



SENATE BILL No. 1163

September 18, 1996, Introduced by Senator BOUCHARD and referred to the Committee on Financial Services.

A bill to amend sections 150, 224, 244, 456, 836, 1153, 1242, 1811, 1921, 2409, 2409c, 2472, 2664, 3008, 5028, 5412, 7012, 7060, 7918, 8109, and 8199a of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

sections 150 and 244 as amended by Act No. 182 of the Public Acts of 1992, section 224 as amended by Act No. 228 of the Public Acts of 1994, section 456 as amended and section 1811 as added by Act No. 214 of the Public Acts of 1989, section 836 as amended by Act No. 12 of the Public Acts of 1986, section 1153 as added and section 8199a as amended by Act No. 226 of the Public Acts of 1994, section 1921 as added by Act No. 341 of the Public Acts of 1980, section 2409 as amended by Act No. 200 of the Public Acts of 1993, section 2409c as added by Act No. 318 of the Public Acts of 1986, sections 7012 and 7060 as added by Act No. 121 of the

Public Acts of 1986, section 7918 as amended by Act No. 41 of the Public Acts of 1980, and section 8109 as amended by Act No. 227 of the Public Acts of 1994, being sections 500.150, 500.224, 500.244, 500.456, 500.836, 500.1153, 500.1242, 500.1811, 500.1921, 500.2409, 500.2409c, 500.2472, 500.2664, 500.3008, 500.5028, 500.5412, 500.7012, 500.7060, 500.7918, 500.8109, and 500.8199a of the Michigan Compiled Laws; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 150, 224, 244, 456, 836, 1153, 1242,
 2 1811, 1921, 2409, 2409c, 2472, 2664, 3008, 5028, 5412, 7012,
 3 7060, 7918, 8109, and 8199a of Act No. 218 of the Public Acts of
 4 1956, sections 150 and 244 as amended by Act No. 182 of the
 5 Public Acts of 1992, section 224 as amended by Act No. 228 of the
 6 Public Acts of 1994, section 456 as amended and section 1811 as
 7 added by Act No. 214 of the Public Acts of 1989, section 836 as
 8 amended by Act No. 12 of the Public Acts of 1986, section 1153 as
 9 added and section 8199a as amended by Act No. 226 of the Public
 10 Acts of 1994, section 1921 as added by Act No. 341 of the Public
 11 Acts of 1980, section 2409 as amended by Act No. 200 of the
 12 Public Acts of 1993, section 2409c as added by Act No. 318 of the
 13 Public Acts of 1986, sections 7012 and 7060 as added by Act
 14 No. 121 of the Public Acts of 1986, section 7918 as amended by
 15 Act No. 41 of the Public Acts of 1980, and section 8109 as
 16 amended by Act No. 227 of the Public Acts of 1994, being
 17 sections 500.150, 500.224, 500.244, 500.456, 500.836, 500.1153,
 18 500.1242, 500.1811, 500.1921, 500.2409, 500.2409c, 500.2472,

1 500.2664, 500.3008, 500.5028, 500.5412, 500.7012, 500.7060,
2 500.7918, 500.8109, and 500.8199a of the Michigan Compiled Laws,
3 are amended to read as follows:

4 Sec. 150. (1) Any person who violates any provision of this
5 act for which a specific penalty is not provided under any other
6 provision of this act or of other laws applicable to the viola-
7 tion shall be afforded an opportunity for a hearing before the
8 commissioner pursuant to the administrative procedures act of
9 1969, Act No. 306 of the Public Acts of 1969, being sections
10 24.201 to 24.328 of the Michigan Compiled Laws. If the commis-
11 sioner finds that a violation has occurred, the commissioner
12 shall reduce the findings and decision to writing and shall issue
13 and cause to be served upon the person charged with the violation
14 a copy of the findings and an order requiring the person to cease
15 and desist from the violation. In addition, the commissioner may
16 order any of the following:

17 (a) Payment of a civil fine of not more than \$500.00 for
18 each violation. However, if the person knew or reasonably should
19 have known that he or she was in violation of this act, the com-
20 missioner may order the payment of a civil fine of not more than
21 \$2,500.00 for each violation. With respect to filings made under
22 chapters 21, 22, 23, 24, and 26, "violation" means a filing not
23 in compliance with the provisions of those chapters and does not
24 include an action with respect to an individual policy based upon
25 a noncomplying filing. An order of the commissioner under this
26 subdivision shall not require the payment of civil fines
27 exceeding \$25,000.00. A fine collected under this subdivision

1 shall be turned over to the state treasurer and credited to the
2 general fund.

3 (b) The suspension, limitation, or revocation of the
4 person's license or certificate of authority.

5 (2) After notice and opportunity for A hearing, the commis-
6 sioner may by order reopen and alter, modify, or set aside, in
7 whole or in part, an order issued under this section if, in the
8 commissioner's opinion, conditions of fact or law have changed to
9 require that action or the public interest requires that action.

10 (3) If a person knowingly violates a cease and desist order
11 under this section and has been given notice and an opportunity
12 for a hearing held pursuant to Act No. 306 of the Public Acts of
13 1969, the commissioner may order a civil fine of \$10,000.00 for
14 each violation, or a suspension, limitation, or revocation of a
15 person's license, or both. A fine collected under this subsec-
16 tion shall be turned over to the state treasurer and credited to
17 the general fund.

18 (4) ~~The~~ NOTWITHSTANDING SUBSECTIONS (1) TO (3), THE com-
19 missioner may ~~apply to~~ COMMENCE AN ORIGINAL ACTION IN the
20 Ingham county circuit court for an order of the court enjoining a
21 violation of this act WHETHER OR NOT AN ADMINISTRATIVE PROCEEDING
22 HAS BEEN INITIATED. ANY NECESSARY FACT FINDING SHALL BE CON-
23 DUCTED BY THE CIRCUIT COURT AND THE COURT SHALL ENJOIN ANY FUR-
24 THER VIOLATIONS OF THIS ACT.

25 Sec. 224. (1) All actual and necessary expenses incurred in
26 connection with the examination or other investigation of an
27 insurer or other person regulated under the commissioner's

1 authority shall be certified by the commissioner, together with a
2 statement of the work performed including the number of days
3 spent by the commissioner and each of the commissioner's depu-
4 ties, assistants, employees, and others acting under the
5 commissioner's authority, upon the examination or investigation.
6 ~~, to the department of commerce's budget/finance division.~~ If
7 correct, the ~~department of commerce's budget/finance division~~
8 COMMISSIONER shall approve the expenses and the expenses shall be
9 paid to the persons by whom they were incurred, upon the warrant
10 of the state treasurer payable from appropriations made by the
11 legislature for this purpose.

12 (2) Except as otherwise provided in subsection (4), the com-
13 missioner shall prepare and present to the insurer or other
14 person examined or investigated a statement of the expenses and
15 reasonable cost incurred for each person engaged upon the exami-
16 nation or investigation, including amounts necessary to cover the
17 pay and allowances granted to the persons by the Michigan civil
18 service commission, and the administration and supervisory
19 expense including an amount necessary to cover fringe benefits in
20 conjunction with the examination or investigation. Except as
21 otherwise provided in subsection (4), the insurer or other
22 person, upon receiving the statement, shall pay to the commis-
23 sioner the stated amount. The commissioner shall deposit the
24 funds with the state treasurer as provided in section 225.

25 (3) The commissioner may employ attorneys, actuaries,
26 accountants, investment advisers, and other expert personnel not
27 otherwise employees of this state reasonably necessary to assist

1 in the conduct of the examination or investigation or proceeding
2 with respect to an insurer or other person regulated under the
3 commissioner's authority at the insurer's or other person's
4 expense except as otherwise provided in subsection (4). Except
5 as otherwise provided in subsection (4), upon certification by
6 the commissioner of the reasonable expenses incurred under this
7 section, the insurer or other person examined or investigated
8 shall pay those expenses directly to the person or firm rendering
9 assistance to the commissioner. Expenses paid directly to such
10 person or firm and the regulatory fees imposed by this section
11 shall be examination expenses under section 22e of the single
12 business tax act, Act No. 228 of the Public Acts of 1975, being
13 section 208.22e of the Michigan Compiled Laws.

14 (4) An insurer is subject to a regulatory fee instead of the
15 costs and expenses provided for in subsections (2) and (3). ~~An~~
16 ~~alien insurer is subject to a regulatory fee and a valuation fee~~
17 ~~under section 830 through December 31, 1994.~~ On and after
18 January 1, 1995, an alien insurer is subject to a regulatory fee
19 instead of the valuation fee provided for in section 830. By
20 June 30 of each year or within 30 days after the enactment into
21 law of any appropriation for the insurance bureau's operation,
22 the commissioner shall impose upon all insurers authorized to do
23 business in this state a regulatory fee calculated as follows:

24 (a) As used in this subsection:

25 (i) "A" means total annuity considerations written in this
26 state in the immediately preceding year.

1 (ii) "B" means base assessment rate. The base assessment
2 rate shall not exceed .00038 and shall be a fraction the
3 numerator of which is the total regulatory fee and the denomina-
4 tor of which is the total amount of direct underwritten premiums
5 written in this state by all insurers for the immediately preced-
6 ing calendar year as reported to the commissioner on the
7 insurer's annual statements filed with the commissioner.

