



HOUSE BILL No. 4609

March 16, 1995, Introduced by Reps. Gagliardi, Wetters, Hanley, Martinez, Vaughn, Brewer, Gire, Yokich, Weeks, Freeman, LaForge, Brater, Cherry, Harder, Pitoniak, DeHart, Willard, Tesanovich, Leland, Palamara, Griffin and Scott and referred to the Committee on Insurance.

A bill to amend sections 2110, 3104, and 3135 of Act No. 218 of the Public Acts of 1956, entitled as amended "The insurance code of 1956," section 3104 as amended by Act No. 445 of the Public Acts of 1980, being sections 500.2110, 500.3104, and 500.3135 of the Michigan Compiled Laws; and to add sections 438b, 2109a, 2111b, 2127a, 2140, and 6112.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2110, 3104, and 3135 of Act No. 218 of
2 the Public Acts of 1956, section 3104 as amended by Act No. 445
3 of the Public Acts of 1980, being sections 500.2110, 500.3104,
4 and 500.3135 of the Michigan Compiled Laws, are amended and sec-
5 tions 438b, 2109a, 2111b, 2127a, 2140, and 6112 are added to read
6 as follows:

1 SEC. 438B. (1) BEGINNING MARCH 1, 1996, AND ANNUALLY
2 THEREAFTER, EACH DOMESTIC, FOREIGN, AND ALIEN AUTOMOBILE INSURER
3 AUTHORIZED TO TRANSACT INSURANCE IN THIS STATE SHALL FILE WITH
4 THE COMMISSIONER AND THE NATIONAL ASSOCIATION OF INSURANCE COM-
5 MISSIONERS ALL OF THE FOLLOWING INFORMATION PERTAINING TO AUTOMO-
6 BILE INSURANCE FOR THE PRECEDING YEAR, SUBJECT TO SUBSECTIONS (2)
7 TO (4):

8 (A) DIRECT EARNED PREMIUMS.

9 (B) EARNED PREMIUMS NET OF REINSURANCE.

10 (C) DIRECT INCURRED LOSSES.

11 (D) INCURRED LOSSES NET OF REINSURANCE.

12 (E) INCURRED LOSS ADJUSTMENT EXPENSES.

13 (F) AGENTS' COMMISSIONS.

14 (G) ADDITIONAL OPERATING EXPENSES.

15 (H) DIVIDENDS TO POLICYHOLDERS.

16 (I) UNDERWRITING PROFIT.

17 (J) THE FORMULA FOR CALCULATING UNDERWRITING PROFIT.

18 (K) REALIZED INVESTMENT RETURN FROM ALLOCATED RESERVES.

19 (L) REALIZED INVESTMENT RETURN FROM ALLOCATED CAPITAL AND
20 SURPLUS.

21 (M) REALIZED INVESTMENT RETURN FROM BALANCES DUE AGENTS.

22 (N) FEDERAL TAXES.

23 (O) RESERVES ATTRIBUTABLE TO AUTOMOBILE INSURANCE.

24 (P) CAPITAL AND SURPLUS ATTRIBUTABLE AUTOMOBILE INSURANCE.

25 (Q) ANTICIPATED LOSSES.

1 (2) A FILING UNDER THIS SECTION SHALL REPORT THE INFORMATION
2 REQUIRED UNDER SUBSECTION (1) SEPARATELY FOR EACH OF THE
3 FOLLOWING AUTOMOBILE INSURANCE COVERAGES:

4 (A) LIABILITY.

5 (B) PERSONAL PROTECTION.

6 (C) COMPREHENSIVE.

7 (D) COLLISION.

8 (3) THE INFORMATION REQUIRED UNDER THIS SECTION SHALL RELATE
9 ONLY TO THE INSURER'S BUSINESS WRITTEN IN THIS STATE.

