



HOUSE BILL No. 4156

February 4, 1993, Introduced by Reps. Griffin, Martin, Baade, Llewellyn, Hoffman, Byrum, Varga, Porreca, Middaugh, DeMars, Oxender, Agee, Kukuk, Wetters, Bobier, Harder, Dalman, Shepich, Nye, Stallworth, DeLange, Weeks, Brackenridge, Bandstra, Bender, Gnodtke, Hammerstrom, Horton, Richard A. Young, Randall, Middleton, Alley, Voorhees, Fitzgerald, Shugars, London, Gernaat, Olshove, Stille, Sikkema, McBryde, Dolan, Kaza, Hill, Goschka, McNutt, Lowe, Bullard, Vorva, Jamian, Rhead, Walberg, Cropsey, Crissman, Galloway, McManus, Bodem, Johnson, Bankes, Gilmer, Bryant, Dobb, Munsell, Jaye, Gustafson and Rocca and referred to the Committee on Insurance.

A bill to amend the title and sections 2103, 2110, 2111, 3009, 3037, 3101, 3101a, 3104, 3107, 3109, 3109a, 3115, 3116, 3131, 3135, 3142, 3145, 3157, 3172, 3320, 3330, 3340, 3355, 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 and 3107 as amended by Act No. 191 of the Public Acts of 1991, section 3009 as amended by Act No. 43 of the Public Acts of 1988, sections 3037 and 3320 as amended and section 3101a as added by Act No. 461 of the Public Acts of 1980, section 3101 as amended by Act No. 126 of the Public Acts of 1988, 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, section 3340 as amended by Act No. 10 of the Public

Acts of 1986, and section 7911 as amended by Act No. 137 of the Public Acts of 1990, being sections 500.2103, 500.2110, 500.2111, 500.3009, 500.3037, 500.3101, 500.3101a, 500.3104, 500.3107, 500.3109, 500.3109a, 500.3115, 500.3116, 500.3131, 500.3135, 500.3142, 500.3145, 500.3157, 500.3172, 500.3320, 500.3330, 500.3340, 500.3355, and 500.7911 of the Michigan Compiled Laws; and to add sections 2106a, 2106b, 2106c, 2109a, 2110a, 2111b, 2111f, 2111g, 2112a, 2115a, 2115b, 2115c, 2115d, 2115e, 2134, 2136, 2138, 3010, 3015, 3103a, 3104a, 3104b, 3107b, 3118, 3136, and 3172a and chapter 32a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2103, 2110, 2111, 3009,
2 3037, 3101, 3101a, 3104, 3107, 3109, 3109a, 3115, 3116, 3131,
3 3135, 3142, 3145, 3157, 3172, 3320, 3330, 3340, 3355, and 7911 of
4 Act No. 218 of the Public Acts of 1956, section 2103 as amended
5 by Act No. 305 of the Public Acts of 1990, sections 2111 and 3107
6 as amended by Act No. 191 of the Public Acts of 1991,
7 section 3009 as amended by Act No. 43 of the Public Acts of 1988,
8 sections 3037 and 3320 as amended and section 3101a as added by
9 Act No. 461 of the Public Acts of 1980, section 3101 as amended
10 by Act No. 126 of the Public Acts of 1988, section 3104 as
11 amended by Act No. 445 of the Public Acts of 1980, section 3172
12 as amended by Act No. 426 of the Public Acts of 1984,
13 section 3340 as amended by Act No. 10 of the Public Acts of 1986,
14 and section 7911 as amended by Act No. 137 of the Public Acts of
15 1990, being sections 500.2103, 500.2110, 500.2111, 500.3009,
16 500.3037, 500.3101, 500.3101a, 500.3104, 500.3107, 500.3109,

1 500.3109a, 500.3115, 500.3116, 500.3131, 500.3135, 500.3142,
2 500.3145, 500.3157, 500.3172, 500.3320, 500.3330, 500.3340,
3 500.3355, and 500.7911 of the Michigan Compiled Laws, are amended
4 and sections 2106a, 2106b, 2106c, 2109a, 2110a, 2111b, 2111f,
5 2111g, 2112a, 2115a, 2115b, 2115c, 2115d, 2115e, 2134, 2136,
6 2138, 3010, 3015, 3103a, 3104a, 3104b, 3107b, 3118, 3136, and
7 3172a and chapter 32a are added to read as follows:

8 TITLE

9 An act to revise, consolidate, and classify the laws relat-
10 ing to the insurance and surety business; to regulate the incor-
11 poration or formation of domestic insurance and surety companies
12 and associations and the admission of foreign and alien companies
13 and associations; to provide their rights, powers, and immunities
14 and to prescribe the conditions on which companies and associa-
15 tions organized, existing, or authorized under this act may exer-
16 cise their powers; to provide the rights, powers, and immunities
17 and to prescribe the conditions on which other persons, firms,
18 corporations, associations, risk retention groups, and purchasing
19 groups engaged in an insurance or surety business may exercise
20 their powers; to provide for the imposition of a privilege fee on
21 domestic insurance companies and associations and the state acci-
22 dent fund; to provide for the imposition of a tax on the business
23 of foreign and alien companies and associations; to provide for
24 the imposition of a tax on risk retention groups and purchasing
25 groups; to provide for the imposition of a tax on the business of
26 surplus line agents; to modify tort liability arising out of
27 certain accidents; to provide for limited actions with respect to

1 that modified tort liability and to prescribe certain procedures
2 for maintaining those actions; to require security for losses
3 arising out of certain accidents; to provide for the continued
4 availability and affordability of automobile insurance and home-
5 owners insurance in this state, ~~and~~ to facilitate the purchase
6 of that insurance by all residents of this state at fair and rea-
7 sonable rates, AND TO PROVIDE FOR CERTAIN POWERS AND DUTIES, UPON
8 CERTAIN PERSONS, AS THEY AFFECT THE CONTINUED AVAILABILITY AND
9 AFFORDABILITY OF THAT INSURANCE; to provide for certain reporting
10 with respect to insurance and with respect to certain claims
11 against uninsured or self-insured persons; to prescribe duties
12 for certain state departments and officers with respect to that
13 reporting; to provide for certain assessments; to establish and
14 continue certain state insurance funds; to modify and clarify the
15 status, rights, powers, duties, and operations of the nonprofit
16 malpractice insurance fund; to provide for the departmental
17 supervision and regulation of the insurance and surety business
18 within this state; to provide for the conservation, rehabilita-
19 tion, or liquidation of unsound or insolvent insurers; to provide
20 for the protection of policyholders, claimants, and creditors of
21 unsound or insolvent insurers; to provide for associations of
22 insurers to protect policyholders and claimants in the event of
23 insurer insolvencies; to prescribe educational requirements for
24 insurance agents and solicitors; to provide for the regulation of
25 multiple employer welfare arrangements; to create an automobile
26 theft prevention authority to reduce the number of automobile
27 thefts in this state; to prescribe the powers and duties of the

1 automobile theft prevention authority; TO PROVIDE CERTAIN POWERS
2 AND DUTIES UPON CERTAIN PERSONS; to provide certain powers and
3 duties upon certain officials, departments, and authorities of
4 this state; to repeal certain acts and parts of acts; to repeal
5 certain acts and parts of acts on specific dates; to repeal cer-
6 tain parts of this act on specific dates; and to provide penal-
7 ties for the violation of this act.

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

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

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

19 (c) A person who has been convicted within the immediately
20 preceding 5-year period of fraud or intent to defraud involving
21 an insurance claim or an application for insurance; or an indi-
22 vidual who has been successfully denied, within the immediately
23 preceding 5-year period, payment by an insurer of a claim in
24 excess of \$1,000.00 under an automobile insurance policy, if
25 there is evidence of fraud or intent to defraud involving an
26 insurance claim or application.

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

5 (i) Section 324 ~~or 325~~ of the Michigan penal code, Act
6 No. 328 of the Public Acts of 1931, as amended, being ~~sections~~
7 SECTION 750.324 ~~and 750.325~~ of the Michigan Compiled Laws; sec-
8 tion 1 of Act No. 214 of the Public Acts of 1931, being section
9 752.191 of the Michigan Compiled Laws; or under any other law of
10 this state the violation of which constitutes a felony resulting
11 from the operation of a motor vehicle.

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

15 (iii) Section 617, 617a, 618, or 619 of Act No. 300 of the
16 Public Acts of 1949, as amended, being sections 257.617,
17 257.617a, 257.618, and 257.619 of the Michigan Compiled Laws.

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

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

25 (e) A person whose vehicle insured or to be insured under
26 the policy fails to meet the motor vehicle safety requirements of
27 sections 683 to 711 of Act No. 300 of the Public Acts of 1949, as

1 amended, being sections 257.683 to 257.711 of the Michigan
2 Compiled Laws.

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

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

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

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

26 (2) "Eligible person", for home insurance, means a person
27 who is the owner-occupant or tenant of a dwelling of any of the

1 following types: a house, a condominium unit, a cooperative
2 unit, a room, or an apartment; or a person who is the
3 owner-occupant of a multiple unit dwelling of not more than 4
4 residential units. Eligible person does not include any of the
5 following:

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

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

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

13 (iii) 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 described in subparagraph (ii) committed
17 by or on behalf of the person.

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

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

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

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

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

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

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

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

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

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

23 (ii) For a replacement policy, at least \$15,000.00 or

24 another amount ~~which~~ THAT the commissioner may establish bien-

25 nially on and after January 1, 1983, pursuant to rules promul-

26 gated by the commissioner under the administrative procedures act

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

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

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

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

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

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

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

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

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

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

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

1 (v) For all other moving violations pertaining to the
2 operation of motor vehicles, 2 points.

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

6 (i) For the first substantially at-fault accident, 3
7 points.

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

10 (5) "Insurer" means an insurer authorized to transact in
11 this state the kind or combination of kinds of insurance consti-
12 tuting automobile insurance or home insurance, as defined in this
13 chapter.

14 SEC. 2106A. (1) THE COMMISSIONER SHALL DEVELOP BY
15 OCTOBER 1, 1993 A STANDARD RATE FILING FORM FOR PRIVATE PASSENGER
16 NONFLEET AUTOMOBILE INSURANCE. BY DECEMBER 1, 1993, EACH AUTOMO-
17 BILE INSURER SHALL USE THE STANDARD RATE FILING FORM WHEN FILING
18 A RATE WITH THE COMMISSIONER FOR PRIVATE PASSENGER NONFLEET AUTO-
19 MOBILE INSURANCE.

20 (2) WITH EACH RATE FILING, AN AUTOMOBILE INSURER SHALL COM-
21 PLETE AND SUBMIT TO THE COMMISSIONER A BUYER'S GUIDE RATE SURVEY
22 ON A FORM PREPARED BY THE COMMISSIONER THAT THE COMMISSIONER CAN
23 USE IN COMPLYING WITH SECTION 2115C.

24 SEC. 2106B. (1) THE COMMISSIONER SHALL DEVELOP BY
25 OCTOBER 1, 1993 A MODEL APPLICATION FORM IN PLAIN ENGLISH FOR
26 PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE. THE APPLICATION
27 FORM SHALL LIST WHAT COVERAGES ARE MANDATORY AND WHAT ARE NOT AND

1 SHALL INDICATE HOW TO OBTAIN CONSUMER ASSISTANCE MATERIALS. BY
2 DECEMBER 1, 1993, EACH AUTOMOBILE INSURER SHALL USE AN APPLICA-
3 TION FORM SUBSTANTIALLY SIMILAR TO THE MODEL APPLICATION FORM
4 DEVELOPED BY THE COMMISSIONER FOR PRIVATE PASSENGER NONFLEET
5 AUTOMOBILE INSURANCE.

6 (2) AN ELECTRONICALLY OR ELECTROMAGNETICALLY TRANSMITTED
7 FACSIMILE OF THE AUTOMOBILE INSURANCE APPLICATION FORM MAY BE
8 SENT TO AN APPLICANT. A SIGNED ELECTRONICALLY OR ELECTROMAGNETI-
9 CALLY TRANSMITTED FACSIMILE OF THE AUTOMOBILE INSURANCE APPLICA-
10 TION FORM SHALL BE TREATED THE SAME AS AN ORIGINAL SIGNED AUTOMO-
11 BILE INSURANCE APPLICATION FORM.

12 SEC. 2106C. (1) THE COMMISSIONER SHALL DEVELOP BY
13 OCTOBER 1, 1993 A MODEL DECLARATIONS PAGE IN PLAIN ENGLISH FOR
14 PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE. BY DECEMBER 1,
15 1993, EACH AUTOMOBILE INSURER SHALL USE A DECLARATIONS PAGE SUB-
16 STANTIALLY SIMILAR TO THE MODEL DECLARATIONS PAGE DEVELOPED BY
17 THE COMMISSIONER FOR PRIVATE PASSENGER NONFLEET AUTOMOBILE
18 INSURANCE.

19 (2) THE COMMISSIONER SHALL PROVIDE THAT THE MODEL DECLARA-
20 TIONS PAGE CONTAIN AT LEAST THE FOLLOWING NOTICE CONCERNING COM-
21 PREHENSIVE AND COLLISION COVERAGES:

22 WARNING. COMPREHENSIVE AND COLLISION COVERAGES REIMBURSE
23 ONLY FOR THE CURRENT VALUE OF YOUR MOTOR VEHICLE LESS YOUR
24 DEDUCTIBLE.

25 (3) IF AN AUTOMOBILE INSURER LISTS ASSESSMENTS AUTHORIZED OR
26 PERMITTED BY LAW ON ITS DECLARATION PAGE, THE INSURER SHALL
27 INCLUDE ONLY THE ACTUAL COST OF THE ASSESSMENTS AND SHALL NOT

1 INCLUDE OR LIST ANY ADMINISTRATIVE OR OTHER FEES WITHIN THE
2 ASSESSMENTS.

3 SEC. 2109A. (1) AS USED IN THIS SECTION:

4 (A) "LOSS RATIO" MEANS INCURRED LOSSES AND LOSS ADJUSTMENT
5 EXPENSES EXPRESSED AS A PERCENTAGE OF EARNED PREMIUMS.

6 (B) "SUBSTANTIALLY UNIFORM" MEANS THE ABSENCE OF SIGNIFICANT
7 VARIATIONS AMONG LOSS RATIOS.

8 (2) AN INSURER'S AUTOMOBILE INSURANCE RATES FOR ALL CLASSES
9 AND COVERAGES FOR EACH OF ITS RATING TERRITORIES SHALL BE CALCU-
10 LATED TO PRODUCE LOSS RATIOS ON AN AVERAGE BASIS OVER A 3-YEAR
11 PERIOD THAT ARE SUBSTANTIALLY UNIFORM FOR THOSE TERRITORIES.

12 Sec. 2110. (1) In developing and evaluating rates pursuant
13 to the standards prescribed in ~~section 2109~~ SECTIONS 2109 AND
14 2109A, due consideration shall be given to past and prospective
15 loss experience within and outside this state, to catastrophe
16 hazards, if any; to a reasonable margin for underwriting profit
17 and contingencies; to dividends, savings, or unabsorbed premium
18 deposits allowed or returned by insurers to their policyholders,
19 members, or subscribers; to past and prospective expenses, both
20 countrywide and those specially applicable to this state exclu-
21 sive of assessments under this ~~code~~ ACT; to assessments under
22 this ~~code~~ ACT; to underwriting practice and judgment; and to
23 all other relevant factors within and outside this state.

24 (2) The systems of expense provisions included in the rates
25 for use by ~~any~~ AN insurer or group of insurers may differ from
26 those of other insurers or groups of insurers to reflect the
27 requirements of the operating methods of the insurer or group

1 with respect to any kind of insurance ~~—~~ or with respect to any
2 subdivision or combination thereof for which subdivision or com-
3 bination separate expense provisions are applicable.

4 (3) Risks may be grouped by classifications for the estab-
5 lishment of rates and minimum premiums. The classifications may
6 measure differences in losses, expenses, or both.

7 SEC. 2110A. (1) AN AUTOMOBILE INSURER SHALL ESTABLISH AND
8 MAINTAIN A PREMIUM DISCOUNT PLAN FOR PERSONAL PROTECTION INSUR-
9 ANCE THAT PROVIDES FOR A PREMIUM DISCOUNT IF A MOTOR VEHICLE HAS
10 1 OR MORE OF THE FOLLOWING SAFETY FEATURES:

11 (A) ANTILACERATIVE GLASS.

12 (B) AIR BAGS.

13 (C) ANTILOCK BRAKES.

14 (D) ENHANCED SIDEWALL PROTECTION.

15 (E) BUMPERS THAT EXCEED A COLLISION STANDARD OF 5 MILES PER
16 HOUR.

17 (F) OTHER PASSIVE SAFETY FEATURES THAT REDUCE FREQUENCY OR
18 SEVERITY OF COLLISIONS OR INJURIES AS DETERMINED BY THE INSURER
19 AND APPROVED BY THE COMMISSIONER.

20 (2) A PREMIUM DISCOUNT PLAN REQUIRED UNDER THIS SECTION MAY
21 REQUIRE THE INSURED INDIVIDUAL TO CERTIFY IN WRITING THAT HE OR
22 SHE HAS 1 OR MORE OF THE SAFETY FEATURES LISTED IN SUBSECTION (1)
23 AS A CONDITION TO RECEIVING THE PREMIUM DISCOUNT. IF AN INSURED
24 RECEIVES A PREMIUM DISCOUNT AFTER PROVIDING THIS CERTIFICATION
25 AND SUSTAINS A LOSS WHILE OPERATING THAT MOTOR VEHICLE AND IT
26 DOES NOT HAVE THE SAFETY FEATURES THAT WERE CERTIFIED TO, AN
27 INSURER MAY IMPOSE A \$500.00 DEDUCTIBLE WITH RESPECT TO THAT LOSS

1 IN ADDITION TO ANY PROVIDED IN THE POLICY AND MAY SUBSEQUENTLY
 2 DENY TO THE INSURED THE RIGHT TO PARTICIPATE IN ANY PREMIUM DIS-
 3 COUNT PLAN ESTABLISHED BY THE INSURER PURSUANT TO THIS SECTION
 4 FOR A PERIOD OF 12 MONTHS.

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 1 or more of the
 12 following factors, which shall be applied by an insurer on a uni-
 13 form 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~~
 27 ~~to protect passengers from injury and other similar items,~~

1 ~~including vehicle make and model.~~ VEHICLE DESIGN AND EQUIPMENT
2 CHARACTERISTICS INCLUDING STANDARD FEATURES AND OPTIONS, GROUPED
3 TOGETHER AS MUCH AS PRACTICABLE BY VEHICLE MAKE AND MODEL, THAT
4 BEAR UPON THE ABILITY OF THE VEHICLE TO PROTECT PASSENGERS FROM
5 INJURY OR TO AVOID ACCIDENTS.

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

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

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

12 (xi) DEDUCTIBLES.

13 (xii) CHARACTERISTICS OF VEHICLE USAGE THAT HAVE A DEMON-
14 STRABLE RELATIONSHIP TO SEVERITY OR FREQUENCY OF ACCIDENTS.
15 THESE CHARACTERISTICS MAY INCLUDE CONDITIONS OF CUSTOMARY OR FRE-
16 QUENT VEHICLE USE SUCH AS TIME OF DAY, DENSITY OF TRAFFIC AND
17 OTHER DRIVING CONDITIONS, AND ACCIDENT FREQUENCY AND SEVERITY IN
18 USE ZONES OR AREAS WHERE THE INSURED VEHICLE IS CUSTOMARILY OR
19 FREQUENTLY DRIVEN BY THE INSURED OR MEMBERS OF THE INSURED'S
20 HOUSEHOLD.

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

23 (i) Earned income.

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

26 (iii) Coordination of benefits.

