

Act No. 338
Public Acts of 2010
Approved by the Governor
December 21, 2010
Filed with the Secretary of State
December 21, 2010
EFFECTIVE DATE: December 21, 2010

**STATE OF MICHIGAN
95TH LEGISLATURE
REGULAR SESSION OF 2010**

Introduced by Senator Allen

ENROLLED SENATE BILL No. 825

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 640 (MCL 500.640), as amended by 1992 PA 182.

The People of the State of Michigan enact:

Sec. 640. (1) Except as otherwise provided in subsections (2) to (5), an insurer transacting business in this state shall not expose itself to any loss on any 1 risk or hazard in an amount exceeding 10% of its paid-up capital and surplus. However, no portion of a risk or hazard that has been reinsured by an insurer licensed to do insurance business in this state shall be included in determining the limitation of risk prescribed in this subsection.

(2) An insurer transacting business in this state that has obtained a certificate of authority authorizing the transaction of title insurance in this state before the effective date of the amendatory act that added this subsection shall not expose itself to any loss on any 1 title insurance risk or hazard in an amount exceeding 50% of its paid-up capital and surplus. However, no portion of a title insurance risk or hazard that has been reinsured by an insurer licensed to do title insurance business in this state shall be included in determining the limitation of risk prescribed in this subsection.

(3) An insurer transacting business in this state that obtains a certificate of authority authorizing the transaction of title insurance in this state on or after the effective date of the amendatory act that added this subsection shall not expose itself to any loss on any 1 title insurance risk or hazard in an amount exceeding 10% of its paid-up capital and surplus unless the title insurer meets all of the following:

(a) Has a most recent A.M. best financial rating of at least an A- or has a comparable rating as assigned by a nationally recognized statistical rating organization approved by the commissioner.

(b) Has been licensed and operating in this or another state for at least 5 years and has reported a net income for at least 3 of the last 5 years.

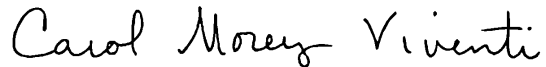
(c) Has capital that exceeds 2 times the minimum paid-up capital and surplus requirements in Michigan.

(4) No portion of a title insurance risk or hazard that has been reinsured by an insurer licensed to do title insurance business in this state shall be included in determining the 10% limitation of risk prescribed in subsection (3). An insurer described in subsection (3)(a) to (c) shall not expose itself to any loss on any 1 title insurance risk or hazard in an amount exceeding 50% of its paid-up capital and surplus.

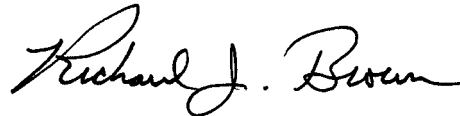
(5) Upon application by a title insurer, the commissioner may waive the 10% limitation of risk prescribed in subsection (3) for a particular risk or hazard for good cause shown and so long as the net retained liability for that particular risk or hazard does not exceed 50% of the insurer's paid-up capital and surplus.

(6) As used in this section, "title insurance" and "title insurer" mean those terms as defined in section 7301.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor