The People of the State of Michigan enact:

600.2567a Fee for recording instrument; amount and payment; additional to other fees; remittance and disposition of fees; limitation; applicability of section; "county plan" defined.

Sec. 2567a. (1) Except as otherwise provided in subsection (4), the county register of deeds shall collect a fee for recording any instrument. Before January 1, 2023, the fee shall be $4.00. Beginning January 1, 2023, the fee shall be $2.00. The fee shall be paid when the instrument is left for record.

(2) The fee required by this section is in addition to any fees required in section 2567 or fees or charges otherwise required by law for the recording of instruments.

(3) The fees collected under this section shall be remitted to the state treasurer quarterly, and shall be deposited by the state treasurer in the survey and remonumentation fund created in section 11 of the state survey and remonumentation act, 1990 PA 345, MCL 54.271, except that a county may retain not more than 1-1/2% of each fee collected under subsection (1) to cover the costs of administering this section.

(4) If, pursuant to a contract under section 8(5) of the state survey and remonumentation act, 1990 PA 345, MCL 54.268, a county has expended funds to expedite the completion of its county plan, the county may apply not more than 50% of its annual grant revenue under section 12(1)(a) of the state survey and remonumentation act, 1990 PA 345, MCL 54.272, to reimburse itself for these expenditures, until these expenditures have been fully reimbursed.

(5) This section does not apply to any of the following:

(a) An agency of the state when filing or recording any instrument with the county register of deeds under the state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687.

(b) An individual or any public or private legal entity when recording a lien or discharge of a lien with the county register of deeds under section 15 of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.15.

(c) An agency of the federal government when filing or recording any instrument with the county register of deeds under the uniform federal lien registration act, 1983 PA 102, MCL 211.661 to 211.668.

(d) An individual or any public or private legal entity when recording any instrument with the county register of deeds under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102.

(e) A foreclosing governmental unit when recording any instrument required under sections 78 to 78o of the general property tax act, 1893 PA 206, MCL 211.78 to 211.78o.

(6) As used in this section, "county plan" means a monumentation and remonumentation plan under section 8 of the state survey and remonumentation act, 1990 PA 345, MCL 54.268.

Approved January 8, 2007.
Filed with Secretary of State January 10, 2007.

[No. 663]

(HB 5968)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of

courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 4a of chapter IX (MCL 769.4a), as amended by 2004 PA 220.

The People of the State of Michigan enact:

CHAPTER IX

769.4a Assault on spouse, former spouse, individual with child in common, dating relationship, or household resident; plea or finding of guilty; deferral of proceedings and order of probation; previous convictions; adjudication of guilt upon violation of probation; mandatory counseling program; costs; circumstances for entering adjudication of guilt; discharge and dismissal; limitation; nonpublic record; definitions.

Sec. 4a. (1) When an individual who has not been convicted previously of an assaultive crime pleads guilty to, or is found guilty of, a violation of section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, and the victim of the assault is the offender's spouse or former spouse, an individual who has had a child in common with the offender, an individual who has or has had a dating relationship with the offender, or an individual residing or having resided in the same household as the offender, the court, without entering a judgment of guilt and with the consent of the accused and of the prosecuting attorney in consultation with the victim, may defer further proceedings and place the accused on probation as provided in this section. However, before deferring proceedings under this subsection, the court shall contact the department of state police and determine whether, according to the records of the department of state police, the accused has previously been convicted of an assaultive crime or has previously availed himself or herself of this section. If the search of the records reveals an arrest for an assaultive crime but no disposition, the court shall contact the arresting agency and the court that had jurisdiction over the violation to determine the disposition of that arrest for purposes of this section.

(2) Upon a violation of a term or condition of probation, the court may enter an adjudication of guilt and proceed as otherwise provided in this chapter.

(3) An order of probation entered under subsection (1) may include any condition of probation authorized under section 3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.3, including, but not limited to, requiring the accused to participate in a

mandatory counseling program. The court may order the accused to pay the reasonable costs of the mandatory counseling program. The court also may order the accused to participate in a drug treatment court under chapter 10A of the revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to 600.1082. The court may order the defendant to be imprisoned for not more than 12 months at the time or intervals, which may be consecutive or nonconsecutive and within the period of probation, as the court determines. However, the period of imprisonment shall not exceed the maximum period of imprisonment authorized for the offense if the maximum period is less than 12 months. The court may permit day parole as authorized under 1962 PA 60, MCL 801.251 to 801.258. The court may permit a work or school release from jail.

(4) The court shall enter an adjudication of guilt and proceed as otherwise provided in this chapter if any of the following circumstances exist:

(a) The accused commits an assaultive crime during the period of probation.

(b) The accused violates an order of the court that he or she receive counseling regarding his or her violent behavior.

(c) The accused violates an order of the court that he or she have no contact with a named individual.

(5) Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(6) There may be only 1 discharge and dismissal under this section with respect to any individual. The department of state police shall retain a nonpublic record of an arrest and discharge and dismissal under this section. This record shall be furnished to a court or police agency upon request pursuant to subsection (1) or to an office of prosecuting attorney for the purpose of showing that a defendant in a criminal action under section 81 or 81a of the Michigan penal code, 1931 PA 328, MCL 750.81 and 750.81a, or a local ordinance substantially corresponding to section 81 of that act has already once availed himself or herself of this section or for the purpose of determining whether the defendant in a criminal action is eligible for discharge and dismissal of proceedings by a drug treatment court under section 1076(5) of the revised judicature act of 1961, 1961 PA 236, MCL 600.1076.

(7) As used in this section:

(a) "Assaultive crime" means 1 or more of the following:

(*i*) That term as defined in section 9a of chapter X.

(*ii*) A violation of chapter XI of the Michigan penal code, 1931 PA 328, MCL 750.81 to 750.90g.

(*iii*) A violation of a law of another state or of a local ordinance of a political subdivision of this state or of another state substantially corresponding to a violation described in subparagraph (*i*) or (*ii*).

(b) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

This act is ordered to take immediate effect.
Approved January 8, 2007.
Filed with Secretary of State January 10, 2007.

[No. 664]

(HB 6030)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 7cc (MCL 211.7cc), as amended by 2003 PA 247.

The People of the State of Michigan enact:

211.7cc Homestead exemption from tax levied by local school district for school operating purposes; procedures.

Sec. 7cc. (1) A principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a principal residence shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) An owner of property may claim an exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a principal residence by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. One copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4), together with all information submitted under subsection (26) for a cooperative housing corporation. The affidavit shall require the owner claiming the exemption to indicate if that owner or that owner's spouse has claimed another exemption on property in this state that is not rescinded or a substantially similar exemption, deduction, or credit on property in another state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in 1941 PA 122, MCL 205.1 to 205.31. If an owner of property filed an affidavit for an exemption under this section before January 1, 2004, that affidavit shall be considered the affidavit required under this subsection for a principal residence exemption and that exemption shall remain in effect until rescinded as provided in this section.

(3) A husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, a person is not entitled to an exemption under this section if any of the following conditions occur:

(a) That person has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

(c) That person has filed a nonresident Michigan income tax return, except active duty military personnel stationed in this state with his or her principal residence in this state.

(d) That person has filed an income tax return in a state other than this state as a resident, except active duty military personnel stationed in this state with his or her principal residence in this state.

(e) That person has previously rescinded an exemption under this section for the same property for which an exemption is now claimed and there has not been a transfer of ownership of that property after the previous exemption was rescinded, if either of the following conditions is satisfied:

(*i*) That person has claimed an exemption under this section for any other property for that tax year.

(*ii*) That person has rescinded an exemption under this section on other property, which exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under this section, the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as provided in subsection (1) until December 31 of the year in which the property is transferred or is no longer a principal residence as defined in section 7dd. The local tax collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury.

(5) Not more than 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file a rescission as required by this subsection is subject to a penalty of $5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of $200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) If the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies an existing claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial

prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the assessor denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due, interest, and penalties through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax, interest, and penalties accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The denial shall be made on a form prescribed by the department of treasury. If the property for which the assessor has denied a claim for exemption under this subsection is located in a county in which the county treasurer or the county equalization director have elected to audit exemptions under subsection (10), the assessor shall notify the county treasurer or the county equalization director of the denial under this subsection.

(7) If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the principal residence of the owner claiming the exemption and has not denied the claim, the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(8) The department of treasury shall determine if the property is the principal residence of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. If the department of treasury determines that the property is not the principal residence of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of 1941 PA 122, MCL 205.21. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and

the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the department of treasury denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23).

(9) The department of treasury may enter into an agreement regarding the implementation or administration of subsection (8) with the assessor of any local tax collecting unit in a county that has not elected to audit exemptions claimed under this section as provided in subsection (10). The agreement may specify that for a period of time, not to exceed 120 days, the department of treasury will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(10) A county may elect to audit the exemptions claimed under this section in all local tax collecting units located in that county as provided in this subsection. The election to audit exemptions shall be made by the county treasurer, or by the county equalization director with the concurrence by resolution of the county board of commissioners. The initial election to audit exemptions shall require an audit period of 2 years. Subsequent elections to audit exemptions shall be made every 2 years and shall require 2 annual audit periods. An election to audit exemptions shall be made by submitting an election to audit form to the assessor of each local tax collecting unit in that county and to the department of treasury not later than October 1 in the year in which an election to audit is made. The election to audit form required under this subsection shall be in a form prescribed by the department of treasury. If a county elects to audit the exemptions claimed under this section, the department of treasury may continue to review the validity of exemptions as provided in subsection (8). If a county does not elect to audit the exemptions claimed under this section as provided in this subsection, the department of treasury shall conduct an audit of exemptions claimed under this section in the initial 2-year audit period for each local tax collecting unit in that county unless the department of treasury has entered into an agreement with the assessor for that local tax collecting unit under subsection (9).

(11) If a county elects to audit the exemptions claimed under this section as provided in subsection (10) and the county treasurer or his or her designee or the county equalization director or his or her designee believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the county treasurer or his or her designee or the county equalization director or his or her designee may deny an existing claim by notifying the owner, the assessor of the local tax collecting unit, and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The county treasurer or his or her designee or the county equalization director or his or her designee may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the county treasurer or his or her designee or the county equalization director or his or her designee shall direct the assessor of the local tax collecting unit in which the property is located to remove the exemption of the property from the assessment roll and, if the tax roll is in the local tax collecting unit's possession, direct the assessor of the local tax collecting unit to amend the tax roll to reflect the denial and the treasurer of the local tax collecting unit shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The department of treasury shall annually provide the county treasurer or his or her designee or the county equalization director or his or her designee a list of parcels of property located in that county for which an exemption may be erroneously claimed. The county treasurer or his or her designee or the county equalization director or his or her designee shall forward copies of the list provided by the department of treasury to each assessor in each local tax collecting unit in that county within 10 days of receiving the list.

(12) If a county elects to audit exemptions claimed under this section as provided in subsection (10), the county treasurer or the county equalization director may enter into an agreement with the assessor of a local tax collecting unit in that county regarding the implementation or administration of this section. The agreement may specify that for a period of time, not to exceed 120 days, the county will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(13) An owner may appeal a denial by the assessor of the local tax collecting unit under subsection (6), a final decision of the department of treasury under subsection (8), or a denial by the county treasurer or his or her designee or the county equalization director or his or her designee under subsection (11) to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision. An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest at the rate of 1.25% per month or fraction of a month and penalties shall accrue and be computed from the date the taxes were last payable without interest and penalty. If the residential and small claims division of the Michigan tax tribunal grants an owner's appeal of a denial and that owner has paid the interest due as a result of a denial under subsection (6), (8), or (11), the interest received after a distribution was made under subsection (23) shall be refunded.

(14) For taxes levied after December 31, 2005, for each county in which the county treasurer or the county equalization director does not elect to audit the exemptions claimed under this section as provided in subsection (10), the department of treasury shall conduct an annual audit of exemptions claimed under this section for the current calendar year.

(15) An affidavit filed by an owner for the exemption under this section rescinds all previous exemptions filed by that owner for any other property. The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located that the previous exemption is rescinded by the subsequent affidavit. When an exemption is rescinded, the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the affidavit was filed that rescinded the exemption. For any year for which the rescinded exemption has not been removed from the tax roll, the exemption shall be denied as provided in this section. However, interest and penalty shall not be imposed for a year for which a rescission form has been timely filed under subsection (5).

(16) Except as otherwise provided in subsection (28), if the principal residence is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury. If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a principal residence, the owner shall claim an exemption for only that portion of the taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury.

(17) When a county register of deeds records a transfer of ownership of a property, he or she shall notify the local tax collecting unit in which the property is located of the transfer.

