

**[No. 349]****(SB 1047)**

AN ACT to amend 1992 PA 147, entitled “An act to provide for the development and rehabilitation of residential housing; to provide for the creation of neighborhood enterprise zones; to provide for obtaining neighborhood enterprise zone certificates for a period of time and to prescribe the contents of the certificates; to provide for the exemption of certain taxes; to provide for the levy and collection of a specific tax on the owner of certain facilities; and to prescribe the powers and duties of certain officers of the state and local governmental units,” by amending section 4 (MCL 207.774), as amended by 2005 PA 339.

*The People of the State of Michigan enact:*

**207.774 Neighborhood enterprise zone certificate; application; filing; manner and form; contents; effective date of certificate.**

Sec. 4. (1) The owner of a homestead facility or owner or developer or prospective owner or developer of a proposed new facility or an owner or developer or prospective developer proposing to rehabilitate property located in a neighborhood enterprise zone may file an application for a neighborhood enterprise zone certificate with the clerk of the local governmental unit. The application shall be filed in the manner and form prescribed by the commission. The clerk of the local governmental unit shall provide a copy of each homestead facility application to the assessor for the local governmental unit. Except as provided in subsection (2), the application shall be filed before a building permit is issued for the new construction or rehabilitation of the facility.

(2) An application may be filed after a building permit is issued only if 1 or more of the following apply:

(a) For the rehabilitation of a facility if the area in which the facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in the calendar year 1992 and if the building permit is issued for the rehabilitation before December 31, 1994 and after the date on which the area in which the facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit.

(b) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in calendar year 1992 or 1993 and if the building permit is issued for that new facility before December 31, 1995 and after January 1, 1993.

(c) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1997 and if the building permit is issued for that new facility on February 3, 1998.

(d) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1996 and if the building permit was issued for that facility on or before July 3, 2001.

(e) For a new facility or a rehabilitated facility if the area in which the new facility or rehabilitated facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in October 1994 and if the building permit was issued for that facility on or before April 25, 1997.

(f) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in September 2001 and if the building permit is issued for that new facility on March 3, 2003.

(g) For a rehabilitated facility if all or a portion of the rehabilitated facility is a qualified historic building.

(h) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 1993 and the new facility was a model home.

(i) For the construction of a new facility if the area in which the new facility is located is designated as a neighborhood enterprise zone by the governing body of the local governmental unit in August 2004 and if building permits were issued for that facility beginning November 5, 2002 through December 23, 2003.

(j) For a homestead facility.

(k) For the construction of a facility if the area in which the facility is located was designated as a neighborhood enterprise zone by the governing body of the local governmental unit in July 2003, and if the building permit was issued for that facility in June 2004.

(3) The application shall contain or be accompanied by all of the following:

(a) A general description of the homestead facility, new facility, or proposed rehabilitated facility.

(b) The dimensions of the parcel on which the homestead facility, new facility, or proposed rehabilitated facility is or is to be located.

(c) The general nature and extent of the construction to be undertaken.

(d) A time schedule for undertaking and completing the rehabilitation of property or the construction of the new facility.

(e) A statement by the owner of a homestead facility that the owner is committed to investing a minimum of \$500.00 in the first 3 years that the certificate for a homestead facility is in effect and committed to documenting the minimum investment if required to do so by the assessor of the local governmental unit.

(f) Any other information required by the local governmental unit.

(4) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(c), the effective date of the certificate shall be the first day of the tax year following the year the certificate is approved by the commission.

(5) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(d) or the amendatory act that added subsection (2)(e), the effective date of the certificate shall be January 1, 2001.

(6) Notwithstanding any other provisions of this act, for any certificate issued as a result of the enactment of the amendatory act that added subsection (2)(j) or the amendatory act that added subsection (2)(k), the effective date of the certificate shall be the first day of the tax year following the year the certificate is approved by the commission.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

**[No. 350]****(HB 5217)**

AN ACT to amend 1927 PA 372, entitled “An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,” by amending section 5b (MCL 28.425b), as amended by 2003 PA 31.

*The People of the State of Michigan enact:*

**28.425b License application; fee; verification of requirements; determination; circumstances for issuance; fingerprints; issuance or denial; temporary license; suspension or revocation of license; definitions.**

Sec. 5b. (1) To obtain a license to carry a concealed pistol, an individual shall apply to the concealed weapon licensing board in the county in which that individual resides. The application shall be filed with the county clerk during the county clerk’s normal business hours. The application shall be on a form provided by the director of the department of state police and shall allow the applicant to designate whether the applicant seeks a temporary license. The application shall be signed under oath by the applicant. The oath shall be administered by the county clerk or his or her representative. The application shall contain all of the following information:

(a) The applicant’s legal name and date of birth and the address of his or her primary residence. If the applicant resides in a city, village, or township that has a police department, the name of the police department. Information received under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(b) A statement by the applicant that the applicant meets the criteria for a license under this act to carry a concealed pistol.

(c) A statement by the applicant authorizing the concealed weapon licensing board to access any record, including any medical record, pertaining to the applicant’s qualifications for a license to carry a concealed pistol under this act. The applicant may request that information received by the concealed weapon licensing board under this subdivision be reviewed in a closed session. If the applicant requests that the session be closed, the concealed weapon licensing board shall close the session only for purposes of this subdivision. The applicant and his or her representative have the right to be present in the closed session. Medical records and personal identifying information received by the concealed weapon licensing board under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes or if the applicant is convicted of a felony involving a pistol.

(d) A statement by the applicant regarding whether he or she has a history of mental illness that would disqualify him or her under subsection (7)(j) to (l) from receiving a license to carry a concealed pistol, and authorizing the concealed weapon licensing board

to access the mental health records of the applicant relating to his or her mental health history. The applicant may request that information received by the concealed weapon licensing board under this subdivision be reviewed in a closed session. If the applicant requests that the session be closed, the concealed weapon licensing board shall close the session only for purposes of this subdivision. The applicant and his or her representative have the right to be present in the closed session. Medical records and personal identifying information received by the concealed weapon licensing board under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(e) A statement by the applicant regarding whether he or she has ever been convicted in this state or elsewhere for any of the following:

(i) Any felony.

(ii) A misdemeanor listed under subsection (7)(h) or (i), if the applicant was convicted of violating that misdemeanor in the 8 years immediately preceding the date of the application.

(f) A statement by the applicant whether he or she has been dishonorably discharged from the United States armed forces.

(g) If the applicant seeks a temporary license, the facts supporting the issuance of that temporary license.

(h) The names, residential addresses, and telephone numbers of 2 individuals who are references for the applicant. Information received under this subdivision is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(i) A passport-quality photograph of the applicant provided by the applicant at the time of application.

(j) A certificate stating that the applicant has completed the training course prescribed by this act.

(2) The application form shall contain a conspicuous warning that the application is executed under oath and that intentionally making a material false statement on the application is a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500.00, or both.

(3) An individual who intentionally makes a material false statement on an application under subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,500.00, or both.

(4) The concealed weapon licensing board shall retain a copy of each application for a license to carry a concealed pistol as an official record. One year after the expiration of a concealed pistol license, the county clerk may destroy the record and maintain only a name index of the record.

(5) Each applicant shall pay a fee of \$105.00 by any method of payment accepted by that county for payments of other fees and penalties. Except for a local police agency as provided in subsection (9), a unit of local government, an agency of a unit of local government, or an agency or department of this state shall not charge an additional fee, assessment, or other amount in connection with a license under this section. The fee shall be payable to the county. The county treasurer shall deposit \$41.00 of each fee collected under this section

in the general fund of the county and credit \$26.00 of that deposit to the credit of the county clerk and \$15.00 of that deposit to the credit of the county sheriff and forward the balance to the state treasurer. The state treasurer shall deposit the balance of the fee in the general fund to the credit of the department of state police. The department of state police shall use the money received under this act to process the fingerprints and to reimburse the federal bureau of investigation for the costs associated with processing fingerprints submitted under this act. The balance of the money received under this act shall be credited to the department of state police.

(6) The county sheriff on behalf of the concealed weapon licensing board shall verify the requirements of subsection (7)(d), (e), (f), (h), (i), (j), (k), (l), and (m) through the law enforcement information network and report his or her finding to the concealed weapon licensing board. If the applicant resides in a city, village, or township that has a police department, the concealed weapon licensing board shall contact that city, village, or township police department to determine only whether that city, village, or township police department has any information relevant to the investigation of whether the applicant is eligible under this act to receive a license to carry a concealed pistol.

(7) The concealed weapon licensing board shall issue a license to an applicant to carry a concealed pistol within the period required under this act after the applicant properly submits an application under subsection (1) and the concealed weapon licensing board determines that all of the following circumstances exist:

(a) The applicant is 21 years of age or older.

(b) The applicant is a citizen of the United States or is an alien lawfully admitted into the United States, is a resident of this state, and has resided in this state for not less than 6 months. The concealed weapon licensing board may waive the 6-month residency requirement for a temporary license under section 5a(8) if the concealed weapon licensing board determines there is probable cause to believe the safety of the applicant or the safety of a member of the applicant's family is endangered by the applicant's inability to immediately obtain a license to carry a concealed pistol.

(c) The applicant has knowledge and has had training in the safe use and handling of a pistol by the successful completion of a pistol safety training course or class that meets the requirements of section 5j, and that is available to the general public and presented by a law enforcement agency, junior or community college, college, or public or private institution or organization or firearms training school.

(d) The applicant is not the subject of an order or disposition under any of the following:

(i) Section 464a of the mental health code, 1974 PA 258, MCL 330.1464a.

(ii) Section 5107 of the estates and protected individuals code, 1998 PA 386, MCL 700.5107.

(iii) Sections 2950 and 2950a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2950 and 600.2950a.

(iv) Section 6b of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b, if the order has a condition imposed pursuant to section 6b(3) of chapter V of the code of criminal procedure, 1927 PA 175, MCL 765.6b.

(v) Section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(e) The applicant is not prohibited from possessing, using, transporting, selling, purchasing, carrying, shipping, receiving, or distributing a firearm under section 224f of the Michigan penal code, 1931 PA 328, MCL 750.224f.

