

**SUBSTITUTE FOR
SENATE BILL NO. 883**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding chapter 16.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER 16. CREDITOR-PLACED INSURANCE

2 SEC. 1601. (1) THIS CHAPTER APPLIES TO AN INSURER OR
3 PRODUCER TRANSACTING CREDITOR-PLACED INSURANCE AS DEFINED IN THIS
4 CHAPTER.

5 (2) ALL CREDITOR-PLACED INSURANCE WRITTEN IN CONNECTION WITH
6 CREDIT TRANSACTIONS FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES
7 IS SUBJECT TO THE PROVISIONS OF THIS CHAPTER, EXCEPT FOR THE
8 FOLLOWING:

9 (A) TRANSACTIONS INVOLVING EXTENSIONS OF CREDIT PRIMARILY
10 FOR BUSINESS OR COMMERCIAL PURPOSES.

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

2

1 (B) INSURANCE ON COLLATERALIZED REAL PROPERTY.

2 (C) INSURANCE OFFERED BY THE CREDITOR AND ELECTED BY THE
3 DEBTOR AT THE DEBTOR'S OPTION.

4 (D) INSURANCE FOR WHICH NO SPECIFIC CHARGE IS MADE TO THE
5 DEBTOR OR THE DEBTOR'S ACCOUNT.

6 (E) BLANKET INSURANCE, WHETHER PAID FOR BY THE DEBTOR OR THE
7 CREDITOR.

8 SEC. 1603. THIS CHAPTER DOES NOT CREATE OR IMPLY A PRIVATE
9 CAUSE OF ACTION FOR VIOLATION OF THIS CHAPTER AND DOES NOT EXTIN-
10 GUISH ANY DEBTOR RIGHTS AVAILABLE UNDER COMMON LAW OR OTHER STATE
11 STATUTE.

12 SEC. 1605. AS USED IN THIS CHAPTER:

13 (A) "ACTUAL CASH VALUE" MEANS THE COST OF REPLACING DAMAGED
14 OR DESTROYED PROPERTY WITH COMPARABLE NEW PROPERTY, MINUS DEPREE-
15 CIATION AND OBSOLESCENCE.

16 (B) "BLANKET INSURANCE" MEANS INSURANCE THAT PROVIDES COVER-
17 AGE ON COLLATERAL AS DEFINED IN A POLICY ISSUED TO A CREDITOR,
18 WITHOUT SPECIFICALLY LISTING THE COLLATERAL COVERED.

19 (C) "COLLATERAL" MEANS PERSONAL PROPERTY THAT IS PLEDGED AS
20 SECURITY FOR THE SATISFACTION OF A DEBT.

21 (D) "CREDIT AGREEMENT" MEANS THE WRITTEN DOCUMENT THAT SETS
22 FORTH THE TERMS OF THE CREDIT TRANSACTION AND INCLUDES THE SECUR-
23 ITY AGREEMENT.

24 (E) "CREDIT TRANSACTION" MEANS A TRANSACTION BY THE TERMS OF
25 WHICH THE REPAYMENT OF MONEY LOANED OR CREDIT COMMITMENT MADE, OR
26 PAYMENT OF GOODS, SERVICES, OR PROPERTIES SOLD OR LEASED, IS TO
27 BE MADE AT A FUTURE DATE OR DATES.

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

3

1 (F) "CREDITOR" MEANS THE LENDER OF MONEY OR VENDOR OR LESSOR
2 OF GOODS, SERVICES, PROPERTY, RIGHTS, OR PRIVILEGES FOR WHICH
3 PAYMENT IS ARRANGED THROUGH A CREDIT TRANSACTION, OR ANY SUCCES-
4 SOR TO THE RIGHT, TITLE, OR INTEREST OF A LENDER, VENDOR, OR
5 LESSOR.

6 (G) "CREDITOR-PLACED INSURANCE" MEANS INSURANCE THAT IS PUR-
7 CHASED UNILATERALLY BY THE CREDITOR, WHO IS THE NAMED INSURED,
8 SUBSEQUENT TO THE DATE OF THE CREDIT TRANSACTION, PROVIDING COV-
9 ERAGE AGAINST LOSS, EXPENSE, OR DAMAGE TO COLLATERALIZED PERSONAL
10 PROPERTY AS A RESULT OF FIRE, THEFT, COLLISION, OR OTHER RISKS OF
11 LOSS THAT WOULD EITHER IMPAIR A CREDITOR'S INTEREST OR ADVERSELY
12 AFFECT THE VALUE OF COLLATERAL COVERED BY LIMITED DUAL INTEREST
13 INSURANCE. CREDITOR-PLACED INSURANCE IS PURCHASED ACCORDING TO
14 THE TERMS OF THE CREDIT AGREEMENT AS A RESULT OF THE DEBTOR'S
15 FAILURE TO PROVIDE REQUIRED PHYSICAL DAMAGE INSURANCE, WITH THE
16 COST OF THE COVERAGE BEING CHARGED TO THE DEBTOR. IT IS EITHER
17 SINGLE INTEREST INSURANCE OR LIMITED DUAL INTEREST INSURANCE.

18 (H) "DEBTOR" MEANS THE BORROWER OF MONEY OR A PURCHASER OR
19 LESSEE OF GOODS, SERVICES, PROPERTY, RIGHTS, OR PRIVILEGES, FOR
20 WHICH PAYMENT IS ARRANGED THROUGH A CREDIT TRANSACTION.

21 (I) "INSURANCE TRACKING" MEANS MONITORING EVIDENCE OF INSUR-
22 ANCE ON COLLATERALIZED CREDIT TRANSACTIONS TO DETERMINE WHETHER
23 INSURANCE REQUIRED BY THE CREDIT AGREEMENT HAS LAPSED, AND COMMU-
24 NICATING WITH DEBTORS CONCERNING THE STATUS OF INSURANCE
25 COVERAGE.

26 (J) "LAPSE" MEANS THAT THE INSURANCE COVERAGE REQUIRED BY
27 THE CREDIT AGREEMENT IS NOT IN FORCE.