(18) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in

which the property is located. If a closing statement preparer fails to provide exemption affidavit and rescission forms to the buyer and seller, or fails to file the affidavit and rescission forms with the local tax collecting unit if requested by the buyer or seller, the buyer may appeal to the department of treasury within 30 days of notice to the buyer that an exemption was not recorded. If the department of treasury determines that the buyer qualifies for the exemption, the department of treasury shall notify the assessor of the local tax collecting unit that the exemption is granted and the assessor of the local tax collecting unit or, if the tax roll is in the possession of the county treasurer, the county treasurer shall correct the tax roll to reflect the exemption. This subsection does not create a cause of action at law or in equity against a closing statement preparer who fails to provide exemption affidavit and rescission forms to a buyer and seller or who fails to file the affidavit and rescission forms with the local tax collecting unit when requested to do so by the buyer or seller.

(19) An owner who owned and occupied a principal residence on May 1 for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding 3 years. If an appeal of a claim for exemption that was not on the tax roll is received not later than 5 days prior to the date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b.

(20) If the assessor or treasurer of the local tax collecting unit believes that the department of treasury erroneously denied a claim for exemption, the assessor or treasurer may submit written information supporting the owner's claim for exemption to the department of treasury within 35 days of the owner's receipt of the notice denying the claim for exemption. If, after reviewing the information provided, the department of treasury determines that the claim for exemption was erroneously denied, the department of treasury shall grant the exemption and the tax roll shall be amended to reflect the exemption.

(21) If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(22) If an exemption under this section is erroneously granted for an affidavit filed before October 1, 2003, an owner may request in writing that the department of treasury withdraw the exemption. The request to withdraw the exemption shall be received not later than November 1, 2003. If an owner requests that an exemption be withdrawn, the department of treasury shall issue an order notifying the local assessor that the exemption issued under this section has been denied based on the owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. Unless a denial has been issued prior to July 1, 2003, if an owner requests that an exemption under this section be withdrawn and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is

liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(23) Subject to subsection (24), interest at the rate of 1.25% per month or fraction of a month collected under subsection (6), (8), or (11) shall be distributed as follows:

(a) If the assessor of the local tax collecting unit denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 70%.

(*ii*) To the department of treasury, 10%.

(*iii*) To the county in which the property is located, 20%.

(b) If the department of treasury denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 20%.

(*ii*) To the department of treasury, 70%.

(*iii*) To the county in which the property is located, 10%.

(c) If the county treasurer or his or her designee or the county equalization director or his or her designee denies the exemption under this section, as follows:

(*i*) To the local tax collecting unit, 20%.

(*ii*) To the department of treasury, 10%.

(*iii*) To the county in which the property is located, 70%.

(24) Interest distributed under subsection (23) is subject to the following conditions:

(a) Interest distributed to a county shall be deposited into a restricted fund to be used solely for the administration of exemptions under this section. Money in that restricted fund shall lapse to the county general fund on the December 31 in the year 3 years after the first distribution of interest to the county under subsection (23) and on each succeeding December 31 thereafter.

(b) Interest distributed to the department of treasury shall be deposited into the principal residence property tax exemption audit fund, which is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund shall be considered a work project account and at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Money from the fund shall be expended, upon appropriation, only for the purpose of auditing exemption affidavits.

(25) Interest distributed under subsection (23) is in addition to and shall not affect the levy or collection of the county property tax administration fee established under this act.

(26) A cooperative housing corporation is entitled to a full or partial exemption under this section for the tax year in which the cooperative housing corporation files all of the following with the local tax collecting unit in which the cooperative housing corporation is located if filed on or before May 1:

(a) An affidavit form.

(b) A statement of the total number of units owned by the cooperative housing corporation and occupied as the principal residence of a tenant stockholder as of the date of the filing under this subsection.

(c) A list that includes the name, address, and social security number of each tenant stockholder of the cooperative housing corporation occupying a unit in the cooperative housing corporation as his or her principal residence as of the date of the filing under this subsection.

(d) A statement of the total number of units of the cooperative housing corporation on which an exemption under this section was claimed and that were transferred in the tax year immediately preceding the tax year in which the filing under this section was made.

(27) Before May 1, 2004 and before May 1, 2005, the treasurer of each county shall forward to the department of education a statement of the taxable value of each school district and fraction of a school district within the county for the preceding 4 calendar years. This requirement is in addition to the requirement set forth in section 151 of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(28) For a parcel of property open and available for use as a bed and breakfast, the portion of the taxable value of the property used as a principal residence under subsection (16) shall be calculated in the following manner:

(a) Add all of the following:

(*i*) The square footage of the property used exclusively as that owner's principal residence.

(*ii*) 50% of the square footage of the property's common area.

(*iii*) If the property was not open and available for use as a bed and breakfast for 90 or more consecutive days in the immediately preceding 12-month period, the result of the following calculation:

(A) Add the square footage of the property that is open and available regularly and exclusively as a bed and breakfast, and 50% of the square footage of the property's common area.

(B) Multiply the result of the calculation in sub-subparagraph (A) by a fraction, the numerator of which is the number of consecutive days in the immediately preceding 12-month period that the property was not open and available for use as a bed and breakfast and the denominator of which is 365.

(b) Divide the result of the calculation in subdivision (a) by the total square footage of the property.

(29) The owner claiming an exemption under this section for property open and available as a bed and breakfast shall file an affidavit claiming the exemption on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall be in a form prescribed by the department of treasury.

(30) As used in this section:

(a) "Bed and breakfast" means property classified as residential real property under section 34c that meets all of the following criteria:

(*i*) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the owner of the property, 1 or more of which are available for rent to transient tenants.

(*ii*) Serves meals at no extra cost to its transient tenants.

(*iii*) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

(b) "Common area" includes, but is not limited to, a kitchen, dining room, living room, fitness room, porch, hallway, laundry room, or bathroom that is available for use by guests of a bed and breakfast or, unless guests are specifically prohibited from access to the area, an area that is used to provide a service to guests of a bed and breakfast.

This act is ordered to take immediate effect.

Approved January 8, 2007.

Filed with Secretary of State January 10, 2007.

[No. 665]

(HB 6076)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 4w (MCL 205.54w), as amended by 2004 PA 173.

The People of the State of Michigan enact:

205.54w Nonprofit hospital or nonprofit hospital or housing; exemption in business of constructing, altering, repairing, or improving property; exemption; definitions.

Sec. 4w. (1) For taxes levied after June 30, 1999, a sale of tangible personal property to a person directly engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent that the property is affixed to and made a structural part of a nonprofit hospital or a nonprofit housing entity qualified as exempt under section 15a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1415a, is exempt from the tax under this act. For purposes of a county long-term medical care facility, "affixed to and made a structural part of" means any physical connection to an existing county long-term medical care facility.

(2) An exemption shall not be granted under this section for any portion of property otherwise qualifying for exemption under this section if income or a benefit inures directly or indirectly to an individual, private stockholder, or other private person from the independent or nonessential operation of that portion of property.

(3) As used in this section:

(a) "Nonprofit hospital" means 1 of the following:

(*i*) That portion of a building to which 1 of the following applies:

(A) Is owned or operated by an entity exempt under section 501(c)(3) of the internal revenue code, 26 USC 501, that is licensed as a hospital under part 215 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21571.

(B) Is owned or operated by a governmental unit in which medical attention is provided.

(C) Is owned or operated by an entity or entities exempt under section 501(c)(2) or (3) of the internal revenue code, 26 USC 501, in which medical attention is provided.

(*ii*) That portion of real property necessary and related to a building described in subparagraph (*i*) in which medical attention is provided.

(*iii*) A county long-term medical care facility, including any addition to an existing county long-term medical care facility, if the addition is owned and operated by either the county or the county long-term medical care facility and offers health services provided by the county long-term medical care facility. An exemption under this section shall be granted until January 1, 2008, regardless of whether the addition is licensed as a nursing home or skilled nursing facility under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e, or whether the addition meets the requirements set forth in subsection (1).

(b) "Nonprofit hospital" does not include the following:

(*i*) A freestanding building or other real property of a nursing home or skilled nursing facility licensed under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

(*ii*) A hospice licensed under part 214 of the public health code, 1978 PA 368, MCL 333.21401 to 333.21420.

(*iii*) A home for the aged licensed under part 213 of the public health code, 1978 PA 368, MCL 333.21301 to 333.21335.

(c) "Medical attention" means that level of medical care in which a physician provides acute care or active treatment of medical, surgical, obstetrical, psychiatric, chronic, or rehabilitative conditions, that require the observation, diagnosis, and daily treatment by a physician.

Retroactive effective date.

Enacting section 1. This amendatory act is retroactive and is effective for taxes levied after June 30, 1999.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State January 10, 2007.

[No. 666]

(HB 6077)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 4s (MCL 205.94s), as added by 1999 PA 117.

The People of the State of Michigan enact:

205.94s Construction or improvement of property of nonprofit hospital or housing; "affixed to and made a structural part of" defined; exemption not granted; definitions.

Sec. 4s. (1) For taxes levied after June 30, 1999, the tax levied under this act does not apply to property purchased by a person engaged in the business of constructing, altering, repairing, or improving real estate for others to the extent that the property is affixed to and made a structural part of a nonprofit hospital or a nonprofit housing entity qualified as exempt under section 15a of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1415a. For purposes of a county long-term medical care facility, "affixed to and made a structural part of" means any physical connection to an existing county long-term medical care facility.

(2) An exemption shall not be granted under this section for any portion of property otherwise qualifying for exemption under this section if income or a benefit inures directly or indirectly to an individual, private stockholder, or other private person from the independent or nonessential operation of that portion of property.

(3) As used in this section:

(a) "Nonprofit hospital" means 1 of the following:

(*i*) That portion of a building to which 1 of the following applies:

(A) Is owned or operated by an entity exempt under section 501(c)(3) of the internal revenue code, 26 USC 501, that is licensed as a hospital under part 215 of the public health code, 1978 PA 368, MCL 333.21501 to 333.21571.

(B) Is owned or operated by a governmental unit in which medical attention is provided.

(C) Is owned or operated by an entity or entities exempt under section 501(c)(2) or (3) of the internal revenue code, 26 USC 501, in which medical attention is provided.

(*ii*) That portion of real property necessary and related to a building described in subparagraph (*i*) in which medical attention is provided.

(*iii*) A county long-term medical care facility, including any addition to an existing county long-term medical care facility, if the addition is owned and operated by either the county or the county long-term medical care facility and offers health services provided by the county long-term medical care facility. An exemption under this section shall be granted until January 1, 2008 regardless of whether the addition is licensed as a nursing home or skilled nursing facility under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e, or whether the addition meets the requirements set forth in subsection (1).

(b) "Nonprofit hospital" does not include the following:

(*i*) A freestanding building or other real property of a nursing home or skilled nursing facility licensed under part 217 of the public health code, 1978 PA 368, MCL 333.21701 to 333.21799e.

(*ii*) A hospice licensed under part 214 of the public health code, 1978 PA 368, MCL 333.21401 to 333.21420.

(*iii*) A home for the aged licensed under part 213 of the public health code, 1978 PA 368, MCL 333.21301 to 333.21335.

(c) "Medical attention" means that level of medical care in which a physician provides acute care or active treatment of medical, surgical, obstetrical, psychiatric, chronic, or rehabilitative conditions, that require the observation, diagnosis, and daily treatment by a physician.

Retroactive effective date.

Enacting section 1. This amendatory act is retroactive and is effective for taxes levied after June 30, 1999.

This act is ordered to take immediate effect.
Approved December 28, 2006.
Filed with Secretary of State January 10, 2007.

[No. 667]

(HB 6108)

AN ACT to amend 2000 PA 146, entitled "An act to provide for the establishment of obsolete property rehabilitation districts in certain local governmental units; to provide for the exemption from certain taxes; to levy and collect a specific tax upon the owners of certain facilities; to provide for the disposition of the tax; to provide for the obtaining and transferring of an exemption certificate and to prescribe the contents of those certificates; to prescribe the powers and duties of certain local government officials; and to provide penalties," by amending section 8 (MCL 125.2788).

The People of the State of Michigan enact:

125.2788 Taxable value of property proposed to be exempt; application; limitation; separate finding; statement; requirements for approval of application; effective date of certificate.

Sec. 8. (1) If the taxable value of the property proposed to be exempt pursuant to an application under consideration, considered together with the aggregate taxable value of property exempt under certificates previously granted and currently in force under this act or under 1974 PA 198, MCL 207.551 to 207.572, exceeds 5% of the taxable value of the qualified local governmental unit, the legislative body of the qualified local governmental unit shall make a separate finding and shall include a statement in its resolution approving the application that exceeding that amount shall not have the effect of substantially impeding the operation of the qualified local governmental unit or impairing the financial soundness of an affected taxing unit.

(2) The legislative body of the qualified local governmental unit shall not approve an application for an obsolete property exemption certificate unless the applicant complies with all of the following requirements:

(a) Except as otherwise provided in subsection (3), the commencement of the rehabilitation of the facility does not occur before the establishment of the obsolete property rehabilitation district.