(f) The applicant has never been convicted of a felony in this state or elsewhere, and a felony charge against the applicant is not pending in this state or elsewhere at the time he or she applies for a license described in this section.

(g) The applicant has not been dishonorably discharged from the United States armed forces.

(h) The applicant has not been convicted of a misdemeanor violation of any of the following in the 8 years immediately preceding the date of application:

(i) Section 617a of the Michigan vehicle code, 1949 PA 300, MCL 257.617a (failing to stop when involved in a personal injury accident).

(ii) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625, punishable as provided in subsection (9)(b) of that section (operating while intoxicated, second offense).

(iii) Section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625m punishable under subsection (4) of that section (drunk driving, commercial vehicle).

(iv) Section 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.626 (reckless driving).

(v) Section 904(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.904 (driving while license suspended or revoked), punishable as a second or subsequent offense.

(vi) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft while under the influence of intoxicating liquor or a controlled substance with prior conviction).

(vii) Section 29 of the weights and measures act, 1964 PA 283, MCL 290.629 (hindering or obstructing certain persons performing official weights and measures duties).

(viii) Section 10 of the motor fuels quality act, 1984 PA 44, MCL 290.650 (hindering, obstructing, assaulting, or committing bodily injury upon director or authorized representative).

(ix) Section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134, punishable under subsection (5) or (6) of that section (operating ORV under the influence of intoxicating liquor or a controlled substance, second or subsequent offense).

(x) Section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127 (operating a snowmobile under the influence of intoxicating liquor or a controlled substance), punishable as a second or subsequent offense under section 82128(1)(b) or (c) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82128.

(xi) Section 80176 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, and punishable under section 80177(1)(b) (operating vessel under the influence of intoxicating liquor or a controlled substance, second or subsequent offense).

(xii) Section 7403 of the public health code, 1978 PA 368, MCL 333.7403.

(xiii) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353 (operating locomotive under the influence of intoxicating liquor or a controlled substance, or while visibly impaired), punishable under subsection (4) of that section.

(xiv) Section 7 of 1978 PA 33, MCL 722.677 (displaying sexually explicit matter to minors).

(xv) Section 81 of the Michigan penal code, 1931 PA 328, MCL 750.81 (assault or domestic assault).

(xvi) Section 81a(1) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.81a (aggravated assault or aggravated domestic assault).

(*xvii*) Section 115 of the Michigan penal code, 1931 PA 328, MCL 750.115 (entering without breaking).

(*xviii*) Section 136b(6) of the Michigan penal code, 1931 PA 328, MCL 750.136b (fourth degree child abuse).

(*xix*) Section 145a of the Michigan penal code, 1931 PA 328, MCL 750.145a (accosting, enticing, or soliciting a child for immoral purposes).

(*xx*) Section 145n of the Michigan penal code, 1931 PA 328, MCL 750.145n (vulnerable adult abuse).

(*xxi*) Section 157b(3)(b) of the Michigan penal code, 1931 PA 328, MCL 750.157b (solicitation to commit a felony).

(*xxii*) Section 215 of the Michigan penal code, 1931 PA 328, MCL 750.215 (impersonating peace officer or medical examiner).

(*xxiii*) Section 223 of the Michigan penal code, 1931 PA 328, MCL 750.223 (illegal sale of a firearm or ammunition).

(*xxiv*) Section 224d of the Michigan penal code, 1931 PA 328, MCL 750.224d (illegal sale of a self-defense spray).

(*xxv*) Section 226a of the Michigan penal code, 1931 PA 328, MCL 750.226a (sale or possession of a switchblade).

(*xxvi*) Section 227c of the Michigan penal code, 1931 PA 328, MCL 750.227c (improper transportation of a loaded firearm).

(*xxvii*) Section 228 of the Michigan penal code, 1931 PA 328, MCL 750.228 (failure to have a pistol inspected).

(*xxviii*) Section 229 of the Michigan penal code, 1931 PA 328, MCL 750.229 (accepting a pistol in pawn).

(*xxix*) Section 232 of the Michigan penal code, 1931 PA 328, MCL 750.232 (failure to register the purchase of a firearm or a firearm component).

(*xxx*) Section 232a of the Michigan penal code, 1931 PA 328, MCL 750.232a (improperly obtaining a pistol, making a false statement on an application to purchase a pistol, or using false identification to purchase a pistol).

(*xxxi*) Section 233 of the Michigan penal code, 1931 PA 328, MCL 750.233 (intentionally aiming a firearm without malice).

(*xxxii*) Section 234 of the Michigan penal code, 1931 PA 328, MCL 750.234 (intentionally discharging a firearm aimed without malice).

(*xxxiii*) Section 234d of the Michigan penal code, 1931 PA 328, MCL 750.234d (possessing a firearm on prohibited premises).

(*xxxiv*) Section 234e of the Michigan penal code, 1931 PA 328, MCL 750.234e (brandishing a firearm in public).

(*xxxv*) Section 234f of the Michigan penal code, 1931 PA 328, MCL 750.234f (possession of a firearm by an individual less than 18 years of age).

(*xxxvi*) Section 235 of the Michigan penal code, 1931 PA 328, MCL 750.235 (intentionally discharging a firearm aimed without malice causing injury).

(*xxxvii*) Section 235a of the Michigan penal code, 1931 PA 328, MCL 750.235a (parent of a minor who possessed a firearm in a weapon free school zone).

(*xxxviii*) Section 236 of the Michigan penal code, 1931 PA 328, MCL 750.236 (setting a spring gun or other device).

(*xxxix*) Section 237 of the Michigan penal code, 1931 PA 328, MCL 750.237 (possessing a firearm while under the influence of intoxicating liquor or a drug).

(*xl*) Section 237a of the Michigan penal code, 1931 PA 328, MCL 750.237a (weapon free school zone violation).

(*xli*) Section 335a of the Michigan penal code, 1931 PA 328, MCL 750.335a (indecent exposure).

(*xlii*) Section 411h of the Michigan penal code, 1931 PA 328, MCL 750.411h (stalking).

(*xliii*) Section 1 of 1952 PA 45, MCL 752.861 (reckless, careless, or negligent use of a firearm resulting in injury or death).

(*xliv*) Section 2 of 1952 PA 45, MCL 752.862 (careless, reckless, or negligent use of a firearm resulting in property damage).

(*xlv*) Section 3a of 1952 PA 45, MCL 752.863a (reckless discharge of a firearm).

(*xlvi*) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (*i*) to (*xlv*).

(*i*) The applicant has not been convicted of a misdemeanor violation of any of the following in the 3 years immediately preceding the date of application unless the misdemeanor violation is listed under subdivision (h):

(*i*) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625 (operating under the influence).

(*ii*) Section 625a of the Michigan vehicle code, 1949 PA 300, MCL 257.625a (refusal of commercial vehicle driver to submit to a chemical test).

(*iii*) Section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k (negligently fails to comply).

(*iv*) Section 625l of the Michigan vehicle code, 1949 PA 300, MCL 257.625l (circumventing an ignition interlocking device).

(*v*) Section 625m of the Michigan vehicle code, 1949 PA 300, MCL 257.625m, punishable under subsection (3) of that section (operating a commercial vehicle with alcohol content).

(*vi*) Section 185 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.185 (operating aircraft under the influence).

(*vii*) Section 81134 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81134 (operating ORV under the influence).

(*viii*) Section 81135 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81135 (operating ORV while visibly impaired).

(*ix*) Section 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.82127 (operating a snowmobile under the influence).

(*x*) Part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 (controlled substances).

(*xi*) Section 353 of the railroad code of 1993, 1993 PA 354, MCL 462.353 (operating locomotive under the influence), punishable under subsection (3) of that section.

(*xii*) Section 167 of the Michigan penal code, 1931 PA 328, MCL 750.167 (disorderly person).

(*xiii*) Section 174 of the Michigan penal code, 1931 PA 328, MCL 750.174 (embezzlement).

(*xiv*) Section 218 of the Michigan penal code, 1931 PA 328, MCL 750.218 (false pretenses).

(*xv*) Section 356 of the Michigan penal code, 1931 PA 328, MCL 750.356 (larceny).



(xvi) Section 356d of the Michigan penal code, 1931 PA 328, MCL 750.356d (retail fraud).

(xvii) Section 359 of the Michigan penal code, 1931 PA 328, MCL 750.359 (larceny-vacant building).

(xviii) Section 362 of the Michigan penal code, 1931 PA 328, MCL 750.362 (larceny by conversion).

(xix) Section 362a of the Michigan penal code, 1931 PA 328, MCL 750.362a (defrauding lessor).

(xx) Section 377a of the Michigan penal code, 1931 PA 328, MCL 750.377a (malicious destruction of property).

(xxi) Section 380 of the Michigan penal code, 1931 PA 328, MCL 750.380 (malicious destruction of real property).

(xxii) Section 479a of the Michigan penal code, 1931 PA 328, MCL 750.479a (failure to obey police direction).

(xxiii) Section 535 of the Michigan penal code, 1931 PA 328, MCL 750.535 (receiving stolen property).

(xxiv) Section 540e of the Michigan penal code, 1931 PA 328, MCL 750.540e (malicious use of telephones).

(xxv) A violation of a law of the United States, another state, or a local unit of government of this state or another state substantially corresponding to a violation described in subparagraphs (i) to (xxiv).

(j) The applicant has not been found guilty but mentally ill of any crime and has not offered a plea of not guilty of, or been acquitted of, any crime by reason of insanity.

(k) The applicant has never been subject to an order of involuntary commitment in an inpatient or outpatient setting due to mental illness.

(l) The applicant does not have a diagnosed mental illness at the time the application is made regardless of whether he or she is receiving treatment for that illness.

(m) The applicant is not under a court order of legal incapacity in this state or elsewhere.

(n) Issuing a license to the applicant to carry a concealed pistol in this state is not detrimental to the safety of the applicant or to any other individual. A determination under this subdivision shall be based on clear and convincing evidence of repeated violations of this act, crimes, personal protection orders or injunctions, or police reports or other clear and convincing evidence of the actions of, or statements of, the applicant that bear directly on the applicant's ability to carry a concealed pistol.