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

4

1 (K) "LIMITED DUAL INTEREST INSURANCE" MEANS INSURANCE
2 PURCHASED BY THE CREDITOR TO INSURE ITS INTEREST IN THE COLLAT-
3 ERAL SECURING THE DEBTOR'S CREDIT TRANSACTION. LIMITED DUAL
4 INTEREST INSURANCE WAIVES THE 3 CONDITIONS FOR LOSS PAYMENT UNDER
5 SINGLE INTEREST INSURANCE AND EXTENDS COVERAGE ON THE COLLATERAL
6 WHILE IN THE POSSESSION OF THE DEBTOR.

7 (l) "LOSS RATIO" MEANS THE RATIO OF INCURRED LOSSES TO
8 EARNED PREMIUM.

9 (M) "NET DEBT" MEANS THE AMOUNT NECESSARY TO LIQUIDATE THE
10 REMAINING DEBT IN A SINGLE LUMP-SUM PAYMENT, EXCLUDING ALL
11 UNEARNED INTEREST AND OTHER UNEARNED CHARGES.

12 (N) "PRODUCER" MEANS A PERSON WHO RECEIVES A COMMISSION FOR
13 INSURANCE PLACED OR WRITTEN OR WHO, ON BEHALF OF AN INSURER OR
14 CREDITOR, SOLICITS, NEGOTIATES, EFFECTS, PROCURES, DELIVERS,
15 RENEWS, CONTINUES, OR BINDS POLICIES OF INSURANCE TO WHICH THIS
16 CHAPTER APPLIES, BUT DOES NOT INCLUDE THE FOLLOWING:

17 (i) A REGULAR SALARIED OFFICER, EMPLOYEE, OR OTHER REPRESENTATIVE OF AN INSURER WHO DEVOTES SUBSTANTIALLY ALL WORKING TIME
18 TO ACTIVITIES OTHER THAN THOSE SPECIFIED IN THIS SUBDIVISION AND
19 WHO RECEIVES NO COMPENSATION THAT IS DIRECTLY DEPENDENT ON THE
20 AMOUNT OF INSURANCE BUSINESS WRITTEN.

22 (ii) A REGULAR SALARIED OFFICER OR EMPLOYEE OF A CREDITOR
23 WHO RECEIVES NO COMPENSATION THAT IS DIRECTLY DEPENDENT ON THE
24 AMOUNT OF INSURANCE EFFECTED OR PROCURED.

25 (O) "SINGLE INTEREST INSURANCE" MEANS INSURANCE PURCHASED BY
26 THE CREDITOR TO INSURE ITS INTEREST IN THE COLLATERAL SECURING A

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

5

1 DEBTOR'S CREDIT TRANSACTION WHERE THE FOLLOWING 3 CONDITIONS MUST
2 BE MET FOR PAYMENT OF LOSS UNDER THE POLICY:

3 (i) THE DEBTOR HAS DEFAULTED IN PAYMENT.

4 (ii) THE CREDITOR HAS LEGALLY REPOSSESSED THE COLLATERAL,
5 UNLESS COLLATERAL HAS BEEN STOLEN FROM THE DEBTOR.

6 (iii) THE CREDITOR HAS SUFFERED AN IMPAIRMENT OF INTEREST.

7 SEC. 1607. (1) CREDITOR-PLACED INSURANCE SHALL BECOME
8 EFFECTIVE ON THE LATEST OF THE FOLLOWING DATES:

9 (A) THE DATE OF THE CREDIT TRANSACTION.

10 (B) THE DATE PRIOR COVERAGE, INCLUDING PRIOR CREDITOR-PLACED
11 INSURANCE COVERAGE, LAPSED.

12 (C) ONE YEAR BEFORE THE DATE ON WHICH THE RELATED INSURANCE
13 CHARGE IS MADE TO THE DEBTOR'S ACCOUNT.

14 (D) A LATER DATE PROVIDED FOR IN THE AGREEMENT BETWEEN THE
15 CREDITOR AND INSURER.

16 (2) CREDITOR-PLACED INSURANCE SHALL TERMINATE ON THE EARLI-
17 EST OF THE FOLLOWING DATES:

18 (A) THE DATE OTHER ACCEPTABLE INSURANCE BECOMES EFFECTIVE,
19 SUBJECT TO THE DEBTOR PROVIDING ACCEPTABLE EVIDENCE OF THE OTHER
20 INSURANCE TO THE CREDITOR.

21 (B) THE DATE THE COLLATERALIZED PERSONAL PROPERTY IS REPOS-
22 SESSED, UNLESS THE PROPERTY IS RETURNED TO THE DEBTOR WITHIN
23 10 DAYS OF THE REPOSSESSION.

24 (C) THE DATE THE COLLATERALIZED PERSONAL PROPERTY IS DETER-
25 MINED BY THE INSURER TO BE A TOTAL LOSS.

26 (D) THE DATE THE DEBT IS COMPLETELY EXTINGUISHED.

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

6

1 (E) AN EARLIER DATE SPECIFIED IN THE INDIVIDUAL POLICY OR
2 CERTIFICATE OF INSURANCE.

3 (3) AN INSURANCE CHARGE SHALL NOT BE MADE TO A DEBTOR FOR A
4 TERM LONGER THAN THE SCHEDULED TERM OF THE CREDITOR-PLACED INSUR-
5 ANCE WHEN IT BECOMES EFFECTIVE, AND AN INSURANCE CHARGE SHALL NOT
6 BE MADE TO THE DEBTOR FOR CREDITOR-PLACED INSURANCE BEFORE THE
7 EFFECTIVE DATE OF THE INSURANCE.

8 (4) IF A CHARGE IS MADE TO A DEBTOR FOR CREDITOR-PLACED
9 INSURANCE COVERAGE THAT EXCEEDS A TERM OF 1 YEAR, THE DEBTOR
10 SHALL BE NOTIFIED AT LEAST ANNUALLY THAT THE INSURANCE WILL BE
11 CANCELED AND A REFUND OR CREDIT OF UNEARNED CHARGES MADE IF EVI-
12 DENCE OF ACCEPTABLE INSURANCE SECURED BY THE DEBTOR IS PROVIDED.

13 SEC. 1609. (1) PREMIUMS FOR CREDITOR-PLACED INSURANCE COV-
14 ERAGE MAY BE CALCULATED BASED ON AN AMOUNT NOT EXCEEDING THE NET
15 DEBT EVEN THOUGH THE COVERAGE MAY LIMIT THE INSURER'S LIABILITY
16 TO THE NET DEBT, ACTUAL CASH VALUE, OR COST OF REPAIR, OR OTHER
17 PREMIUM CALCULATION METHODS THAT MORE CLOSELY REFLECT THE EXPO-
18 SURE OF EACH ITEM INSURED AND APPROXIMATE THE PREMIUM CALCULATION
19 METHOD OF THE COVERAGE REQUIRED BY THE CREDIT AGREEMENT.

20 (2) AN INSURER SHALL NOT WRITE CREDITOR-PLACED INSURANCE FOR
21 WHICH THE PREMIUM RATE DIFFERS FROM THAT DETERMINED BY THE SCHED-
22 ULES OF THE INSURER ON FILE WITH THE COMMISSIONER. THE PREMIUM
23 OR AMOUNT CHARGED TO THE DEBTOR FOR CREDITOR-PLACED INSURANCE
24 SHALL NOT EXCEED THE PREMIUMS CHARGED BY THE INSURER, COMPUTED AT
25 THE TIME THE CHARGE TO THE DEBTOR IS DETERMINED.

26 (3) A METHOD OF BILLING INSURANCE CHARGES TO THE DEBTOR ON
27 CLOSED-END CREDIT TRANSACTIONS THAT CREATES A BALLOON PAYMENT AT

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

7

1 THE END OF THE CREDIT TRANSACTION OR EXTENDS THE CREDIT
2 TRANSACTION'S MATURITY DATE IS PROHIBITED, UNLESS SPECIFICALLY
3 DISCLOSED AT THE TIME OF THE ORIGINATION OF THE CREDIT AGREEMENT
4 AND SPECIFICALLY AGREED TO BY THE DEBTOR AT THE TIME THE CHARGE
5 IS ADDED TO THE OUTSTANDING CREDIT BALANCE.

6 SEC. 1611. (1) CREDITOR-PLACED INSURANCE COVERAGE DOES NOT
7 INCLUDE ANY OF THE FOLLOWING:

8 (A) COVERAGE FOR THE COST OF REPOSSESSION.

9 (B) SKIP, CONFISCATION, AND CONVERSION COVERAGE.

10 (C) COVERAGE FOR PAYMENT OF MECHANICS' OR OTHER LIENS THAT
11 DO NOT ARISE FROM A COVERED LOSS OCCURRENCE.

12 (D) COVERAGE THAT REQUIRES A DEBTOR'S INSURANCE DEDUCTIBLE
13 TO BE LESS THAN \$250.00.

14 (E) COVERAGE THAT IS BROADER THAN THE INSURANCE COVERAGES
15 THAT MEET THE MINIMUM INSURANCE REQUIREMENTS OF THE CREDIT
16 AGREEMENT.

17 (2) THIS SECTION DOES NOT PROHIBIT THE ISSUANCE OF A SEPA-
18 RATE POLICY OR ENDORSEMENT PROVIDING THE COVERAGES LISTED IN
19 SUBSECTION (1). HOWEVER, NO CHARGE SHALL BE PASSED ALONG TO THE
20 DEBTOR FOR THESE COVERAGES.

21 SEC. 1613. CREDITOR-PLACED INSURANCE SHALL BE SET FORTH IN
22 AN INDIVIDUAL POLICY OR CERTIFICATE OF INSURANCE. A COPY OF THE
23 INDIVIDUAL POLICY, CERTIFICATE OF INSURANCE COVERAGE, OR OTHER
24 EVIDENCE OF INSURANCE COVERAGE SHALL BE MAILED, FIRST-CLASS MAIL,
25 OR DELIVERED IN PERSON TO THE LAST KNOWN ADDRESS OF THE DEBTOR.

26 SEC. 1615. (1) ALL POLICY FORMS AND CERTIFICATES OF
27 INSURANCE TO BE DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

8

1 AND THE SCHEDULES OF PREMIUM RATES PERTAINING TO THEM SHALL BE
2 FILED WITH THE COMMISSIONER.

3 (2) WITHIN 30 DAYS AFTER THE FILING OF THE POLICY FORMS AND
4 CERTIFICATES OF INSURANCE, THE COMMISSIONER SHALL DISAPPROVE A
5 FORM THAT DOES NOT CONFORM TO THIS ACT. WITHIN 30 DAYS OF
6 FILING, THE COMMISSIONER SHALL DISAPPROVE A SCHEDULE OF PREMIUM
7 RATES PERTAINING TO THE FORM IF IT DOES NOT CONFORM TO THE STAN-
8 DARD SET FORTH IN SUBSECTION (5).

9 (3) IF THE COMMISSIONER DISAPPROVES A FORM OR SCHEDULE OF
10 PREMIUM RATES, THE COMMISSIONER SHALL PROMPTLY NOTIFY THE INSURER
11 IN WRITING OF THE DISAPPROVAL, AND THE INSURER SHALL NOT ISSUE OR
12 USE THE FORM OR SCHEDULE. THE COMMISSIONER SHALL SPECIFY THE
13 REASONS FOR DISAPPROVAL IN THE NOTICE AND STATE THAT A HEARING
14 WILL BE GRANTED UPON REQUEST PURSUANT TO THE ADMINISTRATIVE PRO-
15 CEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.

16 (4) UNLESS THE COMMISSIONER DISAPPROVES THE FORM OR SCHEDULE
17 OF PREMIUM RATES AS PROVIDED IN THIS SECTION OR GIVES WRITTEN
18 APPROVAL OF THE FORM OR SCHEDULE WITHIN 30 DAYS AFTER THE FILING,
19 THE FORM OR SCHEDULE IS CONSIDERED APPROVED 31 DAYS AFTER THE
20 FILING.

