

Act No. 361
Public Acts of 2006
Approved by the Governor
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**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Rep. Mortimer

ENROLLED HOUSE BILL No. 6230

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 7931 (MCL 500.7931), as amended by 1980 PA 41.

The People of the State of Michigan enact:

Sec. 7931. (1) The association may pay or discharge covered claims directly, through a servicing facility, or through a contract for reinsurance or transfer of liabilities with a member insurer, in accordance with the plan of operation.

(2) The association shall be a party in interest in all proceedings involving a covered claim and shall have the same rights as the insolvent insurer would have had if not in receivership, including the right to appear, defend, and appeal a claim in a court of competent jurisdiction; to receive notice of, investigate, adjust, compromise, settle, and pay a covered claim; and to investigate, handle, and deny a noncovered claim. The association shall not have a cause of action against the insureds of the insolvent insurer for any sums it has paid out, except those causes of action that the insolvent insurer would have had if the sums had been paid by the insolvent insurer, or except as otherwise provided by this chapter.

(3) If damages or benefits are recoverable by a claimant other than from any disability policy or life insurance policy owned or paid for by the claimant or by a claimant or insured under an insurance policy other than a policy of the insolvent insurer, or under a self-insured program of a self-insured entity, the damages or benefits recoverable shall be a credit against a covered claim payable under this chapter. The claimant, insured, or self-insured entity shall first exhaust all coverage provided by any policy or the self-insured retention of an excess insurance policy. If damages against an insured who is not a resident of this state are recoverable by a claimant who is a resident of this state, in whole or in part, from any insurance guaranty association or fund or its equivalent in the state where the insured is a resident, the damages recoverable shall be a credit against a covered claim payable under this chapter. To the extent that the association's obligation is reduced by this section, the liability of the person insured by the insolvent insurer's policy shall be reduced in the same amount. An insurer, self-insured entity, or any other person shall not maintain an action against an insured of the insolvent insurer to recover an amount that constitutes a credit against a covered claim under this section. An amount paid to a claimant in excess of the amount authorized by this section may be recovered by an action brought by the association. If the claims made arise under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, this subsection does not provide credits in excess of those specified in section 354 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.354, and does not limit the liability of the guaranty association or the insured under a policy of the insolvent insurer for benefits provided under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(4) The association shall continue coverage for covered claims under each insurance policy of the insolvent insurer that was in force on the date the receiver was appointed until the insurance policy has expired in accordance with its terms, has been replaced by the insured, or has been canceled by the association as provided in this chapter, but in no event for more than 30 days after the date the receiver was appointed.

(5) The association may cancel insurance policies of the insolvent insurer by mailing or delivering to the insured at the last known address within this state a 10 days' written notice of cancellation, notwithstanding a statute or policy provision to the contrary.

(6) As used in this section:

(a) "Self-insured entity" means a person or employer that covers its liability through a qualified individual or group self-insurance program.

(b) "Self-insured program" means any formal program created for the specific purpose of covering liabilities typically covered by insurance.

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

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6231.
- (f) House Bill No. 6229.
- (g) House Bill No. 6228.
- (h) House Bill No. 6227.
- (i) House Bill No. 6226.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor