

**SUBSTITUTE FOR
HOUSE BILL NO. 4397**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 150, 2105, 2108, 2118, 2120, 3101, 3101a,
3104, 3107, 3111, 3112, 3113, 3114, 3115, 3135, 3142, 3148, 3157,
3163, 3172, 3173a, 3174, 3175, and 3177 (MCL 500.150, 500.2105,
500.2108, 500.2118, 500.2120, 500.3101, 500.3101a, 500.3104,
500.3107, 500.3111, 500.3112, 500.3113, 500.3114, 500.3115,
500.3135, 500.3142, 500.3148, 500.3157, 500.3163, 500.3172,
500.3173a, 500.3174, 500.3175, and 500.3177), section 150 as
amended by 1992 PA 182, section 2108 as amended by 2015 PA 141,
sections 2118 and 2120 as amended by 2007 PA 35, section 3101 as
amended by 2017 PA 140, section 3101a as amended by 2018 PA 510,
section 3104 as amended by 2002 PA 662, section 3107 as amended by



2012 PA 542, section 3113 as amended by 2016 PA 346, section 3114 as amended by 2016 PA 347, section 3135 as amended by 2012 PA 158, section 3163 as amended by 2002 PA 697, sections 3172, 3173a, 3174, and 3175 as amended by 2012 PA 204, and section 3177 as amended by 1984 PA 426, and by adding sections 261, 1245, 2116b, 3107c, 3107d, 3107e, 3157a, and 3157b and chapter 63.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 150. (1) ~~Any~~ **Except as provided in subsection (5), any**
 2 person who violates any provision of this act for which a specific
 3 penalty is not provided under any other provision of this act or of
 4 other laws applicable to the violation ~~shall~~ **must** be afforded an
 5 opportunity for a hearing before the ~~commissioner~~ **director** pursuant to
 6 **director under** the administrative procedures act of 1969, ~~Act No.~~
 7 ~~306 of the Public Acts of 1969, being sections~~ **1969 PA 306, MCL**
 8 ~~24.201 to 24.328. of the Michigan Compiled Laws.~~ If the
 9 ~~commissioner~~ **director** finds that a violation has occurred, the
 10 ~~commissioner~~ **director** shall reduce the findings and decision to
 11 writing and ~~shall~~ issue and cause to be served ~~upon~~ **on** the person
 12 charged with the violation a copy of the findings and an order
 13 requiring the person to cease and desist from the violation. In
 14 addition, the ~~commissioner~~ **director** may order any of the following:
 15 (a) Payment of a civil fine of not more than \$500.00 for each
 16 violation. However, if the person knew or reasonably should have
 17 known that he or she was in violation of this act, the ~~commissioner~~
 18 **director** may order the payment of a civil fine of not more than
 19 \$2,500.00 for each violation. With respect to filings made under
 20 chapters 21, 22, 23, 24, and 26, "violation" means a filing not in
 21 compliance with ~~the provisions of~~ those chapters and does not
 22 include an action with respect to an individual policy based ~~upon~~



1 on a noncomplying filing. **With respect to an act or omission**
 2 **described in section 4503, a fine under this section may be ordered**
 3 **in addition to and not instead of a penalty or restitution under**
 4 **section 4511.** An order of the ~~commissioner~~**director** under this
 5 subdivision ~~shall~~**must** not require the payment of civil fines
 6 exceeding ~~\$25,000.00.~~**\$50,000.00.** A fine collected under this
 7 subdivision ~~shall~~**must** be turned over to the state treasurer and
 8 credited to the general fund, **except that a fine collected for an**
 9 **act or omission under section 4503 must be credited to the**
 10 **automobile insurance fraud fund created in section 6304.**

11 (b) The suspension, limitation, or revocation of the person's
 12 license or certificate of authority.

13 (2) After notice and opportunity for hearing, the ~~commissioner~~
 14 **director** may by order reopen and alter, modify, or set aside, in
 15 whole or in part, an order issued under this section if, in the
 16 ~~commissioner's~~**director's** opinion, conditions of fact or law have
 17 changed to require that action or the public interest requires that
 18 action.

19 (3) If a person knowingly violates a cease and desist order
 20 under this section and has been given notice and an opportunity for
 21 a hearing held ~~pursuant to Act No. 306 of the Public Acts~~**under the**
 22 **administrative procedures act** of 1969, **1969 PA 306, MCL 24.201 to**
 23 **24.328,** the ~~commissioner~~**director** may order a civil fine of
 24 \$10,000.00 for each violation, or a suspension, limitation, or
 25 revocation of ~~a~~**the** person's license, or both. A fine collected
 26 under this subsection ~~shall~~**must** be turned over to the state
 27 treasurer and credited to the general fund, **except that if the**
 28 **cease and desist order related to an act or omission under section**
 29 **4503, the fine must be credited to the automobile insurance fraud**



1 fund created in section 6304.

