



HOUSE BILL No. 4181

February 9, 1993, Introduced by Reps. Saunders, Kilpatrick, Clack, Bennane, Joe Young, Jr., Harder, DeMars, Jondahl, Olshove, Leland, Harrison, Hood, Gagliardi, Wetters, Freeman, Points, Owen, Scott, Gubow, Hollister, Murphy, Jacobetti, Rivers, Emerson, Ciaramitaro, Berman, Wallace, Dobronski and Stallworth and referred to the Committee on Insurance.

A bill to amend the title and sections 202, 2103, 2110, 2111, 2118, 2120, 3009, 3101, 3101a, 3104, 3107, 3109, 3109a, 3111, 3115, 3135, 3142, 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, sections 2118 and 3009 as amended by Act No. 43 of the Public Acts of 1988, section 2120 as amended by Act No. 350 of the Public Acts of 1984, section 3101 as amended by Act No. 126 of the Public Acts of 1988, section 3101a as added and section 3320 as amended by Act No. 461 of the Public Acts of 1980, section 3104 as amended by Act No. 445 of the Public Acts of 1980, section 3172 as amended by Act No. 426 of the Public Acts of 1984, 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 500.202, 500.2103, 500.2110, 500.2111, 500.2118, 500.2120, 500.3009, 500.3101, 500.3101a, 500.3104, 500.3107, 500.3109, 500.3109a, 500.3111, 500.3115, 500.3135, 500.3142, 500.3172, 500.3320, 500.3330, 500.3340, 500.3355, and 500.7911 of the Michigan Compiled Laws; to add sections 2106a, 2106b, 2106c, 2109a, 2110a, 2111a, 2111b, 2111f, 2111g, 2112a, 2115a, 2115b, 2115c, 2115d, 2115e, 2127a, 2134, 2136, 2138, 2139, 2140, 2432, 3015, 3104a, 3104b, 3107b, 3118, 3172a, 3314, 3315, 3387, 3388, and 6112 and chapter 32a; and to repeal certain parts of the act on a specific date.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 202, 2103, 2110, 2111,
2 2118, 2120, 3009, 3101, 3101a, 3104, 3107, 3109, 3109a, 3111,
3 3115, 3135, 3142, 3172, 3320, 3330, 3340, 3355, and 7911 of Act
4 No. 218 of the Public Acts of 1956, section 2103 as amended by
5 Act No. 305 of the Public Acts of 1990, sections 2111 and 3107 as
6 amended by Act No. 191 of the Public Acts of 1991, sections 2118
7 and 3009 as amended by Act No. 43 of the Public Acts of 1988,
8 section 2120 as amended by Act No. 350 of the Public Acts of
9 1984, section 3101 as amended by Act No. 126 of the Public Acts
10 of 1988, section 3101a as added and section 3320 as amended by
11 Act No. 461 of the Public Acts of 1980, section 3104 as amended
12 by Act No. 445 of the Public Acts of 1980, section 3172 as
13 amended by Act No. 426 of the Public Acts of 1984, section 3340
14 as amended by Act No. 10 of the Public Acts of 1986, and section
15 7911 as amended by Act No. 137 of the Public Acts of 1990, being

1 sections 500.202, 500.2103, 500.2110, 500.2111, 500.2118,
2 500.2120, 500.3009, 500.3101, 500.3101a, 500.3104, 500.3107,
3 500.3109, 500.3109a, 500.3111, 500.3115, 500.3135, 500.3142,
4 500.3172, 500.3320, 500.3330, 500.3340, 500.3355, and 500.7911 of
5 the Michigan Compiled Laws, are amended and sections 2106a,
6 2106b, 2106c, 2109a, 2110a, 2111a, 2111b, 2111f, 2111g, 2112a,
7 2115a, 2115b, 2115c, 2115d, 2115e, 2127a, 2134, 2136, 2138, 2139,
8 2140, 2432, 3015, 3104a, 3104b, 3107b, 3118, 3172a, 3314, 3315,
9 3387, 3388, and 6112 and chapter 32a are added to read as
10 follows:

11 TITLE

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

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

1 multiple employer welfare arrangements; to create an automobile
2 theft prevention authority to reduce the number of automobile
3 thefts in this state; to prescribe the powers and duties of the
4 automobile theft prevention authority; TO PROVIDE CERTAIN POWERS
5 AND DUTIES UPON CERTAIN PERSONS; to provide certain powers and
6 duties upon certain officials, departments, and authorities of
7 this state; to repeal certain acts and parts of acts; to repeal
8 certain acts and parts of acts on specific dates; to repeal cer-
9 tain parts of this act on specific dates; and to provide penal-
10 ties for the violation of this act.

11 Sec. 202. (1) The chief officer of the ~~department~~
12 INSURANCE BUREAU shall be known as the commissioner of
13 insurance. He OR SHE shall ~~be~~ MEET ALL OF THE FOLLOWING
14 REQUIREMENTS:

15 (A) BE a citizen of this state. ~~He shall have his~~

16 (B) HOLD office at the seat of government. ~~He shall~~
17 ~~personally~~

18 (C) PERSONALLY superintend the duties of his OR HER office.
19 ~~He shall not~~

20 (D) NOT be a stockholder or directly or indirectly connected
21 with the management of affairs of any insurer, ~~He~~ HEALTH CARE
22 CORPORATION, AND HEALTH MAINTENANCE ORGANIZATION DURING THE
23 PERIOD IN OFFICE AND ENDING 2 YEARS AFTER HE OR SHE LEAVES
24 OFFICE.

25 (2) THE INSURANCE COMMISSIONER shall be appointed by the
26 governor for a term of 4 years by and with the ADVICE AND consent
27 of the senate.

1 (3) ~~-(2)-~~ Whenever a vacancy occurs in the office of
2 commissioner, ~~by reason of death, removal, or otherwise,~~ the
3 governor shall fill ~~such~~ THE vacancy by appointment, by and
4 with the advice and consent of the senate, if in session.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (iii) A crime under section 92, 151, 157b, or 218 of Act
11 No. 328 of the Public Acts of 1931, as amended, being sections
12 750.92, 750.151, 750.157b, and 750.218 of the Michigan Compiled
13 Laws, based upon a crime described in subparagraph (ii) committed
14 by or on behalf of the person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (b) If contained in or indorsed to a fire insurance policy
26 providing insurance for the insured's residence, other insurance

1 intended primarily to insure nonbusiness property, obligations,
2 and liabilities.

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

10 (4) "Insurance eligibility points" means all of the
11 following:

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

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

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

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

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

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

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

4 (i) For the first substantially at-fault accident, 3
5 points.

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

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

12 SEC. 2106A. THE COMMISSIONER SHALL DEVELOP BY JULY 1, 1993
13 A STANDARD RATE FILING FORM FOR PRIVATE PASSENGER NONFLEET AUTO-
14 MOBILE INSURANCE. BY OCTOBER 1, 1993, EACH AUTOMOBILE INSURER
15 SHALL USE THE STANDARD RATE FILING FORM WHEN FILING A RATE WITH
16 THE COMMISSIONER FOR PRIVATE PASSENGER NONFLEET AUTOMOBILE
17 INSURANCE.

18 SEC. 2106B. (1) THE COMMISSIONER SHALL DEVELOP BY JULY 1,
19 1993 A STANDARD APPLICATION FORM FOR PRIVATE PASSENGER NONFLEET
20 AUTOMOBILE INSURANCE. BY OCTOBER 1, 1993, EACH AUTOMOBILE
21 INSURER SHALL USE THE STANDARD APPLICATION FORM FOR PRIVATE PAS-
22 Senger NONFLEET AUTOMOBILE INSURANCE.

23 (2) THE STANDARD APPLICATION FORM SHALL INCLUDE WHAT COVER-
24 AGES ARE MANDATORY AND WHAT ARE NOT AND SHALL INCLUDE WHETHER THE
25 INSURER OFFERS UNINSURED AND UNDERINSURED MOTORIST'S COVERAGE.

26 (3) AN ELECTRONICALLY OR ELECTROMAGNETICALLY TRANSMITTED
27 FACSIMILE OF THE STANDARD AUTOMOBILE INSURANCE APPLICATION FORM

1 MAY BE SENT TO AN APPLICANT. A SIGNED ELECTRONICALLY OR
2 ELECTROMAGNETICALLY TRANSMITTED FACSIMILE OF THE STANDARD AUTOMO-
3 BILE INSURANCE APPLICATION FORM SHALL BE TREATED THE SAME AS AN
4 ORIGINAL SIGNED STANDARD AUTOMOBILE INSURANCE APPLICATION FORM.

5 SEC. 2106C. (1) THE COMMISSIONER SHALL DEVELOP BY JULY 1,
6 1993 A MODEL DECLARATIONS PAGE FOR PRIVATE PASSENGER NONFLEET
7 AUTOMOBILE INSURANCE. BY OCTOBER 1, 1993, EACH AUTOMOBILE
8 INSURER SHALL USE A DECLARATIONS PAGE SUBSTANTIALLY SIMILAR TO
9 THE MODEL DECLARATIONS PAGE DEVELOPED BY THE COMMISSIONER FOR
10 PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE.

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

14 WARNING. COMPREHENSIVE AND COLLISION COVERAGES
15 REIMBURSE ONLY FOR THE CURRENT VALUE OF YOUR
16 MOTOR VEHICLE LESS YOUR DEDUCTIBLE.

17 SEC. 2109A. (1) AS USED IN THIS SECTION, "SUBSTANTIALLY
18 UNIFORM" MEANS THE ABSENCE OF SIGNIFICANT VARIATIONS AMONG LOSS
19 RATIOS.

20 (2) AN INSURER'S AUTOMOBILE INSURANCE RATES FOR ALL CLASSES
21 AND COVERAGES SHALL BE REASONABLY EXPECTED TO PRODUCE A PURE PRE-
22 MIUM LOSS RATIO, FOR INCURRED LOSSES AND LOSS ADJUSTMENT EXPENSES
23 TO EARNED PREMIUMS, OF NOT LESS THAN 80% FOR ALL AUTOMOBILE
24 INSURANCE COVERAGES. "INCURRED LOSS" MEANS MONEY ACTUALLY PAID
25 OUT BY OR RESERVED FOR THE INSURER AND SHALL NOT INCLUDE MONEY
26 REIMBURSABLE TO THE INSURER. AN INSURER'S RATES SHALL BE
27 ESTABLISHED IN A MANNER THAT CAN REASONABLY BE ANTICIPATED TO

1 PRODUCE LOSS RATIOS OVER A 3-YEAR AVERAGE THAT ARE SUBSTANTIALLY
2 UNIFORM THROUGHOUT THE STATE AND AMONG THE CLASSIFICATIONS,
3 KINDS, OR TYPES OF INDIVIDUALS OR RISKS TO WHICH THE RATES APPLY.

4 (3) AN AUTOMOBILE INSURER'S RATES SHALL BE DIRECTLY RELATED
5 TO RISKS THAT ARE WITHIN THE CONTROL OF THE MOTOR VEHICLE'S OWNER
6 OR OPERATOR.

7 Sec. 2110. (1) In developing and evaluating rates pursuant
8 to the standards prescribed in ~~section 2109~~ SECTIONS 2109 AND
9 2109A, due consideration shall be given to past and prospective
10 loss experience within and outside this state, to catastrophe
11 hazards, if any; to a reasonable margin for underwriting profit
12 and contingencies; to dividends, savings, or unabsorbed premium
13 deposits allowed or returned by insurers to their policyholders,
14 members, or subscribers; to past and prospective expenses, both
15 countrywide and those specially applicable to this state exclu-
16 sive of assessments under this ~~code~~ ACT; to assessments under
17 this ~~code~~ ACT; to underwriting practice and judgment; and to
18 all other relevant factors within and outside this state. IN
19 DETERMINING THE REASONABLENESS OF THE MARGIN FOR UNDERWRITING
20 PROFIT FOR AUTOMOBILE INSURANCE, CONSIDERATION SHALL BE GIVEN TO
21 EXPENSES, INVESTMENT INCOME EARNED ON LOSS RESERVES, INVESTMENT
22 INCOME EARNED ON UNEARNED PREMIUM RESERVES, AND INVESTMENT INCOME
23 EARNED ON THAT PORTION OF CAPITAL AND SURPLUS ATTRIBUTABLE TO
24 AUTOMOBILE INSURANCE, AS WELL AS THE FACTORS USED TO DETERMINE
25 THE AMOUNT OF THE RESERVES.

26 (2) The systems of expense provisions included in the rates
27 for use by ~~any~~ AN insurer or group of insurers may differ from

1 those of other insurers or groups of insurers to reflect the
2 requirements of the operating methods of the insurer or group
3 with respect to any kind of insurance ~~—~~ or with respect to any
4 subdivision or combination thereof for which subdivision or com-
5 bination separate expense provisions are applicable.

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

9 SEC. 2110A. (1) AN AUTOMOBILE INSURER SHALL ESTABLISH AND
10 MAINTAIN A PREMIUM DISCOUNT PLAN THAT PROVIDES FOR A PREMIUM DIS-
11 COUNT FOR AUTOMOBILE PERSONAL PROTECTION INSURANCE IF A MOTOR
12 VEHICLE HAS 2 OR MORE OF THE FOLLOWING SAFETY FEATURES:

13 (A) SAFETY BELTS.

14 (B) ANTILACERATIVE GLASS.

15 (C) AIR BAGS.

16 (D) REAR SHOULDER HARNESES.

17 (E) ANTILOCK BRAKES.

18 (F) ENHANCED SIDEWALL PROTECTION.

19 (G) BUMPERS THAT EXCEED A COLLISION STANDARD OF 5 MILES PER
20 HOUR.

21 (H) OTHER SAFETY FEATURES THAT REDUCE FREQUENCY OR SEVERITY
22 OF COLLISIONS OR INJURIES AS DETERMINED BY THE INSURER AND
23 APPROVED BY THE COMMISSIONER.

24 (2) A PREMIUM DISCOUNT PLAN REQUIRED UNDER THIS SECTION MAY
25 REQUIRE THE INSURED INDIVIDUAL TO CERTIFY IN WRITING THAT HE OR
26 SHE WILL WEAR A SAFETY BELT WHILE OPERATING THE INSURED MOTOR
27 VEHICLE IN COMPLIANCE WITH SECTION 710E OF THE MICHIGAN VEHICLE

1 CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION
2 257.710E OF THE MICHIGAN COMPILED LAWS, OR THAT THE INSURED INDI-
3 VIDUAL HAS 1 OR MORE OF THE SAFETY FEATURES LISTED IN
4 SUBSECTION (1)(B) TO (H) AS A CONDITION TO RECEIVING THE PREMIUM
5 DISCOUNT. IF AN INSURED RECEIVES A PREMIUM DISCOUNT AFTER PRO-
6 VIDING SUCH CERTIFICATION AND IS INJURED WHILE OPERATING THE
7 MOTOR VEHICLE THAT WAS CERTIFIED TO WITHOUT WEARING A SAFETY BELT
8 AT THE TIME OF THE INJURY IF THAT WAS CERTIFIED TO OR WITHOUT
9 HAVING A SAFETY FEATURE THAT WAS CERTIFIED TO, AN INSURER MAY
10 IMPOSE A \$100.00 DEDUCTIBLE TO THE LOSS RECEIVED IN ADDITION TO
11 ANY OTHER DEDUCTIBLE APPLICABLE TO THE POLICY.

12 Sec. 2111. (1) Notwithstanding any provision of this act
13 and this chapter to the contrary, classifications and territorial
14 base rates used by any insurer in this state with respect to
15 automobile insurance or home insurance shall conform to the
16 applicable requirements of this section.

17 (2) Classifications established pursuant to this section for
18 automobile insurance shall be based only upon ~~1 or more~~ ALL of
19 the following factors, which shall be applied by an insurer on a
20 uniform basis throughout the state AND THE INDIVIDUAL PREMIUM
21 SHALL BE THE SUM OF ALL APPLICABLE FACTORS MULTIPLIED BY THE BASE
22 RATE PLUS THE BASE RATE:

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

24 (i) Either ~~the age of the driver;~~ the length of driving
25 experience ~~—~~ or the number of years licensed to operate a motor
26 vehicle.

1 (ii) Driver primacy, based upon the proportionate use of
2 each vehicle insured under the policy by individual drivers
3 insured or to be insured under the policy.

4 (iii) Average miles driven ~~weekly, annually, or both~~
5 ANNUALLY WITH NOT LESS THAN 5 MILEAGE CATEGORIES AS FOLLOWS:
6 BELOW 3,000 MILES, 3,000 TO 10,000 MILES, 10,000 TO 20,000 MILES,
7 20,000 TO 50,000 MILES, OVER 50,000 MILES.

8 (iv) Type of use, such as business, farm, or pleasure use.

9 (v) ~~Vehicle characteristics, features, and options, such as~~
10 ~~engine displacement, ability of vehicle and its equipment to pro-~~
11 ~~tect passengers from injury and other similar items, including~~
12 ~~vehicle make and model.~~ VEHICLE DESIGN AND EQUIPMENT CHARACTER-
13 ISTICS INCLUDING STANDARD FEATURES AND OPTIONS, BY VEHICLE MAKE
14 AND MODEL, THAT BEAR UPON THE ABILITY OF THE VEHICLE TO PROTECT
15 PASSENGERS FROM INJURY OR TO AVOID ACCIDENTS.

16 (vi) Daily or weekly commuting mileage.

17 (vii) Number of cars insured by the insurer or number of
18 licensed operators in the household. However, number of licensed
19 operators shall not be used as an indirect measure of marital
20 status.

21 (viii) Amount of insurance.

22 (ix) DEDUCTIBLES OR COPAYS.

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

25 (i) Earned income.

26 (ii) Number of dependents of income earners insured under
27 the policy.

1 (iii) Coordination of benefits.

2 (iv) Use of a safety belt.

3 (c) In addition to the factors prescribed in subdivision

4 (a), with respect to collision and comprehensive coverages:

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

9 (ii) Vehicle make and model.

10 (iii) Vehicle design characteristics related to vehicle
11 damageability.

12 (iv) Vehicle characteristics relating to automobile theft
13 prevention devices.

