

HOUSE BILL No. 6231

June 20, 2006, Introduced by Rep. Mortimer and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 7925 (MCL 500.7925), as amended by 1980 PA 41.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7925. (1) "Covered claims" means obligations of an
2 insolvent insurer ~~which~~ **THAT** meet all of the following
3 requirements:

4 (a) Arise out of the insurance policy contracts of the
5 insolvent insurer issued to residents of this state or are payable
6 to residents of this state on behalf of insureds of the insolvent
7 insurer.

8 (b) Were unpaid by the insolvent insurer.

9 (c) Are presented as a claim to the receiver in this state or
10 the ~~association~~ **ASSOCIATION** on or before the last date fixed for

1 the filing of claims in the domiciliary delinquency proceedings.

2 (d) Were incurred or existed before, at the time of, or within
3 30 days after the date the receiver was appointed.

4 (e) Arise out of policy contracts of the insolvent insurer
5 issued for all kinds of insurance except life and disability
6 insurance.

7 (f) Arise out of insurance policy contracts issued on or
8 before the last date on which the insolvent insurer was a member
9 insurer.

10 (2) Covered claims shall not include any of the following:

11 (a) Obligations to refund unearned premiums above the first
12 \$500.00 of unearned premiums from each person from any 1 insolvent
13 insurer. The maximum amount of unearned premiums which shall
14 constitute a covered claim shall be adjusted annually to reflect
15 changes in the cost of living under rules prescribed by the
16 commissioner. **A REFUND IN AN AMOUNT LESS THAN \$50.00 SHALL NOT BE**
17 **MADE FOR UNEARNED PREMIUMS.**

18 (b) Obligations incurred after the expiration date of the
19 insurance policy, after the insurance policy has been replaced by
20 the insured, or after the insurance policy has been canceled by the
21 association as provided in this chapter.

22 (c) Obligations ~~which arise~~ **ARISING** out of sections 2001 to
23 2050, or similar provisions of law in another jurisdiction.

24 (3) Covered claims shall not include ~~obligations to an~~
25 ~~insurer, insurance pool, underwriting association, or to a person~~
26 ~~who has a net worth greater than 1/10 of 1% of the aggregate~~
27 ~~premiums written by member insurers in this state in the preceding~~

1 ~~calendar year.~~ ANY AMOUNT DUE ANY REINSURER, INSURER, INSURANCE
2 POOL, UNDERWRITING ASSOCIATION, HEALTH MAINTENANCE ORGANIZATION, OR
3 HEALTH CARE CORPORATION AS SUBROGATION RECOVERIES, CONTRIBUTION,
4 INDEMNIFICATION, OR OTHER OBLIGATION. A CLAIM FOR ANY AMOUNT DUE
5 ANY REINSURER, INSURER, INSURANCE POOL, UNDERWRITING ASSOCIATION,
6 HEALTH MAINTENANCE ORGANIZATION, OR HEALTH CARE CORPORATION SHALL
7 NOT BE BROUGHT AGAINST AN INSURED OR CLAIMANT UNDER A POLICY ISSUED
8 BY THE INSOLVENT INSURER UNLESS THE CLAIM EXCEEDS THE ASSOCIATION'S
9 OBLIGATION LIMITATIONS UNDER SUBSECTION (6).

10 (4) COVERED CLAIMS SHALL NOT INCLUDE OBLIGATIONS FOR ANY FIRST
11 PARTY OR THIRD PARTY CLAIM BY OR AGAINST AN INSURED WHOSE NET WORTH
12 EXCEEDS \$25,000,000.00 ON DECEMBER 31, OR ON THE LAST DATE OF THE
13 INSURED'S FISCAL PERIOD IF THAT IS OTHER THAN DECEMBER 31, OF THE
14 YEAR IMMEDIATELY PRECEDING THE DATE THE INSURER BECOMES AN
15 INSOLVENT INSURER. IN DETERMINING NET WORTH ON THIS DATE, AN
16 INSURED'S NET WORTH SHALL INCLUDE THE AGGREGATE NET WORTH OF THE
17 INSURED AND ALL OF ITS SUBSIDIARIES AND AFFILIATES AS CALCULATED ON
18 A CONSOLIDATED BASIS. THE \$25,000,000.00 NET WORTH LIMIT SHALL BE
19 ADJUSTED ANNUALLY TO REFLECT THE AGGREGATE ANNUAL PERCENTAGE CHANGE
20 IN THE CONSUMER PRICE INDEX SINCE THE PREVIOUS ADJUSTMENT, ROUNDED
21 TO THE NEAREST \$10,000.00. THE EFFECTIVE DATE OF THE ADJUSTMENT
22 SHALL BE JANUARY 1 OF EACH YEAR. THIS SUBSECTION APPLIES TO AN
23 INSOLVENCY THAT OCCURS ON OR AFTER THE EFFECTIVE DATE OF THE
24 AMENDATORY ACT THAT ADDED THIS SUBSECTION.