8 (iii) "I" means all direct underwritten premiums other than
9 life insurance premiums and annuity considerations written in
10 this state in the immediately preceding year by all insurers.

11 (iv) "L" means all direct underwritten life insurance premi-
12 ums written in this state in the immediately preceding year by
13 all life insurers.

14 (v) Total regulatory fee shall not exceed 80% of the gross
15 appropriations for the insurance bureau's operation for a fiscal
16 year and shall be the difference between the gross appropriations
17 for the insurance bureau's operation for that current fiscal year
18 and any restricted revenues, other than the regulatory fee
19 itself, as identified in the gross appropriation for the insur-
20 ance bureau's operation. ~~For fiscal year 1993-94, the gross~~
21 ~~appropriation for the insurance bureau's operation shall be con-~~
22 ~~sidered to be \$15,000,000.00.~~

23 (vi) Direct premiums written in this state do not include
24 any amounts that represent claims payments that are made on
25 behalf of, or administrative fees that are paid in connection
26 with, any administrative service contract, cost-plus arrangement,
27 or any other noninsured or self-insured business.

1 (b) Two actual assessment rates shall be calculated so as to
 2 distribute 75% of the burden of the regulatory fee shortfall cre-
 3 ated by the exclusion of annuity considerations from the assess-
 4 ment base to life insurance and 25% to all other insurance. The
 5 2 actual assessment rates shall be determined as follows:

6 (i) $\frac{L \times B + .75 \times B \times A}{L}$ = assessment rate for life
 7 insurance.

8 (ii) $\frac{I \times B + .25 \times B \times A}{I}$ = assessment rate for insurance
 9 other than life insurance.

10 (c) Except as otherwise provided in subdivision (d), each
 11 insurer's regulatory fee shall be a minimum fee of \$250.00 and
 12 shall be determined by multiplying the actual assessment rate by
 13 the assessment base of that insurer as determined by the commis-
 14 sioner from the insurer's annual statement for the immediately
 15 preceding calendar year filed with the commissioner.

16 (d) The total regulatory fee for all health maintenance
 17 organizations in this state shall be determined by multiplying
 18 the actual assessment rate by 70% of direct underwritten premiums
 19 written by all health maintenance organizations in this state for
 20 the immediately preceding calendar year as reported to the com-
 21 missioner in the health maintenance organization's annual state-
 22 ments filed with the commissioner. Each health maintenance
 23 organization's regulatory fee shall be a minimum fee of \$250.00
 24 and shall be determined by taking the total regulatory fee for
 25 all health maintenance organizations divided by the total number
 26 of members of all health maintenance organizations and multiply-
 27 ing this quotient by the number of members in the individual
 28 health maintenance organization.

1 (5) Not less than 67% of the revenue derived from the
2 regulatory fee under subsection (4) shall be used for the regula-
3 tion of financial conduct of persons regulated under the
4 commissioner's authority and for the regulation of persons regu-
5 lated under the commissioner's authority engaged in the business
6 of health care and health insurance in this state.

7 (6) The amount, if any, by which amounts credited to the
8 commissioner pursuant to section 225 exceed actual expenditures
9 pursuant to appropriations for the insurance bureau's operation
10 for a fiscal year shall be credited toward the appropriation for
11 the insurance bureau in the next fiscal year.

12 (7) All money paid into the state treasury by an insurer
13 under this section shall be credited as provided under section
14 225.

15 (8) A regulatory fee under this section shall not be treated
16 by an insurer as a levy or excise upon premium but as a regula-
17 tory burden that is apportioned in relation to insurance activity
18 in this state and reflects the insurance regulatory burden on
19 this state as a result of this insurance activity. A foreign or
20 alien insurer authorized to do business in this state may con-
21 sider the liability required under this section as a burden
22 imposed by the state of Michigan in the calculation of the
23 insurer's liability required under section 476a.

24 (9) An insurer may file with the commissioner a protest to
25 the regulatory fee imposed not later than 15 days after receipt
26 of the regulatory fee. The commissioner shall review the grounds
27 for the protest and shall hold a conference with the insurer at

1 the insurer's request. The commissioner shall transmit his or
2 her findings to the insurer with a restatement of the regulatory
3 fee based upon the findings. Statements of regulatory fees to
4 which protests have not been made and restatements of regulatory
5 fees are due and shall be paid not later than 30 days after their
6 receipt. Regulatory fees that are not paid when due bear inter-
7 est on the unpaid fee which shall be calculated at 6-month inter-
8 vals from the date the fee was due at a rate of interest equal to
9 1% plus the average interest rate paid at auctions of 5-year
10 United States treasury notes during the 6 months immediately pre-
11 ceding July 1 and January 1, as certified by the state treasurer,
12 and compounded annually, until the assessment is paid in full.
13 An insurer who fails to pay its regulatory fee within the pre-
14 scribed time limits may have its certificate of authority or
15 license suspended, limited, or revoked as the commissioner con-
16 siders warranted until the regulatory fee is paid. If the com-
17 missioner determines that a regulatory fee or a part of a regula-
18 tory fee paid by an insurer is in excess of the amount legally
19 due and payable, the amount of the excess shall be refunded or,
20 at the insurer's option, be applied as a credit against the regu-
21 latory fee for the next fiscal year. An overpayment of \$100.00
22 or less shall be applied as a credit against the insurer's regu-
23 latory fee for the next fiscal year unless the insurer had a
24 \$100.00 or less overpayment in the immediately preceding fiscal
25 year. If the insurer had a \$100.00 or less overpayment in the
26 immediately preceding fiscal year, at the insurer's option, the

1 current fiscal year overpayment of \$100.00 or less shall be
2 refunded.

3 (10) Any amounts stated and presented to or certified,
4 assessed, or imposed upon an insurer as provided in
5 subsections (2), (3), and (4) that are unpaid as of the date that
6 the insurer is subjected to a delinquency proceeding pursuant to
7 chapter 81 shall be regarded as an expense of administering the
8 delinquency proceeding and shall be payable as such from the gen-
9 eral assets of the insurer.

10 (11) Any statements presented to insurers pursuant to sub-
11 sections (2) and (3) in respect of examinations or investigations
12 conducted since October 1, 1993 shall be ~~cancelled~~ CANCELED as
13 of ~~the effective date of the amendatory act that added this~~
14 ~~subsection~~ JUNE 30, 1994. Amounts actually paid by an insurer
15 because of those statements shall be credited against the regula-
16 tory fee levied for the 1993-94 fiscal year and any excess
17 amounts shall be refunded.

18 (12) As used in this section:

19 (a) "Annuity considerations" means receipts on the sale of
20 annuities as used in section 22a of ~~the single business tax act~~
21 ACT NO. 228 OF THE PUBLIC ACTS OF 1975, being section 208.22a of
22 the Michigan Compiled Laws.

23 (b) "Insurer" means an insurer authorized to do business in
24 this state and includes nonprofit health care corporations,
25 dental care corporations, health maintenance organizations, and
26 the state accident fund.

1 ~~(13) All fees added by the amendatory act that added this~~
2 ~~subsection shall not apply on and after January 1, 1996, unless~~
3 ~~all of the following conditions are met:~~

4 ~~(a) By September 1, 1994, the commissioner submits a report~~
5 ~~to the senate and house of representatives standing committees on~~
6 ~~insurance issues and to the senate and house of representatives~~
7 ~~appropriations regulatory subcommittees on all receivership~~
8 ~~activities of the commissioner and the insurance bureau pertain-~~
9 ~~ing to the liquidation of insolvent insurers for the 1992 and~~
10 ~~1993 calendar years. By September 1, 1995, and annually thereaf-~~
11 ~~ter, the commissioner submits a report to the senate and house of~~
12 ~~representatives standing committees on insurance issues and to~~
13 ~~the senate and house of representatives appropriations regulatory~~
14 ~~subcommittees on all receivership activities of the commissioner~~
15 ~~and the insurance bureau pertaining to the liquidation of insol-~~
16 ~~vent insurers for the immediately preceding calendar year.~~

17 ~~(b) Reports under subdivision (a) include all of the~~
18 ~~following:~~

19 ~~(i) A summary schedule of all insurance bureau expenditures~~
20 ~~for legal, accounting, and administrative expenditures made or~~
21 ~~incurred for the liquidation of insurers in receivership and paid~~
22 ~~for out of the insurer's assets during the calendar year being~~
23 ~~reported on-~~

24 ~~(ii) A detailed schedule of all insurance bureau contractual~~
25 ~~expenditures for legal, accounting, and administrative expendi-~~
26 ~~tures made or incurred for the liquidation of insurers in~~
27 ~~receivership and paid for out of the insurer's assets during the~~

~~1 calendar year being reported on including, but not limited to,
2 itemization of legal billings, criminal investigation expenses,
3 travel, meals, and general office expenses.~~

~~4 (iii) A statement of the net changes in assets and liabili-
5 ties of each insurer in receivership. This statement shall
6 include changes due to interest rate changes, real estate values,
7 and other investment activities, including a detailed statement
8 of the sale of assets and the net loss or gain on those assets
9 and a statement of the amount of assets preserved, gained, or
10 recovered by the receiver.~~

11 Sec. 244. (1) A person aggrieved by a final order, deci-
12 sion, finding, ruling, opinion, rule, action, or inaction pro-
13 vided for under this act may seek judicial review ~~in the manner~~
14 ~~provided for in~~ PURSUANT TO chapter 6 of the administrative pro-
15 cedures act of 1969, Act No. 306 of the Public Acts of 1969,
16 being sections 24.301 to 24.328 OF THE MICHIGAN COMPILED LAWS,
17 WHEN APPEALING A FINAL DECISION IN A CONTESTED CASE AND UNDER
18 SECTION 631 OF THE REVISED JUDICATURE ACT OF 1961, ACT NO. 236 OF
19 THE PUBLIC ACTS OF 1961, BEING SECTION 600.631 OF THE MICHIGAN
20 COMPILED LAWS, OR WHEN APPEALING OTHER ORDERS, DECISIONS, FIND-
21 INGS, RULINGS, OPINIONS, RULES, ACTIONS, OR INACTIONS.