- 1 (iv) Use of a safety belt.
- 2 (v) OTHER CHARACTERISTICS THAT RELATE DIRECTLY TO PERSONAL
3 PROTECTION INSURANCE COVERAGES AND THAT HAVE BEEN APPROVED BY THE
4 COMMISSIONER.
- 5 (c) In addition to the factors prescribed in subdivision
6 (a), with respect to collision and comprehensive coverages:
- 7 (i) The anticipated cost of vehicle repairs or replacement,
8 which may be measured by age, price, cost new, or value of the
9 insured automobile, and other factors directly relating to that
10 anticipated cost.
- 11 (ii) Vehicle make and model.
- 12 (iii) Vehicle design characteristics related to vehicle
13 damageability.
- 14 (iv) VEHICLE DESIGN AND EQUIPMENT CHARACTERISTICS INCLUDING
15 STANDARD FEATURES AND OPTIONS BY VEHICLE MAKE AND MODEL, OR TO
16 AVOID ACCIDENTS, THE VEHICLE'S RESISTANCE TO DAMAGE, AND THE COST
17 OF REPAIR OF A DAMAGED VEHICLE. ON AND AFTER JANUARY 1, 1994, AN
18 INSURER IS REQUIRED TO BASE ITS RATING SYSTEM FOR COLLISION COV-
19 ERAGE UPON AND TO QUOTE COLLISION COVERAGE UPON THE CHARACTERIS-
20 TICS IN THIS SUBPARAGRAPH.
- 21 (v) ~~(iv)~~ Vehicle characteristics relating to automobile
22 theft prevention devices.
- 23 (vi) OTHER CHARACTERISTICS THAT RELATE DIRECTLY TO COLLISION
24 AND COMPREHENSIVE COVERAGES AND THAT HAVE BEEN APPROVED BY THE
25 COMMISSIONER.
- 26 (D) IN ADDITION TO THE FACTORS PRESCRIBED IN
27 SUBDIVISIONS (A) AND (C) WITH RESPECT TO COLLISION COVERAGES

1 ONLY, OTHER CHARACTERISTICS THAT RELATE DIRECTLY TO COLLISION
2 COVERAGES AND THAT HAVE BEEN APPROVED BY THE COMMISSIONER.

3 (E) IN ADDITION TO THE FACTORS PRESCRIBED IN
4 SUBDIVISIONS (A), (C), AND (D) WITH RESPECT TO COMPREHENSIVE COV-
5 ERAGES ONLY:

6 (i) THE PRESENCE OF PASSIVE THEFT PREVENTION DEVICES ON THE
7 INSURED VEHICLE.

8 (ii) CONDITIONS UNDER WHICH THE VEHICLE IS GARAGED OR PARKED
9 THAT RELATE TO THE RISK OF LOSS FROM HAZARDS INSURED AGAINST.

10 (iii) OTHER CHARACTERISTICS THAT RELATE DIRECTLY TO COMPRE-
11 HENSIVE COVERAGES AND THAT HAVE BEEN APPROVED BY THE
12 COMMISSIONER.

13 (F) ~~(d)~~ With respect to all automobile insurance coverage
14 other than comprehensive, successful completion by the individual
15 driver or drivers insured under the policy of an accident preven-
16 tion education course that meets the following criteria:

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

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

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

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

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

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

25 (E) Accident prevention measures.

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

1 (G) Major driving hazards.

2 (H) Interaction with other highway users such as
3 motorcyclists, bicyclists, and pedestrians.

4 (I) LIMITS AND BENEFITS OF THE VARIOUS AUTOMOBILE INSURANCE
5 COVERAGES.

6 (G) ADDITIONAL FACTORS IF SUBMITTED, JUSTIFIED TO, AND
7 APPROVED BY THE COMMISSIONER.

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

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

19 (b) ~~Until April 1, 1992, an~~ AN automobile safety belt pre-
20 mium discount plan. A premium discount plan required under this
21 subdivision shall provide for a premium discount for automobile
22 personal protection insurance of not less than 20%. A premium
23 discount plan established under this subdivision may require the
24 insured individual to certify in writing that he or she will wear
25 a safety belt while operating the insured motor vehicle in com-
26 pliance with section 710e of the Michigan vehicle code, Act
27 No. 300 of the Public Acts of 1949, being section 257.710e of the

1 Michigan Compiled Laws, as a condition to receiving the premium
2 discount. If an insured receives a premium discount after pro-
3 viding ~~such~~ THIS certification and is injured while operating a
4 motor vehicle without wearing a safety belt at the time of the
5 injury, an insurer MAY IMPOSE A \$500.00 DEDUCTIBLE WITH RESPECT
6 TO THAT LOSS IN ADDITION TO ANY PROVIDED IN THE POLICY AND may
7 subsequently deny to the insured the right to participate in any
8 premium discount plan established by the insurer pursuant to this
9 subdivision for a period of 12 months. ~~An insurer that reduces~~
10 ~~its personal protection insurance rates after December 1, 1985 by~~
11 ~~not less than 20% and does not increase those rates for a period~~
12 ~~of 12 months shall be considered to be in compliance with this~~
13 ~~subdivision.~~

14 (4) Each insurer shall establish a secondary or merit rating
15 plan for automobile insurance, other than comprehensive
16 coverage. A secondary or merit rating plan required under this
17 subsection shall provide for premium surcharges for any or all
18 coverages for automobile insurance, other than comprehensive cov-
19 erage, based upon any or all of the following — when that
20 information becomes available to the insurer:

21 (a) Substantially at-fault accidents.

22 (B) THE SUSPENSION OF THE INSURED'S LICENSE BY THE SECRETARY
23 OF STATE UNDER SECTION 319(1)(C) TO (F) OF ACT NO. 300 OF THE
24 PUBLIC ACTS OF 1949, BEING SECTION 257.319 OF THE MICHIGAN
25 COMPILED LAWS, OR A SUSPENSION UNDER A SUBSTANTIALLY SIMILAR LAW
26 OF ANOTHER STATE.

1 (C) ~~(b)~~ Convictions for, determinations of responsibility
2 for civil infractions for, or findings of responsibility in
3 probate court for civil infractions for ~~, violations~~ ANY OF THE
4 FOLLOWING:

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

8 (ii) OPERATING A MOTOR VEHICLE WHILE LICENSE IS SUSPENDED OR
9 REVOKED.

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

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

17 (5) IF UNIFORMLY OFFERED AND APPLIED TO ALL OF THE INSURER'S
18 INSUREDS, AN INSURER MAY ELECT NOT TO SURCHARGE AN INSURED UNDER
19 SUBSECTION (4) IF THE INSURED HAS BEEN INSURED BY THE INSURER FOR
20 NOT LESS THAN 5 YEARS. A SECONDARY OR MERIT RATING PLAN UNDER
21 SUBSECTION (4) SHALL PROVIDE FOR A FLAT DOLLAR SURCHARGE.

22 (6) ~~(5)~~ An insurer shall not establish or maintain rates
23 or rating classifications for automobile insurance based upon sex
24 or marital status.

25 (7) ~~(6)~~ Notwithstanding other provisions of this chapter,
26 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~~ EXCEPT AS PROVIDED IN SUBDIVISION (B), AN insurer
 4 shall not be limited as to the number of territories employed in
 5 its rating plan AND A TERRITORIAL BASE RATE MAY BE MADE APPLICA-
 6 BLE IN 1 OR MORE TERRITORIES CONTAINED IN THE RATING PLAN OF THE
 7 INSURER.

8 (B) EFFECTIVE JUNE 1, 1993, EACH TERRITORY SHALL INCLUDE AT
 9 LEAST 60,000 REGISTERED AUTOMOBILES. EACH TERRITORY SHALL CON-
 10 SIST OF A SINGLE CONTIGUOUS AREA. A TERRITORY THAT INCLUDES ANY
 11 PORTION OF A MUNICIPALITY SHALL INCLUDE THE ENTIRE MUNICIPALITY
 12 EXCEPT THAT ANY PORTION OF A MUNICIPALITY THAT HAS 60,000 REGIS-
 13 TERED AUTOMOBILES MAY BE A SEPARATE TERRITORY IF THE REMAINING
 14 PORTION OR PORTIONS OF THE MUNICIPALITY ALSO HAVE AT LEAST 60,000
 15 REGISTERED AUTOMOBILES. IF A PORTION OF A MUNICIPALITY THAT HAS
 16 60,000 REGISTERED AUTOMOBILES IS MADE A SEPARATE TERRITORY, THE
 17 DIVIDING LINES OF THAT TERRITORY SHALL BE COMPRISED ONLY OF ROAD-
 18 WAYS THAT ARE STATE TRUNKLINES, COUNTY PRIMARY, OR MUNICIPAL
 19 MAJOR STREETS.

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

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

26 ~~(d) Except during the period of time from February 28, 1986~~
 27 ~~to April 1, 1992, an insurer shall not employ a territorial base~~

1 ~~rate for an automobile insurance package policy that is less than~~
2 ~~45% of the highest territorial base rate for the same policy, all~~
3 ~~other rating classifications being the same.~~

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

10 ~~(7) Except during the period of time from February 28, 1986~~
11 ~~to April 1, 1992, an insurer may elect at any time to exempt~~
12 ~~itself from the requirements of subsection (6) by filing for an~~
13 ~~exemption with the commissioner. An insurer electing this exemp-~~
14 ~~tion shall initially file a rating plan in which no territorial~~
15 ~~base rate for an automobile insurance package policy is less than~~
16 ~~45% of the highest territorial base rate for the same policy, all~~
17 ~~other rating classifications being the same. Five years from the~~
18 ~~date of the initial filing the insurer shall be prohibited from~~
19 ~~using a rating plan in which any territorial base rate for an~~
20 ~~automobile insurance package policy will be less than 67% of the~~
21 ~~highest territorial base rate for that same policy, all other~~
22 ~~rating classifications being the same. An insurer's election of~~
23 ~~an exemption under this subsection is permanent, final, and not~~
24 ~~subject to change.~~

25 ~~(8) Except during the period of time from February 28, 1986~~
26 ~~to April 1, 1992, if an insurer can demonstrate to the~~
27 ~~commissioner, after an opportunity for an evidentiary hearing~~

~~1 held pursuant to the administrative procedures act of 1969, Act
2 No. 306 of the Public Acts of 1969, as amended, being sections
3 24.201 to 24.328 of the Michigan Compiled Laws, that clear and
4 significant financial impairment exists in the geographic terri-
5 tory or territories in question because of the need for an addi-
6 tional territorial base rate, or for a greater variance in the
7 adjacent geographic territory differential contained in subsec-
8 tion (6)(e), the additional territorial base rate, a greater
9 variance, or both, shall be permitted for use by the insurer or a
10 licensed rating organization on behalf of that insurer, at such
11 time as the need exists. Evidence shall not include financial
12 impairment resulting from exemptions granted to other insurers.~~

~~13 (9) Except during the period of time from February 28, 1986
14 to April 1, 1992, if the commissioner finds, solely on the evi-
15 dence presented, that a greater variance in the adjacent geo-
16 graphic territory differential than that authorized under subsec-
17 tion (6)(e) is justified, the increase in variance shall not
18 exceed 100% of that authorized under that subsection. Except
19 during the period of time from February 28, 1986 to April 1,
20 1992, if an increase in variance in the adjacent geographic ter-
21 ritory differential greater than 100% of that authorized under
22 subsection (6)(e) is justified, the commissioner shall require
23 the creation of an additional territorial base rate.~~

~~24 (10) Except during the period of time from February 28, 1986
25 to April 1, 1992, an exemption granted under subsections (8) and
26 (9) shall be applicable only to the geographic territory or~~

1 ~~territories in question, and only to the insurer requesting the~~
2 ~~exemption.~~

3 ~~(+1) Except during the period of time from February 28, 1986~~
4 ~~to April 1, 1992, an insurer shall not have more than 5 exemp-~~
5 ~~tions in force at any 1 time. For purposes of determining the~~
6 ~~number of existing exemptions, each additional territorial base~~
7 ~~rate or each increase in variance in the adjacent geographic ter-~~
8 ~~ritory differential granted, shall be considered to be a separate~~
9 ~~exemption.~~

10 (8) ~~(+2)~~ This section shall not be construed as limiting
11 insurers or rating organizations from establishing and maintain-
12 ing statistical reporting territories. This section shall not be
13 construed to prohibit an insurer from establishing or maintain-
14 ing, for automobile insurance, a premium discount plan for senior
15 citizens in this state who are 65 years of age or older, if the
16 plan is uniformly applied by the insurer throughout this state.
17 If an insurer has not established and maintained such a premium
18 discount plan for senior citizens, the insurer shall offer
19 reduced premium rates to senior citizens in this state who are 65
20 years of age or older and who drive less than 3,000 miles per
21 year, regardless of statistical data.

22 (9) ~~(+3)~~ Classifications established pursuant to this sec-
23 tion for home insurance other than inland marine insurance pro-
24 vided by policy floaters or endorsements shall be based only upon
25 1 or more of the following factors:

26 (a) Amount and types of coverage.

1 (b) Security and safety devices, including locks, smoke
2 detectors, and similar, related devices.

3 (c) Repairable structural defects reasonably related to
4 risk.

5 (d) Fire protection class.

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

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

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

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

13 (i) Availability of law enforcement or crime prevention
14 services.

15 (10) ~~(14)~~ Notwithstanding other provisions of this chap-
16 ter, home insurance risks shall be grouped by territory, and ter-
17 ritorial base rates for coverages shall be established as
18 follows:

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

25 (b) An insurer shall not employ a territorial base rate for
26 home insurance for owner-occupied dwelling policies that is less

1 than 70% of the highest territorial base rate for the same
2 policy, all other rating classifications being the same.

3 (c) An insurer shall not employ a territorial base rate for
4 home insurance for renter or tenant policies that is less than
5 65% of the highest territorial base rate for the same policy, all
6 other rating classifications being the same.

7 (11) ~~(15)~~ An insurer may utilize factors in addition to
8 those specified in this section, if the commissioner finds, after
9 a hearing held pursuant to the administrative procedures act of
10 1969, Act No. 306 of the Public Acts of 1969, as amended, being
11 sections 24.201 to 24.328 of the Michigan Compiled Laws, that the
12 factors would encourage innovation, would encourage insureds to
13 minimize the risks of loss from hazards insured against, and
14 would be consistent with the purposes of this chapter.

15 (12) IF UNIFORMLY OFFERED AND APPLIED TO ALL THE INSURER'S
16 INSUREDS, AN AUTOMOBILE INSURER MAY OFFER PREMIUM DISCOUNTS BASED
17 UPON THE LENGTH OF TIME THE INSURED HAS BEEN CLAIM-FREE OR FREE
18 OF SUBSTANTIALLY AT-FAULT ACCIDENTS WITH THE INSURER.

19 (13) IF UNIFORMLY OFFERED AND APPLIED TO ALL THE INSURER'S
20 INSUREDS, AN AUTOMOBILE INSURER MAY OFFER PREMIUM DISCOUNTS BASED
21 UPON THE LENGTH OF TIME THE INSURED HAS BEEN INSURED WITH THE
22 INSURER.

23 SEC. 2111B. A RATE FILING FOR AUTOMOBILE INSURANCE PACKAGE
24 POLICIES SHALL NOT BE MODIFIED, CHANGED, OR ALTERED FOR A PERIOD
25 OF 6 MONTHS AFTER THE EFFECTIVE DATE OF THE FILING UNLESS THE
26 MODIFICATION, CHANGE, OR ALTERATION FOR THE RATING CELLS AFFECTED
27 BY THE FILING RESULTS IN AN OVERALL PREMIUM REDUCTION FOR THE

1 AFFECTED CELLS. THIS SECTION DOES NOT PROHIBIT AN INSURER FROM
2 MAKING RATE FILINGS AT ANY TIME THAT ONLY PROVIDE CHANGES TO
3 RATES BASED UPON ASSESSMENTS LEVIED AGAINST INSURERS PURSUANT TO
4 SECTION 3104 OR 3330. THESE RATE FILINGS SHALL NOT BE CONSIDERED
5 RATE FILINGS FOR PURPOSES OF THIS SECTION.

6 SEC. 2111F. (1) BY NOT LATER THAN MAY 1, 1993, EACH INSURER
7 SHALL FILE BASE RATES FOR AUTOMOBILE INSURANCE THAT REFLECT THE
8 ANTICIPATED AVERAGE PREMIUM SAVINGS RESULTING FROM THE CHANGES
9 MADE IN THE AMENDATORY ACT THAT ADDED THIS SECTION FOR PERSONAL
10 PROTECTION INSURANCE, RESIDUAL LIABILITY INSURANCE, UNINSURED
11 MOTORIST COVERAGE, AND COLLISION AND COMPREHENSIVE COVERAGES.
12 THE PREMIUM FOR AN AVERAGE INSURED SELECTING THE PERSONAL PROTEC-
13 TION INSURANCE COVERAGE SPECIFIED IN SECTION 3107(1)(A)(i) AND
14 (B)(i) SHALL NOT BE MORE THAN THE PREMIUM CHARGED TO SUCH AN
15 AVERAGE INSURED BY AN AUTOMOBILE INSURER ON NOVEMBER 1, 1992
16 REDUCED BY AT LEAST 16%. THE RATE REDUCTIONS FOR A SPECIFIED
17 INSURED MAY VARY FROM THIS REDUCTION DUE TO GOOD DRIVER DIS-
18 COUNTS, APPLICATION OF SECTION 2111 RATING FACTORS, COVERAGE
19 SELECTION, AND OTHER FACTORS.

20 (2) BY NOT SOONER THAN JUNE 1, 1993 AND NOT LATER THAN
21 AUGUST 1, 1993, AN INSURER MAY PETITION THE COMMISSIONER FOR
22 RELIEF FROM ALL OR PART OF THE PERCENTAGE SET IN SUBSECTION (1).
23 IN ITS PETITION AN INSURER SHALL DO BOTH OF THE FOLLOWING:

24 (A) DEMONSTRATE THAT BASED ON ITS BOOK OF BUSINESS THE SAV-
25 INGS RESULTING FROM THE CHANGES MADE IN THE AMENDATORY ACT THAT
26 ADDED THIS SECTION DO NOT JUSTIFY ALL OR PART OF THE PERCENTAGE
27 SET IN SUBSECTION (1) AND THAT THE EFFECT OF THE FULL RATE

1 REDUCTION WOULD PRODUCE A COMBINED RATIO FOR AUTOMOBILE INSURANCE
2 FOR THE INSURER IN EXCESS OF THE STATEWIDE AVERAGE COMBINED RATIO
3 FOR ALL AUTOMOBILE INSURERS FOR CALENDAR YEARS 1989 THROUGH
4 1992.

5 (B) SPECIFY THE PERCENTAGE OF RATE REDUCTION THAT IS JUSTI-
6 FIED, BASED ON ITS BOOK OF BUSINESS, BY THE SAVINGS RESULTING
7 FROM THE CHANGES MADE IN THE AMENDATORY ACT THAT ADDED THIS SEC-
8 TION AND THAT IS NECESSARY TO PRODUCE A COMBINED RATIO FOR THE
9 INSURER EQUAL TO THE STATEWIDE AVERAGE COMBINED RATIO FOR ALL
10 AUTOMOBILE INSURERS FOR CALENDAR YEARS 1989 THROUGH 1992.

11 (3) BY NOT LATER THAN 60 DAYS AFTER RECEIPT OF A PETITION
12 UNDER SUBSECTION (2), THE COMMISSIONER BY ORDER SHALL DENY THE
13 INSURER'S REQUEST FOR REGULATORY RELIEF OR SHALL GRANT THE
14 INSURER'S REQUEST FOR REGULATORY RELIEF IN EITHER THE PERCENTAGE
15 SPECIFIED IN THE INSURER'S PETITION OR IN SUCH PERCENTAGE THAT
16 THE COMMISSIONER DETERMINES APPROPRIATE.

17 (4) AN INSURER AGGRIEVED BY THE COMMISSIONER'S ORDER UNDER
18 SUBSECTION (3) MAY REQUEST A HEARING PURSUANT TO THE ADMINISTRA-
19 TIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF
20 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED
21 LAWS. THE COSTS ASSOCIATED WITH A HEARING SHALL BE PAID FOR BY
22 THE INSURER.