21 (5) A SCHEDULE OF PREMIUM RATES SHALL PROVIDE FOR PREMIUMS
22 THAT ARE NOT UNREASONABLE IN RELATION TO THE BENEFITS PROVIDED BY
23 THE FORM TO WHICH THE SCHEDULE APPLIES. A PREMIUM RATE OR SCHED-
24 ULE OF PREMIUM RATES IS REASONABLE FOR PURPOSES OF THIS SECTION
25 IF THE RATE OR SCHEDULE OF RATES PRODUCES OR MAY REASONABLY BE
26 EXPECTED TO PRODUCE A LOSS RATIO OF 60% OR GREATER. THIS

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

9

1 SUBSECTION DOES NOT PROHIBIT THE COMMISSIONER FROM APPROVING
2 OTHER LOSS RATIOS HE OR SHE FINDS REASONABLE.

3 (6) THE COMMISSIONER MAY WITHDRAW APPROVAL OF AN APPROVED
4 FORM OR SCHEDULE OF PREMIUM RATES WHEN THE COMMISSIONER WOULD BE
5 REQUIRED TO DISAPPROVE THE FORM OR SCHEDULE OF PREMIUM RATES IF
6 IT WERE FILED AT THE TIME OF THE WITHDRAWAL. THE WITHDRAWAL
7 SHALL BE IN WRITING AND SHALL SPECIFY THE REASONS FOR WITHDRAWAL
8 AND THE EFFECTIVE DATE OF THE WITHDRAWAL. AN INSURER ADVERSELY
9 AFFECTED BY A WITHDRAWAL MAY, WITHIN 30 DAYS AFTER RECEIVING THE
10 WRITTEN NOTIFICATION OF THE WITHDRAWAL, REQUEST A HEARING PURSU-
11 ANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
12 MCL 24.201 TO 24.328, TO DETERMINE WHETHER THE WITHDRAWAL SHOULD
13 BE ANNULLED, MODIFIED, OR CONFIRMED. UNLESS THE COMMISSIONER
14 GRANTS AN EXTENSION IN WRITING IN THE WITHDRAWAL OR SUBSEQUENTLY
15 GRANTS AN EXTENSION, THE WITHDRAWAL, IN THE ABSENCE OF A REQUEST
16 FOR HEARING, SHALL BECOME EFFECTIVE PROSPECTIVELY AND NOT RETRO-
17 ACTIVELY, 91 DAYS AFTER DELIVERY OF THE NOTICE OF WITHDRAWAL AND,
18 IF THE REQUEST FOR HEARING IS FILED, 91 DAYS AFTER DELIVERY OF
19 WRITTEN NOTICE OF THE COMMISSIONER'S DETERMINATION.

20 SEC. 1617. (1) NOT LATER THAN 60 DAYS AFTER THE TERMINATION
21 OF CREDITOR-PLACED INSURANCE COVERAGE, AND IN ACCORDANCE WITH
22 SECTIONS 2833(1)(H) AND 3020(1)(C), AN INSURER SHALL REFUND ANY
23 UNEARNED PREMIUM OR OTHER IDENTIFIABLE CHARGES.

24 (2) NOT LATER THAN 60 DAYS AFTER THE TERMINATION DATE OF
25 CREDITOR-PLACED INSURANCE COVERAGE, THE INSURER SHALL PROVIDE TO
26 THE DEBTOR A STATEMENT OF REFUND DISCLOSING THE EFFECTIVE DATE,

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

10

1 THE TERMINATION DATE, THE AMOUNT OF PREMIUM BEING REFUNDED, AND
2 THE AMOUNT OF PREMIUM CHARGED FOR THE COVERAGE PROVIDED.

3 (3) IF COVERAGE UNDER THIS CHAPTER IS NOT PROVIDED, THE
4 ENTIRE AMOUNT OF PREMIUMS, MINIMUM PREMIUMS, FEES, OR CHARGES OF
5 ANY KIND SHALL BE REFUNDED.

6 SEC. 1619. (1) IF A LOSS IS INCURRED UNDER A
7 CREDITOR-PLACED INSURANCE POLICY, THE INSURER SHALL PAY, AT A
8 MINIMUM, THE LESSER OF THE FOLLOWING, DETERMINED AS OF THE DATE
9 OF LOSS:

10 (A) THE COST TO REPAIR THE COLLATERAL LESS ANY APPLICABLE
11 DEDUCTIBLE.

12 (B) THE ACTUAL CASH VALUE OF THE COLLATERAL, LESS ANY APPLI-
13 CABLE DEDUCTIBLE.

14 (C) THE NET DEBT, LESS ANY APPLICABLE DEDUCTIBLE. THE
15 METHOD OF CALCULATION OF NET DEBT PAYABLE PURSUANT TO THIS SUBDI-
16 VISION SHALL BE IDENTICAL TO THE METHOD OF CALCULATION OF NET
17 DEBT FOR PAYMENT OF PREMIUMS PURSUANT TO SECTION 1609(1).

18 (D) IF SINGLE INTEREST INSURANCE IS PROVIDED, THE AMOUNT BY
19 WHICH THE CREDITOR'S INTEREST IS IMPAIRED.

20 (2) THE NET DEBT OR ACTUAL CASH VALUE AMOUNTS IN
21 SUBSECTION (1) MAY BE REDUCED BY THE VALUE OF SALVAGE IF THE
22 INSURER DOES NOT TAKE POSSESSION OF THE INSURED PROPERTY.

23 (3) IN THE EVENT OF A LOSS, NO SUBROGATION SHALL RUN AGAINST
24 THE DEBTOR FROM THE INSURER.