22 (2) An insurer may petition of right for a stay of an order
23 issued pursuant to sections 436, 436a, 437, or any other proceed-
24 ing for the suspension, revocation, or limitation of a certifi-
25 cate of authority. The petition shall be on an emergency basis
26 to the circuit court for the county in which the insurer has its
27 principal place of business in the state or to the circuit court

1 for Ingham county. The petition shall be disposed of within 14
2 days. The court shall direct the filing and time of filing of
3 appropriate pleadings. A court shall not issue a stay unless the
4 court finds that the issuance of a stay is not hazardous to poli-
5 cyholders, creditors, or the public. The decision of the court
6 shall be limited to the issue of a stay, and the court shall not
7 decide the merits of the case, which shall be determined pursuant
8 to section 437 or to any other provision of this act under which
9 the proceeding for the suspension, revocation, or limitation of
10 the certificate of authority is being conducted.

11 (3) An order of a court issuing a stay may be appealed on an
12 emergency basis, and during the pendency of an appeal the stay
13 issued shall be without force or effect, unless the insurer
14 deposits cash or securities pursuant to subsection (4). The
15 appeal shall be disposed of within 14 days. The court shall
16 direct the filing and time of filing of appropriate pleadings.
17 The court may affirm, modify, or set aside the commissioner's
18 order and restrain the enforcement of the order. To the extent
19 that the commissioner's order is affirmed, the court shall issue
20 its own order commanding obedience to the terms of the
21 commissioner's order.

22 (4) A stay shall not take effect until the insurer has made
23 deposits of cash or securities of the kinds defined by section
24 901 with the state treasurer under the supervision of the court
25 granting the stay in amounts as follows:

26 (a) For a domestic insurer, the total liabilities of the
27 insurer as computed in accordance with section 901 less the

1 amounts of special or other deposits already made by the insurer
2 with the Michigan state treasurer and with any other state pursu-
3 ant to the requirements of that state.

4 (b) For a foreign insurer ~~—, 100%~~ OTHER THAN AN INSURER
5 SUBJECT TO SUBDIVISION (C), 125% of the aggregate sum of Michigan
6 direct unpaid losses and unpaid loss adjustment expenses plus
7 100% of Michigan direct unearned premiums less the amount of any
8 other special deposits already made with the Michigan state trea-
9 surer for the exclusive protection of Michigan policyholders and
10 creditors.

11 (C) FOR A FOREIGN LIFE OR HEALTH INSURER, 125% OF MICHIGAN
12 RESERVES AND LIABILITIES FOR POLICIES AND CONTRACTS FOR WHICH
13 COVERAGE IS PROVIDED BY THE MICHIGAN LIFE AND HEALTH INSURANCE
14 GUARANTY ASSOCIATION, WITHOUT RESPECT TO THE LIMITATIONS AND
15 EXCLUSIONS PROVIDED UNDER CHAPTER 77.

16 (D) ~~—(e)~~ For an alien insurer entering the United States
17 through this state, the same as those applied to domestic insur-
18 ers with credit given for amounts already held in trust and the
19 amount shall equal the total liabilities in the United States
20 computed in accordance with section 901.

21 (5) THE DEPOSIT UNDER SUBSECTION (4) SHALL BE INCREASED BY
22 ADJUSTMENT EACH QUARTER. A DECREASE MAY BE MADE ANNUALLY ONLY
23 UPON A SATISFACTORY SHOWING BY THE INSURER TO THE COMMISSIONER
24 THAT A DECREASE IN THE DEPOSIT IS JUSTIFIED.

25 (6) ~~—(5)~~ The deposit and any accrued interest on the
26 deposit shall be returned to the insurer at the conclusion of the
27 entire proceedings under section 437 or at the conclusion of such

1 other proceedings for the suspension, revocation, or limitation
2 of the certificate of authority and any appeal therefrom, unless
3 those proceedings result in a finding that all or a portion shall
4 remain on deposit for the protection of Michigan policyholders
5 and creditors or unless an order of rehabilitation or liquidation
6 is entered, in which case the deposit shall be turned over to the
7 liquidator.

8 Sec. 456. (1) Every insurance company, association, risk
9 retention group, or purchasing group not organized under the
10 statutes of this state shall file with the commissioner, as a
11 condition precedent to doing business in this state, its irrevocable
12 written stipulation, duly authenticated by the company or
13 group, stipulating and agreeing that any legal process affecting
14 the company or group, served on the commissioner or the
15 commissioner's deputies, shall have the same effect as if personally
16 served on the company or group. A copy of the appointment
17 shall be filed with the commissioner. Service upon the commissioner
18 shall be considered sufficient service upon the company or
19 group and the fee for service shall be in the amount of \$5.00
20 payable at time of service. This appointment shall remain in
21 force as long as any liability remains within this state. THIS
22 SUBSECTION APPLIES UNTIL JULY 1, 1997.

23 (2) ON AND AFTER JULY 1, 1997, SERVICE OF PROCESS ON AN
24 INSURANCE COMPANY, A FRATERNAL BENEFIT SOCIETY, A RISK RETENTION
25 GROUP NOT ORGANIZED UNDER THE STATUTES OF THIS STATE, A REINSURANCE
26 INTERMEDIARY, A MULTIPLE EMPLOYER WELFARE ARRANGEMENT, OR AN
27 ELIGIBLE UNAUTHORIZED INSURER SHALL BE MADE BY SERVING A SUMMONS

1 AND A COPY OF THE COMPLAINT UPON AN OFFICER OF THE COMPANY,
2 SOCIETY, INTERMEDIARY, OR GROUP AT THE ADDRESS CONTAINED ON THE
3 LATEST FINANCIAL STATEMENT FILED WITH THE COMMISSIONER OR UPON A
4 TRUSTEE OF THE ARRANGEMENT AT THE TRUSTEE'S BUSINESS ADDRESS AS
5 FILED WITH THE COMMISSIONER. SERVICE MAY BE MADE IN PERSON OR BY
6 CERTIFIED MAIL.

7 Sec. 836. (1) The calendar year statutory valuation inter-
8 est rates as defined in this section shall be the interest rates
9 used in determining the minimum standard for the valuation of the
10 following:

11 (a) All life insurance policies issued in a particular cal-
12 endar year on or after the operative date of paragraphs 9 to 19
13 of section 4060(5).

14 (b) All individual annuity and pure endowment contracts
15 issued in a PARTICULAR calendar year on or after January 1,
16 1983.

17 (c) All annuities and pure endowments purchased in a
18 PARTICULAR calendar year on or after January 1, 1983 under group
19 annuity and pure endowment contracts.

20 (d) The net increase, if any, in a PARTICULAR calendar year
21 after January 1, 1983 in amounts held under guaranteed interest
22 contracts.

23 (2) The calendar year statutory valuation interest rates, I,
24 shall be determined as follows, and the results rounded to the
25 nearer 0.25%:

1 (a) For life insurance,

$$2 \quad I = .03 + W (R_1 - .03) + \frac{W}{2} (R_2 - .09).$$

3
4
5 where R is the reference interest rate defined in this section,
6 R₁ is the lesser of R and .09, R₂ is the greater of R and .09,
7 and W is the weighting factor defined in this section.

8 (b) For single premium immediate annuities and for annuity
9 benefits involving life contingencies arising from other annui-
10 ties with cash settlement options and from guaranteed interest
11 contracts with cash settlement options,

$$12 \quad I = .03 + W (R - .03)$$

13 where R is the reference interest rate defined in this section,
14 R₁ is the lesser of R and .09, R₂ is the greater of R and .09,
15 and W is the weighting factor defined in this section.

16 (c) For other annuities with cash settlement options and
17 guaranteed interest contracts with cash settlement options,
18 valued on an issue year basis, except as stated in subdivision
19 (b), the formula for life insurance stated in subdivision (a)
20 shall apply to annuities and guaranteed interest contracts with
21 ~~guaranteed~~ GUARANTEE durations in excess of 10 years and the
22 formula for single premium immediate annuities stated in subdivi-
23 sion (b) shall apply to annuities and guaranteed interest con-
24 tracts with ~~guaranteed~~ GUARANTEE duration of 10 years or less.