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

25 SEC. 2111G. AN INSURER SHALL NOT CHARGE AN INSURED A PRE-
26 MIUM FOR ANY ASSESSMENT LEVIED AGAINST THE INSURER PURSUANT TO
27 SECTION 3330 OR CHAPTER 79 IF THE INSURER USES THE ASSESSMENT AS

1 A CREDIT UNDER THE SINGLE BUSINESS TAX ACT, ACT NO. 228 OF THE
2 PUBLIC ACTS OF 1975, BEING SECTIONS 208.1 TO 208.145 OF THE
3 MICHIGAN COMPILED LAWS.

4 SEC. 2112A. (1) AN AUTOMOBILE INSURER SHALL NOT INCREASE
5 THE PREMIUM FOR AN AUTOMOBILE INSURANCE POLICY THAT IS BEING
6 RENEWED IF THE INCREASE IS DUE TO AN INCREASE IN RATES UNLESS THE
7 INSURER SENDS THE RENEWAL NOTICE SHOWING THE HIGHER PREMIUM TO
8 THE INSURED AT LEAST 30 DAYS BEFORE THE INSURANCE POLICY RENEWAL
9 DATE. IF AN INSURER DOES NOT SEND THE RENEWAL NOTICE SHOWING THE
10 HIGHER PREMIUM TO THE INSURED AT LEAST 30 DAYS BEFORE THE INSUR-
11 ANCE POLICY RENEWAL DATE, THE INSURED IS NOT LIABLE FOR THE PRO-
12 RATED PORTION OF THE INCREASE IN PREMIUM.

13 (2) AS USED IN THIS SECTION, "PRORATED PORTION OF THE
14 INCREASE IN PREMIUM" MEANS THE AMOUNT OF INCREASE IN PREMIUM
15 DIVIDED BY THE NUMBER OF DAYS IN THE BILLING PERIOD MULTIPLIED BY
16 THE NUMBER OF DAYS BY WHICH THE INSURER FAILED TO SEND THE 30-DAY
17 NOTICE REQUIRED BY THIS SECTION.

18 SEC. 2115A. BY OCTOBER 1, 1993, AUTOMOBILE INSURERS SHALL
19 ESTABLISH AND IMPLEMENT A MARKET ASSISTANCE PLAN THAT SHALL BE
20 SUBJECT TO THE COMMISSIONER'S APPROVAL. THE MARKET ASSISTANCE
21 PLAN SHALL ASSIST RESIDENTS OF THIS STATE IN OBTAINING AUTOMOBILE
22 INSURANCE BY ESTABLISHING, MAINTAINING, AND ADVERTISING A STATE-
23 WIDE TOLL-FREE TELEPHONE LINE THROUGH WHICH RESIDENTS OF THIS
24 STATE ARE ABLE TO OBTAIN COMPARATIVE AUTOMOBILE INSURANCE RATE
25 INFORMATION, THE TELEPHONE NUMBERS OF AUTOMOBILE INSURERS, COPIES
26 OF THE BUYER'S GUIDE PREPARED PURSUANT TO SECTION 2115C, AND
27 INFORMATION ON CONSUMERS' RIGHTS TO AUTOMOBILE INSURANCE.

1 SEC. 2115B. (1) BY OCTOBER 1 OF EACH YEAR, EACH AUTOMOBILE
2 INSURER WITH A VOLUME OF BUSINESS THAT PLACES IT IN THE TOP 85%
3 OF THE PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE MARKET IN
4 MICHIGAN SHALL MAINTAIN AT LEAST 1 AGENT WHO IS PHYSICALLY
5 LOCATED AND ACTIVELY WRITING BUSINESS IN EACH RATING TERRITORY IN
6 ITS RATING PLAN.

7 (2) FOR PURPOSES OF THIS SECTION:

8 (A) "ACTIVELY WRITING BUSINESS" MEANS HAVING AN OFFICE AND
9 REGULARLY ADVERTISING FOR AUTOMOBILE INSURANCE BUSINESS.

10 (B) VOLUME OF BUSINESS SHALL BE DETERMINED BY NET DIRECT
11 PREMIUM WRITTEN IN THE PREVIOUS CALENDAR YEAR.

12 SEC. 2115C. THE COMMISSIONER SHALL PREPARE SEMIANNUALLY A
13 BUYER'S GUIDE TO AUTOMOBILE INSURANCE IN MICHIGAN IN AT LEAST
14 8-POINT TYPE. THE BUYER'S GUIDE SHALL COMPARE RATES AMONG A REA-
15 SONABLE REPRESENTATION OF AT LEAST 50 AUTOMOBILE INSURERS IN
16 MICHIGAN IN EACH TERRITORY USED BY THE PRINCIPAL ADVISORY ORGANI-
17 ZATION FOR STATISTICAL REPORTING PURPOSES. BEGINNING APRIL 1,
18 1996 THE BUYER'S GUIDE SHALL CONTAIN COMPARATIVE COMPLAINT
19 INFORMATION. THE COMMISSIONER SHALL HAVE COPIES OF THE BUYER'S
20 GUIDE AVAILABLE TO THE GENERAL PUBLIC AND SHALL PROVIDE COPIES OF
21 THE BUYER'S GUIDE TO THE GOVERNOR, TO EACH MEMBER OF THE LEGISLA-
22 TURE, AND TO SECRETARY OF STATE BRANCH OFFICES FOR DISTRIBUTION
23 TO THE PUBLIC. THE SECRETARY OF STATE SHALL MAIL WITH EACH
24 NOTICE OF LICENSE PLATE RENEWAL A NOTICE THAT A BUYER'S GUIDE TO
25 AUTOMOBILE INSURANCE IS AVAILABLE AT EACH LOCAL SECRETARY OF
26 STATE OFFICE AND FROM THE INSURANCE BUREAU BY WRITING OR
27 TELEPHONING THE INSURANCE BUREAU. THE COSTS AND EXPENSES

1 ASSOCIATED WITH AND INCURRED BY THE COMMISSIONER IN COMPLYING
2 WITH THIS SECTION SHALL BE DISTRIBUTED EQUITABLY BY THE COMMIS-
3 SIONER AMONG INSURERS AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE
4 IN THIS STATE AND THE RESULTING REVENUE SHALL BE EARMARKED FOR
5 THE INSURANCE BUREAU.

6 SEC. 2115D. THE COMMISSIONER SHALL PREPARE A REPORT BY
7 OCTOBER 1, 1993 AND ANNUALLY THEREAFTER THAT PROVIDES DAMAGEABI-
8 LITY AND REPAIRABILITY RATINGS FOR THE MOST RECENT AVAILABLE
9 MODEL YEAR OF VEHICLES. THESE RATINGS SHALL BE BASED ON CREDIBLE
10 INFORMATION PROVIDED BY RECOGNIZED AUTOMOBILE DAMAGE AND REPAIR
11 EXPERTS FROM GOVERNMENT AND OTHER INSTITUTIONS. THE REPORT SHALL
12 INCLUDE A DESCRIPTION OF THE ACCURACY AND USABILITY OF THE DEVEL-
13 OPED RATINGS AND A COMMENTARY ON THE BEST WAY TO PROVIDE CONSUM-
14 ERS WITH RELIABLE INFORMATION ON THE IMPACT THAT VEHICLE RESIS-
15 TANCE TO DAMAGE AND COST OF REPAIR, BY VARIOUS CAR MAKES AND
16 MODELS, HAVE ON INSURANCE RATES. THE REPORT SHALL BE MADE AVAIL-
17 ABLE TO THE PUBLIC UPON REQUEST, SHALL BE GIVEN TO THE GOVERNOR
18 AND MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES STANDING
19 COMMITTEES ON INSURANCE ISSUES, AND SUMMATIONS OF THE REPORT
20 SHALL BE DISTRIBUTED TO THE MEDIA. THE COSTS AND EXPENSES ASSO-
21 CIATED WITH AND INCURRED BY THE COMMISSIONER IN COMPLYING WITH
22 THIS SECTION SHALL BE DISTRIBUTED EQUITABLY BY THE COMMISSIONER
23 AMONG INSURERS AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN
24 THIS STATE AND THE RESULTING REVENUE SHALL BE EARMARKED FOR THE
25 INSURANCE BUREAU.

1 SEC. 2115E. AN AUTOMOBILE INSURER SHALL GIVE TO EACH
2 INSURED WHO CALLS THE INSURER CONCERNING A COLLISION CLAIM THE
3 TELEPHONE NUMBERS FOR THE FOLLOWING:

4 (A) THE BETTER BUSINESS BUREAU.

5 (B) THE BUREAU OF AUTOMOTIVE REGULATION.

6 (C) IF APPLICABLE, THE CONSUMER AFFAIRS DIVISION OF THE
7 NEAREST LOCAL UNIT OF GOVERNMENT.

8 SEC. 2134. EACH INSURER TRANSACTING AUTOMOBILE INSURANCE IN
9 THIS STATE SHALL DO BOTH OF THE FOLLOWING:

10 (A) BE A PAYING MEMBER OF THE NATIONAL INSURANCE CRIME
11 BUREAU.

12 (B) SECURE FROM EACH INSURED THE VEHICLE IDENTIFICATION
13 NUMBER FOR EACH VEHICLE INSURED BY THE INSURER.

14 SEC. 2136. EACH INSURER, WHEN WRITING AUTOMOBILE COMPREHEN-
15 SIVE INSURANCE COVERAGE FOR A PERSON WHO WAS NOT PREVIOUSLY A
16 POLICYHOLDER WITH THE INSURER OR WHEN INSURING AN AUTOMOBILE THAT
17 WAS NOT PREVIOUSLY INSURED BY THE INSURER FOR A PERSON WHO WAS
18 PREVIOUSLY A POLICYHOLDER WITH THE INSURER BUT WHO HAS FILED A
19 CLAIM WITH THE INSURER WITHIN THE PRECEDING 3 YEARS TO RECOVER
20 FOR THE THEFT OF AN AUTOMOBILE, SHALL VERIFY THE EXISTENCE OF THE
21 AUTOMOBILE BEING INSURED. TO COMPLY WITH THIS SECTION, AN
22 INSURER SHALL EITHER MAKE A PERSONAL INSPECTION OF THE AUTOMOBILE
23 OR OBTAIN NOT LESS THAN 2 PHOTOGRAPHS OF THE AUTOMOBILE THAT
24 DEPICT THE AUTOMOBILE DIAGONALLY FROM THE FRONT AND REAR. THIS
25 SECTION SHALL NOT APPLY WHEN AN AGENT SUBJECT TO SECTION 1209(2)
26 TRANSFERS A PERSON'S AUTOMOBILE COMPREHENSIVE INSURANCE COVERAGE

1 FROM AN INSURER THAT HAS AUTHORIZED THE AGENT TO ANOTHER INSURER
2 THAT HAS AUTHORIZED THE AGENT.

3 SEC. 2138. AN INSURER SHALL NOT MAKE A CLAIM PAYMENT ON AN
4 AUTOMOBILE INSURANCE POLICY FOR A LOSS ARISING FROM THE THEFT OF
5 AN AUTOMOBILE COVERED UNDER THE POLICY UNLESS THE INSURED HAS
6 FILED A REPORT OF THE THEFT TO THE STATE POLICE OR THE LAW
7 ENFORCEMENT AGENCY WITHIN WHOSE JURISDICTION THE THEFT OCCURRED.

8 Sec. 3009. (1) An automobile liability or motor vehicle
9 liability policy insuring against loss resulting from liability
10 imposed by law for property damage, bodily injury, or death suf-
11 fered by any person arising out of the ownership, maintenance, or
12 use of a motor vehicle shall not be delivered or issued for
13 delivery in this state with respect to any motor vehicle regis-
14 tered or principally garaged in this state unless ~~the liability~~
15 ~~coverage~~ IT PROVIDES LIABILITY COVERAGE FOR ACCIDENTS OCCURRING
16 OUTSIDE THE STATE OF MICHIGAN AND SUCH COVERAGE is subject to a
17 limit, exclusive of interest and costs, of not less than
18 \$20,000.00 because of bodily injury to or death of 1 person in
19 any 1 accident, and subject to that limit for 1 person, to a
20 limit of not less than \$40,000.00 because of bodily injury to or
21 death of 2 or more persons in any 1 accident, and to a limit of
22 not less than \$10,000.00 because of injury to or destruction of
23 property of others in any accident. A PERSON SHALL CARRY LIABIL-
24 ITY COVERAGE FOR ACCIDENTS OCCURRING IN THE STATE OF MICHIGAN FOR
25 NOT LESS THAN THE LIMITS PRESCRIBED IN THIS SUBSECTION IF THE
26 PERSON HAS CONVICTIONS FOR, DETERMINATIONS OF RESPONSIBILITY FOR

1 CIVIL INFRACTIONS FOR, OR FINDINGS OF RESPONSIBILITY IN PROBATE
2 COURT FOR, ANY OF THE FOLLOWING:

3 (A) OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF
4 INTOXICATING LIQUOR OR A CONTROLLED SUBSTANCE WITHIN THE LAST 5
5 YEARS.

6 (B) CARELESS, RECKLESS, OR FELONIOUS DRIVING WITHIN THE LAST
7 5 YEARS.

8 (C) OPERATING A MOTOR VEHICLE WITH A REVOKED OR SUSPENDED
9 LICENSE WITHIN THE LAST 5 YEARS.

10 (D) NEGLIGENT HOMICIDE OR MANSLAUGHTER INVOLVING THE OPERA-
11 TION OF A MOTOR VEHICLE.

12 (2) UNLESS WAIVED PURSUANT TO SUBSECTION (4), AN AUTOMOBILE
13 INSURANCE POLICY SHALL PROVIDE FOR AUTOMOBILE LIABILITY OR MOTOR
14 VEHICLE LIABILITY COVERAGE FOR ACCIDENTS OCCURRING WITHIN THE
15 STATE OF MICHIGAN AND WITHIN THE LIMITS PRESCRIBED IN SUBSECTION
16 (1).

17 (3) AN INSURER SHALL OFFER AUTOMOBILE LIABILITY OR MOTOR
18 VEHICLE LIABILITY COVERAGE FOR ACCIDENTS OCCURRING WITHIN AND
19 OUTSIDE THE STATE OF MICHIGAN, THAT INSURES AGAINST LOSS RESULT-
20 ING FROM LIABILITY IMPOSED BY LAW FOR PROPERTY DAMAGE, BODILY
21 INJURY, OR DEATH SUFFERED BY ANY PERSON ARISING OUT OF THE OWNER-
22 SHIP, MAINTENANCE, OR USE OF A MOTOR VEHICLE, EXCLUSIVE OF INTER-
23 EST AND COSTS, OF NOT LESS THAN \$50,000.00 BECAUSE OF BODILY
24 INJURY TO OR DEATH OF 1 PERSON IN ANY 1 ACCIDENT, AND SUBJECT TO
25 THAT LIMIT FOR 1 PERSON, TO A LIMIT OF NOT LESS THAN \$100,000.00
26 BECAUSE OF BODILY INJURY TO OR DEATH OF 2 OR MORE PERSONS IN ANY
27 1 ACCIDENT.

1 (4) AN INSURED OR APPLICANT FOR INSURANCE MAY WAIVE IN
2 WRITING ON A FORM APPROVED BY THE COMMISSIONER AUTOMOBILE LIABIL-
3 ITY OR MOTOR VEHICLE LIABILITY COVERAGE FOR ACCIDENTS OCCURRING
4 WITHIN THE STATE OF MICHIGAN. THE WAIVER FORM SHALL INCLUDE A
5 DESCRIPTION OF THE COVERAGE AND A STATEMENT OF THE DIFFERENCE IN
6 THE COST OF THIS COVERAGE WITH AND WITHOUT THE WAIVER. A WAIVER
7 UNDER THIS SUBSECTION SHALL DO BOTH OF THE FOLLOWING:

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

9 (B) CONTINUE IN EFFECT FOR ANY RENEWAL, REINSTATEMENT, SUB-
10 STITUTE, TRANSFER, MODIFIED, ALTERED, AMENDED, OR REPLACEMENT
11 POLICY UNTIL SUCH TIME AS THE NAMED INSURED'S REQUEST IN WRITING
12 FOR A CHANGE IN THE WAIVER IS RECEIVED BY THE INSURER.

13 (5) ~~(2)~~ If authorized by the insured, automobile liability
14 or motor vehicle liability coverage may be excluded when a vehi-
15 cle is operated by a named person. Such exclusion shall not be
16 valid unless the following notice is on the face of the policy or
17 the declaration page or certificate of the policy and on the cer-
18 tificate of insurance:

19 Warning--when a named excluded person operates a vehicle all
20 liability coverage is void--no one is insured. Owners of the
21 vehicle and others legally responsible for the acts of the named
22 excluded person remain fully personally liable.

23 (6) ~~(3)~~ If an insurer deletes coverages from an automobile
24 insurance policy pursuant to section 3101, the insurer shall send
25 documentary evidence of the deletion to the insured.

26 SEC. 3010. (1) EACH INSURER ISSUING AUTOMOBILE LIABILITY OR
27 MOTOR VEHICLE LIABILITY POLICIES IN THIS STATE SHALL OFFER TO

1 INCLUDE IN EACH SUCH POLICY UNINSURED MOTORIST COVERAGE IN
2 AMOUNTS NOT LESS THAN THOSE REQUIRED BY SECTION 3009(1).

3 (2) AS USED IN THIS SECTION:

4 (A) "UNINSURED MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT
5 MEETS ANY OF THE FOLLOWING:

6 (i) IS NOT INSURED BY AN AUTOMOBILE LIABILITY OR MOTOR VEHI-
7 CLE LIABILITY POLICY AT THE TIME OF THE ACCIDENT.

8 (ii) IS A HIT-AND-RUN MOTOR VEHICLE WHOSE OPERATOR OR OWNER
9 HAS NOT BEEN IDENTIFIED, AND THAT STRIKES OR OTHERWISE CAUSES
10 DAMAGE TO A PERSON NAMED IN THE POLICY OR A SPOUSE OR RELATIVE
11 DOMICILED IN THE SAME HOUSEHOLD, A VEHICLE OCCUPIED BY A PERSON
12 NAMED IN THE POLICY OR A SPOUSE OR RELATIVE DOMICILED IN THE SAME
13 HOUSEHOLD, OR A VEHICLE COVERED BY THE UNINSURED MOTORIST COVER-
14 AGE OR ANY PERSON OCCUPYING THAT VEHICLE.

15 (iii) IS INSURED BY AN AUTOMOBILE LIABILITY OR MOTOR VEHICLE
16 LIABILITY POLICY AT THE TIME OF THE ACCIDENT BUT THE INSURER
17 DENIES COVERAGE OR IS OR BECOMES INSOLVENT.

18 (B) "UNINSURED MOTORIST COVERAGE" MEANS COVERAGE, UNDER PRO-
19 VISIONS APPROVED BY THE COMMISSIONER, THAT PAYS ALL SUMS THAT THE
20 INSURED PERSON IS LEGALLY ENTITLED TO RECOVER AS DAMAGES FROM THE
21 OWNER OR OPERATOR OF AN UNINSURED MOTOR VEHICLE, SUBJECT TO THE
22 LIMITS OF UNINSURED MOTORIST COVERAGE APPLICABLE TO THE LOSS.

23 SEC. 3015. (1) EACH AUTOMOBILE INSURANCE POLICY DELIVERED
24 OR ISSUED FOR DELIVERY IN THIS STATE THAT PROVIDES COVERAGE FOR
25 THE THEFT OF AN AUTOMOBILE MAY INCLUDE EITHER OR BOTH OF THE FOL-
26 LOWING PROVISIONS:

1 (A) A PROVISION THAT IMPOSES A \$500.00 DEDUCTIBLE TO THE
2 THEFT LOSS OF THE AUTOMOBILE IF THE AUTOMOBILE WAS UNATTENDED
3 WHEN STOLEN AND WAS STOLEN WHILE THE KEYS TO THE AUTOMOBILE WERE
4 LOCATED IN THE PASSENGER COMPARTMENT OF THE AUTOMOBILE. THE
5 DEDUCTIBLE SHALL NOT APPLY IF THE AUTOMOBILE IS THE SUBJECT OF A
6 BAILMENT CONTRACT.