14 (D) AFTER JULY 1, 1994, IN ADDITION TO THE FACTORS PRE-
15 SCRIBED IN SUBDIVISIONS (A) AND (C) WITH RESPECT TO COLLISION
16 COVERAGES ONLY, UPON THE REPAIRABILITY RATING ISSUED PURSUANT TO
17 SECTION 2115E.

18 (E) IN ADDITION TO THE FACTORS PRESCRIBED IN
19 SUBDIVISIONS (A), (C), AND (D) WITH RESPECT TO COMPREHENSIVE COV-
20 ERAGES ONLY, THE PRESENCE OF THEFT PREVENTION DEVICES ON THE
21 INSURED VEHICLE.

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

26 (i) The course shall include a minimum of 8 hours of
27 classroom instruction.

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

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

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

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

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

7 (E) Accident prevention measures.

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

9 (G) Major driving hazards.

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

12 (I) LIMITS AND BENEFITS OF THE VARIOUS AUTOMOBILE INSURANCE
13 COVERAGES.

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

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

25 (b) ~~Until April 1, 1992, an~~ AN automobile safety belt pre-
26 mium discount plan. A premium discount plan required under this
27 subdivision shall provide for a premium discount for automobile

1 personal protection insurance of not less than 20%. A premium
2 discount plan established under this subdivision may require the
3 insured individual to certify in writing that he or she will wear
4 a safety belt while operating the insured motor vehicle in com-
5 pliance with section 710e of the Michigan vehicle code, Act
6 No. 300 of the Public Acts of 1949, being section 257.710e of the
7 Michigan Compiled Laws, as a condition to receiving the premium
8 discount. If an insured receives a premium discount after pro-
9 viding such certification and is injured while operating ~~a~~ THE
10 motor vehicle THAT WAS CERTIFIED TO without wearing a safety belt
11 at the time of the injury, an insurer may ~~subsequently deny to~~
12 ~~the insured the right to participate in any premium discount plan~~
13 ~~established by the insurer pursuant to this subdivision for a~~
14 ~~period of 12 months~~ IMPOSE A \$100.00 DEDUCTIBLE TO THE LOSS
15 RECEIVED IN ADDITION TO ANY OTHER DEDUCTIBLE APPLICABLE TO THE
16 POLICY. An insurer that reduces its personal protection insur-
17 ance rates after December 1, 1985 by not less than 20% and does
18 not increase those rates for a period of 12 months shall be con-
19 sidered to be in compliance with this subdivision.

20 (4) Each insurer shall establish a secondary or merit rating
21 plan for automobile insurance, other than comprehensive
22 coverage. A secondary or merit rating plan required under this
23 subsection shall provide for premium surcharges for any or all
24 coverages for automobile insurance, other than comprehensive cov-
25 erage, based upon any or all of the following FOR THE 2-YEAR
26 PERIOD IMMEDIATELY PRECEDING APPLICATION FOR OR RENEWAL OF A
27 POLICY, when that information becomes available to the insurer:

1 (a) Substantially at-fault accidents.

2 (B) THE SUSPENSION OF THE INSURED'S LICENSE BY THE SECRETARY
3 OF STATE UNDER SECTION 319(1)(C) TO (F) OF ACT NO. 300 OF THE
4 PUBLIC ACTS OF 1949, BEING SECTION 257.319 OF THE MICHIGAN
5 COMPILED LAWS, OR A SUSPENSION UNDER A SUBSTANTIALLY SIMILAR LAW
6 OF ANOTHER STATE.

7 (C) ~~(b)~~ Convictions for, determinations of responsibility
8 for civil infractions for, or findings of responsibility in pro-
9 bate court for civil infractions for ~~violations~~ ANY OF THE
10 FOLLOWING:

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

14 (ii) OPERATING A MOTOR VEHICLE WHILE LICENSE IS SUSPENDED OR
15 REVOKED.

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

19 (iv) A VIOLATION SUBSTANTIALLY SIMILAR TO ANY OF THE VIOLA-
20 TIONS LISTED IN SUBPARAGRAPHS (i) TO (iii) UNDER THE LAWS OF
21 ANOTHER STATE OR LOCAL UNIT OF GOVERNMENT IN THIS STATE OR
22 ANOTHER STATE.

23 (5) A SECONDARY OR MERIT RATING PLAN UNDER SUBSECTION (4)
24 SHALL PROVIDE FOR A FLAT RATE SURCHARGE. AN INSURER MAY ELECT
25 NOT TO SURCHARGE AN INSURED UNDER THIS SECTION FOR THE FIRST VIO-
26 LATION OR FIRST SUBSTANTIALLY AT FAULT ACCIDENT, IF THE INSURED
27 HAS BEEN INSURED WITH THE INSURER FOR NOT LESS THAN 5 YEARS AND

1 THE ELECTION IS UNIFORMLY OFFERED AND APPLIED TO ALL OF THE
2 INSURER'S INSURED.

3 (6) ~~(5)~~ An insurer shall not establish or maintain rates
4 or rating classifications for automobile insurance based upon sex
5 or marital status.

6 (7) ~~(6)~~ Notwithstanding other provisions of this chapter,
7 automobile insurance risks shall NOT be grouped by territory ~~and~~
8 ~~and territorial base rates for coverages shall be established as~~
9 ~~provided in section 2111a and as follows:~~ AN INSURER SHALL NOT
10 CHARGE A TERRITORIAL BASE RATE FOR AN AUTOMOBILE INSURANCE
11 POLICY.

12 ~~(a) An insurer shall not be limited as to the number of~~
13 ~~territories employed in its rating plan.~~

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

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

20 ~~(d) Except during the period of time from February 28, 1986~~
21 ~~to April 1, 1992, an insurer shall not employ a territorial base~~
22 ~~rate for an automobile insurance package policy that is less than~~
23 ~~45% of the highest territorial base rate for the same policy, all~~
24 ~~other rating classifications being the same.~~

25 ~~(e) Except during the period of time from February 28, 1986~~
26 ~~to April 1, 1992, an insurer shall not employ a territorial base~~
27 ~~rate in a territory for an automobile insurance package policy~~

~~1 that is less than 90% of the territorial base rate employed in
2 any adjacent territory for the same policy, all other rating
3 classifications being the same.~~

~~4 (7) Except during the period of time from February 28, 1986
5 to April 1, 1992, an insurer may elect at any time to exempt
6 itself from the requirements of subsection (6) by filing for an
7 exemption with the commissioner. An insurer electing this exemp-
8 tion shall initially file a rating plan in which no territorial
9 base rate for an automobile insurance package policy is less than
10 45% of the highest territorial base rate for the same policy, all
11 other rating classifications being the same. Five years from the
12 date of the initial filing the insurer shall be prohibited from
13 using a rating plan in which any territorial base rate for an
14 automobile insurance package policy will be less than 67% of the
15 highest territorial base rate for that same policy, all other
16 rating classifications being the same. An insurer's election of
17 an exemption under this subsection is permanent, final, and not
18 subject to change.~~

~~19 (8) Except during the period of time from February 28, 1986
20 to April 1, 1992, if an insurer can demonstrate to the commis-
21 sioner, after an opportunity for an evidentiary hearing held pur-
22 suant to the administrative procedures act of 1969, Act No. 306
23 of the Public Acts of 1969, as amended, being sections 24.201 to
24 24.328 of the Michigan Compiled Laws, that clear and significant
25 financial impairment exists in the geographic territory or terri-
26 tories in question because of the need for an additional
27 territorial base rate, or for a greater variance in the adjacent~~

~~1 geographic territory differential contained in subsection (6)(e),
2 the additional territorial base rate, a greater variance, or
3 both, shall be permitted for use by the insurer or a licensed
4 rating organization on behalf of that insurer, at such time as
5 the need exists. Evidence shall not include financial impairment
6 resulting from exemptions granted to other insurers.~~

~~7 (9) Except during the period of time from February 28, 1986
8 to April 1, 1992, if the commissioner finds, solely on the evi-
9 dence presented, that a greater variance in the adjacent geo-
10 graphic territory differential than that authorized under subsec-
11 tion (6)(e) is justified, the increase in variance shall not
12 exceed 100% of that authorized under that subsection. Except
13 during the period of time from February 28, 1986 to April 1,
14 1992, if an increase in variance in the adjacent geographic ter-
15 ritory differential greater than 100% of that authorized under
16 subsection (6)(e) is justified, the commissioner shall require
17 the creation of an additional territorial base rate.~~

~~18 (10) Except during the period of time from February 28, 1986
19 to April 1, 1992, an exemption granted under subsections (8) and
20 (9) shall be applicable only to the geographic territory or ter-
21 ritories in question, and only to the insurer requesting the
22 exemption.~~

~~23 (11) Except during the period of time from February 28, 1986
24 to April 1, 1992, an insurer shall not have more than 5 exemp-
25 tions in force at any 1 time. For purposes of determining the
26 number of existing exemptions, each additional territorial base
27 rate or each increase in variance in the adjacent geographic~~

1 ~~territory differential granted, shall be considered to be a~~
2 ~~separate exemption.~~

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

15 (9) ~~(+3)~~ Classifications established pursuant to this sec-
16 tion for home insurance other than inland marine insurance pro-
17 vided by policy floaters or endorsements shall be based only upon
18 1 or more of the following factors:

19 (a) Amount and types of coverage.

20 (b) Security and safety devices, including locks, smoke
21 detectors, and similar, related devices.

22 (c) Repairable structural defects reasonably related to
23 risk.

24 (d) Fire protection class.

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

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

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

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

6 (i) Availability of law enforcement or crime prevention
7 services.

8 (10) ~~(14)~~ Notwithstanding other provisions of this chap-
9 ter, home insurance risks shall be grouped by territory, and ter-
10 ritorial base rates for coverages shall be established as
11 follows:

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

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

22 (c) An insurer shall not employ a territorial base rate for
23 home insurance for renter or tenant policies that is less than
24 65% of the highest territorial base rate for the same policy, all
25 other rating classifications being the same.

26 (11) ~~(15)~~ An insurer may utilize factors in addition to
27 those specified in this section, if the commissioner finds, after

1 a hearing held pursuant to the administrative procedures act of
2 1969, Act No. 306 of the Public Acts of 1969, as amended, being
3 sections 24.201 to 24.328 of the Michigan Compiled Laws, that the
4 factors would encourage innovation, would encourage insureds to
5 minimize the risks of loss from hazards insured against, and
6 would be consistent with the purposes of this chapter.

7 SEC. 2111A. A RATE FILING FOR AUTOMOBILE INSURANCE PACKAGE
8 POLICIES SHALL NOT BE MODIFIED, CHANGED, OR ALTERED FOR A PERIOD
9 OF 6 MONTHS AFTER THE EFFECTIVE DATE OF THE FILING UNLESS THE
10 MODIFICATION, CHANGE, OR ALTERATION FOR THE CELLS AFFECTED BY THE
11 FILING RESULTS IN AN OVERALL PREMIUM REDUCTION FOR THE AFFECTED
12 CELLS. CHANGES IN RISK SYMBOLS AND CHANGES IN RISK SYMBOL APPLI-
13 CATIONS AND VALUES SHALL ONLY BE MADE IN CONJUNCTION WITH A RATE
14 FILING. THIS SECTION DOES NOT PROHIBIT AN INSURER FROM MAKING
15 RATE FILINGS AT ANY TIME THAT ONLY PROVIDE CHANGES TO RATES BASED
16 UPON ASSESSMENTS LEVIED AGAINST INSURERS PURSUANT TO SECTION 3104
17 OR 3330. THESE RATE FILINGS SHALL NOT BE CONSIDERED RATE FILINGS
18 FOR PURPOSES OF THIS SECTION.

19 SEC. 2111B. AN INSURER SHALL NOT REQUIRE AN INSURED OR AN
20 APPLICANT FOR INSURANCE TO PURCHASE A CLUB MEMBERSHIP IN ORDER TO
21 PURCHASE AUTOMOBILE OR HOME INSURANCE.

22 SEC. 2111F. (1) EXCEPT AS PROVIDED IN SUBSECTION (3), BY
23 JULY 1, 1993, EACH INSURER TRANSACTING AUTOMOBILE INSURANCE IN
24 THIS STATE SHALL FILE BASE RATES FOR AUTOMOBILE INSURANCE THAT
25 REFLECT THE ANTICIPATED COST SAVINGS RESULTING FROM THE CHANGES
26 MADE IN THE AMENDATORY ACT THAT ADDED THIS SECTION AS FOLLOWS:

1 (A) FOR COLLISION AND COMPREHENSIVE COVERAGES, THE BASE
2 RATES IN EFFECT FOR THOSE COVERAGES ON OCTOBER 1, 1992, REDUCED
3 BY AT LEAST 15%.

4 (B) FOR PERSONAL PROTECTION INSURANCE, PROPERTY PROTECTION
5 INSURANCE, AND RESIDUAL LIABILITY INSURANCE, THE BASE RATES IN
6 EFFECT FOR THOSE COVERAGES ON OCTOBER 1, 1992, REDUCED BY AT
7 LEAST 15%.

8 (2) EXCEPT FOR RATE CHANGES BASED SOLELY UPON ASSESSMENTS
9 LEVIED AGAINST INSURERS PURSUANT TO SECTION 3104 OR 3330 OR FOR A
10 CHANGE TO AN INDIVIDUAL INSURED'S RATES BASED ON AN ELIGIBILITY
11 OR SURCHARGE FACTOR APPLICABLE TO THAT INDIVIDUAL, RATES IN
12 EFFECT ON AND AFTER JULY 1, 1993 SHALL NOT BE INCREASED BEFORE
13 JULY 1, 1994. RATES FILED ON AND AFTER JULY 1, 1994 SHALL BE
14 REVIEWED BY THE INDEPENDENT ACTUARIAL PANEL ESTABLISHED IN
15 SUBSECTION (5).

16 (3) AN INSURER MAY PETITION THE COMMISSIONER FOR RELIEF FROM
17 THE PERCENTAGES SET IN SUBSECTION (1) IF THE INSURER PETITIONS
18 THE COMMISSIONER BY MAY 1, 1993 AND CAN SHOW THAT A RATE BASED ON
19 THOSE PERCENTAGES EVEN WITH THE COMPUTATION OF INVESTMENT INCOME
20 IS INADEQUATE TO COVER ANTICIPATED LOSSES OR THAT THE INSURER ON
21 ITS OVERALL BOOK OF PRIVATE PASSENGER AUTOMOBILE INSURANCE IN
22 MICHIGAN IS UNABLE TO EARN A FAIR RATE OF RETURN. AN INSURER
23 SEEKING RELIEF UNDER THIS SUBSECTION SHALL SUBMIT ITS FILINGS TO
24 THE INDEPENDENT ACTUARIAL PANEL ESTABLISHED IN SUBSECTION (5)
25 ALONG WITH ITS PETITION TO THE COMMISSIONER. THE INDEPENDENT
26 ACTUARIAL PANEL SHALL REVIEW THE FILINGS AND SUBMIT A

1 RECOMMENDATION TO THE COMMISSIONER WITHIN 30 DAYS AFTER RECEIVING
2 THE FILINGS.

3 (4) NOT LATER THAN 15 DAYS AFTER RECEIPT OF THE INDEPENDENT
4 ACTUARIAL PANEL'S RECOMMENDATIONS UNDER SUBSECTION (3), THE COM-
5 MISSIONER SHALL SCHEDULE A PUBLIC HEARING TO DETERMINE THE VALID-
6 ITY OF THE INSURER'S PETITION. WITHIN 60 DAYS AFTER THE RECEIPT
7 OF THE INSURER'S PETITION, THE COMMISSIONER SHALL ISSUE A
8 DECISION.

9 (5) AN INDEPENDENT ACTUARIAL PANEL SHALL BE ESTABLISHED IN
10 THE INSURANCE BUREAU BY APRIL 15, 1993. THE INDEPENDENT ACTUAR-
11 IAL PANEL SHALL CONSIST OF 3 INDEPENDENT ACTUARIES APPOINTED AS
12 FOLLOWS:

13 (A) ONE ACTUARY APPOINTED BY THE SENATE MAJORITY LEADER.

14 (B) ONE ACTUARY APPOINTED BY THE SPEAKER OF THE HOUSE OF
15 REPRESENTATIVES.

16 (C) ONE ACTUARY APPOINTED BY THE ACTUARIES APPOINTED UNDER
17 SUBDIVISIONS (A) AND (B).

18 (6) BY JULY 1, 1993, EACH INSURER ENGAGED IN WRITING INSUR-
19 ANCE COVERAGES THAT PROVIDE THE SECURITY REQUIRED BY
20 SECTION 3101(1) WITHIN THIS STATE, AS A CONDITION OF ITS AUTHOR-
21 ITY TO TRANSACT INSURANCE IN THIS STATE, SHALL PAY AN ASSESSMENT
22 EQUAL TO 10 CENTS MULTIPLIED BY THE INSURER'S TOTAL EARNED CAR
23 YEARS OF INSURANCE PROVIDING THE SECURITY REQUIRED BY
24 SECTION 3101(1) WRITTEN IN THIS STATE DURING THE IMMEDIATELY PRE-
25 CEDING CALENDAR YEAR. MONEY RECEIVED PURSUANT TO THIS SUBSECTION
26 SHALL BE EARMARKED FOR THE INSURANCE BUREAU'S USE IN IMPLEMENTING
27 THIS SECTION.

1 (7) AN INSURER SHALL EXHAUST ALL ADMINISTRATIVE REMEDIES
2 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF
3 THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE
4 MICHIGAN COMPILED LAWS, BEFORE PROCEEDING WITH A COURT ACTION FOR
5 RELIEF FROM THIS SECTION.

6 SEC. 2111G. AN INSURER SHALL NOT CHARGE AN INSURED A PRE-
7 MIUM FOR ANY ASSESSMENT LEVIED AGAINST THE INSURER PURSUANT TO
8 SECTION 3104 OR 3330 IF THE INSURER USES THE ASSESSMENT AS A
9 CREDIT UNDER THE SINGLE BUSINESS TAX ACT, ACT NO. 228 OF THE
10 PUBLIC ACTS OF 1975, BEING SECTIONS 208.1 TO 208.145 OF THE
11 MICHIGAN COMPILED LAWS.

