

SUBSTITUTE FOR
HOUSE BILL NO. 4455

(As amended June 14, 2012)

<<A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 1910, 3171, 3172, 3173a, 3174, 3175, 3320, and 3330
(MCL 500.1910, 500.3171, 500.3172, 500.3173a, 500.3174, 500.3175,
500.3320, and 500.3330), sections 3172 and 3175 as amended and section
3173a as added by 1984 PA 426 and section 3320 as amended by 1980 PA 461,
And by adding sections 3101d and 3178; and to repeal acts and parts of
acts.>>

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

<<Sec. 1910. (1) Insurance shall not be placed by a licensee with
an unauthorized insurer ~~when~~ IF coverage is available from an authorized
insurer.

(2) There ~~shall be~~ IS a rebuttable presumption that the following
coverages are available from an authorized insurer:

(a) No-fault automobile insurance, as required by section 3101,
which is not written for a person who is self-insuring motor vehicles
~~pursuant to section 531 of Act No. 300 of the Public Acts of 1949, being
section 257.531 of the Michigan Compiled Laws~~ **UNDER SECTION 3101D.**

(b) Private passenger automobile physical damage coverage.

(c) Homeowners and property insurance on owner-occupied dwellings,
the value of which is less than the maximum limits of coverage ~~which~~ THAT
are available for the property under the general rules of the Michigan
basic property insurance association.

(d) Any coverage readily available from 3 or more authorized
insurers, unless the authorized insurers quote a premium and terms not

House Bill No. 4455 as amended June 14, 2012

competitive with the premium and terms quoted by an unauthorized insurer.

(e) Worker's compensation insurance ~~which~~ **THAT** is not written for an employer ~~which~~ **THAT** is partially self-insured pursuant to ~~UNDER~~ section 611 of Act No. 317 of the Public Acts of 1969, as amended, being ~~section~~ **THE WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA 317, MCL 418.611.** ~~of the Michigan Compiled Laws.~~

(3) There ~~shall be~~ **IS** a rebuttable presumption that the following coverages are unavailable from an authorized insurer:

(a) Coverages ~~where~~ **WITH RESPECT TO WHICH** 1 portion of the risk is acceptable to authorized insurers, but another portion of the same risk is not acceptable. The entire coverage may be placed with eligible unauthorized insurers if it can be shown that eligible unauthorized insurers will accept the entire coverage but not the rejected portion alone.

(b) Any coverage that the licensee is unable to procure after diligent search among authorized insurers.

(4) The commissioner shall maintain, on a current basis, a list of those lines of insurance for which coverages are determined by the commissioner to be generally unavailable in the authorized insurance market. Any person may request in writing that the commissioner add or remove a coverage from the current list. The commissioner shall grant or deny a request within 30 days after receiving the written request. The commissioner shall encourage dissemination of information regarding the availability of coverages ~~—~~for which the public interest necessitates additions to or deletions from the list. The list shall be published at least quarterly and shall be revised as required. The commissioner shall make the list available to all licensees and other members of the public, upon request.

SEC. 3101D. (1) A PERSON IN WHOSE NAME MORE THAN 25 MOTOR VEHICLES ARE REGISTERED MAY QUALIFY AS A SELF-INSURER BY OBTAINING A CERTIFICATE OF SELF-INSURANCE ISSUED BY THE COMMISSIONER UNDER SUBSECTION (2).

(2) THE COMMISSIONER MAY, IN HIS OR HER DISCRETION, ON THE APPLICATION OF A PERSON WHO WISHES TO QUALIFY UNDER SUBSECTION (1), ISSUE A CERTIFICATE OF SELF-INSURANCE TO THE PERSON IF THE COMMISSIONER IS SATISFIED THAT THE PERSON HAS AND WILL CONTINUE TO HAVE THE ABILITY TO PAY JUDGMENTS OBTAINED AGAINST THE PERSON.