(b) The application relates to a rehabilitation program that when completed constitutes a rehabilitated facility within the meaning of this act and that shall be situated within an obsolete property rehabilitation district established in a qualified local governmental unit eligible under this act to establish such a district.

(c) Completion of the rehabilitated facility is calculated to, and will at the time of issuance of the certificate have the reasonable likelihood to, increase commercial activity, create employment, retain employment, prevent a loss of employment, revitalize urban areas, or increase the number of residents in the community in which the facility is situated.

(d) The applicant states, in writing, that the rehabilitation of the facility would not be undertaken without the applicant's receipt of the exemption certificate.

(e) The applicant is not delinquent in the payment of any taxes related to the facility.

(3) The legislative body of a qualified local governmental unit may approve an application for an obsolete property exemption certificate if the commencement of the rehabilitation of the facility occurs before the establishment of the obsolete property rehabilitation district and if 1 or more of the following are met:

(a) All of the following are met:

(*i*) The building permit for the rehabilitation of the facility was obtained in October 2002.

(*ii*) The obsolete property rehabilitation district was created in April 2002.

(*iii*) The rehabilitation of the facility included adding additional stories to the facility.

(b) All of the following are met:

(*i*) Emergency or temporary repairs or improvements were made before the establishment of the obsolete property rehabilitation district.

(*ii*) The obsolete property rehabilitation district was created in January 2006.

(*iii*) The facility is located in a city with a population of more than 20,500 and less than 27,000 and is located in a county with a population of more than 95,000 and less than 105,000.

(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 (3), the effective date of the certificate shall be December 31, 2006.

This act is ordered to take immediate effect.
Approved January 8, 2007.
Filed with Secretary of State January 10, 2007.

[No. 668]

(HB 6182)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," (MCL 760.1 to 777.69) by adding section 1g to chapter IV.

The People of the State of Michigan enact:

CHAPTER IV

764.1g Arrest warrant; determination that person is parolee; use of LEIN; notice.

Sec. 1g. (1) Before a warrant is issued for the arrest of a person who is not in custody, the law enforcement agency investigating the crime shall use the law enforcement information network to determine whether the person is a parolee under the jurisdiction of the department of corrections. If the person is determined to be a parolee under the jurisdiction of the department of corrections, and the magistrate issues a warrant for the arrest of that person, the investigating law enforcement agency or, if the court is entering arrest warrants into the law enforcement information network and the investigating law enforcement agency

informs the court that the person is a parolee, the court shall promptly give to the department of corrections, by telephonic or electronic means, notice of all of the following:

(a) The identity of the person named in the warrant.

(b) The fact that information in databases managed by the department of corrections and accessible by the law enforcement information network provides reason to believe the person named in the warrant is a parolee under the jurisdiction of the department of corrections.

(c) The charge or charges stated in the warrant.

(2) If the court has assumed the responsibility for entering arrest warrants into the law enforcement information network and delays issuance or entry of a warrant pending a court appearance by the person named in the warrant, the law enforcement agency submitting the sworn complaint to the court shall promptly give to the department of corrections, by telephonic or electronic means, notice of the following:

(a) The identity of the person named in the sworn complaint.

(b) The fact that a prosecuting attorney has authorized issuance of a warrant.

(c) The fact that information in databases managed by the department of corrections and accessible by the law enforcement information network provides reason to believe the person named in the sworn complaint is a parolee under the jurisdiction of the department of corrections.

(d) The charge or charges stated in the sworn complaint.

(e) Whether, pending a court appearance by the person named in the sworn complaint, the court has either issued the arrest warrant but delayed entry of the warrant into the law enforcement information network or has delayed issuance of the warrant.

(3) The requirement to give notice to the department of corrections under subsection (1) or (2) is complied with if the notice is transmitted to any of the following:

(a) To the department by a central toll-free telephone number that is designated by the department for that purpose and that is in operation 24 hours a day and is posted in the department's database of information concerning the status of parolees.

(b) To a parole agent serving the county where the warrant is issued or is being sought.

(c) To the supervisor of the parole office serving the county where the warrant is issued or is being sought.

This act is ordered to take immediate effect.
Approved January 8, 2007.
Filed with Secretary of State January 10, 2007.

[No. 669]

(HB 6277)

AN ACT to amend 1933 PA 167, entitled "An act to provide for the raising of additional public revenue by prescribing certain specific taxes, fees, and charges to be paid to the state for the privilege of engaging in certain business activities; to provide, incident to the enforcement thereof, for the issuance of licenses to engage in such occupations; to provide for the ascertainment, assessment and collection thereof; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 4v (MCL 205.54v), as amended by 2002 PA 452.

The People of the State of Michigan enact:

205.54v Central office equipment or wireless equipment; presumption.

Sec. 4v. (1) The tax levied under this act does not apply to the purchase of machinery and equipment for use or consumption in the rendition of any combination of services, the use or consumption of which is taxable under section 3a(1)(a) or (c) or section 3b of the use tax act, 1937 PA 94, MCL 205.93a and 205.93b, except that this exemption is limited to the tangible personal property located on the premises of the subscriber and to central office equipment or wireless equipment, directly used or consumed in transmitting, receiving, or switching, or in the monitoring of switching of a 2-way interactive communication. As used in this subsection, central office equipment or wireless equipment does not include distribution equipment including cable or wire facilities.

(2) Beginning April 1, 1999, the property under subsection (1) is exempt only to the extent that the property is used for the exempt purposes stated in this section. There is an irrebuttable presumption that 90% of total use is for exempt purposes.

This act is ordered to take immediate effect.
Approved January 8, 2007.
Filed with Secretary of State January 10, 2007.

[No. 670]

(HB 6278)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 4q (MCL 205.94q), as amended by 2002 PA 456.

The People of the State of Michigan enact:

205.94q Central office equipment or wireless equipment; presumption.

Sec. 4q. (1) The tax levied under this act does not apply to the purchase of machinery and equipment for use or consumption in the rendition of any combination of services, the use or consumption of which is taxable under section 3a(1)(a) or (c) or 3b except that this exemption is limited to the tangible personal property located on the premises of the subscriber and to central office equipment or wireless equipment, directly used or consumed in transmitting, receiving, or switching, or in the monitoring of switching of a 2-way interactive communication. As used in this subsection, central office equipment or wireless equipment does not include distribution equipment including cable or wire facilities.

(2) Beginning April 1, 1999, the property under subsection (1) is exempt only to the extent that the property is used for the exempt purposes stated in this section. There is an irrebuttable presumption that 90% of total use is for exempt purposes.

This act is ordered to take immediate effect.
Approved January 8, 2007.
Filed with Secretary of State January 10, 2007.

[No. 671]

(HB 6313)

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 sections 7702, 7704, 7705, 7706, 7707, 7708, 7709, 7711, 7712, 7714, and 7717 (MCL 500.7702, 500.7704, 500.7705, 500.7706, 500.7707, 500.7708, 500.7709, 500.7711, 500.7712, 500.7714, and 500.7717), sections 7702, 7708, 7709, 7711, 7712, 7714, and 7717 as amended by 1989 PA 302, sections 7704, 7705, and 7706 as amended by 1996 PA 548, and section 7707 as added by 1982 PA 194, and by adding section 838a.

The People of the State of Michigan enact:

500.838a Definitions; 2001 CSO preferred class structure mortality table.

Sec. 838a. (1) As used in this section:

(a) "2001 CSO mortality table" means that term as defined in section 838.

(b) "2001 CSO preferred class structure mortality table" means mortality tables with separate rates of mortality for super preferred nonsmokers, preferred nonsmokers, residual standard nonsmokers, preferred smokers, and residual standard smoker splits of the 2001 CSO nonsmoker and smoker tables as adopted by the NAIC at the September 2006 national meeting and published in the "NAIC Proceedings" (3rd Quarter 2006). Unless the context indicates otherwise, the "2001 CSO preferred class structure mortality table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

(c) "NAIC" means the national association of insurance commissioners.

(d) "Smoker and nonsmoker mortality tables" means that term as defined in section 838.

(e) "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

(2) An insurer may, for each calendar year of issue for any 1 or more specified plans of insurance and subject to this section, substitute the 2001 CSO preferred class structure mortality table in place of the 2001 CSO smoker and nonsmoker mortality tables as the minimum valuation standard for policies issued on or after January 1, 2007. An insurer shall not elect the 2001 CSO preferred class structure mortality table until the insurer demonstrates that at least 20% of the business to be valued on this table is in 1 or more of the preferred classes. A table from the 2001 CSO preferred class structure mortality table used in place of a 2001 CSO mortality table as provided in this section shall be treated as part of the 2001 CSO mortality table only for purposes of reserve valuation pursuant to section 838.

(3) For each plan of insurance with separate rates for preferred and standard nonsmoker lives, an insurer may use the super preferred nonsmoker, preferred nonsmoker, and residual standard nonsmoker tables to substitute for the nonsmoker mortality table found in the 2001 CSO mortality table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the residual standard nonsmoker table, the appointed actuary shall certify both of the following:

(a) That the present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(b) That the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(4) For each plan of insurance with separate rates for preferred and standard smoker lives, an insurer may use the preferred smoker and residual standard smoker tables to substitute for the smoker mortality table found in the 2001 CSO mortality table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the preferred smoker table, the appointed actuary shall certify both of the following:

(a) That the present value of death benefits over the next 10 years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table corresponding to the valuation table being used for that class.

(b) That the present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the preferred smoker valuation basic table.

(5) Unless exempted by the commissioner, every authorized insurer using the 2001 CSO preferred class structure mortality table shall file annually with the commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the commissioner statistical reports showing mortality and such other information as the commissioner may consider necessary or expedient for the administration of this section. The form of the reports shall be established by the commissioner.

500.7702 Purpose and construction of chapter.

Sec. 7702. (1) The purpose of this chapter is to protect, subject to certain limitations, persons specified in section 7704(1) against failure in the performance of contractual obligations under insurance policies and annuity contracts specified in section 7704(2) because of the impairment or insolvency of the insurer issuing the policies or contracts. To provide this protection:

(a) An association of insurers is created to enable the guaranty of payment of benefits and continuation of coverages as limited in this chapter.

(b) Members of the association are subject to assessment to provide funds to carry out the purpose of this chapter.

(c) The association is authorized to assist the commissioner, in the prescribed manner, in the detection and prevention of insurer impairments or insolvencies.

(2) This chapter shall be construed to execute the purposes provided in subsection (1).

500.7704 Coverages; liability of association; limitations.

Sec. 7704. (1) This chapter shall provide coverage for the policies and contracts specified in subsection (2) to the following persons:

(a) To a person, other than nonresident certificate holders under group policies or contracts, who, regardless of where he or she resides, is the beneficiary, assignee, or payee of a person covered under subdivision (b).

(b) To a person who is an owner of, or certificate holder under, a policy or contract described in subsection (2), other than an unallocated annuity contract or structured settlement contract, and which owner or certificate holder is 1 of the following:

(*i*) A resident.

(*ii*) Not a resident, if all of the following conditions are met:

(A) The insurer that issued the policy or contract is domiciled in this state.

(B) The state in which the person resides has an association similar to the association created by this chapter.

(C) The person is not eligible for coverage by an association in any other state because the insurer was not licensed in that state at the time specified in the state's guaranty association law.

(*iii*) Not a resident, if both of the following conditions are met:

(A) The person would have been considered a resident at the time the coverage was obtained by the person.

(B) The person is not eligible for coverage by another guaranty association.

(c) For an unallocated annuity contract, except as provided in subsection (3), to either of the following:

(*i*) To a person who is the owner of an unallocated annuity contract if the contract is issued to or in connection with a specific plan whose sponsor has its principal place of business in this state.

(*ii*) To a person who is the owner of an unallocated annuity contract issued to or in connection with a government lottery if the owner is a resident of this state.

(d) For a structured settlement annuity, except as provided in subsection (3), to a person who is a payee under a structured settlement annuity, or a beneficiary of a payee if the payee is deceased, and the payee is either of the following:

(*i*) A resident, regardless of where the contract owner resides.

(*ii*) Not a resident, if either of the following conditions is met:

(A) The contract owner of the structured settlement annuity is a resident, and the payee or beneficiary is not eligible for coverage from the association where the payee or beneficiary resides.

(B) The contract owner of the structured settlement annuity is not a resident, and both of the following conditions are met:

(I) The insurer that issued the structured settlement annuity is domiciled in this state, and the state in which the contract owner resides has an association similar to the association created by this chapter.

(II) Neither the payee or beneficiary nor the contract owner is eligible for coverage by the association of the state in which the payee or contract owner resides.

(2) Except as provided in subsections (3), (4), and (5), this chapter provides coverage to a person specified in subsection (1) for direct, nongroup life, health, annuity, and supplemental policies or contracts, for certificates under direct group life, health, annuity, and supplemental policies and contracts, and for unallocated annuity contracts issued by member insurers, except as limited by this chapter.