10 (4) EACH ANNUAL FILING UNDER THIS SECTION SHALL INCLUDE
11 INFORMATION FOR THE POLICY YEAR BEGINNING 8 YEARS EARLIER AND
12 EACH POLICY YEAR SINCE THEN UP TO AND INCLUDING THE POLICY YEAR
13 IMMEDIATELY PRECEDING THE FILING UNDER THIS SECTION. THE AUTOMO-
14 BILE INSURER SHALL ANNUALLY RECONCILE ANY PREVIOUS FILINGS UNDER
15 THIS SECTION TO REFLECT ANY NEW INFORMATION RECEIVED IN THE IMME-
16 DIATELY PRECEDING YEAR.

17 (5) THE COMMISSIONER SHALL DEVELOP BEFORE DECEMBER 1, 1995 A
18 REPORTING FORM THAT INSURERS SHALL USE IN COMPLYING WITH THIS
19 SECTION.

20 SEC. 2109A. (1) AS USED IN THIS SECTION, "LOSS RATIO" MEANS
21 INCURRED LOSSES EXPRESSED AS A PERCENTAGE OF EARNED PREMIUMS.

22 (2) BEGINNING APRIL 1, 1996, AN INSURER'S AUTOMOBILE INSUR-
23 ANCE RATES FOR EACH OF ITS RATING TERRITORIES SHALL BE ESTAB-
24 LISHED IN A MANNER THAT CAN REASONABLY BY ANTICIPATED TO PRODUCE
25 AN 80% LOSS RATIO FOR COMPREHENSIVE AND COLLISION COVERAGES AND
26 AN 80% LOSS RATIO FOR ALL OTHER COVERAGES FOR EACH POLICY YEAR.

1 (3) BEGINNING MAY 1, 1996 AND ANNUALLY THEREAFTER, THE
2 COMMISSIONER SHALL PREPARE A REPORT TO THE STANDING COMMITTEES ON
3 INSURANCE ISSUES IN THE SENATE AND HOUSE OF REPRESENTATIVES ON
4 THE INFORMATION RECEIVED UNDER SECTION 438B FOR AUTOMOBILE
5 INSURERS. IN THE REPORT, THE COMMISSIONER SHALL RECONCILE THE
6 PAID LOSSES WITH THE PREMIUMS EARNED FOR THE REPORTED POLICY
7 YEAR. IF THIS RECONCILIATION SHOWS THAT THE AUTOMOBILE INSURER'S
8 LOSS RATIOS ARE ANTICIPATED TO BE LESS THAN THE LOSS RATIOS
9 ESTABLISHED IN SUBSECTION (2), THE COMMISSIONER SHALL ORDER THE
10 INSURER TO ADJUST AND REFILE ITS PREMIUM RATES TO ACHIEVE THE
11 LOSS RATIOS ESTABLISHED IN SUBSECTION (2).

12 Sec. 2110. (1) In developing and evaluating rates pursuant
13 to the standards prescribed in ~~section 2109~~ SECTIONS 2109 AND
14 2109A, due consideration shall be given to past and prospective
15 loss experience within and outside this state, to catastrophe
16 hazards, if any; to a reasonable margin for underwriting profit
17 and contingencies; to dividends, savings, or unabsorbed premium
18 deposits allowed or returned by insurers to their policyholders,
19 members, or subscribers; to past and prospective expenses, both
20 countrywide and those specially applicable to this state exclu-
21 sive of assessments under this ~~code~~ ACT; to assessments under
22 this ~~code~~ ACT; to underwriting practice and judgment; and to
23 all other relevant factors within and outside this state.

24 (2) The systems of expense provisions included in the rates
25 for use by ~~any~~ AN insurer or group of insurers may differ from
26 those of other insurers or groups of insurers to reflect the
27 requirements of the operating methods of the insurer or group

1 with respect to any kind of insurance ~~or~~ or with respect to any
2 subdivision or combination thereof for which subdivision or com-
3 bination separate expense provisions are applicable.

4 (3) Risks may be grouped by classifications for the estab-
5 lishment of rates and minimum premiums. The classifications
6 ~~may~~ SHALL measure differences in losses, expenses, or both.

