

THE INSURANCE CODE OF 1956 (EXCERPT)

Act 218 of 1956

CHAPTER 29

BASIC PROPERTY INSURANCE

500.2901 Definitions.

Sec. 2901. As used in this chapter:

(a) "Basic property insurance" means:

(i) Insurance against direct loss to any property caused by perils as defined and limited in a fire policy as provided in chapter 28 and an extended coverage indorsement and a vandalism and malicious mischief indorsement or combination thereof as approved by the commissioner.

(ii) The following insurance coverages in the amounts and subject to the deductibles and policy provisions approved by the commissioner:

(A) Residence burglary and robbery.

(B) Mercantile robbery.

(C) Office burglary and robbery.

(D) Storekeeper's burglary and robbery.

(E) Mercantile safe burglary.

(F) Mercantile open stock burglary.

(b) "Inspection bureau" means an organization designated by the commissioner to act as the inspection bureau.

(c) "Qualified property", for basic property insurance, means all real and tangible personal property at fixed locations whether or not subject to exposure from an external hazard located on property not owned or controlled by the prospective insured, and whether or not subject to exposure from riot hazard, which meets all of the following requirements:

(i) Is not used for farm purposes.

(ii) Complies with applicable state and local building codes and ordinances to the extent conditions on the property reasonably related to the perils insured against cannot be the subject of, or provide the basis for, a corrective administrative or judicial order, a criminal prosecution, or a civil fine or penalty. For purposes of this chapter, the housing law of Michigan, Act No. 167 of the Public Acts of 1917, as amended, being sections 125.401 to 125.543 of the Michigan Compiled Laws, shall be considered to constitute, without regard to the population limitations set forth in that act, the basic minimum applicable standard for qualified property, and may be applied for purposes of determining conformity with this section as if it were enforceable against all property in the state.

(iii) Is not commonly owned or controlled, or combinable for rating purposes, with property insured for similar coverages elsewhere.

(iv) Is not owned or controlled by any person or group of persons, except a city, county, township, village, school district, college, university, other political subdivision of this state, or an agency of a political subdivision of this state, who owns or controls property within this state with an aggregate insurable value in excess of 5% of the aggregate assessable premiums for all participating members for the most recent available calendar year.

(v) Is not used or occupied for an illegal purpose.

(vi) Is protected, where coverage included in subdivision (a)(ii) is applied for, by all appropriate protective devices, services, and procedures required pursuant to section 2924.

(d) "Assessable premiums", for basic property insurance, means gross direct premiums less all premiums and dividends returned to policyholders on policies written in this state for the following kinds of insurance: fire, extended coverage and allied lines, burglary and theft, inland marine, the components comparable to the foregoing in commercial multiple peril, and any other kind of insurance included in the definition of basic property insurance in subdivision (a). Aggregate premiums shall exclude premiums attributable to operation of the pool, premiums on farm property, and premiums on policies covering solely aircraft, watercraft, and motor vehicles.

(e) "Home insurance" means a homeowners multiple peril insurance policy for qualified property containing all of the following, but does not include insurance intended to insure commercial, industrial, professional, or business property, obligations, or liabilities:

(i) Fire insurance for an insured's dwelling of a type described in section 2103(2).

(ii) If contained in or endorsed to a fire insurance policy providing insurance for the insured's residence, other insurance intended primarily to insure nonbusiness property, obligations, or liabilities.

(iii) Other insurance coverages for an insured's residence as prescribed by rule promulgated by the commissioner pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws. A rule proposed for promulgation pursuant to this section shall be transmitted in advance to each member of the standing committee in the house and the senate which has jurisdiction over insurance.

(f) "Qualified property", for home insurance, means an owner-occupied or tenant-occupied dwelling of the following types: a house, a condominium unit, a cooperative unit, a room, an apartment, or an owner-occupied multiple unit dwelling of not more than 4 residential units that:

(i) Meets all the requirements set forth in subdivision (c).

(ii) Is not being used for a demonstrably hazardous purpose.

(iii) Meets the minimum standards of insurability as established by rule promulgated by the commissioner pursuant to Act No. 306 of the Public Acts of 1969, as amended.

(iv) Is not intended for commercial, industrial, professional, or business purposes, obligations, or liabilities.

(g) "Qualified applicant", for home insurance, means a person who is an owner-occupant or a tenant-occupant of a qualified property for home insurance, but does not include a person who, in the immediately preceding 5 years, was either of the following:

(i) Convicted of 1 or more of the following:

(A) Arson, or conspiracy to commit arson.