(3) ON NOT LESS THAN 5 DAYS' NOTICE AND A HEARING IN ACCORDANCE WITH THE NOTICE, THE COMMISSIONER MAY ON REASONABLE GROUNDS CANCEL A CERTIFICATE OF SELF-INSURANCE ISSUED UNDER THIS SECTION. FAILURE TO PAY A JUDGMENT WITHIN 30 DAYS AFTER THE JUDGMENT BECOMES FINAL IS A REASONABLE GROUND FOR THE CANCELLATION OF A CERTIFICATE OF SELF-INSURANCE.>>

1 Sec. 3171. (1) ~~The~~ **UNTIL AN ASSIGNED CLAIMS PLAN IS APPROVED**
2 **UNDER SUBSECTION (3),** the secretary of state shall organize and
3 maintain an assigned claims facility and plan. A self-insurer and
4 insurer writing insurance as provided by this chapter in this state
5 shall participate in the assigned claims plan. Costs incurred in
6 the operation of the facility and the plan shall be allocated

7 fairly among insurers and self-insurers. The secretary of state

House Bill No. 4455 (H-1) as amended February 7, 2012

1 shall promulgate rules to implement the facility and plan in
2 accordance with and subject to ~~Act No. 306 of the Public Acts of~~
3 ~~1969, as amended, being sections 24.201 to 24.315 of the Compiled~~
4 ~~Laws of 1948.~~ THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA
5 306, MCL 24.201 TO 24.328. AFTER AN ASSIGNED CLAIMS PLAN IS
6 APPROVED UNDER SUBSECTION (3), THE SECRETARY OF STATE SHALL
7 CONTINUE TO MAINTAIN THE ASSIGNED CLAIMS FACILITY AND PLAN
8 ORGANIZED UNDER THIS SUBSECTION AS REQUIRED BY THE PLAN APPROVED
9 UNDER SUBSECTION (3).

10 (2) THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL
11 ADOPT AND MAINTAIN AN ASSIGNED CLAIMS PLAN. A SELF-INSURER OR
12 INSURER WRITING INSURANCE AS PROVIDED BY THIS CHAPTER IN THIS STATE
13 SHALL PARTICIPATE IN THE ASSIGNED CLAIMS PLAN. COSTS INCURRED IN
14 THE ADMINISTRATION OF THE ASSIGNED CLAIMS PLAN SHALL BE ALLOCATED
15 FAIRLY AMONG INSURERS AND SELF-INSURERS. ON APPROVAL UNDER
16 SUBSECTION (3), THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT
17 FACILITY SHALL IMPLEMENT THE ASSIGNED CLAIMS PLAN.

18 (3) BY [AUGUST 1], 2012, THE MICHIGAN AUTOMOBILE INSURANCE
19 PLACEMENT FACILITY BOARD OF GOVERNORS SHALL ADOPT AN ASSIGNED
20 CLAIMS PLAN BY MAJORITY VOTE AND SHALL SUBMIT IT TO THE
21 COMMISSIONER FOR HIS OR HER APPROVAL. THE COMMISSIONER SHALL REVIEW
22 THE PLAN WITHIN 30 DAYS AND RESPOND IN WRITING AS PROVIDED IN THIS
23 SUBSECTION. IF THE COMMISSIONER FINDS THAT THE PLAN MEETS THE
24 REQUIREMENTS OF THIS CHAPTER, HE OR SHE SHALL APPROVE IT. IF THE
25 COMMISSIONER FINDS THAT THE PLAN FAILS TO MEET THE REQUIREMENTS OF
26 THIS CHAPTER, HE OR SHE SHALL STATE IN WHAT RESPECTS THE PLAN IS
27 DEFICIENT AND SHALL AFFORD THE MICHIGAN AUTOMOBILE INSURANCE

House Bill No. 4455 (H-1) as amended February 7, 2012

1 PLACEMENT FACILITY BOARD OF GOVERNORS 10 DAYS WITHIN WHICH TO
2 CORRECT THE DEFICIENCY. IF THE COMMISSIONER AND THE MICHIGAN
3 AUTOMOBILE INSURANCE PLACEMENT FACILITY BOARD OF GOVERNORS FAIL TO
4 AGREE THAT THE PLAN SUBMITTED, WITH ANY CORRECTIONS, MEETS THE
5 REQUIREMENTS OF THIS CHAPTER, EITHER PARTY TO THE CONTROVERSY MAY
6 SUBMIT THE ISSUE TO THE CIRCUIT COURT FOR INGHAM COUNTY FOR A
7 DETERMINATION. IF THE COMMISSIONER FAILS TO RENDER A WRITTEN
8 DECISION ON THE ASSIGNED CLAIMS PLAN WITHIN 30 DAYS AFTER RECEIPT
9 OF THE PLAN, THE PLAN SHALL BE CONSIDERED APPROVED. THE MICHIGAN
10 AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL FORWARD A PLAN
11 APPROVED UNDER THIS SUBSECTION TO THE SECRETARY OF STATE. THE PLAN
12 TAKES EFFECT ON APPROVAL BY THE COMMISSIONER.