25 (d) For other annuities with no cash settlement options and
26 for guaranteed interest contracts with no cash settlement
27 options, the formula for single premium immediate annuities
28 stated in subdivision (b) shall apply.

1 (e) For other annuities with cash settlement options and
 2 guaranteed interest contracts with cash settlement options,
 3 valued on a change in fund basis, the formula for single premium
 4 immediate annuities stated in subdivision (b) shall apply.

5 (3) However, if the calendar year statutory valuation inter-
 6 est rate for any life insurance policies issued in any calendar
 7 year determined without reference to this sentence differs from
 8 the corresponding actual rate for similar policies issued in the
 9 immediately preceding calendar year by less than 0.5%, the calen-
 10 dar year statutory valuation interest rate for such life insur-
 11 ance policies shall be equal to the corresponding actual rate for
 12 the immediately preceding calendar year. For purposes of apply-
 13 ing the immediately preceding sentence, the calendar year statu-
 14 tory valuation interest rate for life insurance policies issued
 15 in a calendar year shall be determined for 1980 using the refer-
 16 ence interest rate defined for 1979 and shall be determined for
 17 each subsequent calendar year regardless of when paragraphs 9 to
 18 19 of section 4060(5) become operative.

19 (4) The weighting factors referred to in the formulas in
 20 subsection (2) are given in the following tables:

21 (a) The weighting factors for life insurance are:

22	Guaranteed GUARANTEE	
23	Duration	Weighting
24	<u>(Years)</u>	<u>Factors</u>
25	10 or less	.50
26	more than 10, but not more than 20	.45
27	more than 20	.35

28
 29 For life insurance, the ~~guaranteed~~ GUARANTEE duration is
 30 the maximum number of years the life insurance can remain in
 31 force on a basis guaranteed in the policy or under options to

1 convert to plans of life insurance with premium rates or
2 nonforfeiture values, or both, which are guaranteed in the origi-
3 nal policy.

4 (b) The weighting factor for single premium immediate annui-
5 ties and for annuity benefits involving life contingencies aris-
6 ing from other annuities with cash settlement options and guaran-
7 teed interest contracts with cash settlement options is .80.

8 (c) The weighting factors for other annuities and for guar-
9 anteed interest contracts, except as stated in subdivision (b),
10 are specified in subparagraphs (i), (ii), and (iii), according to
11 the rules and definitions in subparagraphs (iv), (v), and (vi) as
12 follows:

13 (i) For annuities and guaranteed interest contracts valued
14 on an issue year basis:

15	16	17	Guaranteed GUARANTEE Duration (Years)	Weighting Factor		
				For Plan Type		
				A	B	C
18			5 or less:	.80	.60	.50
19			more than 5, but not more than 10:	.75	.60	.50
20			more than 10, but not more than 20:	.65	.50	.45
21			more than 20:	.45	.35	.35
22						
23				<u>Plan Type</u>		
24				A	B	C

25 (ii) For annuities and guaranteed
26 interest contracts valued on a change in
27 fund basis, the factors shown in sub-
28 paragraph (i) increased by:

.15	.25	.05
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Plan Type		
A	B	C

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(iii) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than 1 year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in subparagraph (i) or derived in subparagraph (ii) increased by:

.05 .05 .05

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(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the ~~guaranteed~~ GUARANTEE duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with ~~guaranteed~~ GUARANTEE duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the ~~guaranteed~~ GUARANTEE duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

29

(v) As used in subparagraphs (i) to (iii):

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(A) "Plan Type A" means at any time policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company; without such adjustment but in installments over 5 years or more; as an immediate life annuity; or no withdrawal permitted.

1 (B) "Plan Type B" means before expiration of the interest
2 rate guarantee, policyholder may withdraw funds only with an
3 adjustment to reflect changes in interest rates or asset values
4 since receipt of the funds by the insurance company; without such
5 adjustment but in installments over 5 years or more; or no with-
6 drawal permitted. At the end of interest rate guarantee, funds
7 may be withdrawn without such adjustment in a single sum or
8 installments over less than 5 years.

9 (C) "Plan Type C" means policyholder may withdraw funds
10 before expiration of interest rate guarantee in a single sum or
11 installments over less than 5 years either without adjustment to
12 reflect changes in interest rates or asset values since receipt
13 of the funds by the insurance company or subject only to a fixed
14 surrender charge stipulated in the contract as a percentage of
15 the fund.

16 (vi) A company may elect to value guaranteed interest con-
17 tracts with cash settlement options and annuities with cash set-
18 tlement options on either an issue year basis or on a change in
19 fund basis. Guaranteed interest contracts with no cash settle-
20 ment options and other annuities with no cash settlement options
21 must be valued on an issue year basis. As used in this section,
22 an issue year basis of valuation refers to a valuation basis
23 under which the interest rate used to determine the minimum valu-
24 ation standard for the entire duration of the annuity or guaran-
25 teed interest contract is the calendar year valuation interest
26 rate for the year of issue or year of purchase of the annuity or
27 guaranteed interest contract, and the change in fund basis of

1 valuation refers to a valuation basis under which the interest
2 rate used to determine the minimum valuation standard applicable
3 to each change in the fund held under the annuity or guaranteed
4 interest contract is the calendar year valuation interest rate
5 for the year of the change in the fund.

6 (5) As used in subsections (2) and (3), "the reference
7 interest rate" means:

8 (a) For all life insurance, the lesser of the average over a
9 period of 36 months and the average over a period of 12 months,
10 ending on June 30 of the calendar year next preceding the year of
11 issue, of Moody's corporate bond yield average - monthly average
12 corporates, as published by Moody's investors service, inc.

13 (b) For single premium immediate annuities and for annuity
14 benefits involving life contingencies arising from other annui-
15 ties with cash settlement options and guaranteed interest con-
16 tracts with cash settlement options, the average over a period of
17 12 months, ending on June 30 of the calendar year of issue or
18 year of purchase or December 31 of the calendar year preceding
19 the year of issue or year of purchase, of Moody's corporate bond
20 yield average - monthly average corporates, as published by
21 Moody's investors service, inc. An insurer shall use the same
22 method of computing the reference interest rate under this subdi-
23 vision in all of its contracts. An insurer shall not change its
24 method of computing the reference interest rate under this subdi-
25 vision unless the insurer has notified and received approval from
26 the commissioner.

1 (c) For other annuities with cash settlement options and
2 guaranteed interest contracts with cash settlement options,
3 valued on a year of issue basis, except as stated in subdivision
4 (b), with ~~guaranteed~~ GUARANTEE duration in excess of 10 years,
5 the lesser of the average over a period of 36 months and the
6 average over a period of 12 months, ending on June 30 of the cal-
7 endar year of issue or purchase or December 31 of the calendar
8 year preceding the year of issue or year of purchase, of Moody's
9 corporate bond yield average - monthly average corporates, as
10 published by Moody's investors service, inc. An insurer shall
11 use the same method of computing the reference interest rate
12 under this subdivision in all of its contracts. An insurer shall
13 not change its method of computing the reference interest rate
14 under this subdivision unless the insurer has notified and
15 received approval from the commissioner.

16 (d) For other annuities with cash settlement options and
17 guaranteed interest contracts with cash settlement options,
18 valued on a year of issue basis, except as stated in subdivision
19 (b), with ~~guaranteed~~ GUARANTEE duration of 10 years or less,
20 the average over a period of 12 months, ending on June 30 of the
21 calendar year of issue or purchase or December 31 of the calendar
22 year preceding the year of issue or year of purchase, of Moody's
23 corporate bond yield average - monthly average corporates, as
24 published by Moody's investors service, inc. An insurer shall
25 use the same method of computing the reference interest rate
26 under this subdivision in all of its contracts. An insurer shall
27 not change its method of computing the reference interest rate

1 under this subdivision unless the insurer has notified and
2 received approval from the commissioner.

3 (e) For other annuities with no cash settlement options and
4 for guaranteed interest contracts with no cash settlement
5 options, the average over a period of 12 months, ending on
6 June 30 of the calendar year of issue or purchase or December 31
7 of the calendar year preceding the year of issue or year of pur-
8 chase, of Moody's corporate bond yield average - monthly average
9 corporates, as published by Moody's investors service, inc. An
10 insurer shall use the same method of computing the reference
11 interest rate under this subdivision in all of its contracts. An
12 insurer shall not change its method of computing the reference
13 interest rate under this subdivision unless the insurer has noti-
14 fied and received approval from the commissioner.

15 (f) For other annuities with cash settlement options and
16 guaranteed interest contracts with cash settlement options,
17 valued on a change in fund basis, except as stated in subdivision
18 (b), the average over a period of 12 months, ending on June 30 of
19 the calendar year of the change in the fund or December 31 of the
20 calendar year preceding the year of the change in the fund, of
21 Moody's corporate bond yield average - monthly average corpo-
22 rates, as published by Moody's investors service, inc. An
23 insurer shall use the same method of computing the reference
24 interest rate under this subdivision in all of its contracts. An
25 insurer shall not change its method of computing the reference
26 interest rate under this subdivision unless the insurer has
27 notified and received approval from the commissioner.

1 (6) In the event that Moody's corporate bond yield
2 average - monthly average corporates is no longer published by
3 Moody's investors service, inc. or in the event that the national
4 association of insurance commissioners determines that Moody's
5 corporate bond yield average - monthly average corporates as pub-
6 lished by Moody's investors service, inc. is no longer appropri-
7 ate for the determination of the reference interest rate, then an
8 alternative method for THE determination of the reference inter-
9 est rate, which is adopted by the national association of insur-
10 ance commissioners and approved by a rule promulgated by the com-
11 missioner, may be substituted.

12 (7) Any changes to policy or contract forms that are needed
13 because of changes in valuation rates shall not require refiling
14 with, or approval by, the commissioner.

15 (8) An insurer may use December 31, 1985 for purposes of
16 computing the reference interest rate for the calendar year 1986
17 only.

18 Sec. 1153. (1) A person shall not act as a reinsurance
19 intermediary-broker in this state if the reinsurance
20 intermediary-broker, either directly or as a member or employee
21 of a firm or association, or as an officer, director, or employee
22 of a corporation, does either of the following:

23 (a) Maintains an office in this state, unless the person is
24 licensed as an agent or a reinsurance intermediary-broker in this
25 state.

26 (b) Maintains an office in another state, unless the person
27 is licensed as an agent or a reinsurance intermediary-broker in

1 this state or another state having a law substantially similar to
2 this law or such reinsurance intermediary-broker is licensed in
3 this state as a nonresident reinsurance intermediary.

4 (2) A person shall not act as a reinsurance
5 intermediary-manager in any of the following cases:

6 (a) For a reinsurer domiciled in this state, unless ~~such~~
7 THE person is licensed as an agent or a reinsurance
8 intermediary-manager in this state.

9 (b) In this state, if the person maintains an office either
10 directly or as a member of a firm or association, or an officer,
11 director, or employee of a corporation in this state, unless
12 ~~such~~ THE person is licensed as an agent or a reinsurance
13 intermediary-manager in this state.

14 (c) In another state for a nondomestic insurer, unless the
15 person is licensed as an agent or a reinsurance
16 intermediary-manager in this state or another state having a law
17 substantially similar to this law or the person is licensed in
18 this state as a nonresident reinsurance intermediary.

19 (3) The commissioner may require a reinsurance
20 intermediary-manager subject to subsection (2) to file a bond in
21 an amount acceptable to the commissioner from an insurer accept-
22 able to the commissioner for the protection of the reinsurer, and
23 maintain an errors and omissions policy in an amount acceptable
24 to the commissioner.

25 (4) The commissioner may issue a reinsurance intermediary
26 license to any person who has complied with the requirements of
27 this chapter. Any license issued to a firm or association shall

1 authorize all the members of the firm or association and any
2 designated employees to act as reinsurance intermediaries under
3 the license, and ~~all such~~ THOSE persons shall be named in the
4 application and any supplements ~~thereto~~ TO THE APPLICATION.
5 Any license issued to a corporation shall authorize all of the
6 officers and any designated employees and directors to act as
7 reinsurance intermediaries on behalf of the corporation, and ~~all~~
8 ~~such~~ THOSE persons shall be named in the application and any
9 supplements ~~thereto~~ TO THE APPLICATION.

10 ~~(5) If the applicant for a reinsurance intermediary license~~
11 ~~is a nonresident, the applicant, as a condition precedent to~~
12 ~~receiving or holding a license, shall designate the commissioner~~
13 ~~as agent for service of process in the manner, and with the same~~
14 ~~legal effect, provided for by this act for designation of service~~
15 ~~of process upon unauthorized insurers, and shall also furnish the~~
16 ~~commissioner with the name and address of a resident of this~~
17 ~~state upon whom notices or orders of the commissioner or process~~
18 ~~affecting the nonresident reinsurance intermediary may be~~
19 ~~served. The licensee shall promptly notify the commissioner in~~
20 ~~writing of every change in its designated agent for service of~~
21 ~~process.~~

22 (5) ~~(6)~~ The commissioner may refuse to issue a reinsurance
23 intermediary license if, in his or her judgment, the applicant,
24 anyone named on the application, or any member, principal, offi-
25 cer, or director of the applicant, is not trustworthy, if any
26 controlling person of the applicant is not trustworthy to act as
27 a reinsurance intermediary, or if any of the foregoing has given

1 cause for revocation or suspension of license or has failed to
2 comply with any prerequisite for issuance of a license. Upon
3 written request, the commissioner shall furnish a summary of the
4 basis for refusal to issue a license, which document shall be
5 confidential and shall not be divulged to any person except as
6 provided in this section.

7 Sec. 1242. (1) The commissioner shall refuse to grant a
8 license to act as an agent, a solicitor, an insurance counselor,
9 or an adjuster to an applicant who fails to meet the requirements
10 of this chapter. Notice of the refusal shall be in writing and
11 shall set forth the basis for the refusal. If the applicant sub-
12 mits a written request within 30 days after mailing of the notice
13 of refusal, the commissioner shall promptly conduct a hearing in
14 which the applicant shall be given an opportunity to show compli-
15 ance with the requirements of this chapter.

16 (2) The commissioner, after notice and opportunity for a
17 hearing, may suspend or revoke the license of an agent, solici-
18 tor, insurance counselor, or adjuster who fails to maintain the
19 standards required for initial licensing or who violates any pro-
20 vision of this act.

21 (3) After notice and opportunity for a hearing, the commis-
22 sioner may refuse to grant or renew a license to act as an agent,
23 solicitor, adjuster, or insurance counselor if he OR SHE deter-
24 mines by a preponderance of the evidence ~~—~~ that it is probable
25 that the business or primary occupation of the applicant will
26 give rise to coercion, indirect rebating of commissions, or other

1 practices in the sale of insurance ~~which~~ THAT are prohibited by
2 law.

3 (4) Without prior hearing, the commissioner may order sum-
4 mary suspension of a license if he OR SHE finds that protection
5 of the public requires emergency action and incorporates this
6 finding in his OR HER order. The suspension shall be effective
7 on the date specified in the order or upon service of a certified
8 copy of the order on the licensee, whichever is later. If
9 requested, the commissioner shall conduct a hearing on the sus-
10 pension within a reasonable time but not later than 20 days after
11 the effective date of the summary suspension unless the person
12 whose license is suspended requests a later date. At the hear-
13 ing, the commissioner shall determine if the suspension should be
14 continued or if the suspension should be withdrawn, and, if
15 proper notice is given, may determine if the license should be
16 revoked. The commissioner shall announce his OR HER decision
17 within 30 days after conclusion of the hearing. The suspension
18 shall continue until the decision is announced.

19 (5) The commissioner, or his OR HER designated deputy, may
20 issue subpoenas ~~with the approval of a circuit court judge of~~
21 ~~the circuit court of Ingham county~~ to require the attendance and
22 testimony of witnesses and the production of documents necessary
23 to the conduct of the hearing and may designate an employee of
24 the insurance bureau to make service ~~thereof~~ OF THE SUBPOENA.
25 ~~The subpoenas issued by the commissioner, or his designated~~
26 ~~deputy, may be enforced upon application by them to the circuit~~
27 ~~court of Ingham county by proceedings in contempt thereof, as~~

1 ~~provided by law.~~ IF THE COMMISSIONER'S OR HIS OR HER DESIGNATED
2 DEPUTY'S SUBPOENA IS NOT FOLLOWED, THE COMMISSIONER OR HIS OR HER
3 DESIGNATED DEPUTY MAY REQUEST THE INGHAM COUNTY CIRCUIT COURT TO
4 ISSUE AN ORDER REQUIRING COMPLIANCE WITH THE SUBPOENA.

5 Sec. 1811. A risk retention group not chartered in this
6 state shall submit to the commissioner all of the following:

7 (a) Before offering insurance in this state, a statement
8 identifying any state in which the risk retention group is
9 chartered as a liability insurance company, the date on which it
10 was chartered, and its principal place of business.

11 (b) Before offering insurance in this state, a copy of the
12 risk retention group's plan of operation or feasibility study and
13 revisions of the plan or study submitted to the state in which
14 the risk retention group is chartered. However, the submission
15 of a plan of operation or feasibility study ~~shall~~ DOES not
16 apply with respect to any line or classification of liability
17 insurance ~~which~~ THAT was defined in the liability risk reten-
18 tion act of 1986 before the October 27, 1986 amendments to that
19 act and was offered before October 27, 1986 by a risk retention
20 group ~~which~~ THAT had been chartered and operating for not less
21 than 3 years before October 27, 1986. A revision to the risk
22 retention group's plan of operation or feasibility study submit-
23 ted under this subdivision shall be submitted at the same time
24 the revision is submitted to the commissioner of the risk reten-
25 tion group's chartering state.

