THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.901 Asset requirements for insurers.

Sec. 901. (1) Each domestic insurer shall maintain assets in cash or as defined in this chapter in a total amount at least equal to the sum of its liabilities including its reserves as required by this act, plus an amount equal to the lesser of the following:

(a) The minimum capital and surplus required to be maintained by sections 408 and 410.

(b) One of the following:

(*i*) For a fraternal benefit society regulated under chapter 81a, $1,000,000.00.

(*ii*) $7,000,000.00.

(2) For purposes of meeting the assets required by subsection (1), the following apply:

(a) The value of all computers shall not exceed 2% of the assets required by subsection (1) and the value of each computer shall not exceed the original cost of the computer amortized over a period not to exceed 3 years. For purposes of this section, "computer" means an electronic data processing system, composed of 1 or more components, that utilizes storage and processing mechanization and has a direct automatic means of input and output, including, but not limited to, central processing units, data input/output channels, main storage or memory, and peripheral devices for systems control, data input, output, or temporary or permanent storage of information, and associated reusable media required by these devices and operating systems software.

(b) Title insurers may include their net investment in their title plant.

(c) Assets described in sections 946 and 947 that are encumbered with prior liens that affect the salability of the asset to a material extent shall not be used to satisfy the requirements of subsection (1). For purposes of this subdivision, liens that do not affect the salability of the asset to a material extent are real estate taxes or assessments that are not delinquent, liens against an asset for which an insurer is insured against loss by title insurance, and any other liens that in the aggregate are not in excess of 5% of the fair market value of the asset. Assets described in sections 946 and 947 shall not be used to satisfy more than 20% of the requirements of subsection (1). This subdivision does not apply to assets described in section 942.

(d) Amounts receivable from broker/dealers registered under the securities exchange act of 1934, chapter 404, 48 Stat. 881, or from the issuer of a security or asset in connection with the disposition of assets qualified to satisfy subsection (1) may be included, provided the amount is not more than 5 business days past the date of disposition.

(e) Assets not otherwise defined in this chapter may be used as qualified assets for purposes of subsection (1) if the assets are rated investment grade by a securities rating organization approved by the commissioner.

(f) No more than 20% of the assets required by subsection (1) shall be high-yield, high-risk obligations. As used in this subdivision, "high-yield, high-risk obligations" means obligations that are not in 1 of the top 2 numbered classifications of bonds reported in the insurer's annual financial statement on a form approved by the commissioner.

(3) The sum of the liabilities and reserves computed for purposes of this section may be reduced by 1 or more of the following:

(a) A reinsurance balance recoverable or other credit due from a reinsurer that complies with existing or other applicable rules or orders promulgated or issued by the commissioner, to the extent that the balance recoverable or other credit due may be used to offset a liability as authorized in an insurer's annual statement concerning its affairs filed pursuant to section 438.

(b) Policy loans secured by policies included in the liabilities and reserves but not in excess of the cash surrender value of the policies.

(c) Premium notes secured by letters of credit, security trust funds, or unearned premium reserves.

(d) The net amount of insurance premiums and annuity considerations booked but deferred and not yet due. Reduction under this subdivision shall not be allowed for credit life and credit accident and health premiums deferred and uncollected, whether individual or group, except as allowed pursuant to subdivision (e).

(e) Amounts receivable from an agent, agency, policyholder, or other person that does not have control of more than 10% of all the insurer's agents' balances, and that is not affiliated with the insurer on policies with an effective date not more than 1 month old to the extent that the amounts are offset by unearned premium reserves on the same policies.

(f) Amounts receivable from a person to the extent the amounts offset liabilities or amounts payable to that person. Receivables and payables with respect to reinsurance may be allowed so long as the reinsurance contract has a right of offset provision. A reduction under this subdivision shall not be allowed for agents'

balances or uncollected premiums as defined by subdivision (e).

(4) Assets, liabilities, and reserves under subsection (1) shall exclude assets, liabilities, and reserves included in separate accounts established in accordance with section 925. The value of income due and accrued in respect to assets required by subsection (1) may be included in the total amount. The assets shall not be valued at more than the actual value as ascertained in a manner approved by the commissioner, except those assets described in sections 912, 914, 918, 934, 938, and 942 that have a fixed term and rate, if amply secured and not in default as to principal and interest which may be valued as follows: if purchased at par, the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made. The purchase price shall not be taken at a higher figure than the actual market value at the time of purchase.