(B) A crime under sections 72 to 77, 112, 211a, 377a, 377b, or 380 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, as amended, being sections 750.72 to 750.77, 750.112, 750.211a, 750.377a, 750.377b, and 750.380 of the Michigan Compiled Laws.

(C) A crime under section 92, 151, 157b, or 218 of Act No. 328 of the Public Acts of 1931, as amended, being sections 750.92, 750.151, 750.157b, and 750.218 of the Michigan Compiled Laws, based upon a crime listed in subparagraph (B) committed by or on behalf of the individual.

(ii) Successfully denied payments by the pool, based on fraud or conspiracy to commit fraud by or on behalf of the applicant, of a claim in excess of \$2,000.00 under a home insurance policy, and if the amount of the denied claim was greater than either of the following:

(A) For a claim under a repair cost policy, 15% of the amount of insurance in force.

(B) For a claim under a replacement cost policy, 10% of the amount of insurance in force.

(h) "Assessable premiums", for home insurance, means gross direct premiums less all premiums and dividends returned to policyholders on policies written in this state as homeowners multiple peril insurance.

(i) "Aggregate assessable premiums" means the assessable premiums for basic property insurance plus the assessable premiums for home insurance.

(j) "Participating member" means any member of the pool which in any pertinent calendar period has aggregate assessable premiums greater than zero.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1971, Act 74, Eff. Aug. 1, 1971;—Am. 1979, Act 145, Eff. Mar. 1, 1980;—Am. 1980, Act 461, Imd. Eff. Jan. 15, 1981;—Am. 1982, Act 428, Eff. Mar. 30, 1983;—Am. 1990, Act 305, Imd. Eff. Dec. 14, 1990.

Popular name: Act 218

Popular name: Essential Insurance

500.2910 Inspection of property; requests; operation of inspection bureau.

Sec. 2910. (1) Any person having an insurable interest in real and tangible personal property at fixed locations shall be entitled upon request to an inspection of the property by representatives of the inspection bureau. Such request shall be upon forms approved by the commissioner.

(2) The plan of operation of the inspection bureau, the manner and scope of the inspection and the form of the inspection report shall be prescribed by the inspection bureau in written report subject to approval by the commissioner.

(3) A copy of the inspection report shall be made available to the applicant or his agent or the insurer upon request.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968.

Popular name: Act 218

Popular name: Essential Insurance

500.2912 Issuing insurance at rate requiring consent under MCL 500.2414 or 500.2614; inspection; sworn statements; false affidavits; employing services of surplus lines agent; forms of sworn statements; descriptions of rights.

Sec. 2912. (1) A person shall not be issued a policy of home insurance at a rate requiring consent under

section 2414 or 2614. A person shall not be issued basic property insurance coverage at a rate requiring consent under section 2414 or 2614 until an inspection has been made by the inspection bureau and the person has filed with the inspection bureau a sworn statement acknowledging his or her rights under this chapter and waiving those rights. The person's agent shall make a sworn statement that the person has been fully advised of his or her rights under this chapter and has been furnished a written description of those rights.

(2) A false affidavit by an agent is grounds for refusal, suspension, or revocation of license pursuant to section 1242.

(3) A person shall not employ the services of a surplus lines agent in obtaining basic property or home insurance until the person has filed with the commissioner a sworn statement acknowledging and waiving his or her rights under this chapter. The person's surplus lines agent shall make a sworn statement that the person has been fully advised of his or her rights under this chapter and has been furnished a written description of those rights.

(4) A false affidavit by a surplus lines agent constitutes grounds for refusal, suspension, or revocation of license pursuant to section 1242.

(5) The commissioner shall prescribe the forms of sworn statements and written descriptions of rights used in connection with this section.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1971, Act 74, Eff. Aug. 1, 1971;—Am. 1972, Act 133, Eff. Mar. 30, 1973;—Am. 1979, Act 145, Eff. Mar. 1, 1980.

Popular name: Act 218

Popular name: Essential Insurance

500.2920 Michigan basic property insurance association or “pool”; membership; plan of operation and amendments to plan; approval; compliance; designation of members as servicing facilities; reimbursement and authority of facility; rules; rights and liabilities of pool.

Sec. 2920. (1) To implement the provisions of this chapter, there shall be maintained within this state, by all insurers authorized to transact in this state any of the kinds of insurance included in the definition of assessable premiums for basic property insurance and included in the definition of assessable premiums for home insurance, as those definitions are set forth in section 2901, other than insurers transacting insurance exclusively under chapter 68, an association of insurers to be known as the "Michigan basic property insurance association", hereafter referred to as the "pool". Every insurer described in this subsection shall be a member of the pool, as a condition of its authority to continue to transact insurance in this state.

(2) The pool shall adopt a plan of operation and any amendments to the plan, not inconsistent with this chapter, necessary to assure the fair, reasonable, equitable, and nondiscriminatory manner of administering the pool, including compliance with chapter 21, and to provide for any other matters as are necessary or advisable to implement this chapter. The plan of operation and any amendments to the plan shall be subject to prior written approval by the commissioner. All members of the pool shall comply with the plan of operation.

(3) In accordance with its plan of operation the pool may designate 1 or more of its members as servicing facilities. Each facility shall be reimbursed for its expenses and shall have the authority to issue policies and to perform any functions of the pool that the governors lawfully may delegate to it. The designation of facilities shall be subject to the approval of the commissioner. This section does not authorize an insurer to transact insurance which it is not otherwise authorized by law to transact.

(4) If for any reason the pool fails to adopt suitable needed amendments to the plan, the commissioner shall adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this chapter, which rules shall continue in force until modified by the commissioner or superseded by a plan of operation adopted by the pool and approved by the commissioner.

(5) The pool, either in its own name or through servicing facilities, may be sued and may use the courts to assert or defend any rights it may have under any policy of insurance or reinsurance issued in its name or by virtue of this chapter as reasonably necessary fully to effectuate the provisions of this chapter. A judgment against the pool shall not create any liabilities in the individual members of the pool except those provided in this chapter.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1971, Act 74, Eff. Aug. 1, 1971;—Am. 1979, Act 145, Eff. Mar. 1, 1980.

Popular name: Act 218

Popular name: Essential Insurance

500.2921 Board of governors as manager of pool; appointment, election, qualifications, and term of members; time of election; allotment of votes; increasing number of governors;

vacancy.

Sec. 2921. (1) The pool shall be managed by a board, composed of 13 governors, each of whom shall serve for a term of 1 year. Four governors shall be appointed by the commissioner, 2 of whom shall be representative of insurance agents and 2 of whom shall be representative of the general public. Nine governors shall be elected by the participating members of the pool. The election shall be held within 60 days after the annual determination of aggregate assessable premiums for members of the pool. Each participating member shall be allotted votes equal to the number of whole dollars of aggregate assessable premiums written by the member during the preceding calendar year. Each participating member may divide its allotted votes among not more than 3 candidates' seats on the board. At least 4 members of the board of governors shall be from participating domestic members and shall be representative of all classifications of insurers to the degree possible. The number of governors may be increased by amendment of the plan of operation to a maximum of 21 governors. Two additional representatives of the general public shall be appointed by the commissioner, if the number of governors is increased. Other additional governors shall be elected by the participating members. At no time, however, shall representatives of the general public comprise more than 1/3 of the total membership of the board.

(2) Any vacancy on the board for a governor representing participating members shall be filled by a vote of the remaining governors representing those members.

(3) If at any time the participating members fail to elect the required number of governors within the time prescribed or a vacancy remains unfilled for more than 15 days, the commissioner may appoint the governors necessary to constitute a full board.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1971, Act 74, Eff. Aug. 1, 1971;—Am. 1979, Act 145, Eff. Mar. 1, 1980;—Am. 1980, Act 461, Imd. Eff. Jan. 15, 1981.

Popular name: Act 218

Popular name: Essential Insurance

500.2923 Agents writing insurance on behalf of pool; commissions; losses.

Sec. 2923. (1) The pool, by its plan of operation, may provide that any agent licensed to write a kind of insurance included in the definition of basic property insurance or home insurance set forth in section 2901 on behalf of any participating member, may write that kind of insurance on behalf of the pool without obtaining an additional license to represent the pool.

(2) The pool, as part of its plan of operation, shall adopt reasonable and adequate commissions to be paid to agents who write and service policies on behalf of the pool.

(3) Losses incurred by an agent relative to policies written under the provisions of this chapter shall not be used by an insurer in determining the loss ratio of its agents.

History: Add. 1971, Act 74, Eff. Aug. 1, 1971;—Am. 1979, Act 145, Eff. Mar. 1, 1980.

Popular name: Act 218

Popular name: Essential Insurance

500.2924 Underwriting standards employed in determining acceptable risk for basic property insurance; basis of underwriting program for home insurance.

Sec. 2924. (1) The pool shall adopt, as part of its plan of operation, reasonable underwriting standards to be employed by it in determining whether or not a risk is acceptable for basic property insurance by the pool. The standards may include, but need not be limited to, protective devices, deductibles, coinsurance provisions, appropriate record keeping and limitations, not inconsistent with this chapter, on the amount of insurance that may be provided with respect to any 1 risk. The standards shall be relevant to the perils insured against and shall be consistent with the definition of qualified property, for basic property insurance, contained in section 2901.