(8) Upon entry of a court order or conviction of 1 of the enumerated prohibitions for using, transporting, selling, purchasing, carrying, shipping, receiving or distributing a firearm in this section the department of state police shall immediately enter the order or conviction into the law enforcement information network. For purposes of this act, information of the court order or conviction shall not be removed from the law enforcement information network, but may be moved to a separate file intended for the use of the county concealed weapon licensing boards, the courts, and other government entities as necessary and exclusively to determine eligibility to be licensed under this act.

(9) An individual, after submitting an application and paying the fee prescribed under subsection (5), shall request and have classifiable fingerprints taken by the county sheriff or a local police agency if that local police agency maintains fingerprinting capability. If the individual requests that classifiable fingerprints be taken by a local police agency, the individual shall also pay to that local police agency a fee of \$15.00 by any method of payment

accepted by the unit of local government for payments of other fees and penalties. The county sheriff or local police agency shall take the fingerprints within 5 business days after the request.

(10) The fingerprints shall be taken, under subsection (9), on forms and in a manner prescribed by the department of state police. The fingerprints shall be immediately forwarded to the department of state police for comparison with fingerprints already on file with the department of state police. The department of state police shall forward the fingerprints to the federal bureau of investigation. Within 10 days after receiving a report of the fingerprints from the federal bureau of investigation, the department of state police shall provide a copy to the submitting sheriff's department or local police agency as appropriate and the clerk of the appropriate concealed weapon licensing board. Except as provided in subsection (14), the concealed weapon licensing board shall not issue a concealed pistol license until it receives the fingerprint comparison report prescribed in this subsection. The concealed weapon licensing board may deny a license if an individual's fingerprints are not classifiable by the federal bureau of investigation.

(11) The concealed weapon licensing board shall deny a license to an applicant to carry a concealed pistol if the applicant is not qualified under subsection (7) to receive that license.

(12) A license to carry a concealed pistol that is issued based upon an application that contains a material false statement is void from the date the license is issued.

(13) Subject to subsections (10) and (14), the concealed weapon licensing board shall issue or deny issuance of a license within 45 days after the concealed weapon licensing board receives the fingerprint comparison report provided under subsection (10). If the concealed weapon licensing board denies issuance of a license to carry a concealed pistol, the concealed weapon licensing board shall within 5 business days do both of the following:

(a) Inform the applicant in writing of the reasons for the denial. Information under this subdivision shall include all of the following:

(i) A statement of the specific and articulable facts supporting the denial.

(ii) Copies of any writings, photographs, records, or other documentary evidence upon which the denial is based.

(b) Inform the applicant in writing of his or her right to appeal the denial to the circuit court as provided in section 5d.

(14) If the fingerprint comparison report is not received by the concealed weapon licensing board within 60 days after the fingerprint report is forwarded to the department of state police by the federal bureau of investigation, the concealed weapon licensing board shall issue a temporary license to carry a concealed pistol to the applicant if the applicant is otherwise qualified for a license. A temporary license issued under this section is valid for 180 days or until the concealed weapon licensing board receives the fingerprint comparison report provided under subsection (10) and issues or denies issuance of a license to carry a concealed pistol as otherwise provided under this act. Upon issuance or the denial of issuance of the license to carry a concealed pistol to an applicant who received a temporary license under this section, the applicant shall immediately surrender the temporary license to the concealed weapon licensing board that issued that temporary license.

(15) If an individual licensed under this act to carry a concealed pistol moves to a different county within this state, his or her license remains valid until it expires or is otherwise suspended or revoked under this act. A license to carry a concealed pistol that is lost, stolen, or defaced may be replaced by the issuing county clerk for a replacement fee of \$10.00.

(16) If a concealed weapons licensing board suspends or revokes a license issued under this act, the license is forfeited and shall be returned to the concealed weapon licensing board forthwith.

(17) An applicant or an individual licensed under this act to carry a concealed pistol may be furnished a copy of his or her application under this section upon request and the payment of a reasonable fee.

(18) This section does not prohibit the concealed weapon licensing board from making public and distributing to the public at no cost lists of individuals who are certified as qualified instructors as prescribed under section 5j.

(19) As used in this section:

(a) “Convicted” means a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(b) “Felony” means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States or another state that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(c) “Mental illness” means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life, and includes, but is not limited to, clinical depression.

(d) “Misdemeanor” means a violation of a penal law of this state or violation of a local ordinance substantially corresponding to a violation of a penal law of this state that is not a felony or a violation of an order, rule, or regulation of a state agency that is punishable by imprisonment or a fine that is not a civil fine, or both.

(e) “Treatment” means care or any therapeutic service, including, but not limited to, the administration of a drug, and any other service for the treatment of a mental illness.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**[No. 351]**

**(HB 5800)**

AN ACT to amend 1953 PA 232, entitled “An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow

for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act,” (MCL 791.201 to 791.283) by adding section 20i.

*The People of the State of Michigan enact:*

**791.220i Michigan youth correctional facility in Webber township, Lake county; use; interlocal agreements; contract for housing, custody, and care of detainees or inmates from other agencies; requirements; oversight; civil liability; definitions.**

Sec. 20i. (1) If the Michigan youth correctional facility established pursuant to section 20g in Webber township, Lake county, Michigan, is not utilized by the department for housing inmates or detainees under the jurisdiction of the department, the private vendor that operates the Michigan youth correctional facility may utilize the facility for housing, custody, and care of detainees or inmates from other local, state, or federal agencies, either by directly contracting with those local, state, or federal agencies or by having 1 or more local, state, or federal agencies enter into an interlocal agreement with Webber township, Lake county, or the county sheriff for Lake county, who in turn may contract with the private vendor for services to be provided under the terms of the interlocal agreement, subject to the requirements of this section. If all contractual factors regarding potential inmates or detainees are equal, the private vendor shall give preference to the admission of inmates or detainees sent from agencies within this state.

(2) Any contract under this section for the housing, custody, and care of detainees or inmates from other local, state, or federal agencies shall require all of the following:

(a) The private vendor that operates the facility shall do all of the following:

(i) Obtain accreditation of the facility by the American correctional association within 24 months after the private vendor commences operations at the facility and maintain that accreditation throughout the term of any contract for the use of the facility.

(ii) Operate the facility in compliance with the applicable standards of the American correctional association.

(b) The personnel employed by the private vendor in the operation of the facility shall meet the employment and training requirements set forth in the applicable standards of the American correctional association, and also shall meet any higher training and employment standards that may be mandated under a contract between the private vendor and a local, state, or federal agency that sends inmates or detainees to the facility.

(c) Any serious incident that occurs at the facility shall be reported immediately to the sheriff of Lake county and the state police.

(3) An inmate or detainee housed at the facility shall not participate in work release, a work camp, or another similar program or activity occurring outside the secure perimeter of the facility.

(4) The facility shall allow the presence of on-site monitors from any local, state, or federal agency that sends inmates or detainees to the facility, for the purpose of monitoring the conditions of confinement of those inmates or detainees. Whenever the private vendor submits a written report to a local, state, or federal agency that sends inmates or detainees

to the facility, the private vendor shall send copies of the written report to the township supervisor for Webber township, the board of county commissioners for Lake county, the sheriff of Lake county, and the department.

(5) Personnel employed at the facility by the private vendor who have met the employment and training requirements set forth in the applicable standards of the American correctional association have full authority to perform their duties and responsibilities under law, including, but not limited to, exercising the use of force in the same manner and to the same extent as would be authorized if those personnel were employed in a correctional facility operated by the department.

(6) A contract with a local, state, or federal agency that sends inmates or detainees to the facility shall not require, authorize, or imply a delegation of the authority or responsibility to the private vendor to do any of the following:

(a) Develop or implement procedures for calculating inmate release and parole eligibility dates or recommending the granting or denying of parole, although the private vendor may submit written reports that have been prepared in the ordinary course of business.

(b) Develop or implement procedures for calculating and awarding earned credits, including good time credits, disciplinary credits, or similar credits affecting the length of an inmate's incarceration, approving the type of work inmates may perform and the wage or earned credits, if any, that may be awarded to inmates engaging in that work, and granting, denying, or revoking earned credits.

(7) An inmate or detainee shall not be housed at the facility unless the security classification of the inmate or detainee, as it would be determined by the department if he or she were being housed in a state correctional facility, is level IV or below, and has never previously been above level IV.

(8) Inmates and detainees shall be transferred to and from the facility in a secure manner. Any inmate or detainee housed at the facility who was sent from another state, a local agency outside this state, or the federal government shall be returned to the agency that sent the inmate or detainee upon completion of the inmate's or detainee's term of incarceration in the facility and shall not be released from custody within this state.

(9) The department of corrections is not responsible for oversight of the facility. This state, or any department or agency of this state, is not civilly liable for damages arising out of the operation of the facility.

(10) As used in this section:

(a) "Facility" means the former Michigan youth correctional facility described in subsection (1).

(b) "Security classification" means 1 of 6 levels of restrictiveness enforced in housing units at each state correctional facility, as determined by the department, with security level I being the least restrictive and security level VI being the most restrictive.

(c) "Serious incident" means a disturbance at the facility involving 5 or more inmates or detainees, a death of an inmate or detainee, a felony or attempted felony committed within the facility, or an escape or attempted escape from the facility.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

**[No. 352]****(HB 5602)**

AN ACT to amend 1939 PA 288, entitled “An act to revise and consolidate the statutes relating to certain aspects of the family division of circuit court, to the jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers, to the change of name of adults and children, and to the adoption of adults and children; to prescribe certain jurisdiction, powers, and duties of the family division of circuit court and its judges and other officers; to prescribe the manner and time within which certain actions and proceedings may be brought in the family division of the circuit court; to prescribe pleading, evidence, practice, and procedure in certain actions and proceedings in the family division of circuit court; to provide for appeals from certain actions in the family division of circuit court; to prescribe the powers and duties of certain state departments, agencies, and officers; to provide for certain immunity from liability; and to provide remedies and penalties,” by amending section 60 of chapter X (MCL 710.60), as amended by 1996 PA 409.