(3) This chapter does not provide coverage to a person who is a payee or beneficiary of a contract owner that is a resident of this state, if the payee or beneficiary is afforded any coverage by the association of another state or to a person otherwise covered under subsection (1)(c), if any coverage is provided by the association of another state to that person.

(4) This chapter is intended to provide coverage to a person who is a resident of this state and, in special circumstances, to a nonresident. To avoid duplicate coverage, if a person who would otherwise receive coverage under this chapter is provided coverage under the laws of any other state, the person shall not be provided coverage under this chapter. In determining the application of the provisions of this chapter in situations where a person could be covered by the association of more than 1 state, whether as an owner, payee, beneficiary, or assignee, this chapter shall be construed in conjunction with other state laws to result in coverage by only 1 association.

(5) This chapter does not provide coverage for the following:

(a) A portion of a policy or contract not guaranteed by the insurer or under which the risk is borne by the policy or contract owner, including, but not limited to, the nonguaranteed portion of a variable or separate account product.

(b) A policy or contract of reinsurance, unless assumption certificates have been issued pursuant to the reinsurance policy or contract.

(c) A portion of a policy or contract to the extent that the rate of interest on which it is based or the interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value exceeds the following:

(*i*) Averaged over the period of 4 years prior to the date on which the member insurer becomes an impaired insurer or an insolvent insurer, whichever occurs first, the rate of interest determined by subtracting 2 percentage points from Moody's corporate bond yield average averaged for that same 4-year period or for a lesser period if the policy or contract was issued less than 4 years before the member insurer becomes an impaired insurer or an insolvent insurer, whichever occurs first.

(*ii*) On and after the date on which the member insurer becomes an impaired insurer or an insolvent insurer, whichever occurs first, the rate of interest determined by subtracting 3 percentage points from Moody's corporate bond yield average as most recently available.

(d) A portion of a plan or contract issued to a plan or program of an employer, association, or other person to provide life, health, or annuity benefits to its employees, members, or others to the extent that the plan or program is self-funded or uninsured, including, but not limited to, benefits payable by an employer, association, or other person under any of the following:

(*i*) A multiple employer welfare arrangement as defined in section 7001.

(*ii*) A minimum premium group insurance plan.

(*iii*) A stop-loss or excess-loss group insurance plan. This subparagraph does not apply to the insured portion of a stop-loss or excess-loss group insurance plan written pursuant to section 407a or 5208 or written by a member property casualty insurer if the premiums were identified as disability insurance premiums in its annual statement.

(*iv*) An administrative services only contract.

(e) A portion of a policy or contract to the extent that it provides dividends or experience rating credits, voting rights, or payment of any fees or allowances be paid to a person, including the policy or contract owner, in connection with the service to or administration of the policy or contract.

(f) A policy or contract issued in this state by an insurer at a time when it did not have a certificate of authority to issue the policy or contract in this state.

(g) An unallocated annuity contract issued to or in connection with a benefit plan protected under the federal pension benefit guaranty corporation regardless of whether the federal pension benefit guaranty corporation has become liable to make any payments with respect to the benefit plan.

(h) A portion of an unallocated annuity contract that is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a government lottery.

(i) An obligation that does not arise under the express written terms of the policy or contract issued by the insurer to the contract owner or policy owner, including, but not limited to, any of the following:

(*i*) A claim based on marketing materials.

(*ii*) A claim based on side letters, riders, or other documents that were issued by the insurer without meeting applicable policy form filing or approval requirements.

(*iii*) A claim based on misrepresentations of or regarding policy benefits.

(*iv*) An award of exemplary or punitive damages or statutory interest and claims related to bad faith in the payment of claims, and attorney fees and costs.

(*v*) A claim for penalties or consequential or incidental damages.

(j) A contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

(k) A portion of a policy or contract to the extent it provides for interest or other changes in value to be determined by the use of an index or other external reference stated in the policy or contract, but which have not been credited to the policy or contract, or as to which the policy or contract owner's rights are subject to forfeiture, as of the date the member insurer becomes an impaired insurer or an insolvent insurer, whichever occurs first. If a policy's or contract's interest or changes in value are credited less frequently than annually, then for purposes of determining the values that have been credited and are not subject to forfeiture under this subdivision, the interest or change in value determined by using the procedures defined in the policy or contract shall be credited as if the contractual date of crediting interest or changing values was the date of impairment or insolvency, whichever is earlier, and is not subject to forfeiture.

(6) The benefits that the association may become obligated to cover shall not exceed the lesser of the following:

(a) The contractual obligations for which the insurer is liable or would have been liable if it were not an impaired insurer or an insolvent insurer.

(b) With respect to 1 life, regardless of the number of policies or contracts:

(*i*) $300,000.00 in life insurance death benefits, but not more than $100,000.00 in net cash surrender and net cash withdrawal values for life insurance.

(*ii*) Except as otherwise provided in subparagraphs (*iv*) and (*v*), $100,000.00 in health insurance benefits, including any net cash surrender and net cash withdrawal values.

(*iii*) $100,000.00 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; however, for an individual qualified retirement annuity, $250,000.00 in the present value of annuity benefits, including net cash surrender and net cash withdrawal values. As used in this subparagraph, "individual qualified retirement annuity" means an annuity issued to an individual or a custodian on behalf of the individual pursuant to section 408 or 408A of the internal revenue code of 1986, 26 USC 408 and 408A, or an annuity certificate issued to an individual pursuant to section 403(b) of the internal revenue code of 1986, 26 USC 403(b).

(*iv*) $300,000.00 in disability income insurance benefits or long-term care benefits.

(*v*) $500,000.00 in basic hospital, medical, and surgical insurance benefits.

(c) With respect to each individual participating in a governmental retirement benefit plan established under section 401(k), 403(b), or 457 of the internal revenue code of 1986, 26 USC 401, 403, and 457, covered by an unallocated annuity contract or the beneficiaries of each such individual, if deceased, in the aggregate, $100,000.00 in present value annuity benefits, including net cash surrender and net cash withdrawal values.

(d) With respect to each payee of a structured settlement annuity, or the beneficiary or beneficiaries of a deceased payee, $100,000.00 in present value annuity benefits, in the aggregate, including net cash surrender and net cash withdrawal values, if any.

(e) For either 1 contract owner provided coverage under subsection (1)(c)(*ii*) or 1 plan sponsor whose plans own directly or in trust 1 or more unallocated annuity contracts not included in subdivision (C), $5,000,000.00 in benefits, irrespective of the number of contracts with respect to the contract owner or plan sponsor. However, if 1 or more unallocated annuity

contracts are covered contracts under this chapter and are owned by a trust or other entity for the benefit of 2 or more plan sponsors, coverage shall be afforded by the association if the largest interest in the trust or entity owning the contract or contracts is held by a plan sponsor whose principal place of business is in this state, but in no event is the association obligated to cover more than $5,000,000.00 in benefits for all those unallocated contracts.

(7) In no event is the association obligated to cover more than the following:

(a) An aggregate of $300,000.00 in benefits for any 1 life under subsection (6)(b)(*i*), (*ii*), (*iii*), and (*iv*), (c), and (d).

(b) An aggregate of $500,000.00 in benefits for any 1 life under subsection (6)(b)(*v*).

(c) For 1 owner of multiple nongroup policies of life insurance, whether the policy owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, $5,000,000.00 in benefits, regardless of the number of policies and contracts held by the owner.

(8) The limitations under subsections (6) and (7) are limitations on the benefits for which the association is obligated before taking into account either its subrogation and assignment rights or the extent to which those benefits could be provided out of the assets of the impaired insurer or insolvent insurer attributable to covered policies. The costs of the association's obligations under this act may be satisfied by the use of assets attributable to covered policies or reimbursed to the association pursuant to its subrogation and assignment rights.

(9) In performing its obligations to provide coverage under section 7708, the association is not required to guarantee, assume, reinsure, or perform, or cause to be guaranteed, assumed, reinsured, or performed, contractual obligations of the insolvent insurer or impaired insurer under a covered policy or contract that do not materially affect the economic benefits of the covered policy or contract.

500.7705 Definitions.

Sec. 7705. As used in this chapter:

(a) "Account" means either of the 2 accounts created under section 7706.

(b) "Association" means the Michigan life and health insurance guaranty association created under section 7706.

(c) "Authorized assessment" or "authorized" when used in the context of assessments means a resolution or motion passed by the association's board of directors that directs that an assessment be called immediately or in the future from member insurers for a specific amount. An assessment is authorized when the resolution or motion is passed.

(d) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan.

(e) "Called assessment" or "called" when used in the context of assessments means that a notice has been issued by the association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the association to member insurers.

(f) "Contractual obligation" means an obligation under covered policies.

(g) "Covered policy" means a policy or contract or certificate under a group policy or contract, or portion thereof, for which coverage is provided under section 7704.

(h) "Health insurance" means disability insurance as defined in section 606.

(i) "Impaired insurer" means a member insurer considered by the commissioner after May 1, 1982, to be potentially unable to fulfill the insurer's contractual obligations or that is placed under an order of rehabilitation or conservation by a court of competent jurisdiction. Impaired insurer does not mean an insolvent insurer.

(j) "Insolvent insurer" means a member insurer that after May 1, 1982, becomes insolvent and is placed under an order of liquidation, by a court of competent jurisdiction with a finding of insolvency.

(k) "Member insurer" means a person authorized to transact a kind of insurance or annuity business in this state for which coverage is provided under section 7704 and includes an insurer whose certificate of authority in this state may have been suspended, revoked, not renewed, or voluntarily withdrawn. Member insurer does not include the following:

(*i*) A fraternal benefit society.

(*ii*) A cooperative plan insurer authorized under chapter 64.

(*iii*) A health maintenance organization authorized or licensed under chapter 35.

(*iv*) A mandatory state pooling plan.

(*v*) A mutual assessment or any entity that operates on an assessment basis.

(*vi*) A nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373.

(*vii*) A nonprofit health care corporation operating under the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704.

(*viii*) An insurance exchange.

(*ix*) An organization that has a certificate or license limited to the issuance of charitable gift annuities.

(*x*) Any entity similar to the entities described in this subdivision.

(*l*) "Moody's corporate bond yield average" means the monthly average corporates as published by Moody's investors service, inc., or a successor to that service.

(m) "Owner" of a contract or policy and "contract owner" and "policy owner" mean the person who is identified as the legal owner under the terms of the contract or policy or who is otherwise vested with the legal title to the contract or policy through a valid assignment completed in accordance with the terms of the contract or policy and properly recorded as the owner on the books of the insurer. The terms owner, contract owner, and policy owner do not include persons with a mere beneficial interest in a contract or policy.

(n) "Person" means an individual, corporation, partnership, association, or voluntary organization.

(o) "Plan sponsor" means the following:

(*i*) For a benefit plan established or maintained by a single employer, the single employer.

(*ii*) For a benefit plan established or maintained by an employee organization, the employee or organization.

(*iii*) For a benefit plan established or maintained by 2 or more employers or jointly by 1 or more employers and 1 or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(p) "Premiums" means amounts or considerations, by whatever name called, received on covered policies or contracts less returned premiums, considerations, and deposits and less dividends and experience credits. The term "premiums" does not include an amount or consideration received for a policy or contract, or a portion of a policy or contract for which

coverage is not provided under section 7704. However, accessible premiums shall not be reduced on account of sections 7704(5)(c) relating to interest limitations and 7704(6)(b), (c), and (e) relating to limitations with respect to any 1 individual, any 1 participant, and any 1 contract holder. Premiums shall not include premiums in excess of the following:

(*i*) $5,000,000.00 on an unallocated annuity contract not issued under a governmental retirement plan established under section 401(k), 403(b), or 457 of the internal revenue code of 1986, 26 USC 401, 403, and 457.

(*ii*) For multiple nongroup policies of life insurance owned by 1 owner, whether the policyowner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, $5,000,000.00 with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

(q) "Principal place of business" of a plan sponsor or a person other than a natural person means the state in which the natural persons who establish policy for the direction, control, and coordination of the entity as a whole primarily exercise that function. In making this determination, the association, in its reasonable judgment, shall consider all of the following factors:

(*i*) The state in which the primary executive and administrative headquarters of the entity is located.

(*ii*) The state in which the principal office of the chief executive officer of the entity is located.

(*iii*) The state in which the board of directors, or the entity's similar governing person or persons, conducts the majority of its meetings.

(*iv*) The state in which the executive or management committee of the board of directors, or the entity's similar governing person or persons, conducts the majority of its meetings.

(*v*) The state from which the management of the overall operations of the entity is directed.

(*vi*) For a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using subparagraphs (*i*) to (*v*). However, for a plan sponsor, if more than 50% of the participants in the benefit plan are employed in a single state, that state is the principal place of business of the plan sponsor.

(*vii*) For a plan sponsor of a benefit plan, the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan shall be based upon the location of the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in lieu of a specific or clear designation of a principal place of business.

(r) "Receivership court" means the court in the insolvent insurer's or impaired insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the insurer.

(s) "Resident" means a person who resides in this state at the time a member insurer is determined to be an impaired insurer or insolvent insurer and to whom contractual obligations are owed. A person may be considered a resident of only 1 state, which in the case of a person other than a natural person, is its principal place of business. Citizens of the United States who are either residents of foreign countries or residents of the United States possessions, territories, or protectorates that do not have an association similar to the association created by this chapter shall be considered residents of this state if the insurer that issued the policies or contracts is domiciled in this state.

(t) "State" means a state, the District of Columbia, Puerto Rico, or a United States possession, territory, or protectorate.

(u) "Structured settlement annuity" means an annuity purchased in order to fund periodic payments for a plaintiff or other claimant in payment for or with respect to personal injury suffered by the plaintiff or other claimant.

(v) "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract.

(w) "Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of an annuity benefit guaranteed to an individual by an insurer under the contract or certificate. The term shall also include, but is not limited to, guaranteed investment contracts and deposit administration contracts.

500.7706 Michigan life and health insurance guaranty association; creation; membership requirement; performance of functions; exercise of powers; accounts; supervision of commissioner; applicability of insurance laws; meetings.

Sec. 7706. (1) There is created a nonprofit legal entity to be known as the Michigan life and health insurance guaranty association. A member insurer shall be and remain a member of the association as a condition of authority to transact insurance in this state. The association shall perform its functions under the plan of operation established and approved under section 7710 and shall exercise its powers through a board of directors established under section 7707. For purposes of administration and assessment the association shall maintain the following 2 accounts:

(a) The health insurance account.

(b) The life insurance and annuity account which includes the following subaccounts:

(*i*) A life insurance subaccount.

(*ii*) An annuity subaccount, which shall include unallocated annuity contracts owned by a governmental retirement plan, or its trustee, established under section 401, 403(b), or 457 of the internal revenue code of 1986, 26 USC 401, 403, and 457, but shall not include other unallocated annuities.

(*iii*) An unallocated annuity subaccount, which shall not include unallocated annuity contracts owned by a governmental retirement benefit plan, or its trustee, established under section 401, 403(b), or 457 of the internal revenue code of 1986, 26 USC 401, 403, and 457.

(2) The association is under the immediate supervision of the commissioner and is subject to the applicable provisions of the insurance laws of this state. Meetings or records of the association may be open to the public upon majority vote of the board of directors of the association.

500.7707 Board of directors; appointment and election of members; vacancy; notice of organizational meeting; voting rights; approval of election or appointment; fair representation required; reimbursement for expenses.

Sec. 7707. (1) The board of directors of the association shall consist of not less than 5 nor more than 9 member insurers and 2 persons representing the general public serving terms as established in the plan of operation. The 2 members of the board representing the general public shall be appointed by the commissioner, shall not be engaged in the business of insurance, and shall not be officers, directors, or employees of an insurance company. The

remaining members of the board shall be elected by member insurers subject to the approval of the commissioner. A vacancy on the board for a member representing the general public shall be filled for the remaining period of the term by appointment by the commissioner. A vacancy on the board for a member representing member insurers shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner. To elect the initial board of directors, and initially organize the association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting each member insurer shall be entitled to 1 vote in person or by proxy.

(2) In approving an election or in appointing a member to the board, the commissioner shall consider, among other things, whether all member insurers are fairly represented.

(3) A member of the board may be reimbursed from the assets of the association for expenses incurred by the member as a member of the board of directors but a member of the board shall not otherwise be compensated by the association for his or her services.

500.7708 Powers and duties of association as to impaired or insolvent insurers; proceeding under subsection (3)(b) or (5)(b); paying or crediting rate of interest; nonpayment of premiums; premiums due and liability for unearned premiums; applicability of protection; additional powers of association; transfer of amount to association; failure of association to act; rendering assistance and advice to commissioner; standing; appearance; intervention; assignment of rights and causes of action; subrogation; reduced amounts; additional powers of association; reinsurance agreement; substitute coverage.

Sec. 7708. (1) In addition to the powers and duties enumerated in other sections of this chapter, the association has the powers and duties provided in this section.

(2) If a member insurer is an impaired insurer, the association, subject to conditions imposed by the association that do not impair the contractual obligations of the impaired insurer, and that are approved by the commissioner, may do any of the following:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of the impaired insurer.

(b) Provide money, pledges, notes, guarantees, or other means as are proper to effectuate subdivision (a), and to assure payment of the contractual obligations of the impaired insurer pending action under subdivision (a).

(c) Loan money to the impaired insurer.

(3) Subject to the conditions specified in subsection (4), if a member insurer is an impaired insurer, whether domestic, foreign, or alien, and the insurer is not paying claims timely, the association shall do either of the following:

(a) Take any of the actions specified in subsection (2).

(b) Provide substitute benefits in lieu of the contractual obligations of the impaired insurer solely for health claims, periodic annuity benefit payments, death benefits, supplemental benefits, and cash withdrawals for policy or contract owners who petition for them under claims of emergency or hardship in accordance with standards proposed by the association and approved by the commissioner.

(4) The association is subject to subsection (3) only if the following are met:

(a) The laws of the impaired insurer's state of domicile provide that until all payments of or on account of the impaired insurer's contractual obligations by all guaranty associations,

along with all expenses thereof and interest on all such payments and expenses, have been repaid to the guaranty associations or a plan of repayment by the impaired insurer shall have been approved by the guaranty associations:

(*i*) The delinquency proceeding shall not be dismissed.

(*ii*) Neither the impaired insurer nor its assets shall be returned to the control of its shareholders or private management.

(*iii*) It shall not be permitted to solicit or accept new business or have any suspended or revoked license restored.

(b) If the impaired insurer is a domestic insurer, it has been placed under an order of rehabilitation by a court of competent jurisdiction in this state.

(c) If the impaired insurer is a foreign or alien insurer, any of the following has occurred:

(*i*) It has been prohibited from soliciting or accepting new business in this state.

(*ii*) Its certificate of authority has been suspended or revoked in this state.

(*iii*) A petition for rehabilitation or liquidation has been filed in a court of competent jurisdiction in its state of domicile by the commissioner of that state.

(5) If a member insurer is an insolvent insurer, the association shall do either of the following:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of the insolvent insurer or assure payment of the contractual obligations of the insolvent insurer; and provide money, pledges, notes, guarantees, or other means as are reasonably necessary to effectuate this subdivision.

(b) Provide benefits and coverage pursuant to subsection (6).

(6) If proceeding under subsection (3)(b) or (5)(b), all of the following apply:

(a) The association shall assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the policies or contracts of the insolvent insurer, for claims incurred as follows:

(*i*) For group policies or contracts, not later than the earlier of the next renewal date under the policy or contract or 45 days, but not less than 30 days, after the date on which the association becomes obligated with respect to the policies and contracts.

(*ii*) With respect to nongroup policies, contracts, and annuities, not later than the earlier of the next renewal date, if any, under the policies or contracts or 1 year, but not less than 30 days, from the date on which the association becomes obligated with respect to the policies or contracts.

(b) The association shall make diligent efforts to provide all known insureds or annuitants of nongroup contracts, or group policyholders of group policies and contracts, 30 days' notice of the termination of the benefits provided pursuant to subdivision (a).

(c) The association shall make available substitute coverage on an individual basis in accordance with the provisions of subdivision (d), to each known insured or an annuitant under nongroup life and health insurance policies and annuities covered by the association, or owner if other than the insured or annuitant, and to each individual formerly insured or formerly an annuitant under a group policy who is not eligible for replacement group coverage, if the insured or annuitant had a right under law or the terminated policy or annuity to convert coverage to individual coverage or to continue an individual policy or annuity in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or annuity or had a right only to make changes in premium by class.

(d) In providing the substitute coverage required under subdivision (c), all of the following apply:

(*i*) The association may offer either to reissue the terminated coverage or to issue an alternative policy.

(*ii*) Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy.

(*iii*) The association may reinsure an alternative or reissued policy.

(e) An alternative policy adopted by the association shall be subject to the approval of the commissioner. The association may adopt an alternative policy for future issuance without regard to any particular impairment or insolvency. An alternative policy shall contain at least the minimum statutory provisions required in this state and provide benefits that shall not be unreasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten. An alternative policy issued by the association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the association.

(f) If the association elects to reissue terminated coverage at a premium rate different from that charged under the terminated policy, the premium shall be set by the association in accordance with the amount of insurance provided and the age and class of risk, subject to approval of the commissioner or by a court of competent jurisdiction.

(g) The association's obligations with respect to coverage under a policy of the impaired or insolvent insurer or under a reissued or alternative policy shall cease on the date the coverage or policy is replaced by another similar policy by the policyholder, the insured, or the association.

(7) If proceeding under subsection (3)(b) or (5) for a policy or contract carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with section 7704(5)(c).

(8) Nonpayment of premiums within 31 days after the date required under the terms of a guaranteed, assumed, alternative, or reissued policy or contract or substitute coverage terminates the association's obligations under the policy or coverage under this chapter with respect to the policy or coverage, except for a claim incurred or any net cash surrender value which may be due in accordance with the provisions of this chapter.

(9) Premiums due for coverage after entry of an order of liquidation of an insolvent insurer belong to and are payable at the direction of the association, and the association is liable for unearned premiums due to policy or contract owners arising after the entry of the order.

(10) The protection provided by this chapter does not apply if guaranty protection is also provided to residents of this state by the laws of the domiciliary state of the impaired insurer or insolvent insurer.

(11) In carrying out its duties under this section, the association, subject to approval by a court in this state, may do the following:

(a) Impose permanent policy or contract liens in connection with a guarantee, assumption, or reinsurance agreement, if the association finds that the amounts that can be assessed under this chapter are less than the amounts needed to assure full and prompt performance of the association's duties under this chapter or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of the permanent policy or contract liens to be in the public interest.

(b) Impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value. In addition, if the receivership court imposes a temporary moratorium or moratorium charge on payment of cash values or policy loans, or on any other right to withdraw funds held in conjunction with policies or contracts, out of the assets of the impaired insurer or insolvent insurer, the association may defer the payment of the cash values, policy loans, or other rights by the association for the period of the moratorium or moratorium charge imposed by the receivership court, but not for claims covered by the association that are to be paid in accordance with a hardship procedure established by the liquidator or rehabilitator and approved by the receivership court.

(12) A deposit in this state, held pursuant to law or required by the commissioner for the benefit of creditors, including policy owners, not turned over to the domiciliary liquidator upon the entry of a final order of liquidation or order approving a rehabilitation plan of an insurer domiciled in this state or in a reciprocal state, pursuant to section 8153, shall be promptly transferred to the association in accordance with section 8141a. The association may apply a portion of any amount so paid to it equal to the percentage determined by dividing the aggregate amount of all policy owners' claims related to that insolvency for which the association has provided or will provide statutory benefits by the aggregate amount of all policy owners' claims in this state related to that insolvency with the remainder used to pay claims pursuant to section 8141a(1)(a) to (e). Any amount remaining after the payment of claims under section 8141a(1)(a) to (e) shall be transferred to the domiciliary receiver.

(13) If the association fails to act as provided in subsections (3) and (5) within a reasonable period of time, the commissioner shall have the powers and duties of the association under this chapter with respect to impaired insurers or insolvent insurers.

(14) The association may render assistance and advice to the commissioner, upon his or her request, concerning rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of an impaired insurer or insolvent insurer.

(15) The association has standing to appear or intervene before a court or agency in this state with jurisdiction over an impaired insurer or insolvent insurer concerning which the association is or may become obligated under this chapter or with jurisdiction over any person or property that the association may have rights to through subrogation or otherwise. The standing shall extend to all matters germane to the powers and duties of the association, including, but not limited to, proposals for reinsuring, modifying, or guaranteeing the covered policies or contracts of the impaired insurer or insolvent insurer and the determination of the covered policies and contractual obligations. The association may also appear or intervene before a court in another state with jurisdiction over an impaired insurer or insolvent insurer for which the association is or may become obligated or with jurisdiction over a third party against whom the association may have rights through subrogation of the insurer's policyholders.

(16) A person receiving benefits under this chapter shall be considered to have assigned the rights under, and any causes of action against any person for losses arising under, resulting from, or otherwise relating to, the covered policy or contract to the association to the extent of the benefits received because of this chapter whether the benefits are payments of or on account of contractual obligations, continuation of coverage, or provision of substitute or alternative coverages. The association may require an assignment to the association of such rights and causes of action by a payee, policy or contract owner, beneficiary, insured, or annuitant as a condition precedent to the receipt of rights or benefits conferred by this chapter upon that person. The association shall be subrogated to these

rights against the assets of an impaired insurer or insolvent insurer. The subrogation rights of the association under this subsection has the same priority against the assets of the impaired insurer or insolvent insurer as that possessed by the person entitled to receive benefits under this chapter. In addition, the association has all common law rights of subrogation and any other equitable or legal remedy that would have been available to the impaired insurer or insolvent insurer or owner, beneficiary, or payee of a policy or contract with respect to the policy or contract, including without limitation for a structured settlement annuity, any right of the owner, beneficiary, or payee of the annuity, to the extent of benefits received pursuant to this chapter, against a person originally or by succession responsible for the losses arising from the personal injury relating to the annuity or payment of the annuity.

