

SENATE BILL No. 326

April 23, 2013, Introduced by Senators SMITH and HUNE and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 102, 3101, 3104, 3113, 3114, 3115, 3135, 3301,
and 3310 (MCL 500.102, 500.3101, 500.3104, 500.3113, 500.3114,
500.3115, 500.3135, 500.3301, and 500.3310), section 102 as amended
by 2000 PA 252, section 3101 as amended by 2008 PA 241, section
3104 as amended by 2002 PA 662, section 3113 as amended by 1986 PA
93, section 3114 as amended by 2002 PA 38, section 3135 as amended
by 2012 PA 158, and section 3310 as amended by 2001 PA 228, and by
adding chapter 32A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 102. **AS USED IN THIS ACT:**

(A) ~~(1) "Commissioner" as used in this act means the~~
~~commissioner of the office of financial and insurance~~
~~services.~~ **DIRECTOR.**

1 (B) ~~(2)~~ "Department" ~~as used in this act~~ means the office
2 DEPARTMENT of INSURANCE AND financial ~~and insurance~~ services.

3 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

4 Sec. 3101. (1) ~~The~~ **SUBJECT TO CHAPTER 32A, THE** owner or
5 registrant of a motor vehicle required to be registered in this
6 state shall maintain security for payment of benefits under
7 personal protection insurance, property protection insurance, and
8 residual liability insurance. Security ~~shall only be required~~ **BY**
9 **THIS SUBSECTION IS ONLY REQUIRED** to be in effect during the period
10 the motor vehicle is driven or moved ~~upon~~ **ON** a highway.

11 Notwithstanding any other provision in this act, an insurer that
12 has issued an automobile insurance policy on a motor vehicle that
13 is not driven or moved ~~upon~~ **ON** a highway may allow the insured
14 owner or registrant of the motor vehicle to delete a portion of the
15 coverages under the policy and maintain the comprehensive coverage
16 portion of the policy in effect.

17 (2) As used in this chapter:

18 (a) "Automobile insurance" means that term as defined in
19 section 2102.

20 (b) "Highway" means that term as defined in section 20 of the
21 Michigan vehicle code, 1949 PA 300, MCL 257.20.

22 (c) "Motorcycle" means a vehicle ~~having~~ **THAT HAS** a saddle or
23 seat for the use of the rider, **IS** designed to travel on not more
24 than 3 wheels in contact with the ground, ~~which~~ **AND** is equipped
25 with a motor that exceeds 50 cubic centimeters piston displacement.
26 ~~The~~ **FOR PURPOSES OF THIS SUBDIVISION, THE** wheels on any attachment
27 to the vehicle ~~shall not be considered as~~ **ARE NOT** wheels in contact

1 with the ground. Motorcycle does not include a moped, as defined in
 2 section 32b of the Michigan vehicle code, 1949 PA 300, MCL 257.32b-
 3 ~~Motorcycle does not include~~ **OR** an ORV.

4 (d) "Motorcycle accident" means a loss ~~involving~~ **THAT INVOLVES**
 5 the ownership, operation, maintenance, or use of a motorcycle as a
 6 motorcycle, but **DOES** not ~~involving~~ **INVOLVE** the ownership,
 7 operation, maintenance, or use of a motor vehicle as a motor
 8 vehicle.

9 (e) "Motor vehicle" means a vehicle, including a trailer, **THAT**
 10 **IS** operated or designed for operation ~~upon~~ **ON** a public highway by
 11 power other than muscular power ~~which~~ **AND THAT** has more than 2
 12 wheels. Motor vehicle does not include a **ANY OF THE FOLLOWING:**

13 (i) **A** motorcycle. ~~or a~~

14 (ii) **A** moped, as defined in section 32b of the Michigan vehicle
 15 code, 1949 PA 300, MCL 257.32b. ~~Motor vehicle does not include a~~

16 (iii) **A** farm tractor or other implement of husbandry ~~which~~ **THAT**
 17 is not subject to the registration requirements of the Michigan
 18 vehicle code ~~pursuant to~~ **UNDER** section 216 of the Michigan vehicle
 19 code, 1949 PA 300, MCL 257.216. ~~Motor vehicle does not include an~~

20 (iv) **AN** ORV.

21 (f) "Motor vehicle accident" means a loss ~~involving~~ **THAT**
 22 **INVOLVES** the ownership, operation, maintenance, or use of a motor
 23 vehicle as a motor vehicle, regardless of whether the accident also
 24 involves the ownership, operation, maintenance, or use of a
 25 motorcycle as a motorcycle.

26 (g) "ORV" means a motor-driven recreation vehicle designed for
 27 off-road use and capable of cross-country travel without benefit of

1 road or trail, on or immediately over land, snow, ice, marsh,
 2 swampland, or other natural terrain. ORV includes, but is not
 3 limited to, a multitrack or multiwheel drive vehicle, a motorcycle
 4 or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious
 5 machine, a ground effect air cushion vehicle, an ATV as defined in
 6 section 81101 of the natural resources and environmental protection
 7 act, 1994 PA 451, MCL 324.81101, or other means of transportation
 8 ~~deriving~~ **THAT DERIVES** motive power from a source other than muscle
 9 or wind. ORV does not include a vehicle described in this
 10 subdivision that is registered for use ~~upon~~ **ON** a public highway and
 11 has the security described in **THIS** section, ~~3101 or~~ **SECTION** 3103,
 12 **OR CHAPTER 32A** in effect.

13 (h) "Owner" means any of the following:

14 (i) A person **WHO IS** renting **OR HAS THE USE OF** a motor vehicle,
 15 ~~or having the use thereof,~~ under a lease or otherwise, for a period
 16 that is greater than 30 days.

17 (ii) A person who holds the legal title to a vehicle, other
 18 than a person engaged in the business of leasing motor vehicles who
 19 is the lessor of a motor vehicle ~~pursuant to~~ **UNDER** a lease
 20 ~~providing~~ **THAT PROVIDES** for the use of the motor vehicle by the
 21 lessee for a period that is greater than 30 days.

22 (iii) A person who has the immediate right of possession of a
 23 motor vehicle under an installment sale contract.

24 (i) "Registrant" does not include a person engaged in the
 25 business of leasing motor vehicles who is the lessor of a motor
 26 vehicle ~~pursuant to~~ **UNDER** a lease ~~providing~~ **THAT PROVIDES** for the
 27 use of the motor vehicle by the lessee for a period that is greater

1 than 30 days.

2 (3) Security **REQUIRED BY SUBSECTION (1)** may be provided under
3 a policy issued by an insurer ~~duly~~ authorized to transact business
4 in this state ~~which~~ **THAT** affords insurance for the payment of
5 benefits described in subsection (1). A policy of insurance
6 represented or sold as providing **THE** security **REQUIRED BY**
7 **SUBSECTION (1)** is considered to provide insurance for the payment
8 of the benefits.

9 (4) Security required by subsection (1) may be provided by any
10 other method approved by the secretary of state as affording
11 security equivalent to that afforded by a policy of insurance, if
12 proof of the security is filed and continuously maintained with the
13 secretary of state throughout the period the motor vehicle is
14 driven or moved ~~upon~~ **ON** a highway. The person ~~filing~~ **WHO FILES** the
15 security has all the obligations and rights of an insurer under
16 this chapter. ~~When~~ **IF** the context permits, "insurer", as used in
17 this chapter, includes any person ~~filing~~ **WHO FILES** the security as
18 provided in this ~~section~~. **SUBSECTION. THIS SUBSECTION DOES NOT APPLY**
19 **TO A POLICY UNDER CHAPTER 32A.**

20 Sec. 3104. (1) ~~An~~ **THE CATASTROPHIC CLAIMS ASSOCIATION IS**
21 **CREATED AS AN** unincorporated, nonprofit association. ~~to be known as~~
22 ~~the catastrophic claims association, hereinafter referred to as the~~
23 ~~association, is created.~~ Each insurer engaged in writing insurance
24 coverages that provide the security required by section 3101(1)
25 within this state, as a condition of its authority to transact
26 insurance in this state, shall be a member of the association and
27 ~~shall be~~ **IS** bound by the plan of operation of the association. Each

insurer engaged in writing insurance coverages that provide the security required by section 3103(1) within this state, as a condition of its authority to transact insurance in this state, shall be considered a member of the association, but only for purposes of premiums under subsection (7)(d). Except as expressly provided in this section, the association is not subject to any laws of this state with respect to insurers, but in all other respects the association is subject to the laws of this state to the extent that the association would be if it were an insurer organized and subsisting under chapter 50.

(2) The association shall provide and each member shall accept indemnification for 100% of the amount of ultimate loss sustained under personal protection insurance coverages **UNDER THIS CHAPTER** in excess of the following amounts in each loss occurrence:

(a) For a motor vehicle accident policy issued or renewed before July 1, 2002, \$250,000.00.

(b) For a motor vehicle accident policy issued or renewed during the period July 1, 2002 to June 30, 2003, \$300,000.00.

(c) For a motor vehicle accident policy issued or renewed during the period July 1, 2003 to June 30, 2004, \$325,000.00.

(d) For a motor vehicle accident policy issued or renewed during the period July 1, 2004 to June 30, 2005, \$350,000.00.

(e) For a motor vehicle accident policy issued or renewed during the period July 1, 2005 to June 30, 2006, \$375,000.00.

(f) For a motor vehicle accident policy issued or renewed during the period July 1, 2006 to June 30, 2007, \$400,000.00.

(g) For a motor vehicle accident policy issued or renewed

1 during the period July 1, 2007 to June 30, 2008, \$420,000.00.

2 (h) For a motor vehicle accident policy issued or renewed
3 during the period July 1, 2008 to June 30, 2009, \$440,000.00.

4 (i) For a motor vehicle accident policy issued or renewed
5 during the period July 1, 2009 to June 30, 2010, \$460,000.00.

6 (j) For a motor vehicle accident policy issued or renewed
7 during the period July 1, 2010 to June 30, 2011, \$480,000.00.

8 (k) For a motor vehicle accident policy issued or renewed
9 during the period July 1, 2011 to June 30, 2013, \$500,000.00.

10 Beginning July 1, 2013, this \$500,000.00 amount shall be increased
11 biennially on July 1 of each odd-numbered year, for policies issued
12 or renewed before July 1 of the following odd-numbered year, by the
13 lesser of 6% or the consumer price index, and rounded to the
14 nearest \$5,000.00. This biennial adjustment shall be calculated by
15 the association by January 1 of the year of its July 1 effective
16 date.

17 (3) An insurer may withdraw from the association only upon
18 ceasing to write insurance that provides the security required by
19 section 3101(1) in this state.

20 (4) An insurer whose membership in the association has been
21 terminated by withdrawal shall continue to be bound by the plan of
22 operation, and upon withdrawal, all unpaid premiums that have been
23 charged to the withdrawing member are payable as of the effective
24 date of the withdrawal.

25 (5) An unsatisfied net liability to the association of an
26 insolvent member shall be assumed by and apportioned among the
27 remaining members of the association as provided in the plan of

1 operation. The association has all rights allowed by law on behalf
2 of the remaining members against the estate or funds of the
3 insolvent member for ~~sums~~ **MONEY** due the association.

4 (6) If a member has been merged or consolidated into another
5 insurer or another insurer has reinsured a member's entire business
6 that provides the security required by section 3101(1) in this
7 state, the member and successors in interest of the member remain
8 liable for the member's obligations.

9 (7) The association shall do all of the following on behalf of
10 the members of the association:

11 (a) Assume 100% of all liability as provided in subsection
12 (2).

13 (b) Establish procedures by which members shall promptly
14 report to the association each claim that, on the basis of the
15 injuries or damages sustained, may reasonably be anticipated to
16 involve the association if the member is ultimately held legally
17 liable for the injuries or damages. Solely for the purpose of
18 reporting claims, the member shall in all instances consider itself
19 legally liable for the injuries or damages. The member shall also
20 advise the association of subsequent developments likely to
21 materially affect the interest of the association in the claim.

22 (c) Maintain relevant loss and expense data relative to all
23 liabilities of the association and require each member to furnish
24 statistics, in connection with liabilities of the association, at
25 the times and in the form and detail as may be required by the plan
26 of operation.

27 (d) In a manner provided for in the plan of operation,

1 calculate and charge to members of the association a total premium
2 sufficient to cover the expected losses and expenses of the
3 association that the association will likely incur during the
4 period for which the premium is applicable. The premium shall
5 include an amount to cover incurred but not reported losses for the
6 period and may be adjusted for any excess or deficient premiums
7 from previous periods. Excesses or deficiencies from previous
8 periods may be fully adjusted in a single period or may be adjusted
9 over several periods in a manner provided for in the plan of
10 operation. Each member shall be charged an amount equal to that
11 member's total written car years of insurance providing the
12 security required by section 3101(1) or 3103(1), or both, written
13 in this state during the period to which the premium applies,
14 multiplied by the average premium per car. The average premium per
15 car shall be the total premium calculated divided by the total
16 written car years of insurance providing the security required by
17 section 3101(1) or 3103(1) written in this state of all members
18 during the period to which the premium applies. A member shall be
19 charged a premium for a historic vehicle that is insured with the
20 member of 20% of the premium charged for a car insured with the
21 member. **A MEMBER SHALL NOT BE CHARGED A PREMIUM FOR A CAR INSURED**
22 **WITH THE MEMBER UNDER A POLICY ISSUED UNDER CHAPTER 32A.** As used in
23 this subdivision:

24 (i) "Car" includes a motorcycle but does not include a historic
25 vehicle.

26 (ii) "Historic vehicle" means a vehicle that is a registered
27 historic vehicle under section 803a or 803p of the Michigan vehicle

1 code, 1949 PA 300, MCL 257.803a and 257.803p.

2 (e) Require and accept the payment of premiums from members of
3 the association as provided for in the plan of operation. The
4 association shall do either of the following:

5 (i) Require payment of the premium in full within 45 days after
6 the premium charge.

7 (ii) Require payment of the premiums to be made periodically to
8 cover the actual cash obligations of the association.

9 (f) Receive and distribute all ~~sums~~ **MONEY** required by the
10 operation of the association.

11 (g) Establish procedures for reviewing claims procedures and
12 practices of members of the association. If the claims procedures
13 or practices of a member are considered inadequate to properly
14 service the liabilities of the association, the association may
15 undertake or may contract with another person, including another
16 member, to adjust or assist in the adjustment of claims for the
17 member on claims that create a potential liability to the
18 association and may charge the cost of the adjustment to the
19 member.

20 (8) In addition to other powers granted to it by this section,
21 the association may do all of the following:

22 (a) Sue and be sued in the name of the association. A judgment
23 against the association shall not create any direct liability
24 against the individual members of the association. The association
25 may provide for the indemnification of its members, members of the
26 board of directors of the association, and officers, employees, and
27 other persons lawfully acting on behalf of the association.

1 (b) Reinsure all or any portion of its potential liability
2 with reinsurers licensed to transact insurance in this state or
3 approved by the ~~commissioner~~. **DIRECTOR**.

