

SENATE BILL No. 901

October 14, 2009, Introduced by Senator SANBORN and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 1006.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1006. (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 OPINION 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 PROVIDED WITH
17 THE ANNUAL STATEMENT AND SHALL BE TREATED AS A PUBLIC DOCUMENT.

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

1 SUBSECTION DOES NOT DO EITHER OF THE FOLLOWING:

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

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

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

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

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

27 (B) RECEIVE DOCUMENTS, MATERIALS, OR INFORMATION, INCLUDING

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

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

13 Enacting section 1. This amendatory act takes effect July 1,
14 2010.