26 (c) Before offering insurance in this state and by March 1
27 of each year thereafter, a copy of the risk retention group's

1 financial statement submitted to the state in which the risk
2 retention group is chartered. The financial statement shall be
3 certified by an independent public accountant and contain a
4 statement of opinion on loss and loss adjustment expense reserves
5 made by a member of the American Academy of Actuaries or a quali-
6 fied loss reserve specialist.

7 (d) A copy of the most recent examination of the risk reten-
8 tion group and upon request by the commissioner, any examination
9 of the risk retention group, as certified by the commissioner or
10 public official conducting the examination.

11 (e) Upon request by the commissioner, a copy of any audit
12 performed with respect to the risk retention group and other
13 information as considered necessary by the commissioner in order
14 to determine the risk retention group's financial condition.

15 (f) Before offering insurance in this state, a \$25.00 regis-
16 tration fee and, UNTIL JULY 1, 1997, on a form prescribed by the
17 commissioner, a statement of registration ~~which~~ THAT designates
18 the commissioner as its agent for the purpose of receiving serv-
19 ice of legal documents or process.

20 (g) Other information as may be required to verify the risk
21 retention group's continuing qualification as a risk retention
22 group.

23 Sec. 1921. (1) In addition to other requirements of this
24 chapter, to gain recognition as an eligible unauthorized insurer
25 in this state, an unauthorized insurer shall deposit with this
26 state in cash, marketable securities, or other comparable
27 instruments, at least \$75,000.00 solely for the benefit of

1 policyholders and beneficiaries in this state, or shall maintain
2 a trust fund in the United States in cash, marketable securities,
3 or other substantially equivalent instruments of at least
4 \$1,000,000.00 with a United States bank ~~which~~ THAT is a member
5 of the federal reserve system or ~~which~~ is regulated by the
6 financial institutions bureau, or ~~which~~ is on deposit with
7 regulatory authorities in the state of domicile of the insurer
8 for the benefit of all United States policyholders and
9 beneficiaries. A trust fund required under this subsection shall
10 not have an expiration date ~~which~~ THAT is at any time less than
11 5 years in the future, on a continuing basis. If the commis-
12 sioner considers it necessary to protect the interests of policy-
13 holders and beneficiaries in this state, he or she may require an
14 additional deposit or a larger trust fund from an insurer.

15 (2) Subsection (1) and section 1920(4) shall not apply to
16 unincorporated, individual alien insurers which, in place of the
17 requirements prescribed in subsection (1) and section 1920(4),
18 hold in trust for all policyholders and beneficiaries in the
19 United States not less than \$50,000,000.00, in the aggregate.

20 (3) ~~Each~~ UNTIL JULY 1, 1997, EACH eligible unauthorized
21 insurer shall appoint the commissioner as its resident agent, for
22 purposes of service of process.

23 Sec. 2409. (1) The commissioner shall hold a public hearing
24 and shall issue a ~~tentative~~ report detailing the state of com-
25 petition in the worker's compensation insurance market on a
26 statewide basis and delineating specific classifications, kinds
27 or types of insurance, if any, where competition does not exist

1 not later than January 15, 1984 and each year thereafter. The
2 report shall be based on relevant economic tests, including but
3 not limited to those in subsection (3). The findings in the
4 report shall not be based on any single measure of competition,
5 but appropriate weight shall be given to all measures of
6 competition. The report shall include a certification of whether
7 or not competition exists. Any person who disagrees with the
8 report and findings of the commissioner may request a contested
9 hearing pursuant to the administrative procedures act of 1969,
10 Act No. 306 of the Public Acts of 1969, ~~as amended,~~ being
11 sections 24.201 to 24.328 of the Michigan Compiled Laws, not
12 later than 60 days after issuance of the ~~tentative~~ report.

13 (2) ~~Not later than August 1, 1984 and each year thereafter~~
14 IF A PERSON REQUESTS A CONTESTED HEARING UNDER SUBSECTION (1) OR
15 IF THE COMMISSIONER FINDS THE CONCLUSIONS OF THE REPORT NO LONGER
16 APPLY TO THE WORKER'S COMPENSATION INSURANCE MARKET, the commis-
17 sioner shall issue a ~~final~~ SUPPLEMENTARY report ~~which~~ THAT
18 shall ~~include~~ CONSIDER THE SAME FACTORS AS THE INITIAL REPORT
19 AS WELL AS THE COMMISSIONER'S FINDINGS AFTER THE CONTESTED HEAR-
20 ING, IF ANY, OR ANY CHANGES IN THE WORKER'S COMPENSATION INSUR-
21 ANCE MARKET SINCE THE INITIAL REPORT. THE SUPPLEMENTARY REPORT
22 SHALL ALSO INCLUDE a final certification of whether or not compe-
23 tition exists in the worker's compensation insurance market.
24 ~~The final report and certification shall be supported by sub-~~
25 ~~stantial evidence.~~

26 (3) All of the following shall be considered by the
27 commissioner for purposes of subsections (1) and (2):

1 (a) The extent to which any insurer controls all or a
2 portion of the worker's compensation insurance market. With
3 respect to competition on a statewide basis, an insurer shall not
4 be considered to control the worker's compensation insurance
5 market unless it has more than a 15% market share. In making a
6 determination under this subdivision, the commissioner shall use
7 all insurers in this state, including self-insurers, group
8 self-insurers ~~as defined in~~ UNDER chapter 65, and insurers
9 writing risks under the placement facility created in chapter 23
10 as a base for calculating market share.

11 (b) Whether the total number of companies writing worker's
12 compensation insurance in this state is sufficient to provide
13 multiple options to employers.

14 (c) The disparity among worker's compensation insurance
15 rates and classifications to the extent that such classifications
16 result in rate differentials.

17 (d) The availability of worker's compensation insurance to
18 employers in all geographic areas and all types of business.

19 (e) The residual market share.

20 (f) The overall rate level which is not excessive, inade-
21 quate, or unfairly discriminatory.

22 (g) Any other factors the commissioner considers relevant.

23 (4) The reports and certifications required under subsec-
24 tions (1) and (2) shall be forwarded to the governor, the clerk
25 of the house, the secretary of the senate, all the members of the
26 house of representatives STANDING committees on insurance and

1 labor ISSUES, and all the members of the senate committees on
2 ~~commerce~~ INSURANCE and labor ISSUES.

3 (5) Not later than 90 days after receipt of the final report
4 and final certification, the legislature, by concurrent resolu-
5 tion, shall approve or disapprove the certification by a majority
6 roll-call vote in each house. If the certification is approved,
7 the commissioner shall proceed under section 2409a.

8 Sec. 2409c. (1) The commissioner shall hold a public hear-
9 ing and shall issue a ~~tentative~~ report detailing the state of
10 competition in the commercial liability insurance market on a
11 statewide basis and delineating specific classifications, kinds
12 or types of insurance, if any, where competition does not exist
13 not later than ~~January 15, 1988 and~~ SEPTEMBER 1 OF each year.
14 ~~thereafter.~~ The report shall be based on relevant economic
15 tests, including, but not limited to, those in subsection ~~(3)~~
16 (2). The findings in the report shall not be based on any single
17 measure of competition, but appropriate weight shall be given to
18 all measures of competition. The report shall include a certifi-
19 cation of whether or not competition exists. Any person who dis-
20 agrees with the report and findings of the commissioner may
21 request a contested hearing pursuant to the administrative proce-
22 dures act of 1969, Act No. 306 of the Public Acts of 1969, being
23 sections 24.201 to 24.328 of the Michigan Compiled Laws, not
24 later than 60 days after issuance of the ~~tentative~~ report.

25 ~~(2) Not later than August 1, 1988 and each year thereafter,~~
26 ~~the commissioner shall issue a final report which shall include a~~
27 ~~final certification of whether or not competition exists in the~~

1 ~~commercial liability insurance market. The final report and~~
2 ~~certification shall be supported by substantial evidence.~~

3 (2) ~~(3)~~ All of the following shall be considered by the
4 commissioner for purposes of ~~subsections~~ SUBSECTION (1): ~~and~~
5 ~~(2)~~.

6 (a) The extent to which any insurer controls the commercial
7 liability insurance market, or any portion thereof. With respect
8 to competition on a statewide basis, an insurer shall not be con-
9 sidered to control the commercial liability insurance market
10 unless it has more than a 15% market share.

11 (b) Whether the total number of companies writing commercial
12 liability insurance in this state is sufficient to provide multi-
13 ple options to commercial liability insurance purchasers.

14 (c) The disparity among commercial liability insurance rates
15 and classifications to the extent that such classifications
16 result in rate differentials.

17 (d) The availability of commercial liability insurance to
18 commercial liability insurance purchasers in all geographic areas
19 and all types of business.

20 (e) The residual market share.