25 (4) WHENEVER A CLAIM IS MADE ON A CREDITOR-PLACED INSURANCE
26 POLICY, THE INSURER SHALL FURNISH TO THE CLAIMANT A WRITTEN

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

11

1 STATEMENT OF THE LOSS EXPLAINING THE SETTLEMENT AMOUNT AND THE
2 METHOD OF SETTLEMENT.

3 (5) A CREDITOR OR INSURER SHALL NOT ABANDON SALVAGE TO A
4 TOWING OR STORAGE FACILITY IN LIEU OF PAYMENT OF STORAGE FEES
5 WITHOUT THE CONSENT OF THE FACILITY AND THE CLAIMANT. THE
6 INSURER SHALL BE RESPONSIBLE FOR THE PAYMENT OF TOWING AND STOR-
7 AGE CHARGES FOR A COVERED LOSS OCCURRENCE FROM THE TIME THE CLAIM
8 IS REPORTED TO THE INSURER IN ACCORDANCE WITH THE TERMS OF THE
9 POLICY TO THE TIME THE CLAIM IS PAID. THE INSURER SHALL GIVE
10 WRITTEN NOTICE TO THE CLAIMANT WHEN THE CLAIM IS PAID THAT THE
11 CLAIMANT MAY INCUR STORAGE CHARGES AFTER THE DATE THE CLAIM IS
12 PAID.

13 SEC. 1621. (1) FOR A CREDITOR TO PLACE INSURANCE ON COLLAT-
14 ERAL PLEDGED BY THE DEBTOR AND PASS THE COST OF THE INSURANCE ON
15 TO THE DEBTOR, ALL OF THE FOLLOWING MUST BE MET:

16 (A) THE CREDITOR MUST HAVE A SECURITY INTEREST IN THE
17 COLLATERAL.

18 (B) THE CREDIT AGREEMENT MUST REQUIRE THE DEBTOR TO MAINTAIN
19 INSURANCE ON THE COLLATERAL TO PROTECT THE CREDITOR'S INTEREST.

20 (C) THE CREDIT AGREEMENT MUST AUTHORIZE THE CREDITOR TO
21 PLACE THE INSURANCE IF THE DEBTOR FAILS TO PROVIDE EVIDENCE OF
22 THE INSURANCE.

23 (D) THE REQUIREMENTS LISTED IN SUBDIVISIONS (A) TO (C) MUST
24 BE CLEARLY DISCLOSED TO THE DEBTOR AT THE INCEPTION OF THE CREDIT
25 TRANSACTION.

26 (2) A DEBTOR HAS THE RIGHT TO PROVIDE REQUIRED INSURANCE
27 THROUGH EXISTING POLICIES OF INSURANCE OWNED OR CONTROLLED BY THE

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

12

1 DEBTOR OR OF PROCURING AND FURNISHING THE REQUIRED COVERAGE
2 THROUGH AN INSURER AUTHORIZED TO TRANSACT INSURANCE WITHIN THIS
3 STATE. HOWEVER, A CREDITOR MAY ESTABLISH MAXIMUM ACCEPTABLE
4 DEDUCTIBLES, INSURER SOLIDITY STANDARDS, AND OTHER REASONABLE
5 CONDITIONS WITH RESPECT TO THE REQUIRED INSURANCE.

6 SEC. 1623. (1) THE ENTIRE AMOUNT OF THE PREMIUM DUE FROM A
7 CREDITOR SHALL BE REMITTED TO THE INSURER OR ITS PRODUCER IN
8 ACCORDANCE WITH THE INSURER'S REQUIREMENTS. NO COMMISSIONS MAY
9 BE PAID TO, OR RETAINED BY, A PERSON OR ENTITY EXCEPT A LICENSED
10 AND APPOINTED PRODUCER.

11 (2) A CREDITOR SHALL NOT RETAIN UNEARNED PREMIUMS UPON CAN-
12 CELLATION OF THE INSURANCE WITHOUT CREDITING TO THE DEBTOR'S
13 ACCOUNT THE AMOUNT OF UNEARNED INSURANCE CHARGES.

14 (3) REBATES TO THE CREDITOR OF A PORTION OF THE PREMIUM
15 CHARGED TO THE DEBTOR ARE PROHIBITED AS ARE OTHER INDUCEMENTS
16 PROVIDED TO THE CREDITOR BY AN INSURER OR PRODUCER. ALL OF THE
17 FOLLOWING ACTIVITIES ARE PROHIBITED REBATES OR INDUCEMENTS:

18 (A) ALLOWING INSURERS OR PRODUCERS TO PURCHASE CERTIFICATES
19 OF DEPOSIT FROM THE CREDITOR OR TO MAINTAIN ACCOUNTS WITH THE
20 CREDITOR AT LESS THAN THE MARKET INTEREST RATES AND CHARGES THAT
21 THE CREDITOR APPLIES TO OTHER CUSTOMERS FOR DEPOSIT ACCOUNTS OF
22 SIMILAR AMOUNTS AND DURATION.

23 (B) PAYING A COMMISSION TO A PERSON, INCLUDING A CREDITOR,
24 WHO IS NOT APPROPRIATELY LICENSED AS A PRODUCER IN THIS STATE.

25 (C) PURCHASING OR OFFERING TO PURCHASE CERTIFICATES OF
26 DEPOSIT FROM, OR MAINTAINING OR OFFERING TO MAINTAIN DEPOSIT

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

13

1 ACCOUNTS OR INVESTMENT ACCOUNTS WITH A CREDITOR AS PART OF A
2 CREDITOR-PLACED INSURANCE SOLICITATION.

3 (D) ANY OTHER ACTIVITY IDENTIFIED BY THE COMMISSIONER AND
4 PROHIBITED BY RULE, REGULATION, OR ORDER.

5 (4) PROHIBITED REBATES OR INDUCEMENTS DO NOT INCLUDE ANY OF
6 THE FOLLOWING:

7 (A) THE PAYING OF COMMISSIONS AND OTHER COMPENSATION TO A
8 DULY LICENSED AND APPOINTED PRODUCER, WHETHER OR NOT AFFILIATED
9 WITH THE CREDITOR.

10 (B) THE PAYING TO THE CREDITOR POLICYHOLDER OF GROUP
11 EXPERIENCE RATED REFUNDS OR POLICY DIVIDENDS.

12 (C) THE PROVIDING OF INSURANCE TRACKING AND OTHER SERVICES
13 INCIDENTAL TO THE CREDITOR-PLACED INSURANCE PROGRAM.