7 (B) A PROVISION THAT REDUCES THE RECOVERY UNDER THE POLICY
8 BY 10% FOR THE THEFT LOSS OF THE AUTOMOBILE IF THE AUTOMOBILE WAS
9 UNATTENDED WHEN STOLEN AND WAS STOLEN WHILE THE KEYS TO THE AUTO-
10 MOBILE WERE LOCATED IN THE PASSENGER COMPARTMENT OF THE
11 AUTOMOBILE. THE REDUCTION UNDER THIS SUBDIVISION SHALL NOT APPLY
12 IF THE AUTOMOBILE IS THE SUBJECT OF A BAILMENT CONTRACT.

13 (2) IF AN INSURER INCLUDES EITHER OR BOTH OF THE PROVISIONS
14 PROVIDED IN SUBSECTION (1) IN AN AUTOMOBILE INSURANCE POLICY THAT
15 PROVIDES COVERAGE FOR THE THEFT OF AN AUTOMOBILE, THE INSURER
16 SHALL INCLUDE THE PROVISION OR PROVISIONS IN EACH AUTOMOBILE
17 INSURANCE POLICY PROVIDING COVERAGE FOR THE THEFT OF AN AUTOMO-
18 BILE THAT IS THEREAFTER DELIVERED OR ISSUED FOR DELIVERY BY THE
19 INSURER.

20 Sec. 3037. (1) At the time a new applicant for the insur-
21 ance required by section 3101 for a private passenger nonfleet
22 automobile makes an initial written application to the insurer,
23 an insurer shall offer ~~both~~ ALL of the following ~~collision~~
24 coverages to the applicant:

25 (a) Limited collision coverage ~~which shall pay~~ THAT PAYS
26 for collision damage to the insured vehicle without a deductible

1 amount ~~when~~ IF the operator of the vehicle is not substantially
2 at fault in the accident from which the damage arose.

3 (b) Broad form collision coverage ~~which shall pay~~ THAT
4 PAYS for collision damage to the insured vehicle regardless of
5 fault, with deductibles in such amounts as may be approved by the
6 commissioner, which deductibles shall be waived if the operator
7 of the vehicle is not substantially at fault in the accident from
8 which the damage arose.

9 (C) CASH INDEMNITY COLLISION COVERAGE THAT PAYS FOR COLLI-
10 SION DAMAGE TO THE INSURED VEHICLE BASED UPON A PERCENTAGE OF THE
11 AVERAGE RATE FOR THE TYPE OF REPAIR NEEDED IN THE INSURED'S GEO-
12 GRAPHIC AREA AS DEFINED BY THE INSURER AND APPROVED BY THE
13 COMMISSIONER.

14 (D) CASH INDEMNITY COMPREHENSIVE COVERAGE THAT PAYS FOR COM-
15 PREHENSIVE DAMAGE TO THE INSURED VEHICLE BASED UPON A PERCENTAGE
16 OF THE AVERAGE RATE FOR THE TYPE OF REPAIR NEEDED IN THE
17 INSURED'S GEOGRAPHIC AREA AS DEFINED BY THE INSURER AND APPROVED
18 BY THE COMMISSIONER.

19 (2) In addition to the coverages offered pursuant to subsec-
20 tion (1), standard, ~~and~~ limited, AND CASH INDEMNITY collision
21 coverage AND CASH INDEMNITY COMPREHENSIVE COVERAGE may be offered
22 with deductibles as approved by the commissioner.

23 (3) ~~Where~~ IF the applicant is required by the insurer to
24 sign the written application form described in subsection (1), if
25 the applicant chooses to reject ~~both~~ ALL of the ~~collision~~
26 coverages, or limited collision without a deductible, offered
27 under subsection (1), the rejection shall be made in writing

1 either on a separate form or as part of the application, or some
2 combination thereof, as approved by the commissioner. The rejection
3 statement shall inform the applicant of his or her rights
4 ~~in the event of~~ IF damage OCCURS to the insured vehicle under
5 the alternative coverage option selected.

6 (4) ~~In the case of~~ IF a written application IS made by
7 mail ~~, if~~ AND the applicant fails to sign or return a written
8 rejection statement as required by subsection (3), the requirements
9 of subsection (3) shall be considered to have been satisfied
10 with respect to the insurer if all of the following occur:

11 (a) The application provides the applicant with an opportunity
12 to select the coverages required to be offered under subsection
13 (1).

14 (b) The applicant is requested to sign the rejection statement,
15 either as part of the application or as a separate form
16 issued with the application, if the applicant fails to select
17 ~~either~~ ANY of the coverages specified in subsection (1).

18 (c) The applicant signed the application as otherwise
19 required by the insurer.

20 (5) At the time of the initial written application specified
21 in subsection (1), an agent or insurer shall provide the applicant
22 with a written explanation of ~~collision~~ coverage options
23 UNDER THIS SECTION in easily understandable language, if that
24 information is not contained in the application form.

25 (6) At least annually in conjunction with the renewal of a
26 private passenger nonfleet automobile insurance policy, or at the
27 time of an addition, deletion, or substitution of a vehicle under

1 an existing policy, other than a group policy, an insurer shall
 2 inform the policyholder, on a form approved by the commissioner,
 3 of all of the following:

4 (a) The current status of ~~collision~~ coverage UNDER THIS
 5 SECTION, if any, for the vehicle or vehicles affected by the
 6 renewal or change and the rights of the insured ~~in the event of~~
 7 ~~damages~~ IF DAMAGE OCCURS to the insured vehicle under the cur-
 8 rent coverage.

9 (b) The ~~collision~~ coverages UNDER THIS SECTION available
 10 under the policy and the rights of the insured ~~in the event of~~
 11 IF damage OCCURS to the insured vehicle under each ~~collision~~
 12 option.

13 (c) Procedures for the policyholder to follow if he or she
 14 wishes to change the current ~~collision~~ coverage UNDER THIS
 15 SECTION.

16 (7) As used in this section:

17 (a) "Collision damage" does not include losses customarily
 18 insured under comprehensive coverages.

19 (b) "Substantially at fault" means a person's action or
 20 inaction was more than 50% of the cause of the accident.

21 (8) ~~This section shall take effect March 1, 1980~~

22 AUTOMOBILE INSURERS MAY CONDUCT JOINT SURVEYS WITH OTHER AUTOMO-
 23 BILE INSURERS IN DETERMINING WHAT IS AN AVERAGE RATE FOR A TYPE
 24 OF AUTOMOBILE REPAIR IN A GEOGRAPHIC AREA.

25 Sec. 3101. (1) The owner or registrant of a motor vehicle
 26 required to be registered in this state shall maintain security
 27 for payment of benefits under personal protection insurance —

1 IN AN AMOUNT NOT LESS THAN THAT REQUIRED IN SECTION 3107(1)(A)(i)
2 AND (1)(B)(i), property protection insurance, and residual
3 liability insurance AS PROVIDED IN SECTION 3009(1). Security
4 shall only be required to be in effect during the period the
5 motor vehicle is driven or moved upon a highway. Notwithstanding
6 any other provision in this act, an insurer that has issued an
7 automobile insurance policy on a motor vehicle that is not driven
8 or moved upon a highway may allow the insured owner or registrant
9 of the motor vehicle to delete a portion of the coverages under
10 the policy and maintain the comprehensive coverage portion of the
11 policy in effect.

12 (2) As used in this chapter:

13 (a) "Automobile insurance" means that term as defined in
14 section 2102.

15 (b) "Highway" means that term as defined in section 20 of
16 the Michigan vehicle code, Act No. 300 of the Public Acts of
17 1949, being section 257.20 of the Michigan Compiled Laws.

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

1 Michigan Compiled Laws, OR AN ORV AS DEFINED IN SECTION 1 OF ACT
2 NO. 319 OF THE PUBLIC ACTS OF 1975, BEING SECTION 257.1601 OF THE
3 MICHIGAN COMPILED LAWS.

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

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

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

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

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

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

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

12 (H) "OWNERSHIP, OPERATION, MAINTENANCE, OR USE OF A MOTOR
13 VEHICLE AS A MOTOR VEHICLE" MEANS THAT THE INVOLVEMENT OF THE
14 MOTOR VEHICLE IN THE INJURY WAS DIRECTLY RELATED TO THE TRANSPOR-
15 TATION FUNCTION OF THE MOTOR VEHICLE.

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

21 (3) Security may be provided under a policy issued by an
22 insurer duly authorized to transact business in this state
23 ~~which~~ THAT affords insurance for the payment of benefits
24 described in subsection (1). A policy of insurance represented
25 or sold as providing security shall be deemed to provide insur-
26 ance 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 Sec. 3101a. (1) An insurer ~~—~~ in conjunction with the
12 issuance of an automobile insurance policy ~~—~~ as defined in sec-
13 tion 3303 ~~—~~ shall provide 2 certificates of insurance to each
14 policyholder. EACH CERTIFICATE OF INSURANCE SHALL LIST THE
15 MARKET ASSISTANCE PLAN'S TOLL-FREE TELEPHONE NUMBER ESTABLISHED
16 PURSUANT TO SECTION 2115A. The insurer shall mark 1 of the cer-
17 tificates as the secretary of state's copy, ~~which copy~~ AND THAT
18 COPY OR AN ELECTRONICALLY OR ELECTROMAGNETICALLY TRANSMITTED FAC-
19 SIMILE OF THAT COPY shall be filed with the secretary of state by
20 the policyholder upon application for a vehicle registration.
21 The secretary of state shall not maintain the certificate of
22 insurance received under this subsection on file.

23 (2) A person who supplies false information to the secretary
24 of state under this section or who issues or uses an invalid cer-
25 tificate of insurance is guilty of a misdemeanor punishable by
26 imprisonment for not more than 1 year, or a fine of not more than
27 \$1,000.00, or both.

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

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

22 (2) The association shall provide and each member shall
23 accept indemnification for 100% of the amount of ultimate loss
24 sustained under personal protection insurance coverages in excess
25 of \$250,000.00 in each loss occurrence COVERED BY A MOTOR VEHICLE
26 ACCIDENT POLICY ISSUED OR RENEWED EFFECTIVE BEFORE OCTOBER 1,
27 1993, BUT ONLY FOR AN INJURY THAT OCCURS BEFORE THAT POLICY'S

1 NEXT RENEWAL DATE OR THE POLICY'S CANCELLATION. As used in this
2 section, "ultimate loss" means the actual loss amounts ~~which~~
3 THAT a member is obligated to pay and ~~which~~ THAT are paid or
4 payable by the member, and shall not include claim expenses. An
5 ultimate loss is incurred by the association on the date ~~which~~
6 THAT the loss occurs.

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

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

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

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

1 (7) The association shall do all of the following on behalf
2 of the members of the association:

3 (a) Assume 100% of all liability as provided in subsection
4 (2).

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

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

20 (d) ~~In~~ SUBJECT TO SUBSECTIONS (25) AND (26), IN a manner
21 provided for in the plan of operation, calculate and charge to
22 members of the association a total premium sufficient to cover
23 the expected losses and expenses of the association ~~which~~ THAT
24 the association will likely incur during the period for which the
25 premium is applicable. The premium shall include an amount to
26 cover incurred but not reported losses for the period and may be
27 adjusted for any excess or deficient premiums from previous

1 periods. Excesses or deficiencies from previous periods may be
2 fully adjusted in a single period or may be adjusted over several
3 periods in a manner provided for in the plan of operation. Each
4 member shall be charged an amount equal to that member's total
5 earned car years of insurance providing the security required by
6 section 3101(1) or 3103(1), or both, written in this state during
7 the period to which the premium applies, multiplied by the aver-
8 age premium per car. The average premium per car shall be the
9 total premium calculated divided by the total earned car years of
10 insurance providing the security required by section 3101(1) or
11 3103(1) written in this state of all members during the period to
12 which the premium applies. As used in this subdivision, "car"
13 includes a motorcycle.

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

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

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

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

23 (g) Establish procedures for reviewing claims procedures and
24 practices of members of the association. If the claims proce-
25 dures or practices of a member are considered inadequate to prop-
26 erly service the liabilities of the association, the association
27 may undertake or may contract with another person, including

1 another member, to adjust or assist in the adjustment of claims
2 for the member on claims ~~which~~ THAT create a potential liabil-
3 ity to the association and may charge the cost of the adjustment
4 to the member.

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

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

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

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

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

25 (e) Contract for goods and services, including independent
26 claims management, actuarial, investment, and legal services,

1 from others within or without this state to assure the efficient
2 operation of the association.

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

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

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

13 (10) The plan of operation shall provide for all of the
14 following:

15 (a) The establishment of necessary facilities.

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

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

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

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

25 (E) ~~(f)~~ Reimbursement of each member of the board by the
26 association for actual and necessary expenses incurred on
27 association business.

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

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

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

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

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

24 (14) Each director shall be appointed by the commissioner
25 and shall serve until that member's successor is selected and
26 qualified. The chairperson of the board shall be elected by the

1 board. A vacancy on the board shall be filled by the
2 commissioner consistent with the plan of operation.

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

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

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

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

1 section. If the board fails to submit a revised plan of
2 operation ~~which~~ THAT meets the requirements and objectives of
3 this section within the 30-day period, the commissioner shall
4 enter an order accordingly and shall immediately formulate and
5 place into effect a plan consistent with the requirements and
6 objectives of this section.

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

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

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

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

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

4 (24) ~~This section shall take effect on July 1, 1978.~~ The
5 association shall not have liability for losses occurring before
6 ~~the effective date of this section~~ JULY 1, 1978. THE ASSOCIA-
7 TION SHALL NOT HAVE LIABILITY FOR ULTIMATE LOSS ARISING OUT OF AN
8 INJURY THAT OCCURS UNDER A POLICY ISSUED OR RENEWED BY A MEMBER
9 EFFECTIVE ON AND AFTER OCTOBER 1, 1993. THE ASSOCIATION SHALL
10 CONTINUE TO HAVE LIABILITY FOR ULTIMATE LOSS ARISING OUT OF AN
11 INJURY THAT OCCURS UNDER A POLICY ISSUED OR RENEWED BY A MEMBER
12 EFFECTIVE BEFORE OCTOBER 1, 1993 BUT ONLY FOR AN INJURY THAT
13 OCCURS BEFORE THAT POLICY'S NEXT RENEWAL DATE OR THE POLICY'S
14 CANCELLATION.

15 (25) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION,
16 ON AND AFTER OCTOBER 1, 1993 THE ASSOCIATION IS ONLY AUTHORIZED
17 TO ASSESS MEMBERS TO RECOUP DEFICIENCIES AS PROVIDED IN
18 SUBSECTION (26).

19 (26) THE ASSOCIATION SHALL EVALUATE ANNUALLY THE ASSETS AND
20 LIABILITIES OF THE ASSOCIATION AND DETERMINE IF A DEFICIENCY
21 EXISTS. IF A DEFICIENCY DOES EXIST, THE ASSOCIATION, IN ACCORD-
22 ANCE WITH THE PLAN OF OPERATION, SHALL ASSESS MEMBERS ANNUALLY AS
23 FOLLOWS:

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

1 (B) IF THE DEFICIENCY IS GREATER THAN OR EQUAL TO
2 \$100,000,000.00, THE GREATER OF \$100,000,000.00 OR 12% OF THE
3 DEFICIENCY.

4 (C) IF AN ASSESSMENT UNDER SUBDIVISION (A) OR (B) IS INSUF-
5 FICIENT TO PERMIT THE ASSOCIATION TO MEET ITS PAYMENTS, THEN THE
6 ASSESSMENT SHALL BE INCREASED TO AN AMOUNT SUFFICIENT TO MEET
7 THOSE PAYMENTS.

8 (27) THE ASSOCIATION SHALL REPORT TO THE COMMISSIONER AND TO
9 THE SENATE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON
10 INSURANCE ISSUES BY OCTOBER 1, 2003 ON THE NUMBER OF EXISTING
11 CLAIMS, THE PROJECTED COST ASSOCIATED WITH THOSE CLAIMS, AND THE
12 AMOUNT OF RESERVES.

13 SEC. 3104A. (1) AUTOMOBILE INSURERS MAY ESTABLISH A REIN-
14 SURANCE MECHANISM APPROVED BY THE COMMISSIONER TO REINSURE PER-
15 SONAL PROTECTION INSURANCE COVERAGES THAT ARE IN EXCESS OF
16 \$250,000.00 FOR POLICIES ISSUED OR RENEWED EFFECTIVE ON AND AFTER
17 OCTOBER 1, 1993.

18 (2) A REINSURANCE MECHANISM ESTABLISHED PURSUANT TO THIS
19 SECTION SHALL:

20 (A) PERMIT ALL INSURERS TRANSACTING AUTOMOBILE INSURANCE IN
21 THIS STATE TO BE MEMBERS. HOWEVER, TO BE A MEMBER, AN AUTOMOBILE
22 INSURER THAT IS CURRENTLY WRITING AUTOMOBILE INSURANCE IN THIS
23 STATE SHALL ELECT TO BECOME A MEMBER BY SEPTEMBER 1, 1993, AN
24 ADMITTED AUTOMOBILE INSURER THAT BEGINS WRITING AUTOMOBILE INSUR-
25 ANCE AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL ELECT TO
26 BECOME A MEMBER BEFORE INITIATING THE WRITING OF AUTOMOBILE
27 INSURANCE, AND AN AUTOMOBILE INSURER ADMITTED TO DO BUSINESS IN

1 THIS STATE AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL ELECT
2 TO BECOME A MEMBER BY NOT LATER THAN 60 DAYS AFTER BEING ADMITTED
3 TO DO BUSINESS IN THIS STATE. AN INSURER THAT ELECTS NOT TO
4 BECOME A MEMBER SHALL DEMONSTRATE TO THE COMMISSIONER'S SATISFAC-
5 TION HOW THE INSURER WILL BE ABLE TO PAY PERSONAL PROTECTION
6 INSURANCE COVERAGES UNDER THIS CHAPTER. AN INSURER WHO HAS
7 ELECTED TO BECOME A MEMBER MAY TERMINATE ITS MEMBERSHIP ONLY AS
8 PERMITTED BY THE PLAN OF OPERATION ESTABLISHED PURSUANT TO
9 SUBDIVISION (B).

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

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

15 SEC. 3104B. (1) AS USED IN THIS SECTION:

16 (A) "HEALTH CARE FACILITY" MEANS ALL OF THE FOLLOWING:

17 (i) A FACILITY OR AGENCY LICENSED OR AUTHORIZED UNDER PARTS
18 201 TO 217 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
19 ACTS OF 1978, BEING SECTIONS 333.20101 TO 333.21799E OF THE
20 MICHIGAN COMPILED LAWS, OR A LICENSED PART THEREOF.

21 (ii) A MENTAL HOSPITAL, PSYCHIATRIC HOSPITAL, PSYCHIATRIC
22 UNIT, OR MENTAL RETARDATION FACILITY OPERATED BY THE DEPARTMENT
23 OF MENTAL HEALTH OR CERTIFIED OR LICENSED UNDER THE MENTAL HEALTH
24 CODE, ACT NO. 258 OF THE PUBLIC ACTS OF 1974, BEING SECTIONS
25 330.1001 TO 330.2106 OF THE MICHIGAN COMPILED LAWS.

26 (iii) A FACILITY PROVIDING OUTPATIENT PHYSICAL THERAPY
27 SERVICES, INCLUDING SPEECH PATHOLOGY SERVICES.

1 (iv) A KIDNEY DISEASE TREATMENT CENTER, INCLUDING A
2 FREESTANDING HEMODIALYSIS UNIT.

3 (v) AN ORGANIZED AMBULATORY HEALTH CARE FACILITY.

4 (vi) A TERTIARY HEALTH CARE SERVICE FACILITY.

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

8 (viii) AN OUTPATIENT PSYCHIATRIC CLINIC.

9 (ix) A HOME HEALTH AGENCY.

10 (B) "HEALTH CARE PROVIDER" MEANS A PERSON LICENSED, CERTI-
11 FIED, OR REGISTERED UNDER PARTS 61 TO 65 OR 161 TO 182 OF ACT
12 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.6101 TO
13 333.6523 AND 333.16101 TO 333.18237 OF THE MICHIGAN COMPILED
14 LAWS.