13 (4) AMENDMENTS TO THE ASSIGNED CLAIMS PLAN APPROVED UNDER
14 SUBSECTION (3) SHALL BE ADOPTED BY THE BOARD OF GOVERNORS AND
15 APPROVED BY THE COMMISSIONER AS PROVIDED IN SUBSECTION (3). [UNTIL THE
DATE ESTABLISHED IN THE PLAN UNDER SUBSECTION (5) (C), THE BOARD OF
GOVERNORS SHALL GIVE THE SECRETARY OF STATE ADVANCE NOTICE OF ANY
PROPOSED AMENDMENTS TO THE PLAN.]

16 (5) THE PLAN ADOPTED UNDER SUBSECTION (3) SHALL INCLUDE ALL OF
17 THE FOLLOWING:

18 (A) THE DATE ON AND AFTER WHICH ALL CLAIMS FOR BENEFITS
19 THROUGH THE ASSIGNED CLAIMS PLAN UNDER SECTION 3172 SHALL BE FILED
20 WITH THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY.

21 (B) THE DATE BY WHICH EXISTING CLAIMS THAT HAVE BEEN ASSIGNED
22 UNDER THE PLAN MAINTAINED BY THE SECRETARY OF STATE UNDER
23 SUBSECTION (1) WILL BE TRANSFERRED TO THE MICHIGAN AUTOMOBILE
24 INSURANCE PLACEMENT FACILITY TO BE INCLUDED IN AND ADMINISTERED
25 UNDER THE ADOPTED PLAN.

26 (C) A DATE BY WHICH ALL FUNCTIONS OF THE ASSIGNED CLAIMS PLAN
27 MAINTAINED BY THE SECRETARY OF STATE, WITH THE EXCEPTION OF DRIVER

House Bill No. 4455 (H-1) as amended February 7, 2012

LICENSE AND VEHICLE SANCTIONS, WILL BE TRANSFERRED TO THE MICHIGAN
AUTOMOBILE INSURANCE PLACEMENT FACILITY.

(D) REQUIREMENTS FOR THE TRANSFER OF RECORDS RELATING TO
ASSIGNED CLAIMS FROM THE SECRETARY OF STATE TO THE MICHIGAN
AUTOMOBILE INSURANCE PLACEMENT FACILITY AND THE DISPOSITION BY THE
SECRETARY OF STATE OF RECORDS RELATING TO ASSIGNED CLAIMS.

(E) REIMBURSEMENT OF THE SECRETARY OF STATE BY THE MICHIGAN
AUTOMOBILE INSURANCE PLACEMENT FACILITY FOR ALL OF THE FOLLOWING:

(i) EXPENSES OF DEVELOPING THE PLAN UNDER SUBSECTION (6).

(ii) EXPENSES OF TRANSFERRING OPERATIONS FROM THE ASSIGNED
CLAIMS FACILITY TO THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT
FACILITY.

(iii) EXPENSES INCURRED BY THE SECRETARY OF STATE AFTER THE
TRANSFER OF OPERATIONS FROM THE ASSIGNED CLAIMS FACILITY TO THE
MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY FOR OPERATIONS
PERFORMED BY THE SECRETARY OF STATE ON BEHALF OF THE MICHIGAN
AUTOMOBILE INSURANCE PLACEMENT FACILITY.

(6) THE SECRETARY OF STATE AND THE MICHIGAN AUTOMOBILE
INSURANCE PLACEMENT FACILITY SHALL COOPERATE AND MUTUALLY DEVELOP
THE ASPECTS OF THE PLAN TO BE ADOPTED UNDER SUBSECTION (3) THAT ARE
REQUIRED UNDER SUBSECTION (5).

