member of
19 the household of the person during the 6-month period immediately
20 preceding application or renewal of the policy. Such proof shall
21 take the form of a certification by the person that the required
22 insurance was maintained in force for the 6-month period with
23 respect to ~~—such—~~ THE vehicle.

24 (c) For purposes of insuring persons who have refused a
25 deductible lawfully required under section 2118(2)(h), the claim
26 experience of the person with respect to comprehensive coverage.

1 (d) Refusal of the person to pay a minimum deposit required
2 under section 2118(2)(g).

3 (e) A person's insurance eligibility point accumulation
4 under section ~~2103(1)(h)~~ 2103(A)(viii), or the total insurance
5 eligibility point accumulation of all persons who account for 10%
6 or more of the use of 1 or more vehicles insured or to be insured
7 under the policy.

8 (f) The type of vehicle insured or to be insured as provided
9 in section 2118(2)(e).

10 Sec. 2901. As used in this chapter:

11 (a) "Basic property insurance" means:

12 (i) Insurance against direct loss to any property caused by
13 perils as defined and limited in a fire policy as provided in
14 chapter 28 and an extended coverage indorsement and a vandalism
15 and malicious mischief indorsement or combination thereof as
16 approved by the commissioner.

17 (ii) The following insurance coverages in the amounts and
18 subject to the deductibles and policy provisions approved by the
19 commissioner:

20 (A) Residence burglary and robbery.

21 (B) Mercantile robbery.

22 (C) Office burglary and robbery.

23 (D) Storekeeper's burglary and robbery.

24 (E) Mercantile safe burglary.

25 (F) Mercantile open stock burglary.

26 (b) "Inspection bureau" means an organization designated by
27 the commissioner to act as the inspection bureau.

1 (c) "Qualified property", for basic property insurance,
2 means all real and tangible personal property at fixed locations
3 whether or not subject to exposure from an external hazard
4 located on property not owned or controlled by the prospective
5 insured, and whether or not subject to exposure from riot hazard,
6 which meets all of the following requirements:

7 (i) Is not used for farm purposes.

8 (ii) Complies with applicable state and local building codes
9 and ordinances to the extent conditions on the property reason-
10 ably related to the perils insured against cannot be the subject
11 of, or provide the basis for, a corrective administrative or
12 judicial order, a criminal prosecution, or a civil fine or
13 penalty. For purposes of this chapter, the housing law of
14 Michigan, Act No. 167 of the Public Acts of 1917, as amended,
15 being sections 125.401 to 125.543 of the Michigan Compiled Laws,
16 shall be considered to constitute, without regard to the popula-
17 tion limitations set forth in that act, the basic minimum appli-
18 cable standard for qualified property, and may be applied for
19 purposes of determining conformity with this section as if it
20 were enforceable against all property in the state.

21 (iii) Is not commonly owned or controlled, or combinable for
22 rating purposes, with property insured for similar coverages
23 elsewhere.

24 (iv) Is not owned or controlled by any person or group of
25 persons, except a city, county, township, village, school dis-
26 trict, college, university, other political subdivision of this
27 state, or an agency of a political subdivision of this state, who

1 owns or controls property within this state with an aggregate
2 insurable value in excess of 5% of the aggregate assessable pre-
3 miums for all participating members for the most recent available
4 calendar year.

5 (v) Is not used or occupied for an illegal purpose.

6 (vi) Is protected, where coverage included in subdivision
7 (a)(ii) is applied for, by all appropriate protective devices,
8 services, and procedures required pursuant to section 2924.

9 (d) "Assessable premiums", for basic property insurance,
10 means gross direct premiums less all premiums and dividends
11 returned to policyholders on policies written in this state for
12 the following kinds of insurance: fire, extended coverage and
13 allied lines, burglary and theft, inland marine, the components
14 comparable to the foregoing in commercial multiple peril, and any
15 other kind of insurance included in the definition of basic prop-
16 erty insurance in subdivision (a). Aggregate premiums shall
17 exclude premiums attributable to operation of the pool, premiums
18 on farm property, and premiums on policies covering solely air-
19 craft, watercraft, and motor vehicles.