(2) The pool shall adopt, as part of its plan of operation, a reasonable underwriting program for home insurance under which all qualified applicants may obtain home insurance for qualified property for home insurance in a convenient manner. The underwriting program shall be based only upon the following:

(a) The insured value under a replacement cost policy must be equal to at least 80% of the replacement cost of the property to be insured, as determined by inspection.

(b) The minimum insured value requirement for a repair cost policy shall be equal to at least 100% of the market value of the property to be insured. Policies may be issued in amounts up to 120% of the market value of the property to be insured.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1971, Act 74, Eff. Aug. 1, 1971;—Am. 1979, Act 145, Eff. Mar. 1, 1980.

Popular name: Act 218

Popular name: Essential Insurance

500.2925 Application to pool for basic property insurance; form; findings; issuance of policy; reinsuring policies; statement required if risk found not acceptable; term of policy; renewal of policy; waiver of inspection; issuance and term of binders.

Sec. 2925. (1) Any person who has an insurable interest in real or tangible personal property at fixed locations may apply to the pool for basic property insurance. The form of the application shall be prescribed by the commissioner.

(2) If the pool finds that: (a) the property has been inspected by the inspection bureau within the preceding 6 months; (b) the applicant made a good faith, diligent effort to obtain the same type of insurance through established channels in the insurance market provided by authorized insurers in this state appropriate to the nature, character, and value of the property; (c) there is no unpaid premium with respect to prior insurance on the property; and (d) the property constitutes qualified property and is an acceptable risk under the standards of the pool, then the pool in its own name, or a servicing facility in its own name, upon receipt of the premium, shall issue a policy for the applied for insurance. Policies issued in the name of a servicing facility may be reinsured by the pool.

(3) If the pool finds that the property is not an acceptable risk, the applicant shall be entitled to a written statement setting forth the features of the property or conditions which prevent it from constituting an acceptable risk and the measures which must be taken in order to make the property an acceptable risk.

(4) Policies issued by the pool or a servicing facility shall have a term of 1 year.

(5) Policies issued by the pool or a servicing facility may be renewed upon property otherwise meeting the conditions of this chapter for 2 consecutive successive terms without additional inspection, if the pool waives the inspection.

(6) The pool, upon receipt of an appropriate premium, may cause the issuance of binders for the applied for insurance for a period not exceeding 60 days upon property which at the time of issuance of the binders has not complied with all the applicable conditions of this chapter.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1971, Act 74, Eff. Aug. 1, 1971;—Am. 1979, Act 145, Eff. Mar. 1, 1980.

Popular name: Act 218

Popular name: Essential Insurance

500.2925a Application to pool for home insurance; form; findings; issuance of policy; reinsuring policies; statement required if property or applicant not qualified; term of policy; renewal of policy; selection of dwellings for inspection; issuance and term of binders.

Sec. 2925a. (1) Any qualified applicant for home insurance may apply to the pool for home insurance. The form of the application shall be prescribed by the commissioner.

(2) If the pool finds upon inspection that the property is qualified property for home insurance and that the person is a qualified applicant for home insurance, then the pool in its own name or in the name of a servicing facility, upon receipt of the premium, shall issue a policy of home insurance under the pool's underwriting program. Policies issued in the name of a servicing facility may be reinsured by the pool.

(3) If the pool finds that the property is not qualified property for home insurance or that the applicant is not a qualified applicant for home insurance, the applicant shall be entitled to a written statement setting forth the features of the property or conditions which prevent it from constituting qualified property or the applicant from being a qualified applicant and the measures which must be taken in order to make the property qualified property for home insurance or to make the applicant a qualified applicant for home insurance.

(4) Policies issued by the pool or a servicing facility shall have a term of 1 year.

(5) Policies issued by the pool or a servicing facility may be renewed upon property otherwise meeting the conditions of this chapter for 2 consecutive successive terms without additional inspection, if the pool waives the inspection. However, the selection of dwellings for inspection upon renewal of policies shall not be based upon any of the following:

(a) Location, whether by political subdivision, census tract, zip code, neighborhood, or area which may be described as a block, set of blocks, or by street coordinates.

(b) The age of the dwelling or the age of its plumbing, heating, electrical, or structural components, or of any other components which form a part of the dwelling.

(c) The market value of a dwelling, unless the value is used as a minimum value above which all dwellings will be inspected.

(d) The amount of insurance, unless the amount is used as a minimum above which all dwellings will be inspected.

(e) Race, color, creed, marital status, sex, national origin, residence, age, disability, or lawful occupation.

(6) The pool, upon receipt of an appropriate premium, may cause the issuance of binders for the applied for insurance for a period not exceeding 60 days upon property which at the time of issuance of the binders has not complied with all the applicable conditions of this chapter.

History: Add. 1979, Act 145, Eff. Mar. 1, 1980;—Am. 1980, Act 461, Imd. Eff. Jan. 15, 1981;—Am. 1998, Act 26, Imd. Eff. Mar. 12, 1998.

Popular name: Act 218

Popular name: Essential Insurance

500.2925b Liability; inspection; enforcement by commissioner.

Sec. 2925b. (1) There shall be no civil liability, other than contractual liability where applicable, on the part of, and a cause of action of any nature shall not arise against, the commissioner, an insurer, the pool or any of its facilities, an inspection bureau, or an authorized representative, agent, employee, affiliate of the commissioner, an insurer, the pool or any of its facilities, or an inspection bureau or any licensed insurance agent for any of the following:

(a) Acts or omissions related solely to the physical condition of the property in an inspection conducted for insurance purposes pursuant to this chapter.

(b) Failure to conduct an inspection for insurance purposes pursuant to this chapter.

(2) Subsection (1) shall not prohibit the commissioner from enforcing any provisions of this chapter relating to inspections.

History: Add. 1979, Act 145, Eff. Mar. 1, 1980;—Am. 1980, Act 461, Imd. Eff. Jan. 15, 1981.

Popular name: Act 218

Popular name: Essential Insurance

500.2925c Notice of rights to obtain home insurance.

Sec. 2925c. On and after January 1, 1981, prior to the renewal of each residential policy issued under this chapter, the pool on a notice form prescribed by the commissioner shall notify each insured of his or her rights to obtain home insurance under chapter 21 and of his or her rights to obtain home insurance under this chapter.

History: Add. 1979, Act 145, Imd. Eff. Nov. 13, 1979.

Popular name: Act 218

Popular name: Essential Insurance

500.2926-500.2929 Repealed. 1971, Act 74, Eff. Aug. 1, 1971.

Compiler's note: The repealed sections pertained to liabilities, contributions, and insolvency of pool members.

Popular name: Act 218

Popular name: Essential Insurance

500.2930 Basic property insurance; amount of premium; surcharge; establishment of rates; filing rates and policy forms.

Sec. 2930. (1) The premium for basic property insurance of any risk by the pool shall be equal to the rate for identical insurance established by a licensed rating organization for identical insurance within this state plus a uniform surcharge approved by the commissioner.

(2) The pool shall establish rates for any basic property insurance that is without rates established by a licensed rating organization or that the pool, with the approval of the commissioner, determines should be otherwise rated in order to better effectuate the purposes of this chapter. The pool shall file with the commissioner for his or her approval each rate and each policy form to be issued by it. The pool, acting as agent for participating members, shall file policy forms for basic property insurance to be issued by participating members under the provisions of this chapter. Rates and policy forms shall be filed in accordance with this chapter as the commissioner designates.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1971, Act 74, Eff. Aug. 1, 1971;—Am. 1979, Act 145, Eff. Mar. 1, 1980;—Am. 2002, Act 492, Eff. Mar. 31, 2003.

Popular name: Act 218

Popular name: Essential Insurance

500.2930a Rates charged in territory for home insurance; conditions; limitation on premium for repair cost policy; development of plans, rules, classifications, territories, and calculation steps; policy forms; filing; definitions.

Sec. 2930a. (1) Except as otherwise provided in subsection (5)(c), rates charged in each territory by the pool for home insurance shall be actuarially determined and calculated to generate a total premium sufficient to cover the expected losses and expenses that the pool will likely incur during the projected period for which the rates will be effective, subject to the following:

(a) If the pool's actuarially indicated overall rate change is greater than 5% but less than or equal to 20%, the pool shall take 1/2 of the actuarially indicated rate change amount.

(b) If the pool's actuarially indicated overall rate change is greater than 20%, the pool shall take the full amount that exceeds 20%, plus 10%.

(c) If the pool's actuarially indicated overall rate change is less than 5%, the pool shall take the entire indicated rate change amount.

(2) Rates developed under this section are subject to the following:

(a) The rates shall not be revised more than annually.

(b) The rates shall be filed with the commissioner for prior approval. A filing is considered to be approved unless it is disapproved by the commissioner within 30 days after it is received.

(c) If the commissioner disapproves a filing within 30 days after it is received, he or she shall send written notice of disapproval to the pool specifying in what respects the filing fails to meet the requirements of this act and stating that the filing shall not become effective.