(7) THE SECRETARY OF STATE SHALL PROVIDE THE MICHIGAN
AUTOMOBILE INSURANCE PLACEMENT FACILITY WITH ALL INFORMATION
NECESSARY FOR THE OPERATION OF THE ASSIGNED CLAIMS FUND.

[(8) ONE YEAR AFTER THE DATE ESTABLISHED UNDER SUBSECTION (5)(C),
THE COMMISSIONER SHALL REPORT IN WRITING TO THE SENATE AND HOUSE OF
REPRESENTATIVES STANDING COMMITTEES ON INSURANCE ISSUES ON THE COST OF
THE TRANSFER OF THE ASSIGNED CLAIMS PLAN TO THE MICHIGAN AUTOMOBILE
INSURANCE PLACEMENT FACILITY AND THE EFFECTIVENESS OF OPERATIONS UNDER
THE NEW PLAN.

(9)] AS USED IN THIS SECTION:

(A) "MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY" MEANS
THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY CREATED UNDER

1 CHAPTER 33.

2 (B) "MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY BOARD OF
3 GOVERNORS" MEANS THE BOARD OF GOVERNORS CREATED UNDER SECTION 3310.

4 Sec. 3172. (1) A person entitled to claim because of
5 accidental bodily injury arising out of the ownership, operation,
6 maintenance, or use of a motor vehicle as a motor vehicle in this
7 state may obtain personal protection insurance benefits through an
8 **THE** assigned claims plan if no personal protection insurance is
9 applicable to the injury, no personal protection insurance
10 applicable to the injury can be identified, the personal protection
11 insurance applicable to the injury cannot be ascertained because of
12 a dispute between 2 or more automobile insurers concerning their
13 obligation to provide coverage or the equitable distribution of the
14 loss, or the only identifiable personal protection insurance
15 applicable to the injury is, because of financial inability of 1 or
16 more insurers to fulfill their obligations, inadequate to provide
17 benefits up to the maximum prescribed. In ~~such~~**THAT** case, unpaid
18 benefits due or coming due ~~are subject to being~~**MAY BE** collected
19 under the assigned claims plan ~~, and the insurer to which the claim~~
20 ~~is assigned, or the assigned claims facility if the claim is~~
21 ~~assigned to it,~~ is entitled to reimbursement from the defaulting
22 insurers to the extent of their financial responsibility.

23 (2) Except as otherwise provided in this subsection, personal
24 protection insurance benefits, including benefits arising from
25 accidents occurring before ~~the effective date of this subsection~~
26 **MARCH 29, 1985**, payable through an ~~THE~~ assigned claims plan shall
27 be reduced to the extent that benefits covering the same loss are

1 available from other sources, regardless of the nature or number of
 2 benefit sources available and regardless of the nature or form of
 3 the benefits, to a person claiming personal protection insurance
 4 benefits through the assigned claims plan. This subsection ~~shall~~
 5 ~~only apply when~~ **APPLIES IF** the personal protection insurance
 6 benefits are payable through the assigned claims plan because no
 7 personal protection insurance is applicable to the injury, no
 8 personal protection insurance applicable to the injury can be
 9 identified, or the only identifiable personal protection insurance
 10 applicable to the injury is, because of financial inability of 1 or
 11 more insurers to fulfill their obligations, inadequate to provide
 12 benefits up to the maximum prescribed. As used in this subsection,
 13 "sources" and "benefit sources" do not include the program for
 14 medical assistance for the medically indigent under the social
 15 welfare act, ~~Act No. 280 of the Public Acts of 1939, being sections~~
 16 ~~400.1 to 400.121 of the Michigan Compiled Laws 1939 PA 280, MCL~~
 17 **400.1 TO 400.119B**, or insurance under the health insurance for the
 18 aged act, title XVIII of the social security ~~amendments of 1965~~
 19 **ACT, 42 USC 1395 TO 1395KKK-1.**

20 (3) If the obligation to provide personal protection insurance
 21 benefits cannot be ascertained because of a dispute between 2 or
 22 more automobile insurers concerning their obligation to provide
 23 coverage or the equitable distribution of the loss, and if a method
 24 of voluntary payment of benefits cannot be agreed upon among or
 25 between the disputing insurers, all of the following ~~shall~~ apply:

26 (a) The insurers who are parties to the dispute shall, or the
 27 claimant may, immediately notify the ~~assigned claims~~ **MICHIGAN**

1 **AUTOMOBILE INSURANCE PLACEMENT** facility of their inability to
2 determine their statutory obligations.