4 (c) Provide for appropriate housing, equipment, and personnel
5 as may be necessary to assure the efficient operation of the
6 association.

7 (d) Pursuant to the plan of operation, adopt reasonable rules
8 for the administration of the association, enforce those rules, and
9 delegate authority, as the board considers necessary to assure the
10 proper administration and operation of the association consistent
11 with the plan of operation.

12 (e) Contract for goods and services, including independent
13 claims management, actuarial, investment, and legal services, from
14 others within or without this state to assure the efficient
15 operation of the association.

16 (f) Hear and determine complaints of a company or other
17 interested party concerning the operation of the association.

18 (g) Perform other acts not specifically enumerated in this
19 section that are necessary or proper to accomplish the purposes of
20 the association and that are not inconsistent with this section or
21 the plan of operation.

22 (9) A board of directors is created ~~, hereinafter referred to~~
23 ~~as the board, which shall be responsible for the operation of~~ **AND**
24 **SHALL OPERATE** the association consistent with the plan of operation
25 and this section.

26 (10) The plan of operation shall provide for all of the
27 following:

1 (a) The establishment of necessary facilities.

2 (b) The management and operation of the association.

3 (c) Procedures to be utilized in charging premiums, including
4 adjustments from excess or deficient premiums from prior periods.

5 (d) Procedures governing the actual payment of premiums to the
6 association.

7 (e) Reimbursement of each member of the board by the
8 association for actual and necessary expenses incurred on
9 association business.

10 (f) The investment policy of the association.

11 (g) Any other matters required by or necessary to effectively
12 implement this section.

13 (11) Each board shall include members that would contribute a
14 total of not less than 40% of the total premium calculated pursuant
15 to subsection (7)(d). Each director shall be entitled to 1 vote.
16 The initial term of office of a director shall be 2 years.

17 (12) As part of the plan of operation, the board shall adopt
18 rules providing for the composition and term of successor boards to
19 the initial board, consistent with the membership composition
20 requirements in subsections (11) and (13). Terms of the directors
21 shall be staggered so that the terms of all the directors do not
22 expire at the same time and so that a director does not serve a
23 term of more than 4 years.

24 (13) The board shall consist of 5 directors ~~—~~and the
25 ~~commissioner~~**DIRECTOR, WHO** shall be an ex officio member of the
26 board without vote.

27 (14) Each director shall be appointed by the ~~commissioner~~

1 **DIRECTOR** and shall serve until that member's successor is selected
2 and qualified. The chairperson of the board shall be elected by the
3 board. A vacancy on the board shall be filled by the ~~commissioner~~
4 **DIRECTOR** consistent with the plan of operation.

5 (15) ~~After the board is appointed, the~~ **THE** board shall meet as
6 often as the chairperson, the ~~commissioner~~, **DIRECTOR**, or the plan
7 of operation ~~shall require~~, **REQUIRES**, or at the request of any 3
8 members of the board. The chairperson ~~shall retain the right to~~ **MAY**
9 vote on all issues. Four members of the board constitute a quorum.

10 (16) An annual report of the operations of the association in
11 a form and detail as ~~may be~~ determined by the board shall be
12 furnished to each member.

13 ~~—— (17) Not more than 60 days after the initial organizational~~
14 ~~meeting of the board, the board shall submit to the commissioner~~
15 ~~for approval a proposed plan of operation consistent with the~~
16 ~~objectives and provisions of this section, which shall provide for~~
17 ~~the economical, fair, and nondiscriminatory administration of the~~
18 ~~association and for the prompt and efficient provision of~~
19 ~~indemnity. If a plan is not submitted within this 60 day period,~~
20 ~~then the commissioner, after consultation with the board, shall~~
21 ~~formulate and place into effect a plan consistent with this~~
22 ~~section.~~

23 ~~—— (18) The plan of operation, unless approved sooner in writing,~~
24 ~~shall be considered to meet the requirements of this section if it~~
25 ~~is not disapproved by written order of the commissioner within 30~~
26 ~~days after the date of its submission. Before disapproval of all or~~
27 ~~any part of the proposed plan of operation, the commissioner shall~~

1 ~~notify the board in what respect the plan of operation fails to~~
2 ~~meet the requirements and objectives of this section. If the board~~
3 ~~fails to submit a revised plan of operation that meets the~~
4 ~~requirements and objectives of this section within the 30 day~~
5 ~~period, the commissioner shall enter an order accordingly and shall~~
6 ~~immediately formulate and place into effect a plan consistent with~~
7 ~~the requirements and objectives of this section.~~

8 (17) ~~(19) The proposed plan of operation or ANY~~ amendments to
9 the plan of operation **OF THE ASSOCIATION** are subject to majority
10 approval by the board, ~~ratified AND RATIFICATION~~ by a majority of
11 the membership having a vote, with voting rights being apportioned
12 according to the premiums charged in subsection (7) (d) and are
13 subject to approval by the ~~commissioner~~. **DIRECTOR**.

14 (18) ~~(20) Upon approval by the commissioner and ratification~~
15 ~~by the members of the plan submitted, or upon the promulgation of a~~
16 ~~plan by the commissioner, each AN~~ insurer authorized to write
17 insurance providing the security required by section 3101(1) in
18 this state, as provided in this section, is bound by and shall
19 formally subscribe to and participate in the plan ~~approved OF~~
20 **OPERATION** as a condition of maintaining its authority to transact
21 insurance in this state.

22 (19) ~~(21) The association is subject to all the reporting,~~
23 ~~loss reserve, and investment requirements of the commissioner~~
24 **DIRECTOR** to the same extent as ~~would a member ARE THE MEMBERS~~ of
25 the association.

26 (20) ~~(22) Premiums charged members by the association shall be~~
27 recognized in the rate-making procedures for insurance rates in the

1 same manner that expenses and premium taxes are recognized.

2 (21) ~~(23)~~ The ~~commissioner~~**DIRECTOR** or an authorized
3 representative of the ~~commissioner~~**DIRECTOR** may visit the
4 association at any time and examine any and all **OF** the
5 association's affairs.

6 (22) ~~(24)~~ The association does not have liability for losses
7 occurring before July 1, 1978.

8 (23) ~~(25)~~ As used in this section:

9 (A) "ASSOCIATION" MEANS THE CATASTROPHIC CLAIMS ASSOCIATION
10 CREATED IN SUBSECTION (1).

11 (B) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE ASSOCIATION
12 CREATED IN SUBSECTION (9).

13 (C) ~~(a)~~ "Consumer price index" means the percentage of change
14 in the consumer price index for all urban consumers in the United
15 States city average for all items for the 24 months ~~prior to~~**BEFORE**
16 October 1 of the year ~~prior to~~**BEFORE** the July 1 effective date of
17 the biennial adjustment under subsection (2)(k) as reported by the
18 United States department of labor, bureau of labor statistics, and
19 as certified by the ~~commissioner~~**DIRECTOR**.

20 (D) ~~(b)~~ "Motor vehicle accident policy" means a policy
21 providing the coverages required under section 3101(1).

22 (E) ~~(c)~~ "Ultimate loss" means the actual loss amounts that a
23 member is obligated to pay and that are paid or payable by the
24 member, and do not include claim expenses. An ultimate loss is
25 incurred by the association on the date that the loss occurs.

26 Sec. 3113. A person is not entitled to be paid personal
27 protection insurance benefits for accidental bodily injury if at

1 the time of the accident any of the following circumstances
2 existed:

3 (a) The person was using a motor vehicle or motorcycle which
4 he or she had taken unlawfully, unless the person reasonably
5 believed that he or she was entitled to take and use the vehicle.