20 (e) "Home insurance" means a homeowners multiple peril
21 insurance policy for qualified property containing all of the
22 following, but does not include insurance intended to insure com-
23 mercial, industrial, professional, or business property, obliga-
24 tions, or liabilities:

25 (i) Fire insurance for an insured's dwelling of a type
26 described in section ~~2103(2)~~ 2103(B).

1 (ii) If contained in or endorsed to a fire insurance policy
2 providing insurance for the insured's residence, other insurance
3 intended primarily to insure nonbusiness property, obligations,
4 or liabilities.

5 (iii) Other insurance coverages for an insured's residence
6 as prescribed by rule promulgated by the commissioner pursuant to
7 the administrative procedures act of 1969, Act No. 306 of the
8 Public Acts of 1969, as amended, being sections 24.201 to 24.328
9 of the Michigan Compiled Laws. A rule proposed for promulgation
10 pursuant to this section shall be transmitted in advance to each
11 member of the standing committee in the house and the senate
12 ~~which~~ THAT has jurisdiction over insurance.

13 (f) "Qualified property", for home insurance, means an
14 owner-occupied or tenant-occupied dwelling of the following
15 types: a house, a condominium unit, a cooperative unit, a room,
16 an apartment, or an owner-occupied multiple unit dwelling of not
17 more than 4 residential units that:

18 (i) Meets all the requirements set forth in subdivision
19 (c).

20 (ii) Is not being used for a demonstrably hazardous
21 purpose.

22 (iii) Meets the minimum standards of insurability as estab-
23 lished by rule promulgated by the commissioner pursuant to Act
24 No. 306 of the Public Acts of 1969, as amended.

25 (iv) Is not intended for commercial, industrial, profession-
26 al, or business purposes, obligations, or liabilities.

1 (g) "Qualified applicant", for home insurance, means a
2 person who is an owner-occupant or a tenant-occupant of a
3 qualified property for home insurance, but does not include a
4 person who, in the immediately preceding 5 years, was either of
5 the following:

6 (i) Convicted of 1 or more of the following:

7 (A) Arson, or conspiracy to commit arson.

8 (B) A crime under sections 72 to 77, 112, 211a, 377a, 377b,
9 or 380 of the Michigan penal code, Act No. 328 of the Public Acts
10 of 1931, as amended, being sections 750.72 to 750.77, 750.112,
11 750.211a, 750.377a, 750.377b, and 750.380 of the Michigan
12 Compiled Laws.

13 (C) A crime under section 92, 151, 157b, or 218 of Act
14 No. 328 of the Public Acts of 1931, as amended, being sections
15 750.92, 750.151, 750.157b, and 750.218 of the Michigan Compiled
16 Laws, based upon a crime listed in subparagraph (B) committed by
17 or on behalf of the individual.

18 (ii) Successfully denied payments by the pool, based on
19 fraud or conspiracy to commit fraud by or on behalf of the appli-
20 cant, of a claim in excess of \$2,000.00 under a home insurance
21 policy, and if the amount of the denied claim was greater than
22 either of the following:

23 (A) For a claim under a repair cost policy, 15% of the
24 amount of insurance in force.

25 (B) For a claim under a replacement cost policy, 10% of the
26 amount of insurance in force.

1 (h) "Assessable premiums", for home insurance, means gross
2 direct premiums less all premiums and dividends returned to
3 policyholders on policies written in this state as homeowners
4 multiple peril insurance.

5 (i) "Aggregate assessable premiums" means the assessable
6 premiums for basic property insurance plus the assessable premi-
7 ums for home insurance.

8 (j) "Participating member" means any member of the pool
9 ~~which~~ THAT in any pertinent calendar period has aggregate
10 assessable premiums greater than zero.

11 Sec. 3020. (1) A policy of casualty insurance, except
12 worker's compensation, including all classes of motor vehicle
13 coverage, shall not be issued or delivered in this state by an
14 insurer authorized to do business in this state for which a pre-
15 mium or advance assessment is charged, unless the policy contains
16 the following provisions:

17 (a) That the policy may be canceled at any time at the
18 request of the insured, in which case the insurer shall refund
19 the excess of paid premium or assessment above the pro rata rates
20 for the expired time, except as otherwise provided in subsections
21 (2) and (3).

22 (b) That the policy may be canceled at any time by the
23 insurer by mailing to the insured at the insured's address last
24 known to the insurer or an authorized agent of the insurer, with
25 postage fully prepaid, a not less than 10 days' written notice of
26 cancellation with or without tender of the excess of paid premium
27 or assessment above the pro rata premium for the expired time.

1 (c) That the minimum earned premium on any policy canceled
2 pursuant to this subsection, other than automobile insurance as
3 defined in section ~~2102(2)(a) and (b)~~ 2102, shall not be less
4 than the pro rata premium for the expired time or \$25.00, which-
5 ever is greater.

6 (2) An insurer may file a rule with the commissioner provid-
7 ing for a minimum retention of premium for automobile insurance
8 as defined in section ~~2102(2)(a) and (b)~~ 2102. The rule shall
9 describe the circumstances under which the retention shall be
10 applied and shall set forth the amount to be retained, which
11 shall be subject to the approval of the commissioner. The rule
12 shall include, but need not be limited to, the following
13 provisions:

14 (a) That a minimum retention shall be applied only ~~when~~ IF
15 the amount exceeds the amount ~~which~~ THAT would have been
16 retained had the policy been canceled on a pro rata basis.

17 (b) That a minimum retention shall not apply to renewal
18 policies.

19 (c) That a minimum retention shall not apply ~~when~~ IF a
20 policy is canceled for the following reasons:

21 (i) The insured is no longer required to maintain security
22 pursuant to section 3101(1).

23 (ii) The insured has replaced the automobile insurance
24 policy being canceled with an automobile insurance policy from
25 another insurer and provides proof of the replacement coverage to
26 the canceling insurer.

1 (3) An insurer may provide for a short rate premium for
2 insurance on a motorcycle, watercraft, off-road vehicle, or
3 snowmobile. As used in this subsection:

4 (a) "Motorcycle" means that term as defined in section
5 3101.

6 (b) "Off-road vehicle" means an ORV as defined in section 1
7 of Act No. 319 of the Public Acts of 1975, being section 257.1601
8 of the Michigan Compiled Laws.

9 (c) "Snowmobile" means that term as defined in section 1 of
10 Act No. 74 of the Public Acts of 1968, being section 257.1501 of
11 the Michigan Compiled Laws.

12 (d) "Watercraft" means that term as defined in section 1(1)
13 of Act No. 160 of the Public Acts of 1976, being section 281.1201
14 of the Michigan Compiled Laws.

15 (4) Cancellation as prescribed in this section shall be
16 without prejudice to any claim originating before the
17 cancellation. The mailing of notice shall be prima facie proof
18 of notice. Delivery of written notice shall be equivalent to
19 mailing.

20 (5) A notice of cancellation, including a cancellation
21 notice under section 3224, shall be accompanied by a statement
22 that the insured shall not operate or permit the operation of the
23 vehicle to which THE notice of cancellation is applicable, or
24 operate any other vehicle, unless the vehicle is insured as
25 required by law.

26 (6) An insurer who wishes to provide for a short rate
27 premium under subsection (3) shall file with the commissioner

1 pursuant to chapter 24 or 26 a rule establishing a short rate
2 premium. The rule shall describe the circumstances under which
3 the short rate shall be applied and shall set forth the amount or
4 percentage to be retained.

