

# SENATE BILL No. 1089

March 11, 2004, Introduced by Senator BISHOP and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending sections 408, 410, and 1920 (MCL 500.408, 500.410,  
and 500.1920), sections 408 and 410 as amended by 1998 PA 457 and  
section 1920 as amended by 1994 PA 228.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 408. (1) To qualify for authority to transact
- 2 insurance in this state a domestic, foreign, or alien insurer
- 3 shall possess and thereafter maintain paid-in capital or surplus
- 4 or assets in amounts that are not less than those shown by the
- 5 applicable portion of the following schedule:

1	Kind of insurance	Domestic, foreign stock insurers CAPITAL	Domestic, foreign mutual life insurers SURPLUS	Domestic, foreign mutual insurers other than life ASSETS	Alien insurers United States ASSETS
2					
3					
4					
5	Life	\$200,000.00	\$200,000.00	not applicable	\$200,000.00
6	Life and disability	300,000.00	300,000.00	not applicable	300,000.00
7	Disability, except as				
8	provided in subsection				
9	(2), (3), or (4)	200,000.00	not applicable	\$ 50,000.00	200,000.00
10	Property & marine	200,000.00	not applicable	50,000.00	200,000.00
11	Automobile	200,000.00	not applicable	50,000.00	200,000.00
12	Casualty	200,000.00	not applicable	50,000.00	200,000.00
13	Surety & fidelity	250,000.00	not applicable	250,000.00	250,000.00
14	Surety, fidelity, casualty	450,000.00	not applicable	250,000.00	450,000.00
15					
16	Kind of insurance	Reciprocal			
17		insurers			
18		ASSETS			
19	Disability, except as				
20	provided in subsection				
21	(2), (3), or (4)	\$50,000.00			
22	Property & marine	50,000.00			
23	Automobile	50,000.00			
24	Casualty	50,000.00			
25	Surety & fidelity	50,000.00			
26	Surety, fidelity, casualty	50,000.00			

1 Multiple lines: Any insurer may reinsure risks of every kind  
2 or description and write any and all kinds of insurance other  
3 than life insurance for which it is authorized while it maintains  
4 paid-up capital and surplus of not less than \$500,000.00.

5 (2) An insurer authorized to transact casualty insurance  
6 shall also have authority to transact disability insurance  
7 without additional capital, surplus, or assets, as the case may  
8 be.

9 (3) A domestic stock insurer organized to insure on the  
10 monthly or weekly premium payment plan any person against bodily  
11 injury or death by accident or against disability on account of  
12 sickness, or to provide a cash funeral benefit not exceeding  
13 \$500.00, shall have paid-in capital stock of not less than  
14 \$25,000.00.

15 (4) As to a reciprocal insurer the authority to transact  
16 disability insurance, either alone or in combination with other  
17 insuring powers, does not include authority to transact health  
18 insurance.

19 (5) Financial requirements as to cooperative assessment life,  
20 disability, and loss of position insurers, as identified in  
21 chapter 64, shall be as provided in that chapter. Financial  
22 requirements as to domestic stock insurers formed to insure  
23 railway employees against loss of position, to transact  
24 disability and life insurance, and to make annuities as  
25 identified in section 6604 shall be as provided in section 6608.

26 ~~(6) This section applies to domestic insurers organized~~  
27 ~~prior to July 21, 1965 and to foreign and alien insurers not~~

1 ~~subject to the provisions of section 410. However, a domestic~~  
 2 ~~insurer organized prior to July 21, 1965 and any foreign or alien~~  
 3 ~~insurer not subject to the provisions of section 410 that attains~~  
 4 ~~the level of capital and surplus required by section 410(1), (2),~~  
 5 ~~or (3) is required thereafter to maintain that level of capital~~  
 6 ~~and surplus under section 410 unless the direct premiums written~~  
 7 ~~and any reinsurance assumed by the insurer in an annual period~~  
 8 ~~are less than the insurer's surplus.~~

9 ~~—— (7) An insurer authorized to transact insurance on or after~~  
 10 ~~July 21, 1965 and before January 1, 1999 that attains the level~~  
 11 ~~of capital and surplus required by section 410(2) is required~~  
 12 ~~thereafter to maintain that level of capital and surplus under~~  
 13 ~~section 410 unless the direct premiums written and any~~  
 14 ~~reinsurance assumed by the insurer in an annual period are less~~  
 15 ~~than the insurer's surplus.~~

16 (6) ~~—(8)—~~ Notwithstanding the specific requirements of this  
 17 section, domestic, foreign, and alien insurers shall also comply  
 18 with ~~the standard set forth in section 403~~ **any additional**  
 19 **capital, surplus, or asset requirements that may apply under**  
 20 **section 403 or 410.**

21 Sec. 410. (1) To qualify for and maintain authority to  
 22 transact insurance in this state on or after July 21, 1965 and  
 23 before January 1, 1999, a domestic, foreign, or alien insurer  
 24 shall possess and thereafter maintain unimpaired capital and  
 25 surplus in an amount determined adequate by the commissioner to  
 26 continue to comply with section 403 but not less than  
 27 \$1,000,000.00. The commissioner shall take into account the risk

1 based capital requirements as developed by the national  
2 association of insurance commissioners in order to determine  
3 adequate compliance with section 403.

4 (2) To qualify for and maintain authority to transact  
5 insurance in this state on or after January 1, 1999, a domestic,  
6 foreign, or alien insurer shall possess and thereafter maintain  
7 unimpaired capital and surplus in an amount determined adequate  
8 by the commissioner to continue to comply with section 403 but  
9 not less than \$7,000,000.00. The commissioner shall take into  
10 account the risk based capital requirements as developed by the  
11 national association of insurance commissioners in order to  
12 determine adequate compliance with section 403.

13 (3) In addition to the minimum capital and surplus specified  
14 in subsections (1) and (2), an insurer applying for an initial  
15 certificate of authority after July 21, 1965 in this state shall  
16 possess and maintain surplus or additional surplus in an amount  
17 determined by the commissioner adequate to comply with section  
18 403 for the kind or kinds of insurance it writes or proposes to  
19 write, but ~~in no event~~ **not** less than \$500,000.00.

20 (4) Except as provided by section 407, every insurer  
21 authorized to transact insurance in this state may transact life  
22 insurance or property insurance but not both, unless it was  
23 authorized to transact such other kind or kinds of insurance in  
24 this state immediately prior to January 1, 1965. For the purpose  
25 of this section, life insurance includes any 1 or more of the  
26 insurances described in sections 602 and 606; property insurance  
27 includes any 1 or more of the insurances described in chapter 6,

1 excepting only section 602 and those provisions of section 632  
2 that apply to insurances described in section 602. Nothing in  
3 this section shall be construed to broaden the authority of  
4 reciprocal insurers.

5 (5) Except as provided in subsection (7), an insurer  
6 authorized to transact insurance prior to July 21, 1965 may  
7 continue to transact insurance so long as it maintains the  
8 minimum financial requirements of section 408. However, an  
9 insurer authorized to transact insurance prior to July 21, 1965,  
10 that attains the level of minimum capital and surplus required by  
11 subsection (1) shall maintain ~~compliance with this section~~ at  
12 **least that minimum level** unless the **insurer satisfies either of**  
13 **the following:**

14 (a) The direct premiums written ~~and~~ **minus** any reinsurance  
15 ~~assumed~~ **ceded** by the insurer to **1 or more authorized reinsurers**  
16 in an annual period are less than the insurer's surplus.

17 (b) The commissioner finds all of the following:

18 (i) The insurer's total capital exceeds 2 times the company's  
19 authorized control level.

20 (ii) The insurer's certificate of authority has not been  
21 suspended, revoked, or limited under section 436 at any time  
22 during the 5-year period immediately preceding the date the  
23 insurer files a plan as required under subparagraph (v).

24 (iii) The amount of capital and surplus is not less than the  
25 amount possessed by the insurer at the time it was incorporated  
26 under this act.

27 (iv) The insurer is otherwise safe, reliable, and entitled to

1 public confidence.

2       (v) The insurer files a plan with the commissioner outlining  
3 the steps it will take to increase its capital and surplus to at  
4 least the minimum required by subsection (2) within a period of  
5 time specified in the plan and approved by the commissioner. The  
6 plan shall remain in effect for the period specified in the plan  
7 unless either the insurer attains the minimum capital and surplus  
8 required by subsection (2) or the commissioner determines that a  
9 change in the insurer's financial condition has rendered the  
10 insurer no longer safe, reliable, and entitled to public  
11 confidence. If the insurer fails to attain the minimum capital  
12 and surplus required by subsection (2) within the time frame  
13 specified in the plan, the insurer is subject to rehabilitation  
14 or liquidation.