6 (b) The person was the owner or registrant of a motor vehicle
7 or motorcycle involved in the accident with respect to which the
8 security required by section 3101 or 3103 was not in effect.

9 (c) The person was not a resident of this state, was an
10 occupant of a motor vehicle or motorcycle not registered in this
11 state, and was not insured by an insurer which has filed a
12 certification in compliance with section 3163.

13 **(D) THE PERSON WAS THE OWNER OR REGISTRANT OF A MOTOR VEHICLE**
14 **INSURED UNDER A POLICY ISSUED UNDER CHAPTER 32A.**

15 Sec. 3114. (1) Except as provided in subsections (2), (3), ~~and~~
16 (5), (7), **AND (8)**, a personal protection insurance policy described
17 in section 3101(1) applies to accidental bodily injury to the
18 person named in the policy, the person's spouse, and a relative of
19 either domiciled in the same household, if the injury arises from a
20 motor vehicle accident. A personal injury insurance policy
21 described in section 3103(2) applies to accidental bodily injury to
22 the person named in the policy, the person's spouse, and a relative
23 of either domiciled in the same household, if the injury arises
24 from a motorcycle accident. ~~When~~ **IF** personal protection insurance
25 benefits **DESCRIBED IN SECTION 3107(1)** or personal injury benefits
26 described in section 3103(2) are payable to or for the benefit of
27 an injured person under his or her own policy and would also be

1 payable under the policy of his or her spouse, relative, or
2 relative's spouse, the injured person's insurer shall pay all of
3 the benefits and is not entitled to recoupment from the other
4 insurer.

5 (2) A person suffering accidental bodily injury while an
6 operator or a passenger of a motor vehicle operated in the business
7 of transporting passengers shall receive the personal protection
8 insurance benefits to which the person is entitled from the insurer
9 of the motor vehicle. This subsection does not apply to a passenger
10 in the following, unless that passenger is not entitled to personal
11 protection insurance benefits under any other policy:

12 (a) A school bus, as defined by the department of education,
13 providing transportation not prohibited by law.

14 (b) A bus operated by a common carrier of passengers certified
15 by the department of transportation.

16 (c) A bus operating under a government sponsored
17 transportation program.

18 (d) A bus operated by or providing service to a nonprofit
19 organization.

20 (e) A taxicab insured as prescribed in section 3101 or 3102.

21 (f) A bus operated by a canoe or other watercraft, bicycle, or
22 horse livery used only to transport passengers to or from a
23 destination point.

24 (3) An employee, his or her spouse, or a relative of either
25 domiciled in the same household, who suffers accidental bodily
26 injury while an occupant of a motor vehicle owned or registered by
27 the employer, shall receive personal protection insurance benefits

1 to which the employee is entitled from the insurer of the furnished
2 vehicle.

3 (4) Except as provided in subsections (1) to (3), **(7), AND**
4 **(8)**, a person suffering accidental bodily injury arising from a
5 motor vehicle accident while an occupant of a motor vehicle shall
6 claim personal protection insurance benefits from insurers in the
7 following order of priority:

8 (a) The insurer of the owner or registrant of the vehicle
9 occupied.

10 (b) The insurer of the operator of the vehicle occupied.

11 (5) ~~A-EXCEPT AS PROVIDED IN SUBSECTIONS (7) AND (8), A~~ person
12 suffering accidental bodily injury arising from a motor vehicle
13 accident ~~which-THAT~~ shows evidence of the involvement of a motor
14 vehicle while an operator or passenger of a motorcycle shall claim
15 personal protection insurance benefits from insurers in the
16 following order of priority:

17 (a) The insurer of the owner or registrant of the motor
18 vehicle involved in the accident.

19 (b) The insurer of the operator of the motor vehicle involved
20 in the accident.

21 (c) The motor vehicle insurer of the operator of the
22 motorcycle involved in the accident.

23 (d) The motor vehicle insurer of the owner or registrant of
24 the motorcycle involved in the accident.

25 (6) If 2 or more insurers are in the same order of priority to
26 provide personal protection insurance benefits under subsection
27 (5), an insurer paying benefits due is entitled to partial

1 recoupment from the other insurers in the same order of priority,
2 together with a reasonable amount of partial recoupment of the
3 expense of processing the claim, in order to accomplish equitable
4 distribution of the loss among all of the insurers.

5 (7) AN AUTOMOBILE INSURANCE POLICY ISSUED UNDER CHAPTER 32A
6 APPLIES ONLY TO THE OWNER OR REGISTRANT OF THE MOTOR VEHICLE
7 INSURED UNDER THE POLICY, NOT TO THE OWNER'S OR REGISTRANT'S SPOUSE
8 OR A RELATIVE OF EITHER DOMICILED IN THE SAME HOUSEHOLD. AN OWNER
9 OR REGISTRANT OF A MOTOR VEHICLE INSURED UNDER AN AUTOMOBILE
10 INSURANCE POLICY ISSUED UNDER CHAPTER 32A IS NOT ENTITLED TO
11 BENEFITS DESCRIBED IN THIS SECTION UNDER AN AUTOMOBILE INSURANCE
12 POLICY ISSUED TO ANY OF THE FOLLOWING:

13 (A) THE OWNER'S OR REGISTRANT'S SPOUSE, RELATIVE, OR
14 RELATIVE'S SPOUSE.

15 (B) THE OWNER, REGISTRANT, OR OPERATOR OF ANOTHER VEHICLE
16 OCCUPIED BY THE OWNER OR REGISTRANT OF THE MOTOR VEHICLE INSURED
17 UNDER THE POLICY ISSUED UNDER CHAPTER 32A.

18 (8) OTHER THAN RESIDUAL LIABILITY BENEFITS DESCRIBED IN
19 SECTION 3009, AN INDIVIDUAL OTHER THAN THE OWNER OR REGISTRANT OF A
20 MOTOR VEHICLE INSURED UNDER AN AUTOMOBILE INSURANCE POLICY ISSUED
21 UNDER CHAPTER 32A IS NOT ENTITLED TO BENEFITS UNDER THE POLICY. THE
22 INDIVIDUAL, IF INJURED WHILE AN OCCUPANT OF THE MOTOR VEHICLE OR IN
23 A MOTOR VEHICLE ACCIDENT THAT SHOWS EVIDENCE OF THE INVOLVEMENT OF
24 THE MOTOR VEHICLE, IS ONLY ENTITLED TO PERSONAL PROTECTION BENEFITS
25 THAT ARE OTHERWISE AVAILABLE TO THE INDIVIDUAL UNDER THIS CHAPTER.

26 Sec. 3115. (1) Except as provided in ~~subsection (1) of section~~
27 ~~3114-3114(1)~~, a person suffering accidental bodily injury while not

1 an occupant of a motor vehicle shall claim personal protection
2 insurance benefits from insurers in the following order of
3 priority:

4 (a) Insurers of owners or registrants of motor vehicles
5 involved in the accident.

6 (b) Insurers of operators of motor vehicles involved in the
7 accident.

8 (2) When 2 or more insurers are in the same order of priority
9 to provide personal protection insurance benefits an insurer paying
10 benefits due is entitled to partial recoupment from the other
11 insurers in the same order of priority, together with a reasonable
12 amount of partial recoupment of the expense of processing the
13 claim, in order to accomplish equitable distribution of the loss
14 among such insurers.

15 (3) A limit upon the amount of personal protection insurance
16 benefits available because of accidental bodily injury to 1 person
17 arising from 1 motor vehicle accident shall be determined without
18 regard to the number of policies applicable to the accident.