*The People of the State of Michigan enact:*

## CHAPTER X

**710.60 Adoptee to be known and called by new name; status and liability of persons adopting adoptee; rights and duties of adopted person; adopted person as heir at law; order for grandparenting time.**

Sec. 60. (1) After the entry of an order of adoption, if the adoptee's name is changed, the adoptee shall be known and called by the new name. The person or persons adopting the adoptee then become the parent or parents of the adoptee under the law as though the adopted person had been born to the adopting parents and are liable for all the duties and entitled to all the rights of parents.

(2) After entry of the order of adoption, there is no distinction between the rights and duties of natural progeny and adopted persons, and the adopted person becomes an heir at law of the adopting parent or parents and an heir at law of the lineal and collateral kindred of the adopting parent or parents. After entry of the order of adoption, except as provided in section 2114(2) of the estates and protected individuals code, 1998 PA 386, MCL 700.2114, an adopted child is no longer an heir at law of a parent whose rights have been terminated under this chapter or chapter XIIA or the lineal or collateral kindred of that parent, nor is an adopted adult an heir at law of a person who was his or her parent at the time the order of adoption was entered or the lineal or collateral kindred of that person, except that a right, title, or interest that has vested before entry of the final order of adoption is not divested by that order.

(3) This section does not prohibit the filing of an action or entry of an order for grandparenting time as provided in section 7b of the child custody act of 1970, 1970 PA 91, MCL 722.27b.

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 420 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

**[No. 353]****(SB 420)**

AN ACT to amend 1970 PA 91, entitled “An act to declare the inherent rights of minor children; to establish rights and duties to their custody, support, and parenting time in disputed actions; to establish rights and duties to provide support for a child after the child reaches the age of majority under certain circumstances; to provide for certain procedure and appeals; and to repeal certain acts and parts of acts,” by amending section 7b (MCL 722.27b), as amended by 2004 PA 542.

*The People of the State of Michigan enact:*

**722.27b Order for grandparenting time; circumstances; acknowledgment of parentage; commencement of action; procedures; affidavit; notice; opposing affidavit; hearing; basis for entry of order; condition; record; court mediation; frequency of filing complaint or motion seeking order; attorney fees; order prohibiting change of domicile of grandchild; effect of entry of order; modifying or terminating order.**

Sec. 7b. (1) A child’s grandparent may seek a grandparenting time order under 1 or more of the following circumstances:

(a) An action for divorce, separate maintenance, or annulment involving the child’s parents is pending before the court.

(b) The child’s parents are divorced, separated under a judgment of separate maintenance, or have had their marriage annulled.

(c) The child’s parent who is a child of the grandparents is deceased.

(d) The child’s parents have never been married, they are not residing in the same household, and paternity has been established by the completion of an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, by an order of filiation entered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or by a determination by a court of competent jurisdiction that the individual is the father of the child.

(e) Except as otherwise provided in subsection (13), legal custody of the child has been given to a person other than the child’s parent, or the child is placed outside of and does not reside in the home of a parent.

(f) In the year preceding the commencement of an action under subsection (3) for grandparenting time, the grandparent provided an established custodial environment for the child as described in section 7, whether or not the grandparent had custody under a court order.

(2) A court shall not permit a parent of a father who has never been married to the child’s mother to seek an order for grandparenting time under this section unless the father has completed an acknowledgment of parentage under the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013, an order of filiation has been entered under the paternity act, 1956 PA 205, MCL 722.711 to 722.730, or the father has been determined to be the father by a court of competent jurisdiction. The court shall not permit the parent of a putative father to seek an order for grandparenting time unless the putative father has provided substantial and regular support or care in accordance with the putative father’s ability to provide the support or care.

(3) A grandparent seeking a grandparenting time order shall commence an action for grandparenting time, as follows:

(a) If the circuit court has continuing jurisdiction over the child, the child's grandparent shall seek a grandparenting time order by filing a motion with the circuit court in the county where the court has continuing jurisdiction.

(b) If the circuit court does not have continuing jurisdiction over the child, the child's grandparent shall seek a grandparenting time order by filing a complaint in the circuit court for the county where the child resides.

(4) All of the following apply to an action for grandparenting time under subsection (3):

(a) The complaint or motion for grandparenting time filed under subsection (3) shall be accompanied by an affidavit setting forth facts supporting the requested order. The grandparent shall give notice of the filing to each person who has legal custody of, or an order for parenting time with, the child. A party having legal custody may file an opposing affidavit. A hearing shall be held by the court on its own motion or if a party requests a hearing. At the hearing, parties submitting affidavits shall be allowed an opportunity to be heard.

(b) In order to give deference to the decisions of fit parents, it is presumed in a proceeding under this subsection that a fit parent's decision to deny grandparenting time does not create a substantial risk of harm to the child's mental, physical, or emotional health. To rebut the presumption created in this subdivision, a grandparent filing a complaint or motion under this section must prove by a preponderance of the evidence that the parent's decision to deny grandparenting time creates a substantial risk of harm to the child's mental, physical, or emotional health. If the grandparent does not overcome the presumption, the court shall dismiss the complaint or deny the motion.

(c) If a court of appellate jurisdiction determines in a final and nonappealable judgment that the burden of proof described in subdivision (b) is unconstitutional, a grandparent filing a complaint or motion under this section must prove by clear and convincing evidence that the parent's decision to deny grandparenting time creates a substantial risk of harm to the child's mental, physical, or emotional health to rebut the presumption created in subdivision (b).

(5) If 2 fit parents sign an affidavit stating that they both oppose an order for grandparenting time, the court shall dismiss a complaint or motion seeking an order for grandparenting time filed under subsection (3). This subsection does not apply if 1 of the fit parents is a stepparent who adopted a child under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, and the grandparent seeking the order is the natural or adoptive parent of a parent of the child who is deceased or whose parental rights have been terminated.

(6) If the court finds that a grandparent has met the standard for rebutting the presumption described in subsection (4), the court shall consider whether it is in the best interests of the child to enter an order for grandparenting time. If the court finds by a preponderance of the evidence that it is in the best interests of the child to enter a grandparenting time order, the court shall enter an order providing for reasonable grandparenting time of the child by the grandparent by general or specific terms and conditions. In determining the best interests of the child under this subsection, the court shall consider all of the following:

(a) The love, affection, and other emotional ties existing between the grandparent and the child.

(b) The length and quality of the prior relationship between the child and the grandparent, the role performed by the grandparent, and the existing emotional ties of the child to the grandparent.



- (c) The grandparent's moral fitness.
  - (d) The grandparent's mental and physical health.
  - (e) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference.
  - (f) The effect on the child of hostility between the grandparent and the parent of the child.
  - (g) The willingness of the grandparent, except in the case of abuse or neglect, to encourage a close relationship between the child and the parent or parents of the child.
  - (h) Any history of physical, emotional, or sexual abuse or neglect of any child by the grandparent.
  - (i) Whether the parent's decision to deny, or lack of an offer of, grandparenting time is related to the child's well-being or is for some other unrelated reason.
  - (j) Any other factor relevant to the physical and psychological well-being of the child.
- (7) If the court has determined that a grandparent has met the standard for rebutting the presumption described in subsection (4), the court may refer that grandparent's complaint or motion for grandparenting time filed under subsection (3) to domestic relations mediation as provided by supreme court rule. If the complaint or motion is referred to the friend of the court mediation service and no settlement is reached through friend of the court mediation within a reasonable time after the date of referral, the complaint or motion shall be heard by the court as provided in this section.
- (8) A grandparent may not file more than once every 2 years, absent a showing of good cause, a complaint or motion under subsection (3) seeking a grandparenting time order. If the court finds there is good cause to allow a grandparent to file more than 1 complaint or motion under this section in a 2-year period, the court shall allow the filing and shall consider the complaint or motion. Upon motion of a person, the court may order reasonable attorney fees to the prevailing party.
- (9) The court shall not enter an order prohibiting an individual who has legal custody of a child from changing the domicile of the child if the prohibition is primarily for the purpose of allowing a grandparent to exercise the rights conferred in a grandparenting time order entered under this section.
- (10) A grandparenting time order entered under this section does not create parental rights in the individual or individuals to whom grandparenting time rights are granted. The entry of a grandparenting time order does not prevent a court of competent jurisdiction from acting upon the custody of the child, the parental rights of the child, or the adoption of the child.
- (11) A court shall not modify or terminate a grandparenting time order entered under this section unless it finds by a preponderance of the evidence, on the basis of facts that have arisen since entry of the grandparenting time order or were unknown to the court at the time it entered that order, that a change has occurred in the circumstances of the child or his or her custodian and that a modification or termination of the existing order is necessary to avoid creating a substantial risk of harm to the mental, physical, or emotional health of the child. A court modifying or terminating a grandparenting time order under this subsection shall include specific findings of fact in its order in support of its decision.
- (12) The court shall make a record of its analysis and findings under subsections (4), (6), (8), and (11), including the reasons for granting or denying a requested grandparenting time order.

(13) Except as otherwise provided in this subsection, adoption of a child or placement of a child for adoption under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, terminates the right of a grandparent to commence an action for grandparenting time with that child. Adoption of a child by a stepparent under the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, does not terminate the right of the parent of a deceased parent of the child to commence an action for grandparenting time with that child.

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5602 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** House Bill No. 5602, referred to in enacting section 1, was filed with the Secretary of State September 18, 2006, and became 2006 PA 352, Imd. Eff. Sept. 18, 2006.

---

**[No. 354]**

**(HB 6223)**

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation

of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” by amending section 8134 (MCL 500.8134), as amended by 1998 PA 279.