12 SEC. 2112A. (1) AN AUTOMOBILE INSURER SHALL NOT INCREASE
13 THE PREMIUM FOR AN AUTOMOBILE INSURANCE POLICY THAT IS BEING
14 RENEWED WHEN THE INCREASE IS DUE TO AN INCREASE IN RATES UNLESS
15 THE INSURER SENDS THE RENEWAL NOTICE SHOWING THE HIGHER PREMIUM
16 TO THE INSURED AT LEAST 30 DAYS BEFORE THE INSURANCE POLICY
17 RENEWAL DATE. IF AN INSURER DOES NOT SEND THE RENEWAL NOTICE
18 SHOWING THE HIGHER PREMIUM TO THE INSURED AT LEAST 30 DAYS BEFORE
19 THE INSURANCE POLICY RENEWAL DATE, THE INSURED IS NOT LIABLE FOR
20 THE PRORATED PORTION OF THE INCREASE IN PREMIUM.

21 (2) AS USED IN THIS SECTION, "PRORATED PORTION OF THE
22 INCREASE IN PREMIUM" MEANS THE AMOUNT OF INCREASE IN PREMIUM
23 DIVIDED BY THE NUMBER OF DAYS IN THE BILLING PERIOD MULTIPLIED BY
24 THE NUMBER OF DAYS BY WHICH THE INSURER FAILED TO SEND THE 30-DAY
25 NOTICE REQUIRED BY THIS SECTION.

26 SEC. 2115A. BY NOT LATER THAN 60 DAYS AFTER THE EFFECTIVE
27 DATE OF THIS SECTION AUTOMOBILE INSURERS SHALL ESTABLISH A MARKET

1 ASSISTANCE PLAN THAT SHALL BE APPROVED BY THE COMMISSIONER. THE
2 MARKET ASSISTANCE PLAN SHALL ASSIST RESIDENTS OF THIS STATE IN
3 OBTAINING AUTOMOBILE INSURANCE BY ESTABLISHING, MAINTAINING, AND
4 ADVERTISING A STATEWIDE TOLL-FREE TELEPHONE LINE THROUGH WHICH
5 RESIDENTS OF THIS STATE CAN OBTAIN AUTOMOBILE INSURANCE RATE
6 INFORMATION, BY DISSEMINATING THE TOLL-FREE TELEPHONE NUMBERS OF
7 AUTOMOBILE INSURERS ESTABLISHED PURSUANT TO SECTION 2115B, AND BY
8 MAKING AVAILABLE INFORMATION ON CONSUMERS' RIGHTS TO AUTOMOBILE
9 INSURANCE.

10 SEC. 2115B. BY NOT LATER THAN 30 DAYS AFTER THE EFFECTIVE
11 DATE OF THIS SECTION, EACH AUTOMOBILE INSURER THAT ANNUALLY
12 WRITES A TOTAL OF \$5,000,000.00 OR MORE OF PRIVATE PASSENGER NON-
13 FLEET AUTOMOBILE INSURANCE BUSINESS IN THIS STATE SHALL ESTAB-
14 LISH, MAINTAIN, AND ADVERTISE A STATEWIDE TOLL-FREE TELEPHONE
15 LINE TO GIVE RESIDENTS OF THIS STATE ACCESS TO INFORMATION ABOUT
16 THE INSURER'S AUTOMOBILE INSURANCE RATES AND TO DIRECT RESIDENTS
17 TO THE INSURER'S NEAREST AUTOMOBILE INSURANCE AGENT.

18 SEC. 2115C. (1) IF THE COMMISSIONER CONCLUDES BASED UPON
19 THE ANALYSIS CONTAINED IN WRITTEN FINDINGS AFTER SUCH PUBLIC
20 HEARINGS AS THE COMMISSIONER CONSIDERS APPROPRIATE THAT A SUB-
21 STANTIAL NUMBER OF ELIGIBLE PERSONS WITHIN 1 OR MORE SPECIFIED
22 GEOGRAPHIC AREAS WITHIN THIS STATE DO NOT HAVE A REASONABLE
23 DEGREE OF ACCESS TO AUTOMOBILE INSURANCE WITH A REASONABLE NUMBER
24 OF INSURERS REPRESENTING THE ARRAY OF RATES FILED BY INSURERS
25 WITH THE COMMISSIONER WITH RESPECT TO THOSE ELIGIBLE PERSONS, THE
26 COMMISSIONER SHALL ORDER EACH INSURER THAT IS NOT PROVIDING THOSE
27 ELIGIBLE PERSONS WITH A REASONABLE DEGREE OF ACCESS TO THE

1 INSURER'S AUTOMOBILE INSURANCE TO ESTABLISH, MAINTAIN, AND
2 ADVERTISE AN AGENT PRESENCE IN THAT GEOGRAPHIC AREA.

3 (2) BY 1 YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION THE
4 COMMISSIONER SHALL ORDER EACH AUTOMOBILE INSURER TO ESTABLISH,
5 MAINTAIN, AND ADVERTISE AN AGENT PRESENCE IN EACH URBAN AREA.

6 (3) AN INSURER ORDERED TO ESTABLISH, MAINTAIN, AND ADVERTISE
7 AN AGENT PRESENCE UNDER SUBSECTION (1) OR (2) SHALL SUBMIT THE
8 NAMES OF THE AGENTS AND AGENCIES ESTABLISHED, THEIR LOCATION, AND
9 THE METHODS AND FREQUENCY OF ADVERTISING USED TO PROMOTE THE
10 AGENCY IN THE GEOGRAPHIC AREA WHERE THE AGENCY WAS ESTABLISHED TO
11 THE COMMISSIONER FOR THE COMMISSIONER'S APPROVAL. IF THE COMMIS-
12 SIONER DISAPPROVES THE SUBMISSION, THE COMMISSIONER SHALL STATE
13 WHAT THE INSURER NEEDS TO CHANGE IN THE AGENCY'S ESTABLISHMENT,
14 MAINTENANCE, ADVERTISING, OR LOCATION TO MERIT THE COMMISSIONER'S
15 APPROVAL.

16 (4) AN INSURER WHO VIOLATES AN ORDER UNDER SUBSECTION (1) OR
17 (2) OR WHO DOES NOT OBTAIN THE COMMISSIONER'S APPROVAL UNDER
18 SUBSECTION (3) IS SUBJECT TO A CIVIL FINE OF \$10,000.00 FOR EACH
19 DAY THE VIOLATION CONTINUES. IF AN INSURER IS NOT IN COMPLIANCE
20 WITH THIS SECTION FOR 45 DAYS, THE COMMISSIONER SHALL SUSPEND THE
21 INSURER'S AUTHORITY TO WRITE AUTOMOBILE INSURANCE IN THIS STATE.

22 (5) A CIVIL FINE SHALL NOT BE IMPOSED AND THE INSURER'S
23 AUTHORITY TO WRITE AUTOMOBILE INSURANCE IN THIS STATE SHALL NOT
24 BE SUSPENDED EXCEPT UPON A WRITTEN ORDER OF THE COMMISSIONER,
25 SPECIFYING THE ALLEGED VIOLATION AND STATING HIS OR HER FINDINGS,
26 MADE AFTER A HEARING HELD UPON NOT LESS THAN 10 DAYS' WRITTEN
27 NOTICE TO THE INSURER.

1 (6) CIVIL FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE
2 EARMARKED FOR THE USE OF THE INSURANCE BUREAU'S CONSUMER ASSIST-
3 ANCE DIVISION.

4 (7) AS USED IN THIS SECTION, "URBAN AREA" MEANS THE AREA
5 WITHIN THE BOUNDARIES OF A CITY IN THIS STATE THAT HAS A POPULA-
6 TION OF 1,000,000 OR MORE AS DETERMINED BY THE LATEST OF EACH
7 SUCCEEDING FEDERAL DECENNIAL CENSUS AND INCLUDES ANY CITY LOCATED
8 WHOLLY WITHIN THE BOUNDARIES OF A CITY IN THIS STATE THAT HAS A
9 POPULATION OF 1,000,000 OR MORE AS DETERMINED BY THE LATEST OF
10 EACH SUCCEEDING FEDERAL DECENNIAL CENSUS.

11 SEC. 2115D. THE COMMISSIONER SHALL PREPARE SEMIANNUALLY A
12 BUYER'S GUIDE TO AUTOMOBILE INSURANCE IN MICHIGAN IN AT LEAST
13 8-POINT TYPE. THE BUYER'S GUIDE SHALL COMPARE RATES AMONG A REA-
14 SONABLE REPRESENTATION OF AT LEAST 50 AUTOMOBILE INSURERS IN
15 MICHIGAN IN EACH TERRITORY USED BY THE PRINCIPAL ADVISORY ORGANI-
16 ZATION FOR STATISTICAL REPORTING PURPOSES. THE COMMISSIONER
17 SHALL PROVIDE COPIES OF THE BUYER'S GUIDE TO THE GOVERNOR, TO
18 EACH MEMBER OF THE LEGISLATURE, AND TO SECRETARY OF STATE BRANCH
19 OFFICES FOR DISTRIBUTION TO THE PUBLIC. THE SECRETARY OF STATE
20 SHALL MAIL WITH EACH NOTICE OF LICENSE PLATE RENEWAL A NOTICE
21 THAT A BUYER'S GUIDE TO AUTOMOBILE INSURANCE IS AVAILABLE AT EACH
22 LOCAL SECRETARY OF STATE OFFICE AND FROM THE INSURANCE BUREAU BY
23 WRITING OR TELEPHONING THE INSURANCE BUREAU.

24 SEC. 2115E. (1) THE COMMISSIONER SHALL ESTABLISH WITHIN THE
25 INSURANCE BUREAU A TASK FORCE THAT SHALL RATE THE REPAIRABILITY
26 OF ALL 1993 MODEL YEAR AUTOMOBILES AND ALL AUTOMOBILES
27 MANUFACTURED AFTER 1993. THE TASK FORCE SHALL ISSUE THEIR

1 INITIAL REPORT ON REPAIRABILITY RATINGS BY JULY 1, 1994.

2 SUBSEQUENT REPORTS SHALL BE ISSUED ANNUALLY BY JULY 1.

3 (2) THE TASK FORCE SHALL BE COMPRISED OF 8 TO 10 MEMBERS
4 APPOINTED BY THE COMMISSIONER AND SHALL HAVE REPRESENTATION FROM
5 ALL OF THE FOLLOWING:

6 (A) LAW ENFORCEMENT.

7 (B) AUTOMOBILE MANUFACTURERS.

8 (C) AUTOMOBILE REPAIR ESTABLISHMENTS.

9 (D) AUTOMOBILE INSURERS.

10 (E) AUTOMOBILE PARTS PRODUCERS OTHER THAN AUTOMOBILE
11 MANUFACTURERS.

12 (F) SAFETY ENGINEERS.

13 (G) ACADEMIA.

14 (H) THE GENERAL PUBLIC.

15 (3) THE COMMISSIONER SHALL DESIGNATE 1 MEMBER TO SERVE AS
16 CHAIRPERSON OF THE TASK FORCE.

17 (4) MEMBERS OF THE TASK FORCE SHALL SERVE FOR A 4-YEAR
18 TERM.

19 (5) MEMBERS OF THE TASK FORCE SHALL SERVE WITHOUT COMPENSA-
20 TION FOR THEIR MEMBERSHIP ON THE TASK FORCE, EXCEPT THAT MEMBERS
21 OF THE TASK FORCE SHALL RECEIVE REASONABLE REIMBURSEMENT FOR NEC-
22 ESSARY TRAVEL AND EXPENSES.

23 (6) A MAJORITY OF THE TASK FORCE MEMBERS CONSTITUTE A QUORUM
24 FOR THE TRANSACTION OF BUSINESS AT A TASK FORCE MEETING. A
25 MAJORITY OF THE TASK FORCE MEMBERS PRESENT AND SERVING IS
26 REQUIRED FOR OFFICIAL ACTION OF THE TASK FORCE.

1 (7) A REPORT PREPARED PURSUANT TO SUBSECTION (1) SHALL BE
2 MADE AVAILABLE TO THE PUBLIC UPON REQUEST AND SHALL BE GIVEN TO
3 MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES STANDING COM-
4 MITTEES ON INSURANCE ISSUES.

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

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

14 (a) Criteria identical to the standards set forth in section
15 2103(1).

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

25 (c) With respect to a vehicle insured or to be insured, sub-
26 stantial modifications from the vehicle's original manufactured

1 state for purposes of increasing the speed or acceleration
2 capabilities of the vehicle.

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

13 (D) ~~(e)~~ Type of vehicle insured or to be insured, based on
14 1 of the following, without regard to the age of the vehicle:

15 (i) The vehicle is of limited production or of custom
16 manufacture.

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

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

22 (E) ~~(f)~~ Use of a vehicle insured or to be insured for
23 transportation of passengers for hire, for rental purposes, or
24 for commercial purposes. Rules under this subdivision shall not
25 be based on the use of a vehicle for volunteer or charitable pur-
26 poses or for which reimbursement for normal operating expenses is
27 received.

1 (F) ~~(g)~~ Payment of a minimum deposit at the time of
2 application or renewal, not to exceed the smallest deposit
3 required under an extended payment or premium finance plan cus-
4 tomarily used by the insurer.

5 (G) ~~(h)~~ For purposes of requiring comprehensive deducti-
6 bles of not more than \$150.00, or of refusing to insure if the
7 person refuses to accept a required deductible, the claim
8 experience of the person with respect to comprehensive coverage.

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

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

25 (2) An insurer may establish separate rating plans so that
26 certain eligible persons are provided automobile insurance under
27 1 rating plan and other eligible persons are provided automobile

1 insurance under another rating plan. This subsection shall apply
2 only if all eligible persons can obtain automobile insurance
3 under a rating plan of the insurer. Underwriting rules consis-
4 tent with this section ~~section~~ AND SECTIONS 2118 ~~and~~
5 ~~section~~ 2119 shall be established to define the rating plan
6 applicable to each eligible person.

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

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

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

21 (B) ~~(c)~~ For purposes of insuring persons who have refused
22 a deductible lawfully required under section ~~2118(2)(h)~~
23 2118(2)(G), the claim experience of the person with respect to
24 comprehensive coverage.

25 (C) ~~(d)~~ Refusal of the person to pay a minimum deposit
26 required under section ~~2118(2)(g)~~ 2118(2)(F).

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

6 (E) ~~(f)~~ The type of vehicle insured or to be insured as
7 provided in section ~~2118(2)(e)~~ 2118(2)(D).

8 SEC. 2127A. (1) IN A COMPUTER FORMAT ESTABLISHED BY THE
9 COMMISSIONER, EACH AUTOMOBILE INSURER SHALL REPORT BY MARCH 1 OF
10 EACH YEAR TO AN INDEPENDENT STATISTICAL AGENCY APPOINTED BY THE
11 COMMISSIONER ON ALL OF THE FOLLOWING:

12 (A) THE NUMBER OF PERSONAL PROTECTION INSURANCE CLAIMS FILED
13 WITH THE INSURER.

14 (B) THE NUMBER OF SUITS FILED BY INSUREDS AGAINST THE INSUR-
15 ER, CATEGORIZED ACCORDING TO WHETHER EACH SUIT IS A FIRST PARTY
16 SUIT, A THIRD PARTY SUIT, OR A COMBINATION OF BOTH, THE AMOUNT IN
17 DISPUTE IN EACH CASE, AND THE AMOUNT PAID IN JUDGMENT OR SETTLE-
18 MENT IN EACH CASE.

19 (C) THE INSURER'S ADMINISTRATIVE EXPENSES AND THEIR RELA-
20 TIONSHIP TO THE PREMIUM CHARGED, INCLUDING COSTS FOR EACH TYPE OF
21 LITIGATION ASSOCIATED WITH AUTOMOBILE INSURANCE CLAIMS RESOLU-
22 TION, SALARIES, FRINGE BENEFITS, COMMISSIONS, AND COSTS ASSOCI-
23 ATED WITH OVERHEAD AND OTHER FIXED COSTS.

24 (D) THE AMOUNT PAID BY AND THE AMOUNT RESERVED BY THE
25 INSURER FOR MEDICAL EXPENSES ARISING OUT OF AN AUTOMOBILE ACCI-
26 DENT UNDER EACH CLAIMANT'S PERSONAL PROTECTION INSURANCE COVERAGE
27 AND THE AMOUNT THAT WAS PAID FOR MEDICAL EXPENSES ARISING OUT OF

1 AN AUTOMOBILE ACCIDENT PURSUANT TO THE CLAIMANT'S OTHER HEALTH
2 COVERAGES.

3 (2) THE INDEPENDENT STATISTICAL AGENCY SHALL PREPARE AND
4 SUBMIT A SUMMARY REPORT TO THE COMMISSIONER AND THE SENATE AND
5 HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON INSURANCE ISSUES
6 ON THE INFORMATION RECEIVED PURSUANT TO SUBSECTION (1) AND SHALL
7 PRESENT THE REPORT ALONG WITH ANY RECOMMENDED STATUTORY CHANGES
8 BY JULY 1 OF EACH YEAR.

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

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

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

15 SEC. 2136. EACH INSURER, WHEN WRITING AUTOMOBILE COMPREHEN-
16 SIVE INSURANCE COVERAGE FOR A PERSON WHO WAS NOT PREVIOUSLY A
17 POLICYHOLDER WITH THE INSURER OR WHEN INSURING AN AUTOMOBILE THAT
18 WAS NOT PREVIOUSLY INSURED BY THE INSURER FOR A PERSON WHO WAS
19 PREVIOUSLY A POLICYHOLDER WITH THE INSURER BUT WHO HAS FILED A
20 CLAIM WITH THE INSURER WITHIN THE PRECEDING 3 YEARS TO RECOVER
21 FOR THE THEFT OF AN AUTOMOBILE, SHALL VERIFY THE EXISTENCE OF THE
22 AUTOMOBILE BEING INSURED. TO COMPLY WITH THIS SECTION, AN
23 INSURER SHALL EITHER MAKE A PERSONAL INSPECTION OF THE AUTOMOBILE
24 OR OBTAIN NOT LESS THAN 2 PHOTOGRAPHS OF THE AUTOMOBILE THAT
25 DEPICT THE AUTOMOBILE DIAGONALLY FROM THE FRONT AND REAR. THIS
26 SECTION SHALL NOT APPLY WHEN AN AGENT SUBJECT TO SECTION 1209(2)
27 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. 2139. (1) AN AUTOMOBILE INSURER SHALL FILE WITH THE
9 COMMISSIONER ANY AGREEMENTS, BOTH FORMAL AND INFORMAL, THAT THE
10 INSURER HAS WITH ANY AUTOMOBILE REPAIR FACILITY CONCERNING THE
11 FACILITY PROVIDING SERVICES FOR AUTOMOBILE ACCIDENT CLAIMS
12 INVOLVING THE INSURER. THE FILING SHALL INCLUDE THE COMPLETE
13 TERMS AND PROVISIONS OF THE AGREEMENTS.