14 (D) THE PAYING TO THE CREDITOR OF AMOUNTS INTENDED TO REIM-
15 BURSE THE CREDITOR FOR ITS EXPENSES INCURRED INCIDENTAL TO THE
16 CREDITOR-PLACED INSURANCE PROGRAM, SUCH AS COSTS OF DATA PROCESS-
17 ING, MAIL PROCESSING, TELEPHONE SERVICE, INSURANCE TRACKING,
18 BILLING, COLLECTION, AND RELATED ACTIVITIES, PROVIDED THAT THESE
19 PAYMENTS ARE APPROVED IN A MANNER CONSISTENT WITH THE PROCEDURES
20 IN SECTION 1615 AND ARE CALCULATED IN A MANNER THAT DOES NOT
21 EXCEED AN AMOUNT REASONABLY ESTIMATED TO EQUAL THE EXPENSES
22 INCURRED BY THE CREDITOR.

23 (5) AN INSURER THAT PAYS COMMISSIONS TO PRODUCERS FOR
24 CREDITOR-PLACED INSURANCE THAT ARE GREATER THAN 20% OF THE NET
25 WRITTEN PREMIUM SHALL DEMONSTRATE TO THE COMMISSIONER THAT THE
26 COMMISSIONS ARE NOT UNREASONABLY HIGH IN RELATION TO THE VALUE OF
27 THE SERVICES RENDERED.

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

14

1 (6) THIS SECTION DOES NOT PROHIBIT OR RESTRICT AN INSURER OR
2 PRODUCER FROM MAINTAINING A DEMAND, PREMIUM DEPOSIT, OR OTHER
3 ACCOUNT OR ACCOUNTS WITH A CREDITOR FOR WHICH THE INSURER OR
4 PRODUCER PROVIDES INSURANCE IF THE ACCOUNTS PAY THE MARKET INTER-
5 EST RATE AND CHARGES THAT THE CREDITOR APPLIES TO OTHER CUSTOMERS
6 FOR DEPOSIT ACCOUNTS OF SIMILAR AMOUNTS AND DURATION.

7 SEC. 1625. (1) A CREDITOR SHALL NOT IMPOSE CHARGES, INCLUD-
8 ING PREMIUM COSTS AND RELATED INTEREST AND FINANCE CHARGES, ON A
9 DEBTOR FOR CREDITOR-PLACED INSURANCE COVERAGE UNLESS ADEQUATE
10 DISCLOSURE OF THE REQUIREMENT TO MAINTAIN INSURANCE HAS BEEN MADE
11 TO THE DEBTOR. ADEQUATE DISCLOSURE IS ACCOMPLISHED IF ALL OF THE
12 FOLLOWING OCCUR:

13 (A) THE CREDIT AGREEMENT SETS FORTH THE REQUIREMENT THAT THE
14 DEBTOR MUST MAINTAIN INSURANCE ON THE COLLATERAL AS PROVIDED FOR
15 IN SECTION 1621.

16 (B) THE CREDITOR MAKES REASONABLE EFFORTS TO NOTIFY THE
17 DEBTOR OF THE REQUIREMENT TO MAINTAIN INSURANCE AND ALLOWS A REA-
18 SONABLE TIME FOR COMPLIANCE WITH THIS REQUIREMENT.

19 (C) A FINAL NOTICE AS REQUIRED BY THIS CHAPTER IS SENT TO
20 THE DEBTOR.

21 (D) IF CREDITOR-PLACED INSURANCE COVERAGE IS ISSUED, A COPY
22 OF THE POLICY OR CERTIFICATE IS SENT TO THE DEBTOR AS PROVIDED
23 FOR IN SECTION 1613.

24 (2) AFTER ADEQUATE DISCLOSURE OF THE REQUEST TO MAINTAIN
25 INSURANCE HAS BEEN MADE TO THE DEBTOR AS REQUIRED BY THIS SEC-
26 TION, A CREDITOR MAY PROCEED TO IMPOSE CHARGES FOR
27 CREDITOR-PLACED INSURANCE IF THE DEBTOR FAILS TO PROVIDE EVIDENCE

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

15

1 OF INSURANCE. A CREDITOR MAY IMPOSE CHARGES NO EARLIER THAN
2 10 DAYS AFTER SENDING THE FINAL NOTICE.

3 (3) REASONABLE EFFORTS TO NOTIFY THE DEBTOR UNDER
4 SUBSECTION (1)(B) ARE ACCOMPLISHED IF THE CREDITOR DOES ALL OF
5 THE FOLLOWING:

6 (A) MAILES A NOTICE BY FIRST-CLASS MAIL TO THE DEBTOR'S LAST
7 KNOWN ADDRESS AS CONTAINED IN THE CREDITOR'S RECORDS, STATING
8 THAT THE CREDITOR INTENDS TO CHARGE THE DEBTOR FOR
9 CREDITOR-PLACED INSURANCE COVERAGE ON THE COLLATERAL IF THE
10 DEBTOR FAILS TO PROVIDE EVIDENCE OF THE PROPERTY INSURANCE TO THE
11 CREDITOR.

12 (B) ALLOWS THE DEBTOR AT LEAST 20 DAYS TO RESPOND TO THE
13 NOTICE AND PROVIDE EVIDENCE OF ACCEPTABLE INSURANCE COVERAGE
14 BEFORE SENDING A FINAL NOTICE.

15 (C) SENDS A FINAL NOTICE IN COMPLIANCE WITH THIS SECTION BY
16 FIRST-CLASS MAIL TO THE DEBTOR'S LAST KNOWN ADDRESS AS CONTAINED
17 IN THE CREDITOR'S RECORDS AT LEAST 10 DAYS BEFORE THE COST OF
18 INSURANCE IS CHARGED TO THE DEBTOR BY THE CREDITOR. PROOF OF THE
19 MAILING OF THE FINAL NOTICE SHALL BE RETAINED FOR AT LEAST
20 3 YEARS FOLLOWING THE EXPIRATION OR TERMINATION OF THE COVERAGE
21 OR AS OTHERWISE REQUIRED BY LAW.