*The People of the State of Michigan enact:*

**500.8134 Proposal to make early access disbursements; effect of insufficient assets; report; provisions of proposal; notice of application; action on application; return of early access funds; limitation.**

Sec. 8134. (1) Within 120 days of a final determination of insolvency of an insurer by a court of competent jurisdiction of this state, the liquidator shall make application to the court for approval of a proposal to make early access disbursements out of marshaled assets, to any guaranty association or foreign guaranty association having obligations because of the insolvency. If the liquidator determines that the estate will not have sufficient assets to make any early access disbursements to a guaranty association or foreign guaranty association under this section, the liquidator shall file a report with the court supporting this determination. Notice to the state insurance commissioners, guaranty associations, and foreign guaranty associations and court review of the report shall be provided under subsection (5). This report may be given instead of an application for a proposal to make early access disbursements. However, if at any time the estate obtains sufficient assets to support an early access disbursement under this section, the liquidator shall file an application for a proposal to make early access disbursements within 60 days of the estate obtaining those assets. If, within 120 days of a final determination of insolvency, the liquidator fails to file an application with the court for approval of a proposal to make early access disbursements or, alternatively, fails to file a report with the court supporting the determination that the estate will not have sufficient assets to make early access disbursements, any guaranty association or foreign guaranty association that may become obligated to pay claims as a result of the insolvency may file this application. An application filed by an association shall be reviewed by the court and, if the proposal submitted by the association meets the requirements set out in this section, the application shall be approved by the court. Upon court approval of the guaranty association or foreign guaranty association proposal, the liquidator shall begin making early access disbursements in accordance with the proposal.

(2) A proposal under subsection (1) shall at least include provisions for all of the following:

(a) Reserving amounts for the payment of expenses of administration and the payment of claims of secured creditors, to the extent of the value of the security held, and claims falling within the priorities established in section 8142(1)(a) and (b) and (2). When a reserve for uncovered claims under section 8142(2) is appropriate, the amount of estate assets to be reserved for those claims shall be a percentage of the uncovered claims under section 8142(2), equal in proportion to the percentage of assets distributed, or proposed for distribution, to the guaranty association or foreign guaranty association with respect to covered obligations at the time the reserve for uncovered claims is calculated. Reserves shall be established based on the best available information at the time the distribution is calculated and modified from time to time as more refined information becomes available.

(b) Disbursement of the assets marshaled to date and subsequent disbursement of assets as they become available.

(c) Equitable allocation of disbursements to each of the guaranty associations and foreign guaranty associations entitled to disbursements.

(d) The securing by the liquidator from each of the associations entitled to disbursements pursuant to this section of an agreement to return to the liquidator such assets, together with income earned on assets previously disbursed, as may be required to pay claims of secured creditors and claims falling within the priorities established in section 8142 in accordance with those priorities. A bond shall not be required of any such association.

(e) A full report to be made by each association to the liquidator accounting for assets disbursed to the association, all disbursements made from the assets, interest earned by the association on the assets, and any other matter as the court directs.

(3) The liquidator's proposal shall provide for disbursements to the associations in amounts estimated at least equal to the claim payments made or to be made thereby for which the associations could assert a claim against the liquidator, and shall further provide that if the assets available for disbursement from time to time do not equal or exceed the amount of claim payments made or to be made by the association, then disbursements shall be in the amount of available assets.

(4) The liquidator's proposal shall, with respect to an insolvent insurer writing life or health insurance or annuities, provide for disbursements of assets to any guaranty association or any foreign guaranty association covering life or health insurance or annuities or to any other entity or organization reinsuring, assuming, or guaranteeing policies or contracts of insurance under the acts creating the associations.

(5) Notice of application shall be given to the association in each state and to the commissioners of insurance of each state. Notice shall be considered to have been given when deposited in the United States certified mails, first-class postage prepaid, at least 30 days before submission of the application to the court. Action on the application may be taken by the court if the notice under this subsection has been given and if the liquidator's proposal complies with subsection (2)(a) and (b).

(6) The liquidator shall not offset the amount to be disbursed to any guaranty association or foreign guaranty association by any special or statutory deposit or any other asset of the insolvent insurer except to the extent the deposit or asset has been paid to the association for the purpose of satisfying the association's claims. If a guaranty association or foreign guaranty association has received an early access distribution and thereafter also receives a special or statutory deposit or any other asset of the insolvent insurer, the liquidator may request the return of the early access funds up to the amount of the special or statutory deposit or other asset of the insolvent insurer.

### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6231.
- (f) House Bill No. 6230.
- (g) House Bill No. 6229.

- (h) House Bill No. 6228.
- (i) House Bill No. 6227.
- (j) House Bill No. 6226.
- (k) House Bill No. 6225.
- (l) House Bill No. 6224.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.

---

**[No. 355]**

**(HB 6224)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of

the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 8133a.

*The People of the State of Michigan enact:*

**500.8133a Deductible agreement; collateral as asset maintained and administered by receiver; jurisdiction of circuit court; rights of guaranty association or foreign guaranty association; applicability to delinquency proceedings; applicability to first party claims; definitions.**

Sec. 8133a. (1) Notwithstanding any other law or contract to the contrary, any collateral held by or for the benefit of or assigned to the insurer or subsequently the receiver in order to secure the obligations of a policyholder under a deductible agreement shall not be considered an asset of the estate and shall be maintained and administered by the receiver as provided in this section.

(2) If collateral is being held by or for the benefit of or assigned to the insurer or subsequently the receiver to secure obligations under a deductible agreement with a policyholder, the collateral shall be used to secure the policyholder's obligation to fund or reimburse claims payment within the agreed deductible amount as provided in this section.

(3) If a claim that is subject to a deductible agreement and secured by collateral is not covered by any guaranty association or foreign guaranty association and the policyholder is unwilling or unable to take over the handling and payment of the noncovered claims, the receiver shall adjust and pay the noncovered claims using the collateral but only to the extent the available collateral after allocation under subsection (4) is sufficient to pay all outstanding and anticipated claims. If the collateral is exhausted and the insured is not able to provide funds to pay the remaining claims within the deductible after all reasonable means of collection against the insured have been exhausted, the receiver's obligation to pay the claims from the collateral terminates and the remaining claims shall be claims against the insurer's estate subject to complying with other provisions in this chapter for the filing and allowance of those claims. If the liquidator determines that the collateral is insufficient to pay all additional and anticipated claims, the liquidator may file a plan, subject to court approval, for equitably allocating the collateral among claimants.

(4) To the extent that the receiver is holding collateral provided by a policyholder that was obtained to secure a deductible agreement and to secure other obligations of the policyholder to pay the insurer directly or indirectly amounts that become assets of the estate, such as reinsurance obligations under a captive reinsurance program or adjustable premium obligations under a retrospectively rated insurance policy where the premium due is subject to adjustment based upon actual loss experience, the receiver shall equitably allocate the collateral among those obligations and administer the collateral allocated to the deductible

agreement as provided in this section. For collateral allocated to obligations under the deductible agreement, if the collateral secured reimbursement obligation under more than 1 line of insurance, then the collateral shall be equitably allocated among the various lines based upon the estimated ultimate exposure within the deductible amount for each line. The receiver shall inform the guaranty associations and foreign guaranty associations of the method and details of all the foregoing allocations.

(5) Regardless of whether there is collateral, if the insurer has contractually agreed to allow the policyholder to fund its own claims within the deductible amount pursuant to a deductible agreement, either through the policyholder's own administration of its claims or through the policyholder providing funds directly to a third party administrator who administers the claims, the receiver shall allow this funding arrangement to continue and, where applicable, will enforce the arrangement to the fullest extent possible. The funding of these claims by the policyholder within the deductible amount will act as a bar to any claim for such amount in the liquidation proceeding, including, but not limited to, any claim by the policyholder or the third party claimant. This funding arrangement extinguishes both the obligation, if any, of any guaranty association to pay those claims within the deductible amount, as well as the obligations, if any, of the policyholder or third party administrator to reimburse the guaranty association. If a policyholder has entered into an agreement to which this subsection applies and is prevented from funding its own claims due to any proceeding under 11 USC 101 to 1330 and 1501 to 1532, then the guaranty funds that would otherwise be obligated to pay the claims shall pay the claims to the extent required by applicable state law and, in addition to any other rights of recovery arising from payment of the claims, shall have the full benefit of all collateral and other rights of reimbursement and recovery under this section from the bankruptcy court, liquidator, or receiver. No charge of any kind shall be made against any guaranty association on the basis of the policyholder funding of claim payments made pursuant to an arrangement described in this subsection.

(6) If the insurer has not contractually agreed to allow the policyholder to fund its own claims within the deductible amount, to the extent a guaranty association or foreign guaranty association is required by applicable state law to pay any claims for which the insurer would have been entitled to reimbursement from the policyholder under the terms of the deductible agreement and to the extent the claims have not been paid by a policyholder or third party, the receiver shall promptly bill the policyholder for reimbursement and the policyholder is obligated to pay the reimbursement amount to the receiver for the benefit of the guaranty association or foreign guaranty associations who paid the claims. Neither the insolvency of the insurer, nor its inability to perform any of its obligations under the deductible agreement, is a defense to the policyholder's reimbursement obligation under the deductible agreement. The receiver shall promptly reimburse the guaranty association or foreign guaranty association for claims paid that were subject to the deductible when the policyholder reimbursements are collected. If the policyholder fails to pay the amounts due within 60 days after the bill for the reimbursement is due, the receiver shall use the collateral to the extent necessary to reimburse the guaranty association or foreign guaranty associations, and, at the same time, may pursue other collections efforts against the policyholder. If more than 1 guaranty association or foreign guaranty association has a claim against the same collateral and the available collateral, after allocation under subsection (4), along with billing and collection efforts, are together insufficient to pay each guaranty association and foreign guaranty association in full, then the receiver will prorate payments to each guaranty association and foreign guaranty association based upon the relationship the amount of claims each guaranty association and foreign guaranty association has paid bears to the total of all claims paid by the guaranty association and foreign guaranty associations.

(7) The receiver is entitled to deduct from reimbursements owed to a guaranty association or foreign guaranty association or collateral to be returned to a policyholder reasonable actual expenses incurred in fulfilling the responsibilities under this section, not to exceed 3% of the collateral or the total deductible reimbursements actually collected by the receiver. For claim payments made by a guaranty association or foreign guaranty association, the receiver shall promptly provide the guaranty association or foreign guaranty association with a complete accounting of the receiver's deductible billing and collection activities, including copies of the policyholder billings when rendered, the reimbursements collected, the available amounts and use of collateral for each account, and any proration of payments when it occurs. If the receiver fails to make a good faith effort within 120 days of receipt of claims payment reports to collect reimbursements due from a policyholder under a deductible agreement based on claim payments made by the guaranty association or foreign guaranty association, the guaranty association or foreign guaranty association may pursue collection from the policyholders directly on the same basis as the receiver, and with the same rights and remedies, and shall report any amounts collected from each policyholder to the receiver. To the extent that a guaranty association or foreign guaranty association pays claims within the deductible amount, but is not reimbursed by either the receiver under this section or by policyholder payments from the guaranty association's or foreign guaranty association's own collection efforts, the guaranty association or foreign guaranty association shall have a claim in the insolvent insurer's estate for unreimbursed claims payments.