(5) The commissioner may permit other assets not specifically described in this section to be used as qualified assets for purposes of subsection (1), as long as the assets are financially equivalent to those assets described in sections 910 to 947, are approved by the commissioner as adequate as to quality and liquidity to secure the liabilities they support, and are valued in a manner approved by the commissioner.

(6) No more than 5% of the assets required by subsection (1) shall be invested in, loaned to, receivable from, secured by, leased or rented to, or deposited with 1 person or 1 group of affiliated persons or invested in 1 parcel of real estate. In calculating this restriction, the following apply:

(a) For purposes of this section, each issue of mortgage-backed securities secured by residential mortgage pools and rated investment grade by a securities rating organization approved by the commissioner, and each issue of asset-backed security rated investment grade by a securities rating organization approved by the commissioner, shall be considered a separate person regardless of other obligations issued by the same or affiliated issuer.

(b) This restriction does not apply to mortgage-related securities issued by the federal home loan mortgage corporation or the federal national mortgage association.

(c) This restriction does not apply to the extent that the principal and interest are fully guaranteed by the United States or any state.

(d) This restriction does not apply to assets invested in, loaned to, receivable from, secured by, leased or rented to, or deposited with an affiliate of the insurer that is authorized to transact insurance in any state or Canada.

(e) For an alien insurer that is an insurer authorized to transact the business of life insurance, for purposes of this subsection the 5% restriction applies to the total assets of the insurer, excluding assets included in separate accounts, as reported in the total business annual statement filed by the insurer with its domiciliary authority.

(f) This restriction does not apply to the value of a noninsurance affiliate that is owned solely by the insurer as described in subsection (7)(c).

(g) This restriction does not apply to the value of a noninsurance affiliate that is not owned solely by the insurer if the value of the noninsurance affiliate is determined in accordance with procedures approved by the commissioner and if the investment in the noninsurance affiliate is approved by the commissioner as adequate in quality and liquidity to secure the liabilities of the insurer.

(7) The assets referred to in subsection (1) shall not include assets invested in, loaned to, receivable from, secured by, leased or rented to, or deposited with a person that is, directly or indirectly, owned or controlled by the insurer or that, directly or indirectly, owns, controls, or is affiliated with the insurer as control is defined in section 115, except as follows:

(a) Amounts receivable from, secured by, leased or rented to, or deposited with an insurer affiliated with the insurer may be included if the amount receivable is not more than 90 days past due and its affiliated insurer complies with this section.

(b) Amounts invested in an affiliated publicly traded investment company that is registered and regulated under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 U.S.C. 80a-1 to 80a-3 and 80a-4 to 80a-64, may be included.

(c) The value of a noninsurance affiliate that is owned solely by the insurer may be included. The value of the noninsurance affiliate shall be the value of all assets qualifying under this section in excess of the assets required by this section, but shall not exceed the value determined by the securities valuation office of the national association of insurance commissioners. In support of the noninsurance affiliate's value, the insurer shall submit to the commissioner an audited financial statement for the noninsurance affiliate supplemented with a list of qualifying assets and associated values.

(d) Amounts invested in a noninsurance affiliate that is not owned solely by the insurer may be included if the investment in the noninsurance affiliate is approved by the commissioner as adequate in quality and

liquidity to secure the liabilities of the insurer. The value of the noninsurance affiliate shall be the value determined in accordance with procedures adopted by the commissioner.

(e) The assets required by subsection (1) may include the value of amounts invested in or loaned to an affiliate authorized to transact insurance in any state or in Canada in an amount equal to the assets that would qualify for compliance with this section that are held by the affiliate and are in excess of the amount of assets that would be required for the affiliate by this section, prorated to reflect the extent of the insurer's investment in or loans to the affiliate. Qualified assets for purposes of subsection (1) include loans, other than surplus notes, to an affiliate authorized to transact insurance in any state or in Canada provided that the affiliate has assets in excess of the amount of assets that are required for the affiliate under subsection (1). With the commissioner's approval, surplus notes may be treated as an investment for purposes of this section.