15 (2) THERE IS CREATED A PERSONAL INJURY PROTECTION TASK
16 FORCE. THE PERSONAL INJURY PROTECTION TASK FORCE SHALL CONSIST
17 OF MEMBERS APPOINTED BY THE COMMISSIONER.

18 (3) THE PERSONAL INJURY PROTECTION TASK FORCE SHALL PREPARE
19 A PLAN TO REDUCE THE COSTS ASSOCIATED WITH CATASTROPHIC CLAIMS.
20 THE PLAN MAY INCLUDE BUT IS NOT LIMITED TO THE FOLLOWING:

21 (A) THE STUDY OF THE ISSUE OF STRUCTURED SETTLEMENTS.

22 (B) THE EXAMINATION OF THE USE OF MANAGED CARE, CASE MANAGE-
23 MENT, TREATMENT PROTOCOLS, UTILIZATION REVIEW, AND REHABILITATION
24 IN THE AREA OF CARE AND CLAIMS.

25 (C) THE PROPOSAL OF STANDARDS FOR ASSESSING INJURIES AND
26 PROGNOSIS, MAKING TREATMENT GOALS, AND IMPLEMENTING TREATMENT.

1 (D) THE INVESTIGATION OF COST SHIFTING AND OTHER SUSPECTED
2 ABUSES WITHIN THE SYSTEM INCLUDING RECOMMENDATIONS ON LIMITING
3 COSTS ASSOCIATED WITH REHABILITATION AND HOME AND VEHICLE MODIFI-
4 CATION ABUSES.

5 (4) THE PERSONAL INJURY PROTECTION TASK FORCE SHALL REPORT
6 THE PLAN TO THE GOVERNOR AND THE SENATE AND HOUSE OF REPRESENTA-
7 TIVES STANDING COMMITTEES ON INSURANCE ISSUES BY NOT LATER THAN 1
8 YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

9 (5) THE COSTS AND EXPENSES ASSOCIATED WITH AND INCURRED BY
10 THE OPERATION OF THE PERSONAL INJURY PROTECTION TASK FORCE SHALL
11 BE DISTRIBUTED EQUITABLY BY THE COMMISSIONER AMONG INSURERS
12 AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS STATE AND THE
13 RESULTING REVENUE SHALL BE EARMARKED FOR THE INSURANCE BUREAU.

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

17 (a) Allowable expenses ~~consisting of all reasonable~~
18 ~~charges~~ AS PROVIDED IN SUBPARAGRAPHS (i) AND (ii) incurred for
19 ~~reasonably necessary~~ MEDICALLY APPROPRIATE products, services,
20 and accommodations for an injured person's care, recovery, or
21 rehabilitation. ~~Allowable expenses within personal protection~~
22 ~~insurance coverage shall not include charges for a hospital room~~
23 ~~in excess of a reasonable and customary charge for semiprivate~~
24 ~~accommodations except if the injured person requires special or~~
25 ~~intensive care, or for funeral and burial expenses in the amount~~
26 ~~set forth in the policy which shall not be less than \$1,750.00 or~~
27 ~~more than \$5,000.00.~~ ON FORMS APPROVED BY THE COMMISSIONER, AN

1 INSURER SHALL OFFER THE FOLLOWING COVERAGES AND AN INSURED SHALL
2 SELECT IN WRITING 1 OF THE FOLLOWING COVERAGES:

3 (i) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL REA-
4 SONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$900,000.00 FOR MEDI-
5 CALLY APPROPRIATE PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN
6 INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION. THIS LIMIT
7 SHALL BE ADJUSTED UP ANNUALLY BY THE COMMISSIONER BEGINNING
8 OCTOBER 1, 1993 SO THAT 99% OF PERSONAL PROTECTION INSURANCE BEN-
9 EFIT CLAIMS ARE COVERED BY THE LIMIT PROVIDED FOR IN THIS
10 SUBPARAGRAPH. ANY CHANGE IN THE LIMIT APPLIES ONLY TO BENEFITS
11 ARISING OUT OF ACCIDENTS OCCURRING AFTER THE DATE OF THE CHANGE
12 IN THE LIMIT.

13 (ii) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL REA-
14 SONABLE CHARGES INCURRED UP TO \$2,000,000.00, \$3,000,000.00,
15 \$4,000,000.00, OR \$5,000,000.00 MAXIMUMS AS SELECTED BY THE
16 INSURED, AND THE INSURER MAY OFFER \$7,000,000.00, \$10,000,000.00,
17 AND ADDITIONAL COVERAGE LIMITS, FOR MEDICALLY APPROPRIATE PROD-
18 UCTS, SERVICES, AND ACCOMMODATIONS FOR AN INJURED PERSON'S CARE,
19 RECOVERY, OR REHABILITATION. ANY CHANGE IN THE LIMITS APPLIES
20 ONLY TO BENEFITS ARISING OUT OF ACCIDENTS OCCURRING AFTER THE
21 DATE OF THE CHANGE IN THE LIMIT.

22 (b) Work loss consisting of loss of income from work an
23 injured person would have performed, IF HE OR SHE HAD NOT BEEN
24 INJURED, during the first 3 years after the date of the accident
25 ~~if he or she had not been injured~~ UNDER SUBPARAGRAPH (i) OR FOR
26 ADDITIONAL PERIODS AS SELECTED BY THE INSURED UP TO HIS OR HER
27 CAREER LIFETIME UNDER SUBPARAGRAPH (ii). Work loss does not

1 include any loss after the date on which the injured person
2 dies. Because the benefits received from personal protection
3 insurance for loss of income are not taxable income, the benefits
4 payable for such loss of income shall be reduced 15% unless the
5 claimant presents to the insurer in support of his or her claim
6 reasonable proof of a lower value of the income tax advantage in
7 his or her case, in which case the lower value shall apply. ON
8 FORMS APPROVED BY THE COMMISSIONER, AN INSURER SHALL OFFER THE
9 FOLLOWING COVERAGES AND AN INSURED SHALL SELECT IN WRITING 1 OF
10 THE FOLLOWING COVERAGES:

11 (i) Beginning March 30, 1973, ~~the~~ benefits payable for
12 work loss sustained in a single 30-day period and ~~the~~ income
13 earned by an injured person for work during the same period IN AN
14 AMOUNT THAT together shall not exceed \$1,000.00, which maximum
15 shall apply pro rata to any lesser period of work loss.
16 Beginning October 1, 1974, the maximum shall be adjusted annually
17 to reflect changes in the cost of living under rules prescribed
18 by the commissioner but any change in the maximum shall apply
19 only to benefits arising out of accidents occurring ~~subsequent~~
20 ~~to~~ AFTER the date of change in the maximum.

21 (ii) BEGINNING OCTOBER 1, 1993, BENEFITS PAYABLE FOR WORK
22 LOSS SUSTAINED IN A SINGLE 30-DAY PERIOD AND INCOME EARNED BY AN
23 INJURED PERSON FOR WORK DURING THE SAME PERIOD IN AN AMOUNT THAT
24 EQUALS THE AMOUNT IN SUBPARAGRAPH (i). THIS AMOUNT SHALL BE FOR
25 WORK LOSS CONSISTING OF LOSS OF INCOME FROM WORK AN INJURED
26 PERSON WOULD HAVE PERFORMED, IF HE OR SHE HAD NOT BEEN INJURED,

1 DURING HIS OR HER CAREER LIFETIME FOR PERIODS IN ADDITION TO THE
2 PERIOD IN SUBPARAGRAPH (i) UP TO 65 YEARS OF AGE.

3 (c) Expenses not exceeding \$20.00 per day reasonably
4 incurred in obtaining ordinary and necessary services in lieu of
5 those that, if he or she had not been injured, an injured person
6 would have performed during the first 3 years after the date of
7 the accident, not for income but for the benefit of himself or
8 herself or of his or her dependent.

9 (2) THE FOLLOWING APPLY TO SUBSECTION (1):

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
13 AMOUNT SET FORTH IN SUBSECTION (1)(A)(i).

14 (B) IF AN INSURED FAILS TO SELECT IN WRITING ON A FORM
15 APPROVED BY THE COMMISSIONER 1 OF THE COVERAGES IN SUBSECTION
16 (1)(B), AN INSURER SHALL PROVIDE COVERAGE IN THE AMOUNT SET FORTH
17 IN SUBSECTION (1)(B)(i).

18 (C) COVERAGE LIMITS UNDER SUBSECTION (1)(A) ARE PROVIDED ON
19 A PER INDIVIDUAL PER LOSS OCCURRENCE BASIS. COVERAGE UNDER
20 SUBSECTION (1)(A) APPLIES ONLY TO BENEFITS PAYABLE TO THE INSURED
21 NAMED IN THE POLICY, THE INSURED'S SPOUSE, AND ANY RELATIVE OF
22 EITHER DOMICILED IN THE SAME HOUSEHOLD.

23 (D) A PERSON WHO IS NOT AN INSURED NAMED IN A POLICY, THE
24 INSURED'S SPOUSE, OR A RELATIVE OF EITHER DOMICILED IN THE SAME
25 HOUSEHOLD IS ENTITLED ONLY TO COVERAGE IN THE LIMIT SET FORTH IN
26 SUBSECTION (1)(A)(i).

1 (E) PERSONAL PROTECTION INSURANCE BENEFITS ARE LIMITED TO
2 THE LIMIT SET FORTH IN SUBSECTION (1)(A)(i) PER INDIVIDUAL PER
3 LOSS OCCURRENCE FOR ACCIDENTS OCCURRING IN THE STATE OF MICHIGAN
4 IF THE INJURED PERSON IS A NONRESIDENT OF MICHIGAN AND THE
5 INJURED PERSON'S BENEFITS ARE PAYABLE UNDER A POLICY DELIVERED
6 OUTSIDE OF MICHIGAN ONLY IF ELIGIBLE UNDER SECTION 3163.

7 (F) PERSONAL PROTECTION INSURANCE BENEFITS ARE NOT PAYABLE
8 TO A NONRESIDENT INJURED IN AN ACCIDENT OCCURRING OUTSIDE OF
9 MICHIGAN IF THE NONRESIDENT ELECTS TO RECOVER MEDICAL OR DISABIL-
10 ITY BENEFITS UNDER ANY OTHER POLICY. IF PERSONAL PROTECTION
11 INSURANCE BENEFITS ARE PAYABLE TO A NONRESIDENT UNDER THIS SUBDI-
12 VISION, THE BENEFITS ARE LIMITED TO THE LIMIT SET FORTH IN
13 SUBSECTION (1)(A)(i) PER INDIVIDUAL PER LOSS OCCURRENCE.

14 (3) ~~(2) A~~ EACH INSURER TRANSACTING AUTOMOBILE INSURANCE IN
15 THIS STATE SHALL OFFER A WAIVER TO EACH person who is 60 years of
16 age or older and in the event of an accidental bodily injury
17 would not be eligible to receive work loss benefits under
18 subsection (1)(b). ~~may waive coverage for work loss benefits by~~
19 ~~signing a waiver on a form provided by the insurer.~~ An insurer
20 shall offer a reduced premium rate to a person who waives cover-
21 age under this subsection for work loss benefits. Waiver of cov-
22 erage for work loss benefits applies only to work loss benefits
23 payable to the person or persons who have signed the waiver
24 form.

25 (4) AS USED IN THIS SECTION:

26 (A) MEDICALLY APPROPRIATE PRODUCTS, SERVICES, AND
27 ACCOMMODATIONS RENDERED OR PRESCRIBED BY A HEALTH CARE FACILITY

1 OR HEALTH CARE PROVIDER DO NOT INCLUDE PRODUCTS, SERVICES, AND
2 ACCOMMODATIONS THAT WOULD HAVE BEEN NEEDED OR USED BY THE INJURED
3 PERSON OR A MEMBER OF THE INJURED PERSON'S HOUSEHOLD WITHOUT
4 REGARD TO THE LOSS OCCURRENCE. THE INSURER SHALL HAVE THE RIGHT
5 TO MAKE OR OBTAIN A QUALIFIED REVIEW OF THE PRODUCTS, SERVICES,
6 AND ACCOMMODATIONS TO DETERMINE IF THEY ARE MEDICALLY APPROPRIATE
7 FOR THE BODILY INJURY SUSTAINED. UNDER NO CIRCUMSTANCES SHALL AN
8 INSURER BE REQUIRED TO PROVIDE COVERAGE FOR ANY PRODUCT, SERVICE,
9 OR ACCOMMODATION THAT IS NOT MEDICALLY APPROPRIATE FOR AN INJURED
10 PERSON'S CARE, RECOVERY, OR REHABILITATION. DISPUTES OVER REA-
11 SONABLE CHARGES AND MEDICALLY APPROPRIATE PRODUCTS, SERVICES, AND
12 ACCOMMODATIONS SHALL BE A QUESTION OF LAW TO BE DECIDED BY THE
13 COURT.

14 (B) EXPENSES WITHIN PERSONAL PROTECTION INSURANCE COVERAGE
15 SHALL NOT INCLUDE CHARGES FOR A HOSPITAL ROOM IN EXCESS OF A REA-
16 SONABLE AND CUSTOMARY CHARGE FOR SEMIPRIVATE ACCOMMODATIONS
17 EXCEPT IF THE INJURED PERSON REQUIRES SPECIAL OR INTENSIVE CARE,
18 INCLUDING BUT NOT LIMITED TO CARE PROVIDED BY A PSYCHIATRIC UNIT,
19 OR FOR FUNERAL AND BURIAL EXPENSES IN EXCESS OF THE AMOUNT SET
20 FORTH IN THE POLICY WHICH SHALL NOT BE LESS THAN \$1,750.00 OR
21 MORE THAN \$5,000.00.

22 (C) EXPENSES WITHIN PERSONAL PROTECTION INSURANCE COVERAGE
23 SHALL NOT INCLUDE EXPERIMENTAL TREATMENT OR PARTICIPATION IN
24 RESEARCH PROJECTS.

25 (D) EXPENSES FOR ATTENDANT CARE SERVICES PROVIDED BY A HOME
26 HEALTH AGENCY ARE LIMITED TO THE REASONABLE AND CUSTOMARY CHARGE
27 OF THE AGENCY FOR THE APPROPRIATE SKILL LEVEL AND TIME INTENSITY

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

20 (E) EXPENSES FOR SKILLED HOME CARE PROVIDED BY A HOME HEALTH
21 AGENCY ARE LIMITED TO THE REASONABLE AND CUSTOMARY CHARGE OF THE
22 AGENCY FOR THE APPROPRIATE SKILL LEVEL AND TIME INTENSITY OF
23 SERVICE. EXPENSES FOR SKILLED HOME CARE PROVIDED BY LICENSED OR
24 UNLICENSED PERSONS, INCLUDING A MEMBER OF THE SAME HOUSEHOLD
25 WHETHER OR NOT HE OR SHE IS EMPLOYED BY A HOME HEALTH AGENCY, ARE
26 LIMITED TO THE CUSTOMARY WAGE THE INDIVIDUAL WOULD HAVE RECEIVED
27 IF IN THE EMPLOY OF A HOME HEALTH AGENCY COMMENSURATE WITH THE

1 PERSON'S QUALIFICATIONS. EXPENSES FOR SKILLED HOME CARE BY
2 MEMBERS OF THE SAME HOUSEHOLD WILL NOT BE COVERED IN EXCESS OF 16
3 HOURS PER DAY.

4 (F) EXPENSES FOR MEDICALLY APPROPRIATE PSYCHOLOGICAL SERV-
5 ICES THAT ARE REASONABLY LIKELY TO PRODUCE SIGNIFICANT MEASURABLE
6 IMPROVEMENT IN THE INJURED PERSON'S PSYCHOLOGICAL STATUS AND THAT
7 ARE PRESCRIBED BY A PHYSICIAN SHALL BE LIMITED TO A
8 FIXED-DURATION TIME PERIOD NOT TO EXCEED 26 WEEKS AND SHALL APPLY
9 ONLY IF THE NEED FOR THE SERVICES AROSE OUT OF THE INJURED
10 PERSON'S LOSS OCCURRENCE. THE SERVICES MAY BE EXTENDED FOR 1
11 ADDITIONAL TIME PERIOD NOT TO EXCEED 26 WEEKS IF THE SERVICES ARE
12 REASONABLY LIKELY TO PRODUCE SIGNIFICANT MEASURABLE IMPROVEMENT
13 IN THE INJURED PERSON'S PSYCHOLOGICAL STATUS. PSYCHOLOGICAL
14 SERVICES SHALL BE PROVIDED BY A PERSON LICENSED UNDER PART 182 OF
15 THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978,
16 BEING SECTIONS 333.18201 TO 333.18237 OF THE MICHIGAN COMPILED
17 LAWS, OR BY A SOCIAL WORKER REGISTERED UNDER ARTICLE 16 OF THE
18 OCCUPATIONAL CODE, ACT NO. 299 OF THE PUBLIC ACTS OF 1980, BEING
19 SECTIONS 339.1601 TO 339.1610 OF THE MICHIGAN COMPILED LAWS, AND
20 WHO HAS A MASTER'S DEGREE FROM AN ACCREDITED SCHOOL OF SOCIAL
21 WORK.

22 (G) EXPENSES FOR MEDICALLY APPROPRIATE VOCATIONAL REHABILI-
23 TATION SERVICES THAT ARE REASONABLY LIKELY TO PRODUCE SIGNIFICANT
24 REHABILITATION AND THAT ARE PRESCRIBED BY A PHYSICIAN SHALL BE
25 REIMBURSED FOR A FIXED-DURATION TIME PERIOD NOT TO EXCEED 52
26 WEEKS. THE SERVICES MAY BE EXTENDED FOR 1 ADDITIONAL TIME PERIOD
27 NOT TO EXCEED 52 WEEKS IF THE SERVICES ARE REASONABLY LIKELY TO

1 PRODUCE SIGNIFICANT REHABILITATION AND SHALL CEASE ONCE THE
2 INJURED PERSON HAS ACQUIRED EMPLOYMENT SKILLS.

3 (H) EXPENSES FOR MEDICALLY APPROPRIATE HOME MODIFICATION
4 ACCOMMODATIONS SHALL NOT EXCEED \$50,000.00 ADJUSTED ANNUALLY TO
5 REFLECT CHANGES IN THE COST OF LIVING UNDER RULES PRESCRIBED BY
6 THE COMMISSIONER BUT ANY CHANGE IN THE MAXIMUM APPLIES ONLY TO
7 BENEFITS ARISING OUT OF LOSS OCCURRENCES AFTER THE DATE OF CHANGE
8 IN THE MAXIMUM.

9 (I) EXPENSES FOR A MEDICALLY APPROPRIATE SPECIAL MOTOR VEHI-
10 CLE OR MOTOR VEHICLE MODIFICATION ACCOMMODATIONS ARE LIMITED TO
11 NECESSARY MODIFICATIONS TO AN EXISTING MOTOR VEHICLE, OR IF A
12 SPECIAL MOTOR VEHICLE IS REQUIRED, THE COST OF THE SPECIAL VEHI-
13 CLE AND THE PRESCRIBED MEDICALLY APPROPRIATE MODIFICATIONS TO
14 IT. COSTS FOR REPLACEMENT SPECIAL MOTOR VEHICLES OR MOTOR VEHI-
15 CLE MODIFICATIONS SHALL NOT BE INCURRED MORE FREQUENTLY THAN ONCE
16 EVERY 5 YEARS AND ARE LIMITED TO A MAXIMUM OF \$25,000.00 EVERY 5
17 YEARS.

18 (5) AN INSURER MAY DIRECTLY REIMBURSE A PROVIDER OF SERVICES
19 RECEIVED PURSUANT TO THIS CHAPTER.

20 (6) REGARDLESS OF THE NUMBER OF MOTOR VEHICLES INSURED OR
21 INSURERS PROVIDING SECURITY IN ACCORDANCE WITH THIS CHAPTER, OR
22 THE PROVISIONS OF ANY OTHER LAW PROVIDING FOR DIRECT BENEFITS
23 WITHOUT REGARD TO FAULT FOR MOTOR OR ANY OTHER VEHICLE ACCIDENTS,
24 A PERSON SHALL NOT RECOVER DUPLICATE BENEFITS FOR THE SAME
25 EXPENSES OR LOSSES INCURRED UNDER THIS SECTION.