22 (4) THE INITIAL NOTICE UNDER THIS SECTION SHALL BE IN A FORM
23 DETERMINED BY THE CREDITOR TO REMIND THE DEBTOR OF THE REQUIRE-
24 MENT TO MAINTAIN INSURANCE ON THE COLLATERAL. THE FINAL NOTICE
25 UNDER THIS SECTION SHALL BE AS COMPLETE AS THE FOLLOWING NOTICE,
26 PRINTED IN NOT LESS THAN 12-POINT TYPE, AND MODIFIED WHERE
27 NECESSARY TO FIT THE NATURE OF THE CREDIT TRANSACTION:

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

16

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

FINAL NOTICE

YOUR CREDIT AGREEMENT WITH US REQUIRES YOU TO HAVE PROPERTY INSURANCE ON THE COLLATERAL UNTIL YOU PAY OFF YOUR LOAN. YOU HAVE NOT GIVEN US PROOF YOU HAVE INSURANCE ON THE PROPERTY. YOU CAN ASK YOUR INSURANCE COMPANY OR AGENT TO GIVE US PROOF OF INSURANCE OR YOU CAN SEND US PROOF YOU HAVE PROPERTY INSURANCE WITHIN 10 CALENDAR DAYS AFTER THE DATE THIS LETTER WAS POSTMARKED. IF YOU DO NOT, WE WILL BUY THE INSURANCE AND CHARGE THE COST TO YOU.

YOU MUST PAY FOR THE PROPERTY INSURANCE WE BUY. IT MAY COST MORE THAN INSURANCE YOU CAN BUY ON YOUR OWN. THE COST OF THE INSURANCE WE BUY MAY BE ADDED TO YOUR LOAN BALANCE AND WE MAY CHARGE YOU INTEREST ON IT. IF WE DO, YOU WILL PAY INTEREST AT THE SAME RATE YOU PAY ON YOUR LOAN.

THE INSURANCE WE BUY WILL PAY CLAIMS TO US (THE CREDITOR) FOR PHYSICAL DAMAGE TO YOUR PROPERTY. IT WILL NOT PAY ANY CLAIMS MADE AGAINST YOU [AND IT MAY NOT PAY YOU FOR ANY CLAIMS YOU MAKE (DELETE IF LIMITED DUAL INTEREST COVERAGE)]. THE INSURANCE WE BUY WILL NOT GIVE YOU ANY LIABILITY INSURANCE COVERAGE AND WILL NOT MEET THE REQUIREMENTS OF A STATE'S FINANCIAL RESPONSIBILITY LAW.

WE MAY RECEIVE COMPENSATION FOR PLACING THIS INSURANCE, WHICH IS INCLUDED IN THE COST OF COVERAGE CHARGED TO YOU.

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

17

1

2

THE PROPERTY COVERAGE WE BUY WILL START ON THE DATE SHOWN
IN THE POLICY OR CERTIFICATE, WHICH MAY GO BACK TO THE DATE
OF THE LOAN OR THE DATE YOUR PRIOR COVERAGE STOPPED. WE
WILL CANCEL THE INSURANCE WE BOUGHT FOR YOU AND GIVE YOU A
REFUND OR CREDIT OF UNEARNED CHARGES IF YOU GIVE US PROOF
YOU HAVE BOUGHT PROPERTY INSURANCE SOMEWHERE ELSE OR IF YOU
HAVE PAID OFF THE LOAN.

3

4

5

6

7

8

(5) ALL CREDITOR-PLACED INSURANCE SHALL BE SET FORTH IN AN
INDIVIDUAL POLICY OR CERTIFICATE OF INSURANCE. NOT EARLIER THAN
THE SENDING OF THE FINAL NOTICE NOR 25 DAYS AFTER A CHARGE IS
MADE TO THE DEBTOR FOR CREDITOR-PLACED INSURANCE COVERAGE, THE
CREDITOR SHALL CAUSE A COPY OF THE INDIVIDUAL POLICY, CERTIFI-
CATE, OR OTHER EVIDENCE OF INSURANCE COVERAGE EVIDENCING THE
CREDITOR-PLACED INSURANCE COVERAGE TO BE SENT, FIRST-CLASS MAIL,
TO THE DEBTOR'S LAST KNOWN ADDRESS.

9

10

11

12

13

14

15

16

17

18

19

20

21

(6) A CREDITOR'S COMPLIANCE WITH OR FAILURE TO COMPLY WITH
THIS CHAPTER SHALL NOT BE CONSTRUED TO REQUIRE THE CREDITOR TO
PURCHASE INSURANCE COVERAGE ON THE COLLATERAL, AND THE CREDITOR
IS NOT LIABLE TO THE DEBTOR OR A THIRD PARTY AS A RESULT OF ITS
FAILURE TO PURCHASE THE INSURANCE.

22

23

24

25

26

27

SEC. 1627. (1) IN ADDITION TO OTHER POWERS UNDER THIS ACT,
THE COMMISSIONER MAY CONDUCT INVESTIGATIONS OR EXAMINATIONS OF
INSURERS AND PRODUCERS TO ENSURE COMPLIANCE WITH AND ENFORCEMENT
OF THE PROVISIONS OF THIS CHAPTER.

(2) UPON FINDING THAT AN INSURER OR PRODUCER HAS VIOLATED A
PROVISION OF THIS CHAPTER OR A REGULATION PROMULGATED UNDER THIS

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

18

1 CHAPTER, THE COMMISSIONER MAY ISSUE AN ORDER DIRECTING THAT THE
2 INSURER OR PRODUCER CEASE AND DESIST FROM COMMITTING THE VIOLA-
3 TIONS, IMPOSE A CIVIL PENALTY FOR THE VIOLATIONS, PROVIDE AN
4 EQUITABLE REMEDY FOR PAST VIOLATIONS, OR ANY COMBINATION OF
5 THESE.