19 **(4) THE LIMIT OF LIABILITY FOR 2 OR MORE MOTOR VEHICLES UNDER**
20 **1 POLICY OR FOR 2 OR MORE POLICIES SHALL NOT BE ADDED TOGETHER,**
21 **COMBINED, OR STACKED TO DETERMINE THE LIMIT OF INSURANCE COVERAGE**
22 **AVAILABLE FOR EACH INJURED PERSON COVERED UNDER THE POLICY.**

23 Sec. 3135. (1) A person remains subject to tort liability for
24 noneconomic loss caused by his or her ownership, maintenance, or
25 use of a motor vehicle only if the injured person has suffered
26 death, serious impairment of body function, or permanent serious
27 disfigurement.

1 (2) For a cause of action for damages pursuant to subsection
2 (1) filed on or after July 26, 1996, all of the following apply:

3 (a) The issues of whether the injured person has suffered
4 serious impairment of body function or permanent serious
5 disfigurement are questions of law for the court if the court finds
6 either of the following:

7 (i) There is no factual dispute concerning the nature and
8 extent of the person's injuries.

9 (ii) There is a factual dispute concerning the nature and
10 extent of the person's injuries, but the dispute is not material to
11 the determination whether the person has suffered a serious
12 impairment of body function or permanent serious disfigurement.
13 However, for a closed-head injury, a question of fact for the jury
14 is created if a licensed allopathic or osteopathic physician who
15 regularly diagnoses or treats closed-head injuries testifies under
16 oath that there may be a serious neurological injury.

17 (b) Damages shall be assessed on the basis of comparative
18 fault, except that damages shall not be assessed in favor of a
19 party who is more than 50% at fault.

20 (c) Damages shall not be assessed in favor of a party who was
21 operating his or her own vehicle at the time the injury occurred
22 and did not have in effect for that motor vehicle the security
23 required by section 3101 at the time the injury occurred.

24 **(D) IF THE INJURED PERSON WAS THE OWNER OR REGISTRANT OF A**
25 **MOTOR VEHICLE INSURED UNDER A POLICY ISSUED UNDER CHAPTER 32A, THE**
26 **INJURED PERSON IS LIMITED TO A RECOVERY OF \$20,000.00 IN THE**
27 **AGGREGATE FROM ALL PERSONS WHO ARE LIABLE UNDER SUBSECTION (1).**

1 (3) Notwithstanding any other provision of law, tort liability
2 arising from the ownership, maintenance, or use within this state
3 of a motor vehicle with respect to which the security required by
4 section 3101 was in effect is abolished except as to:

5 (a) Intentionally caused harm to persons or property. Even
6 though a person knows that harm to persons or property is
7 substantially certain to be caused by his or her act or omission,
8 the person does not cause or suffer that harm intentionally if he
9 or she acts or refrains from acting for the purpose of averting
10 injury to any person, including himself or herself, or for the
11 purpose of averting damage to tangible property.

12 (b) Damages for noneconomic loss as provided and limited in
13 subsections (1) and (2).

14 (c) Damages for allowable expenses, work loss, and survivor's
15 loss as defined in sections 3107 to 3110 in excess of the daily,
16 monthly, and 3-year limitations contained in those sections. The
17 party liable for damages is entitled to an exemption reducing his
18 or her liability by the amount of taxes that would have been
19 payable on account of income the injured person would have received
20 if he or she had not been injured. **THIS SUBDIVISION DOES NOT APPLY**
21 **TO AN OWNER OR REGISTRANT OF A MOTOR VEHICLE INSURED UNDER A POLICY**
22 **ISSUED UNDER CHAPTER 32A.**

23 (d) Damages for economic loss by a nonresident in excess of
24 the personal protection insurance benefits provided under section
25 3163(4). Damages under this subdivision are not recoverable to the
26 extent that benefits covering the same loss are available from
27 other sources, regardless of the nature or number of benefit

1 sources available and regardless of the nature or form of the
2 benefits.

3 (e) Damages up to \$1,000.00 to a motor vehicle, to the extent
4 that the damages are not covered by insurance. An action for
5 damages under this subdivision shall be conducted as provided in
6 subsection (4).

7 (4) All of the following apply to an action for damages under
8 subsection (3)(e):

9 (a) Damages shall be assessed on the basis of comparative
10 fault, except that damages shall not be assessed in favor of a
11 party who is more than 50% at fault.

12 (b) Liability is not a component of residual liability, as
13 prescribed in section 3131, for which maintenance of security is
14 required by this act.

15 (c) The action shall be commenced, whenever legally possible,
16 in the small claims division of the district court or the municipal
17 court. If the defendant or plaintiff removes the action to a higher
18 court and does not prevail, the judge may assess costs.

19 (d) A decision of the court is not res judicata in any
20 proceeding to determine any other liability arising from the same
21 circumstances that gave rise to the action.

22 (e) Damages shall not be assessed if the damaged motor vehicle
23 was being operated at the time of the damage without the security
24 required by section 3101.

25 (5) As used in this section, "serious impairment of body
26 function" means an objectively manifested impairment of an
27 important body function that affects the person's general ability

1 to lead his or her normal life.

2 CHAPTER 32A

3 LOW-COST AUTOMOBILE INSURANCE PILOT PROGRAM

4 SEC. 3275. AS USED IN THIS CHAPTER:

5 (A) "AUTOMOBILE INSURANCE" MEANS THAT TERM AS DEFINED IN
6 SECTION 2102.

7 (B) "FACILITY" MEANS THE MICHIGAN AUTOMOBILE INSURANCE
8 PLACEMENT FACILITY CREATED UNDER CHAPTER 33.

9 (C) "FEDERAL POVERTY GUIDELINES" MEANS THE POVERTY GUIDELINES
10 PUBLISHED ANNUALLY IN THE FEDERAL REGISTER BY THE UNITED STATES
11 DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER ITS AUTHORITY TO
12 REVISE THE POVERTY LINE UNDER 42 USC 9902.

13 (D) "INSURANCE AGENCY" MEANS AN AGENCY AS THAT TERM IS DEFINED
14 IN SECTION 1243.

15 (E) "INSURANCE PRODUCER" MEANS THAT TERM AS DEFINED IN SECTION
16 1201.

17 (F) "LCAP APPLICANT" MEANS AN INDIVIDUAL WHO MEETS ALL OF THE
18 QUALIFICATIONS OF SECTION 3277.

19 (G) "LOW-COST AUTOMOBILE INSURANCE POLICY" MEANS AN AUTOMOBILE
20 INSURANCE POLICY THAT SATISFIES THE REQUIREMENTS OF SECTION 3278.

21 SEC. 3276. AN OWNER OR REGISTRANT OF A MOTOR VEHICLE REQUIRED
22 TO BE REGISTERED IN THIS STATE WHO IS AN LCAP APPLICANT MAY COMPLY
23 WITH SECTION 3101 BY MAINTAINING A LOW-COST AUTOMOBILE INSURANCE
24 POLICY.

25 SEC. 3277. (1) TO QUALIFY FOR A LOW-COST AUTOMOBILE INSURANCE
26 POLICY, AN INDIVIDUAL MUST MEET ALL OF THE FOLLOWING
27 QUALIFICATIONS:

1 (A) RESIDE IN A HOUSEHOLD WITH A GROSS ANNUAL HOUSEHOLD INCOME
2 THAT IS EQUAL TO 300% OF THE FEDERAL POVERTY GUIDELINES OR LESS.

3 (B) HAVE BEEN CONTINUOUSLY LICENSED TO DRIVE AN AUTOMOBILE FOR
4 A PERIOD OF 3 YEARS.