3 (b) The claim shall be assigned by the ~~assigned claims~~
4 **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT** facility to an insurer
5 ~~which~~ **AND THE INSURER** shall immediately provide personal protection
6 insurance benefits to the claimant or claimants entitled to
7 benefits.

8 (c) An action shall be immediately commenced on behalf of the
9 ~~assigned claims~~ **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT** facility by
10 the insurer to whom the claim is assigned in circuit court ~~for the~~
11 ~~purpose of declaring~~ **TO DECLARE** the rights and duties of any
12 interested party.

13 (d) The insurer to whom the claim is assigned shall join as
14 parties defendant **TO THE ACTION COMMENCED UNDER SUBDIVISION (C)**
15 each insurer disputing either the obligation to provide personal
16 protection insurance benefits or the equitable distribution of the
17 loss among the insurers.

18 (e) The circuit court shall declare the rights and duties of
19 any interested party whether or not other relief is sought or could
20 be granted.

21 (f) After hearing the action, the circuit court shall
22 determine the insurer or insurers, if any, obligated to provide the
23 applicable personal protection insurance benefits and the equitable
24 distribution, if any, among the insurers obligated, ~~therefor,~~ and
25 shall order reimbursement to the ~~assigned claims~~ **MICHIGAN**
26 **AUTOMOBILE INSURANCE PLACEMENT** facility from the insurer or
27 insurers to the extent of the responsibility as determined by the

1 court. The reimbursement ordered under this subdivision shall
2 include all benefits and costs paid or incurred by the ~~assigned~~
3 ~~claims~~ **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT** facility and all
4 benefits and costs paid or incurred by insurers determined not to
5 be obligated to provide applicable personal protection insurance
6 benefits, including reasonable, **ACTUALLY INCURRED** attorney fees and
7 interest at the rate prescribed in section 3175 as of December 31
8 of the year preceding the determination of the circuit court.

9 Sec. 3173a. (1) The ~~assigned claims~~ **MICHIGAN AUTOMOBILE**
10 **INSURANCE PLACEMENT** facility shall make an initial determination of
11 ~~the~~ **A** claimant's eligibility for benefits under the assigned claims
12 plan and shall deny an obviously ineligible claim. The claimant
13 shall be notified promptly in writing of the denial and the reasons
14 for the denial.

15 (2) **A PERSON WHO PRESENTS OR CAUSES TO BE PRESENTED AN ORAL OR**
16 **WRITTEN STATEMENT, INCLUDING COMPUTER-GENERATED INFORMATION, AS**
17 **PART OF OR IN SUPPORT OF A CLAIM TO THE MICHIGAN AUTOMOBILE**
18 **INSURANCE PLACEMENT FACILITY FOR PAYMENT OR ANOTHER BENEFIT KNOWING**
19 **THAT THE STATEMENT CONTAINS FALSE INFORMATION CONCERNING A FACT OR**
20 **THING MATERIAL TO THE CLAIM COMMITS A FRAUDULENT INSURANCE ACT**
21 **UNDER SECTION 4503 THAT IS SUBJECT TO THE PENALTIES IMPOSED UNDER**
22 **SECTION 4511. A CLAIM THAT CONTAINS OR IS SUPPORTED BY A FRAUDULENT**
23 **INSURANCE ACT AS DESCRIBED IN THIS SUBSECTION IS INELIGIBLE FOR**
24 **PAYMENT OR BENEFITS UNDER THE ASSIGNED CLAIMS PLAN.**

25 Sec. 3174. A person claiming through ~~an~~ **THE** assigned claims
26 plan shall notify the **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT**
27 facility of his **OR HER** claim within the time that would have been

1 allowed for filing an action for personal protection insurance
 2 benefits if identifiable coverage applicable to the claim had been
 3 in effect. The **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT** facility
 4 shall promptly assign the claim in accordance with the plan and
 5 notify the claimant of the identity and address of the insurer to
 6 which the claim is assigned. ~~, or of the facility if the claim is~~
 7 ~~assigned to it.~~ An action by the claimant shall not be commenced
 8 more than 30 days after receipt of notice of the assignment or the
 9 last date on which the action could have been commenced against an
 10 insurer of identifiable coverage applicable to the claim, whichever
 11 is later.