(8) The receiver shall adjust the collateral being held as the claims subject to the deductible agreement are run off, so long as adequate collateral is maintained to secure the entire estimated ultimate obligation of the policyholder plus a reasonable safety factor. The receiver shall make these adjustments periodically, but is not required to adjust the collateral more than once a year. The guaranty association and any foreign guaranty association shall be informed of all such collateral reviews, including, but not limited to, the basis for the adjustment. Once all claims covered by the collateral have been paid and the receiver is satisfied that no new claims can be presented, the receiver will release any remaining collateral to the policyholder.

(9) The Ingham county circuit court having jurisdiction over the liquidation proceedings shall have jurisdiction to resolve disputes arising under this section.

(10) This section does not limit or adversely affect any right a guaranty association or foreign guaranty association may have under applicable state law to obtain reimbursement from certain classes of policyholders for claims payments made by the guaranty association or foreign guaranty association under policies of the insolvent insurer or for related expenses the guaranty association or foreign guaranty association incurs.

(11) This section applies to all delinquency proceedings that are open and pending on the effective date of this section.

(12) This section does not apply to first party claims or to claims funded by a guaranty association or foreign guaranty association net of the deductible unless subsection (5) applies.

(13) As used in this section:

(a) "Deductible agreement" means any combination of 1 or more policies, endorsements, contracts, or security agreements that provide for the policyholder to bear the risk of loss within a specified amount per claim or occurrence covered under a policy of insurance and may be subject to aggregate limit of policyholder reimbursement obligations.

(b) "Noncovered claim" means a claim that is subject to a deductible agreement, may be secured by collateral, and is not covered by a guaranty association or foreign guaranty association.



**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6231.
- (f) House Bill No. 6230.
- (g) House Bill No. 6229.
- (h) House Bill No. 6228.
- (i) House Bill No. 6227.
- (j) House Bill No. 6226.
- (k) House Bill No. 6225.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

**[No. 356]****(HB 6225)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the

imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 8124a.

*The People of the State of Michigan enact:*

**500.8124a Guaranty association or foreign guaranty association; court standing; right to intervene; jurisdiction.**

Sec. 8124a. Any guaranty association or foreign guaranty association has standing to appear and may intervene as a party as a matter of right or otherwise appear and participate in any court proceeding concerning the rehabilitation or liquidation of an insurer if the association is or may become liable to act as a result of the liquidation. Exercise by any guaranty association or its designated representative of the right to intervene conferred under this subsection does not constitute grounds to establish general personal jurisdiction by the courts of this state. The intervening guaranty association or foreign guaranty association is subject to the court's jurisdiction only for the limited purpose for which it intervenes.

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6231.
- (f) House Bill No. 6230.
- (g) House Bill No. 6229.

- (h) House Bill No. 6228.
- (i) House Bill No. 6227.
- (j) House Bill No. 6226.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

## [No. 357]

### (HB 6226)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit

malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 8124 (MCL 500.8124), as added by 1989 PA 302.

*The People of the State of Michigan enact:*

**500.8124 Order appointing liquidator as bar to action at law or equity; full faith and credit to injunctions; intervention; expense; institution of action or proceeding on behalf of estate of insurer; period of limitation; statute of limitation or defense of laches.**

Sec. 8124. (1) Upon issuance of an order appointing a liquidator of a domestic insurer or of an alien insurer domiciled in this state, an action at law or equity shall not be brought against the insurer or liquidator, whether in this state or elsewhere, and any such existing action shall not be maintained or further presented after issuance of such order. The courts of this state shall give full faith and credit to injunctions against the liquidator or the company or the continuation of existing actions against the liquidator or the company, if such injunctions are included in an order to liquidate an insurer issued pursuant to corresponding provisions in other states. If, in the liquidator's judgment, protection of the estate of the insurer necessitates intervention in an action against the insurer that is pending outside this state, he or she may intervene in the action. The liquidator may defend an action in which he or she intervenes under this section at the expense of the estate of the insurer.

(2) The liquidator may, upon or after an order for liquidation, within 2 years or such time in addition to 2 years as applicable law may permit, institute an action or proceeding on behalf of the estate of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which the order is entered. If, by agreement, a period of limitation is fixed for instituting a suit or proceeding upon a claim, or for filing a claim, proof of claim, proof of loss, demand, notice, or the like, or if in a proceeding, judicial or otherwise, a period of limitation is fixed, either in the proceeding or by applicable law, for taking action, filing a claim or pleading, or doing any act, and the period had not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take action or do an act required of or permitted to the insurer within a period of 180 days subsequent to the entry of an order for liquidation, or within such further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.

(3) A statute of limitation or defense of laches shall not run with respect to an action against an insurer between the filing of a petition for liquidation against an insurer and the denial of the petition. An action against the insurer that might have been commenced when the petition was filed may be commenced at least within 60 days after the petition is denied.

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6231.
- (f) House Bill No. 6230.
- (g) House Bill No. 6229.
- (h) House Bill No. 6228.
- (i) House Bill No. 6227.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

**[No. 358]****(HB 6227)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of

regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 8111 (MCL 500.8111), as amended by 1992 PA 182.

*The People of the State of Michigan enact:*

**500.8111 Confidentiality; exception; "third parties" defined.**

Sec. 8111. (1) Except as provided in subsection (2), in all proceedings and judicial review of these proceedings under sections 8109 and 8110, all records of the insurer, other documents, office of financial and insurance services files, and court records and papers, so far as they pertain to or are a part of the record of the proceedings, are confidential and shall be held by the clerk of the court in a confidential file except as is necessary to obtain compliance therewith, unless the court, after hearing arguments from the parties in chambers, orders otherwise or the insurer requests that the matter be made public.

(2) Without compromising the confidentiality of the records of the commissioner, office of financial and insurance services, or supervisor, the commissioner or his or her supervisor may advise third parties of the existence of a supervision order and of the supervisor's authority if considered by either of them necessary to further the insurer's compliance with the supervision order. The commissioner may advise third parties of the existence of a supervision order and of facts pertaining to the supervision order if considered necessary by the commissioner with regard to other regulatory matters affecting the insurer or a person or entity related to the insurer. Third parties advised under this subsection are required to keep the existence of a supervision confidential. As used in this subsection, "third parties" means the following persons:

- (a) Debtors and creditors of the insurer and its affiliates.
- (b) Persons who hold or control assets of the insurer and its affiliates.
- (c) Reinsurers of the insurer and its affiliates.
- (d) Insurance regulatory officials.

- (e) Law enforcement agencies.
- (f) The workers' compensation agency.
- (g) Representatives of a guaranty association or foreign guaranty association that may become obligated as a result of the insolvency of the insurer. Confidentiality obligations of a guaranty association or foreign guaranty association to the receiver end upon the entry of an order of liquidation with a finding of insolvency against the insurer.

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6231.
- (f) House Bill No. 6230.
- (g) House Bill No. 6229.
- (h) House Bill No. 6228.
- (i) House Bill No. 6226.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

**[No. 359]****(HB 6228)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities

and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 7945 (MCL 500.7945), as amended by 1980 PA 41.

*The People of the State of Michigan enact:*

### **500.7945 Stay of proceedings.**

Sec. 7945. (1) All proceedings in any court of law of this state to which the insolvent insurer is a party, or in which the insolvent insurer is obligated to defend or has assumed the defense of a party, shall be stayed for 6 months after the date a receiver is appointed, and for any additional time as determined by the court that has jurisdiction over those proceedings, to permit proper defense of all pending causes of action.

(2) All proceedings in any administrative tribunal, including worker's compensation proceedings, to which the insolvent insurer is a party, or in which the insolvent insurer is obligated to defend or has assumed the defense of a party, shall be stayed for such length of time after the date a receiver is appointed, as determined by the administrative tribunal that has jurisdiction over those proceedings. The administrative tribunal shall grant a stay for each affected proceeding, as necessary, to provide the association with sufficient time to prepare a proper defense in the proceeding.



**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6231.
- (f) House Bill No. 6230.
- (g) House Bill No. 6229.
- (h) House Bill No. 6227.
- (i) House Bill No. 6226.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

**[No. 360]****(HB 6229)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of

regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 7941 (MCL 500.7941), as amended by 1990 PA 137.

*The People of the State of Michigan enact:*

**500.7941 Assessments on member insurers; purpose; allocation of claim payments and costs to categories; separate assessments for each category; use, amount, and rate of assessment; remittance and administration of assessments; notice; limitation; exemption or deferment; recognition of assessments in rate-making procedures; refunds; revocation of certificate of authority.**

Sec. 7941. (1) To the extent necessary to secure funds for the association for payment of covered claims and for payment of reasonable costs of administering the association, including the cost of indemnifying members of the board of governors, other member insurers, officers, employees, and other persons acting on behalf of the association to the extent permitted by law and the plan of operation, the association shall levy assessments upon all member insurers. The association shall allocate its claim payments and costs to the following 5 categories:

- (a) Worker's compensation insurance.
  - (b) Automobile insurance.
  - (c) Title insurance.
  - (d) Fire, allied lines, farm owner's multiple peril, homeowner's multiple peril, inland marine, earthquake, and credit insurance.
  - (e) All other kinds of insurance except life and disability insurance.
- (2) Separate assessments shall be made for each category prescribed in subsection (1). The assessment for each category shall be used to pay the claim payments and costs allocated

to that category. The assessment for each category shall be in proportion to the net direct premiums written, after deducting dividends paid or credited to policyholders, by each member insurer in this state for kinds of insurance included within each category, as reported in the most recent annual statement available at the time of assessment. The rate of assessment shall be a uniform percentage of the premiums for all member insurers. The assessments shall be remitted to and administered by the association in accordance with the plan of operation. Each member insurer assessed shall have not less than 30 days' advance written notice of the date the assessment is due and payable.

