

SUBSTITUTE FOR
HOUSE BILL NO. 4624

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 3172 (MCL 500.3172), as amended by 2012 PA 204.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3172. (1) A person entitled to claim because of
2 accidental bodily injury arising out of the ownership, operation,
3 maintenance, or use of a motor vehicle as a motor vehicle in this
4 state may ~~obtain~~**CLAIM** personal protection insurance benefits
5 through the assigned claims plan if ~~no~~**ANY OF THE FOLLOWING APPLY:**

6 **(A) NO** personal protection insurance is applicable to the
7 injury. ~~no~~

8 **(B) NO** personal protection insurance applicable to the injury
9 can be identified. ~~the~~

10 **(C) NO** personal protection insurance applicable to the injury

1 ~~cannot~~**CAN** be ascertained because of a dispute between 2 or more
2 automobile insurers concerning their obligation to provide coverage
3 or the equitable distribution of the loss. ~~, or the~~

4 **(D) THE** only identifiable personal protection insurance
5 applicable to the injury is, because of financial inability of 1 or
6 more insurers to fulfill their obligations, inadequate to provide
7 benefits up to the maximum prescribed. ~~In that case, unpaid~~

8 **(2) UNPAID** benefits due or coming due **AS DESCRIBED IN**
9 **SUBSECTION (1)** may be collected under the assigned claims plan, and
10 the insurer to which the claim is assigned is entitled to
11 reimbursement from the defaulting insurers to the extent of their
12 financial responsibility.

13 **(3) A PERSON ENTITLED TO CLAIM PERSONAL PROTECTION INSURANCE**
14 **BENEFITS THROUGH THE ASSIGNED CLAIMS PLAN UNDER SUBSECTION (1)**
15 **SHALL FILE A COMPLETED APPLICATION ON A CLAIM FORM PROVIDED BY THE**
16 **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY AND PROVIDE**
17 **REASONABLE PROOF OF LOSS TO THE MICHIGAN AUTOMOBILE INSURANCE**
18 **PLACEMENT FACILITY. THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT**
19 **FACILITY OR AN INSURER ASSIGNED TO ADMINISTER A CLAIM ON BEHALF OF**
20 **THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY UNDER THE**
21 **ASSIGNED CLAIMS PLAN SHALL SPECIFY IN WRITING THE MATERIALS THAT**
22 **CONSTITUTE A REASONABLE PROOF OF LOSS WITHIN 60 DAYS AFTER RECEIPT**
23 **BY THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY OF AN**
24 **APPLICATION THAT COMPLIES WITH THIS SUBSECTION.**

25 **(4) THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY OR AN**
26 **INSURER ASSIGNED TO ADMINISTER A CLAIM ON BEHALF OF THE MICHIGAN**
27 **AUTOMOBILE INSURANCE PLACEMENT FACILITY UNDER THE ASSIGNED CLAIMS**

1 PLAN IS NOT REQUIRED TO PAY AN INTEREST PENALTY IN CONNECTION WITH
 2 A CLAIM FOR ANY PERIOD OF TIME DURING WHICH THE CLAIM IS REASONABLY
 3 IN DISPUTE.

4 (5) ~~(2)~~—Except as otherwise provided in this subsection,
 5 personal protection insurance benefits, including benefits arising
 6 from accidents occurring before March 29, 1985, payable through the
 7 assigned claims plan ~~shall~~ **MUST** be reduced to the extent that
 8 benefits covering the same loss are available from other sources,
 9 regardless of the nature or number of benefit sources available and
 10 regardless of the nature or form of the benefits, to a person
 11 claiming personal protection insurance benefits through the
 12 assigned claims plan. This subsection only applies if the personal
 13 protection insurance benefits are payable through the assigned
 14 claims plan ~~because no personal protection insurance is applicable~~
 15 ~~to the injury, no personal protection insurance applicable to the~~
 16 ~~injury can be identified, or the only identifiable personal~~
 17 ~~protection insurance applicable to the injury is, because of~~
 18 ~~financial inability of 1 or more insurers to fulfill their~~
 19 ~~obligations, inadequate to provide benefits up to the maximum~~
 20 ~~prescribed.~~ **UNDER SUBSECTION (1) (A), (B), OR (D).** As used in this
 21 subsection, "sources" and "benefit sources" do not include the
 22 program for medical assistance for the medically indigent under the
 23 social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or
 24 ~~insurance under the health insurance for the aged act, title~~ **AND**
 25 **DISABLED UNDER SUBCHAPTER XVIII** of the social security act, 42 USC
 26 1395 to ~~1395kkk-1.~~ **1395lll.**

27 (6) ~~(3)~~—If the obligation to provide personal protection

1 insurance benefits cannot be ascertained because of a dispute
2 between 2 or more automobile insurers concerning their obligation
3 to provide coverage or the equitable distribution of the loss, and
4 if a method of voluntary payment of benefits cannot be agreed upon
5 among or between the disputing insurers, all of the following
6 apply:

7 (a) The insurers who are parties to the dispute shall, or the
8 claimant may, immediately notify the Michigan automobile insurance
9 placement facility of their inability to determine their statutory
10 obligations.

11 (b) ~~The claim shall be assigned by the~~ Michigan automobile
12 insurance placement facility **SHALL ASSIGN THE CLAIM** to an insurer
13 and the insurer shall immediately provide personal protection
14 insurance benefits to the claimant or claimants entitled to
15 benefits.

16 (c) ~~An action~~ **THE INSURER ASSIGNED THE CLAIM BY THE MICHIGAN**
17 **AUTOMOBILE INSURANCE PLACEMENT FACILITY** shall ~~be~~ immediately
18 ~~commenced~~ **COMMENCE AN ACTION** on behalf of the Michigan automobile
19 insurance placement facility ~~by the insurer to whom the claim is~~
20 ~~assigned~~ in circuit court to declare the rights and duties of any
21 interested party.

22 (d) The insurer to whom the claim is assigned shall join as
23 parties defendant to the action commenced under subdivision (c)
24 each insurer disputing either the obligation to provide personal
25 protection insurance benefits or the equitable distribution of the
26 loss among the insurers.

27 (e) The circuit court shall declare the rights and duties of

1 any interested party whether or not other relief is sought or could
2 be granted.

3 (f) After hearing the action, the circuit court shall
4 determine the insurer or insurers, if any, obligated to provide the
5 applicable personal protection insurance benefits and the equitable
6 distribution, if any, among the insurers obligated, and shall order
7 reimbursement to the Michigan automobile insurance placement
8 facility from the insurer or insurers to the extent of the
9 responsibility as determined by the court. The reimbursement
10 ordered under this subdivision ~~shall~~ **MUST** include all benefits and
11 costs paid or incurred by the Michigan automobile insurance
12 placement facility and all benefits and costs paid or incurred by
13 insurers determined not to be obligated to provide applicable
14 personal protection insurance benefits, including ~~reasonable,~~
15 ~~actually~~-incurred attorney fees and interest at the rate prescribed
16 in section 3175 ~~as of~~ **APPLICABLE ON** December 31 of the year
17 preceding the determination of the circuit court.

18 Enacting section 1. This amendatory act takes effect 90 days
19 after the date it is enacted into law.