7 SEC. 2111B. BEGINNING MARCH 1, 1995 AND CONTINUING UNTIL
8 MAY 1, 1996, A RATE FILING FOR AUTOMOBILE INSURANCE PACKAGE POLI-
9 CIES SHALL NOT BE MODIFIED, CHANGED, OR ALTERED UNLESS THE MODI-
10 FICATION, CHANGE, OR ALTERATION FOR THE RATING CELLS AFFECTED BY
11 THE FILING RESULTS IN AN OVERALL PREMIUM REDUCTION FOR THE
12 AFFECTED CELLS. CHANGES IN RISK SYMBOLS AND CHANGES IN RISK
13 SYMBOL APPLICATIONS AND VALUES SHALL ONLY BE MADE IN CONJUNCTION
14 WITH A RATE FILING. THIS SECTION DOES NOT PROHIBIT AN INSURER
15 FROM MAKING A RATE FILING AT ANY TIME THAT ONLY PROVIDES CHANGES
16 TO RATES BASED UPON ASSESSMENTS LEVIED AGAINST INSURERS PURSUANT
17 TO SECTION 3104, 3171, OR 3330. THESE RATE FILINGS SHALL NOT BE
18 CONSIDERED A RATE FILING FOR PURPOSES OF THIS SECTION.

19 SEC. 2127A. (1) BEGINNING MARCH 1, 1996, EACH AUTOMOBILE
20 INSURER SHALL REPORT ANNUALLY TO THE COMMISSIONER ON BOTH OF THE
21 FOLLOWING:

22 (A) THE DOLLAR AMOUNT OF LOSSES PAID AND THE DOLLAR AMOUNT
23 OF LOSSES INCURRED FOR WORK LOSS, SURVIVOR'S LOSS, AND MEDICAL
24 AND REHABILITATION COVERAGES.

25 (B) THE NUMBER OF SUITS FILED BY INSUREDS AGAINST THE INSUR-
26 ER, CATEGORIZED ACCORDING TO WHETHER EACH SUIT IS A FIRST PARTY

1 SUIT, A THIRD PARTY SUIT, OR A COMBINATION OF A FIRST PARTY AND
2 THIRD PARTY SUIT.

3 (2) THE COMMISSIONER SHALL DEVELOP BEFORE DECEMBER 1, 1995 A
4 REPORTING FORM THAT INSURERS SHALL USE IN COMPLYING WITH
5 SUBSECTION (1).

6 SEC. 2140. (1) SUBJECT TO SUBSECTION (3), IF THE COMMIS-
7 SIONER FINDS THAT A PERSON OR ORGANIZATION HAS VIOLATED A PROVI-
8 SION OF THIS CHAPTER OR THE RULES PROMULGATED PURSUANT TO THIS
9 CHAPTER, THE COMMISSIONER MAY ORDER ANY OR ALL OF THE FOLLOWING:

10 (A) PAYMENT OF A CIVIL FINE OF NOT MORE THAN \$5,000.00 FOR
11 EACH VIOLATION, AND IF THE VIOLATION IS WILLFUL, A CIVIL FINE OF
12 NOT MORE THAN \$25,000.00 FOR EACH VIOLATION. A FINE COLLECTED
13 UNDER THIS SUBDIVISION SHALL BE TURNED OVER TO THE STATE TREA-
14 SURER AND CREDITED TO THE GENERAL FUND OF THE STATE.

15 (B) A CEASE AND DESIST ORDER.

16 (C) AN ORDER TO COMPLY.

17 (D) A REFUND OF ANY OVERCHARGES WITH INTEREST AND
18 PENALTIES.