14 (2) BEGINNING 1 YEAR AFTER THE EFFECTIVE DATE OF THIS SEC-
15 TION, AN AGREEMENT DESCRIBED IN SUBSECTION (1) SHALL BE APPROVED
16 BY THE COMMISSIONER BEFORE IT CAN BE IMPLEMENTED. IN APPROVING
17 THE AGREEMENT, THE COMMISSIONER SHALL CONSIDER ALL OF THE
18 FOLLOWING:

19 (A) THE AVERAGE MARKET PRICES FOR THE AUTOMOBILE REPAIR
20 SERVICES.

21 (B) THE QUALITY OF SERVICE FOR THE AUTOMOBILE REPAIRS.

22 (C) THE INSURED'S ACCESS TO THE AUTOMOBILE REPAIR FACILITIES
23 THAT ARE SUBJECT TO THE AGREEMENT.

24 (D) FAIR TRADE PRACTICE REQUIREMENTS.

25 (3) AN INSURED OR ANY PERSON WHO HAS A CONTRACTUAL, FINAN-
26 CIAL, OR MARKET INTEREST THAT MAY BE AFFECTED MAY FILE A
27 COMPLAINT WITH THE COMMISSIONER REGARDING ANY ABUSES HE OR SHE

1 INCURS IN THE IMPLEMENTATION OF AN AGREEMENT UNDER THIS SECTION.
2 IF A COMPLAINT IS FILED, THE COMMISSIONER SHALL HOLD A PUBLIC
3 HEARING PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
4 ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO
5 24.328 OF THE MICHIGAN COMPILED LAWS. AFTER THE PUBLIC HEARING,
6 THE COMMISSIONER MAY ORDER THE INSURER TO RECTIFY ANY WRONGDOING
7 OR MAY TERMINATE THE AGREEMENT.

8 SEC. 2140. (1) SUBJECT TO SUBSECTION (3), IF THE COMMIS-
9 SIONER FINDS THAT A PERSON OR ORGANIZATION HAS VIOLATED A PROVI-
10 SION OF THIS CHAPTER OR THE RULES PROMULGATED PURSUANT TO THIS
11 CHAPTER, THE COMMISSIONER MAY PROCEED UNDER CHAPTER 20 IF APPLI-
12 CABLE AND MAY ORDER ANY OR ALL OF THE FOLLOWING:

13 (A) PAYMENT OF A CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR
14 EACH VIOLATION, AND IF THE VIOLATION IS WILLFUL, A CIVIL FINE OF
15 NOT MORE THAN \$25,000.00 FOR EACH VIOLATION. A FINE COLLECTED
16 UNDER THIS SUBDIVISION SHALL BE TURNED OVER TO THE STATE TREA-
17 SURER AND CREDITED TO THE GENERAL FUND OF THE STATE.

18 (B) A CEASE AND DESIST ORDER.

19 (C) A REFUND OF ANY OVERCHARGES WITH INTEREST AND
20 PENALTIES.

21 (2) THE COMMISSIONER MAY SUSPEND THE LICENSE OF A RATING
22 ORGANIZATION OR INSURER THAT FAILS TO COMPLY WITH AN ORDER OF THE
23 COMMISSIONER UNDER THIS SECTION WITHIN THE TIME SPECIFIED BY THE
24 ORDER, OR ANY EXTENSION OF THE ORDER THAT THE COMMISSIONER MAY
25 GRANT, BUT THE SUSPENSION SHALL NOT AFFECT THE VALIDITY OR CON-
26 TINUED EFFECTIVENESS OF RATES PREVIOUSLY FILED AND EFFECTIVE.
27 THE COMMISSIONER SHALL NOT SUSPEND THE LICENSE OF A RATING

1 ORGANIZATION OR INSURER FOR FAILURE TO COMPLY WITH AN ORDER UNTIL
2 THE TIME PRESCRIBED FOR AN APPEAL FROM THE ORDER HAS EXPIRED, OR,
3 IF AN APPEAL HAS BEEN TAKEN, UNTIL THE ORDER FOR THE SUSPENSION
4 HAS BEEN AFFIRMED. THE COMMISSIONER MAY DETERMINE WHEN A SUSPEN-
5 SION OF LICENSE SHALL BECOME EFFECTIVE, AND THE SUSPENSION SHALL
6 REMAIN IN EFFECT FOR THE PERIOD FIXED BY THE COMMISSIONER, UNLESS
7 THE COMMISSIONER MODIFIES OR RESCINDS THE SUSPENSION, OR UNTIL
8 THE ORDER UPON WHICH THE SUSPENSION IS BASED IS MODIFIED,
9 RESCINDED, OR REVERSED.

10 (3) A CIVIL FINE SHALL NOT BE IMPOSED AND A LICENSE SHALL
11 NOT BE SUSPENDED OR REVOKED EXCEPT UPON A WRITTEN ORDER OF THE
12 COMMISSIONER, SPECIFYING THE ALLEGED VIOLATION AND STATING HIS OR
13 HER FINDINGS, MADE AFTER A HEARING HELD UPON NOT LESS THAN 10
14 DAYS' WRITTEN NOTICE TO THE PERSON OR ORGANIZATION. AN ORDER
15 ISSUED BY THE COMMISSIONER PURSUANT TO THIS SECTION SHALL NOT
16 REQUIRE THE PAYMENT OF CIVIL FINES EXCEEDING \$100,000.00.

17 (4) THE COMMISSIONER SHALL REPORT ANNUALLY TO THE SENATE AND
18 HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON INSURANCE ISSUES
19 ON THE AMOUNT OF FINES COLLECTED PURSUANT TO THIS SECTION.

20 SEC. 2432. TO BE AUTHORIZED TO WRITE GROUP AUTOMOBILE
21 INSURANCE IN THIS STATE, AN INSURER SHALL OFFER THE GROUP COVER-
22 AGE TO EVERY ELIGIBLE PERSON IN THE GROUP IN A UNIFORM MANNER AND
23 SHALL NOT DISCRIMINATE BASED ON RACE, SEX, INCOME LEVEL, OR
24 RESIDENCE.

25 Sec. 3009. (1) An automobile liability or motor vehicle
26 liability policy insuring against loss resulting from liability
27 imposed by law for property damage, bodily injury, or death

1 suffered by any person arising out of the ownership, maintenance,
2 or use of a motor vehicle shall not be delivered or issued for
3 delivery in this state with respect to any motor vehicle regis-
4 tered or principally garaged in this state unless ~~the~~ liability
5 coverage is subject to a limit, exclusive of interest and costs,
6 of not less than \$20,000.00 because of bodily injury to or death
7 of 1 person in any 1 accident, and subject to that limit for 1
8 person, to a limit of not less than \$40,000.00 because of bodily
9 injury to or death of 2 or more persons in any 1 accident, and to
10 a limit of not less than \$10,000.00 because of injury to or
11 destruction of property of others in any accident.

12 (2) AN INSURER SHALL OFFER ADDITIONAL AUTOMOBILE LIABILITY
13 OR MOTOR VEHICLE LIABILITY COVERAGE, THAT INSURES AGAINST LOSS
14 RESULTING FROM LIABILITY IMPOSED BY LAW FOR PROPERTY DAMAGE,
15 BODILY INJURY, OR DEATH SUFFERED BY ANY PERSON ARISING OUT OF THE
16 OWNERSHIP, MAINTENANCE, OR USE OF A MOTOR VEHICLE, EXCLUSIVE OF
17 INTEREST AND COSTS, OF NOT LESS THAN \$50,000.00 BECAUSE OF BODILY
18 INJURY TO OR DEATH OF 1 PERSON IN ANY 1 ACCIDENT, AND SUBJECT TO
19 THAT LIMIT FOR 1 PERSON, TO A LIMIT OF NOT LESS THAN \$100,000.00
20 BECAUSE OF BODILY INJURY TO OR DEATH OF 2 OR MORE PERSONS IN ANY
21 1 ACCIDENT.

22 (3) ~~-(2)-~~ If authorized by the insured, automobile liability
23 or motor vehicle liability coverage may be excluded when a vehi-
24 cle is operated by a named person. Such exclusion shall not be
25 valid unless the following notice is on the face of the policy or
26 the declaration page or certificate of the policy and on the
27 certificate of insurance:

1 Warning--when a named excluded person operates a vehicle all
2 liability coverage is void--no one is insured. Owners of the
3 vehicle and others legally responsible for the acts of the named
4 excluded person remain fully personally liable.

5 (4) ~~-(3)-~~ If an insurer deletes coverages from an automobile
6 insurance policy pursuant to section 3101, the insurer shall send
7 documentary evidence of the deletion to the insured.

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

12 (A) A PROVISION THAT IMPOSES A \$500.00 DEDUCTIBLE TO THE
13 THEFT LOSS OF THE AUTOMOBILE IF THE AUTOMOBILE WAS UNATTENDED
14 WHEN STOLEN AND WAS STOLEN WHILE THE KEYS TO THE AUTOMOBILE WERE
15 LOCATED IN THE PASSENGER COMPARTMENT OF THE AUTOMOBILE. THE
16 DEDUCTIBLE SHALL NOT APPLY IF THE AUTOMOBILE IS THE SUBJECT OF A
17 BAILMENT CONTRACT.

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

24 (2) IF AN INSURER INCLUDES EITHER OR BOTH OF THE PROVISIONS
25 PROVIDED IN SUBSECTION (1) IN AN AUTOMOBILE INSURANCE POLICY THAT
26 PROVIDES COVERAGE FOR THE THEFT OF AN AUTOMOBILE, THE INSURER
27 SHALL INCLUDE THE PROVISION OR PROVISIONS IN EACH AUTOMOBILE

1 INSURANCE POLICY PROVIDING COVERAGE FOR THE THEFT OF AN
2 AUTOMOBILE THAT IS THEREAFTER DELIVERED OR ISSUED FOR DELIVERY BY
3 THE INSURER.

4 Sec. 3101. (1) The owner or registrant of a motor vehicle
5 required to be registered in this state shall maintain security
6 for payment of benefits under personal protection insurance IN
7 AMOUNTS NOT LESS THAN THAT REQUIRED IN SECTION 3107(1)(A)(i),
8 property protection insurance, and residual liability insurance.
9 Security shall only be required to be in effect during the period
10 the motor vehicle is driven or moved upon a highway.

11 Notwithstanding any other provision in this act, an insurer that
12 has issued an automobile insurance policy on a motor vehicle that
13 is not driven or moved upon a highway may allow the insured owner
14 or registrant of the motor vehicle to delete a portion of the
15 coverages under the policy and maintain the comprehensive cover-
16 age portion of the policy in effect.

17 (2) As used in this chapter:

18 (a) "Automobile insurance" means that term as defined in
19 section 2102.

20 (b) "Highway" means that term as defined in section 20 of
21 the Michigan vehicle code, Act No. 300 of the Public Acts of
22 1949, being section 257.20 of the Michigan Compiled Laws.

23 (c) "Motorcycle" means a vehicle having a saddle or seat for
24 the use of the rider, designed to travel on not more than 3
25 wheels in contact with the ground, ~~which~~ AND THAT is equipped
26 with a motor that exceeds 50 cubic centimeters piston
27 displacement. The wheels on any attachment to the vehicle shall

1 not be considered as wheels in contact with the ground.

2 Motorcycle does not include a moped, as defined in section 32b of
3 the Michigan vehicle code, Act No. 300 of the Public Acts of
4 1949, being section 257.32b of the Michigan Compiled Laws.

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

9 (e) "Motor vehicle" means a vehicle, including a trailer,
10 operated or designed for operation upon a public highway by power
11 other than muscular power which has more than 2 wheels. Motor
12 vehicle does not include a motorcycle or a moped, as defined in
13 section 32b of Act No. 300 of the Public Acts of 1949, being sec-
14 tion 257.32b of the Michigan Compiled Laws. Motor vehicle does
15 not include a farm tractor or other implement of husbandry
16 ~~which~~ THAT is not subject to the registration requirements of
17 the Michigan vehicle code pursuant to section 216 of the Michigan
18 vehicle code, Act No. 300 of the Public Acts of 1949, being sec-
19 tion 257.216 of the Michigan Compiled Laws.

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

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

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

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

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

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

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

21 (4) Security required by subsection (1) may be provided by
22 any other method approved by the secretary of state as affording
23 security equivalent to that afforded by a policy of insurance, if
24 proof of the security is filed and continuously maintained with
25 the secretary of state throughout the period the motor vehicle is
26 driven or moved upon a highway. The person filing the security
27 has all the obligations and rights of an insurer under this

1 chapter. When the context permits, "insurer" as used in this
2 chapter, includes any person filing the security as provided in
3 this section.

4 Sec. 3101a. (1) An insurer ~~—~~ in conjunction with the
5 issuance of an automobile insurance policy ~~—~~ as defined in sec-
6 tion 3303 ~~—~~ shall provide 2 certificates of insurance to each
7 policyholder. EACH CERTIFICATE OF INSURANCE SHALL LIST THE
8 MARKET ASSISTANCE PLAN'S TOLL-FREE TELEPHONE NUMBER ESTABLISHED
9 PURSUANT TO SECTION 2115A. The insurer shall mark 1 of the cer-
10 tificates as the secretary of state's copy, ~~which copy~~ AND THAT
11 COPY OR AN ELECTRONICALLY OR ELECTROMAGNETICALLY TRANSMITTED FAC-
12 SIMILE OF THAT COPY shall be filed with the secretary of state by
13 the policyholder upon application for a vehicle registration.
14 The secretary of state shall not maintain the certificate of
15 insurance received under this subsection on file.

16 (2) A person who supplies false information to the secretary
17 of state under this section or who issues or uses an invalid cer-
18 tificate of insurance is guilty of a misdemeanor punishable by
19 imprisonment for not more than 1 year, or a fine of not more than
20 \$1,000.00, or both.

21 Sec. 3104. (1) An unincorporated, nonprofit association to
22 be known as the catastrophic claims association, hereinafter
23 referred to as the association, is created. Each insurer engaged
24 in writing insurance coverages ~~which~~ THAT provide the security
25 required by section 3101(1) within this state, as a condition of
26 its authority to transact insurance in this state, shall be a
27 member of the association and shall be bound by the plan of

1 operation of the association. Each insurer engaged in writing
2 insurance coverages ~~which~~ THAT provide the security required by
3 section 3103(1) within this state, as a condition of its author-
4 ity to transact insurance in this state, shall be considered a
5 member of the association, but only for purposes of assessments
6 under subsection (7)(d). Except as expressly provided in this
7 section, the association shall not be subject to any laws of this
8 state with respect to insurers, but in all other respects the
9 association shall be subject to the laws of this state to the
10 extent that the association would be were it an insurer organized
11 and subsisting under chapter 50.

12 (2) The association shall provide and each member shall
13 accept indemnification for 100% of the amount of ultimate loss
14 sustained under personal protection insurance coverages in excess
15 of \$250,000.00 in each loss occurrence COVERED BY A MOTOR VEHICLE
16 ACCIDENT POLICY ISSUED OR RENEWED EFFECTIVE BEFORE JULY 1, 1993,
17 BUT ONLY FOR AN INJURY THAT OCCURS BEFORE THAT POLICY'S NEXT
18 RENEWAL DATE OR THE POLICY'S CANCELLATION. As used in this sec-
19 tion, "ultimate loss" means the actual loss amounts ~~which~~ THAT
20 a member is obligated to pay and ~~which~~ THAT are paid or payable
21 by the member, and shall not include claim expenses. An ultimate
22 loss is incurred by the association on the date ~~which~~ THAT the
23 loss occurs.

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

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

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

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

18 (7) The association shall do all of the following on behalf
19 of the members of the association:

20 (a) Assume 100% of all liability as provided in subsection
21 (2).

22 (b) Establish procedures by which members shall promptly
23 report to the association each claim ~~which~~ THAT, on the basis
24 of the injuries or damages sustained, may reasonably be antici-
25 pated to involve the association if the member is ultimately held
26 legally liable for the injuries or damages. Solely for the
27 purpose of reporting claims, the member shall in all instances

1 consider itself legally liable for the injuries or damages. The
2 member shall also advise the association of subsequent develop-
3 ments likely to materially affect the interest of the association
4 in the claim.

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

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

1 3103(1) written in this state of all members during the period to
2 which the premium applies. As used in this subdivision, "car"
3 includes a motorcycle.

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

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

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

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

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

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

24 (a) Sue and be sued in the name of the association. A judg-
25 ment against the association shall not create any direct liabil-
26 ity against the individual members of the association. The
27 association may provide for the indemnification of its members,

1 members of the board of directors of the association, and
2 officers, employees, and other persons lawfully acting on behalf
3 of the association.

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

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

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

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

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

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

25 (9) A board of directors is created, hereinafter referred to
26 as the board, which shall be responsible for the operation of the

1 association consistent with the plan of operation and this
2 section.

3 (10) The plan of operation shall provide for all of the
4 following:

5 (a) The establishment of necessary facilities.

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

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

10 (C) ~~(d)~~ Procedures to be utilized in charging premiums,
11 including adjustments from excess or deficient premiums from
12 prior periods.

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

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

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

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

21 (11) ~~Not more than 30 days after the effective date of this~~
22 ~~section, the commissioner shall convene an organizational meeting~~
23 ~~of the board. The board shall be initially composed of 5 members~~
24 ~~of the association appointed by the commissioner to serve as~~
25 ~~directors, and the commissioner or a designated representative of~~
26 ~~the commissioner serving as an ex officio member of the board~~
27 ~~without vote. The initial board and each successor~~ EACH board

1 shall include members ~~which~~ THAT would contribute a total of
2 not less than 40% of the total premium calculated pursuant to
3 subsection (7)(d). Each director shall be entitled to 1 vote.
4 The initial term of office of a director shall be 2 years.