12 Sec. 3175. (1) The assignment of claims **UNDER THE ASSIGNED**
 13 **CLAIMS PLAN** shall be made according to ~~rules~~ **PROCEDURES ESTABLISHED**
 14 **IN THE ASSIGNED CLAIMS PLAN** that assure fair allocation of the
 15 burden of assigned claims among insurers doing business in this
 16 state on a basis reasonably related to the volume of automobile
 17 liability and personal protection insurance they write on motor
 18 vehicles or ~~of the~~ number of self-insured motor vehicles. An
 19 insurer to whom claims have been assigned shall make prompt payment
 20 of loss in accordance with this act. ~~and~~ **AN INSURER** is ~~thereupon~~
 21 entitled to reimbursement by the ~~assigned claims~~ **MICHIGAN**
 22 **AUTOMOBILE INSURANCE PLACEMENT** facility for the payments, ~~and the~~
 23 established loss adjustment cost, ~~together with~~ **AND** an amount
 24 determined by use of the average annual 90-day United States
 25 treasury bill yield rate, as reported by the council of economic
 26 advisers as of December 31 of the year for which reimbursement is
 27 sought, as follows:

1 (a) For the calendar year in which claims are paid by the
 2 insurer, the amount shall be determined by applying the specified
 3 annual yield rate specified in this subsection to 1/2 of the total
 4 claims payments and loss adjustment costs.

5 (b) For the period from the end of the calendar year in which
 6 claims are paid by the insurer to the date payments for the
 7 operation of the ~~assigned claims facility and the assigned claims~~
 8 plan are due, the amount ~~will~~ **SHALL** be determined by applying the
 9 annual yield rate specified in this subsection to the total claims
 10 payments and loss adjustment costs multiplied by a fraction, the
 11 denominator of which is 365 and the numerator of which is equal to
 12 the number of days that have elapsed between the end of the
 13 calendar year and the date payments for the operation of the
 14 ~~assigned claims facility and the assigned claims plan are due.~~

15 (2) The insurer to whom claims have been assigned shall
 16 preserve and enforce rights to indemnity or reimbursement against
 17 third parties and account to the ~~assigned claims~~ **MICHIGAN**
 18 **AUTOMOBILE INSURANCE PLACEMENT** facility ~~therefor~~ **FOR THE RIGHTS** and
 19 shall assign ~~such~~ **THE** rights to the ~~assigned claims~~ **MICHIGAN**
 20 **AUTOMOBILE INSURANCE PLACEMENT** facility ~~upon~~ **ON** reimbursement by
 21 the ~~assigned claims~~ **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT**
 22 facility. This section ~~shall~~ **DOES** not preclude an insurer from
 23 entering into reasonable compromises and settlements with third
 24 parties against whom rights to indemnity or reimbursement exist.
 25 The insurer shall account to the ~~assigned claims~~ **MICHIGAN**
 26 **AUTOMOBILE INSURANCE PLACEMENT** facility for ~~such~~ **ANY** compromises
 27 and settlements. The ~~rules promulgated under section 3171~~ shall

House Bill No. 4455 as amended June 13, 2012

1 ~~include a rule establishing~~ **PROCEDURES ESTABLISHED UNDER THE**
 2 **ASSIGNED CLAIMS PLAN SHALL ESTABLISH** reasonable standards for
 3 enforcing rights to indemnity or reimbursement against third
 4 parties, including a standard establishing ~~a value for such rights~~
 5 **AN AMOUNT** below which actions to preserve and enforce the rights
 6 need not be pursued.

7 (3) An action to enforce rights to indemnity or reimbursement
 8 against a third party shall not be commenced after the later of 2
 9 years after the assignment of the claim to the insurer or 1 year
 10 after the date of the last payment to the claimant.

11 (4) Payments for the operation of the assigned claims ~~facility~~
 12 ~~and plan~~ not paid by the due date shall bear interest at the rate
 13 of 20% per annum.