(17) If subsection (16) is invalid or ineffective for any person or claim for any reason, the amount payable by the association for the related covered obligations shall be reduced by the amount realized by any other person with respect to the person or claim that is attributable to the policies, or portions thereof, covered by the association.

(18) If the association has provided benefits for a covered obligation and a person recovers an amount that the association has rights to as described in subsection (16), the person shall pay to the association the portion of the recovery attributable to the policies, or portion thereof, covered by the association.

(19) In addition to other rights and powers under this chapter, the association may do the following:

(a) Enter into contracts necessary or proper to carry out the provisions and purposes of this chapter.

(b) Sue or be sued, including taking legal actions necessary or proper for recovery of unpaid assessments levied under section 7709 and to settle claims or potential claims against it.

(c) Borrow money to effect the purposes of this chapter. Notes or other evidence of indebtedness of the association not in default shall be legal investments for domestic insurers and may be carried as admitted assets.

(d) Employ or retain the people necessary to handle the financial transactions of the association and to perform other functions that become necessary or proper under this chapter.

(e) Negotiate and contract with a liquidator, rehabilitator, conservator, or ancillary receiver to carry out the powers and duties of the association.

(f) Take legal action necessary to avoid or recover payment of improper claims.

(g) Exercise, for the purposes of this chapter and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the association issue insurance policies or annuity contracts other than those issued to perform its obligations under this chapter.

(h) Join an organization of 1 or more other state associations of similar purposes, to further the purposes and administer the powers and duties of the association.

(i) Request information from a person seeking coverage from the association in order to aid the association in determining its obligations under this chapter to the person, and the person shall promptly comply with the request.

(j) Take other necessary or appropriate action to discharge its duties and obligations and to exercise its powers under this chapter.

(20) At any time within 1 year after the coverage date, the association may elect to succeed to the rights and obligations of the member insurer, that accrue on or after the coverage date and that relate to contracts, in whole or in part, by the association, under any 1 or more indemnity reinsurance agreements entered into by the member insurer as

a ceding insurer and selected by the association; provided, however, that the association shall not exercise this election for a reinsurance agreement if the receiver, rehabilitator, or liquidator of the member insurer has previously and expressly disaffirmed the reinsurance agreement on which the association becomes responsible for the obligations of a member insurer. The association shall make an election under this subsection by providing a notice to the receiver, rehabilitator, or liquidator and to the affected reinsurer. If the association makes an election, all of the following apply with respect to the agreements selected by the association:

(a) The association is responsible for all unpaid premiums due under the agreements for periods both before and after the coverage date, and for the performance of all other obligations to be performed after the coverage date, for contracts covered, in whole or in part, by the association. The association may charge contracts covered in part by the association, through reasonable allocation methods, the cost for reinsurance in excess of the obligations of the association.

(b) The association is entitled to any amounts payable by the reinsurer under the agreements for losses or events that occur in periods after the coverage date and that relate to contracts covered by the association, in whole or in part, provided that the association is obligated upon receipt of this amount to pay to the beneficiary under the policy or contract on account of which they were paid the amount received by the association that is in excess of the benefits paid by the association on account of the policy or contract less the retention of the impaired member insurer or insolvent member insurer applicable to the loss or event.

(c) Within 30 days following the association's election, the association and each indemnity reinsurer shall calculate the net balance due to or from the association under each such reinsurance agreement as of the date of the association's election, which calculation shall give full credit to all items paid by either the member insurer or its receiver, rehabilitator, or liquidator or the indemnity reinsurer during the period between the coverage date and the date of the association's election. Either the association or the indemnity reinsurer shall pay the net balance due the other within 5 days of the completion of this calculation. If the receiver, rehabilitator, or liquidator has received any amounts due the association pursuant to subdivision (b), the receiver, rehabilitator, or liquidator shall remit this amount to the association as promptly as practicable.

(d) If, within 60 days of the election, the association pays the premiums due for periods both before and after the coverage date that relate to contracts covered by the association, in whole or in part, the reinsurer shall not terminate the reinsurance agreements insofar as the agreements relate to contracts covered by the association in whole or in part and shall not set off any unpaid premiums due for periods prior to the coverage date against amounts due the association.

(e) As used in this subsection, "coverage date" means the date on which the association becomes responsible for the obligations of the member insurer.

(21) If the association transfers its obligations to another insurer, and if the association and the other insurer agree, the other insurer shall succeed to the rights and obligations of the association under subsection (20) effective on the date agreed to by the association and the other insurer and regardless of whether the association has made the election referred to in subsection (20). If this occurs, the indemnity reinsurance agreement automatically terminates for new reinsurance unless the indemnity reinsurer and other insurer agree to the contrary and the obligations described in subsection (20)(b) no longer apply on and after the date the indemnity reinsurance agreement is transferred to the third party insurer. This subsection does not apply if the association has previously expressly determined in writing that it will not exercise the election referred to in subsection (20).

(22) Subsections (20) and (21) shall be applied consistently with section 8132 and shall supersede the provisions of any affected reinsurance agreement that provides for or requires any payment of reinsurance proceeds, on account of losses or events that occur in periods after the coverage date, to the receiver, liquidator, or rehabilitator or the insolvent member insurer. The receiver, rehabilitator, or liquidator remain entitled to any amounts payable by the reinsurer under the reinsurance agreement with respect to losses or events that occur in periods prior to the coverage date, subject to applicable setoff provisions.

(23) Except as otherwise expressly provided in subsections (20) to (22), this section does not do any of the following:

(a) Alter or modify the terms and conditions of the indemnity reinsurance agreements of the insolvent member insurer.

(b) Abrogate or limit any rights of any reinsurer to claim that it is entitled to rescind a reinsurance agreement.

(c) Give a policy owner or beneficiary an independent cause of action against an indemnity reinsurer that is not otherwise set forth in the indemnity reinsurance agreement.

(24) The board of directors of the association, in the exercise of reasonable business judgment, may determine the means by which the association is to provide the benefits of this chapter in an economical and efficient manner.

(25) If the association has arranged or offered to provide the benefits of this chapter to a covered person under a plan or arrangement that fulfills the association's obligations under this chapter, the person is not entitled to benefits from the association in addition to, or other than those provided under, the plan or arrangement.

(26) Venue in a suit against the association arising under this chapter shall be in Ingham county. The association shall not be required to give an appeal bond in an appeal that relates to a cause of action arising under this chapter.

(27) In carrying out its duties in connection with guaranteeing, assuming, or reinsuring policies or contracts under subsection (3) or (5), the association may, subject to the commissioner's or the receivership court's approval, issue substitute coverage for a policy or contract that provides an interest rate, crediting rate, or similar factor determined by use of an index or other external reference stated in the policy or contract employed in calculating returns or changes in value, by issuing an alternative policy or contract in accordance with the following provisions:

(a) Instead of the index or other external reference provided for in the original policy or contract, the alternative policy or contract provides for a fixed interest rate, payment of dividends with minimum guarantees, or a different method for calculating interest or changes in value.

(b) There is no requirement for evidence of insurability, waiting period, or other exclusion that would not have applied under the replaced policy or contract.

(c) The alternative policy or contract is substantially similar to the replaced policy or contract in all other material terms.

500.7709 Assessments.

Sec. 7709. (1) Except as otherwise provided in this section, for the purpose of providing the funds necessary to carry out the powers and duties of the association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board finds necessary. Assessments shall be due not less than 30 days after written notice to the member insurers and shall accrue interest at 12% per annum on and after the due date.

(2) There shall be 2 classes of assessments, as follows:

(a) Class A assessments shall be authorized and called for the purpose of meeting administrative and legal costs and other general expenses and may be authorized and called whether or not the assessment relates to a particular impaired insurer or insolvent insurer.

(b) Class B assessments shall be authorized and called to the extent necessary to carry out the powers and duties of the association under section 7708 for an impaired insurer or insolvent insurer.

(3) The amount of a class A assessment shall be determined by the board and may be authorized and called on a pro rata or nonpro rata basis. If pro rata, the board may provide that it be credited against future class B assessments. The total of all nonpro rata assessments shall not exceed $150.00 per member insurer in 1 calendar year.

(4) The amount of a class B assessment shall be allocated for assessment purposes among the accounts pursuant to an allocation formula that may be based on the premiums or reserves of the impaired insurer or insolvent insurer or any other standard considered by the board in its sole discretion as being fair and reasonable under the circumstances.

(5) A class B assessment against member insurers for each account and subaccount shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account for the 3 most recent calendar years for which information is available preceding the year in which the insurer became impaired or insolvent bears to such premiums received on business in this state for those 3 most recent calendar years by all assessed member insurers.

(6) An assessment for funds to meet the requirements of the association with respect to an impaired insurer or insolvent insurer shall not be authorized or called until necessary to implement the purposes of this chapter. Classification of assessments under subsection (2) and computation of assessments under this section shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible. The association shall notify each member insurer of its anticipated pro rata share of an authorized assessment not yet called within 180 days after the assessment is authorized.

(7) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the member insurer to fulfill that insurer's contractual obligations. If an assessment against a member insurer is abated or deferred, in whole or in part, the amount by which the assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. Once the conditions that caused a deferral have been removed or rectified, the member insurer shall pay all assessments that were deferred pursuant to a repayment plan approved by the association.

(8) The total of all assessments authorized by the association for a member insurer for each subaccount of the life insurance and annuity account and for the health account shall not in 1 calendar year exceed 2% of that member insurer's average annual premiums received in this state on the policies and contracts covered by the account or subaccount during the 3 calendar years preceding the year in which the insurer became an impaired insurer or insolvent insurer, subject to the following:

(a) If 2 or more assessments are authorized in 1 calendar year for insurers that become impaired insurers or insolvent insurers in different calendar years, the average annual premiums for purposes of the aggregate assessment percentage limitation under this subsection are equal and limited to the higher of the 3-year average annual premiums for the applicable subaccount or account as calculated pursuant to this section.

(b) If the maximum assessment, together with the other assets of the association in an account, does not provide in 1 year, in either account, an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this chapter.

(9) The board may provide in the plan of operation a method of allocating funds among claims, whether relating to 1 or more impaired insurers or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(10) If the maximum assessment for a subaccount of the life insurance and annuity account in any 1 year does not provide an amount sufficient to carry out the responsibilities of the association, then, pursuant to subsection (5), the board shall access the other subaccounts of the life insurance and annuity account for the necessary additional amount, subject to the maximum stated in subsection (8).

(11) The board may refund to member insurers, by an equitable method as established in the plan of operation and in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board finds is necessary to carry out future obligations of the association with regard to that account, including assets accruing from net realized gains and income from investments. A reasonable amount may be retained in an account to provide funds for the continuing expenses of the association and for future claims. Instead of a class A assessment, the board may transfer on an equitable pro rata basis excess amounts from class B accounts to the class A account.

(12) In determining premium rates and policy owner dividends as to any kind of insurance within the scope of this chapter, a member insurer may consider the amount reasonably necessary to meet assessment obligations under this chapter.

(13) The association shall issue to an insurer paying an assessment under this chapter, other than a class A assessment, a certificate of contribution in a form prescribed by the commissioner for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in the insurer's financial statement as an asset in such form and for such amount, if any, and period of time as the commissioner may approve.

(14) A member insurer that wishes to protest all or part of an assessment shall pay when due the full amount of the assessment as stated in the notice provided by the association. The payment shall be available to meet association obligations during the pendency of the protest or any subsequent appeal. Payment shall be accompanied by a statement in writing that the payment is made under protest and setting forth a brief statement of the grounds for the protest. Within 60 days following the payment of an assessment under protest by a member insurer, the association shall notify the member insurer in writing of its determination with respect to the protest unless the association notifies the member insurer that additional time is required to resolve the issues raised by the protest. Within 30 days after a final decision has been made, the association shall notify the protesting member insurer in writing of that final decision. Within 60 days of receipt of notice of the final decision, the protesting member insurer may appeal that final action to the commissioner. Instead of rendering a final decision on a protest based on a question regarding the assessment base, the association may refer protests to the commissioner for a final decision, with or without a recommendation from the association. If the protest or appeal is resolved in the member insurer's favor, the amount paid in error or excess shall be returned to the member insurer. Interest on a refund due a protesting member insurer shall be paid at the rate actually earned by the association.

(15) The association may request information of member insurers in order to aid in the exercise of its power under this section, and member insurers shall promptly comply with this request.

500.7711 Additional duties of commissioner; suspension or revocation of certificate of authority; forfeiture; appeal; judicial review; notice by liquidator, rehabilitator, or conservator.

Sec. 7711. (1) In addition to the duties enumerated elsewhere in this chapter, the commissioner shall:

(a) Upon request of the board of directors, provide the association with a statement of the premiums in the appropriate states for each member insurer.

(b) When an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time. Notice to the impaired insurer constitutes notice to that insurer's shareholders, if any. The failure of the insurer to promptly comply with the demand does not excuse the association from the performance of the association's powers and duties under this chapter.

(c) In a liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the liquidator or rehabilitator.

(2) In addition to the powers enumerated elsewhere in this chapter, the commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in this state of a member insurer that fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative the commissioner may levy a forfeiture on a member insurer that fails to pay an assessment when due. The forfeiture shall not exceed 5% of the unpaid assessment per month, but forfeiture shall not be less than $100.00 per month.

(3) A final action by the board of directors or the association may be appealed to the commissioner by a member insurer if the appeal is taken within 60 days of its receipt of notice of the final action being appealed. A final action or order of the commissioner is subject to judicial review in a court of competent jurisdiction in accordance with this state's laws applying to actions or orders of the commissioner.

(4) The liquidator, rehabilitator, or conservator of an impaired insurer may notify all interested persons of the effect of this chapter.

500.7712 Detection and prevention of insurer insolvencies or impairments; powers and duties of commissioner and board of directors; reports and recommendations.

Sec. 7712. (1) To aid in the detection and prevention of insurer insolvencies or impairments, the commissioner shall do the following:

(a) Notify the commissioners of all the other states, territories of the United States, and the District of Columbia when he or she takes any of the following actions against a member insurer:

(*i*) Revokes a certificate of authority.

(*ii*) Suspends a certificate of authority.

(*iii*) Makes a formal order that the company restricts its premium writing, obtains additional contributions to surplus, withdraws from the state, reinsures all or a part of its business, or increases capital, surplus, or any other account for the security of policyholders or creditors.

(b) Mail the notice under subdivision (a) to all commissioners within 30 days following the action taken.

(c) Report to the board of directors when he or she has taken any of the actions set forth in subdivision (a) or has received a report from any other commissioner indicating that such action has been taken in another state. The report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

(d) Report to the board of directors when the commissioner has reasonable cause to believe from an examination, whether completed or in process, of a member insurer that the insurer may be an impaired insurer or insolvent insurer.

(e) Furnish to the board of directors the NAIC insurance regulatory information system (IRIS) ratios and listings of companies not included in the ratios developed by the national association of insurance commissioners. The board may use that information in carrying out its duties and responsibilities under this section.

(f) The report and the information furnished pursuant to this subsection shall be kept confidential by the board of directors until made public by the commissioner or other lawful authority.

(2) The commissioner may seek the advice and recommendations of the board of directors concerning a matter affecting his or her duties and responsibilities regarding the financial condition of a member company seeking to transact insurance business in this state.

(3) The board of directors, upon majority vote, may make reports and recommendations to the commissioner upon a matter germane to the solvency, liquidation, rehabilitation, or conservation of a member insurer or germane to the solvency of a company seeking to transact insurance business in this state. The reports and recommendations shall not be considered public documents.

(4) The board of directors, upon majority vote, may notify the commissioner of information indicating that a member insurer may be an impaired insurer or insolvent insurer.

(5) The board of directors, upon majority vote, may request that the commissioner order an examination of a member insurer that the board in good faith believes may be an impaired insurer or insolvent insurer. Within 30 days after the receipt of the request, the commissioner shall begin the examination. The examination may be conducted as a national association of insurance commissioners examination or may be conducted by a person whom the commissioner designates. The cost of the examination shall be paid by the association, and the examination report shall be treated in the same manner as other examination reports. An examination report shall not be released to the board of directors before release to the public, but this does not preclude the commissioner from complying with subsection (1). The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but shall not be open to public inspection before release of the examination report to the public.

(6) The board of directors, upon majority vote, may make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(7) At the conclusion of an insurer insolvency in which the association was obligated to pay covered claims, the board of directors shall prepare a report to the commissioner containing information in the board's possession bearing on the history and causes of the insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes for insolvency of a particular insurer and may adopt by reference a report prepared by such other associations.

500.7714 Liability for unpaid assessments of insureds on impaired or insolvent insurer operating under plan with assessment liability; records of negotiations and meetings; report; association as creditor of impaired or insolvent insurer; "assets attributable to covered policies" defined; disbursement of assets.

Sec. 7714. (1) This chapter shall not be construed to reduce the liability for unpaid assessments of the insureds on an impaired insurer or insolvent insurer operating under a plan with assessment liability.

(2) Records shall be kept of all meetings of the board of directors to discuss the activities of the association in carrying out powers and duties under section 7708. Association records concerning an impaired insurer or an insolvent insurer shall not be disclosed before the termination of a liquidation, rehabilitation, or conservation proceeding involving an impaired insurer or insolvent insurer, or before the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the association to render a report of association activities under section 7715.

(3) For the purpose of carrying out obligations under this chapter, the association shall be considered a creditor of the impaired insurer or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to section 7708(16). Assets of the impaired insurer or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired insurer or insolvent insurer as required by this chapter. As used in this subsection, "assets attributable to covered policies" means that proportion of the assets which the reserves that should have been established for the covered policies bear to the reserves that should have been established for all policies of insurance written by the impaired insurer or insolvent insurer.

(4) As a creditor of an impaired insurer or insolvent insurer as provided in subsection (3) and consistent with chapter 81, the association and other similar associations are entitled to receive a disbursement of assets out of the marshaled assets, from time to time as the assets become available to reimburse it, as a credit against contractual obligations under this act. If the liquidator has not, within 120 days of a final determination of insolvency of an insurer by the receivership court, made an application to the court for the approval of a proposal to disburse assets out of marshaled assets to guaranty associations having obligations because of the insolvency, then the association may make application to the receivership court for approval of its own proposal to disburse assets.

500.7717 Nonliability of member insurer, association, board of directors, or commissioner in performance of powers and duties.

Sec. 7717. There is no liability on the part of and a cause of action does not arise against a member insurer or an insurer's agents or employees, the association or the association's agents or employees, members of the board of directors, or the commissioner or his or her representatives for any action or omission by them in the performance of powers and duties under this act. This immunity shall extend to the participation in an organization of 1 or more other state associations of similar purposes and to the organization and its agents or employees.

Applicability.

Enacting section 1. (1) Sections 7702, 7704, 7705, 7706, 7707, 7708, 7709, 7711, 7712, 7714, and 7717 of the insurance code of 1956, 1956 PA 218, MCL 500.7702, 500.7704, 500.7705, 500.7706, 500.7707, 500.7708, 500.7709, 500.7711, 500.7712, 500.7714, and 500.7717, as amended by this amendatory act, apply to an insurer impairment or insurer insolvency proceeding commenced on or after the effective date of this amendatory act for which guaranty association coverage obligations are incurred.

(2) Section 838a of the insurance code of 1956, 1956 PA 218, MCL 500.838a, as added by this amendatory act, applies on and after January 1, 2007.

This act is ordered to take immediate effect.

Approved January 8, 2007.

Filed with Secretary of State January 10, 2007.

[No. 672]

(HB 6323)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 7405, 17702, 17703, 17708, 17709, 17745, 17751, and 17763 (MCL 333.7405, 333.17702, 333.17703, 333.17708, 333.17709, 333.17745, 333.17751, and 333.17763), section 7405 as amended by 2004 PA 536, section 17702 as amended by 1986 PA 304, section 17703 as amended by 1992 PA 281, sections 17708, 17751, and 17763 as amended by 2005 PA 85, and section 17745 as amended by 1997 PA 186, and by adding section 17754.

The People of the State of Michigan enact:

333.7405 Prohibited conduct generally; penalties.

Sec. 7405. (1) A person:

(a) Who is licensed by the administrator under this article shall not distribute, prescribe, or dispense a controlled substance in violation of section 7333.

(b) Who is a licensee shall not manufacture a controlled substance not authorized by his or her license or distribute, prescribe, or dispense a controlled substance not authorized by his or her license to another licensee or other authorized person, except as authorized by rules promulgated by the administrator.

(c) Shall not refuse an entry into any premises for an inspection authorized by this article.

(d) Shall not knowingly keep or maintain a store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, that is frequented by persons using controlled substances in violation of this article for the purpose of using controlled substances, or that is used for keeping or selling controlled substances in violation of this article.

(e) Who is a practitioner shall not dispense a prescription for a controlled substance written and signed or transmitted by facsimile, electronic transmission, or other means of communication by a physician prescriber licensed to practice in a state other than Michigan, unless the prescription is issued by a physician prescriber who resides adjacent to the land border between this state and an adjoining state or resides in Illinois or Minnesota and

who is authorized under the laws of that state to practice medicine or osteopathic medicine and surgery and to prescribe controlled substances and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

(2) A person who violates subsection (1) is subject to the penalties prescribed in section 7406.

333.17702 Definitions; A to C.

Sec. 17702. (1) "Agent" means an authorized person who acts on behalf of or at the discretion of a prescriber.

(2) "Brand name" means the registered trademark name given to a drug product by its manufacturer.

(3) "Current selling price" means the retail price for a prescription drug which is available for sale from a pharmacy.

333.17703 Definitions; D, E.

Sec. 17703. (1) "Device" means an instrument, apparatus, or contrivance, including its components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or to affect the structure or function of the body of human beings or other animals.

(2) "Dispense" means to issue 1 or more doses of a drug for subsequent administration to, or use by, a patient.

(3) "Dispensing prescriber" means a prescriber, other than a veterinarian, who dispenses prescription drugs.

(4) "Drug" means any of the following:

(a) A substance recognized or for which the standards or specifications are prescribed in the official compendium.

(b) A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals.

(c) A substance, other than food, intended to affect the structure or a function of the body of human beings or other animals.

(d) A substance intended for use as a component of a substance specified in subdivision (a), (b), or (c), but not including a device or its components, parts, or accessories.

(5) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(6) "Electronically transmitted prescription" means the communication of an original prescription or refill authorization by electronic means including computer to computer, computer to facsimile machine, or electronic mail transmission that contains the same information it contained when the prescriber or authorized agent transmitted the prescription. Electronically transmitted prescription does not include a prescription or refill authorization transmitted by telephone or facsimile machine.

333.17708 Definitions; P.

Sec. 17708. (1) "Preceptor" means a pharmacist approved by the board to direct the training of an intern in an approved pharmacy.

(2) "Prescriber" means a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed optometrist certified under part 174 to administer and prescribe therapeutic pharmaceutical agents, a licensed veterinarian, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery.

(3) "Prescription" means an order for a drug or device written and signed or transmitted by facsimile, electronic transmission, or other means of communication by a prescriber to be filled, compounded, or dispensed. Prescribing is limited to a prescriber. An order transmitted in other than written form shall be electronically recorded, printed, or written and immediately dated by the pharmacist, and that record constitutes the original prescription. In a health facility or agency licensed under article 17 or other medical institution, an order for a drug or device in the patient's chart constitutes for the purposes of this definition the original prescription. Subject to section 17751(2), prescription includes, but is not limited to, an order for a drug, not including a controlled substance as defined in section 7104 except under circumstances described in section 17763(e), written and signed or transmitted by facsimile, electronic transmission, or other means of communication by a physician prescriber licensed to practice in a state other than Michigan.

(4) "Prescription drug" means 1 or more of the following:

(a) A drug dispensed pursuant to a prescription.

(b) A drug bearing the federal legend "CAUTION: federal law prohibits dispensing without prescription".

(c) A drug designated by the board as a drug that may only be dispensed pursuant to a prescription.

333.17709 Definitions; S to W.

Sec. 17709. (1) "Sign" means to affix one's signature manually to a document or to use an electronic signature when transmitting a prescription electronically.

(2) "Substitute" means to dispense, without the prescriber's authorization, a different drug in place of the drug prescribed.

(3) "Wholesale distributor" means a person, other than a manufacturer, who supplies, distributes, sells, offers for sale, barters, or otherwise disposes of, to other persons for resale, compounding, or dispensing, a drug or device salable on prescription only that the distributor has not prepared, produced, derived, propagated, compounded, processed, packaged, or repackaged, or otherwise changed the container or the labeling thereof.

333.17745 Drug control license; patient's chart or clinical record to include record of drugs dispensed; delegating authority to dispense drugs; storage of drugs; containers; labels; complimentary starter dose drug; information; compliance with MCL 333.7303a; inspection of locations; limitation on delegation; receipt of complimentary starter dose drugs by pharmacist; "complimentary starter dose" defined.

Sec. 17745. (1) Except as otherwise provided in this subsection, a prescriber who wishes to dispense prescription drugs shall obtain from the board a drug control license for each location in which the storage and dispensing of prescription drugs occur. A drug control license is not necessary if the dispensing occurs in the emergency department, emergency room, or trauma center of a hospital licensed under article 17 or if the dispensing involves only the issuance of complimentary starter dose drugs.