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

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

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

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

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

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

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

24 (19) The proposed plan of operation or amendments to the
25 plan of operation shall be subject to majority approval by the
26 board, ratified by a majority of the membership having a vote,
27 with voting rights being apportioned according to the premiums

1 charged in subsection (7)(d) and shall be subject to approval by
2 the commissioner.

3 (20) Upon approval by the commissioner and ratification by
4 the members of the plan submitted, or upon the promulgation of a
5 plan by the commissioner, each insurer authorized to write insur-
6 ance providing the security required by section 3101(1) in this
7 state, as ~~defined~~ PROVIDED in this section, shall be bound by
8 and shall formally subscribe to and participate in the plan
9 approved as a condition of maintaining its authority to transact
10 insurance in this state.

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

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

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

20 (24) ~~This section shall take effect on July 1, 1978.~~ The
21 association shall not have liability for losses occurring before
22 ~~the effective date of this section~~ JULY 1, 1978. THE ASSOCIA-
23 TION SHALL NOT HAVE LIABILITY FOR ULTIMATE LOSS ARISING OUT OF AN
24 INJURY THAT OCCURS UNDER A POLICY ISSUED OR RENEWED BY A MEMBER
25 EFFECTIVE ON AND AFTER JULY 1, 1993. THE ASSOCIATION SHALL CON-
26 TINUE TO HAVE LIABILITY FOR ULTIMATE LOSS ARISING OUT OF AN
27 INJURY THAT OCCURS UNDER A POLICY ISSUED OR RENEWED BY A MEMBER

1 EFFECTIVE BEFORE JULY 1, 1993 BUT ONLY FOR AN INJURY THAT OCCURS
2 BEFORE THAT POLICY'S NEXT RENEWAL DATE OR THE POLICY'S
3 CANCELLATION.

4 (25) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION,
5 ON AND AFTER JULY 1, 1993 THE ASSOCIATION IS ONLY AUTHORIZED TO
6 ASSESS MEMBERS TO RECOUP DEFICIENCIES AS PROVIDED IN
7 SUBSECTION (26).

8 (26) THE ASSOCIATION SHALL EVALUATE ANNUALLY THE ASSETS AND
9 LIABILITIES OF THE ASSOCIATION AND DETERMINE IF A DEFICIENCY
10 EXISTS. IF A DEFICIENCY DOES EXIST, THE ASSOCIATION, IN ACCORD-
11 ANCE WITH THE PLAN OF OPERATION, SHALL ASSESS MEMBERS ANNUALLY
12 UNTIL JULY 1, 2007.

13 (27) THE ASSOCIATION SHALL REPORT TO THE COMMISSIONER AND TO
14 THE SENATE AND HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON
15 INSURANCE ISSUES BY JULY 1, 2003 ON THE NUMBER OF EXISTING
16 CLAIMS, THE PROJECTED COST ASSOCIATED WITH THOSE CLAIMS, AND THE
17 AMOUNT OF RESERVES.

18 (28) BY JANUARY 1, 1994, A COMPLETE AUDIT OF THE ASSOCIATION
19 PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL BE
20 COMPLETED AND SUBMITTED TO THE SENATE AND HOUSE OF REPRESENTA-
21 TIVES STANDING COMMITTEES ON INSURANCE ISSUES. THE AUDIT SHALL
22 COVER AT LEAST THE YEARS 1988 THROUGH 1993, SHALL EXAMINE BOTH
23 CLAIMS AND FINANCES, AND SHALL INCLUDE DETAIL ON ALL MEDICAL
24 CLAIMS.

25 SEC. 3104A. (1) AUTOMOBILE INSURERS MAY ESTABLISH A REIN-
26 SURANCE MECHANISM APPROVED BY THE COMMISSIONER TO REINSURE

1 PERSONAL PROTECTION INSURANCE COVERAGES THAT ARE IN EXCESS OF
2 \$300,000.00.

3 (2) A REINSURANCE MECHANISM ESTABLISHED PURSUANT TO THIS
4 SECTION SHALL:

5 (A) PERMIT ALL INSURERS TRANSACTING AUTOMOBILE INSURANCE IN
6 THIS STATE TO BE MEMBERS. HOWEVER, TO BE A MEMBER, AN INSURER
7 SHALL ELECT TO BECOME A MEMBER BY NOT LATER THAN 90 DAYS AFTER
8 THE EFFECTIVE DATE OF THIS SECTION. AN AUTOMOBILE INSURER ADMIT-
9 TED TO DO BUSINESS IN THIS STATE AFTER THE EFFECTIVE DATE OF THIS
10 SECTION SHALL ELECT TO BECOME A MEMBER BY NOT LATER THAN 90 DAYS
11 AFTER BEING ADMITTED TO DO BUSINESS IN THIS STATE. AN INSURER
12 THAT ELECTS NOT TO BECOME A MEMBER SHALL DEMONSTRATE TO THE
13 COMMISSIONER'S SATISFACTION HOW THE INSURER WILL BE ABLE TO PAY
14 PERSONAL PROTECTION INSURANCE COVERAGES UNDER THIS CHAPTER.

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

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

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

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

22 (i) A FACILITY OR AGENCY LICENSED OR AUTHORIZED UNDER PARTS
23 201 TO 217 OF THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC
24 ACTS OF 1978, BEING SECTIONS 333.20101 TO 333.21799E OF THE
25 MICHIGAN COMPILED LAWS, OR A LICENSED PART THEREOF.

26 (ii) A MENTAL HOSPITAL, PSYCHIATRIC HOSPITAL, PSYCHIATRIC
27 UNIT, OR MENTAL RETARDATION FACILITY OPERATED BY THE DEPARTMENT

1 OF MENTAL HEALTH OR CERTIFIED OR LICENSED UNDER THE MENTAL HEALTH
2 CODE, ACT NO. 258 OF THE PUBLIC ACTS OF 1974, BEING SECTIONS
3 330.1001 TO 330.2106 OF THE MICHIGAN COMPILED LAWS.

4 (iii) A FACILITY PROVIDING OUTPATIENT PHYSICAL THERAPY SERV-
5 ICES, INCLUDING SPEECH PATHOLOGY SERVICES.

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

8 (v) AN ORGANIZED AMBULATORY HEALTH CARE FACILITY.

9 (vi) A TERTIARY HEALTH CARE SERVICE FACILITY.

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

13 (viii) AN OUTPATIENT PSYCHIATRIC CLINIC.

14 (ix) A HOME HEALTH AGENCY.

15 (B) "HEALTH CARE PROVIDER" MEANS A PERSON LICENSED, CERTI-
16 FIED, OR REGISTERED UNDER PARTS 61 TO 65 OR 161 TO 182 OF ACT
17 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTIONS 333.6101 TO
18 333.6523 AND 333.16101 TO 333.18237 OF THE MICHIGAN COMPILED
19 LAWS.

20 (2) THERE IS CREATED A PERSONAL INJURY PROTECTION TASK FORCE
21 WITHIN THE INSURANCE BUREAU. THE PERSONAL INJURY PROTECTION TASK
22 FORCE SHALL CONSIST OF THE FOLLOWING 11 MEMBERS APPOINTED BY THE
23 COMMISSIONER:

24 (A) THREE INSURERS TRANSACTING AUTOMOBILE INSURANCE IN THIS
25 STATE.

26 (B) THREE HEALTH CARE PROVIDERS PRACTICING CATASTROPHIC
27 CARE.

1 (C) ONE HEALTH CARE FACILITY THAT PROVIDES CATASTROPHIC
2 CARE.

3 (D) TWO ATTORNEYS WHO PRACTICE LAW PURSUANT TO THIS CHAPTER
4 AT LEAST 1 OF WHOM REPRESENTS ONLY PLAINTIFFS IN PERSONAL INJURY
5 CLAIMS ON A FULL-TIME BASIS.

6 (E) TWO MEMBERS OF THE GENERAL PUBLIC WITH KNOWLEDGE IN THE
7 AREA OF CATASTROPHIC CARE.

8 (3) THE PERSONAL INJURY PROTECTION TASK FORCE SHALL PREPARE
9 A PLAN TO REDUCE THE COSTS ASSOCIATED WITH CATASTROPHIC CLAIMS.
10 THE PLAN SHALL DO ALL OF THE FOLLOWING:

11 (A) STUDY THE ISSUE OF STRUCTURED SETTLEMENTS.

12 (B) EXAMINE THE USE OF CARE MANAGEMENT, TREATMENT, AND REHA-
13 BILITATION IN THE AREA OF CATASTROPHIC CARE AND CLAIMS.

14 (C) PROPOSE STANDARDS FOR ASSESSING INJURIES AND PROGNOSIS,
15 MAKING TREATMENT GOALS, AND IMPLEMENTING TREATMENT.

16 (D) INVESTIGATE COST SHIFTING AND OTHER SUSPECTED ABUSES
17 WITHIN THE SYSTEM INCLUDING RECOMMENDATIONS ON LIMITING COSTS
18 ASSOCIATED WITH REHABILITATION AND HOME AND VEHICLE MODIFICATION
19 ABUSES.

20 (E) GATHER CLINICAL ASSESSMENT DATA, USING OBJECTIVE, PRO-
21 FESSIONALLY ACCEPTED EVALUATION METHODS, ON A STATEWIDE BASIS
22 USING A MINIMUM OF 15 OF THE LARGEST FACILITIES THAT PROVIDE CARE
23 FOR CATASTROPHICALLY INJURED AUTOMOBILE ACCIDENT VICTIMS WHO
24 SUFFER FROM SPINAL OR BRAIN INJURIES FOR THE PURPOSE OF DETERMIN-
25 ING AND QUANTIFYING THE EFFECT OF VARIOUS ACUTE MEDICAL, AND
26 POST-ACUTE THERAPEUTIC AND REHABILITATIVE TREATMENTS OR SERVICES
27 ON THE ACCIDENT VICTIMS' RECOVERY AND ABILITY TO RETURN TO AN

1 ECONOMIC, SOCIAL, AND PERSONAL FUNCTIONAL STATUS. AT LEAST 50%
2 OF THE PARTICIPATING FACILITIES SHALL HAVE ACCREDITATION FROM THE
3 COMMISSION ON ACCREDITATION OF REHABILITATION FACILITIES OR BE
4 STATE UNIVERSITY-BASED. BOTH ACUTE CARE FACILITIES FOR MEDICAL
5 CARE AND REHABILITATION FACILITIES WITH AMBULATORY OR INPATIENT
6 CARE SHALL BE REPRESENTED. THE RESULTS OF THE DATA COLLECTED
7 PURSUANT TO THIS SUBDIVISION SHALL BE REPORTED TO THE COMMIS-
8 SIONER ALONG WITH ALL RELATED CLINICAL ANALYSES THAT HAVE BEEN
9 PROVIDED BY THOSE WHO PARTICIPATE IN THE GATHERING OF THE DATA,
10 INCLUDING FINDINGS REGARDING THE COST AND CLINICAL BENEFIT OF THE
11 TREATMENTS AND SERVICES THAT HAVE BEEN EXAMINED. THIS DATA COL-
12 LECTION EFFORT SHALL INVOLVE PHYSICIANS WHO PROVIDE TRAUMA CARE,
13 INCLUDING, BUT NOT LIMITED TO, MEDICAL, SURGICAL, AND PHYSIATRIC
14 CARE AND SHALL INCLUDE PARAPROFESSIONALS SUCH AS PHYSICAL AND
15 OCCUPATIONAL THERAPISTS AND PSYCHOLOGISTS. BOTH THE COSTS OF
16 ACUTE MEDICAL CARE AND POST-ACUTE REHABILITATIVE CARE SHALL BE
17 EXAMINED, QUANTIFIED, AND REPORTED. DATA FOR PHYSICAL THERAPY,
18 REHABILITATIVE CARE, AND PSYCHOLOGICAL CARE SHALL BE EXAMINED,
19 COLLECTED, AND REPORTED SEPARATELY.

20 (4) THE PERSONAL INJURY PROTECTION TASK FORCE SHALL REPORT
21 THE PLAN TO THE SENATE AND HOUSE OF REPRESENTATIVES STANDING COM-
22 MITTEES ON INSURANCE ISSUES BY NOT LATER THAN 1 YEAR AFTER THE
23 EFFECTIVE DATE OF THIS SECTION.

24 Sec. 3107. (1) Except as provided in subsection ~~-(2)-~~ (3),
25 personal protection insurance benefits are payable for the
26 following:

1 (a) Allowable expenses ~~consisting of all reasonable~~
2 ~~charges~~ AS PROVIDED IN SUBPARAGRAPHS (i) AND (ii) incurred for
3 reasonably necessary products, services, and accommodations for
4 an injured person's care, recovery, or rehabilitation.

5 ~~Allowable expenses within personal protection insurance coverage~~
6 ~~shall not include charges for a hospital room in excess of a rea-~~
7 ~~sonable and customary charge for semiprivate accommodations~~
8 ~~except if the injured person requires special or intensive care,~~
9 ~~or for funeral and burial expenses in the amount set forth in the~~
10 ~~policy which shall not be less than \$1,750.00 or more than~~

11 ~~\$5,000.00.~~ ON FORMS APPROVED BY THE COMMISSIONER, AN INSURER
12 SHALL OFFER THE FOLLOWING COVERAGES AND AN INSURED SHALL SELECT
13 IN WRITING 1 OF THE FOLLOWING COVERAGES:

14 (i) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL REA-
15 SONABLE CHARGES INCURRED UP TO A MAXIMUM OF \$5,000,000.00 FOR
16 REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR
17 AN INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION. THIS
18 LIMIT SHALL BE ADJUSTED ANNUALLY BEGINNING OCTOBER 1, 1994 IN
19 ACCORDANCE WITH THE CONSUMER PRICE INDEX. ANY CHANGE IN THE
20 LIMIT APPLIES ONLY TO BENEFITS ARISING OUT OF ACCIDENTS OCCURRING
21 AFTER THE DATE OF CHANGE IN THE LIMIT.

22 (ii) COVERAGE FOR ALLOWABLE EXPENSES CONSISTING OF ALL REA-
23 SONABLE CHARGES INCURRED UP TO \$6,000,000.00, \$7,000,000.00,
24 \$8,000,000.00, \$9,000,000.00, OR \$10,000,000.00 MAXIMUMS AS
25 SELECTED BY THE INSURED FOR REASONABLY NECESSARY PRODUCTS, SERV-
26 ICES, AND ACCOMMODATIONS FOR AN INJURED PERSON'S CARE, RECOVERY,
27 OR REHABILITATION. THESE LIMITS SHALL BE ADJUSTED ANNUALLY

1 BEGINNING OCTOBER 1, 1994 IN ACCORDANCE WITH THE CONSUMER PRICE
2 INDEX. ANY CHANGE IN THE LIMITS APPLIES ONLY TO BENEFITS ARISING
3 OUT OF ACCIDENTS OCCURRING AFTER THE DATE OF CHANGE IN THE LIMIT.

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

25 (c) Expenses not exceeding \$20.00 per day reasonably
26 incurred in obtaining ordinary and necessary services in lieu of
27 those that, if he or she had not been injured, an injured person

1 would have performed during the first 3 years after the date of
2 the accident, not for income but for the benefit of himself or
3 herself or of his or her dependent.

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

8 (A) IF AN INSURED FAILS TO SELECT IN WRITING ON A FORM
9 APPROVED BY THE COMMISSIONER 1 OF THE COVERAGES IN
10 SUBSECTION (1)(A), AN INSURER SHALL PROVIDE COVERAGE IN THE
11 AMOUNT SET FORTH IN SUBSECTION (1)(A)(i).

12 (B) COVERAGE LIMITS UNDER SUBSECTION (1)(A) ARE PROVIDED ON
13 A PER INDIVIDUAL PER LOSS OCCURRENCE BASIS AND APPLY ONLY TO BEN-
14 EFITS PAYABLE TO THE INSURED NAMED IN THE POLICY, THE INSURED'S
15 SPOUSE, AND ANY RELATIVE OF EITHER DOMICILED IN THE SAME
16 HOUSEHOLD.

17 (C) A PERSON WHO IS NOT AN INSURED NAMED IN A POLICY, THE
18 INSURED'S SPOUSE, OR A RELATIVE OF EITHER DOMICILED IN THE SAME
19 HOUSEHOLD IS ENTITLED ONLY TO COVERAGE IN THE LIMIT SET FORTH IN
20 SUBSECTION (1)(A)(i).

21 (D) PERSONAL PROTECTION INSURANCE BENEFITS ARE LIMITED TO
22 THE LIMIT SET FORTH IN SUBSECTION (1)(A)(i) PER INDIVIDUAL PER
23 LOSS OCCURRENCE IF THE INJURED PERSON IS A NONRESIDENT OF
24 MICHIGAN AND THE INJURED PERSON'S BENEFITS ARE PAYABLE UNDER A
25 POLICY DELIVERED OUTSIDE OF MICHIGAN.

26 (3) ~~-(2)-A~~ EACH INSURER TRANSACTING AUTOMOBILE INSURANCE IN
27 THIS STATE SHALL OFFER A WAIVER TO EACH person who is 60 years of

1 age or older and in the event of an accidental bodily injury
2 would not be eligible to receive work loss benefits under
3 subsection (1)(b). ~~may waive coverage for work loss benefits by~~
4 ~~signing a waiver on a form provided by the insurer.~~ An insurer
5 shall offer a reduced premium rate to a person who waives cover-
6 age under this subsection for work loss benefits. Waiver of cov-
7 erage for work loss benefits applies only to work loss benefits
8 payable to the person or persons who have signed the waiver
9 form.

10 (4) AS USED IN THIS SECTION:

11 (A) "CONSUMER PRICE INDEX" MEANS THE ANNUAL AVERAGE PERCENTAGE
12 INCREASE IN THE MICHIGAN CONSUMER PRICE INDEX FOR ALL ITEMS
13 FOR THE PRIOR 12-MONTH PERIOD ADDED TO THE ANNUAL AVERAGE PERCENTAGE
14 INCREASE IN THE MEDICAL COMPONENT PORTION OF THE MICHIGAN
15 CONSUMER PRICE INDEX FOR THE PRIOR 12-MONTH PERIOD AS REPORTED BY
16 THE UNITED STATES DEPARTMENT OF LABOR AND AS CERTIFIED BY THE
17 COMMISSIONER AND DIVIDED BY 2.