5 Sec. 3104. (1) An unincorporated, nonprofit association to
6 be known as the catastrophic claims association, hereinafter
7 referred to as the association, is created. Each insurer engaged
8 in writing insurance coverages ~~which~~ THAT provide the security
9 required by section 3101(1) within this state, as a condition of
10 its authority to transact insurance in this state, shall be a
11 member of the association and shall be bound by the plan of oper-
12 ation of the association. Each insurer engaged in writing insur-
13 ance coverages ~~which~~ THAT provide the security required by sec-
14 tion 3103(1) within this state, as a condition of its authority
15 to transact insurance in this state, shall be considered a member
16 of the association, but only for purposes of assessments under
17 subsection (7)(d). Except as expressly provided in this section,
18 the association shall not be subject to any laws of this state
19 with respect to insurers, but in all other respects the associa-
20 tion shall be subject to the laws of this state to the extent
21 that the association would be were it an insurer organized and
22 subsisting under chapter 50.

23 (2) The association shall provide and each member shall
24 accept indemnification for 100% of the amount of ultimate loss
25 sustained under personal protection insurance coverages in excess
26 of \$250,000.00 in each loss occurrence. As used in this section,
27 "ultimate loss" means the actual loss amounts ~~which~~ THAT a

1 member is obligated to pay and ~~which~~ THAT are paid or payable
2 by the member, and shall not include claim expenses. An ultimate
3 loss is incurred by the association on the date which the loss
4 occurs.

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

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

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

19 (6) ~~When~~ IF a member has been merged or consolidated into
20 another insurer or another insurer has reinsured a member's
21 entire business ~~which~~ THAT provides the security required by
22 section 3101(1) in this state, the member and successors in
23 interest of the member shall remain liable for the member's
24 obligations.

25 (7) The association shall do all of the following on behalf
26 of the members of the association:

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

3 (b) Establish procedures by which members shall promptly
4 report to the association each claim ~~which~~ THAT, on the basis
5 of the injuries or damages sustained, may reasonably be antici-
6 pated to involve the association if the member is ultimately held
7 legally liable for the injuries or damages. Solely for the pur-
8 pose of reporting claims, the member shall in all instances con-
9 sider itself legally liable for the injuries or damages. The
10 member shall also advise the association of subsequent develop-
11 ments likely to materially affect the interest of the association
12 in the claim.

13 (c) Maintain relevant loss and expense data relative to all
14 liabilities of the association and require each member to furnish
15 statistics, in connection with liabilities of the association, at
16 the times and in the form and detail as may be required by the
17 plan of operation.

18 (d) In a manner provided for in the plan of operation, cal-
19 culate and charge to members of the association a total premium
20 sufficient to cover the expected losses and expenses of the asso-
21 ciation ~~which~~ THAT the association will likely incur during the
22 period for which the premium is applicable. The premium shall
23 include an amount to cover incurred but not reported losses for
24 the period and may be adjusted for any excess or deficient premi-
25 ums from previous periods. Excesses or deficiencies from previ-
26 ous periods may be fully adjusted in a single period or may be
27 adjusted over several periods in a manner provided for in the

1 plan of operation. Each member shall be charged an amount equal
2 to that member's total earned car years of insurance providing
3 the security required by section 3101(1) or 3103(1), or both,
4 written in this state during the period to which the premium
5 applies, multiplied by the average premium per car. The average
6 premium per car shall be the total premium calculated divided by
7 the total earned car years of insurance providing the security
8 required by section 3101(1) or 3103(1) written in this state of
9 all members during the period to which the premium applies. As
10 used in this subdivision, "car" includes a motorcycle.

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

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

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

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

20 (g) Establish procedures for reviewing claims procedures and
21 practices of members of the association. If the claims proce-
22 dures or practices of a member are considered inadequate to prop-
23 erly service the liabilities of the association, the association
24 may undertake or may contract with another person, including
25 another member, to adjust or assist in the adjustment of claims
26 for the member on claims ~~which~~ THAT create a potential

1 liability to the association and may charge the cost of the
2 adjustment to the member.