26 (7) A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER SHALL NOT
27 BILL AN INSURED OR REPORT TO A CREDIT REPORTING AGENCY AN

1 INSURED'S FAILURE TO PAY FOR PRODUCTS, SERVICES, AND
2 ACCOMMODATIONS RENDERED WHEN AN AMOUNT IS DISPUTED BY THE INSURER
3 OR WHEN THAT AMOUNT EXCEEDS THE PAYMENT MADE BY THE INSURER.

4 SEC. 3107B. (1) AN AUTOMOBILE INSURER SHALL OFFER TO ITS
5 INSUREDS AN OPTIONAL PREFERRED PROVIDER ARRANGEMENT UNDER THIS
6 SECTION FOR THE INSURED'S PERSONAL PROTECTION INSURANCE
7 BENEFITS. THE INSURER SHALL PROVIDE A REDUCED PREMIUM RATE BASED
8 ON ACTUAL SAVINGS TO THE INSURER FOR AN INSURED WHO SELECTS A
9 PREFERRED PROVIDER ARRANGEMENT UNDER THIS SECTION.

10 (2) BEGINNING 3 MONTHS AFTER THE EFFECTIVE DATE OF THIS SEC-
11 TION AND CONTINUING UNTIL THE PREFERRED PROVIDER ARRANGEMENT IS
12 IMPLEMENTED PURSUANT TO SUBSECTION (3), AN INTERIM PREFERRED PRO-
13 VIDER ARRANGEMENT SHALL OPERATE. THIS INTERIM PREFERRED PROVIDER
14 ARRANGEMENT SHALL LIMIT ALLOWABLE EXPENSES FOR MEDICALLY APPRO-
15 PRIATE PRODUCTS, SERVICES, AND ACCOMMODATIONS INCURRED AS A
16 RESULT OF A MOTOR VEHICLE ACCIDENT TO THE HIGHER OF THE
17 FOLLOWING:

18 (A) THE AMOUNT A HEALTH CARE FACILITY OR HEALTH CARE PRO-
19 VIDER IS PAID FOR TREATMENT, SERVICE, ACCOMMODATION, AND MEDICINE
20 PURSUANT TO SCHEDULES OF MAXIMUM FEES FOR WORKER'S COMPENSATION
21 CONTAINED IN R 418.101 TO R 418.2324 OF THE MICHIGAN ADMINISTRA-
22 TIVE CODE.

23 (B) ONE HUNDRED AND TEN PERCENT OF THE AMOUNT A PARTICIPAT-
24 ING HEALTH CARE FACILITY OR PARTICIPATING HEALTH CARE PROVIDER IS
25 REIMBURSED FOR BY A PAYER AUTHORIZED UNDER THE NONPROFIT HEALTH
26 CARE CORPORATION REFORM ACT, ACT NO. 350 OF THE PUBLIC ACTS OF

1 1980, BEING SECTIONS 550.1101 TO 550.1704 OF THE MICHIGAN
2 COMPILED LAWS.

3 (3) BEGINNING 2 YEARS AFTER THE EFFECTIVE DATE OF THIS SEC-
4 TION, EACH AUTOMOBILE INSURER SHALL IMPLEMENT A PREFERRED PRO-
5 VIDER ARRANGEMENT OPTION AND MAY IMPLEMENT A PREFERRED PROVIDER
6 ARRANGEMENT OPTION IN CONJUNCTION WITH OTHER AUTOMOBILE
7 INSURERS.

8 (4) UNLESS AN AUTOMOBILE INSURER CAN DEMONSTRATE TO THE
9 COMMISSIONER'S SATISFACTION THAT A UTILIZATION AND REVIEW SYSTEM
10 WILL NOT BE COST EFFECTIVE, EACH PREFERRED PROVIDER ARRANGEMENT
11 IMPLEMENTED PURSUANT TO SUBSECTION (3) SHALL CONTAIN A UTILIZA-
12 TION AND REVIEW SYSTEM. A UTILIZATION AND REVIEW SYSTEM SHALL BE
13 AUTOMATED AND INCLUDE ALL OF THE 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 (J) ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

2 (5) EACH AUTOMOBILE INSURER SHALL REPORT ANNUALLY TO THE
3 COMMISSIONER IN A FORM DESIGNATED BY THE COMMISSIONER THE RESULTS
4 OF ITS UTILIZATION AND REVIEW SYSTEMS ESTABLISHED UNDER SUBSEC-
5 TION (4). THE REPORT SHALL INCLUDE AT A MINIMUM THE FOLLOWING
6 INFORMATION:

7 (A) THE SAVINGS DERIVED THROUGH COORDINATION OF BENEFITS
8 WITH HEALTH CARE COVERAGE CARRIERS.

9 (B) THE SAVINGS DERIVED FROM IDENTIFICATION OF DUPLICATE
10 CLAIMS.

11 (C) THE SAVINGS DERIVED FROM IDENTIFICATION OF REJECTION OF
12 NONACCIDENT RELATED CLAIMS.

13 (D) ALL PROCEDURES IDENTIFIED AS HAVING BEEN PERFORMED AT
14 FACILITIES NOT LICENSED FOR THOSE PROCEDURES INCLUDING THE NAMES
15 OF THE FACILITIES INVOLVED.

16 (E) NUMBER OF CLAIMS AND AMOUNTS EXPENDED, BY TYPE OF MEDI-
17 CAL AND REHABILITATIVE AND THERAPEUTIC SERVICES, FOR CLAIMS PRO-
18 CESSSED AND PAID FOR THE YEAR.

19 (6) AUTOMOBILE INSURERS SHALL NOT USE A UTILIZATION AND
20 REVIEW SYSTEM IN BAD FAITH OR TO DO EITHER OF THE FOLLOWING:

21 (A) UNDULY DELAY PAYMENT OF LEGITIMATE CLAIMS.

22 (B) HARASS OR DISCRIMINATE AGAINST MEDICAL PROVIDERS OR
23 INJURED AUTOMOBILE ACCIDENT VICTIMS.

24 (7) A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER THAT
25 AGREES TO PARTICIPATE IN A PREFERRED PROVIDER ARRANGEMENT WITH AN
26 INSURER UNDER SUBSECTION (2) OR (3) SHALL ACCEPT THE CHARGE
27 ESTABLISHED UNDER SUBSECTION (2) OR (3) AS PAYMENT IN FULL.

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

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

7 (3) An insurer providing personal protection insurance bene-
8 fits ~~may~~ SHALL offer, at appropriately reduced premium rates,
9 ~~a deductible of a specified dollar amount which does not exceed~~
10 DEDUCTIBLES OF \$300.00, \$500.00, \$1,000.00, AND \$2,000.00 per
11 accident. ~~This~~ THE deductible OPTIONS may be applicable to all
12 or any specified types of personal protection insurance benefits
13 but shall apply only to benefits payable to the person named in
14 the policy, his OR HER spouse, and any relative of either domi-
15 ciled in the same household. Any other deductible provisions
16 require the prior approval of the commissioner.

17 Sec. 3109a. (1) An insurer providing personal protection
18 insurance benefits shall offer, at appropriately reduced premium
19 rates, deductibles and exclusions reasonably related to other
20 health and accident coverage on the insured. The deductibles and
21 exclusions required to be offered by this section ~~shall be~~ ARE
22 subject to prior approval by the commissioner and ~~shall~~ apply
23 only to benefits payable to the person named in the policy, the
24 spouse of the insured, and any relative of either domiciled in
25 the same household.

26 (2) HEALTH AND ACCIDENT COVERAGE THAT DOES NOT BECOME
27 EFFECTIVE UNTIL AFTER THE DATE OF THE INJURY IS SECONDARY TO

1 PERSONAL PROTECTION INSURANCE BENEFITS FOR ALL SERVICES RELATED
2 TO THE INJURY.

3 (3) COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
4 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395 TO 1395b, 1395b-2,
5 1395c TO 1395i, 1395i-2 TO 1395i-4, 1395j TO 1395t, 1395u TO
6 1395w-2, 1395w-4 TO 1395ccc, OR TITLE XIX OF THE SOCIAL SECURITY
7 ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396f AND 1396i
8 TO 1396u, OR PURSUANT TO A MEDICARE SUPPLEMENTAL POLICY OR CER-
9 TIFICATE IS NOT CONSIDERED OTHER HEALTH AND ACCIDENT COVERAGE FOR
10 PURPOSES OF THIS SECTION.

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

16 (a) Insurers of owners or registrants of motor vehicles
17 involved in the accident.

18 (b) Insurers of operators of motor vehicles involved in the
19 accident.

20 (2) When 2 or more insurers are in the same order of prior-
21 ity to provide personal protection insurance benefits an insurer
22 paying benefits due is entitled to partial recoupment from the
23 other insurers in the same order of priority, together with a
24 reasonable amount of partial recoupment of the expense of pro-
25 cessing the claim, in order to accomplish equitable distribution
26 of the loss among such insurers.

1 (3) A limit upon the amount of personal protection insurance
2 benefits available because of accidental bodily injury to 1
3 person arising from 1 motor vehicle accident shall be determined
4 without regard to the number of policies applicable to the
5 accident.

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

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

14 (2) A subtraction from or reimbursement for personal protec-
15 tion insurance benefits paid or payable under this chapter shall
16 be made only if recovery is realized upon a tort claim arising
17 from an accident occurring outside this state, a tort claim
18 brought within this state against the owner or operator of a
19 motor vehicle with respect to which the security required by sec-
20 tion 3101 (3) and (4) was not in effect, or a tort claim brought
21 within this state based on intentionally caused harm to persons
22 or property, and shall be made only to the extent that the recov-
23 ery realized by the claimant is for damages for which the claim-
24 ant has received or would otherwise be entitled to receive per-
25 sonal protection insurance benefits. A subtraction shall be made
26 only to the extent of the recovery, exclusive of reasonable
27 attorneys' fees and other reasonable expenses incurred in

1 effecting the recovery. If personal protection insurance
2 benefits have already been received, the claimant shall repay to
3 the insurers out of the recovery a sum equal to the benefits
4 received, but not more than the recovery exclusive of reasonable
5 attorneys' fees and other reasonable expenses incurred in effect-
6 ing the recovery. The insurer shall have a lien on the recovery
7 to this extent. A recovery by an injured person or his or her
8 estate for loss suffered by the person shall not be subtracted in
9 calculating benefits due a dependent after the death and a recov-
10 ery by a dependent for loss suffered by the dependent after the
11 death shall not be subtracted in calculating benefits due the
12 injured person.

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

21 (4) A subtraction or reimbursement shall not be due the
22 claimant's insurer from that portion of any recovery to the
23 extent that recovery is realized for noneconomic loss as provided
24 in section 3135(1) and ~~(2)(b)~~ (3)(B) or for allowable expenses,
25 work loss, and survivor's loss as ~~defined~~ PRESCRIBED in sec-
26 tions 3107 to 3110 in excess of the amount recovered by the
27 claimant from his or her insurer.

1 SEC. 3118. (1) A PERSON WHO HAS REASON TO BELIEVE THAT AN
2 AUTOMOBILE INSURER HAS IMPROPERLY DENIED HIS OR HER CLAIM FOR
3 BENEFITS IS ENTITLED TO APPEAL THE DENIAL IN A PRIVATE INFORMAL
4 MANAGERIAL-LEVEL CONFERENCE WITH THE INSURER AND IS ENTITLED TO A
5 CONCILIATION CONFERENCE PROVIDED BY THE COMMISSIONER IF THE CON-
6 FERENCE WITH THE INSURER FAILS TO RESOLVE THE DISPUTE.

7 (2) AS A CONDITION OF ITS AUTHORITY TO TRANSACT AUTOMOBILE
8 INSURANCE IN THIS STATE, AN INSURER SHALL ESTABLISH REASONABLE
9 INTERNAL PROCEDURES TO PROVIDE CLAIMANTS WITH A PRIVATE INFORMAL
10 MANAGERIAL-LEVEL CONFERENCE REGARDING A DISPUTE OVER A CLAIM FOR
11 BENEFITS. THESE PROCEDURES SHALL INCLUDE ALL OF THE FOLLOWING:

12 (A) A NOTICE TO THE CLAIMANT AT THE TIME OF THE DENIAL OF
13 ALL OR A PART OF THE CLAIM ADVISING HIM OR HER OF THE RIGHT TO
14 APPEAL THE DENIAL AND THE PROCEDURE TO FOLLOW IN REQUESTING AND
15 OBTAINING A PRIVATE INFORMAL MANAGERIAL-LEVEL CONFERENCE.

16 (B) A METHOD OF PROVIDING THE CLAIMANT, UPON REQUEST AND
17 PAYMENT OF A REASONABLE COPYING CHARGE, WITH INFORMATION PERTI-
18 NENT TO THE DENIAL.

19 (C) A DESIGNATION OF 1 OR MORE MANAGERIAL-LEVEL PERSONS WHO
20 HAVE THE AUTHORITY TO RESOLVE CLAIM DENIALS ON BEHALF OF THE
21 INSURER, WHO SHALL REPRESENT THE INSURER AT THE CONFERENCE.

22 (D) A METHOD FOR RESOLVING THE DISPUTE PROMPTLY AND INFOR-
23 MALLY, WHILE PROTECTING THE INTERESTS OF BOTH THE CLAIMANT AND
24 THE INSURER.

25 (3) THE INSURER SHALL FILE WITH THE COMMISSIONER A LIST OF
26 THE PERSON OR PERSONS THAT IT HAS DESIGNATED TO CONDUCT THE
27 INFORMAL MANAGERIAL-LEVEL CONFERENCES REQUIRED BY THIS SECTION.

1 (4) THE INSURER SHALL PROVIDE A CONFERENCE AND PROPOSED
2 RESOLUTION WITHIN 30 DAYS AFTER A REQUEST BY A CLAIMANT. IF THE
3 CLAIMANT AND THE INSURER ARE UNABLE TO AGREE ON A RESOLUTION TO
4 THE DISPUTE AFTER COMPLETION OF THE CONFERENCE, THE CLAIMANT
5 SHALL BE ENTITLED TO AN INFORMAL CONCILIATION CONFERENCE PROVIDED
6 BY THE COMMISSIONER. A CONCILIATION CONFERENCE UNDER THIS SEC-
7 TION SHALL BE HELD WITHIN 30 DAYS OF THE RECEIPT OF THE REQUEST
8 FOR THE CONFERENCE. THE COMMISSIONER'S RECOMMENDATION FOLLOWING
9 A CONCILIATION CONFERENCE IS ADMISSIBLE IN ANY SUBSEQUENT COURT
10 ACTION.

11 (5) THE COMMISSIONER SHALL PROMULGATE RULES PURSUANT TO THE
12 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
13 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
14 COMPILED LAWS, TO ESTABLISH A PROCEDURE FOR PROVIDING A CONCILI-
15 ATION CONFERENCE UNDER THIS SECTION THAT SHALL BE REASONABLY
16 DESIGNED TO RESOLVE MATTERS INFORMALLY AND AS RAPIDLY AS POSSI-
17 BLE, WHILE PROTECTING THE INTERESTS OF BOTH THE CLAIMANT AND THE
18 INSURER.

19 (6) THE COMMISSIONER SHALL DETERMINE THE COST OF PROVIDING
20 CONCILIATION CONFERENCES, INCLUDING SALARIES AND FRINGE BENEFITS,
21 OVERHEAD, AND ADMINISTRATIVE AND SUPERVISORY EXPENSES. THE COST
22 OF CONCILIATION CONFERENCES SHALL BE PAID BY THE INSURER AND THE
23 RESULTING REVENUE SHALL BE EARMARKED FOR THE INSURANCE BUREAU.

24 Sec. 3131. (1) Residual liability insurance shall cover
25 bodily injury and property damage ~~which~~ THAT occurs within the
26 United States, its territories and possessions, or in Canada.
27 This insurance shall afford coverage equivalent to that required

1 as evidence of automobile liability insurance under the financial
2 responsibility laws of the place in which the injury or damage
3 occurs. In this state this insurance shall afford coverage for
4 automobile liability retained by section 3135.

5 (2) This section shall not require RESIDUAL LIABILITY cover-
6 age in this state other than ~~that~~ AS required ~~by~~ IN section
7 ~~3009(1)~~ 3009. ~~This section shall apply to all insurance con-~~
8 ~~tracts in force as of October 1, 1973, or entered into after that~~
9 ~~date.~~

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

15 (2) FOR A CAUSE OF ACTION FOR DAMAGES PURSUANT TO
16 SUBSECTION (1), ALL OF THE FOLLOWING APPLY:

17 (A) THE INJURED PERSON SHALL NOT HAVE SUFFERED SERIOUS
18 IMPAIRMENT OF BODY FUNCTION UNLESS THE PERSON HAS SUFFERED AN
19 OBJECTIVELY MANIFESTED IMPAIRMENT OF AN IMPORTANT BODY FUNCTION
20 THAT AFFECTS HIS OR HER GENERAL ABILITY TO LEAD HIS OR HER NORMAL
21 LIFE. THE ISSUE OF WHETHER AN INJURED PERSON HAS SUFFERED SERI-
22 OUS IMPAIRMENT OF BODY FUNCTION SHALL BE A QUESTION OF LAW FOR
23 THE COURT.

24 (B) DAMAGES SHALL BE ASSESSED ON THE BASIS OF COMPARATIVE
25 FAULT, EXCEPT THAT DAMAGES SHALL NOT BE ASSESSED IN FAVOR OF A
26 PARTY WHO IS MORE THAN 50% AT FAULT.

1 (C) DAMAGES SHALL NOT BE ASSESSED IN FAVOR OF A PARTY WHO
2 DID NOT HAVE IN EFFECT FOR THE MOTOR VEHICLE INVOLVED IN THE
3 ACCIDENT THE SECURITY REQUIRED BY SECTION 3101 AT THE TIME THE
4 DAMAGE OCCURRED.

5 (3) ~~(2)~~ Notwithstanding any other provision of law, tort
6 liability arising from the ownership, maintenance, or use within
7 this state of a motor vehicle with respect to which the security
8 required by section ~~3101(3) and (4)~~ 3101 was in effect is abol-
9 ished except as to:

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

17 (b) Damages for noneconomic loss as provided and limited in
18 ~~subsection (1)~~ SUBSECTIONS (1) AND (2).

19 (c) Damages for allowable expenses ~~, work loss,~~ and
20 survivor's loss as defined in sections 3107 to 3110 in excess of
21 the daily, monthly, and 3-year limitations contained in those
22 sections. The party liable for damages is entitled to an exemp-
23 tion reducing his or her liability by the amount of taxes that
24 would have been payable on account of income the injured person
25 would have received if he or she had not been injured.

26 (d) Damages ~~up to \$400.00 to motor vehicles, to the extent~~
27 ~~that the damages are not covered by insurance~~ FOR A MOTOR

1 VEHICLE UP TO THE AMOUNT OF THE INSURED'S DEDUCTIBLE UNDER HIS OR
2 HER COLLISION COVERAGE OR UP TO \$500.00 IF THE INSURED DOES NOT
3 HAVE COLLISION COVERAGE. An action for damages pursuant to this
4 subdivision shall be conducted in compliance with subsection
5 ~~(3)~~ (4).

6 (4) ~~(3)~~ In an action for damages pursuant to subsection
7 ~~(2)(d)~~ (3)(D):

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

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

14 (5) ~~(4)~~ Actions under subsection ~~(2)(d)~~ (3)(D) shall be
15 commenced, whenever legally possible, in the small claims divi-
16 sion of the district court or ~~the conciliation division of the~~
17 ~~common pleas court of the city of Detroit or~~ the municipal
18 court. If the defendant or plaintiff removes ~~such an~~ THE
19 action to a higher court and does not prevail, the judge may
20 assess costs.