6 (3) UPON THE ISSUANCE OF AN ORDER UNDER SUBSECTION (2), THE
7 INSURER OR PRODUCER MAY REQUEST A HEARING. AT THE HEARING, THE
8 BURDEN SHALL BE ON THE INSURER OR PRODUCER TO SHOW CAUSE WHY AN
9 ORDER ISSUED PURSUANT TO SUBSECTION (2) SHOULD BE ANNULLED, MODI-
10 FIED, OR CONFIRMED. PENDING THE HEARING AND THE DECISION BY THE
11 COMMISSIONER, THE COMMISSIONER SHALL SUSPEND THE EFFECTIVE DATE
12 OF THE ORDER. NOT MORE THAN 60 DAYS AFTER THE HEARING, THE COM-
13 MISSIONER SHALL ENTER AN ORDER OF FINAL DETERMINATION THAT SHALL
14 SPECIFY ALL RELEVANT FINDINGS OF FACT, CONCLUSIONS OF LAW, AND
15 ORDERS. WITH THE AGREEMENT OF EACH AFFECTED INSURER OR PRODUCER,
16 AND IN LIEU OF A HEARING, THE COMMISSIONER MAY ENTER INTO A CON-
17 SENT AGREEMENT DISPOSING OF THE MATTERS THAT WOULD BE THE SUBJECT
18 OF THE HEARING AND ORDER.

19 (4) THE COMMISSIONER MAY BRING AN ACTION IN THE CIRCUIT
20 COURT FOR INGHAM COUNTY FOR AN INJUNCTION OR OTHER APPROPRIATE
21 RELIEF TO ENJOIN THREATENED OR EXISTING VIOLATIONS OF THIS CHAP-
22 TER OR OF THE COMMISSIONER'S ORDERS OR REGULATIONS OR FOR RESTI-
23 TUTION ON BEHALF OF PERSONS AGGRIEVED BY A VIOLATION OF THIS
24 CHAPTER OR OF THE COMMISSIONER'S ORDERS OR REGULATIONS.

25 SEC. 1629. (1) A PERSON AGGRIEVED BY A FINAL ORDER, DECI-
26 SION, FINDING, RULING, ACTION, OR INACTION PROVIDED FOR UNDER

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

19

1 THIS CHAPTER MAY SEEK JUDICIAL REVIEW AS PROVIDED IN
2 SECTION 244.

3 (2) TO THE EXTENT THAT THE ORDER OR FINAL DETERMINATION OF
4 THE COMMISSIONER IS AFFIRMED, THE COURT SHALL ISSUE ITS OWN ORDER
5 COMMANDING OBEDIENCE TO THE TERMS OF THE COMMISSIONER'S ORDER OR
6 FINAL DETERMINATION. IF EITHER PARTY APPLIES TO THE COURT FOR
7 LEAVE TO PRODUCE ADDITIONAL EVIDENCE, AND SHOWS TO THE SATISFAC-
8 TION OF THE COURT THAT THE ADDITIONAL EVIDENCE IS MATERIAL AND
9 THAT THERE WERE REASONABLE GROUNDS FOR THE FAILURE TO PRODUCE THE
10 EVIDENCE IN THE PROCEEDING BEFORE THE COMMISSIONER, THE COURT MAY
11 ORDER THE ADDITIONAL EVIDENCE TO BE TAKEN BEFORE THE COMMISSIONER
12 AND TO BE PRODUCED IN A HEARING IN THE MANNER AND UPON THE TERMS
13 AND CONDITIONS THE COURT CONSIDERS PROPER. THE COMMISSIONER MAY
14 MODIFY THE FINDINGS OF FACT OR MAKE NEW FINDINGS BY REASON OF THE
15 ADDITIONAL EVIDENCE TAKEN AND SHALL FILE THE MODIFIED OR NEW
16 FINDINGS WITH A RECOMMENDATION, IF ANY, FOR THE MODIFICATION OR
17 SETTING ASIDE OF THE ORIGINAL ORDER OR FINAL DETERMINATION, WITH
18 THE RETURN OF THE ADDITIONAL EVIDENCE.

19 (3) AN ORDER ISSUED BY THE COMMISSIONER UNDER SECTION 1627
20 SHALL BECOME FINAL UPON THE EXPIRATION OF THE TIME ALLOWED FOR
21 FILING A PETITION FOR REVIEW IF NO PETITION HAS BEEN DULY FILED
22 WITHIN THAT TIME, EXCEPT THAT THE COMMISSIONER MAY THEREAFTER
23 MODIFY OR SET ASIDE THE ORDER TO THE EXTENT PROVIDED IN
24 SECTION 1627 OR UPON THE FINAL DECISION OF THE COURT IF THE COURT
25 DIRECTS THAT THE ORDER OF THE COMMISSIONER BE AFFIRMED OR THE
26 PETITION FOR REVIEW DISMISSED.

SB 883, As Passed Senate, March 14, 2002

Senate Bill No. 883

20

1 (4) AN ORDER OF THE COMMISSIONER UNDER THIS CHAPTER OR AN
2 ENFORCEMENT ORDER OF A COURT DOES NOT RELIEVE OR ABSOLVE ANY
3 PERSON AFFECTED BY THE ORDER FROM LIABILITY UNDER ANY OTHER LAWS
4 OF THIS STATE.

5 SEC. 1631. AN INSURER THAT VIOLATES AN ORDER OF THE COMMIS-
6 SIONER UNDER THIS CHAPTER SHALL BE AFFORDED A HEARING BEFORE THE
7 COMMISSIONER UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969,
8 1969 PA 306, MCL 24.201 TO 24.328. IF THE COMMISSIONER FINDS A
9 VIOLATION HAS OCCURRED, THE COMMISSIONER MAY ORDER EITHER OR BOTH
10 OF THE FOLLOWING:

11 (A) PAYMENT OF A MONETARY PENALTY OF NOT MORE THAN \$1,000.00
12 FOR EACH VIOLATION, BUT NOT TO EXCEED AN AGGREGATE PENALTY OF
13 \$100,000.00, UNLESS THE VIOLATION WAS COMMITTED IN A CONSCIOUS
14 AND FLAGRANT DISREGARD OF THIS CHAPTER, IN WHICH CASE THE COMMIS-
15 SIONER MAY ORDER THE PAYMENT OF A MONETARY PENALTY OF NOT MORE
16 THAN \$25,000.00 FOR EACH VIOLATION, BUT NOT TO EXCEED AN AGGRE-
17 GATE PENALTY OF \$250,000.00.

18 (B) SUSPENSION OR REVOCATION OF THE INSURER'S LICENSE.

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