19 (2) THE COMMISSIONER MAY SUSPEND THE AUTHORITY OF A RATING
20 ORGANIZATION OR INSURER TO DO BUSINESS IN THIS STATE WHO FAILS TO
21 COMPLY WITH AN ORDER OF THE COMMISSIONER UNDER THIS SECTION
22 WITHIN THE TIME SPECIFIED BY THE ORDER, OR ANY EXTENSION OF THE
23 ORDER THAT THE COMMISSIONER MAY GRANT, BUT THE SUSPENSION SHALL
24 NOT AFFECT THE VALIDITY OR CONTINUED EFFECTIVENESS OF RATES PRE-
25 VIOUSLY FILED AND EFFECTIVE. THE COMMISSIONER SHALL NOT SUSPEND
26 THE AUTHORITY OF A RATING ORGANIZATION OR INSURER TO DO BUSINESS
27 IN THIS STATE FOR FAILURE TO COMPLY WITH AN ORDER UNTIL THE TIME

1 PRESCRIBED FOR AN APPEAL FROM THE ORDER HAS EXPIRED, OR, IF AN
2 APPEAL HAS BEEN TAKEN, UNTIL THE ORDER FOR THE SUSPENSION HAS
3 BEEN AFFIRMED. THE COMMISSIONER MAY DETERMINE WHEN A SUSPENSION
4 OF AUTHORITY SHALL BECOME EFFECTIVE, AND THE SUSPENSION SHALL
5 REMAIN IN EFFECT FOR THE PERIOD FIXED BY THE COMMISSIONER, UNLESS
6 THE COMMISSIONER MODIFIES OR RESCINDS THE SUSPENSION, OR UNTIL
7 THE ORDER UPON WHICH THE SUSPENSION IS BASED IS MODIFIED,
8 RESCINDED, OR REVERSED.

9 (3) A CIVIL FINE SHALL NOT BE IMPOSED AND THE AUTHORITY TO
10 DO BUSINESS IN THIS STATE SHALL NOT BE SUSPENDED OR REVOKED
11 EXCEPT UPON A WRITTEN ORDER OF THE COMMISSIONER, SPECIFYING THE
12 ALLEGED VIOLATION AND STATING HIS OR HER FINDINGS, MADE AFTER A
13 HEARING HELD UPON NOT LESS THAN 10 DAYS' WRITTEN NOTICE TO THE
14 PERSON OR ORGANIZATION. AN ORDER ISSUED BY THE COMMISSIONER PUR-
15 SUANT TO THIS SECTION SHALL NOT REQUIRE THE PAYMENT OF CIVIL
16 FINES EXCEEDING \$50,000.00.

17 (4) THE COMMISSIONER SHALL REPORT ANNUALLY TO THE SENATE AND
18 HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON INSURANCE ISSUES
19 ON THE AMOUNT OF FINES COLLECTED PURSUANT TO THIS SECTION.

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

1 insurance coverages ~~which~~ THAT provide the security required by
2 section 3103(1) within this state, as a condition of its author-
3 ity to transact insurance in this state, shall be considered a
4 member of the association, but only for purposes of ~~assessments~~
5 PREMIUMS under subsection (7)(d). Except as expressly provided
6 in this section, the association shall not be subject to any laws
7 of this state with respect to insurers, but in all other respects
8 the association shall be subject to the laws of this state to the
9 extent that the association would be were it an insurer organized
10 and subsisting under chapter 50.

11 (2) The association shall provide and each member shall
12 accept indemnification for 100% of the amount of ultimate loss
13 sustained under personal protection insurance coverages in excess
14 of \$250,000.00 in each loss occurrence. As used in this section,
15 "ultimate loss" means the actual loss amounts ~~which~~ THAT a
16 member is obligated to pay and which are paid or payable by the
17 member, and shall not include claim expenses. An ultimate loss
18 is incurred by the association on the date which the loss
19 occurs.

20 (3) An insurer may withdraw from the association only upon
21 ceasing to write insurance ~~which~~ THAT provides the security
22 required by section 3101(1) in this state.

23 (4) An insurer whose membership in the association has been
24 terminated by withdrawal shall continue to be bound by the plan
25 of operation, and upon withdrawal, all unpaid premiums ~~which~~
26 THAT have been charged to the withdrawing member shall be payable
27 as of the effective date of the withdrawal.

1 (5) An unsatisfied net liability to the association of an
2 insolvent member shall be assumed by and apportioned among the
3 remaining members of the association as provided in the plan of
4 operation. The association shall have all rights allowed by law
5 on behalf of the remaining members against the estate or funds of
6 the insolvent member for sums due the association.