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

5 (a) Sue and be sued in the name of the association. A judg-
6 ment against the association shall not create any direct liabil-
7 ity against the individual members of the association. The asso-
8 ciation may provide for the indemnification of its members, mem-
9 bers of the board of directors of the association, and officers,
10 employees, and other persons lawfully acting on behalf of the
11 association.

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

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

18 (d) Pursuant to the plan of operation, adopt reasonable
19 rules for the administration of the association, enforce those
20 rules, and delegate authority, as the board considers necessary
21 to assure the proper administration and operation of the associa-
22 tion consistent with the plan of operation.

23 (e) Contract for goods and services, including independent
24 claims management, actuarial, investment, and legal services,
25 from others within or without this state to assure the efficient
26 operation of the association.

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

3 (g) Perform other acts not specifically enumerated in this
4 section ~~which~~ THAT are necessary or proper to accomplish the
5 purposes of the association and ~~which~~ THAT are not inconsistent
6 with this section or the plan of operation.

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

11 (10) The plan of operation shall provide for all of the
12 following:

13 (a) The establishment of necessary facilities.

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

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

18 (C) ~~(d)~~ Procedures to be utilized in charging premiums,
19 including adjustments from excess or deficient premiums from
20 prior periods.

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

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

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

1 (G) ~~-(h)-~~ Any other matters required by or necessary to
2 effectively implement this section.

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

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

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

23 (14) Each director shall be appointed by the commissioner
24 and shall serve until that member's successor is selected and
25 qualified. The chairperson of the board shall be elected by the
26 board. A vacancy on the board shall be filled by the
27 commissioner consistent with the plan of operation.

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

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

9 (17) Not more than 60 days after the initial organizational
10 meeting of the board, the board shall submit to the commissioner
11 for approval a proposed plan of operation consistent with the
12 objectives and provisions of this section, which shall provide
13 for the economical, fair, and nondiscriminatory administration of
14 the association and for the prompt and efficient provision of
15 indemnity. If a plan is not submitted within this 60-day period,
16 then the commissioner, after consultation with the board, shall
17 formulate and place into effect a plan consistent with this
18 section.

19 (18) The plan of operation, unless approved sooner in writ-
20 ing, shall be considered to meet the requirements of this section
21 if it is not disapproved by written order of the commissioner
22 within 30 days after the date of its submission. Before disap-
23 proval of all or any part of the proposed plan of operation, the
24 commissioner shall notify the board in what respect the plan of
25 operation fails to meet the requirements and objectives of this
26 section. If the board fails to submit a revised plan of
27 operation ~~which~~ THAT meets the requirements and objectives of

1 this section within the 30-day period, the commissioner shall
2 enter an order accordingly and shall immediately formulate and
3 place into effect a plan consistent with the requirements and
4 objectives of this section.

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

11 (20) Upon approval by the commissioner and ratification by
12 the members of the plan submitted, or upon the promulgation of a
13 plan by the commissioner, each insurer authorized to write insur-
14 ance providing the security required by section 3101(1) in this
15 state, as ~~defined~~ PROVIDED in this section, shall be bound by
16 and shall formally subscribe to and participate in the plan
17 approved as a condition of maintaining its authority to transact
18 insurance in this state.

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

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

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

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

4 Sec. 3107. Personal protection insurance benefits are pay-
5 able for the following:

6 (a) Allowable expenses consisting of all reasonable charges
7 incurred for reasonably necessary products, services and accommo-
8 dations for an injured person's care, recovery, or
9 rehabilitation. Allowable expenses within personal protection
10 insurance coverage shall not include charges for a hospital room
11 in excess of a reasonable and customary charge for semiprivate
12 accommodations except ~~when~~ IF the injured person requires spe-
13 cial or intensive care, or, ~~before October 1, 1988 charges for~~
14 ~~funeral and burial expenses in excess of \$1,000.00.~~ Beginning
15 ~~October 1, 1988, benefits~~ for funeral and burial expenses ~~shall~~
16 ~~be payable~~ EXCEPT in the amount set forth in the policy ~~but~~
17 WHICH shall not be less than \$1,750.00 ~~nor~~ OR more than
18 \$5,000.00.