5 (C) NOT HAVE HAD IN THE PRECEDING 3 YEARS MORE THAN 1 OF
6 EITHER, BUT NOT BOTH, OF THE FOLLOWING:

7 (i) A PROPERTY-DAMAGE-ONLY ACCIDENT IN WHICH HE OR SHE WAS
8 SUBSTANTIALLY AT FAULT.

9 (ii) AN INSURANCE ELIGIBILITY POINT FOR A MOVING VIOLATION, AS
10 DESCRIBED IN SECTION 2103.

11 (D) NOT HAVE HAD IN THE PRECEDING 3 YEARS A SUBSTANTIALLY AT-
12 FAULT ACCIDENT INVOLVING BODILY INJURY OR DEATH.

13 (E) NOT HAVE HAD A CONVICTION FOR 1 OR MORE OF THE FOLLOWING:

14 (i) A VIOLATION OF SECTION 625 OF THE MICHIGAN VEHICLE CODE,
15 1949 PA 300, MCL 257.625.

16 (ii) A VIOLATION DESCRIBED IN SECTION 601B OF THE MICHIGAN
17 VEHICLE CODE, 1949 PA 300, MCL 257.601B.

18 (iii) A FELONY OR MISDEMEANOR CONVICTION RELATING TO THE
19 OPERATION OF A MOTOR VEHICLE.

20 (2) AN INSURED UNDER A LOW-COST AUTOMOBILE INSURANCE POLICY
21 SHALL NOT PURCHASE OR MAINTAIN ANY AUTOMOBILE PERSONAL PROTECTION
22 INSURANCE COVERAGE OTHER THAN UNDER A LOW-COST AUTOMOBILE INSURANCE
23 POLICY FOR ANY ADDITIONAL VEHICLES IN THE INSURED'S HOUSEHOLD.

24 SEC. 3278. (1) AN INSURER THAT ISSUES A LOW-COST AUTOMOBILE
25 INSURANCE POLICY SHALL PROVIDE ALL OF THE FOLLOWING COVERAGE UNDER
26 THE POLICY:

27 (A) SECURITY AGAINST LOSS RESULTING FROM LIABILITY IMPOSED BY

1 LAW FOR PROPERTY DAMAGE, BODILY INJURY, OR DEATH SUFFERED BY A
2 PERSON ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF THE
3 MOTOR VEHICLE THAT MEETS THE REQUIREMENTS OF SECTION 3009.

4 (B) SECURITY FOR THE PAYMENT OF FIRST-PARTY MEDICAL BENEFITS,
5 PAYABLE IF THE OWNER OR REGISTRANT OF THE AUTOMOBILE IS INVOLVED IN
6 A MOTOR VEHICLE ACCIDENT, AS THAT TERM IS DEFINED IN SECTION 3101.
7 ALL OF THE FOLLOWING APPLY TO BENEFITS UNDER THIS SUBDIVISION:

8 (i) THE BENEFITS ARE PAYABLE ONLY FOR MEDICAL EXPENSES INCURRED
9 BECAUSE OF INJURY TO THE OWNER OR REGISTRANT.

10 (ii) THE BENEFITS ARE PAYABLE ONLY IF THERE IS NO OTHER HEALTH
11 AND ACCIDENT COVERAGE AVAILABLE TO THE OWNER OR REGISTRANT FOR THE
12 MEDICAL EXPENSES INCURRED.

13 (iii) THE LIMIT FOR BENEFITS IS \$50,000.00.

14 (iv) THE BENEFITS ARE PAYABLE ONLY FOR MEDICALLY APPROPRIATE
15 TREATMENT BY INDIVIDUALS LICENSED OR AUTHORIZED TO RENDER THE
16 TREATMENT UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA 368,
17 MCL 333.16101 TO 333.18838.

18 (2) AN INSURER ISSUING A LOW-COST AUTOMOBILE INSURANCE POLICY
19 SHALL NOT PROVIDE COVERAGE IN THE POLICY FOR THE PAYMENT OF
20 BENEFITS DESCRIBED IN CHAPTER 31 UNLESS THE BENEFITS ARE REQUIRED
21 UNDER THIS SECTION.

22 SEC. 3280. (1) THE FACILITY SHALL PROVIDE FOR ALL OF THE
23 FOLLOWING:

24 (A) THE EQUITABLE DISTRIBUTION OF LCAP APPLICANTS TO
25 DESIGNATED PARTICIPATING MEMBERS IN ACCORDANCE WITH THE PLAN OF
26 OPERATION AS AMENDED UNDER SECTION 3310(3).

27 (B) THE ISSUANCE OF LOW-COST AUTOMOBILE INSURANCE POLICIES TO

1 LCAP APPLICANTS AS PROVIDED IN THE AMENDED PLAN OF OPERATION.

2 (C) THE APPOINTMENT OF A NUMBER OF PARTICIPATING MEMBERS TO
3 ACT ON BEHALF OF THE FACILITY FOR THE DISTRIBUTION OF RISKS OR FOR
4 THE SERVICING OF INDIVIDUALS INSURED UNDER LOW-COST AUTOMOBILE
5 POLICIES, AS PROVIDED IN THE AMENDED PLAN OF OPERATION AND
6 CONSISTENT WITH THIS SECTION. THE FACILITY SHALL DO ALL OF THE
7 FOLLOWING:

8 (i) APPOINT THOSE MEMBERS HAVING THE 5 HIGHEST PARTICIPATION
9 RATIOS, AS DEFINED IN SECTION 3303 (E) (i), TO ACT ON BEHALF OF THE
10 FACILITY.

11 (ii) APPOINT UP TO 5 ADDITIONAL MEMBERS TO ACT ON BEHALF OF THE
12 FACILITY FROM AMONG OTHER MEMBERS WHO VOLUNTEER TO SO ACT AND WHO
13 MEET REASONABLE SERVICING STANDARDS ESTABLISHED IN THE AMENDED PLAN
14 OF OPERATION.

15 (iii) APPOINT ADDITIONAL MEMBERS TO ACT ON BEHALF OF THE
16 FACILITY AS NECESSARY TO DO ALL OF THE FOLLOWING:

17 (A) ASSURE CONVENIENT ACCESS TO THE LOW-COST AUTOMOBILE
18 POLICIES FOR ALL LCAP APPLICANTS IN THIS STATE.

19 (B) ASSURE A REASONABLE QUALITY OF SERVICE FOR INDIVIDUALS
20 INSURED UNDER LOW-COST AUTOMOBILE INSURANCE POLICIES.

21 (C) ASSURE A REASONABLE REPRESENTATION OF THE VARIOUS
22 INSURANCE MARKETING SYSTEMS.

23 (D) ASSURE REASONABLE CLAIMS HANDLING.

24 (E) ASSURE A REASONABLE RANGE OF CHOICE OF INSURERS FOR
25 INDIVIDUALS INSURED UNDER LOW-COST AUTOMOBILE INSURANCE POLICIES.

26 (D) STANDARDS AND MONITORING PROCEDURES TO ASSURE THAT
27 PARTICIPATING MEMBERS ACTING ON BEHALF OF THE FACILITY WITH RESPECT

1 TO LOW-COST AUTOMOBILE INSURANCE POLICIES DO ALL OF THE FOLLOWING:

2 (i) PROVIDE SERVICE TO INDIVIDUALS INSURED THAT IS EQUIVALENT
3 TO THE SERVICE PROVIDED TO PERSONS INSURED BY THE INSURER
4 VOLUNTARILY.

5 (ii) HANDLE CLAIMS IN AN EFFICIENT AND REASONABLE MANNER.