(f) Amounts loaned to a noninsurance affiliate may be included if the loans are rated investment grade by a securities rating organization approved by the commissioner. The insurer shall submit documentation satisfactory to the commissioner in support of the investment grade rating.

(8) An insurer may comply with this section if the insurer elects to provide alternative security to Michigan policyholders and claimants satisfactory to the commissioner or elects to deposit funds or securities of the kind described in section 912, or other securities acceptable to the commissioner, registered in the name of the state treasurer of Michigan, designated as exclusively held and deposited for the sole benefit of Michigan policyholders, claimants, and creditors pursuant to section 8141a, in an amount, at market value, considered adequate by the commissioner to secure Michigan policyholders, but not less than the greater of the aggregate sum of 100% of Michigan direct unpaid losses and unpaid loss adjustment expense plus 100% of Michigan direct unearned premiums and policy and contract reserves or the direct premiums written in Michigan during the most recent 12 months available in filed statements. Direct unpaid losses and unpaid loss adjustment expenses shall include a provision for incurred but not reported losses and associated loss adjustment expense. The deposit shall be a special deposit and shall be subject to special deposit claims for the benefit of Michigan policyholders and claimants pursuant to section 8141a. The deposit of funds required by this subsection shall be increased by adjustment each quarter. A decrease to the deposited fund may be made annually only upon a satisfactory showing by the insurer to the commissioner that a decrease in the deposit is justified. The commissioner may require the special deposits set forth in this subsection as a condition for any insurer to transact insurance in this state if the commissioner finds that a special deposit is necessary for the protection of Michigan policyholders and claimants.

(9) Compliance with subsection (1) is the obligation of each insurer, fund, or fraternal benefit society authorized to transact the business of insurance in this state. Failure to comply shall limit the insurer, fund, or fraternal benefit society under the remainder of this act. If, at any time following compliance with the requirements of this section, an insurer, fund, or fraternal benefit society fails to maintain compliance, the commissioner shall notify the insurer, fund, or fraternal benefit society that it has failed to maintain compliance with this section. Within 30 business days after notification by the commissioner of noncompliance with the provisions of this section, an insurer shall file a plan to restore compliance with this section. Failure of the insurer to file a plan shall create a presumption that the insurer is not safe, reliable, and entitled to public confidence. The commissioner, upon written request by the insurer, may grant a period of time within which to restore compliance. The period of time may be granted only if the commissioner is satisfied the insurer is safe, reliable, and entitled to public confidence; is satisfied the insurer would suffer a material financial loss from an immediate forced conversion of its assets; and approves the plan filed by the insurer for restoring compliance within the time granted. If the plan is not approved by the commissioner, or if the plan is approved, and, at the end of 1 year the insurer still does not comply with the requirements of this section, the commissioner may grant additional time to comply, or the commissioner may suspend, revoke, or limit the certificate of authority of the insurer pursuant to section 436.

(10) The requirements of this section constitute a discrete determination of financial solidity and liquidity and are not intended to apply to other provisions of this act with respect to financial condition or to the accounting practices and procedures governing the preparation of financial statements pursuant to section 438.

History: Add. 1969, Act 318, Eff. Mar. 20, 1970;—Am. 1970, Act 125, Imd. Eff. July 23, 1970;—Am. 1980, Act 370, Imd. Eff. Dec. 30, 1980;—Am. 1982, Act 338, Imd. Eff. Dec. 17, 1982;—Am. 1984, Act 90, Imd. Eff. Apr. 19, 1984;—Am. 1986, Act 321, Imd. Eff. Dec. 26, 1986;—Am. 1988, Act 340, Imd. Eff. Oct. 18, 1988;—Am. 1989, Act 302, Imd. Eff. Jan. 3, 1990;—Am. 1992, Act 2, Imd. Eff. Jan. 31, 1992;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Eff. Dec. 31, 1993;—Am. 2002, Act 462, Imd. Eff. June 21, 2002.

Compiler's note: Enacting section 2(1) of Act No. 226 of the Public Acts of 1994 provides: “Section 901 as amended by this amendatory act is retroactively effective and applies on and after December 31, 1993.”

Popular name: Act 218

Administrative rules: R 500.402 et seq. of the Michigan Administrative Code.