

HOUSE BILL No. 5603

April 27, 2016, Introduced by Rep. Theis and referred to the Committee on Insurance.

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 personal protection insurance benefits through the
5 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) THE** personal protection insurance applicable to the injury
11 cannot be ascertained because of a dispute between 2 or more

1 automobile insurers concerning their obligation to provide coverage
2 or the equitable distribution of the loss. ~~, or the~~

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

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

12 (3) **A PERSON ENTITLED TO CLAIM BENEFITS THROUGH THE ASSIGNED**
13 **CLAIMS PLAN AS PROVIDED IN SUBSECTION (1) SHALL FILE A COMPLETED**
14 **APPLICATION ON A CLAIM FORM PROVIDED BY THE MICHIGAN AUTOMOBILE**
15 **INSURANCE PLACEMENT FACILITY AND PROVIDE A SATISFACTORY PROOF OF**
16 **LOSS TO THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY. THE**
17 **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL PROVIDE A**
18 **FORM FOR THE SUBMISSION OF CLAIMS THAT ALLOWS THE MICHIGAN**
19 **AUTOMOBILE INSURANCE PLACEMENT FACILITY TO HANDLE THE SUBMISSION OF**
20 **CLAIMS IN AN EFFICIENT AND REASONABLE MANNER. THE ASSIGNED CLAIMS**
21 **PLAN MUST DEFINE THE REQUIREMENTS FOR A SATISFACTORY PROOF OF LOSS.**

22 (4) ~~(2)~~ Except as otherwise provided in this subsection,
23 personal protection insurance benefits, including benefits arising
24 from accidents occurring before March 29, 1985, payable through the
25 assigned claims plan ~~shall~~ **MUST** be reduced to the extent that
26 benefits covering the same loss are available from other sources,
27 regardless of the nature or number of benefit sources available and

1 regardless of the nature or form of the benefits, to a person
 2 claiming personal protection insurance benefits through the
 3 assigned claims plan. This subsection only applies if the personal
 4 protection insurance benefits are payable through the assigned
 5 claims plan ~~because no personal protection insurance is applicable~~
 6 ~~to the injury, no personal protection insurance applicable to the~~
 7 ~~injury can be identified, or the only identifiable personal~~
 8 ~~protection insurance applicable to the injury is, because of~~
 9 ~~financial inability of 1 or more insurers to fulfill their~~
 10 ~~obligations, inadequate to provide benefits up to the maximum~~
 11 ~~prescribed. UNDER SUBSECTION (1) (A), (B), OR (D).~~ As used in this
 12 subsection, "sources" and "benefit sources" do not include the
 13 program for medical assistance for the medically indigent under the
 14 social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or
 15 ~~insurance under the health insurance for the aged act, title AND~~
 16 **DISABLED UNDER SUBCHAPTER XVIII** of the social security act, 42 USC
 17 1395 to ~~1395kkk-1.1395lll~~.

18 (5) ~~(3)~~—If the obligation to provide personal protection
 19 insurance benefits cannot be ascertained because of a dispute
 20 between 2 or more automobile insurers concerning their obligation
 21 to provide coverage or the equitable distribution of the loss, and
 22 if a method of voluntary payment of benefits cannot be agreed upon
 23 among or between the disputing insurers, all of the following
 24 apply:

25 (a) The insurers who are parties to the dispute shall, or the
 26 claimant may, immediately notify the Michigan automobile insurance
 27 placement facility of their inability to determine their statutory

1 obligations.

2 (b) ~~The claim shall be assigned by the~~ Michigan automobile
3 insurance placement facility **SHALL ASSIGN THE CLAIM** to an insurer
4 and the insurer shall immediately provide personal protection
5 insurance benefits to the claimant or claimants entitled to
6 benefits.

7 (c) ~~An action~~ **THE INSURER TO WHOM THE CLAIM IS ASSIGNED** shall
8 ~~be immediately commenced~~ **COMMENCE AN ACTION** on behalf of the
9 Michigan automobile insurance placement facility ~~by the insurer to~~
10 ~~whom the claim is assigned~~ in circuit court to declare the rights
11 and duties of any interested party.

12 (d) The insurer to whom the claim is assigned shall join as
13 parties defendant to the action commenced under subdivision (c)
14 each insurer disputing either the obligation to provide personal
15 protection insurance benefits or the equitable distribution of the
16 loss among the insurers.

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

20 (f) After hearing the action, the circuit court shall
21 determine the insurer or insurers, if any, obligated to provide the
22 applicable personal protection insurance benefits and the equitable
23 distribution, if any, among the insurers obligated, and shall order
24 reimbursement to the Michigan automobile insurance placement
25 facility from the insurer or insurers to the extent of the
26 responsibility as determined by the court. The reimbursement
27 ordered under this subdivision ~~shall~~ **MUST** include all benefits and

1 costs paid or incurred by the Michigan automobile insurance
2 placement facility and all benefits and costs paid or incurred by
3 insurers determined not to be obligated to provide applicable
4 personal protection insurance benefits, including ~~reasonable,~~
5 ~~actually-incurred~~ attorney fees and interest at the rate prescribed
6 in section 3175 ~~as of~~ **APPLICABLE ON** December 31 of the year
7 preceding the determination of the circuit court.

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