6 (iii) PROVIDE INTERNAL REVIEW PROCEDURES FOR INDIVIDUALS INSURED
7 IDENTICAL TO THOSE ESTABLISHED UNDER CHAPTER 21 FOR PERSONS INSURED
8 VOLUNTARILY.

9 (E) THE ESTABLISHMENT OF PROCEDURES AND GUIDELINES FOR THE
10 ISSUANCE OF BINDERS BY INSURANCE PRODUCERS ON RECEIPT OF THE
11 APPLICATION FOR COVERAGE.

12 (2) SECTIONS 3330, 3340(1) TO (3), 3355, 3360, AND 3380 APPLY
13 TO THE OFFERING OF LOW-COST AUTOMOBILE INSURANCE POLICIES THROUGH
14 THE FACILITY.

15 (3) A LOW-COST AUTOMOBILE INSURANCE POLICY SHALL BE ISSUED FOR
16 AN INITIAL TERM OF 6 MONTHS, RENEWABLE FOR SUBSEQUENT 6-MONTH
17 TERMS.

18 SEC. 3281. THE OTHER CHAPTERS OF THIS ACT APPLY TO THIS
19 CHAPTER UNLESS THE APPLICATION OF A PROVISION IN ANOTHER CHAPTER
20 WOULD BE INCONSISTENT WITH THIS CHAPTER.

21 SEC. 3282. (1) AN INSURANCE PRODUCER THAT OFFERS AUTOMOBILE
22 INSURANCE UNDER CHAPTER 33 SHALL OFFER LOW-COST AUTOMOBILE
23 INSURANCE POLICIES TO LCAP APPLICANTS.

24 (2) AN INSURANCE PRODUCER THAT OFFERS A LOW-COST AUTOMOBILE
25 INSURANCE POLICY SHALL PROVIDE TO AN LCAP APPLICANT A NOTICE
26 RELATING TO COVERAGE UNDER THE POLICY. THE INSURANCE PRODUCER SHALL
27 PROVIDE THE NOTICE IN A SEPARATE DOCUMENT AT THE TIME OF

1 APPLICATION AND INCLUDE THE FOLLOWING STATEMENT IN 14-POINT
2 BOLDFACED TYPE OR FONT:

3 WARNING

4 INSURANCE COVERAGE UNDER THE POLICY YOU ARE BUYING PROVIDES
5 ONLY LIMITED MEDICAL COVERAGE UP TO A MAXIMUM OF \$50,000.00. THE
6 MEDICAL INSURANCE COVERS ONLY YOU AS THE OWNER OF THE VEHICLE.

7 THIS INSURANCE DOES NOT PROVIDE BENEFITS THAT ARE PROVIDED
8 UNDER A POLICY OF NO-FAULT INSURANCE IN THIS STATE, INCLUDING, BUT
9 NOT LIMITED TO, ANY OF THE FOLLOWING:

10 WAGE-LOSS BENEFITS.

11 SURVIVOR'S BENEFITS.

12 FUNERAL EXPENSES.

13 REPLACEMENT SERVICES.

14 PERSONAL PROTECTION BENEFITS FOR PASSENGERS IN THE VEHICLE,
15 PEDESTRIANS, OR ANY OTHER INDIVIDUAL.

16 (3) IN APPLYING FOR A LOW-COST AUTOMOBILE INSURANCE POLICY, AN
17 LCAP APPLICANT SHALL CERTIFY, TO THE BEST OF THE APPLICANT'S
18 KNOWLEDGE AND BELIEF, WHETHER REPRESENTATIONS MADE IN THE
19 APPLICATION AND IN DOCUMENTS SUBMITTED TO DEMONSTRATE ELIGIBILITY
20 FOR THE LOW-COST AUTOMOBILE INSURANCE POLICY ARE TRUE AND CORRECT
21 AND WHETHER THEY CONTAIN ANY MATERIAL MISREPRESENTATIONS OR
22 OMISSIONS OF FACT.

23 (4) A CERTIFICATION OF THE APPLICANT UNDER SUBSECTION (3) THAT
24 THE REPRESENTATIONS IN THE APPLICATION ARE TRUE AND CORRECT IS
25 PROOF THAT THE APPLICANT MEETS THE QUALIFICATIONS.

26 (5) AN INSURANCE PRODUCER OR AGENCY OR AN AUTHORIZED

1 REPRESENTATIVE OR EMPLOYEE OF AN INSURANCE PRODUCER OR AGENCY
2 INVOLVED IN THE SALE OF AUTOMOBILE INSURANCE UNDER THIS CHAPTER IS
3 NOT LIABLE TO ANY PERSON FOR DAMAGES ARISING FROM THE REDUCTION OR
4 INADEQUACY OF AUTOMOBILE INSURANCE BENEFITS AND DOES NOT HAVE ANY
5 OTHER LIABILITY FOR DAMAGES CAUSED BY, ARISING OUT OF, OR RELATED
6 TO ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION CONCERNING THE
7 CHOICE OF AUTOMOBILE INSURANCE BENEFITS UNDER THIS CHAPTER.

8 SEC. 3283. AN INSURER MAY OFFER AN INSURED UNDER A LOW-COST
9 AUTOMOBILE INSURANCE POLICY A PREMIUM INSTALLMENT OPTION UNDER
10 WHICH THE INSURED MAY PAY A SPECIFIED PORTION OR PORTIONS OF THE
11 PREMIUM FOR THE LOW-COST AUTOMOBILE INSURANCE POLICY ON A PERIODIC
12 BASIS. A PREMIUM FOR A LOW-COST AUTOMOBILE INSURANCE POLICY SHALL
13 NOT BE FINANCED IN ANY OTHER MANNER.

14 SEC. 3284. (1) AN INSURER THAT ISSUES A LOW-COST AUTOMOBILE
15 INSURANCE POLICY UNDER THE PILOT PROGRAM MAY OFFER THE INSURED ANY
16 OTHER ADDITIONAL TYPE OF AUTOMOBILE INSURANCE COVERAGE SUCH AS
17 UNINSURED MOTORISTS COVERAGE OR COLLISION COVERAGE THAT IS NOT
18 AVAILABLE UNDER THE LOW-COST AUTOMOBILE INSURANCE POLICY.

19 (2) AN INSURER SHALL NOT CONDITION THE SALE OF A LOW-COST
20 AUTOMOBILE INSURANCE POLICY ON THE PURCHASE OF ANY OTHER PRODUCT OR
21 SERVICE.

22 SEC. 3285. (1) A PERSON WHO LAWFULLY RENDERS TREATMENT TO AN
23 INJURED INDIVIDUAL FOR AN ACCIDENTAL BODILY INJURY COVERED BY A
24 LOW-COST AUTOMOBILE INSURANCE POLICY MAY CHARGE A REASONABLE AMOUNT
25 FOR THE PRODUCTS, SERVICES, AND ACCOMMODATIONS RENDERED. THE CHARGE
26 SHALL NOT EXCEED THE AMOUNT THE PERSON CUSTOMARILY RECEIVES FOR
27 LIKE PRODUCTS, SERVICES, AND ACCOMMODATIONS IN CASES THAT DO NOT

1 INVOLVE AUTOMOBILE INSURANCE, THE PROGRAM FOR MEDICAL ASSISTANCE
2 FOR THE MEDICALLY INDIGENT UNDER THE SOCIAL WELFARE ACT, 1939 PA
3 280, MCL 400.1 TO 400.119B, OR THE FEDERAL MEDICARE PROGRAM
4 ESTABLISHED UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT, 42 USC
5 1395 TO 1395KKK-1.