7 (6) ~~When~~ IF a member has been merged or consolidated into
8 another insurer or another insurer has reinsured a member's
9 entire business ~~which~~ THAT provides the security required by
10 section 3101(1) in this state, the member and successors in
11 interest of the member shall remain liable for the member's
12 obligations.

13 (7) The association shall do all of the following on behalf
14 of the members of the association:

15 (a) Assume 100% of all liability as provided in subsection
16 (2).

17 (b) Establish procedures by which members shall promptly
18 report to the association each claim ~~which~~ THAT, on the basis
19 of the injuries or damages sustained, may reasonably be antici-
20 pated to involve the association if the member is ultimately held
21 legally liable for the injuries or damages. Solely for the pur-
22 pose of reporting claims, the member shall in all instances con-
23 sider itself legally liable for the injuries or damages. The
24 member shall also advise the association of subsequent develop-
25 ments likely to materially affect the interest of the association
26 in the claim.

1 (c) Maintain relevant loss and expense data relative to all
2 liabilities of the association and require each member to furnish
3 statistics, in connection with liabilities of the association, at
4 the times and in the form and detail as may be required by the
5 plan of operation.

6 (d) In a manner provided for in the plan of operation, cal-
7 culate and charge to members of the association a total premium
8 sufficient to cover the expected losses and expenses of the asso-
9 ciation ~~which~~ THAT the association will likely incur during the
10 period for which the premium is applicable. The premium shall
11 include an amount to cover incurred but not reported losses for
12 the period and may be adjusted for any excess or deficient premi-
13 ums from previous periods. Excesses or deficiencies from previ-
14 ous periods may be fully adjusted in a single period or may be
15 adjusted over several periods in a manner provided for in the
16 plan of operation. Each member shall be charged an amount equal
17 to that member's total earned car years of insurance providing
18 the security required by section 3101(1) or 3103(1), or both,
19 written in this state during the period to which the premium
20 applies, multiplied by the average premium per car. The average
21 premium per car shall be the total premium calculated divided by
22 the total earned car years of insurance providing the security
23 required by section 3101(1) or 3103(1) written in this state of
24 all members during the period to which the premium applies. As
25 used in this subdivision, "car" includes a motorcycle.

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

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

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

8 (f) Receive and distribute all sums required by the opera-
9 tion of the association.

10 (g) Establish procedures for reviewing claims procedures and
11 practices of members of the association. If the claims proce-
12 dures or practices of a member are considered inadequate to prop-
13 erly service the liabilities of the association, the association
14 may undertake or may contract with another person, including
15 another member, to adjust or assist in the adjustment of claims
16 for the member on claims ~~which~~ THAT create a potential liabil-
17 ity to the association and may charge the cost of the adjustment
18 to the member.

19 (8) In addition to other powers granted to it by this sec-
20 tion, the association may do all of the following:

21 (a) Sue and be sued in the name of the association. A judg-
22 ment against the association shall not create any direct liabil-
23 ity against the individual members of the association. The asso-
24 ciation may provide for the indemnification of its members, mem-
25 bers of the board of directors of the association, and officers,
26 employees, and other persons lawfully acting on behalf of the
27 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.