14 (5) The ~~secretary of state through the~~ **MICHIGAN AUTOMOBILE**
 15 **INSURANCE PLACEMENT** facility may enter into a written agreement
 16 with the debtor permitting the payment of the judgment or
 17 acknowledgment of debt in installments payable to the **MICHIGAN**
 18 **AUTOMOBILE INSURANCE PLACEMENT** facility. **A DEFAULT IN PAYMENT OF**
 19 **INSTALLMENTS UNDER A JUDGMENT AS AGREED SUBJECTS THE DEBTOR TO**
 20 **SUSPENSION OR REVOCATION OF HIS OR HER MOTOR VEHICLE LICENSE OR**
 21 **REGISTRATION IN THE SAME MANNER AS FOR THE FAILURE BY AN UNINSURED**
 22 **MOTORIST TO PAY A JUDGMENT BY INSTALLMENTS UNDER SECTION 3177.**

**<<SEC. 3178. AFTER AN ASSIGNED CLAIMS PLAN IS APPROVED UNDER
 SECTION 3171(3), THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY
 BOARD OF GOVERNORS SHALL REPORT ANNUALLY TO THE COMMISSIONER AND THE
 COMMISSIONER SHALL REPORT TO THE STANDING COMMITTEES OF THE SENATE AND
 HOUSE OF REPRESENTATIVES WITH PRIMARY JURISDICTION OVER INSURANCE MATTERS
 ON THE EFFECTIVENESS OF THE ASSIGNED CLAIMS PLAN, INCLUDING DETAILED
 DEMOGRAPHIC INFORMATION ON THE INDIVIDUALS WHO ARE SUBMITTING CLAIMS AND
 WHOSE CLAIMS ARE BEING ASSIGNED.>>**

23 Sec. 3320. (1) The facility, with respect to private passenger
 24 nonfleet automobiles, shall provide for all of the following:

25 (a) The equitable distribution of applicants to designated
 26 participating members in accordance with the plan of operation.

27 (b) Issuance of policies of automobile insurance to qualified

1 applicants as provided in the plan of operation.

2 (c) The appointment of a number of participating members
3 appointed by the facility to act on behalf of the facility for the
4 distribution of risks or for the servicing of insureds, as provided
5 in the plan of operation and consistent with this section. The
6 facility shall do all of the following:

7 (i) Appoint those members having the 5 highest participation
8 ratios, as defined in section 3303(e)(i), to act on behalf of the
9 facility.

10 (ii) Appoint other members to act on behalf of the facility who
11 volunteer to so act and who meet reasonable servicing standards
12 established in the plan of operation, up to a maximum of 5 in
13 addition to those appointed pursuant to subparagraph (i).

14 (iii) Appoint additional members to act on behalf of the
15 facility as necessary to do all of the following:

16 (A) Assure convenient access to the facility for all citizens
17 of this state.

18 (B) Assure a reasonable quality of service for persons insured
19 through the facility.

20 (C) Assure a reasonable representation of the various
21 insurance marketing systems.

22 (D) Assure reasonable claims handling.

23 (E) Assure a reasonable range of choice of insurers for
24 persons insured through the facility.

25 (d) Standards and monitoring procedures to assure that
26 participating members acting on behalf of the facility do all of
27 the following:

1 (i) Provide service to persons insured through the facility
 2 equivalent to the service provided to persons insured by the
 3 insurer voluntarily.

4 (ii) Handle claims in an efficient and reasonable manner.

5 (iii) Provide internal review procedures for persons insured
 6 through the facility identical to those established pursuant to
 7 chapter 21 for persons insured voluntarily.

8 (e) ~~Establish~~ **THE ESTABLISHMENT OF** procedures and guidelines
 9 for the issuance of binders by agents upon receipt of the
 10 application for coverage.

11 (f) ~~Provide for the issuance~~ **ISSUANCE** of policies of
 12 automobile insurance to qualified applicants whose licenses to
 13 operate a vehicle have been suspended pursuant to ~~UNDER~~ section
 14 310, ~~310b~~, 310d, 315, 321a, 324, 328, 512, 515, 625, 625b, 625f,
 15 748, 801c, or 907 of ~~Act No. 300 of the Public Acts of 1949, as~~
 16 ~~amended, being sections~~ **THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL**
 17 257.310, ~~257.310b~~, 257.310d, 257.315, 257.321a, 257.324, 257.328,
 18 257.512, 257.515, 257.625, 257.625b, 257.625f, 257.748, 257.801c,
 19 and 257.907, ~~of the Michigan Compiled Laws,~~ as provided in the plan
 20 of operation. These policies may be canceled after a period of not
 21 less than 30 days if the insured fails to produce proof that the
 22 suspended license has been reinstated.