(2) A dispensing prescriber shall dispense prescription drugs only to his or her own patients.

(3) A dispensing prescriber shall include in a patient's chart or clinical record a complete record, including prescription drug names, dosages, and quantities, of all prescription drugs dispensed directly by the dispensing prescriber or indirectly under his or her delegatory authority. If prescription drugs are dispensed under the prescriber's delegatory authority, the delegatee who dispenses the prescription drugs shall initial the patient's chart, clinical record, or log of prescription drugs dispensed. In a patient's chart or clinical record, a dispensing prescriber shall distinguish between prescription drugs dispensed to the patient and prescription drugs prescribed for the patient. A dispensing prescriber shall retain information required under this subsection for not less than 5 years after the information is entered in the patient's chart or clinical record.

(4) A dispensing prescriber shall store prescription drugs under conditions that will maintain their stability, integrity, and effectiveness and will assure that the prescription drugs are free of contamination, deterioration, and adulteration.

(5) A dispensing prescriber shall store prescription drugs in a substantially constructed, securely lockable cabinet. Access to the cabinet shall be limited to individuals authorized to dispense prescription drugs in compliance with this part and article 7.

(6) Unless otherwise requested by a patient, a dispensing prescriber shall dispense a prescription drug in a safety closure container that complies with the poison prevention packaging act of 1970, Public Law 91-601, 84 Stat. 1670.

(7) A dispensing prescriber shall dispense a drug in a container that bears a label containing all of the following information:

(a) The name and address of the location from which the prescription drug is dispensed.

(b) The patient's name and record number.

(c) The date the prescription drug was dispensed.

(d) The prescriber's name.

(e) The directions for use.

(f) The name and strength of the prescription drug.

(g) The quantity dispensed.

(h) The expiration date of the prescription drug or the statement required under section 17756.

(8) A dispensing prescriber who dispenses a complimentary starter dose drug to a patient shall give the patient at least all of the following information, either by dispensing the complimentary starter dose drug to the patient in a container that bears a label containing the information or by giving the patient a written document which may include, but is not limited to, a preprinted insert that comes with the complimentary starter dose drug, that contains the information:

(a) The name and strength of the complimentary starter dose drug.

(b) Directions for the patient's use of the complimentary starter dose drug.

(c) The expiration date of the complimentary starter dose drug or the statement required under section 17756.

(9) The information required under subsection (8) is in addition to, and does not supersede or modify, other state or federal law regulating the labeling of prescription drugs.

(10) In addition to meeting the requirements of this part, a dispensing prescriber who dispenses controlled substances shall comply with section 7303a.

(11) The board may periodically inspect locations from which prescription drugs are dispensed.

(12) The act, task, or function of dispensing prescription drugs shall be delegated only as provided in section 16215 and this part.

(13) A supervising physician may delegate in writing to a pharmacist practicing in a hospital pharmacy within a hospital licensed under article 17 the receipt of complimentary starter dose drugs other than controlled substances as defined by article 7 or federal law. When the delegated receipt of complimentary starter dose drugs occurs, both the pharmacist's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each receipt. A pharmacist described in this subsection may dispense a prescription for complimentary starter dose drugs written or transmitted by facsimile, electronic transmission, or other means of communication by a prescriber.

(14) As used in this section, "complimentary starter dose" means a prescription drug packaged, dispensed, and distributed in accordance with state and federal law that is provided to a dispensing prescriber free of charge by a manufacturer or distributor and dispensed free of charge by the dispensing prescriber to his or her patients.

333.17751 Dispensing prescription drug; requirements.

Sec. 17751. (1) A pharmacist shall not dispense a drug requiring a prescription under the federal act or a law of this state except under authority of an original prescription or an equivalent record of an original prescription approved by the board.

(2) A pharmacist may dispense a prescription written and signed or transmitted by facsimile, electronic transmission, or other means of communication by a physician prescriber in a state other than Michigan, but not including a prescription for a controlled substance as defined in section 7104 except under circumstances described in section 17763(e), only if the pharmacist in the exercise of his or her professional judgment determines all of the following:

(a) That the prescription was issued pursuant to an existing physician-patient relationship.

(b) That the prescription is authentic.

(c) That the prescribed drug is appropriate and necessary for the treatment of an acute, chronic, or recurrent condition.

(3) A pharmacist or a prescriber shall dispense a prescription only if the prescription falls within the scope of practice of the prescriber.

(4) A pharmacist shall not knowingly dispense a prescription after the death of the prescriber or patient.

333.17754 Electronic transmission of prescription; conditions; information; confidentiality; professional judgment as to accuracy, validity, and authenticity; original prescription.

Sec. 17754. (1) Except as otherwise provided under article 7 and the federal act, a prescription may be transmitted electronically as long as the prescription is transmitted in compliance with the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, by a prescriber or the prescriber's authorized agent and the data are not altered or modified in the transmission process. The electronically transmitted prescription shall include all of the following information:

(a) The name, address, and telephone number of the prescriber.

(b) The full name of the patient for whom the prescription is issued.

(c) An electronic signature or other identifier that specifically identifies and authenticates the prescriber or the prescriber's authorized agent.

(d) The time and date of the transmission.

(e) The identity of the pharmacy intended to receive the transmission.

(f) Any other information required by the federal act or state law.

(2) The electronic equipment or system utilized in the transmission and communication of prescriptions shall provide adequate confidentiality safeguards and be maintained to protect patient confidentiality as required under any applicable federal and state law and to ensure against unauthorized access. The electronic transmission of a prescription shall be communicated in a retrievable, recognizable form acceptable to the intended recipient. The electronic form utilized in the transmission of a prescription shall not include "dispense as written" or "d.a.w." as the default setting.

(3) Prior to dispensing a prescription that is electronically transmitted, the pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the transmitted prescription.

(4) An electronically transmitted prescription that meets the requirements of this section is the original prescription.

333.17763 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license.

Sec. 17763. In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a pharmacist licensee on probation, or deny, limit, suspend, or revoke the license of a pharmacist or order restitution or community service for a violation or abetting in a violation of this part or rules promulgated under this part, or for 1 or more of the following grounds:

(a) Permitting the dispensing of prescriptions by an individual who is not a pharmacist, pharmacist intern, or dispensing prescriber.

(b) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

(c) Selling at auction drugs in bulk or in open packages unless the sale has been approved in accordance with rules of the board.

(d) Promoting a prescription drug to the public in any manner.

(e) In addition to the prohibition contained in section 7405(1)(e), dispensing a prescription for a controlled substance as defined in section 7104 that is written and signed or transmitted by facsimile, electronic transmission, or other means of communication by a physician prescriber in a state other than Michigan, unless the prescription is issued by a physician prescriber who resides adjacent to the land border between this state and an adjoining state or resides in Illinois or Minnesota and who is authorized under the laws of that state to practice medicine or osteopathic medicine and surgery and to prescribe controlled substances and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

This act is ordered to take immediate effect.

Approved January 8, 2007.

Filed with Secretary of State January 10, 2007.

[No. 673]

(HB 6386)

AN ACT to amend 1937 PA 94, entitled "An act to provide for the levy, assessment and collection of a specific excise tax on the storage, use or consumption in this state of tangible personal property and certain services; to appropriate the proceeds thereof; and to prescribe penalties for violations of the provisions of this act," by amending section 6a (MCL 205.96a), as amended by 2004 PA 172.

The People of the State of Michigan enact:

205.96a Organizing entity of qualified athletic event; tax exemption; criteria; definition; repeal of section.

Sec. 6a. (1) The organizing entity of a qualified athletic event that sells corporate sponsor contracts for the event that include both taxable tangible personal property and services may exempt the sale of taxable tangible personal property or taxable services if all of the following criteria have been met:

(a) The organizing entity is exempt or is wholly owned by an entity exempt under section 501(c)(6) of the internal revenue code, 26 USC 501.

(b) The organizing entity provided both of the following to the department at least 60 days in advance of entering into the first corporate sponsor contract:

(*i*) Written notice of its intent to enter into corporate sponsor contracts.

(*ii*) An itemized schedule of the tangible personal property and services that will be provided under each corporate sponsor contract.

(c) The department has given written approval to the organizing entity.

(2) As used in this section, "qualified athletic event" means 1 or more of the following:

(a) A professional sporting competition in which individuals officially representing at least 2 countries or nations compete.

(b) A professional football competition in which teams compete in a postseason event to determine the league champion.

(c) A professional golfers' association competition in which individuals compete in an event to determine a champion.

(d) A collegiate basketball competition in which teams compete in a postseason event to determine the national champion.

(e) A collegiate hockey competition in which teams compete in a postseason event to determine the national champion.

(3) This section is repealed effective January 1, 2011.

This act is ordered to take immediate effect.
Approved January 8, 2007.
Filed with Secretary of State January 10, 2007.

Compiler's note: Former MCL 205.96a was repealed by MCL 205.96a(3) of 2004 PA 172, Eff. Jan. 1, 2007. MCL 205.96a was amended by 2006 PA 673, Imd. Eff. Jan. 10, 2007.

[No. 674]

(HB 6478)

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," by amending sections 112b, 112c, and 112e (MCL 400.112b, 400.112c, and 400.112e), as added by 1995 PA 85; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

400.112b Definitions.

Sec. 112b. As used in this section and sections 112c to 112e:

(a) "Asset disregard" means, with regard to the state's medical assistance program, disregarding any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified long-term care insurance partnership policy.

(b) "Long-term care insurance policy" means a policy described in chapter 39 of the insurance code of 1956, 1956 PA 218, MCL 500.3901 to 500.3955.

(c) "Long-term care partnership program" means a qualified state long-term care insurance partnership as defined in section 1917(b) of the social security act, 42 USC 1396p.

(d) "Long-term care partnership program policy" means a qualified long-term care insurance policy that the commissioner of the office of financial and insurance services certifies as meeting the requirements of section 1917(b) of the social security act, 42 USC 1396p, section 6021 of the federal deficit reduction act of 2005, Public Law 109-171, and any applicable federal regulations or guidelines.

(e) "Medicaid" means the program of medical assistance established by the department of community health under section 105.

400.112c Michigan long-term care partnership program; establishment; purpose; eligibility; reciprocal agreements; consideration of assets; receipt of asset disregard; single point of entry agencies; notice of policy provisions; posting certain information.

Sec. 112c. (1) Subject to subsection (5), the department of community health in conjunction with the office of financial and insurance services and the department of human services shall establish a long-term care partnership program in Michigan to provide for the financing

of long-term care through a combination of private insurance and medicaid. It is the intent of the long-term care partnership program to do all of the following:

(a) Provide incentives for individuals to insure against the costs of providing for their long-term care needs.

(b) Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under medicaid without first being required to substantially exhaust their resources.

(c) Alleviate the financial burden on the state's medical assistance program by encouraging the pursuit of private initiatives.

(2) An individual who is a beneficiary of a Michigan long-term care partnership program policy is eligible for assistance under the state's medical assistance program using the asset disregard as provided under subsection (5).

(3) The department of community health shall pursue reciprocal agreements with other states to extend the asset disregard to Michigan residents who purchased long-term care partnership policies in other states that are compliant with title VI, section 6021 of the federal deficit reduction act of 2005, Public Law 109-171, and any applicable federal regulations or guidelines.

(4) Upon diminishment of assets below the anticipated remaining benefits under a long-term care partnership program policy, certain assets of an individual, as provided under subsection (5), shall not be considered when determining any of the following:

(a) Medicaid eligibility.

(b) The amount of any medicaid payment.

(c) Any subsequent recovery by the state of a payment for medical services or long-term care services.

(5) Not later than 270 days after the effective date of the amendatory act that added this subsection, the department of community health shall apply to the United States department of health and human services for an amendment to the state's medicaid state plan to establish that the assets an individual owns and may retain under medicaid and still qualify for benefits under medicaid at the time the individual applies for benefits is increased dollar-for-dollar for each dollar paid out under the individual's long-term care insurance policy if the individual is a beneficiary of a qualified long-term care partnership program policy.

(6) If the long-term care partnership program is discontinued, an individual who purchased a Michigan long-term care partnership program policy before the date the program was discontinued shall be eligible to receive asset disregard if allowed as provided by title VI, section 6021 of the federal deficit reduction act of 2005, Public Law 109-171.

(7) The department of community health shall contract with the Michigan medicare medicaid assistance program or department of community health designated single point of entry agencies, or both, to provide counseling services under the Michigan long-term care partnership program.

(8) The department of community health, in consultation with the department of human services and the office of financial and insurance services, shall develop a notice to consumers detailing in plain language the pertinent provisions of qualified state long-term care insurance partnership policies as they relate to medicaid eligibility and shall determine the appropriate distribution of the notice. The notice shall be available in a printable form on the office of financial and insurance services's website.