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

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

12 (e) Contract for goods and services, including independent
13 claims management, actuarial, investment, and legal services,
14 from 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 ~~which~~ THAT are necessary or proper to accomplish the
20 purposes of the association and ~~which~~ THAT are not inconsistent
21 with this section or 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 the
24 association consistent with the plan of operation and this
25 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) A preliminary premium, payable by each member in pro-~~
4 ~~portion to its total first year premium, for initial expenses~~
5 ~~necessary to commence operation of the association.~~
- 6 (C) ~~(d)~~ Procedures to be utilized in charging premiums,
7 including adjustments from excess or deficient premiums from
8 prior periods.
- 9 (D) ~~(e)~~ Procedures governing the actual payment of premi-
10 ums to the association.
- 11 (E) ~~(f)~~ Reimbursement of each member of the board by the
12 association for actual and necessary expenses incurred on associ-
13 ation business.
- 14 (F) ~~(g)~~ The investment policy of the association.
- 15 (G) ~~(h)~~ Any other matters required by or necessary to
16 effectively implement this section.
- 17 (H) ~~Not more than 30 days after the effective date of this~~
18 ~~section, the commissioner shall convene an organizational meeting~~
19 ~~of the board. The board shall be initially composed of 5 members~~
20 ~~of the association appointed by the commissioner to serve as~~
21 ~~directors, and the commissioner or a designated representative of~~
22 ~~the commissioner serving as an ex officio member of the board~~
23 ~~without vote. The initial board and each successor~~ EACH board
24 shall include 5 members ~~which~~ THAT would contribute a total of
25 not less than 40% of the total premium calculated pursuant to
26 subsection (7)(d), 3 MEMBERS OF THE GENERAL PUBLIC, AND 1 MEMBER
27 REPRESENTING HOSPITALS, 1 MEMBER REPRESENTING REHABILITATION

1 FACILITIES, AND 1 MEMBER REPRESENTING PHYSICIANS, LICENSED UNDER
2 THE PUBLIC HEALTH CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978,
3 BEING SECTIONS 333.1101 TO 333.25211 OF THE MICHIGAN COMPILED
4 LAWS. Each director shall be entitled to 1 vote. The initial
5 term of office of a director shall be 2 years.

6 (12) As part of the plan of operation, the board shall adopt
7 rules providing for the composition and term of successor boards
8 to the initial board, consistent with the membership composition
9 requirements in subsections (11) and (13). Terms of the direc-
10 tors shall be staggered so that the terms of all the directors do
11 not expire at the same time and so that a director does not serve
12 a term of more than 4 years.

13 (13) The board shall consist of ~~5~~ 11 directors and the
14 commissioner shall be an ex officio member of the board without
15 vote.

16 (14) Each director shall be appointed by the commissioner
17 and shall serve until that member's successor is selected and
18 qualified. The chairperson of the board shall be elected by the
19 board. A vacancy on the board shall be filled by the commis-
20 sioner consistent with the plan of operation.

21 (15) After the board is appointed, the board shall meet as
22 often as the chairperson, the commissioner, or the plan of opera-
23 tion shall require, or at the request of any ~~3~~ 6 members of the
24 board. The chairperson shall retain the right to vote on all
25 issues. ~~Four~~ NINE members of the board shall constitute a
26 quorum.

1 (16) An annual report of the operations of the association
2 in a form and detail as may be determined by the board shall be
3 furnished to each member.

4 (17) Not more than 60 days after the initial organizational
5 meeting of the board, the board shall submit to the commissioner
6 for approval a proposed plan of operation consistent with the
7 objectives and provisions of this section, which shall provide
8 for the economical, fair, and nondiscriminatory administration of
9 the association and for the prompt and efficient provision of
10 indemnity. If a plan is not submitted within this 60-day period,
11 then the commissioner, after consultation with the board, shall
12 formulate and place into effect a plan consistent with this
13 section.

14 (18) The plan of operation, unless approved sooner in writ-
15 ing, shall be considered to meet the requirements of this section
16 if it is not disapproved by written order of the commissioner
17 within 30 days after the date of its submission. Before disap-
18 proval of all or any part of the proposed plan of operation, the
19 commissioner shall notify the board in what respect the plan of
20 operation fails to meet the requirements and objectives of this
21 section. If the board fails to submit a revised plan of opera-
22 tion ~~which~~ THAT meets the requirements and objectives of this
23 section within the 30-day period, the commissioner shall enter an
24 order accordingly and shall immediately formulate and place into
25 effect a plan consistent with the requirements and objectives of
26 this section.

1 (19) The proposed plan of operation or amendments to the
2 plan of operation shall be subject to majority approval by the
3 board, ratified by a majority of the membership having a vote,
4 with voting rights being apportioned according to the premiums
5 charged in subsection (7)(d) and shall be subject to approval by
6 the commissioner.