18 (B) REASONABLY NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS
19 RENDERED OR PRESCRIBED BY A HEALTH CARE FACILITY OR HEALTH
20 CARE PROVIDER DO NOT INCLUDE PRODUCTS, SERVICES, AND ACCOMMODATIONS
21 THAT WOULD HAVE BEEN NEEDED BY THE INJURED PERSON OR A
22 MEMBER OF THE INJURED PERSON'S HOUSEHOLD WITHOUT REGARD TO THE
23 LOSS OCCURRENCE.

24 (C) EXPENSES WITHIN PERSONAL PROTECTION INSURANCE COVERAGE
25 SHALL NOT INCLUDE CHARGES FOR A HOSPITAL ROOM IN EXCESS OF A REASONABLE
26 AND CUSTOMARY CHARGE FOR SEMIPRIVATE ACCOMMODATIONS
27 EXCEPT IF THE INJURED PERSON REQUIRES SPECIAL OR INTENSIVE CARE,

1 INCLUDING BUT NOT LIMITED TO CARE PROVIDED BY A PSYCHIATRIC UNIT,
2 OR FOR FUNERAL AND BURIAL EXPENSES IN EXCESS OF THE AMOUNT SET
3 FORTH IN THE POLICY WHICH SHALL NOT BE LESS THAN \$1,750.00 OR
4 MORE THAN \$5,000.00.

5 (D) EXPENSES FOR ATTENDANT CARE SERVICES PROVIDED BY A HOME
6 HEALTH AGENCY ARE LIMITED TO THE REASONABLE AND CUSTOMARY CHARGE
7 OF THE AGENCY FOR THE APPROPRIATE SKILL LEVEL AND TIME INTENSITY
8 OF SERVICE. EXPENSES FOR ATTENDANT CARE SERVICES FOR SUPERVISION
9 BY MEMBERS OF THE SAME HOUSEHOLD WILL NOT BE COVERED IN EXCESS OF
10 16 HOURS PER DAY. AS USED IN THIS SUBDIVISION, "ATTENDANT" MEANS
11 AN INDIVIDUAL WHO PROVIDES ASSISTANCE TO THE INJURED PERSON WITH
12 ACTIVITIES OF DAILY LIVING INCLUDING BUT NOT LIMITED TO FEEDING,
13 GROOMING, DRESSING, TOILETING, TRANSFERS, AND SUPERVISION THAT
14 MAY BE REQUIRED FOR SAFETY OF THE INJURED PERSON. AN ATTENDANT
15 MAY BE A TRAINED NURSE OR NURSING ASSISTANT BUT AN ATTENDANT PRO-
16 VIDING ATTENDANT CARE SHALL NOT BE REIMBURSED FOR PRACTICING THE
17 PROFESSION OF NURSING.

18 (E) EXPENSES FOR SKILLED HOME CARE PROVIDED BY A HOME HEALTH
19 AGENCY ARE LIMITED TO THE REASONABLE AND CUSTOMARY CHARGE OF THE
20 AGENCY FOR THE APPROPRIATE SKILL LEVEL AND TIME INTENSITY OF
21 SERVICE.

22 (F) EXPENSES FOR REASONABLY NECESSARY PSYCHOLOGICAL SERVICES
23 SHALL APPLY ONLY IF THE NEED FOR THE SERVICES AROSE OUT OF THE
24 INJURED PERSON'S LOSS OCCURRENCE. PSYCHOLOGICAL SERVICES SHALL
25 BE PROVIDED BY A PERSON LICENSED UNDER PART 182 OF THE PUBLIC
26 HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING
27 SECTIONS 333.18201 TO 333.18237 OF THE MICHIGAN COMPILED LAWS, OR

1 BY A SOCIAL WORKER REGISTERED UNDER ARTICLE 16 OF THE
2 OCCUPATIONAL CODE, ACT NO. 299 OF THE PUBLIC ACTS OF 1980, BEING
3 SECTIONS 339.1601 TO 339.1610 OF THE MICHIGAN COMPILED LAWS, AND
4 WHO HAS A MASTER'S DEGREE FROM AN ACCREDITED SCHOOL OF SOCIAL
5 WORK.

6 (G) EXPENSES FOR REASONABLY NECESSARY VOCATIONAL REHABILITA-
7 TION SERVICES SHALL APPLY ONLY IF THE NEED FOR SERVICES AROSE OUT
8 OF THE INJURED PERSON'S LOSS OCCURRENCE.

9 (H) THERE IS A REBUTTABLE PRESUMPTION THAT EXPENSES FOR REA-
10 SONABLY NECESSARY HOME MODIFICATION ACCOMMODATIONS SHALL NOT
11 EXCEED \$100,000.00 ADJUSTED ANNUALLY TO REFLECT CHANGES IN THE
12 COST OF LIVING UNDER RULES PRESCRIBED BY THE COMMISSIONER BUT ANY
13 CHANGE IN THE MAXIMUM APPLIES ONLY TO BENEFITS ARISING OUT OF
14 LOSS OCCURRENCES AFTER THE DATE OF CHANGE IN THE MAXIMUM.

15 (I) THERE IS A REBUTTABLE PRESUMPTION THAT EXPENSES FOR A
16 REASONABLY NECESSARY SPECIAL MOTOR VEHICLE OR MOTOR VEHICLE MODI-
17 FICATION ACCOMMODATIONS ARE LIMITED TO NECESSARY MODIFICATIONS TO
18 AN EXISTING MOTOR VEHICLE, OR IF A SPECIAL MOTOR VEHICLE IS
19 REQUIRED, THE COST OF THE SPECIAL VEHICLE AND THE PRESCRIBED MED-
20 ICALLY APPROPRIATE MODIFICATIONS TO IT. COSTS FOR REPLACEMENT
21 SPECIAL MOTOR VEHICLES OR MOTOR VEHICLE MODIFICATIONS SHALL NOT
22 BE INCURRED MORE FREQUENTLY THAN ONCE EVERY 5 YEARS AND ARE
23 LIMITED TO A MAXIMUM OF \$35,000.00 EVERY 5 YEARS.

24 (5) REGARDLESS OF THE NUMBER OF MOTOR VEHICLES INSURED OR
25 INSURERS PROVIDING SECURITY IN ACCORDANCE WITH THIS CHAPTER, OR
26 THE PROVISIONS OF ANY OTHER LAW PROVIDING FOR DIRECT BENEFITS
27 WITHOUT REGARD TO FAULT FOR MOTOR OR ANY OTHER VEHICLE ACCIDENTS,

1 A PERSON SHALL NOT RECOVER DUPLICATE BENEFITS FOR THE SAME
2 EXPENSES OR LOSSES INCURRED UNDER THIS SECTION.

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

11 SEC. 3107B. (1) EACH INSURER AUTHORIZED TO WRITE AUTOMOBILE
12 INSURANCE IN THIS STATE ON APRIL 1, 1993 SHALL ESTABLISH A UTILI-
13 ZATION AND REVIEW SYSTEM UNDER THIS SECTION FOR ITS PERSONAL PRO-
14 TECTION INSURANCE BENEFITS BY JANUARY 1, 1994. EACH INSURER THAT
15 IS NOT AUTHORIZED TO WRITE AUTOMOBILE INSURANCE IN THIS STATE ON
16 APRIL 1, 1993 SHALL ESTABLISH A UTILIZATION AND REVIEW SYSTEM
17 UNDER THIS SECTION FOR ITS PERSONAL PROTECTION INSURANCE BENEFITS
18 BEFORE BEING AUTHORIZED TO WRITE AUTOMOBILE INSURANCE IN THIS
19 STATE.

20 (2) A UTILIZATION AND REVIEW SYSTEM UNDER THIS SECTION SHALL
21 BE AUTOMATED AND INCLUDE ALL OF THE FOLLOWING:

22 (A) A PROVIDER ENROLLMENT FILE.

23 (B) UNIFORM CLAIMS FORMS.

24 (C) UNIFORM DIAGNOSIS AND PROCEDURE CODE SYSTEMS.

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

1 (E) UNIFORM CODES TO IDENTIFY OTHER LIABLE THIRD PARTY
2 PAYERS.

3 (F) TYPE OF SERVICE CODES.

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

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

8 (I) A MECHANISM FOR IDENTIFYING AND REJECTING NONACCIDENT
9 RELATED CLAIMS FOR REVIEW.

10 (3) EACH AUTOMOBILE INSURER SHALL REPORT ANNUALLY TO THE
11 COMMISSIONER IN A FORM DESIGNATED BY THE COMMISSIONER THE RESULTS
12 OF ITS UTILIZATION AND REVIEW SYSTEMS. THE REPORT SHALL INCLUDE
13 AT A MINIMUM THE FOLLOWING INFORMATION:

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

16 (B) THE SAVINGS DERIVED FROM IDENTIFICATION OF DUPLICATE
17 CLAIMS.

18 (C) THE SAVINGS DERIVED FROM IDENTIFICATION OF REJECTION OF
19 NONACCIDENT RELATED CLAIMS.

20 (D) ALL PROCEDURES IDENTIFIED AS HAVING BEEN PERFORMED AT
21 FACILITIES NOT LICENSED FOR THOSE PROCEDURES INCLUDING THE NAMES
22 OF THE FACILITIES INVOLVED.

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

26 (4) AUTOMOBILE INSURERS SHALL NOT USE A UTILIZATION AND
27 REVIEW SYSTEM IN BAD FAITH OR TO DO EITHER OF THE FOLLOWING:

1 (A) UNDULY DELAY PAYMENT OF LEGITIMATE CLAIMS.

2 (B) HARASS OR DISCRIMINATE AGAINST MEDICAL PROVIDERS OR
3 INJURED AUTOMOBILE ACCIDENT VICTIMS.

4 (5) THE COMMISSIONER MAY ISSUE A CEASE AND DESIST ORDER PUR-
5 SUANT TO CHAPTER 20 OR MAY ORDER ANY OTHER PENALTY IN CHAPTER 20
6 AGAINST AN INSURER WHO VIOLATES SUBSECTION (4).

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

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

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

15 (3) An insurer providing personal protection insurance bene-
16 fits may offer, at appropriately reduced premium rates, a deduct-
17 ible of a specified dollar amount ~~which~~ THAT does not exceed
18 \$300.00 per accident. AN INSURER PROVIDING PERSONAL PROTECTION
19 INSURANCE BENEFITS SHALL OFFER, AT APPROPRIATELY REDUCED PREMIUM
20 RATES, CO-PAYS THAT ARE OPTIONAL TO THE INSURED AND THAT DO NOT
21 EXCEED \$250.00, \$500.00, \$750.00, AND \$1,000.00 PER CALENDAR
22 YEAR. ~~This~~ THE deductible AND CO-PAY OPTIONS may be applicable
23 to all or any specified types of personal protection insurance
24 benefits but shall apply only to benefits payable to the person
25 named in the policy, his OR HER spouse, and any relative of
26 either domiciled in the same household. Any other deductible OR

1 CO-PAY provisions require the prior approval of the
2 commissioner.

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

12 (2) HEALTH AND ACCIDENT COVERAGE THAT DOES NOT BECOME EFFEC-
13 TIVE UNTIL AFTER THE DATE OF THE INJURY IS SECONDARY TO PERSONAL
14 PROTECTION INSURANCE BENEFITS FOR ALL SERVICES RELATED TO THE
15 INJURY.

16 (3) COVERAGE UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
17 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1395 TO 1395b, 1395b-2,
18 1395c TO 1395i, 1395i-2 TO 1395i-4, 1395j TO 1395t, 1395u TO
19 1395w-2, 1395w-4 TO 1395ccc, OR TITLE XIX OF THE SOCIAL SECURITY
20 ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396f AND 1396i
21 TO 1396u, OR PURSUANT TO A MEDICARE SUPPLEMENTAL POLICY OR CER-
22 TIFICATE IS NOT CONSIDERED OTHER HEALTH AND ACCIDENT COVERAGE FOR
23 PURPOSES OF THIS SECTION.

24 Sec. 3111. (1) Personal protection insurance benefits are
25 payable for accidental bodily injury suffered in an accident
26 occurring out of this state, if the accident occurs within the
27 United States, its territories and possessions, or in Canada, and

1 the person whose injury is the basis of the claim was at the time
 2 of the accident a named insured under a personal protection
 3 insurance policy, his OR HER spouse, a relative of either domi-
 4 ciled in the same household or an occupant of a vehicle involved
 5 in the accident whose owner or registrant was insured under a
 6 personal protection insurance policy or has provided security
 7 approved by the secretary of state under ~~subsection (4) of sec-~~
 8 tion ~~3101~~ 3101(4).

9 (2) PERSONAL PROTECTION INSURANCE BENEFITS ARE LIMITED TO
 10 THE LIMIT UNDER SECTION 3107(1)(A)(i) PER INDIVIDUAL PER LOSS
 11 OCCURRENCE FOR ACCIDENTS OCCURRING IN MICHIGAN IF THE INJURED
 12 PERSON IS NOT A RESIDENT OF MICHIGAN AND THE INJURED PERSON'S
 13 BENEFITS ARE PAYABLE UNDER A POLICY DELIVERED OUTSIDE OF
 14 MICHIGAN.

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

20 (a) Insurers of owners or registrants of motor vehicles
 21 involved in the accident.

22 (b) Insurers of operators of motor vehicles involved in the
 23 accident.

24 (2) When 2 or more insurers are in the same order of prior-
 25 ity to provide personal protection insurance benefits an insurer
 26 paying benefits due is entitled to partial recoupment from the
 27 other insurers in the same order of priority, together with a

1 reasonable amount of partial recoupment of the expense of
2 processing the claim, in order to accomplish equitable distribu-
3 tion of the loss among such insurers.

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

9 (4) EXCEPT AS OTHERWISE PROVIDED, IF AN INJURED PERSON IS
10 ENTITLED TO RECOVER BENEFITS UNDER MORE THAN 1 POLICY OR OTHER
11 HEALTH PLAN, THE MAXIMUM RECOVERY SHALL NOT EXCEED THE AMOUNT
12 THAT WOULD HAVE BEEN PAYABLE UNDER THE POLICY OR PLAN THAT PRO-
13 VIDES THE HIGHEST DOLLAR LIMIT OF BENEFITS PAYABLE.

14 SEC. 3118. IF AN AUTOMOBILE INSURER DENIES A CLAIM FOR BEN-
15 EFITS UNDER THIS CHAPTER AND ULTIMATELY IS REQUIRED TO PAY THOSE
16 BENEFITS, THE INSURER SHALL PAY INTEREST ON THOSE DENIED BENEFITS
17 TO BE CALCULATED AT 6-MONTH INTERVALS FROM THE DATE THE CLAIM FOR
18 THE BENEFITS WAS SUBMITTED TO THE INSURER AT A RATE OF INTEREST
19 THAT IS EQUAL TO 1% PLUS THE AVERAGE INTEREST RATE PAID AT AUC-
20 TIONS OF 5-YEAR UNITED STATES TREASURY NOTES DURING THE 6 MONTHS
21 IMMEDIATELY PRECEDING JULY 1 AND JANUARY 1, AS CERTIFIED BY THE
22 STATE TREASURER, AND COMPOUNDED ANNUALLY.

23 Sec. 3135. (1) A person remains subject to tort liability
24 for noneconomic loss caused by his or her ownership, maintenance,
25 or use of a motor vehicle only if the injured person has suffered
26 death, serious impairment of body function, or permanent serious
27 disfigurement. EXCEPT AS AUTHORIZED UNDER SECTION 5851 OF THE

1 REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF
2 1961, BEING SECTION 600.5851 OF THE MICHIGAN COMPILED LAWS, AN
3 ACTION UNDER THIS SUBSECTION SHALL NOT BE COMMENCED LATER THAN 3
4 YEARS AFTER THE DATE OF THE ACCIDENT THAT CAUSES THE INJURY
5 REGARDLESS OF WHEN THE PERSON DIES OR DISCOVERS THAT HE OR SHE
6 HAS SUFFERED A SERIOUS IMPAIRMENT OF BODY FUNCTION OR PERMANENT
7 SERIOUS DISFIGUREMENT.

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

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

20 (b) Damages for noneconomic loss as provided and limited in
21 subsection (1).

22 (c) Damages for allowable expenses, work loss, and
23 survivor's loss as ~~defined~~ PRESCRIBED in sections 3107 to 3110
24 in excess of the daily, monthly, and 3-year limitations contained
25 in those sections. The party liable for damages is entitled to
26 an exemption reducing his or her liability by the amount of taxes

1 that would have been payable on account of income the injured
2 person would have received if he or she had not been injured.

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

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

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

24 (6) IN AN ACTION FOR DAMAGES PURSUANT TO SUBSECTION (1) OR
25 (2)(A) OR (C):

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

4 (i) CONCUR IN THE AWARD.

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

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

11 (i) THE EVIDENCE PRESENTED AT TRIAL.

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

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

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

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

25 (7) ~~(6) Subsections (2)(d), (3), (4), and (5) shall take~~
26 ~~effect July 1, 1980.~~ UPON MOTION OF ANY PARTY, IF A COURT FINDS
27 THAT A CIVIL ACTION OR DEFENSE BROUGHT OR ASSERTED IN A BODILY

1 INJURY CLAIM UNDER THIS SECTION WAS FRIVOLOUS, THE COURT SHALL
2 ASSESS COSTS AND FEES AGAINST THE NONPREVAILING PARTY AND HIS OR
3 HER ATTORNEY AND SHALL AWARD TO THE PREVAILING PARTY THE COSTS
4 AND FEES INCURRED BY THE PREVAILING PARTY IN CONNECTION WITH THE
5 CIVIL ACTION. THE AMOUNT OF COSTS AND FEES AWARDED UNDER THIS
6 SUBSECTION SHALL INCLUDE ALL REASONABLE COSTS ACTUALLY INCURRED
7 BY THE PREVAILING PARTY AND ANY COSTS ALLOWED BY LAW OR BY COURT
8 RULE, INCLUDING COURT COSTS AND REASONABLE ATTORNEY FEES. AS
9 USED IN THIS SUBSECTION, "FRIVOLOUS" MEANS THAT AT LEAST 1 OF THE
10 FOLLOWING CONDITIONS IS MET:

11 (A) THE NONPREVAILING PARTY'S PRIMARY PURPOSE IN INITIATING
12 THE ACTION OR ASSERTING THE DEFENSE WAS TO HARASS, EMBARRASS, OR
13 INJURE THE PREVAILING PARTY.