21 Sec. 2472. (1) The commissioner ~~shall~~ MAY promulgate rea-
22 sonable rules and statistical plans, reasonably adapted to each
23 of the rating systems on file with ~~him~~ THE COMMISSIONER, which
24 may be modified from time to time and which shall be used there-
25 after to the extent applicable to its particular rating system or
26 systems, by each insurer in the recording and reporting of its
27 loss and countrywide expense experience, in order that the

1 experience of all insurers may be made available at least
2 annually in such form and detail as may be necessary to aid ~~him~~
3 THE COMMISSIONER in determining whether rating systems comply
4 with the standards set forth in section 2403. Such rules and
5 plans may also provide for the recording and reporting of expense
6 experience items ~~which~~ THAT are specially applicable to this
7 state and are not susceptible of determination by a prorating of
8 countrywide expense experience. In promulgating such rules and
9 plans, the commissioner shall give due consideration to the
10 rating systems on file with him OR HER and, in order that ~~such~~
11 THE rules and plans may be as uniform as is practicable among the
12 several states, to the rules and to the form of the plans used
13 for such rating systems in other states. ~~No~~ AN insurer ~~shall~~
14 ~~be~~ IS NOT required to record or report its loss experience on a
15 classification basis that is inconsistent with the rating system
16 filed by it and ~~no~~ AN insurer ~~shall be~~ IS NOT required to
17 record or report its loss or expense experience on any basis or
18 statistical plan that differs from that which is regularly
19 employed and maintained in the usual course of ~~such~~ THE
20 insurer's business, or to any rating organization or agency of
21 which it is not a member or subscriber. The commissioner may
22 designate 1 or more rating organizations or other agencies to
23 assist him OR HER in gathering such experience and making compi-
24 lations thereof, and such compilations shall be made available,
25 subject to reasonable rules promulgated by the commissioner, to
26 insurers and rating organizations.

1 (2) Reasonable rules and plans may be promulgated by the
2 commissioner for the interchange of data necessary for the
3 application of rating plans.

4 (3) In order to further uniform administration of rate regu-
5 latory laws, the commissioner and every insurer and rating organ-
6 ization may exchange information and experience data with insur-
7 ance supervisory officials ~~—~~ AND insurers and rating organiza-
8 tions in other states and may consult with them with respect to
9 rate making and the application of rating systems.

10 Sec. 2664. (1) The commissioner ~~shall~~ MAY promulgate rea-
11 sonable rules and statistical plans, reasonably adapted to each
12 of the rating systems on file with ~~him~~ THE COMMISSIONER, which
13 may be modified from time to time and which shall be used there-
14 after by each insurer in the recording and reporting of its loss
15 and countrywide expense experience, in order that the experience
16 of all insurers may be made available at least annually in such
17 form and detail as may be necessary to aid ~~him~~ THE COMMISSIONER
18 in determining whether rating systems comply with the standards
19 set forth in section 2603. Such rules and plans may also provide
20 for the recording and reporting of expense experience items
21 ~~which~~ THAT are specially applicable to this state and are not
22 susceptible of determination by a prorating of countrywide
23 expense experience. In promulgating such rules and plans, the
24 commissioner shall give due consideration to the rating systems
25 on file with him OR HER and, in order that ~~such~~ THE rules and
26 plans may be as uniform as is practicable among the several
27 states, to the rules and to the form of the plans used for such

1 rating systems in other states. ~~No~~ AN insurer ~~shall be~~ IS
2 NOT required to record or report its loss experience on a classi-
3 fication basis that is inconsistent with the rating system filed
4 by it. The commissioner may designate 1 or more rating organiza-
5 tions or other agencies to assist him OR HER in gathering such
6 experience and making compilations thereof, and such compilations
7 shall be made available, subject to reasonable rules promulgated
8 by the commissioner, to insurers and rating organizations.

9 (2) Reasonable rules and plans may be promulgated by the
10 commissioner for the interchange of data necessary for the appli-
11 cation of rating plans.

12 (3) In order to further uniform administration of rate regu-
13 latory laws, the commissioner and every insurer and rating organ-
14 ization may exchange information and experience data with insur-
15 ance supervisory officials ~~AND~~ AND insurers and rating organiza-
16 tions in other states and may consult with them with respect to
17 rate making and the application of rating systems.

18 Sec. 3008. ~~In such liability insurance policies there~~
19 ~~shall be a provision that~~ FOR A LIABILITY INSURANCE POLICY,
20 notice given by or on behalf of the insured to any authorized
21 agent of the insurer within this state, with particulars suffi-
22 cient to identify the insured, ~~shall be deemed to be~~ IS notice
23 to the insurer ~~, and also a provision that failure~~ REGARDLESS
24 OF WHETHER THE POLICY CONTAINS A PROVISION TO THE CONTRARY.
25 FAILURE to give ~~any~~ notice ~~required to be given by such~~
26 ~~policy~~ within the time specified ~~therein shall~~ IN THE POLICY
27 DOES not invalidate any claim made by the insured if it ~~shall~~

1 ~~be~~ IS shown not to have been reasonably possible to give ~~such~~
 2 notice within the prescribed time and that notice was given as
 3 soon as was reasonably possible.

4 Sec. 5028. (1) The incorporators, ~~shall,~~ after the filing
 5 and approval of ~~such~~ articles ~~as aforesaid~~ OF INCORPORATION,
 6 SHALL proceed to the completion of organization of the proposed
 7 insurer.

8 (2) A stock corporation shall at once open its books of sub-
 9 scription to the capital stock, and ~~no~~ A certificate of author-
 10 ity shall NOT be issued by the commissioner to ~~any such~~ A STOCK
 11 corporation until it ~~shall have~~ HAS issued stock certificates
 12 representing the minimum capitalization as set forth in its arti-
 13 cles of incorporation ~~,~~ and ~~shall have~~ HAS collected in cash
 14 both its minimum capital ~~,~~ and any premium thereon for surplus
 15 requirements. ~~,~~ and if ~~such~~ IF capital stock is not ~~so~~ sub-
 16 scribed and paid for AS PROVIDED IN THIS SUBSECTION, ~~as above~~
 17 ~~provided,~~ within ~~the period of~~ 1 year from the opening of such
 18 books, ~~such~~ THE corporation shall ~~proceed further in such sale~~
 19 ~~of~~ SELL CAPITAL stock only on petition to ~~,~~ and consent by the
 20 commissioner. ~~,~~ who may, if IF public policy warrants, THE COM-
 21 MISSIONER MAY extend such time for a period of 3 months ~~,~~ and
 22 upon ~~like~~ A SECOND petition ~~,~~ again extend such time for a
 23 second period of 3 months. ~~,~~ and if IF at the expiration of 18
 24 months the corporation ~~shall not have~~ HAS NOT met ~~the above~~
 25 THIS SUBSECTION'S requirements, the commissioner shall proceed to
 26 liquidate ~~such~~ THE corporation through receivership proceedings
 27 as prescribed by chapter ~~78~~ 81.

1 (3) A mutual corporation shall at once open books to receive
2 propositions and enter into agreements as specified in the chap-
3 ter under which it intends to operate. The acquisition of mem-
4 bers shall proceed for such length of time, and be subject to
5 such periods of time extension ~~—~~ and such liquidation proceed-
6 ings, as is ~~above~~ provided for IN THIS SECTION FOR stock
7 corporations.

8 Sec. 5412. If at any time it ~~shall appear~~ APPEARS from an
9 examination of the insurer or from any statement filed by it that
10 the number of risks insured or the number of policies in force or
11 the number of members or the amount of premiums on insurance in
12 force are below the number and amounts required under section
13 5408 on organization, the commissioner shall issue an order
14 directing the insurer, within a period of 90 days thereafter to
15 secure bona fide applications for insurance in such insurer,
16 together with the premiums ~~therefor~~ FOR THE INSURANCE, from
17 persons who, together with the existing members, shall equal the
18 number of members required under section 5408 and whose insurance
19 policies, together with those in force, cover the number of risks
20 and provide for the amount of insurance so required upon
21 organization. ~~In the event that~~ IF the insurer does not within
22 such period become entitled to issue policies, the commissioner
23 may in his OR HER discretion take proceedings for the liquidation
24 of ~~such~~ THE insurer under the provisions of chapter ~~78~~ 81.

25 Sec. 7012. (1) The commissioner shall collect, and the per-
26 sons affected shall pay to the commissioner, the following fees:

- 1
- 2 (a) Filing fee to accompany application for certificate of
- 3 authority..... \$200.00.
- 4 (b) Certificate of authority..... \$ 25.00.
- 5 (c) Filing fee for annual statement each year..... \$ 25.00.

6 (2) ~~Each~~ UNTIL JULY 1, 1997, EACH MEWA shall appoint the
 7 commissioner as its resident agent for purposes of service of
 8 process. The fee for such service shall be in the amount of
 9 \$5.00, payable at the time of service.

10 (3) Fees paid under this section shall be designated for the
 11 insurance bureau to cover the additional costs incurred as a
 12 result of this chapter.

13 Sec. 7060. A MEWA transacting business in this state
 14 ~~shall~~ IS also ~~be~~ subject to the following additional sections
 15 and chapters of this ~~code~~ ACT, as applicable, in the same
 16 manner as an insurer authorized to transact insurance in this
 17 state:

- 18 (a) Sections 240(1)(c), (d), (h), and (j) AND 456(2).
- 19 (b) Chapter 12.
- 20 (c) Chapter 20.
- 21 (d) Chapter 22.
- 22 (e) Chapter 34.
- 23 (f) Chapter 36.
- 24 (g) Chapter 44.
- 25 (h) Chapter ~~78~~ 81.