(3) A member insurer shall not be assessed during a calendar year for more than 1% of its net direct premiums written in this state during the previous calendar year. The commissioner may exempt a member insurer from all or part of an assessment or may defer, in whole or in part, the assessment of a member insurer, if the assessment would cause the member insurer'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 member insurer is authorized to transact insurance. However, during the period of exemption or deferment, dividends shall not be declared or paid to shareholders or policyholders. If a member insurer is exempted from all or part of an assessment, or if an assessment against a member insurer is deferred in whole or in part, the amount of the exemption or deferred assessment may be assessed against the other member insurers in a manner consistent with the basis for assessments prescribed in this section. The commissioner may impose conditions on an exemption or deferral which he or she considers reasonable and necessary.

(4) The assessments shall be recognized in the rate-making procedures for insurance rates in the same manner that expenses and premium taxes are recognized. Unused assessments and reimbursements from the receiver remaining in a category in excess of covered claims and expenses allocated to that category shall be refunded by the association to each member insurer who paid the assessments for that category in proportion to its assessments paid. An insurer that ceases to be a member of the association shall not have a right to a refund of an assessment previously remitted to the association. The commissioner may revoke the certificate of authority to transact business in this state of a member insurer that fails to pay an assessment when due as provided in this act and after a demand has been made.

### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6231.
- (f) House Bill No. 6230.
- (g) House Bill No. 6228.
- (h) House Bill No. 6227.
- (i) House Bill No. 6226.
- (j) House Bill No. 6225.

- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.  
Approved September 15, 2006.  
Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

**[No. 361]**

**(HB 6230)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to

protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 7931 (MCL 500.7931), as amended by 1980 PA 41.

*The People of the State of Michigan enact:*

**500.7931 Payment and discharge of covered claims; association as party in interest; rights of association; cause of action against insureds; recoverable damages or benefits as credit against covered claim; action to recover excess payment; claims made under worker's disability compensation act; continuation and duration of coverage for covered claims; cancellation of insurance policies; notice; definitions.**

Sec. 7931. (1) The association may pay or discharge covered claims directly, through a servicing facility, or through a contract for reinsurance or transfer of liabilities with a member insurer, in accordance with the plan of operation.

(2) The association shall be a party in interest in all proceedings involving a covered claim and shall have the same rights as the insolvent insurer would have had if not in receivership, including the right to appear, defend, and appeal a claim in a court of competent jurisdiction; to receive notice of, investigate, adjust, compromise, settle, and pay a covered claim; and to investigate, handle, and deny a noncovered claim. The association shall not have a cause of action against the insureds of the insolvent insurer for any sums it has paid out, except those causes of action that the insolvent insurer would have had if the sums had been paid by the insolvent insurer, or except as otherwise provided by this chapter.

(3) If damages or benefits are recoverable by a claimant other than from any disability policy or life insurance policy owned or paid for by the claimant or by a claimant or insured under an insurance policy other than a policy of the insolvent insurer, or under a self-insured program of a self-insured entity, the damages or benefits recoverable shall be a credit against a covered claim payable under this chapter. The claimant, insured, or self-insured entity shall first exhaust all coverage provided by any policy or the self-insured retention of an excess insurance policy. If damages against an insured who is not a resident of this state are recoverable by a claimant who is a resident of this state, in whole or in part, from any insurance guaranty association or fund or its equivalent in the state where the insured is a resident, the damages recoverable shall be a credit against a covered claim payable under this chapter. To the extent that the association's obligation is reduced by this section, the liability of the person insured by the insolvent insurer's policy shall be reduced in the same amount. An insurer, self-insured entity, or any other person shall not maintain an action against an insured of the insolvent insurer to recover an amount that constitutes a credit against a covered claim under this section. An amount paid to a claimant in excess of the amount authorized by this section may be recovered by an action brought by the association. If the claims made arise under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, this subsection does not provide credits in excess of those specified in section 354 of the worker's disability compensation act of 1969,

1969 PA 317, MCL 418.354, and does not limit the liability of the guaranty association or the insured under a policy of the insolvent insurer for benefits provided under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.

(4) The association shall continue coverage for covered claims under each insurance policy of the insolvent insurer that was in force on the date the receiver was appointed until the insurance policy has expired in accordance with its terms, has been replaced by the insured, or has been canceled by the association as provided in this chapter, but in no event for more than 30 days after the date the receiver was appointed.

(5) The association may cancel insurance policies of the insolvent insurer by mailing or delivering to the insured at the last known address within this state a 10 days' written notice of cancellation, notwithstanding a statute or policy provision to the contrary.

(6) As used in this section:

(a) "Self-insured entity" means a person or employer that covers its liability through a qualified individual or group self-insurance program.

(b) "Self-insured program" means any formal program created for the specific purpose of covering liabilities typically covered by insurance.

### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6232.
- (e) House Bill No. 6231.
- (f) House Bill No. 6229.
- (g) House Bill No. 6228.
- (h) House Bill No. 6227.
- (i) House Bill No. 6226.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

**[No. 362]****(HB 6231)**

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” by amending section 7925 (MCL 500.7925), as amended by 1980 PA 41.

*The People of the State of Michigan enact:*

**500.7925 “Covered claims” defined; definitions.**

Sec. 7925. (1) “Covered claims” means obligations of an insolvent insurer that meet all of the following requirements:

(a) Arise out of the insurance policy contracts of the insolvent insurer issued to residents of this state or are payable to residents of this state on behalf of insureds of the insolvent insurer.

(b) Were unpaid by the insolvent insurer.

(c) Are presented as a claim to the receiver in this state or the association on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(d) Were incurred or existed before, at the time of, or within 30 days after the date the receiver was appointed.

(e) Arise out of policy contracts of the insolvent insurer issued for all kinds of insurance except life and disability insurance.

(f) Arise out of insurance policy contracts issued on or before the last date on which the insolvent insurer was a member insurer.

(2) Covered claims shall not include any of the following:

(a) Obligations to refund unearned premiums above the first \$500.00 of unearned premiums from each person from any 1 insolvent insurer. The maximum amount of unearned premiums which shall constitute a covered claim shall be adjusted annually to reflect changes in the cost of living under rules prescribed by the commissioner. A refund in an amount less than \$50.00 shall not be made for unearned premiums.

(b) Obligations incurred after the expiration date of the insurance policy, after the insurance policy has been replaced by the insured, or after the insurance policy has been canceled by the association as provided in this chapter.

(c) Obligations arising out of sections 2001 to 2050, or similar provisions of law in another jurisdiction.

(3) Covered claims shall not include any amount due any reinsurer, insurer, insurance pool, underwriting association, health maintenance organization, or health care corporation as subrogation recoveries, contribution, indemnification, or other obligation. A claim for any amount due any reinsurer, insurer, insurance pool, underwriting association, health maintenance organization, or health care corporation shall not be brought against an insured or claimant under a policy issued by the insolvent insurer unless the claim exceeds the association's obligation limitations under subsection (6).

(4) Covered claims shall not include obligations for any first party or third party claim by or against an insured whose net worth exceeds \$25,000,000.00 on December 31, or on the last date of the insured's fiscal period if that is other than December 31, of the year immediately preceding the date the insurer becomes an insolvent insurer. In determining net worth on this date, an insured's net worth shall include the aggregate net worth of the insured and all of its subsidiaries and affiliates as calculated on a consolidated basis. The \$25,000,000.00 net worth limit shall be adjusted annually to reflect the aggregate annual percentage change in the consumer price index since the previous adjustment, rounded to the nearest \$10,000.00. The effective date of the adjustment shall be January 1 of each year. This subsection applies to an insolvency that occurs on or after the effective date of the amendatory act that added this subsection.

(5) Covered claims shall not include any portion of a claim that is in excess of an applicable limit provided in the insurance policy.

(6) Covered claims shall not include that portion of a claim, other than a worker's compensation claim or a claim for personal protection insurance benefits under section 3107, that is in excess of \$5,000,000.00. The \$5,000,000.00 claim cap shall be adjusted annually to reflect the aggregate annual percentage change in the consumer price index since the previous adjustment, rounded to the nearest \$10,000.00. The effective date of the adjustment shall be January 1 of each year and shall apply to claims made on or after that date. The claim cap in effect at the time of payment of a claim shall apply.

(7) Covered claims shall not include adjustment fees and expenses, attorneys' fees and expenses, court costs, interest, or bond premiums if the fees, expenses, costs, interest, or premiums were incurred by the insolvent insurer before the receiver was appointed.



(8) As used in this section:

(a) “Consumer price index” means the consumer price index for all urban consumers in the U.S. city average, as most recently reported by the United States department of labor, bureau of labor statistics, and as certified by the commissioner.

(b) “Control” means that term as defined in section 115(b)(i).

(c) “Health care corporation” means that term as defined in section 105 of the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1105.

### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) House Bill No. 6235.

(b) House Bill No. 6234.

(c) House Bill No. 6233.

(d) House Bill No. 6232.

(e) House Bill No. 6230.

(f) House Bill No. 6229.

(g) House Bill No. 6228.

(h) House Bill No. 6227.

(i) House Bill No. 6226.

(j) House Bill No. 6225.

(k) House Bill No. 6224.

(l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.

House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.

House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.

House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.

House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.

House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.

House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.

House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.

House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.

House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.

House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.

House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

## **[No. 363]**

### **(HB 6232)**

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing,

or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 7921 (MCL 500.7921), as amended by 1993 PA 200.

*The People of the State of Michigan enact:*

**500.7921 "Insolvent insurer" and "member insurer" defined.**

Sec. 7921. As used in this chapter:

(a) "Insolvent insurer" means an insurer which has been a member insurer and against whom a final order of liquidation has been entered with a finding of insolvency by a court of competent jurisdiction in the insurer's state of domicile. The date on which the order becomes final shall be the date on which all appeals of the finding of insolvency are exhausted. If the finding of insolvency in the order of liquidation is not appealed, the order of liquidation shall be considered final on the date the order was issued.

(b) "Member insurer" means an insurer required to be a member of the association pursuant to section 7911.

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

(a) House Bill No. 6235.