6 (2) ANY INFORMATION NEEDED BY AN INSURER TO DETERMINE THE
7 APPROPRIATE REIMBURSEMENT UNDER THIS SECTION SHALL BE PROVIDED BY
8 THE PERSON PROVIDING THE TREATMENT OR REHABILITATIVE OR
9 OCCUPATIONAL TRAINING.

10 (3) IF AN INSURER NEEDS INFORMATION TO DETERMINE THE
11 APPROPRIATE REIMBURSEMENT UNDER THIS SECTION AND THE INFORMATION IS
12 UNAVAILABLE OR NOT PROVIDED OR THE INFORMATION PROVIDED IS NOT
13 SUFFICIENT TO DETERMINE THE APPROPRIATE REIMBURSEMENT, THE INSURER
14 SHALL PAY THE AMOUNT THAT WOULD BE PAID UNDER R 418.10101 TO R
15 418.101503 OF THE MICHIGAN ADMINISTRATIVE CODE OR SCHEDULES OF
16 MAXIMUM FEES FOR WORKER'S DISABILITY COMPENSATION DEVELOPED UNDER
17 THOSE RULES.

18 (4) WHETHER A CHARGE IS REASONABLE OR WHETHER A PRODUCT,
19 SERVICE, OR ACCOMMODATION IS MEDICALLY APPROPRIATE AND MEDICALLY
20 NECESSARY IS A QUESTION OF LAW TO BE DECIDED BY THE COURT.

21 SEC. 3287. BY APRIL 1, 2014 AND BY APRIL 1 OF EACH SUBSEQUENT
22 YEAR, THE AUTOMOBILE INSURERS WHO ARE PARTICIPATING IN THE LOW-COST
23 AUTOMOBILE INSURANCE PROGRAM SHALL SUBMIT THE LOSS AND EXPENSE DATA
24 FROM LOW-COST AUTOMOBILE INSURANCE POLICIES AND A PROPOSED RATE FOR
25 THE LOW-COST AUTOMOBILE INSURANCE POLICY TO THE DIRECTOR.

26 SEC. 3288. BY AUGUST 1, 2016 AND BY AUGUST 1 OF EACH
27 SUBSEQUENT YEAR, THE DIRECTOR SHALL REPORT TO THE LEGISLATURE ON

1 SALES OF LOW-COST AUTOMOBILE INSURANCE POLICIES AND THE RESULTS OF
2 THOSE SALES.

3 SEC. 3289. THE DIRECTOR MAY ISSUE AN ORDER OR PROMULGATE RULES
4 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL
5 24.201 TO 24.328, TO IMPLEMENT THIS CHAPTER.

6 SEC. 3290. THIS CHAPTER DOES NOT APPLY AFTER JULY 31, 2019.

7 Sec. 3301. (1) Every insurer authorized to write automobile
8 insurance in this state shall participate in an organization for
9 the purpose of doing all of the following:

10 (a) Providing the guarantee that automobile insurance coverage
11 will be available to any person who is unable to procure that
12 insurance through ordinary methods.

13 (b) Preserving to the public the benefits of price competition
14 by encouraging maximum use of the normal private insurance system.

15 (C) ASSURING THAT LOW-COST AUTOMOBILE INSURANCE POLICIES ARE
16 OFFERED AND ISSUED IN THIS STATE UNDER CHAPTER 32A.

17 (2) The organization created under this chapter shall be
18 called the "Michigan automobile insurance placement facility".

19 Sec. 3310. (1) The board of governors of the facility shall
20 consist of 11 governors. Seven of the governors shall be elected as
21 provided in the plan of operation. Four governors shall be
22 appointed by the ~~commissioner~~, **DIRECTOR**, of which 2 shall represent
23 insurance agents subject to section 1209(1) and 2 shall represent
24 the general public. Each governor appointed by the ~~commissioner~~
25 ~~pursuant to~~ **DIRECTOR UNDER** this subsection shall serve an annual
26 term. The 7 elected members of the board of governors of the
27 facility shall be elected to serve annual terms commencing within

1 45 days after the annual determination of participation ratios.
 2 Vacancies shall be filled as provided for in the plan of operation.

3 (2) **AMENDMENTS TO THE PLAN OF OPERATION FOR THE FACILITY ARE**
 4 **SUBJECT TO MAJORITY APPROVAL BY THE BOARD OF GOVERNORS AND**
 5 **RATIFICATION BY A MAJORITY OF THE MEMBERSHIP. THE MEMBERSHIP VOTE**
 6 **SHALL BE DETERMINED BY PARTICIPATION RATIO AS DEFINED IN SECTION**
 7 **3303 (E) (iii) .** ~~The facility committee shall adopt a plan of operation~~
 8 ~~by majority vote of the committee and~~ **APPROVED AND RATIFIED**
 9 **AMENDMENTS** ~~shall submit it~~ **BE SUBMITTED** to the ~~commissioner~~
 10 **DIRECTOR** for his or her approval. If the ~~commissioner~~ **DIRECTOR**
 11 finds that the **AMENDMENTS TO THE** plan ~~meets~~ **MEET** the requirements
 12 of this chapter **AND CHAPTER 32A, AS APPLICABLE**, he or she shall
 13 approve ~~it~~. ~~THEM~~. If the ~~commissioner~~ **DIRECTOR** finds that the
 14 **AMENDMENTS TO THE** plan ~~fails~~ **FAIL** to meet the requirements of this
 15 chapter **OR CHAPTER 32A, AS APPLICABLE**, he or she shall state in
 16 what respects the ~~plan is~~ **AMENDMENTS ARE** deficient and shall afford
 17 the ~~facility committee~~ **BOARD OF GOVERNORS** 10 days within which to
 18 correct the deficiency. If the ~~commissioner~~ **DIRECTOR** and the
 19 ~~facility committee~~ **BOARD OF GOVERNORS** fail to agree that the
 20 ~~provisions of~~ **CORRECTED AMENDMENTS TO** the plan so submitted meet
 21 the requirements of this chapter **OR CHAPTER 32A, AS APPLICABLE**,
 22 either party to the controversy may submit the issue to the circuit
 23 court for Ingham county for a determination. If the ~~commissioner~~
 24 **DIRECTOR** fails to render a written decision on the **AMENDMENTS TO**
 25 **THE** plan of operation within 30 days after receipt of the ~~plan~~,
 26 **AMENDMENTS**, the ~~plan~~ **AMENDMENTS** shall be considered approved.

27 ~~—— (3) Amendments to the plan of operation shall be subject to~~

1 ~~majority approval by the board of governors and ratified by~~
2 ~~majority of the membership vote. The membership vote shall be~~
3 ~~determined as defined in section 3303(c) (iii). Amendments to the plan~~
4 ~~of operation shall be subject to the approval of the commissioner,~~
5 ~~as provided in subsection (2).~~

6 (3) BY SEPTEMBER 1, 2013, THE BOARD OF GOVERNORS SHALL APPROVE
7 AMENDMENTS TO THE PLAN OF OPERATION TO ASSURE THAT LOW-COST
8 AUTOMOBILE INSURANCE POLICIES UNDER CHAPTER 32A ARE OFFERED TO
9 RESIDENTS OF THIS STATE. THE AMENDMENTS SHALL BE SUBMITTED TO THE
10 MEMBERS FOR RATIFICATION AND TO THE DIRECTOR FOR APPROVAL, AS
11 REQUIRED BY SUBSECTION (2), SO THAT THE AMENDMENTS WILL BE IN PLACE
12 AND LOW-COST AUTOMOBILE INSURANCE POLICIES OFFERED IN THIS STATE BY
13 JANUARY 1, 2014.

14 (4) Every insurer authorized to write automobile insurance in
15 this state shall adhere to the plan of operation.