7 (20) Upon approval by the commissioner and ratification by
8 the members of the plan submitted, or upon the promulgation of a
9 plan by the commissioner, each insurer authorized to write insur-
10 ance providing the security required by section 3101(1) in this
11 state, as ~~defined~~ PROVIDED in this section, shall be bound by
12 and shall formally subscribe to and participate in the plan
13 approved as a condition of maintaining its authority to transact
14 insurance in this state.

15 (21) The association shall be subject to all the reporting,
16 loss reserve, and investment requirements of the commissioner to
17 the same extent as would a member of the association.

18 (22) Premiums charged members by the association shall be
19 recognized in the rate-making procedures for insurance rates in
20 the same manner that expenses and premium taxes are recognized.

21 (23) The commissioner or an authorized representative of the
22 commissioner may visit the association at any time and examine
23 any and all the association's affairs.

24 (24) ~~This section shall take effect on July 1, 1978.~~ The
25 association shall not have liability for losses occurring before
26 ~~the effective date of this section~~ JULY 1, 1978.

1 (25) THE BUSINESS WHICH THE BOARD MAY PERFORM SHALL BE
2 CONDUCTED AT A PUBLIC MEETING OF THE BOARD HELD IN COMPLIANCE
3 WITH THE OPEN MEETINGS ACT, ACT NO. 267 OF THE PUBLIC ACTS OF
4 1976, BEING SECTIONS 15.261 TO 15.275 OF THE MICHIGAN COMPILED
5 LAWS.

6 (26) A WRITING PREPARED, OWNED, USED, IN POSSESSION OF, OR
7 RETAINED BY THE BOARD IN THE PERFORMANCE OF AN OFFICIAL FUNCTION
8 IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE
9 PUBLIC ACTS OF 1976, BEING SECTIONS 15.231 TO 15.246 OF THE
10 MICHIGAN COMPILED LAWS.

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

16 (2) FOR A CAUSE OF ACTION FOR DAMAGES PURSUANT TO SUBSECTION
17 (1) FILED ON OR AFTER 120 DAYS AFTER THE EFFECTIVE DATE OF THIS
18 SUBSECTION, ALL OF THE FOLLOWING APPLY:

19 (A) DAMAGES SHALL NOT BE ASSESSED IN FAVOR OF AN INJURED
20 PERSON WHO, FOR THE ACCIDENT THAT CAUSED THE INJURY, IS CONVICTED
21 OF A VIOLATION OF SECTION 625(1), (4), OR (5) OF THE MICHIGAN
22 VEHICLE CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SEC-
23 TION 257.625 OF THE MICHIGAN COMPILED LAWS, OR A LOCAL ORDINANCE
24 SUBSTANTIALLY CORRESPONDING TO SECTION 625(1) OF ACT NO. 300 OF
25 THE PUBLIC ACTS OF 1949, AND IS MORE THAN 50% AT FAULT.

26 (B) THE ISSUE OF WHETHER AN INJURED PERSON HAS SUFFERED
27 SERIOUS IMPAIRMENT OF BODY FUNCTION OR PERMANENT SERIOUS

1 DISFIGUREMENT DOES NOT HAVE TO BE MET BY AN INJURED PERSON TO
2 RECOVER-NONECONOMIC LOSS IF THAT INJURED PERSON'S INJURIES WERE
3 CAUSED BY A DRIVER WHO, FOR THE ACCIDENT THAT CAUSED THE INJURY,
4 IS CONVICTED OF A VIOLATION OF SECTION 625(1), (4), OR (5) OF ACT
5 NO. 300 OF THE PUBLIC ACTS OF 1949, OR A LOCAL ORDINANCE SUBSTAN-
6 Tially CORRESPONDING TO SECTION 625(1) OF ACT NO. 300 OF THE
7 PUBLIC ACTS OF 1949.