14 (B) THE NONPREVAILING PARTY HAD NO REASONABLE BASIS TO
15 BELIEVE THAT THE FACTS UNDERLYING THAT PARTY'S LEGAL POSITION
16 WERE IN FACT TRUE.

17 (C) THE NONPREVAILING PARTY'S LEGAL POSITION WAS DEVOID OF
18 ARGUABLE LEGAL MERIT.

19 (8) ANY BODILY INJURY CLAIM BROUGHT UNDER THIS SECTION TO
20 RECOVER NONECONOMIC DAMAGES IS SUBJECT TO THE MANDATORY MEDIATION
21 PROVISIONS OF SECTIONS 4951 TO 4969 OF THE REVISED JUDICATURE ACT
22 OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTIONS
23 600.4951 TO 600.4969 OF THE MICHIGAN COMPILED LAWS.

24 Sec. 3142. (1) Personal protection insurance benefits are
25 payable as loss accrues.

26 (2) Personal protection insurance benefits are overdue if
27 not paid within 30 days after an insurer receives reasonable

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

12 (3) An overdue payment bears ~~simple~~ interest ~~at the rate~~
 13 ~~of 12% per annum~~ TO BE CALCULATED AT 6-MONTH INTERVALS FROM THE
 14 DATE THE PAYMENT IS OVERDUE AT A RATE OF INTEREST THAT IS EQUAL
 15 TO 1% PLUS THE AVERAGE INTEREST RATE PAID AT AUCTIONS OF 5-YEAR
 16 UNITED STATES TREASURY NOTES DURING THE 6 MONTHS IMMEDIATELY PRE-
 17 CEDING JULY 1 AND JANUARY 1, AS CERTIFIED BY THE STATE TREASURER,
 18 AND COMPOUNDED ANNUALLY.

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

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

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

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

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

9 (2) IN ANY OF THE SITUATIONS UNDER SUBSECTION (1), unpaid
 10 benefits due or coming due are subject to being collected under
 11 the assigned claims plan, and the insurer to which the claim is
 12 assigned, or the assigned claims facility if the claim is
 13 assigned to it, is entitled to reimbursement from the defaulting
 14 insurers to the extent of their financial responsibility.

15 (3) ~~(2)~~ Except as otherwise provided in this subsection,
 16 personal protection insurance benefits, including benefits aris-
 17 ing from accidents occurring before the effective date of this
 18 subsection, payable through an assigned claims plan shall be
 19 reduced to the extent that benefits covering the same loss are
 20 available from other sources, regardless of the nature or number
 21 of benefit sources available and regardless of the nature or form
 22 of the benefits, to a person claiming personal protection insur-
 23 ance benefits through the assigned claims plan. This subsection
 24 ~~shall only apply~~ ONLY APPLIES when the personal protection
 25 insurance benefits are payable through the assigned claims plan
 26 because no personal protection insurance is applicable to the
 27 injury, no personal protection insurance applicable to the injury

1 can be identified, or the only identifiable personal protection
 2 insurance applicable to the injury is, because of financial
 3 inability of 1 or more insurers to fulfill their obligations,
 4 inadequate to provide benefits up to the maximum prescribed. As
 5 used in this subsection "sources" and "benefit sources" do not
 6 include the program for medical assistance for the medically
 7 indigent under the social welfare act, Act No. 280 of the Public
 8 Acts of 1939, being sections 400.1 to ~~400.121~~ 400.119B of the
 9 Michigan Compiled Laws, or insurance under the health insurance
 10 for the aged act, title XVIII of the social security amendments
 11 of 1965.

12 (4) ~~(3)~~ If the obligation to provide personal protection
 13 insurance benefits cannot be ascertained because of a dispute
 14 between 2 or more automobile insurers concerning their obligation
 15 to provide coverage or the equitable distribution of the loss,
 16 and if a method of voluntary payment of benefits cannot be agreed
 17 upon among or between the disputing insurers, all of the follow-
 18 ing shall apply:

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

22 (b) The claim shall be assigned by the assigned claims
 23 facility to an insurer which shall immediately provide personal
 24 protection insurance benefits to the claimant or claimants enti-
 25 tled to benefits IN THE HIGHEST AMOUNT APPLICABLE AMONG THE POLI-
 26 CIES IN DISPUTE.

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

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

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

12 (f) After hearing the action, the circuit court shall deter-
13 mine the insurer or insurers, if any, obligated to provide the
14 applicable personal protection insurance benefits and the equita-
15 ble distribution, if any, among the insurers obligated therefor,
16 and shall order reimbursement to the assigned claims facility
17 from the insurer or insurers to the extent of the responsibility
18 as determined by the court. The reimbursement ordered under this
19 subdivision shall include all benefits and costs paid or incurred
20 by the assigned claims facility and all benefits and costs paid
21 or incurred by insurers determined not to be obligated to provide
22 applicable personal protection insurance benefits, including rea-
23 sonable attorney fees and interest at the rate prescribed in
24 section 3175 as of December 31 of the year preceding the determi-
25 nation of the circuit court.

26 (5) IF NO PERSONAL PROTECTION INSURANCE IS APPLICABLE TO THE
27 INJURY OR NO PERSONAL PROTECTION INSURANCE APPLICABLE TO THE

1 INJURY CAN BE IDENTIFIED, PERSONAL PROTECTION INSURANCE BENEFITS
2 SHALL BE PAID ONLY TO THE LIMIT PROVIDED FOR IN SECTION
3 3107(1)(A)(i). IF THE ONLY IDENTIFIABLE PERSONAL PROTECTION
4 INSURANCE APPLICABLE TO THE INJURY IS, BECAUSE OF FINANCIAL
5 INABILITY OF 1 OR MORE INSURERS TO FULFILL THEIR OBLIGATIONS,
6 INADEQUATE TO PROVIDE BENEFITS UP TO THE MAXIMUM PRESCRIBED, PER-
7 SONAL PROTECTION INSURANCE BENEFITS SHALL BE PAID TO THE LIMIT
8 SELECTED BY THE INSURED UNDER SECTION 3107(1)(A).

9 (6) THIS SECTION SHALL NOT APPLY AND SECTION 3172A SHALL
10 APPLY IF APPLICABLE PERSONAL PROTECTION INSURANCE BENEFITS ARE
11 UNAVAILABLE BECAUSE AN INSURER OTHERWISE OBLIGED TO PROVIDE THAT
12 COVERAGE UNDER THIS CHAPTER BECAME, AFTER APRIL 1, 1993, AN
13 INSOLVENT INSURER AS DEFINED IN CHAPTER 79.

14 SEC. 3172A. (1) A PERSON ENTITLED TO A CLAIM BECAUSE OF
15 ACCIDENTAL BODILY INJURY ARISING OUT OF THE OWNERSHIP, OPERATION,
16 MAINTENANCE, OR USE OF A MOTOR VEHICLE AS A MOTOR VEHICLE IN THIS
17 STATE MAY OBTAIN THE FULL PERSONAL PROTECTION INSURANCE BENEFITS
18 ENTITLED THROUGH THE MICHIGAN PROPERTY AND CASUALTY GUARANTY
19 ASSOCIATION ESTABLISHED UNDER CHAPTER 79 IF ALL OF THE FOLLOWING
20 ARE SATISFIED:

21 (A) PERSONAL PROTECTION INSURANCE APPLICABLE TO THE INJURY
22 IS UNAVAILABLE BECAUSE AN INSURER OTHERWISE OBLIGED TO PROVIDE
23 THAT COVERAGE UNDER THIS CHAPTER BECAME, AFTER APRIL 1, 1993, AN
24 INSOLVENT INSURER AS DEFINED IN CHAPTER 79.

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

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

5 CHAPTER 32A

6 AUTOMOBILE INSURANCE ANTIFRAUD PLANS AND PROVISIONS

7 SEC. 3275. AS USED IN THIS CHAPTER:

8 (A) "ANTIFRAUD PLAN" MEANS AN AUTOMOBILE ANTIFRAUD PLAN
9 ESTABLISHED UNDER SECTION 3277.

10 (B) "OFFICE" MEANS THE AUTOMOBILE INSURANCE FRAUD OFFICE
11 ESTABLISHED UNDER SECTION 3285.

12 SEC. 3277. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMO-
13 BILE INSURANCE IN THIS STATE SHALL ESTABLISH AND MAINTAIN AN
14 AUTOMOBILE INSURANCE ANTIFRAUD PLAN. THE ANTIFRAUD PLAN OF
15 INSURERS AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS
16 STATE ON THE EFFECTIVE DATE OF THIS SECTION SHALL BE FILED WITH
17 THE COMMISSIONER ON OR BEFORE APRIL 1, 1994. AN AUTOMOBILE
18 INSURER AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS STATE
19 AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL FILE AN ANTIFRAUD
20 PLAN WITHIN 6 MONTHS AFTER AUTHORIZATION. A MODIFICATION TO THE
21 ANTIFRAUD PLAN SHALL BE FILED WITH THE COMMISSIONER WITHIN 30
22 DAYS AFTER THE PLAN HAS BEEN MODIFIED.

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

25 (A) SPECIFIC PROCEDURES TO PREVENT INSURANCE FRAUD, INCLUD-
26 ING INTERNAL FRAUD INVOLVING EMPLOYEES OR COMPANY

1 REPRESENTATIVES, FRAUD RESULTING FROM MISREPRESENTATION ON
2 APPLICATIONS FOR INSURANCE COVERAGE, AND CLAIMS FRAUD.

3 (B) SPECIFIC PROCEDURES TO REVIEW CLAIMS IN ORDER TO DETECT
4 EVIDENCE OF POSSIBLE INSURANCE FRAUD AND TO INVESTIGATE CLAIMS
5 WHERE FRAUD IS SUSPECTED.

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

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

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

15 (F) A REQUIREMENT THAT COSTS INCURRED AS A RESULT OF
16 DETECTED INSURANCE FRAUD ARE NOT INCLUDED IN ANY RATE BASE
17 AFFECTING THE PREMIUMS OF AUTOMOBILE INSURANCE CONSUMERS.

18 (3) EACH ANTIFRAUD PLAN SHALL BE FILED WITH THE
19 COMMISSIONER. IF, AFTER REVIEW, THE COMMISSIONER FINDS THAT THE
20 ANTIFRAUD PLAN DOES NOT COMPLY WITH SUBSECTION (2), THE ANTIFRAUD
21 PLAN SHALL BE DISAPPROVED. NOTICE OF DISAPPROVAL SHALL INCLUDE A
22 STATEMENT OF THE SPECIFIC REASONS FOR THE DISAPPROVAL. AN ANTI-
23 FRAUD PLAN DISAPPROVED BY THE COMMISSIONER SHALL BE AMENDED AND
24 REFILED WITHIN 60 DAYS AFTER THE DATE OF THE DISAPPROVAL NOTICE.

25 (4) THE COMMISSIONER MAY AUDIT AN INSURER TO ENSURE COMPLI-
26 ANCE WITH THE INSURER'S ANTIFRAUD PLAN AS A PART OF AN
27 EXAMINATION PERFORMED UNDER THIS ACT.

1 SEC. 3279. (1) EACH INSURER AUTHORIZED TO TRANSACT
2 AUTOMOBILE INSURANCE IN THIS STATE SHALL PROVIDE ANNUALLY TO THE
3 COMMISSIONER A SUMMARY REPORT ON ACTIONS TAKEN UNDER THE
4 INSURER'S ANTIFRAUD PLAN TO PREVENT AND COMBAT INSURANCE FRAUD,
5 INCLUDING, BUT NOT LIMITED TO, MEASURES TAKEN TO PROTECT AND
6 ENSURE THE INTEGRITY OF ELECTRONIC DATA PROCESSING - GENERATED
7 DATA AND MANUALLY COMPILED DATA, STATISTICAL DATA ON THE AMOUNT
8 OF RESOURCES COMMITTED TO COMBATTING FRAUD, AND THE AMOUNT OF
9 FRAUD IDENTIFIED AND RECOVERED DURING THE REPORTING PERIOD.

10 (2) AN ANTIFRAUD PLAN OR SUMMARY REPORT FILED WITH THE COM-
11 MISSIONER UNDER THIS SECTION AND SECTION 3277 AND ANY REPORTS OR
12 MATERIALS RELATED TO SUCH A PLAN OR REPORT ARE NOT SUBJECT TO THE
13 FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF
14 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED
15 LAWS.

16 SEC. 3281. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMO-
17 BILE INSURANCE IN THIS STATE AND ITS EMPLOYEES, AGENTS, MOTOR
18 VEHICLE PHYSICAL DAMAGE APPRAISERS, PUBLIC ADJUSTERS, AND PUBLIC
19 ADJUSTER SOLICITORS, WHO HAS A REASONABLE BASIS TO BELIEVE INSUR-
20 ANCE FRAUD HAS OCCURRED, IS REQUIRED TO REPORT THE INCIDENCE OF
21 SUSPECTED INSURANCE FRAUD TO THE APPROPRIATE FEDERAL, STATE, OR
22 LOCAL CRIMINAL LAW ENFORCEMENT AUTHORITY. LICENSED INSURANCE
23 AGENTS AND PHYSICAL DAMAGE APPRAISERS MAY ELECT TO REPORT SUS-
24 PECTED FRAUD THROUGH THE AFFECTED INSURER WITH WHICH THEY HAVE A
25 CONTRACTUAL RELATIONSHIP. ALL REPORTS OF INSURANCE FRAUD TO LAW
26 ENFORCEMENT AUTHORITIES SHALL BE MADE IN WRITING, AND COPIES OF
27 THE REPORT SHALL BE SENT WITHIN 7 DAYS TO THE OFFICE. SUSPECTED

1 INSURANCE FRAUD INVOLVES AGENTS, MOTOR VEHICLE PHYSICAL DAMAGE
2 APPRAISERS, PUBLIC ADJUSTERS, OR PUBLIC ADJUSTER SOLICITORS, A
3 COPY OF THE REPORT SHALL ALSO BE SENT TO THE COMMISSIONER.

4 (2) A PERSON REQUIRED TO REPORT SUSPECTED FRAUD UNDER THIS
5 CHAPTER IS NOT SUBJECT TO CIVIL LIABILITY FOR LIBEL, VIOLATION OF
6 PRIVACY, OR OTHER CAUSE OF ACTION ARISING OUT OF THE FILING OF
7 THE REQUIRED REPORTS. HOWEVER, A PERSON WHO FRIVOLOUSLY ACCUSES A
8 CLAIMANT OF FRAUD IS SUBJECT TO A CIVIL PENALTY NOT TO EXCEED
9 \$10,000.00 AS DETERMINED BY THE COMMISSIONER.

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

21 SEC. 3285. THE COMMISSIONER AFTER CONSULTATION WITH INSUR-
22 ERS AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS STATE
23 SHALL ESTABLISH, WITHIN THE INSURANCE BUREAU, A MOTOR VEHICLE
24 INSURANCE FRAUD OFFICE. WITHIN 180 DAYS OF ITS ESTABLISHMENT,
25 THE COMMISSIONER SHALL ESTABLISH A PLAN OF OPERATION FOR THE
26 OFFICE THAT IS CONSISTENT WITH THE PROVISIONS OF THIS CHAPTER.

1 THE PLAN OF OPERATION SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL
2 OF THE FOLLOWING:

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

5 (B) POLICIES AND PROCEDURES GOVERNING INSURER AND LAW
6 ENFORCEMENT AGENCY ACCESS TO OFFICE DATA, INFORMATION, AND
7 REPORTS.

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

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

14 SEC. 3287. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMO-
15 BILE INSURANCE IN THIS STATE, AS A CONDITION OF ITS AUTHORITY TO
16 TRANSACT THE BUSINESS OF INSURANCE IN THIS STATE, SHALL REPORT
17 INFORMATION ON SUSPECTED FRAUDULENT CLAIMS AND APPLICATIONS FOR
18 BENEFITS ARISING OUT OF THE MAINTENANCE AND USE OF A MOTOR VEHI-
19 CLE IN THIS STATE WITH THE OFFICE WITHIN 45 DAYS OF RECEIPT OF
20 THE APPLICATION OR CLAIM.

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

23 (A) IDENTIFICATION OF CLAIMANTS.

24 (B) IDENTIFICATION OF MEDICAL PROVIDERS.

25 (C) IDENTIFICATION OF REPAIR SHOPS.

26 (D) IDENTIFICATION OF INSURANCE ADJUSTERS.

1 (E) IDENTIFICATION OF ATTORNEYS REPRESENTING CLAIMANTS.

2 (F) DESCRIPTION OF CLAIMS.

3 (G) OTHER INFORMATION CONSIDERED RELEVANT BY THE SUBMITTING
4 INSURER OR THE OFFICE.

5 (H) OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

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

10 SEC. 3290. AN INDIVIDUAL CONVICTED OF DEFRAUDING AN INSURER
11 AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN THIS STATE MAY BE
12 ORDERED TO PAY RESTITUTION TO THE INSURER.

13 SEC. 3291. THE COMMISSIONER SHALL ISSUE AN ANNUAL REPORT
14 LISTING ALL INSURANCE COMPANIES THAT ARE COMPLYING WITH THIS
15 CHAPTER. INFORMATION ABOUT SUSPECTED FRAUD THAT IS REPORTED TO
16 THE OFFICE SHALL BE MADE AVAILABLE, AS APPROPRIATE, TO LAW
17 ENFORCEMENT OFFICIALS AND ANY INSURER AUTHORIZED TO TRANSACT
18 AUTOMOBILE INSURANCE IN THIS STATE.

19 SEC. 3293. INFORMATION COLLECTED PURSUANT TO THIS CHAPTER
20 SHALL ONLY BE USED BY INSURERS AND LAW ENFORCEMENT OFFICIALS FOR
21 THE DETECTION AND PROSECUTION OF FRAUD OR ABUSE AND INSURERS
22 SHALL NOT USE THIS INFORMATION FOR UNDERWRITING PURPOSES.