23 **(G) ADMINISTRATION OF THE ASSIGNED CLAIMS PLAN AS REQUIRED**
 24 **UNDER CHAPTER 31.**

25 (2) Automobile insurance made available under this section
 26 shall be equivalent to the automobile insurance normally available
 27 in the voluntary competitive market in forms as approved by the

1 commissioner with ~~such~~ **ANY** changes, additions, and amendments ~~as~~
2 ~~are~~ adopted by the board of governors and approved by the
3 commissioner.

4 Sec. 3330. (1) The board of governors ~~shall have all~~ **HAS THE**
5 power to direct the operation of the facility, including, at a
6 minimum, **THE POWER TO DO** all of the following:

7 (a) To sue and be sued in the name of the facility. A judgment
8 against the facility shall not create any liabilities in the
9 individual participating members of the facility.

10 (b) To delegate ministerial duties, to hire a manager, to hire
11 legal counsel, and to contract for goods and services from others.

12 (c) To assess participating members on the basis of
13 participation ratios pursuant to section 3303 to cover anticipated
14 costs of operation and administration of the facility, to provide
15 for equitable servicing fees, and to share losses, profits, and
16 expenses pursuant to the plan of operation.

17 (d) To impose limitations on cancellation or nonrenewal by
18 participating members of facility-placed business, in addition to
19 the limitations imposed by chapters 21 and 32.

20 (e) To provide for a limited number of participating members
21 to receive equitable distribution of applicants; or to provide for
22 a limited number of participating members to service applicants in
23 a plan of sharing of losses in accordance with ~~the subsection~~
24 **SECTION** 3320(1)(c) and the plan **OF** operation.

25 (f) To provide for standards of performance of service for the
26 participating members designated ~~pursuant to~~ **UNDER** subdivision (e).

27 (g) To adopt a plan of operation and any amendments to the

House Bill No. 4455 as amended June 14, 2012

1 plan, ~~not inconsistent~~ **CONSISTENT** with this chapter, necessary to
 2 assure the fair, reasonable, equitable, and nondiscriminatory
 3 manner of administering the facility, including compliance with
 4 chapter 21, and to provide for ~~such~~ **ANY** other matters ~~as are~~
 5 necessary or advisable to implement this chapter, including matters
 6 necessary to comply with the requirements of chapter 21.

7 **(H) TO ASSESS SELF-INSURERS AND INSURERS CONSISTENT WITH**
 8 **CHAPTER 31 AND THE ASSIGNED CLAIMS PLAN APPROVED UNDER SECTION**
 9 **3171.**

10 (2) The board of governors shall institute or cause to be
 11 instituted by the facility or on its behalf an automatic data
 12 processing system for recording and compiling data relative to
 13 individuals insured through the facility. An automatic data
 14 processing system established under this subsection shall, to the
 15 greatest extent possible, be made compatible with the automatic
 16 data processing system maintained by the secretary of state, to
 17 provide for the identification and review of individuals insured
 18 through the facility.

19 Enacting section 1. Sections 3172, 3173a, 3174, and 3175 of
 20 the insurance code of 1956, 1956 PA 218, MCL 500.3172, 500.3173a,
 21 500.3174, and 500.3175, as amended by this amendatory act, take
 22 effect on the date the assigned claims plan is approved by the
 23 insurance commissioner under section 3171(3) of the insurance code
 24 of 1956, 1956 PA 218, MCL 500.3171.

<<Enacting section 2. Section 1910 of the insurance code of 1956,
 1956 PA 218, MCL 500.1910, as amended by this amendatory act, and
 section 3101d of the insurance code of 1956, 1956 PA 218, as added by
 this amendatory act, take effect January 1, 2013.

Enacting section 3. Section 531 of the Michigan vehicle code, 1949
 PA 300, MCL 257.531, is repealed effective January 1, 2013.>>