8 (3) ~~(2)~~ Notwithstanding any other provision of law, tort
9 liability arising from the ownership, maintenance, or use within
10 this state of a motor vehicle with respect to which the security
11 required by section ~~3101(3) and (4)~~ 3101(1) was in effect is
12 abolished except as to:

13 (a) Intentionally caused harm to persons or property. Even
14 though a person knows that harm to persons or property is sub-
15 stantially certain to be caused by his or her act or omission,
16 the person does not cause or suffer ~~such~~ THAT harm intention-
17 ally if he or she acts or refrains from acting for the purpose of
18 averting injury to any person, including himself or herself, or
19 for the purpose of averting damage to tangible property.

20 (b) Damages for noneconomic loss as provided and limited in
21 ~~subsection~~ SUBSECTIONS (1) AND (2).

22 (c) Damages for allowable expenses, work loss, and
23 survivor's loss as defined in sections 3107 to 3110 in excess of
24 the daily, monthly, and 3-year limitations contained in those
25 sections. The party liable for damages is entitled to an exemp-
26 tion reducing his or her liability by the amount of taxes that

1 would have been payable on account of income the injured person
2 would have received if he or she had not been injured.

3 (d) Damages up to \$400.00 to motor vehicles, to the extent
4 that the damages are not covered by insurance. An action for
5 damages pursuant to this subdivision shall be conducted in com-
6 pliance with subsection ~~(3)~~ (4).

7 (4) ~~(3)~~ In an action for damages pursuant to subsection
8 ~~(2)(d)~~ (3)(D):

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 shall not be a component of residual liabili-
13 ty, as prescribed in section 3131, for which maintenance of
14 security is required by this act.

15 (5) ~~(4)~~ Actions under subsection ~~(2)(d)~~ (3)(D) shall be
16 commenced, whenever legally possible, in the small claims divi-
17 sion of the district court or ~~the conciliation division of the~~
18 ~~common pleas court of the city of Detroit or~~ the municipal
19 court. If the defendant or plaintiff removes ~~such an~~ THE
20 action to a higher court and does not prevail, the judge may
21 assess costs.

22 (6) ~~(5)~~ A decision of a court made pursuant to subsection
23 ~~(2)(d), shall not be~~ (3)(D) IS NOT res judicata in any proceed-
24 ing to determine any other liability arising from the same cir-
25 cumstances as gave rise to the action brought pursuant to subsec-
26 tion ~~(2)(d)~~ (3)(D).

1 ~~(6) Subsections (2)(d), (3), (4), and (5) shall take effect~~
2 ~~July 1, 1980.~~

3 SEC. 6112. (1) BEGINNING MARCH 1, 1996, EACH AUTOMOBILE
4 INSURER SHALL REPORT ANNUALLY TO THE COMMISSIONER ON AUTOMOBILE
5 THEFT CLAIMS INCLUDING ALL OF THE FOLLOWING BY VEHICLE IDENTIFI-
6 CATION NUMBER:

7 (A) ALL AUTOMOBILES INSURED BY THE INSURER THAT WERE
8 REPORTED STOLEN IN THE IMMEDIATELY PRECEDING YEAR.

9 (B) ALL PAYMENTS MADE BY THE INSURER FOR STOLEN VEHICLES IN
10 THE IMMEDIATELY PRECEDING YEAR.

11 (C) THE NUMBER OF RECOVERED STOLEN VEHICLES INSURED BY THE
12 INSURER AND THEIR SALVAGE VALUE AND ANY FEES PAID BY THE INSURER
13 FOR STORAGE IN THE IMMEDIATELY PRECEDING YEAR.

14 (2) THE COMMISSIONER SHALL DEVELOP BEFORE DECEMBER 1, 1995 A
15 REPORTING FORM THAT INSURERS SHALL USE IN COMPLYING WITH SUBSEC-
16 TION (1).

17 (3) THE COMMISSIONER SHALL REPORT ANNUALLY TO THE SENATE AND
18 HOUSE OF REPRESENTATIVES STANDING COMMITTEES ON INSURANCE ISSUES
19 A SUMMARY OF THE INFORMATION REPORTED UNDER SUBSECTION (1).