26 Sec. 7918. (1) The association may borrow funds when
 27 necessary to implement this act.

1 (2) The association, either in its own name or through a
2 servicing facility, may sue or be sued, and may use the courts to
3 assert or defend any rights the association may have under this
4 chapter, to the extent necessary to fully exercise its rights and
5 perform its duties under, and to implement, this chapter.

6 (3) The association may retain and employ legal counsel in
7 its discretion to represent the association in all respects.

8 (4) Upon request of the commissioner, consent of the associ-
9 ation, and appointment by the court, the association may act as
10 deputy receiver in delinquency proceedings under chapter ~~78-~~
11 81.

12 Sec. 8109. (1) If the commissioner has reasonable cause to
13 believe and determines after a hearing held under subsection (5)
14 that a domestic insurer has committed or engaged in, or is about
15 to commit or engage in, an act, practice, or transaction that
16 would subject it to delinquency proceedings under this chapter,
17 the commissioner may make and serve upon the insurer and any
18 other persons involved any order as is reasonably necessary to
19 correct, eliminate, or remedy the conduct, condition, or ground.

20 (2) If upon examination or at any other time the commis-
21 sioner has reasonable cause to believe that a domestic insurer is
22 in such condition as to render the continuance of its business
23 hazardous to the public or to holders of its policies or certifi-
24 cates of insurance, or if the domestic insurer gives its consent,
25 then the commissioner shall upon his or her determination:

26 (a) Notify the insurer of his or her determination.

1 (b) Furnish to the insurer a written list of the
2 commissioner's requirements to abate his or her determination.

3 (3) If the commissioner makes a determination to supervise
4 an insurer subject to an order under subsection (1) or (2), the
5 commissioner shall notify the insurer that it is under the super-
6 vision of the commissioner. During the period of supervision,
7 the commissioner may appoint a supervisor to supervise the
8 insurer. The order appointing a supervisor shall direct the
9 supervisor to enforce orders issued under subsections (1) and (2)
10 and may also require the following:

11 (a) That the insurer shall not do any of the following
12 things during the period of supervision, without the prior
13 approval of the commissioner or his or her supervisor:

14 (i) Dispose of, convey, or encumber any of its assets or its
15 business in force including disposing, conveying, or encumbering
16 its assets or business to affiliated companies, either domestic,
17 foreign, or alien.

18 (ii) Withdraw from any of its bank accounts.

19 (iii) Lend any of its funds.

20 (iv) Invest any of its funds.

21 (v) Transfer any of its property.

22 (vi) Incur any debt, obligation, or liability.

23 (vii) Merge or consolidate with another company.

24 (viii) Enter into any new reinsurance contract or treaty or
25 cancel any existing reinsurance contract or treaty.

26 (ix) Engage in any other activity that the commissioner or
27 his or her supervisor considers hazardous to the insurer.

1 (b) That upon the written instruction of the commissioner or
2 his or her supervisor the insurer shall do the following during
3 the period of supervision:

4 (i) Produce all books, accounts, and records of affiliated
5 companies, as required to be maintained by section 1341(1)(d),
6 including affiliated foreign or alien insurers, for review by the
7 commissioner or his or her supervisor.

8 (ii) Dispose of, convey, or encumber any of its assets or
9 its business in force.

10 (iii) Deposit any funds or assets in any of its bank
11 accounts or depositories.

12 (iv) Collect or enforce provisions of any of its loans,
13 security agreements, mortgages, hypothecations, contracts, or
14 like obligations.

15 (v) Invest any of its funds.

16 (vi) Transfer any of its property.

17 (vii) Incur any debt, obligation, or liability.

18 (viii) Enter into any new reinsurance contract or treaty.

19 (ix) Engage in any other activity that the commissioner, or
20 his or her supervisor after review by the commissioner, considers
21 reasonably necessary to insuring compliance by the insurer with
22 the supervision order.

23 (4) An insurer subject to an order under this section shall
24 comply with the lawful requirements of the commissioner and his
25 or her supervisor and, if placed under supervision, shall have 60
26 days from the date the supervision order is served within which
27 to comply with the commissioner's requirements. If the insurer

1 fails to comply within that time, the commissioner may institute
2 proceedings to have a rehabilitator or liquidator appointed under
3 section 8112 or 8117, to extend the period of supervision pursu-
4 ant to the commissioner's written order, or to suspend, revoke,
5 or limit the insurer's certificate of authority to do business in
6 accordance with section 437.

7 (5) The notice of hearing under subsection (1) and an order
8 issued pursuant to subsection (1) shall be served upon the
9 insurer pursuant to the applicable rules of the administrative
10 procedures act of 1969, Act No. 306 of the Public Acts of 1969,
11 being sections 24.201 to 24.328 of the Michigan Compiled Laws.
12 The notice of hearing shall state the time and place of hearing,
13 and the conduct, condition, or ground upon which the commissioner
14 would base his or her order. Unless mutually agreed between the
15 commissioner and the insurer, the hearing shall occur not less
16 than 10 days or more than 30 days after notice is served and
17 shall be either in Ingham county or in some other place conven-
18 ient to the parties to be designated by the commissioner. The
19 commissioner shall hold all hearings under subsection (1) pri-
20 vately unless the insurer requests a public hearing, in which
21 case the hearing shall be public.

22 (6) An insurer subject to an order under subsection (2) may
23 request a hearing to review that order. Such a hearing shall be
24 held as provided in subsection (5), but the request for a hearing
25 shall not stay the effect of the order. If the commissioner
26 issues an order under subsection (2), the insurer, at any time,
27 may waive a commissioner's hearing and apply for immediate

1 judicial relief by means of any remedy afforded by law without
2 first exhausting administrative remedies. Subsequent to a hear-
3 ing, a party to the proceedings whose interests are substantially
4 affected shall be entitled to judicial review of an order issued
5 by the commissioner.

6 (7) During the period of supervision, the insurer may
7 request the commissioner to review an action taken or proposed to
8 be taken by the supervisor, specifying wherein the action com-
9 plained of is believed not to be in the best interest of the
10 insurer.

11 (8) If a person has violated a supervision order issued
12 under this section which as to him or her was then still in
13 effect, he or she may be sentenced by the court to pay a fine not
14 exceeding \$10,000.00.

15 (9) The commissioner may apply for, and the circuit court
16 may grant, a restraining order, preliminary injunction, permanent
17 injunction, and any other order as may be considered necessary
18 and proper to enforce a supervision order, including an order
19 precluding a person or domestic insurer from transferring busi-
20 ness to or writing new business with an affiliated domestic, for-
21 eign, or alien insurer so as to avoid the effects of a supervi-
22 sion as provided in subsections (3) and (4).

23 (10) If a person subject to the provisions of this chapter,
24 including those persons described in section 8106(1), knowingly
25 violates a valid order of the commissioner issued under the pro-
26 visions of this section and, as a result of the violation, the
27 net worth of the insurer is reduced or the insurer suffers loss

1 it would not otherwise have suffered, that person is personally
2 liable to the insurer for the amount of the reduction or loss.
3 The commissioner or supervisor is authorized to bring an action
4 on behalf of the insurer in the circuit court for Ingham county
5 to recover the amount of the reduction or loss, together with
6 cost.

7 (11) Reasonable costs and expenses incurred by the commis-
8 sioner in conducting a supervision of an ~~alien~~ insurer or any
9 investigation preliminary to that supervision under this chapter
10 are an expense of administering a delinquency proceeding and are
11 payable ~~from the assets of the trust established pursuant to~~
12 ~~section 411(4)~~ BY THE INSURER.

13 Sec. 8199a. A fraternal benefit society transacting busi-
14 ness in this state and not exempt from the provisions of this
15 chapter under section 8199 is also subject to the following addi-
16 tional chapters and provisions of this act, as applicable:

17 (a) Chapter 1.

18 (b) Chapter 2. However, as to section 240, only subsection
19 (1)(c), (d), (h), and (j) shall apply, except as provided in
20 section 5222.

21 (c) Sections 403, 405a, 436, 436a, 437, 456(2), 476a, 5222,
22 and 5256.

23 (d) Chapter 9.

24 (e) Chapter 11.

25 (f) Chapter 34.

26 (g) Chapter 38.

1 (h) Chapter 39.

2 (i) Chapter 40 except as to section 4004.

3 (j) Chapter 81.

4 Section 2. (1) Sections 2477, 2477a, 2477b, 2477c, 2477d,
5 and 8160 of Act No. 218 of the Public Acts of 1956, being sec-
6 tions 500.2477, 500.2477a, 500.2477b, 500.2477c, 500.2477d, and
7 500.8160 of the Michigan Compiled Laws, are repealed.

8 (2) Section 8196 of Act No. 218 of the Public Acts of 1956,
9 being section 500.8196 of the Michigan Compiled Laws, is repealed
10 effective July 1, 1997.

11 Section 3. The amendments to section 3008 of Act No. 218 of
12 the Public Acts of 1956, being section 500.3008 of the Michigan
13 Compiled Laws, pursuant to this amendatory act do not affect the
14 holding in Stine v Continental Casualty Co., 419 Mich 89 (1984).