(d) If at any time after the 30-day period specified in subdivision (b) the commissioner finds that a filing does not meet the requirements of this act, the commissioner shall, after a hearing held on not less than 10 days' written notice specifying the matters to be considered at the hearing, issue an order specifying in what respects the commissioner finds that the filing fails to meet the requirements of this act and stating when, within a reasonable period after the date of the order, the filing shall be considered no longer effective.

(3) In addition to the requirements of subsections (1) and (2), the premium established for the repair cost policy offered by the pool shall not exceed the premium for an amount of insurance equal to 80% of the replacement cost of the property under the replacement cost policy of the pool equivalent to the HO-2 form replacement cost policy filed and in effect in this state for a licensed rating organization. Premiums for dwellings with identical replacement costs shall vary on a schedule determined by the pool in accordance with the insured value of the dwelling.

(4) The pool or any other association or organization designated by the pool shall develop its own actuarially justified statistical plans, rating rules, classifications, territories, and rating calculation steps for home insurance issued on behalf of the pool consistent with this section.

(5) The pool shall offer at least the following home insurance policy forms:

(a) An HO-2 form replacement cost policy equivalent to the HO-2 form replacement cost policy filed and in effect in this state for a licensed rating organization.

(b) A repair cost policy providing the deductibles, terms and conditions, perils insured against, and types and amounts of coverage equivalent to those provided by the HO-2 replacement cost policy filed and in effect for a licensed rating organization.

(c) An HO-3 form replacement cost policy equivalent to the HO-3 form replacement cost policy filed and in effect in this state for a licensed rating organization. The rates established by the pool for the HO-3 form replacement cost policy offered pursuant to this subdivision shall be actuarially determined and calculated to generate a total premium sufficient to cover the expected losses and expenses of the pool related to the HO-3 replacement cost policy that the pool will likely incur during the projected period for which the rates will be effective. The premium shall be adjusted fully in a single period or over several periods in a manner provided for in the plan of operation for any excess or deficient premiums from previous periods. Rates established by the pool under this subdivision shall not be based upon the methodology provided for in subsection (1).

(6) Policy forms shall be filed with the commissioner for prior approval.

(7) As used in this section:

(a) "Actuarially indicated overall rate change" means rate change calculated within the framework and principles of the casualty actuarial society that uses a permissible combined ratio of 100%.

(b) "Combined ratio" means the sum of the loss ratio and the expense ratio where the loss ratio is the ratio of incurred loss and loss adjustment expenses to earned premium and the expense ratio is the ratio of underwriting expenses to earned premium.

History: Add. 1979, Act 145, Eff. Mar. 1, 1980;—Am. 1980, Act 461, Imd. Eff. Jan. 15, 1981;—Am. 2002, Act 492, Eff. Mar. 31, 2003;—Am. 2012, Act 39, Imd. Eff. Mar. 6, 2012.

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500.2931 Limitation on annual premiums written by or on behalf of pool; premium ratios.

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Sec. 2931. (1) At no time shall the annual premiums directly written by the pool or on its behalf by servicing facilities exceed 10% of the aggregate assessable premiums for the previous calendar year.

(2) In order to assure that property in areas of the state receives an equitable opportunity to utilize the pool up to its premium capacity, it shall be the operating principle of the pool to maintain a ratio of the total premiums written by or on behalf of the pool in any 1 county in the state in any 1 calendar year to the total authorized premiums for the pool in that same year to the same ratio that the aggregate assessed valuation of all taxable nonfarm property situated in such county, assessed at state equalized value, bears to the aggregate assessed valuation of all taxable nonfarm property in the state, assessed at state equalized value, according to the most recent available official assessed valuation figure. Pool premium writings in 1 or more counties may exceed the ratios for such counties, if it is determined by the commissioner that there is and will be authorized premium capacity in the pool which will not be required or utilized to meet basic property insurance needs in other counties in the state during the calendar year.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1971, Act 74, Eff. Aug. 1, 1971.

Popular name: Act 218

Popular name: Essential Insurance

500.2932 Annual rate of assessment; establishment; purpose; basis; notice; payment of assessments; estimating assessable premiums; adjustment of premium rates; annual statement; assessments as income; deficit or surplus; advance assessments; exempting or deferring assessment; duration of certain rate adjustments; certain deficits carried forward; sharing assets, liabilities, income, and disbursements.

Sec. 2932. (1) At least once each calendar year, before October 1 for the succeeding calendar year, or at such other times as may be requested by the board of governors and approved by the commissioner, the board shall establish the annual rate of assessment needed to cover any anticipated deficit from the operation of the pool. There shall be separate assessments for anticipated deficits with respect to basic property insurance and with respect to home insurance. The rate of assessment established by the board shall be based upon a reasonable estimate of the deficit which will probably occur, taking into consideration the probable amount of premiums which will be written by the pool for basic property insurance and for home insurance during the year, the past experience of the pool, the premium rates to be used by the pool, and other relevant information. Upon determination of the rate of assessment by the board of governors, the board shall notify each participating member of its assessment before October 1 of each calendar year, and shall file the notice with the commissioner.

(2) Participating members shall pay assessments to the pool after the end of each calendar quarter at the rate established upon the assessable premiums for basic property insurance and for home insurance written by participating members during the most recently completed calendar quarter. Assessable premiums written during the first 3 calendar quarters of each year may be estimated, with a reasonable degree of accuracy, subject to adjustment at the end of the calendar year.

(3) Each participating member may adjust its premium rates, in accordance with appropriate provisions of this chapter relating to rates for all insurance included in the corresponding definitions of assessable premiums in section 2901, to provide for the amount of the assessment established by the board.

(4) At the end of each calendar year the pool shall prepare an annual statement on forms prescribed by the commissioner. The assessments paid to the pool on assessable premiums written during a calendar year shall be included as income in the annual statement of the pool for that calendar year. If the pool has a deficit or surplus at the end of the calendar year, the deficit or surplus shall be carried forward to the next year and shall be considered in determining the rate of assessment established for the next year.

(5) For purposes of paying claims and expenses at any time, the board may levy appropriate advance assessments on all participating members, which shall be credited against assessments payable subsequently.

(6) The board may exempt or defer, in whole or in part, the assessment of a participating member if the assessment would cause the participating member's financial statement to reflect amounts of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the participating member is authorized to transact insurance.

(7) Rate adjustments which have been approved prior to August 1, 1971 shall continue in effect until the end of the period for which they were approved. A deficit existing on August 1, 1971 shall be carried forward and assessed under the provisions of this section.

(8) Upon dissolution, the participating members of the pool shall share in the assets, liabilities, income, and disbursements of the pool, as shown in the most recent annual statement of the pool, in proportion to their assessable premiums for basic property insurance and for home insurance, respectively, for the same calendar

year.

History: Add. 1971, Act 74, Eff. Aug. 1, 1971;—Am. 1979, Act 145, Eff. Mar. 1, 1980;—Am. 1980, Act 461, Imd. Eff. Jan. 15, 1981.

Popular name: Act 218

Popular name: Essential Insurance

500.2933 Pool exempted from fees and taxes; exception.

Sec. 2933. The pool is exempt from all license fees, income, franchise, premium and privilege taxes levied or assessed by this state or any political subdivision of this state, except taxes upon the real or personal property of the pool, which is to be assessed and taxed in the same manner as the real and personal property of nonexempt persons.

History: Add. 1971, Act 74, Eff. Aug. 1, 1971.

Popular name: Act 218

Popular name: Essential Insurance

500.2939 Reinsurance permitted.

Sec. 2939. Nothing in this chapter shall preclude the pool from acting as a reinsuring facility or from seeking reinsurance of all or a part of its risks with any reinsurer approved by the commissioner or with any agency of state or federal government having the power to issue such reinsurance.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968.

Popular name: Act 218

Popular name: Essential Insurance

500.2940 Repealed. 2000, Act 486, Imd. Eff. Jan. 11, 2001.

Compiler's note: The repealed section pertained to promulgation of administrative rules.

Popular name: Act 218

Popular name: Essential Insurance

500.2941 Pool; supervision, regulation and examination.

Sec. 2941. The operation of the pool shall at all times be subject to the supervision and regulation of the commissioner. The commissioner, or any deputy or examiner, or any person whom he shall appoint, shall have the power of visitation and examination into the affairs of the pool and free access to all the books, papers and documents that relate to the business of the pool, may summon and qualify witnesses under oath, and may examine officers, agents or employees or any other person having knowledge of the affairs, transactions or conditions of the pool.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968.

Popular name: Act 218

Popular name: Essential Insurance

500.2942 Liability for statements made in reports, at hearings, or in findings; reports of inspection bureau.

Sec. 2942. (1) There shall be no liability on the part of, and a cause of action of any nature shall not arise against, insurers, the inspection bureau, the pool or any of its facilities, governors, agents, or employees, or the commissioner or his or her authorized representatives, for any statements made by them in any reports concerning the property to be insured, or at the time of the hearings conducted in connection therewith, or in the findings required by the provisions of this chapter.

(2) The reports of the inspection bureau and the pool shall not be considered public documents.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1980, Act 461, Imd. Eff. Jan. 15, 1981.

Popular name: Act 218

Popular name: Essential Insurance

500.2943 Appeal to insurance commissioner; hearing; order.

Sec. 2943. Any person aggrieved by any action or decision of the inspection bureau or the pool may appeal to the commissioner within 30 days from the action or decision. After a hearing held upon not less than 10 days' written notice to the aggrieved person and the inspection bureau or the pool, the commissioner shall issue an order approving the action or decision, disapproving the action or decision, or directing the inspection bureau or the pool to give further consideration to the matter.

Proceedings under this chapter are subject to Act No. 306 of the Public Acts of 1969, as amended.

History: Add. 1968, Act 262, Eff. Aug. 1, 1968;—Am. 1971, Act 74, Eff. Aug. 1, 1971.

Compiler's note: For provisions of Act 306 of 1969, referred to in this section, see MCL 24.201 et seq.

Popular name: Act 218

Popular name: Essential Insurance

500.2950 Repealed. 1971, Act 74, Eff. Aug. 1, 1971.

Compiler's note: The repealed section pertained to a voluntary plan of operation by authorized insurers.

Popular name: Act 218

Popular name: Essential Insurance

500.2952 Federal riot reinsurance reimbursement fund; contents, assessments, reimbursements, retroactive effect.

Sec. 2952. (1) There is created a fund to be known as the federal riot reinsurance reimbursement fund, hereinafter referred to as the fund, which shall be operated under the joint control of the state treasurer and the commissioner of insurance. The fund shall consist of all payments made to the fund by insurers in accordance with the provisions of this section. The state treasurer shall enforce the collection of the assessments provided hereunder as any other obligation due the state.

(2) The fund shall reimburse the secretary of the department of housing and urban development, hereinafter referred to as the secretary, in an amount up to 5% of the aggregate property insurance premiums earned in this state during the calendar year immediately preceding the calendar year, with respect to which the secretary paid losses on lines of insurance reinsured by him in this state during that year and for which he claims reimbursement from the fund in accordance with section 1223 of the housing and urban development act of 1968, Public Law 90-448, 90th congress, August 1, 1968, hereinafter referred to as the act.

(3) Whenever the secretary, in accordance with the act, shall present to the state a request for reimbursement under the act, the fund shall immediately assess all insurers which, during the calendar year with respect to which reimbursement is requested by the secretary, were reinsured under the act. The amount of each insurer's assessment shall be calculated by multiplying the amount of the reimbursement requested by the secretary by a fraction the numerator of which is the insurer's premiums actually reinsured in this state with the secretary in that calendar year and the denominator of which is the aggregate of such reinsured premiums for all insurers.

(4) The fund shall reimburse the secretary, up to amounts actually collected by it, upon drafts or vouchers duly authorized by the state treasurer with the approval of the commissioner of insurance.

(5) If any insurer fails, by reason of insolvency, to pay any assessment, the fund shall cause the reimbursement ratios, computed under subsection (3) to be immediately recalculated, excluding therefrom the insolvent insurer, so that, its assessment is in effect, assumed and redistributed among the remaining insurers.

(6) If the secretary determines that the provisions of this section are not sufficient to meet the requirements of section 1223 of the act, the fund shall assess, with respect to the calendar year in which the determination is made and for each calendar year thereafter, against each insurer, which during the applicable calendar year obtained reinsurance with the secretary on premiums earned in this state, an amount equal to the maximum for which the fund would be liable to the secretary for that calendar year multiplied by a fraction the numerator of which is the insurer's premiums actually reinsured in the state with the secretary during that calendar year and the denominator of which is the aggregate of such reinsured premiums for all insurers. As soon as practicable after the close of a calendar year, the fund, in accordance with the formula provided in subsection (3), shall calculate the actual liability of each insurer for reimbursement to the secretary for that calendar year. The difference between the actual liability so calculated and the amount previously assessed and paid with respect to that calendar year under this section shall be credited by the fund toward the assessment against each such insurer for the subsequent calendar year.

(7) In the event that the provisions of this section and the assessments made thereunder are no longer needed in order to effectuate the program for which they were intended, the amounts remaining in the fund shall be returned to the insurers in proportion to the amount which they paid.

(8) This section shall be retroactive to August 1, 1968.

History: Add. 1969, Act 135, Imd. Eff. July 31, 1969.

Popular name: Act 218

Popular name: Essential Insurance

500.2954 Determinations made by commissioner.

Sec. 2954. Determinations made by the commissioner pursuant to this chapter shall be made independent of the credits provided to insurers pursuant to the former single business tax act, 1975 PA 228, or the

Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

History: Add. 1987, Act 261, Imd. Eff. Dec. 28, 1987;—Am. 2007, Act 187, Imd. Eff. Dec. 21, 2007.

Popular name: Act 218

Popular name: Essential Insurance