

SUBSTITUTE FOR
SENATE BILL NO. 901

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 814a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 814A. (1) EVERY PROPERTY AND CASUALTY INSURER DOING
2 BUSINESS IN THIS STATE, UNLESS EXEMPTED BY THE COMMISSIONER, SHALL
3 ANNUALLY FILE WITH THE COMMISSIONER THE OPINION OF AN APPOINTED
4 ACTUARY WHICH SHALL BE ENTITLED STATEMENT OF ACTUARIAL OPINION.
5 THIS STATEMENT SHALL BE FILED PURSUANT TO THE SAME INSTRUCTIONS
6 ISSUED BY THE COMMISSIONER FOR THE FILING OF ANNUAL STATEMENTS.
7 (2) EVERY PROPERTY AND CASUALTY INSURER DOMICILED IN THIS
8 STATE THAT IS REQUIRED TO FILE A STATEMENT OF ACTUARIAL OPINION
9 UNDER SUBSECTION (1) SHALL ANNUALLY FILE WITH THE COMMISSIONER AN
10 ACTUARIAL OPINION SUMMARY, WRITTEN BY THE INSURER'S APPOINTED

1 ACTUARY. THIS ACTUARIAL OPINION SUMMARY SHALL BE FILED PURSUANT TO
2 THE SAME INSTRUCTIONS ISSUED BY THE COMMISSIONER FOR THE FILING OF
3 ANNUAL STATEMENTS AND SHALL BE CONSIDERED AS A DOCUMENT SUPPORTING
4 THE STATEMENT OF ACTUARIAL OPINION REQUIRED IN SUBSECTION (1) .

5 (3) A PROPERTY AND CASUALTY INSURER NOT DOMICILED IN THIS
6 STATE THAT IS REQUIRED TO FILE A STATEMENT OF ACTUARIAL OPINION
7 UNDER SUBSECTION (1) SHALL PROVIDE AN ACTUARIAL OPINION SUMMARY
8 DESCRIBED IN SUBSECTION (2) UPON THE COMMISSIONER'S REQUEST.

9 (4) AN ACTUARIAL REPORT AND UNDERLYING WORKPAPERS SHALL BE
10 PREPARED TO SUPPORT EACH STATEMENT OF ACTUARIAL OPINION. IF THE
11 PROPERTY AND CASUALTY INSURER FAILS TO PROVIDE THIS ACTUARIAL
12 REPORT OR WORKPAPERS AT THE COMMISSIONER'S REQUEST, THE
13 COMMISSIONER MAY ENGAGE A QUALIFIED ACTUARY AT THE EXPENSE OF THE
14 INSURER TO REVIEW THE STATEMENT OF ACTUARIAL OPINION AND THE BASIS
15 FOR THE OPINION AND PREPARE THE ACTUARIAL REPORT OR WORKPAPERS.

16 (5) THE STATEMENT OF ACTUARIAL OPINION SHALL BE FILED WITH THE
17 ANNUAL STATEMENT IN ACCORDANCE WITH SECTION 438 AND SHALL BE
18 TREATED AS A PUBLIC DOCUMENT.

19 (6) DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN THE
20 POSSESSION OR CONTROL OF THE OFFICE OF FINANCIAL AND INSURANCE
21 REGULATION THAT ARE CONSIDERED AN ACTUARIAL REPORT, WORKPAPERS, OR
22 ACTUARIAL OPINION SUMMARY PROVIDED IN SUPPORT OF THE STATEMENT OF
23 ACTUARIAL OPINION, AND ANY OTHER MATERIAL PROVIDED BY THE INSURER
24 TO THE COMMISSIONER IN CONNECTION WITH THE ACTUARIAL REPORT,
25 WORKPAPERS, OR ACTUARIAL OPINION SUMMARY, IS CONFIDENTIAL AND
26 PRIVILEGED AND IS NOT SUBJECT TO THE FREEDOM OF INFORMATION ACT,
27 1976 PA 442, MCL 15.231 TO 15.246, SUBPOENA, OR TO DISCOVERY AND IS

1 NOT ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION. THIS
2 SUBSECTION DOES NOT DO EITHER OF THE FOLLOWING:

3 (A) LIMIT THE COMMISSIONER'S AUTHORITY TO RELEASE THE
4 DOCUMENTS FOR THE PURPOSE OF PROFESSIONAL DISCIPLINARY PROCEEDINGS
5 IF THE COMMISSIONER IS SATISFIED THAT THE CONFIDENTIALITY OF THE
6 DOCUMENTS WILL BE PRESERVED.

7 (B) LIMIT THE COMMISSIONER'S AUTHORITY TO USE THE DOCUMENTS,
8 MATERIALS, OR OTHER INFORMATION IN FURTHERANCE OF ANY REGULATORY OR
9 LEGAL ACTION BROUGHT AS PART OF THE COMMISSIONER'S OFFICIAL DUTIES.

10 (7) NEITHER THE COMMISSIONER NOR ANY PERSON WHO RECEIVED
11 DOCUMENTS, MATERIALS, OR OTHER INFORMATION WHILE ACTING UNDER THE
12 COMMISSIONER'S AUTHORITY SHALL BE PERMITTED OR REQUIRED TO TESTIFY
13 IN ANY PRIVATE CIVIL ACTION CONCERNING ANY CONFIDENTIAL DOCUMENTS,
14 MATERIALS, OR INFORMATION SUBJECT TO SUBSECTION (6).

15 (8) IN ORDER TO ASSIST IN THE PERFORMANCE OF THE
16 COMMISSIONER'S DUTIES, THE COMMISSIONER MAY DO ANY OF THE
17 FOLLOWING:

18 (A) SHARE DOCUMENTS, MATERIALS, OR OTHER INFORMATION,
19 INCLUDING THE CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS, OR
20 INFORMATION SUBJECT TO SUBSECTION (6) WITH ANY OTHER STATE,
21 FEDERAL, OR INTERNATIONAL REGULATORY AGENCIES, WITH THE NATIONAL
22 ASSOCIATION OF INSURANCE COMMISSIONERS AND ITS AFFILIATES AND
23 SUBSIDIARIES, AND WITH STATE, FEDERAL, AND INTERNATIONAL LAW
24 ENFORCEMENT AUTHORITIES, PROVIDED THAT THE RECIPIENT AGREES TO
25 MAINTAIN THE CONFIDENTIALITY AND PRIVILEGED STATUS OF THE DOCUMENT,
26 MATERIAL, OR OTHER INFORMATION AND HAS THE LEGAL AUTHORITY TO
27 MAINTAIN CONFIDENTIALITY.

1 (B) RECEIVE DOCUMENTS, MATERIALS, OR INFORMATION, INCLUDING
2 OTHERWISE CONFIDENTIAL AND PRIVILEGED DOCUMENTS, MATERIALS, OR
3 INFORMATION, FROM THE NATIONAL ASSOCIATION OF INSURANCE
4 COMMISSIONERS AND ITS AFFILIATES AND SUBSIDIARIES, AND FROM
5 REGULATORY AND LAW ENFORCEMENT OFFICIALS OF OTHER FOREIGN OR
6 DOMESTIC JURISDICTIONS, AND SHALL MAINTAIN AS CONFIDENTIAL OR
7 PRIVILEGED ANY DOCUMENT, MATERIAL, OR INFORMATION RECEIVED WITH
8 NOTICE OR THE UNDERSTANDING THAT IT IS CONFIDENTIAL OR PRIVILEGED
9 UNDER THE LAWS OF THE JURISDICTION THAT IS THE SOURCE OF THE
10 DOCUMENT, MATERIAL, OR INFORMATION.

11 (9) ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY IS
12 NOT WAIVED BY THE DISCLOSING OR SHARING OF DOCUMENTS, MATERIALS, OR
13 INFORMATION AS PERMITTED BY THIS SECTION.

14 (10) FOR PURPOSES OF THIS SECTION, THE MICHIGAN AUTOMOBILE
15 INSURANCE PLACEMENT FACILITY CREATED UNDER CHAPTER 33 IS NOT A
16 PROPERTY AND CASUALTY INSURER.

17 Enacting section 1. This amendatory act takes effect January
18 1, 2010.