25 (5) ~~-(4)-~~ Covered claims shall not include any portion of a
26 claim ~~which~~ THAT is in excess of an applicable limit provided in
27 the insurance policy.

1 **(6) ~~-(5)-~~** Covered claims shall not include that portion of a
2 claim, other than a worker's compensation claim ~~—, which is in~~
3 ~~excess of 1/20 of 1% of the aggregate premiums written by member~~
4 ~~insurers in this state in the preceding calendar year.~~ **OR A CLAIM**
5 **FOR PERSONAL PROTECTION INSURANCE BENEFITS UNDER SECTION 3107, THAT**
6 **IS IN EXCESS OF \$5,000,000.00. THE \$5,000,000.00 CLAIM CAP SHALL BE**
7 **ADJUSTED ANNUALLY TO REFLECT THE AGGREGATE ANNUAL PERCENTAGE CHANGE**
8 **IN THE CONSUMER PRICE INDEX SINCE THE PREVIOUS ADJUSTMENT, ROUNDED**
9 **TO THE NEAREST \$10,000.00. THE EFFECTIVE DATE OF THE ADJUSTMENT**
10 **SHALL BE JANUARY 1 OF EACH YEAR AND SHALL APPLY TO CLAIMS MADE ON**
11 **OR AFTER THAT DATE. THE CLAIM CAP IN EFFECT AT THE TIME OF PAYMENT**
12 **OF A CLAIM SHALL APPLY.**

13 **(7) ~~-(6)-~~** Covered claims shall not include adjustment fees and
14 expenses, attorneys' fees and expenses, court costs, interest, or
15 bond premiums if the fees, expenses, costs, interest, or premiums
16 were incurred by the insolvent insurer before the receiver was
17 appointed.

18 **(8) AS USED IN THIS SECTION:**

19 **(A) "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE INDEX FOR**
20 **ALL URBAN CONSUMERS IN THE US CITY AVERAGE, AS MOST RECENTLY**
21 **REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR**
22 **STATISTICS, AND AS CERTIFIED BY THE COMMISSIONER.**

23 **(B) "CONTROL" MEANS THAT TERM AS DEFINED IN SECTION 115(B)(i).**

24 **(C) "HEALTH CARE CORPORATION" MEANS THAT TERM AS DEFINED IN**
25 **SECTION 105 OF THE NONPROFIT HEALTH CARE CORPORATION REFORM ACT,**
26 **1980 PA 350, MCL 550.1105.**

27 Enacting section 1. This amendatory act does not take effect

1 unless all of the following bills of the 93rd Legislature are
2 enacted into law:

3 (a) Senate Bill No.____ or House Bill No. 6235(request no.
4 07127'06).

5 (b) Senate Bill No.____ or House Bill No. 6234(request no.
6 07128'06).

7 (c) Senate Bill No.____ or House Bill No. 6233(request no.
8 07129'06).

9 (d) Senate Bill No.____ or House Bill No. 6232(request no.
10 07130'06).

11 (e) Senate Bill No.____ or House Bill No. 6230(request no.
12 07132'06).

13 (f) Senate Bill No.____ or House Bill No. 6229(request no.
14 07133'06).

15 (g) Senate Bill No.____ or House Bill No. 6228(request no.
16 07134'06).

17 (h) Senate Bill No.____ or House Bill No. 6227(request no.
18 07135'06).

19 (i) Senate Bill No.____ or House Bill No. 6226(request no.
20 07136'06).

21 (j) Senate Bill No.____ or House Bill No. 6225(request no.
22 07137'06).

23 (k) Senate Bill No.____ or House Bill No. 6224(request no.
24 07138'06).

25 (l) Senate Bill No.____ or House Bill No. 6223(request no.
26 07139'06).