- (b) House Bill No. 6234.
- (c) House Bill No. 6233.
- (d) House Bill No. 6231.
- (e) House Bill No. 6230.
- (f) House Bill No. 6229.
- (g) House Bill No. 6228.
- (h) House Bill No. 6227.
- (i) House Bill No. 6226.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

**[No. 364]**

**(HB 6233)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents;

to provide for the continued availability and affordability of automobile insurance and home-owners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 7918 (MCL 500.7918), as amended by 2001 PA 182.

*The People of the State of Michigan enact:*

**500.7918 Property and casualty guaranty association; powers generally.**

Sec. 7918. (1) The association may borrow funds when necessary to implement this act.

(2) The association, either in its own name or through a servicing facility, may sue or be sued, and may use the courts to assert or defend any rights the association may have under this chapter, to the extent necessary to fully exercise its rights and perform its duties under, and to implement, this chapter.

(3) The association may retain and employ legal counsel in its discretion to represent the association in all respects.

(4) The association may bring an action against any third party administrator, agent, attorney, or other representative of the insolvent insurer to obtain custody and control of all claims information, including all files, records, and electronic data related to an insolvent company that are appropriate or necessary for the association, or a similar association in other states, to carry out its duties under this act. The association shall have the absolute right through emergency equitable relief to obtain custody and control of all claims information in the custody or control of the third party administrator, agent, attorney, or other representative of the insolvent insurer, regardless of where the information may be physically located. In bringing the action, the association is not subject to any defense, lien, possessory or otherwise, or other legal or equitable ground for refusal to surrender claims information that might be asserted against the liquidator of the insolvent insurers. If litigation is necessary for the association to obtain custody of the claims information requested and it results in the relinquishment of claims information to the association after refusal to provide the information in response to a written demand, the court shall award the association its costs, expenses, and reasonable attorney fees incurred in bringing the action. This section does not affect the rights and remedies that the custodian of the claims information may have against the insolvent insurers, so long as those rights and remedies do not conflict with the rights of the association to custody and control of the claims information under this act.

(5) Upon request of the commissioner, consent of the association, and appointment by the court, the association may act as deputy receiver in delinquency proceedings under chapter 81.

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6234.
- (c) House Bill No. 6232.
- (d) House Bill No. 6231.
- (e) House Bill No. 6230.
- (f) House Bill No. 6229.
- (g) House Bill No. 6228.
- (h) House Bill No. 6227.
- (i) House Bill No. 6226.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

**[No. 365]**

**(HB 6234)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and

immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 7911 (MCL 500.7911), as amended by 1993 PA 200.

*The People of the State of Michigan enact:*

**500.7911 Property and casualty guaranty association; membership; exception; laws to which association subject.**

Sec. 7911. (1) To implement this chapter, there shall be maintained within this state, by all insurers authorized to transact in this state insurance other than life or disability insurance, except the Michigan basic property insurance association created pursuant to section 2920, an association of those insurers to be known as the property and casualty guaranty association, hereafter referred to as the "association". Each insurer shall be a member of the association as a condition of its authority to continue to transact insurance in this state.

(2) An insurer from which insurance has been or may be procured in this state solely by virtue of chapter 19 shall not be considered to be an insurer authorized to transact insurance in this state for the purposes of this chapter.

(3) The association is subject to the requirements of this chapter and chapter 81 but is not subject to the other chapters of this act. The association shall be subject to other laws of this state to the extent that it would be subject to those laws if it were an insurer organized and operating under chapter 50, to the extent that those other laws are consistent with this chapter.

**Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6235.
- (b) House Bill No. 6233.
- (c) House Bill No. 6232.
- (d) House Bill No. 6231.
- (e) House Bill No. 6230.
- (f) House Bill No. 6229.
- (g) House Bill No. 6228.
- (h) House Bill No. 6227.
- (i) House Bill No. 6226.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6235 was filed with the Secretary of State September 18, 2006, and became 2006 PA 366, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

**[No. 366]****(HB 6235)**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of

regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 3503 (MCL 500.3503), as added by 2000 PA 252.

*The People of the State of Michigan enact:*

### **500.3503 Applicability of provisions to health maintenance organization.**

Sec. 3503. (1) All of the provisions of this act that apply to a domestic insurer authorized to issue an expense-incurred hospital, medical, or surgical policy or certificate, including, but not limited to, sections 223 and 7925 and chapters 34 and 36, apply to a health maintenance organization under this chapter unless specifically excluded, or otherwise specifically provided for in this chapter.

(2) Sections 408, 410, 411, 901, and 5208, chapter 77, and, except as otherwise provided in subsection (1), chapter 79 do not apply to a health maintenance organization.

#### **Conditional effective date.**

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) House Bill No. 6234.
- (b) House Bill No. 6233.
- (c) House Bill No. 6232.
- (d) House Bill No. 6231.
- (e) House Bill No. 6230.
- (f) House Bill No. 6229.
- (g) House Bill No. 6228.
- (h) House Bill No. 6227.



- (i) House Bill No. 6226.
- (j) House Bill No. 6225.
- (k) House Bill No. 6224.
- (l) House Bill No. 6223.

This act is ordered to take immediate effect.

Approved September 15, 2006.

Filed with Secretary of State September 18, 2006.

---

**Compiler's note:** The bills referred to in enacting section 1 were enacted into law as follows:

House Bill No. 6234 was filed with the Secretary of State September 18, 2006, and became 2006 PA 365, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6233 was filed with the Secretary of State September 18, 2006, and became 2006 PA 364, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6232 was filed with the Secretary of State September 18, 2006, and became 2006 PA 363, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6231 was filed with the Secretary of State September 18, 2006, and became 2006 PA 362, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6230 was filed with the Secretary of State September 18, 2006, and became 2006 PA 361, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6229 was filed with the Secretary of State September 18, 2006, and became 2006 PA 360, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6228 was filed with the Secretary of State September 18, 2006, and became 2006 PA 359, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6227 was filed with the Secretary of State September 18, 2006, and became 2006 PA 358, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6226 was filed with the Secretary of State September 18, 2006, and became 2006 PA 357, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6225 was filed with the Secretary of State September 18, 2006, and became 2006 PA 356, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6224 was filed with the Secretary of State September 18, 2006, and became 2006 PA 355, Imd. Eff. Sept. 18, 2006.  
House Bill No. 6223 was filed with the Secretary of State September 18, 2006, and became 2006 PA 354, Imd. Eff. Sept. 18, 2006.

---

**[No. 367]**

**(HB 5060)**

AN ACT to amend 1911 PA 149, entitled “An act to provide for the acquisition by purchase, condemnation and otherwise by state agencies and public corporations of private property for the use or benefit of the public, and to define the terms “public corporations,” “state agencies” and “private property” as used herein,” by amending section 3 (MCL 213.23).

*The People of the State of Michigan enact:*

**213.23 Authority to take private property; acquisition of property; taking for public use; definitions.**

Sec. 3. (1) Any public corporation or state agency is authorized to take private property necessary for a public improvement or for the purposes of its incorporation or for public use and to institute and prosecute proceedings for that purpose. When funds have been appropriated by the legislature to a state agency, a division of a state agency, the office of the governor, or a division of the office of the governor for the purpose of acquiring lands or property for a designated public use, the unit of a state agency to which the appropriation has been made is authorized on behalf of the people of the state of Michigan to acquire the lands or property either by purchase, condemnation, or otherwise. For the purpose of condemnation, the unit of a state agency may proceed under this act.

(2) The taking of private property by a public corporation or a state agency for transfer to a private entity is not a public use unless the proposed use of the property is invested with public attributes sufficient to fairly deem the entity's activity governmental by 1 or more of the following:

(a) A public necessity of the extreme sort exists that requires collective action to acquire property for instrumentalities of commerce, including a public utility or a state or federally

regulated common carrier, whose very existence depends on the use of property that can be assembled only through the coordination that central government alone is capable of achieving.

(b) The property or use of the property will remain subject to public oversight and accountability after the transfer of the property and will be devoted to the use of the public, independent from the will of the private entity to which the property is transferred.

(c) The property is selected on facts of independent public significance or concern, including blight, rather than the private interests of the entity to which the property is eventually transferred.

(3) As used in subsection (1), “public use” does not include the taking of private property for the purpose of transfer to a private entity for either general economic development or the enhancement of tax revenue.

(4) In a condemnation action, the burden of proof is on the condemning authority to demonstrate, by the preponderance of the evidence, that the taking of a private property is for a public use, unless the condemnation action involves a taking of private property because the property is blighted, in which case the burden of proof is on the condemning authority to demonstrate, by clear and convincing evidence, that the taking of that property is for a public use.

(5) If private property consisting of an individual’s principal residence is taken for public use, the amount of compensation made and determined for that taking shall be not less than 125% of that property’s fair market value, in addition to any other reimbursement allowed by law. In order to be eligible for reimbursement under this subsection, the individual’s principal residential structure must be actually taken or the amount of the individual’s private property taken leaves less property contiguous to the individual’s principal residential structure than the minimum lot size if the local governing unit has implemented a minimum lot size by zoning ordinance.

(6) A taking of private property for public use, as allowed under this section, does not include a taking for a public use that is a pretext to confer a private benefit on a known or unknown private entity. For purposes of this subsection, the taking of private property for the purposes of a drain project by a drainage district as allowed under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, does not constitute a pretext to confer a private benefit on a private entity.

(7) Any existing right, grant, or benefit afforded to property owners as of December 22, 2006, whether provided by the state constitution of 1963, by this section or other statute, or otherwise, shall be preserved and shall not be abrogated or impaired by the 2006 amendatory act that added this subsection.

(8) As used in this section:

(a) “Blighted” means property that meets any of the following criteria:

(i) Has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.

(ii) Is an attractive nuisance because of physical condition or use.

(iii) Is a fire hazard or is otherwise dangerous to the safety of persons or property.

(iv) Has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period of 1 year or more so that the property is unfit for its intended use.

(v) Is tax reverted property owned by a qualified local governmental unit, by a county, or by this state. The sale, lease, or transfer of tax reverted property by a qualified local governmental unit, county, or this state shall not result in the loss to the property of the status as blighted for purposes of this act.