15       (6) Except as provided in subsection (7), an insurer  
16 authorized to transact insurance on or after July 21, 1965 and  
17 before January 1, 1999 that attains the level of minimum capital  
18 and surplus required by subsection (2) shall maintain ~~compliance~~  
19 ~~with this section~~ at least that minimum level unless the insurer  
20 satisfies either of the following:

21       (a) The direct premiums written ~~and~~ minus any reinsurance  
22 ~~assumed~~ ceded by the insurer to 1 or more authorized insurers  
23 in an annual period are less than the insurer's surplus.

24       (b) The commissioner finds all of the following:

25       (i) The insurer's total capital exceeds 2 times the company's  
26 authorized control level.

27       (ii) The insurer's certificate of authority has not been

1 suspended, revoked, or limited under section 436 at any time  
2 during the 5-year period immediately preceding the date the  
3 insurer files a plan as required under subparagraph (v).

4 (iii) The amount of capital and surplus is not less than the  
5 amount possessed by the insurer at the time it was incorporated  
6 under this act.

7 (iv) The insurer is otherwise safe, reliable, and entitled to  
8 public confidence.

9 (v) The insurer files a plan with the commissioner outlining  
10 the steps it will take to increase its capital and surplus to at  
11 least the minimum required by subsection (2) within a period of  
12 time specified in the plan and approved by the commissioner. The  
13 plan shall remain in effect for the period specified in the plan  
14 unless either the insurer attains the minimum capital and surplus  
15 required by subsection (2) or the commissioner determines that a  
16 change in the insurer's financial condition has rendered the  
17 insurer no longer safe, reliable, and entitled to public  
18 confidence. If the insurer fails to attain the minimum capital  
19 and surplus required by subsection (2) within the time frame  
20 specified in the plan, the insurer is subject to rehabilitation  
21 or liquidation.

22 (7) An insurer shall not be authorized to transact legal  
23 expense insurance unless it meets the capital and surplus  
24 requirements of subsections (1), (2), and (3).

25 (8) Notwithstanding the specific requirements of this  
26 section, domestic, foreign, and alien insurers shall also comply  
27 with ~~the standard set forth in section 403~~ any additional



1 capital, surplus, or asset requirements that may apply under  
2 section 403 or 410.

3 Sec. 1920. (1) A licensee shall offer surplus lines  
4 insurance only to insurers that are in a stable and unimpaired  
5 financial condition. An insurer recognized by the commissioner  
6 as an eligible surplus lines insurer pursuant to subsection (2)  
7 shall be considered to meet the requirements of this subsection.  
8 Recognition as an eligible surplus lines insurer shall be  
9 conditioned upon the insurer's continued compliance with this  
10 chapter and rules promulgated under this chapter.

11 (2) An unauthorized insurer may apply for recognition as an  
12 eligible surplus lines insurer by filing an application in the  
13 form and with the information as reasonably required by the  
14 commissioner regarding the insurer's financial stability,  
15 reputation, and integrity. The commissioner may delegate to an  
16 association the power to process and to make recommendations on  
17 applications for recognition as an eligible surplus lines  
18 insurer. Notwithstanding a delegation by the commissioner, an  
19 applicant may file an application for recognition directly with  
20 the commissioner.

21 (3) The commissioner shall recognize an insurer making an  
22 application in accordance with subsection (2) as an eligible  
23 surplus lines insurer if he or she is satisfied that the insurer  
24 is in a stable and unimpaired financial condition and that the  
25 insurer is qualified to provide coverage in compliance with this  
26 chapter. If filed with full supporting documentation before July  
27 1 of any year, an application submitted under subsection (2)

1 shall be acted upon by the commissioner before December 31 of the  
2 year of submission.

3       (4) The commissioner shall not recognize an insurer as an  
4 eligible surplus lines insurer unless the insurer continuously  
5 maintains capital and surplus of at least ~~-\$1,500,000.00-~~ **the**  
6 **amount required by section 410(2)**, and is safe, reliable, and  
7 entitled to public confidence. This subsection shall not be  
8 construed to require an alien insurer to file financial  
9 statements in the form required of authorized insurers under  
10 section 438. However, each alien applicant shall have current  
11 financial data filed with the national association of insurance  
12 commissioners.

13       (5) If the commissioner considers it necessary, he or she may  
14 request information about or examine the affairs of any eligible  
15 unauthorized insurer, at the expense of the insurer except as  
16 provided in sections 1905 and 1951, to determine whether the  
17 insurer should continue to remain on the list of eligible surplus  
18 lines insurers. If the commissioner finds that it is in the  
19 public interest to remove an insurer from the list because the  
20 insurer no longer meets the requirements of this chapter or is no  
21 longer qualified to provide coverage under this chapter, the  
22 commissioner shall do so without the necessity of a hearing.