21 (6) ~~(5)~~ A decision of a court made pursuant to subsection
22 ~~(2)(d)~~, (3)(D) shall not be res judicata in any proceeding to
23 determine any other liability arising from the same circumstances
24 as gave rise to the action brought pursuant to subsection
25 ~~(2)(d)~~ (3)(D).

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

1 (7) IN AN ACTION FOR DAMAGES PURSUANT TO SUBSECTION (1) OR
2 (3)(A):

3 (A) THE COURT PRESIDING OVER THE ACTION SHALL, AFTER A JURY
4 VERDICT, DO 1 OF THE FOLLOWING WITHIN 21 DAYS AFTER ENTRY OF THE
5 JUDGMENT:

6 (i) CONCUR IN THE AWARD.

7 (ii) ON ITS OWN MOTION OR ON THE MOTION OF ANY PARTY, REVIEW
8 THE EXCESSIVENESS OR INADEQUACY OF THE AMOUNT AWARDED AND DETER-
9 MINE THE APPROPRIATE AMOUNT.

10 (B) IN DETERMINING THE EXCESSIVENESS OR INADEQUACY OF THE
11 AMOUNT AWARDED UNDER SUBDIVISION (A)(ii), THE COURT SHALL CON-
12 sider ALL OF THE FOLLOWING FACTORS:

13 (i) THE EVIDENCE PRESENTED AT TRIAL.

14 (ii) WHETHER THE AMOUNT AWARDED WAS WITHIN THE LIMITS OF
15 WHAT REASONABLE MINDS WOULD CONSIDER JUST COMPENSATION FOR THE
16 INJURY AND DAMAGES SUSTAINED.

17 (iii) WHETHER THE AMOUNT AWARDED IS COMPARABLE TO AWARDS IN
18 SIMILAR CASES WITHIN THE STATE AND IN OTHER JURISDICTIONS.

19 (iv) WHETHER THE AMOUNT AWARDED WAS THE RESULT OF IMPROPER
20 METHODS, PREJUDICE, PASSION, PARTIALITY, SYMPATHY, CORRUPTION, OR
21 MISTAKE OF LAW OR FACT.

22 (C) IF THE COURT FINDS THAT THE ONLY ERROR IN THE TRIAL IS
23 THE INADEQUACY OR EXCESSIVENESS OF THE AMOUNT AWARDED, THE COURT
24 MAY GRANT A NEW TRIAL ON THE ISSUE OF THE AMOUNT OF DAMAGES ONLY
25 UNLESS, WITHIN 14 DAYS, THE PARTIES CONSENT IN WRITING TO THE
26 ENTRY OF A JUDGMENT IN AN AMOUNT DETERMINED BY THE COURT.

1 SEC. 3136. (1) AS USED IN THIS SECTION:

2 (A) "CONTINGENCY FEE AGREEMENT" MEANS AN AGREEMENT THAT AN
3 ATTORNEY'S FEE IS DEPENDENT OR CONTINGENT, IN WHOLE OR IN PART,
4 UPON SUCCESSFUL PROSECUTION OR SETTLEMENT OF A CLAIM OR ACTION,
5 OR UPON THE AMOUNT OF RECOVERY.

6 (B) "PROPERLY CHARGEABLE DISBURSEMENTS" MEANS REASONABLE
7 EXPENSES INCURRED AND PAID BY AN ATTORNEY ON A CLIENT'S BEHALF IN
8 PROSECUTING OR SETTLING A CLAIM OR ACTION.

9 (C) "RECOVERY" MEANS THE AMOUNT TO BE PAID TO AN ATTORNEY'S
10 CLIENT AS A RESULT OF A SETTLEMENT OR MONEY JUDGMENT.

11 (2) IN A TORT CLAIM OR ACTION ARISING OUT OF THE OWNERSHIP,
12 MAINTENANCE, OR USE OF A MOTOR VEHICLE, IF AN ATTORNEY ENTERS
13 INTO A CONTINGENCY FEE AGREEMENT, THE ATTORNEY'S FEE SHALL NOT
14 EXCEED THE FOLLOWING:

15 (A) IF THE CLAIM OR ACTION IS SETTLED BEFORE A COMPLAINT IS
16 FILED, 15% OF THE RECOVERY.

17 (B) IF THE CLAIM OR ACTION IS SETTLED AFTER A COMPLAINT IS
18 FILED, BUT BEFORE THE DATE OF TRIAL OR HEARING, 20% OF THE
19 RECOVERY.

20 (C) IF A MONEY JUDGMENT IS AWARDED TO THE ATTORNEY'S CLIENT
21 OR IF THE CLAIM OR ACTION IS SETTLED DURING OR AFTER TRIAL, AS
22 FOLLOWS:

23 (i) IF THE RECOVERY IS LESS THAN \$100,000.00, 33-1/3% OF THE
24 RECOVERY.

25 (ii) IF THE RECOVERY IS \$100,000.00 OR MORE BUT LESS THAN
26 \$1,000,000.00, 25% OF THE RECOVERY.

1 (iii) IF THE RECOVERY IS \$1,000,000.00 OR MORE, 20% OF THE
2 RECOVERY.

3 (D) IF A MONEY JUDGMENT IS AWARDED TO THE ATTORNEY'S CLIENT
4 AND THE MONEY JUDGMENT IS APPEALED, THE AMOUNT ALLOWED UNDER
5 SUBSECTION (2)(C).

6 (3) THE FEE ALLOWED IN SUBSECTION (2) SHALL BE COMPUTED ON
7 THE NET SUM OF THE RECOVERY AFTER DEDUCTING FROM THE RECOVERY THE
8 PROPERLY CHARGEABLE DISBURSEMENTS. IN COMPUTING THE FEE, THE
9 COSTS AS TAXED BY THE COURT AND ANY INTEREST INCLUDED IN OR
10 ALLOWED ON A MONEY JUDGMENT BEFORE AN APPEAL IS FILED, IF AN
11 APPEAL IS FILED, IS PART OF THE AMOUNT OF THE MONEY JUDGMENT.
12 FOR A RECOVERY PAYABLE IN INSTALLMENTS, THE FEE IS COMPUTED USING
13 THE PRESENT VALUE OF THE FUTURE PAYMENTS.

14 (4) CONTINGENCY FEE AGREEMENTS MADE BY AN ATTORNEY WITH A
15 CLIENT SHALL BE IN WRITING AND A COPY SHALL BE PROVIDED TO THE
16 CLIENT.

17 (5) AN ATTORNEY WHO ENTERS INTO A CONTINGENCY FEE AGREEMENT
18 THAT VIOLATES SUBSECTION (2) IS BARRED FROM RECOVERING A FEE IN
19 EXCESS OF THE MAXIMUM FEE SPECIFIED IN SUBSECTION (2), BUT THE
20 OTHER PROVISIONS OF THE CONTINGENCY FEE AGREEMENT REMAIN
21 ENFORCEABLE.

22 Sec. 3142. (1) Personal protection insurance benefits are
23 payable as loss accrues.

24 (2) Personal protection insurance benefits are overdue if
25 not paid within 30 days after an insurer receives reasonable
26 proof of the fact and of the amount of loss sustained. If
27 reasonable proof is not supplied as to the entire claim, the

1 amount supported by reasonable proof is overdue if not paid
2 within 30 days after the proof is received by the insurer. Any
3 part of the remainder of the claim that is later supported by
4 reasonable proof is overdue if not paid within 30 days after the
5 proof is received by the insurer. For the purpose of calculating
6 the extent to which benefits are overdue, payment shall be
7 treated as made on the date a draft or other valid instrument was
8 placed in the United States mail in a properly addressed, post-
9 paid envelope ~~—~~ or, if not so posted, on the date of delivery.

10 (3) An overdue payment bears ~~simple~~ interest at the rate
11 ~~of 12% per annum~~ SET BY SECTION 6013(6) OF THE REVISED JUDICA-
12 TURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING
13 SECTION 600.6013 OF THE MICHIGAN COMPILED LAWS. INTEREST PAID
14 UNDER THIS SUBSECTION SHALL BE OFFSET BY INTEREST PAYABLE UNDER
15 SECTION 6013(6) OF ACT NO. 236 OF THE PUBLIC ACTS OF 1961.

16 Sec. 3145. (1) AN ACTION FOR RECOVERY OF PERSONAL PROTEC-
17 TION INSURANCE BENEFITS PAYABLE UNDER THIS CHAPTER SHALL NOT BE
18 COMMENCED UNLESS THE CLAIMANT HAS APPEALED THE DENIAL OF BENEFITS
19 THROUGH THE INFORMAL DISPUTE RESOLUTION PROCESS DESCRIBED IN
20 SECTION 3118.

21 (2) ~~(1)~~ An action for recovery of personal protection
22 insurance benefits payable under this chapter for accidental
23 bodily injury ~~may~~ SHALL not be commenced later than 1 year
24 after the date of the accident causing the injury unless written
25 notice of injury as provided herein has been given to the insurer
26 within 1 year after the accident CAUSING THE INJURY or unless the
27 insurer has previously made a payment of personal protection

1 insurance benefits for the injury. If the notice has been given
2 or a payment has been made, the action may be commenced at any
3 time within 1 year after the most recent allowable expense, work
4 loss, or survivor's loss has been incurred. However, the claim-
5 ant may not recover benefits for any portion of the loss incurred
6 more than 1 year before the date on which the action was
7 commenced. The notice of injury required by this subsection may
8 be given to the insurer or any of its authorized agents by a
9 person claiming to be entitled to benefits therefor, or by some-
10 one in his OR HER behalf. The notice shall give the name and
11 address of the claimant and indicate in ordinary language the
12 name of the person injured and the time, place, and nature of his
13 OR HER injury.

14 (3) ~~-(2)-~~ An action for recovery of property protection
15 insurance benefits shall not be commenced later than 1 year after
16 the accident.

17 Sec. 3157. ~~-A-~~ SUBJECT TO SECTION 3107B, A physician, hos-
18 pital, clinic, or other person or institution lawfully rendering
19 treatment to an injured person for an accidental bodily injury
20 covered by personal protection insurance, and a person or insti-
21 tution providing rehabilitative occupational training following
22 the injury, may charge a reasonable amount for the products,
23 services, and accommodations rendered. The charge shall not
24 exceed the amount the person or institution customarily charges
25 for like products, services, and accommodations in cases not
26 involving insurance.

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

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

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

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

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

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

24 (3) ~~—(2)—~~ Except as otherwise provided in this subsection,
25 personal protection insurance benefits, including benefits aris-
26 ing from accidents occurring before the effective date of this
27 subsection, payable through an assigned claims plan shall be

1 reduced to the extent that benefits covering the same loss are
2 available from other sources, regardless of the nature or number
3 of benefit sources available and regardless of the nature or form
4 of the benefits, to a person claiming personal protection insur-
5 ance benefits through the assigned claims plan. This subsection
6 ~~shall only apply~~ ONLY APPLIES when the personal protection
7 insurance benefits are payable through the assigned claims plan
8 because no personal protection insurance is applicable to the
9 injury, no personal protection insurance applicable to the injury
10 can be identified, or the only identifiable personal protection
11 insurance applicable to the injury is, because of financial
12 inability of 1 or more insurers to fulfill their obligations,
13 inadequate to provide benefits up to the maximum prescribed. As
14 used in this subsection "sources" and "benefit sources" do not
15 include the program for medical assistance for the medically
16 indigent under the social welfare act, Act No. 280 of the Public
17 Acts of 1939, being sections 400.1 to ~~400.12~~ 400.119b of the
18 Michigan Compiled Laws, or insurance under the health insurance
19 for the aged act, title XVIII of the social security amendments
20 of 1965.

21 (4) ~~(3)~~ If the obligation to provide personal protection
22 insurance benefits cannot be ascertained because of a dispute
23 between 2 or more automobile insurers concerning their obligation
24 to provide coverage or the equitable distribution of the loss,
25 and if a method of voluntary payment of benefits cannot be agreed
26 upon among or between the disputing insurers, all of the
27 following shall apply:

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

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

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

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

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

20 (f) After hearing the action, the circuit court shall deter-
21 mine the insurer or insurers, if any, obligated to provide the
22 applicable personal protection insurance benefits and the equita-
23 ble distribution, if any, among the insurers obligated therefor,
24 and shall order reimbursement to the assigned claims facility
25 from the insurer or insurers to the extent of the responsibility
26 as determined by the court. The reimbursement ordered under this
27 subdivision shall include all benefits and costs paid or incurred

1 by the assigned claims facility and all benefits and costs paid
2 or incurred by insurers determined not to be obligated to provide
3 applicable personal protection insurance benefits, including rea-
4 sonable attorney fees and interest at the rate prescribed in
5 section 3175 as of December 31 of the year preceding the determi-
6 nation of the circuit court.

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

18 (6) THIS SECTION DOES NOT APPLY AND SECTION 3172A DOES APPLY
19 IF APPLICABLE PERSONAL PROTECTION INSURANCE BENEFITS ARE UNAVAIL-
20 ABLE BECAUSE AN INSURER OTHERWISE OBLIGED TO PROVIDE THAT COVER-
21 AGE UNDER THIS CHAPTER BECAME, AFTER OCTOBER 1, 1993, AN INSOL-
22 VENT INSURER AS DEFINED IN CHAPTER 79.

23 SEC. 3172A. (1) A PERSON ENTITLED TO A CLAIM BECAUSE OF
24 ACCIDENTAL BODILY INJURY ARISING OUT OF THE OWNERSHIP, OPERATION,
25 MAINTENANCE, OR USE OF A MOTOR VEHICLE AS A MOTOR VEHICLE IN THIS
26 STATE MAY OBTAIN THE FULL PERSONAL PROTECTION INSURANCE BENEFITS
27 ENTITLED THROUGH THE MICHIGAN PROPERTY AND CASUALTY GUARANTY

1 ASSOCIATION ESTABLISHED UNDER CHAPTER 79 IF ALL OF THE FOLLOWING
2 ARE SATISFIED:

3 (A) PERSONAL PROTECTION INSURANCE APPLICABLE TO THE INJURY
4 IS UNAVAILABLE BECAUSE AN INSURER OTHERWISE OBLIGED TO PROVIDE
5 THAT COVERAGE UNDER THIS CHAPTER BECAME, AFTER OCTOBER 1, 1993,
6 AN INSOLVENT INSURER AS DEFINED IN CHAPTER 79.

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

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

13 CHAPTER 32A

14 AUTOMOBILE INSURANCE ANTIFRAUD PLANS AND PROVISIONS

15 SEC. 3275. AS USED IN THIS CHAPTER:

16 (A) "ANTIFRAUD PLAN" MEANS AN AUTOMOBILE ANTIFRAUD PLAN
17 ESTABLISHED UNDER SECTION 3277.

18 (B) "OFFICE" MEANS THE AUTOMOBILE INSURANCE FRAUD OFFICE
19 ESTABLISHED UNDER SECTION 3285.

20 SEC. 3277. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMO-
21 BILE INSURANCE IN THIS STATE SHALL ESTABLISH AND MAINTAIN AN
22 AUTOMOBILE INSURANCE ANTIFRAUD PLAN. THE ANTIFRAUD PLAN OF
23 INSURERS AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS
24 STATE ON THE EFFECTIVE DATE OF THIS SECTION SHALL BE FILED WITH
25 THE COMMISSIONER ON OR BEFORE OCTOBER 1, 1993. AN ADMITTED AUTO-
26 MOBILE INSURER THAT BEGINS WRITING AUTOMOBILE INSURANCE AFTER THE
27 EFFECTIVE DATE OF THIS SECTION SHALL FILE AN ANTIFRAUD PLAN

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

7 (2) EACH ANTIFRAUD PLAN ESTABLISHED UNDER SUBSECTION (1)
8 SHALL CONTAIN ALL OF THE FOLLOWING:

9 (A) SPECIFIC PROCEDURES TO PREVENT INSURANCE FRAUD, INCLUD-
10 ING INTERNAL FRAUD INVOLVING EMPLOYEES OR COMPANY REPRESENTA-
11 TIVES, FRAUD RESULTING FROM MISREPRESENTATION ON APPLICATIONS FOR
12 INSURANCE COVERAGE, AND CLAIMS FRAUD.

13 (B) SPECIFIC PROCEDURES TO REVIEW CLAIMS IN ORDER TO DETECT
14 EVIDENCE OF POSSIBLE INSURANCE FRAUD AND TO INVESTIGATE CLAIMS
15 WHERE FRAUD IS SUSPECTED.

16 (C) A REQUIREMENT TO REPORT SUSPECTED FRAUD TO THE APPROPRI-
17 ATE LAW ENFORCEMENT AGENCIES, AND TO COOPERATE WITH THOSE AGEN-
18 CIES IN THEIR INVESTIGATION AND PROSECUTION OF FRAUD CASES.

19 (D) A REQUIREMENT TO UNDERTAKE CIVIL ACTIONS, IF APPROPRI-
20 ATE, AGAINST PERSONS WHO HAVE BEEN CONVICTED OF FRAUDULENT
21 ACTIVITIES.

22 (E) A REQUIREMENT TO REPORT ANNUALLY TO THE OFFICE THE
23 NUMBER OF CASES OF SUSPECTED FRAUD REPORTED OR FILED UNDER SUBDI-
24 VISIONS (C) AND (D).

25 (3) EACH ANTIFRAUD PLAN SHALL BE FILED WITH THE
26 COMMISSIONER. IF, AFTER REVIEW, THE COMMISSIONER FINDS THAT THE
27 ANTIFRAUD PLAN DOES NOT COMPLY WITH SUBSECTION (2), THE ANTIFRAUD

1 PLAN SHALL BE DISAPPROVED. NOTICE OF DISAPPROVAL SHALL INCLUDE A
2 STATEMENT OF THE SPECIFIC REASONS FOR THE DISAPPROVAL. AN ANTI-
3 FRAUD PLAN DISAPPROVED BY THE COMMISSIONER SHALL BE AMENDED AND
4 REFILED WITHIN 60 DAYS AFTER THE DATE OF THE DISAPPROVAL NOTICE.

5 (4) THE COMMISSIONER MAY AUDIT AN INSURER TO ENSURE COMPLI-
6 ANCE WITH THE INSURER'S ANTIFRAUD PLAN AS A PART OF AN EXAMINA-
7 TION PERFORMED UNDER THIS ACT.

8 SEC. 3279. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMO-
9 BILE INSURANCE IN THIS STATE SHALL PROVIDE ANNUALLY TO THE COM-
10 MISSIONER A SUMMARY REPORT ON ACTIONS TAKEN UNDER THE INSURER'S
11 ANTIFRAUD PLAN TO PREVENT AND COMBAT INSURANCE FRAUD, INCLUDING,
12 BUT NOT LIMITED TO, MEASURES TAKEN TO PROTECT AND ENSURE THE
13 INTEGRITY OF ELECTRONIC DATA PROCESSING - GENERATED DATA AND MAN-
14 UALLY COMPILED DATA, STATISTICAL DATA ON THE AMOUNT OF RESOURCES
15 COMMITTED TO COMBATING FRAUD, AND THE AMOUNT OF FRAUD IDENTIFIED
16 AND RECOVERED DURING THE REPORTING PERIOD.

17 (2) AN ANTIFRAUD PLAN OR SUMMARY REPORT FILED WITH THE COM-
18 MISSIONER UNDER THIS SECTION AND SECTION 3277 AND ANY REPORTS OR
19 MATERIALS RELATED TO SUCH A PLAN OR REPORT ARE NOT SUBJECT TO THE
20 FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF
21 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED
22 LAWS.

23 SEC. 3281. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMO-
24 BILE INSURANCE IN THIS STATE AND ITS EMPLOYEES, AGENTS, BROKERS,
25 MOTOR VEHICLE PHYSICAL DAMAGE APPRAISERS, PUBLIC ADJUSTERS, AND
26 PUBLIC ADJUSTER SOLICITORS, IS REQUIRED TO REPORT THE INCIDENCE
27 OF SUSPECTED INSURANCE FRAUD TO THE APPROPRIATE FEDERAL, STATE,

1 OR LOCAL CRIMINAL LAW ENFORCEMENT AUTHORITY. LICENSED INSURANCE
2 AGENTS AND PHYSICAL DAMAGE APPRAISERS MAY ELECT TO REPORT SUS-
3 PECTED FRAUD THROUGH THE AFFECTED INSURER WITH WHICH THEY HAVE A
4 CONTRACTUAL RELATIONSHIP. ALL REPORTS OF INSURANCE FRAUD TO LAW
5 ENFORCEMENT AUTHORITIES SHALL BE MADE IN WRITING, AND COPIES OF
6 THE REPORT SHALL BE SENT WITHIN 7 DAYS TO THE OFFICE. IF SUS-
7 PECTED INSURANCE FRAUD INVOLVES AGENTS, BROKERS, MOTOR VEHICLE
8 PHYSICAL DAMAGE APPRAISERS, PUBLIC ADJUSTERS, OR PUBLIC ADJUSTER
9 SOLICITORS, A COPY OF THE REPORT SHALL ALSO BE SENT TO THE
10 COMMISSIONER.

11 (2) A PERSON REQUIRED TO REPORT SUSPECTED FRAUD UNDER THIS
12 CHAPTER IS NOT SUBJECT TO CIVIL LIABILITY FOR LIBEL, VIOLATION OF
13 PRIVACY, OR OTHER CAUSE OF ACTION ARISING OUT OF THE FILING OF
14 THE REQUIRED REPORTS.

15 SEC. 3283. AN INSURER THAT FAILS TO FILE IN A TIMELY MANNER
16 AN ANTIFRAUD PLAN AS REQUIRED BY SECTION 3277 OR AN INSURER THAT
17 DOES NOT MAKE A GOOD FAITH ATTEMPT TO FILE AN ANTIFRAUD PLAN THAT
18 COMPLIES WITH SECTION 3277 IS SUBJECT TO A CIVIL PENALTY FOR EACH
19 VIOLATION NOT TO EXCEED \$5,000.00 AT THE COMMISSIONER'S DISCRE-
20 TION AFTER CONSIDERATION OF ALL RELEVANT FACTORS, INCLUDING THE
21 WILLFULNESS OF THE VIOLATION. AN INSURER THAT FAILS TO FOLLOW
22 ITS APPROVED ANTIFRAUD PLAN IS SUBJECT TO A CIVIL PENALTY FOR
23 EACH VIOLATION, NOT TO EXCEED \$10,000.00, AT THE COMMISSIONER'S
24 DISCRETION AFTER CONSIDERATION OF ALL RELEVANT FACTORS, INCLUDING
25 THE WILLFULNESS OF THE VIOLATION.

26 SEC. 3285. THE COMMISSIONER AFTER CONSULTATION WITH
27 INSURERS AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS

1 STATE SHALL ESTABLISH, WITHIN THE INSURANCE BUREAU, A MOTOR
2 VEHICLE INSURANCE FRAUD OFFICE. WITHIN 180 DAYS OF ITS ESTAB-
3 LISHMENT, THE COMMISSIONER SHALL ESTABLISH A PLAN OF OPERATION
4 FOR THE OFFICE THAT IS CONSISTENT WITH THE PROVISIONS OF THIS
5 CHAPTER. THE PLAN OF OPERATION SHALL INCLUDE, BUT NOT BE LIMITED
6 TO, ALL OF THE FOLLOWING:

7 (A) DETAILED PROCEDURES FOR ALL INSURERS TO REGULARLY REPORT
8 FRAUD-RELATED DATA TO THE OFFICE.

9 (B) POLICIES AND PROCEDURES GOVERNING INSURER AND LAW
10 ENFORCEMENT AGENCY ACCESS TO OFFICE DATA, INFORMATION, AND
11 REPORTS.

12 (C) A DETAILED ACCOUNTING OF HOW INFORMATION ON INSURANCE
13 FRAUD FILED BY INSURERS WILL BE ORGANIZED AND MAINTAINED.

14 (D) ANY OTHER INFORMATION, DATA, PROCEDURE, OR PROGRAM
15 RELATING TO INSURANCE FRAUD AS MAY BE REQUIRED BY THE COMMIS-
16 SIONER OR DETERMINED NECESSARY TO FACILITATE THE REPORTING AND
17 USE OF INFORMATION AND DATA.

18 SEC. 3286. THE COSTS AND EXPENSES ASSOCIATED WITH AND
19 INCURRED BY THE OPERATION OF THE MOTOR VEHICLE INSURANCE FRAUD
20 OFFICE SHALL BE DISTRIBUTED EQUITABLY BY THE COMMISSIONER AMONG
21 INSURERS AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS
22 STATE AND THE RESULTING REVENUE SHALL BE EARMARKED FOR THE INSUR-
23 ANCE BUREAU.

24 SEC. 3287. (1) EXCEPT AS PROVIDED IN SUBSECTIONS (3) AND
25 (4), EACH INSURER AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN
26 THIS STATE, AS A CONDITION OF ITS AUTHORITY TO TRANSACT THE
27 BUSINESS OF INSURANCE IN THIS STATE, SHALL REPORT INFORMATION ON

1 SUSPECTED FRAUDULENT CLAIMS AND APPLICATIONS FOR BENEFITS ARISING
2 OUT OF THE MAINTENANCE AND USE OF A MOTOR VEHICLE IN THIS STATE
3 WITH THE OFFICE WITHIN 45 DAYS OF RECEIPT OF THE APPLICATION OR
4 CLAIM.

5 (2) THE INFORMATION FILED BY AN INSURER UNDER SUBSECTION (1)
6 SHALL INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

7 (A) IDENTIFICATION OF CLAIMANTS.

8 (B) IDENTIFICATION OF MEDICAL PROVIDERS.

9 (C) IDENTIFICATION OF REPAIR SHOPS.

10 (D) IDENTIFICATION OF INSURANCE ADJUSTERS.

11 (E) IDENTIFICATION OF ATTORNEYS REPRESENTING CLAIMANTS.

12 (F) DESCRIPTION OF CLAIMS.

13 (G) OTHER INFORMATION CONSIDERED RELEVANT BY THE SUBMITTING
14 INSURER OR THE OFFICE.

15 (H) OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

16 (3) AN INSURER TRANSACTING AUTOMOBILE INSURANCE IN THIS
17 STATE SHALL NOTIFY BY CERTIFIED MAIL ANY PERSON WHO THE INSURER
18 INTENDS TO REPORT TO THE MOTOR VEHICLE INSURANCE FRAUD OFFICE
19 UNDER SUBSECTION (1).

20 (4) THE COMMISSIONER SHALL PROMULGATE RULES PURSUANT TO THE
21 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
22 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
23 COMPILED LAWS, PERMITTING A PERSON NOTIFIED UNDER SUBSECTION (3)
24 TO PETITION THE COMMISSIONER AND CONTEST THE ACCURACY OF ANY
25 INTENDED REPORT AND REQUIRING THE COMMISSIONER TO RULE THAT THE
26 PERSON HAS BEEN SHOWN TO HAVE COMMITTED FRAUD BEYOND A REASONABLE

1 DOUBT BEFORE A CONTESTED REPORT CAN BE FILED UNDER THE MOTOR
2 VEHICLE INSURANCE FRAUD OFFICE.

3 SEC. 3289. EACH INSURER AUTHORIZED TO TRANSACT AUTOMOBILE
4 INSURANCE IN THIS STATE SHALL REPORT TO THE OFFICE ALL RELEVANT
5 INFORMATION ON SUSPECTED FRAUDULENT APPLICATIONS OR CLAIMS AS
6 PROVIDED FOR IN SECTION 3287.

7 SEC. 3291. THE COMMISSIONER SHALL ISSUE AN ANNUAL REPORT
8 LISTING ALL INSURANCE COMPANIES THAT ARE COMPLYING WITH THIS
9 CHAPTER. INFORMATION ABOUT SUSPECTED FRAUD THAT IS REPORTED TO
10 THE OFFICE SHALL BE MADE AVAILABLE, AS APPROPRIATE, TO LAW
11 ENFORCEMENT OFFICIALS AND ANY INSURER AUTHORIZED TO TRANSACT
12 AUTOMOBILE INSURANCE IN THIS STATE.

13 SEC. 3295. ON OR BEFORE OCTOBER 1, 1994 AND ON OR BEFORE
14 OCTOBER 1 OF EACH YEAR THEREAFTER, THE OFFICE, ON BEHALF OF THE
15 COMMISSIONER, SHALL FILE AN ANNUAL REPORT ON THE NATURE AND
16 EFFECT OF AUTOMOBILE INSURANCE FRAUD IN THIS STATE. THE REPORT
17 SHALL PRESENT STATISTICAL DATA ON FRAUD IN THIS STATE. THE COM-
18 MISSIONER MAY PRESCRIBE BY REGULATION THE CONTENT OF THE REPORT.

19 SEC. 3297. NOT LATER THAN DECEMBER 1, 1993, ALL APPLICA-
20 TIONS FOR INSURANCE, RENEWALS, AND CLAIM FORMS SHALL CONTAIN A
21 STATEMENT THAT CLEARLY STATES IN SUBSTANCE THE FOLLOWING:

22 ANY PERSON WHO KNOWINGLY AND WITH INTENT TO
23 INJURE OR DEFRAUD ANY INSURER FILES AN APPLI-
24 CATION OR CLAIM CONTAINING ANY FALSE, INCOM-
25 PLETE, OR MISLEADING INFORMATION SHALL, UPON
26 CONVICTION, BE SUBJECT TO IMPRISONMENT FOR UP
27 TO 1 YEAR FOR A MISDEMEANOR CONVICTION OR UP

1 TO 10 YEARS FOR A FELONY CONVICTION AND
2 PAYMENT OF A FINE OF UP TO \$5,000.00.

3 SEC. 3299. THE COMMISSIONER MAY PROMULGATE PURSUANT TO THE
4 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
5 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
6 COMPILED LAWS, RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY
7 OUT THIS CHAPTER.

8 Sec. 3320. (1) THE FACILITY SHALL ESTABLISH RATES THAT ARE
9 DESIGNED TO BE SELF-SUPPORTING FOR ELIGIBLE PRIVATE PASSENGER
10 NONFLEET AUTOMOBILE INSURANCE, INELIGIBLE PRIVATE PASSENGER NON-
11 FLEET AUTOMOBILE INSURANCE, AND ALL OTHER AUTOMOBILE INSURANCE.

12 (2) ~~(1)~~ The facility, with respect to private passenger
13 nonfleet automobiles, shall provide for all of the following:

14 (a) The equitable distribution of applicants to designated
15 participating members in accordance with the plan of operation.

16 (b) Issuance of policies of automobile insurance to quali-
17 fied applicants as provided in the plan of operation.

18 (c) The appointment of a number of participating members
19 appointed by the facility to act on behalf of the facility for
20 the distribution of risks or for the servicing of insureds, as
21 provided in the plan of operation and consistent with this
22 section. The facility shall do all of the following:

23 (i) Appoint those members having the 5 highest participation
24 ratios, as defined in section 3303(e)(i) to act on behalf of the
25 facility.

26 (ii) Appoint other members to act on behalf of the facility
27 who volunteer to so act and who meet reasonable servicing

1 standards established in the plan of operation, up to a maximum
2 of 5 in addition to those appointed pursuant to subparagraph
3 (i).

4 (iii) Appoint additional members to act on behalf of the
5 facility as necessary to do all of the following:

6 (A) Assure convenient access to the facility for all citi-
7 zens of this state.

8 (B) Assure a reasonable quality of service for persons
9 insured through the facility.

10 (C) Assure a reasonable representation of the various insur-
11 ance marketing systems.

12 (D) Assure reasonable claims handling.

13 (E) Assure a reasonable range of choice of insurers for per-
14 sons insured through the facility.

15 (d) Standards and monitoring procedures to assure that par-
16 ticipating members acting on behalf of the facility do all of the
17 following:

18 (i) Provide service to persons insured through the facility
19 equivalent to the service provided to persons insured by the
20 insurer voluntarily.

21 (ii) Handle claims in an efficient and reasonable manner.

22 (iii) Provide internal review procedures for persons insured
23 through the facility identical to those established pursuant to
24 chapter 21 for persons insured voluntarily.

25 (e) Establish procedures and guidelines for the issuance of
26 binders by agents upon receipt of the application for coverage.

1 (f) Provide for the issuance of policies of automobile
 2 insurance to qualified applicants whose licenses to operate a
 3 vehicle have been suspended pursuant to section 310, 310b, 310d,
 4 315, 321a, 324, 328, 512, 515, 625, ~~625b~~, 625f, 748, 801c, or
 5 907 of Act No. 300 of the Public Acts of 1949, as amended, being
 6 sections 257.310, 257.310b, 257.310d, 257.315, 257.321a, 257.324,
 7 257.328, 257.512, 257.515, 257.625, ~~257.625b~~, 257.625f,
 8 257.748, 257.801c, and 257.907 of the Michigan Compiled Laws, as
 9 provided in the plan of operation. These policies may be
 10 canceled after a period of not less than 30 days if the insured
 11 fails to produce proof that the suspended license has been
 12 reinstated.

13 (3) ~~(2)~~ Automobile insurance made available under this
 14 section shall be equivalent to the automobile insurance normally
 15 available in the voluntary competitive market in forms as
 16 approved by the commissioner with such changes, additions, and
 17 amendments as are adopted by the board of governors and approved
 18 by the commissioner.

19 Sec. 3330. (1) The board of governors shall have all power
 20 to direct the operation of the facility, including, at a minimum,
 21 all of the following:

22 (a) To sue and be sued in the name of the facility. A judg-
 23 ment against the facility shall not create any liabilities in the
 24 individual participating members of the facility.

25 (b) To delegate ministerial duties, to hire a manager, to
 26 hire legal counsel, and to contract for goods and services from
 27 others.

1 (c) To assess participating members on the basis of
2 participation ratios pursuant to section 3303 to cover antici-
3 pated costs of operation and administration of the facility, to
4 provide for equitable servicing fees, and to share losses, prof-
5 its, and expenses pursuant to the plan of operation.

6 (d) To impose limitations on cancellation or nonrenewal by
7 participating members of facility-placed business, in addition to
8 the limitations imposed by chapters 21 and 32.

9 (e) To provide for a limited number of participating members
10 to receive equitable distribution of applicants; or to provide
11 for a limited number of participating members to service appli-
12 cants in a plan of sharing of losses in accordance with ~~the sub-~~
13 ~~section 3320(1)(c)~~ SECTION 3320(2)(C) and the plan OF
14 operation.

15 (f) To provide for standards of performance of service for
16 the participating members designated pursuant to subdivision
17 (e).

18 (g) To adopt a plan of operation and any amendments to the
19 plan, not inconsistent with this chapter, necessary to assure the
20 fair, reasonable, equitable, and nondiscriminatory manner of
21 administering the facility, including compliance with chapter 21,
22 and to provide for such other matters as are necessary or advis-
23 able to implement this chapter, including matters necessary to
24 comply with the requirements of chapter 21.

25 (H) TO PROVIDE FOR EQUITABLE SERVICING FEES.

26 (2) The board of governors shall institute or cause to be
27 instituted by the facility or on its behalf an automatic data

1 processing system for recording and compiling data relative to
2 individuals insured through the facility. An automatic data pro-
3 cessing system established under this subsection shall, to the
4 greatest extent possible, be made compatible with the automatic
5 data processing system maintained by the secretary of state, to
6 provide for the identification and review of individuals insured
7 through the facility.

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

22 (2) Every participating member designated to act on behalf
23 of the facility shall be authorized to use the rates and rules
24 approved by the commissioner for use by the facility on business
25 placed through the facility and shall not use other rates for
26 automobile insurance placed through the facility.

1 (3) Laws relating to rating organizations or advisory
2 organizations shall not apply to functions provided for under
3 this section.

4 (4) Private passenger nonfleet automobile rates for the
5 facility shall comply with the following requirements:

6 (a) The territories for the facility shall be defined as
7 those of the principal rating organization OR PRINCIPAL ADVISORY
8 ORGANIZATION for the voluntary market.

9 (B) THE RATES FOR THE FACILITY SHALL CONFORM WITH THE
10 REQUIREMENTS OF CHAPTER 21 GOVERNING VOLUNTARY MARKET RATES.

11 ~~(b) The base rates for the facility shall be derived from~~
12 ~~the weighted average of the base rates currently charged in each~~
13 ~~facility territory by the 5 largest insurer groups, determined by~~
14 ~~voluntary net direct automobile insurance car years written in~~
15 ~~the state for the calendar year ending December 31 of the second~~
16 ~~prior year as reported to the statistical agent.~~

17 ~~(c) The base rates as determined in subdivision (b) in each~~
18 ~~facility territory shall be modified as follows:~~

19 ~~(i) One hundred percent of the weighted average in each ter-~~
20 ~~ritory in the highest rated territory or territories in the state~~
21 ~~within a single political subdivision.~~

22 ~~(ii) From 105% to 125% of the weighted average for all other~~
23 ~~facility territories, with the highest rated such territories~~
24 ~~receiving the lowest surcharge and increasing to the highest sur-~~
25 ~~charge in the lowest rated facility territories in 5 percentage~~
26 ~~point increments. In no event, however, shall any such rate~~
27 ~~exceed the rate established in subdivision (i).~~

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

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

14 (5) IF IT APPEARS THAT THE INCOME TO BE DERIVED BY THE
15 FACILITY FROM PREMIUMS PAID BY POLICYHOLDERS AND FROM INVESTMENT
16 INCOME IS NOT ADEQUATE TO COVER THE ANTICIPATED LOSSES AND
17 EXPENSES FOR THE FACILITY'S FISCAL YEAR, THE FACILITY SHALL IMME-
18 DIATELY INCREASE PREMIUMS, REDUCE ADMINISTRATIVE EXPENSES AND
19 SERVICING CARRIER FEES, OR BOTH, AS APPROVED BY THE COMMISSIONER
20 IN ORDER TO ASSURE THAT THE FACILITY CONTINUES TO BE
21 SELF-SUPPORTING.

22 Sec. 3355. Every agent who is authorized to solicit, nego-
23 tiate or effect automobile insurance on behalf of any participat-
24 ing member shall:

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

1 (b) If the qualified applicant accepts the offer in
2 subdivision (a), forward the application and any deposit premium
3 required in accordance with the plan of operation, rules, and
4 procedures of the facility.

5 (c) Be entitled to receive, and any participating member be
6 entitled to pay, a commission for placing insurance through the
7 facility at the uniform rates of commission as provided in the
8 plan of operation WHICH, EFFECTIVE OCTOBER 1, 1994, SHALL NOT BE
9 GREATER THAN 5% FOR INSURANCE FOR ELIGIBLE DRIVERS PLACED THROUGH
10 THE FACILITY.

11 Sec. 7911. (1) To implement this chapter, there shall be
12 maintained within this state, by all insurers authorized to
13 transact in this state insurance other than life or disability
14 insurance, except the Michigan basic property insurance associa-
15 tion created pursuant to section 2920 ~~—, the Brown McNeely insur-~~
16 ~~ance fund created in section 2502(1),~~ and on and after ~~the~~
17 ~~effective date of this 1990 amendatory act~~ JUNE 29, 1990, the
18 accident fund created in the worker's disability compensation act
19 of 1969, Act No. 317 of the Public Acts of 1969, being sections
20 418.101 to 418.941 of the Michigan Compiled Laws, an association
21 of those insurers to be known as the property and casualty guar-
22 anty association, hereafter referred to as the "association".
23 Each insurer shall be a member of the association ~~—~~ as a condi-
24 tion of its authority to continue to transact insurance in this
25 state.

26 (2) An insurer from which insurance has been or may be
27 procured in this state solely by virtue of sections 1901 to 1955

1 shall not be considered to be an insurer authorized to transact
2 insurance in this state ~~—~~ for the purposes of this chapter.

3 (3) The association shall be subject to the requirements of
4 this chapter, ~~and of~~ chapter 78, AND SECTION 3172A, but shall
5 not be subject to the other chapters of this act. The associa-
6 tion shall be subject to other laws of this state to the extent
7 that it would be subject to those laws if it were an insurer
8 organized and operating under chapter 50, to the extent that
9 those other laws are consistent with this chapter.