

HOUSE BILL No. 6233

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 7918 (MCL 500.7918), as amended by 2001 PA 182.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

10 (4) THE ASSOCIATION MAY BRING AN ACTION AGAINST ANY THIRD

1 PARTY ADMINISTRATOR, AGENT, ATTORNEY, OR OTHER REPRESENTATIVE OF
2 THE INSOLVENT INSURER TO OBTAIN CUSTODY AND CONTROL OF ALL CLAIMS
3 INFORMATION, INCLUDING ALL FILES, RECORDS, AND ELECTRONIC DATA
4 RELATED TO AN INSOLVENT COMPANY THAT ARE APPROPRIATE OR NECESSARY
5 FOR THE ASSOCIATION, OR A SIMILAR ASSOCIATION IN OTHER STATES, TO
6 CARRY OUT ITS DUTIES UNDER THIS ACT. THE ASSOCIATION SHALL HAVE THE
7 ABSOLUTE RIGHT THROUGH EMERGENCY EQUITABLE RELIEF TO OBTAIN CUSTODY
8 AND CONTROL OF ALL CLAIMS INFORMATION IN THE CUSTODY OR CONTROL OF
9 THE THIRD PARTY ADMINISTRATOR, AGENT, ATTORNEY, OR OTHER
10 REPRESENTATIVE OF THE INSOLVENT INSURER, REGARDLESS OF WHERE THE
11 INFORMATION MAY BE PHYSICALLY LOCATED. IN BRINGING THE ACTION, THE
12 ASSOCIATION IS NOT SUBJECT TO ANY DEFENSE, LIEN, POSSESSORY OR
13 OTHERWISE, OR OTHER LEGAL OR EQUITABLE GROUND FOR REFUSAL TO
14 SURRENDER CLAIMS INFORMATION THAT MIGHT BE ASSERTED AGAINST THE
15 LIQUIDATOR OF THE INSOLVENT INSURERS. IF LITIGATION IS NECESSARY
16 FOR THE ASSOCIATION TO OBTAIN CUSTODY OF THE CLAIMS INFORMATION
17 REQUESTED AND IT RESULTS IN THE RELINQUISHMENT OF CLAIMS
18 INFORMATION TO THE ASSOCIATION AFTER REFUSAL TO PROVIDE THE
19 INFORMATION IN RESPONSE TO A WRITTEN DEMAND, THE COURT SHALL AWARD
20 THE ASSOCIATION ITS COSTS, EXPENSES, AND REASONABLE ATTORNEY FEES
21 INCURRED IN BRINGING THE ACTION. THIS SECTION DOES NOT AFFECT THE
22 RIGHTS AND REMEDIES THAT THE CUSTODIAN OF THE CLAIMS INFORMATION
23 MAY HAVE AGAINST THE INSOLVENT INSURERS, SO LONG AS THOSE RIGHTS
24 AND REMEDIES DO NOT CONFLICT WITH THE RIGHTS OF THE ASSOCIATION TO
25 CUSTODY AND CONTROL OF THE CLAIMS INFORMATION UNDER THIS ACT.

26 (5) ~~-(4)-~~ Upon request of the commissioner, consent of the
27 association, and appointment by the court, the association may act

1 as deputy receiver in delinquency proceedings under chapter 81.

2 Enacting section 1. This amendatory act does not take effect
3 unless all of the following bills of the 93rd Legislature are
4 enacted into law:

5 (a) Senate Bill No.____ or House Bill No. 6235(request no.
6 07127'06).

7 (b) Senate Bill No.____ or House Bill No. 6234(request no.
8 07128'06).

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

11 (d) Senate Bill No.____ or House Bill No. 6231(request no.
12 07131'06).

13 (e) Senate Bill No.____ or House Bill No. 6230(request no.
14 07132'06).

15 (f) Senate Bill No.____ or House Bill No. 6229(request no.
16 07133'06).

17 (g) Senate Bill No.____ or House Bill No. 6228(request no.
18 07134'06).

19 (h) Senate Bill No.____ or House Bill No. 6227(request no.
20 07135'06).

21 (i) Senate Bill No.____ or House Bill No. 6226(request no.
22 07136'06).

23 (j) Senate Bill No.____ or House Bill No. 6225(request no.
24 07137'06).

25 (k) Senate Bill No.____ or House Bill No. 6224(request no.
26 07138'06).

27 (l) Senate Bill No.____ or House Bill No. 6223(request no.

1 07139'06).