19 (b) Work loss consisting of loss of income from work an
20 injured person would have performed during the first 3 years
21 after the date of the accident if he or she had not been injured
22 and expenses not exceeding \$20.00 per day, reasonably incurred in
23 obtaining ordinary and necessary services in lieu of those that,
24 if he or she had not been injured, an injured person would have
25 performed during the first 3 years after the date of the acci-
26 dent, not for income but for the benefit of himself or herself or
27 of his or her dependent. Work loss does not include any loss

1 after the date on which the injured person dies. Because the
2 benefits received from personal protection insurance for loss of
3 income are not taxable income, the benefits payable for such loss
4 of income shall be reduced 15% unless the claimant presents to
5 the insurer in support of his or her claim reasonable proof of a
6 lower value of the income tax advantage in his or her case, in
7 which case the lower value shall apply. Beginning March 30,
8 1973, the benefits payable for work loss sustained in a single
9 30-day period and the income earned by an injured person for work
10 during the same period together shall not exceed \$1,000.00, which
11 maximum shall apply pro rata to any lesser period of work loss.
12 Beginning October 1, 1974, the maximum shall be adjusted annually
13 to reflect changes in the cost of living under rules prescribed
14 by the commissioner but any change in the maximum shall apply
15 only to benefits arising out of accidents occurring subsequent to
16 the date of change in the maximum.

17 Sec. 3109. (1) Benefits provided or required to be provided
18 under the laws of any state or the federal government shall be
19 subtracted from the personal protection insurance benefits other-
20 wise payable for the injury.

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

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

1 but shall apply only to benefits payable to the person named in
2 the policy, his OR HER spouse, and any relative of either domi-
3 ciled in the same household. Any other deductible provisions
4 require the prior approval of the commissioner.

5 Sec. 3135. (1) A person remains subject to tort liability
6 for noneconomic loss caused by his or her ownership, maintenance,
7 or use of a motor vehicle only if the injured person has suffered
8 death, serious impairment of body function, or permanent serious
9 disfigurement.

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

15 (a) Intentionally caused harm to persons or property. Even
16 though a person knows that harm to persons or property is sub-
17 stantially certain to be caused by his or her act or omission,
18 the person does not cause or suffer such harm intentionally if he
19 or she acts or refrains from acting for the purpose of averting
20 injury to any person, including himself or herself, or for the
21 purpose of averting damage to tangible property.

22 (b) Damages for noneconomic loss as provided and limited in
23 subsection (1).

24 (c) Damages for allowable expenses, work loss, and
25 survivor's loss as ~~defined~~ PRESCRIBED in sections 3107 to 3110
26 in excess of the daily, monthly, and 3-year limitations contained
27 in those sections. The party liable for damages is entitled to

1 an exemption reducing his or her liability by the amount of taxes
2 that would have been payable on account of income the injured
3 person would have received if he or she had not been injured.

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

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

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

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

15 (4) Actions under subsection (2)(d) shall be commenced,
16 whenever legally possible, in the small claims division of the
17 district court or ~~the conciliation division of the common pleas~~
18 ~~court of the city of Detroit or~~ the municipal court. If the
19 defendant or plaintiff removes ~~such an~~ THE action to a higher
20 court and does not prevail, the judge may assess costs.

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

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

1 Section 2. Sections 2101 and 2131 of Act No. 218 of the
2 Public Acts of 1956, being sections 500.2101 and 500.2131 of the
3 Michigan Compiled Laws, are repealed.