23 SEC. 3295. ON OR BEFORE JULY 1, 1995 AND ON OR BEFORE
24 JULY 1 OF EACH YEAR THEREAFTER, THE OFFICE, ON BEHALF OF THE COM-
25 MISSIONER, SHALL FILE AN ANNUAL REPORT ON THE NATURE AND EFFECT
26 OF AUTOMOBILE INSURANCE FRAUD IN THIS STATE. THE REPORT SHALL
27 PRESENT STATISTICAL DATA ON FRAUD IN THIS STATE. THE

1 COMMISSIONER MAY PRESCRIBE BY REGULATION THE CONTENT OF THE
2 REPORT.

3 SEC. 3297. NOT LATER THAN MAY 1, 1994, ALL APPLICATIONS FOR
4 INSURANCE, RENEWALS, AND CLAIM FORMS SHALL CONTAIN A STATEMENT
5 THAT CLEARLY STATES IN SUBSTANCE THE FOLLOWING:

6 ANY PERSON WHO KNOWINGLY AND WITH INTENT TO
7 INJURE OR DEFRAUD ANY INSURER FILES AN APPLI-
8 CATION OR CLAIM CONTAINING ANY FALSE, INCOM-
9 PLETE, OR MISLEADING INFORMATION SHALL, UPON
10 CONVICTION, BE SUBJECT TO IMPRISONMENT FOR UP
11 TO 1 YEAR FOR A MISDEMEANOR CONVICTION OR UP
12 TO 10 YEARS FOR A FELONY CONVICTION AND PAY-
13 MENT OF A FINE OF UP TO \$5,000.00.

14 SEC. 3299. THE DEPARTMENT MAY PROMULGATE PURSUANT TO THE
15 ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC
16 ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN
17 COMPILED LAWS, RULES AND REGULATIONS AS MAY BE NECESSARY TO CARRY
18 OUT THIS CHAPTER.

19 SEC. 3314. WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS
20 SECTION AND CONTINUING EVERY 6 MONTHS THEREAFTER UNTIL APRIL 1,
21 1995, THE FACILITY SHALL MAIL TO EACH ELIGIBLE DRIVER PLACED
22 THROUGH THE FACILITY THE TOLL-FREE TELEPHONE NUMBER FOR THE
23 MARKET ASSISTANCE PLAN CREATED IN SECTION 2115A.

24 SEC. 3315. THE FACILITY SHALL ESTABLISH AS PART OF ITS PLAN
25 OF OPERATION A PROGRAM TO REDUCE THE PARTICIPATION RATIO OF AN
26 INSURER UNDER SECTION 3303(E)(i) BASED UPON THE NUMBER OF PRIVATE
27 PASSENGER NONFLEET AUTOMOBILES VOLUNTARILY WRITTEN IN AN URBAN

1 AREA. THE PROGRAM SHALL ALSO INCLUDE REDUCTIONS TO THE
 2 PARTICIPATION RATIO FOR ANY INCREASES IN THE NUMBER OF PRIVATE
 3 PASSENGER NONFLEET AUTOMOBILES VOLUNTARILY WRITTEN IN AN URBAN
 4 AREA. HOWEVER, AN INSURER'S PARTICIPATION RATIO SHALL NOT BE
 5 INCREASED BY MORE THAN 10% ANNUALLY AS A RESULT OF THIS SECTION.
 6 AS USED IN THIS SECTION "URBAN AREA" MEANS THE AREA WITHIN THE
 7 BOUNDARIES OF A CITY IN THIS STATE THAT HAS A POPULATION OF
 8 1,000,000 OR MORE AS DETERMINED BY THE LATEST OF EACH SUCCEEDING
 9 FEDERAL DECENNIAL CENSUS AND INCLUDES ANY CITY LOCATED WHOLLY
 10 WITHIN THE BOUNDARIES OF A CITY IN THIS STATE THAT HAS A POPULA-
 11 TION OF 1,000,000 OR MORE AS DETERMINED BY THE LATEST OF EACH
 12 SUCCEEDING FEDERAL DECENNIAL CENSUS. THIS SECTION IS REPEALED
 13 EFFECTIVE APRIL 1, 1995.

14 Sec. 3320. (1) BY APRIL 1, 1995, THE FACILITY SHALL ESTAB-
 15 LISH RATES THAT ARE DESIGNED TO BE SELF-SUPPORTING FOR ELIGIBLE
 16 PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE, INELIGIBLE PRI-
 17 VATE PASSENGER NONFLEET AUTOMOBILE INSURANCE, AND ALL OTHER AUTO-
 18 MOBILE INSURANCE.

19 (2) ~~(1)~~ The facility, with respect to private passenger
 20 nonfleet automobiles, shall provide for all of the following:

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

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

25 (c) The appointment of a number of participating members
 26 appointed by the facility to act on behalf of the facility for
 27 the distribution of risks or for the servicing of insureds, as

1 provided in the plan of operation and consistent with this
2 section. The facility shall do all of the following:

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

6 (ii) Appoint other members to act on behalf of the facility
7 who volunteer to so act and who meet reasonable servicing stan-
8 dards established in the plan of operation, up to a maximum of 5
9 in addition to those appointed pursuant to subparagraph (i).

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

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

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

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

18 (D) Assure reasonable claims handling.

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

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

24 (i) Provide service to persons insured through the facility
25 equivalent to the service provided to persons insured by the
26 insurer voluntarily.

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

2 (iii) Provide internal review procedures for persons insured
3 through the facility identical to those established pursuant to
4 chapter 21 for persons insured voluntarily.

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

7 (f) Provide for the issuance of policies of automobile
8 insurance to qualified applicants whose licenses to operate a
9 vehicle have been suspended pursuant to section 310, 310b, 310d,
10 315, 321a, 324, 328, 512, 515, 625, ~~625b~~, 625f, 748, 801c, or
11 907 of Act No. 300 of the Public Acts of 1949, as amended, being
12 sections 257.310, 257.310b, 257.310d, 257.315, 257.321a, 257.324,
13 257.328, 257.512, 257.515, 257.625, ~~257.625b~~, 257.625f,
14 257.748, 257.801c, and 257.907 of the Michigan Compiled Laws, as
15 provided in the plan of operation. These policies may be
16 canceled after a period of not less than 30 days if the insured
17 fails to produce proof that the suspended license has been
18 reinstated.

19 (3) ~~(2)~~ Automobile insurance made available under this
20 section shall be equivalent to the automobile insurance normally
21 available in the voluntary competitive market in forms as
22 approved by the commissioner with such changes, additions, and
23 amendments as are adopted by the board of governors and approved
24 by the commissioner.

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

1 (a) To sue and be sued in the name of the facility. A
2 judgment against the facility shall not create any liabilities in
3 the individual participating members of the facility.

4 (b) To delegate ministerial duties, to hire a manager, to
5 hire legal counsel, and to contract for goods and services from
6 others.

7 (c) ~~To~~ UNTIL APRIL 1, 1995, TO assess participating mem-
8 bers on the basis of participation ratios pursuant to section
9 3303 to cover anticipated costs of operation and administration
10 of the facility, to provide for equitable servicing fees, and to
11 share losses, profits, and expenses pursuant to the plan of
12 operation.

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

16 (e) To provide for a limited number of participating members
17 to receive equitable distribution of applicants; or to provide
18 for a limited number of participating members to service appli-
19 cants in a plan of sharing of losses in accordance with ~~the sub~~
20 ~~section 3320(1)(c)~~ SECTION 3320(2)(C) and the plan OF
21 operation.

22 (f) To provide for standards of performance of service for
23 the participating members designated pursuant to subdivision
24 (e).

25 (g) To adopt a plan of operation and any amendments to the
26 plan, not inconsistent with this chapter, necessary to assure the
27 fair, reasonable, equitable, and nondiscriminatory manner of

1 administering the facility, including compliance with chapter 21,
2 and to provide for such other matters as are necessary or advis-
3 able to implement this chapter, including matters necessary to
4 comply with the requirements of chapter 21.

5 (H) EFFECTIVE APRIL 1, 1995, TO PROVIDE FOR EQUITABLE SERV-
6 ICING FEES.

7 (2) The board of governors shall institute or cause to be
8 instituted by the facility or on its behalf an automatic data
9 processing system for recording and compiling data relative to
10 individuals insured through the facility. An automatic data pro-
11 cessing system established under this subsection shall, to the
12 greatest extent possible, be made compatible with the automatic
13 data processing system maintained by the secretary of state, to
14 provide for the identification and review of individuals insured
15 through the facility.

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

1 21 and rates by the facility for all other automobile insurance
2 shall be filed in accordance with chapter 24.

3 (2) Every participating member designated to act on behalf
4 of the facility shall be authorized to use the rates and rules
5 approved by the commissioner for use by the facility on business
6 placed through the facility and shall not use other rates for
7 automobile insurance placed through the facility.

8 (3) Laws relating to rating organizations or advisory orga-
9 nizations shall not apply to functions provided for under this
10 section.

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

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

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

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

24 (i) One hundred percent of the weighted average in each ter-
25 ritory in the highest rated territory or territories in the state
26 within a single political subdivision.

1 (ii) From 105% to 125% of the weighted average for all other
2 facility territories, with the highest rated such territories
3 receiving the lowest surcharge and increasing to the highest sur-
4 charge in the lowest rated facility territories in 5 percentage
5 point increments. In no event, however, shall any such rate
6 exceed the rate established in subdivision (i).

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

12 (e) ~~In~~ UNTIL APRIL 1, 1995, IN the event that underwriting
13 losses and administrative expenses resulting from the operation
14 of the facility at rates established pursuant to this subsection
15 would exceed an amount equal to 5% of the net direct private pas-
16 senger nonfleet automobile premiums for this state, the levels
17 specified in subdivision (c)(i) and (ii) shall be proportionately
18 increased in an amount to produce underwriting losses and admin-
19 istrative expenses that do not exceed 5%.

20 (5) EFFECTIVE APRIL 1, 1995, IF IT APPEARS THAT THE INCOME
21 TO BE DERIVED BY THE FACILITY FROM PREMIUMS PAID BY POLICYHOLDERS
22 AND FROM INVESTMENT INCOME IS NOT ADEQUATE TO COVER THE ANTICI-
23 PATED LOSSES AND EXPENSES FOR THE FACILITY'S FISCAL YEAR, THE
24 FACILITY SHALL IMMEDIATELY INCREASE PREMIUMS, REDUCE ADMINISTRA-
25 TIVE EXPENSES AND SERVICING CARRIER FEES, OR BOTH, IN ORDER TO
26 ASSURE THAT THE FACILITY CONTINUES TO BE SELF-SUPPORTING.

1 Sec. 3355. (1) Every agent who is authorized to solicit,
2 negotiate or effect automobile insurance on behalf of any
3 participating member shall:

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

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

10 (c) Be entitled to receive, and any participating member be
11 entitled to pay, a commission for placing insurance through the
12 facility at the uniform rates of commission as provided in the
13 plan of operation WHICH, EFFECTIVE APRIL 1, 1995, SHALL NOT BE
14 GREATER THAN 5% FOR INSURANCE FOR ELIGIBLE DRIVERS PLACED THROUGH
15 THE FACILITY.

16 (2) AN AUTOMOBILE INSURER SHALL NOT RECEIVE OR KEEP ANY COM-
17 MISSION FOR PLACING INSURANCE THROUGH THE FACILITY.

18 SEC. 3387. BY JANUARY 1, 1994, A COMPLETE AUDIT OF THE
19 FACILITY PREPARED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT
20 SHALL BE COMPLETED AND SUBMITTED TO THE SENATE AND HOUSE OF REP-
21 RESENTATIVES STANDING COMMITTEES ON INSURANCE ISSUES. THE AUDIT
22 SHALL COVER AT LEAST THE YEARS 1988 THROUGH 1993 AND SHALL
23 EXAMINE BOTH CLAIMS AND OVERALL FINANCIAL MANAGEMENT.

24 SEC. 3388. (1) AN AUTOMOBILE INSURER SHALL NOT ADVISE AN
25 APPLICANT FOR INSURANCE WHO IS AN ELIGIBLE PERSON AS DEFINED IN
26 SECTION 2103 THAT HE OR SHE MUST PURCHASE INSURANCE THROUGH THE

1 FACILITY OR ARTIFICIALLY INCREASE THE INSURER'S RATES TO FORCE
2 SUCH AN APPLICANT INTO THE FACILITY.

3 (2) AN AUTOMOBILE INSURER SHALL ADVISE AN APPLICANT FOR
4 INSURANCE WHO IS AN ELIGIBLE PERSON AS DEFINED IN SECTION 2103 OF
5 THE DIFFERENCE IN RATES BETWEEN THE FACILITY RATES AND THE
6 INSURER'S RATES AND, IF THE INSURER'S RATES ARE HIGHER THAN THE
7 FACILITY'S RATES, SHALL ADVISE THE APPLICANT THAT THE APPLICANT
8 MAY BE ABLE TO OBTAIN A LOWER RATE FROM ANOTHER INSURER.

9 (3) AN INSURER WHO VIOLATES THIS SECTION IS SUBJECT TO A
10 CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR EACH VIOLATION.

11 SEC. 6112. (1) BEGINNING 6 MONTHS AFTER THE EFFECTIVE DATE
12 OF THIS SECTION EACH AUTOMOBILE INSURER SHALL REPORT TO THE COM-
13 MISSIONER QUARTERLY, BY VEHICLE IDENTIFICATION NUMBER ALL PAY-
14 MENTS MADE BY THE INSURER FOR CARS STOLEN DURING THAT QUARTER
15 THAT WERE NOT RECOVERED AND THE CAR'S SALVAGE VALUE.

16 (2) BEGINNING 6 MONTHS AFTER THE EFFECTIVE DATE OF THIS SEC-
17 TION, THE AUTHORITY SHALL REPORT TO THE COMMISSIONER QUARTERLY BY
18 VEHICLE IDENTIFICATION NUMBER EACH STOLEN CAR THAT HAS BEEN
19 RECOVERED.

20 (3) BEGINNING 9 MONTHS AFTER THE EFFECTIVE DATE OF THIS SEC-
21 TION, THE COMMISSIONER SHALL CROSS-REFERENCE QUARTERLY THE LIST
22 OF STOLEN CARS PREPARED BY INSURERS PURSUANT TO SUBSECTION (1)
23 WITH THE LIST OF RECOVERED CARS PREPARED BY THE AUTHORITY PURSU-
24 ANT TO SUBSECTION (2). THE COMMISSIONER SHALL NOTIFY THE INSURER
25 OF ANY CAR THAT HAS BEEN REPORTED RECOVERED BY THE AUTHORITY BUT
26 NOT REPORTED RECOVERED BY THE INSURER.

1 (4) AN INSURER SHALL REPORT BACK TO THE COMMISSIONER WITHIN
2 30 DAYS OF RECEIVING A NOTICE UNDER SUBSECTION (3), AS TO WHETHER
3 THE STOLEN CAR HAS BEEN RECLAIMED BY THE INSURER OR INSURED. IF
4 THE CAR CANNOT BE RECLAIMED, THE INSURER SHALL INFORM THE COMMIS-
5 SIONER AS TO THE REASONS WHY THE CAR CANNOT BE RECLAIMED.

6 (5) BY JANUARY 1 OF EACH YEAR, THE AUTHORITY SHALL REPORT TO
7 THE COMMISSIONER, IN A FORM THAT COORDINATES AS CLOSELY AS POSSI-
8 BLE WITH THE FORM USED BY THE LARGEST NUMBER OF LOCAL LAW
9 ENFORCEMENT AUTHORITIES, ON THE ANNUAL NUMBER OF AUTOMOBILE
10 THEFTS AND WHETHER OR NOT THE THEFT INVOLVED THE ENTIRE CAR OR 1
11 OR MORE PARTS OF THE CAR.

12 (6) AN INSURER THAT FAILS TO COMPLY WITH THIS SECTION IS
13 SUBJECT TO A CIVIL FINE OF NOT MORE THAN \$10,000.00 FOR EACH VIO-
14 LATION AS DETERMINED BY THE COMMISSIONER, AND IF THE VIOLATION IS
15 WILLFUL, THE COMMISSIONER MAY ORDER REVOKED THE INSURER'S AUTHOR-
16 ITY TO DO BUSINESS IN THIS STATE.

17 Sec. 7911. (1) To implement this chapter, there shall be
18 maintained within this state, by all insurers authorized to
19 transact in this state insurance other than life or disability
20 insurance, except the Michigan basic property insurance associa-
21 tion created pursuant to section 2920, the Brown-McNeely insur-
22 ance fund created in section 2502(1), and on and after the effec-
23 tive date of this 1990 amendatory act, the accident fund created
24 in the worker's disability compensation act of 1969, Act No. 317
25 of the Public Acts of 1969, being sections 418.101 to 418.941 of
26 the Michigan Compiled Laws, an association of those insurers to
27 be known as the property and casualty guaranty association,

1 hereafter referred to as the "association". Each insurer shall
2 be a member of the association, as a condition of its authority
3 to continue to transact insurance in this state.

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

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

15 Section 2. (1) It is the legislature's intent by this amen-
16 datory act to do all of the following:

17 (a) To relieve the emergent condition in the state's automo-
18 bile insurance system wherein automobile insurance coverage is
19 unaffordable and unequally available.

20 (b) To provide stringent regulation of automobile insurance
21 rate-making and underwriting.

22 (c) To monitor the level of competition in the automobile
23 insurance marketplace and to enable corrective measures if
24 necessary.

25 (d) To eliminate and prevent arbitrary and discriminatory
26 practices in automobile insurance marketing, underwriting, and
27 rate-making.

1 (e) To ensure that automobile insurance prices reflect the
2 actual costs of claims and reasonable expenses.

3 (f) To protect the citizens of the state from an erosion of
4 or violation of individual rights under the state and federal
5 constitutions.

6 (g) To minimize economic hardship and undue human suffering
7 that result from the damages associated with automobile accidents
8 and the process of insuring against such losses.

9 (2) This amendatory act shall be liberally construed to
10 carry out its intent as described in subsection (1).