2 (4) The ~~commissioner~~**director** may apply to the Ingham ~~county~~
3 **County** circuit court for an order of the court enjoining a
4 violation of this act.

5 (5) Notwithstanding subsection (1), this section applies to an
6 act or omission described in section 4503.

7 Sec. 261. (1) The department shall maintain on its internet
8 website a page that does all of the following:

9 (a) Advises that the department may be able to assist a person
10 who believes that an automobile insurer is not paying benefits, not
11 making timely payments, or otherwise not performing as it is
12 obligated to do under an insurance policy.

13 (b) Advises the person of selected important rights that the
14 person has under chapter 20 that specifically relate to automobile
15 insurers and the payment of benefits by automobile insurers.

16 (c) Allows the person to submit an explanation of the facts of
17 the person's problems with the automobile insurer.

18 (d) Allows the person to submit electronically, or instructs
19 the person how to provide paper copies of, any documentation to
20 support the facts submitted under subdivision (c).

21 (e) Explains to the person the steps that the department will
22 take and that may be taken after information is submitted under
23 this section.

24 (f) Anything else that the director determines to be important
25 in relation to subdivisions (a) to (e).

26 (2) The department shall maintain on its internet website a
27 page that advises consumers about the changes to automobile
28 insurance in this state that were made by the amendatory act that
29 added this section, including, among any other information that the



1 director determines to be important, ways to shop competitively for
2 insurance.

3 (3) The department shall maintain on its internet website a
4 page that allows a person to report insurance fraud and unfair
5 settlement and claims practices to the department.

6 Sec. 1245. (1) An insurance producer, including, but not
7 limited to, a producing agency, or an employee or agent of an
8 insurance producer is not liable for damages caused by the conduct
9 of the producer, employee, or agent related to obtaining or
10 providing information, or the choice of or election not to maintain
11 personal protection insurance benefits, under sections 3107c to
12 3107e.

13 (2) This section does not apply with respect to a policy
14 issued or renewed after 18 months after the effective date of the
15 amendatory act that added this section.

16 Sec. 2105. (1) ~~No~~ **A** policy of automobile insurance or home
17 insurance ~~shall~~ **must not** be offered, bound, made, issued, delivered
18 or renewed in this state ~~on and after January 1, 1981, except in~~
19 ~~conformity with~~ **unless the policy conforms to** this chapter. This
20 ~~chapter shall not apply to policies of automobile insurance or home~~
21 ~~insurance offered, bound, made, issued, delivered or renewed in~~
22 ~~this state before January 1, 1981.~~

23 (2) This chapter ~~shall~~ **does** not apply to insurance written on
24 a group, franchise, blanket policy, or similar basis ~~which~~ **that**
25 offers home insurance or automobile insurance to all members of the
26 group, franchise plan, or blanket coverage who are eligible
27 persons. **However, section 2111(4), with respect to sex, applies to**
28 **automobile insurance written on a group, franchise, blanket policy,**
29 **or similar basis.**



1 Sec. 2108. (1) On the effective date of a manual of
2 classification, manual of rules and rates, rating plan, or
3 modification of a manual of classification, manual of rules and
4 rates, or rating plan that an insurer proposes to use for
5 automobile insurance or home insurance, the insurer shall file the
6 manual or plan with the director. Each filing under this subsection
7 must state the character and extent of the coverage contemplated.
8 An insurer that is subject to this chapter and that maintains rates
9 in any part of this state shall at all times maintain rates in
10 effect for all eligible persons meeting the underwriting criteria
11 of the insurer.

12 (2) An insurer may satisfy its obligation to make filings
13 under subsection (1) by becoming a member of, or a subscriber to, a
14 rating organization licensed under chapter 24 or chapter 26 that
15 makes the filings, and by filing with the director a copy of its
16 authorization of the rating organization to make the filings on its
17 behalf. This chapter does not require an insurer to become a member
18 of or a subscriber to a rating organization. An insurer may file
19 and use deviations from filings made on its behalf. The deviations
20 are subject to this chapter.

21 (3) A filing under this section must be accompanied by a
22 certification by or on behalf of the insurer that, to the best of
23 the insurer's information and belief, the filing conforms to the
24 requirements of this chapter.

25 (4) A filing under this section must include information that
26 supports the filing with respect to the requirements of section
27 2109. The information may include 1 or more of the following:

28 (a) The experience or judgment of the insurer or rating
29 organization making the filing.



1 (b) The interpretation of the insurer or rating organization
2 of any statistical data it relies on.

3 (c) The experience of other insurers or rating organizations.

4 (d) Any other relevant information.

5 (5) Except as otherwise provided in this subsection, the
6 department shall make a filing under this section and any
7 accompanying information open to public inspection on filing. An
8 insurer or a rating organization filing on the insurer's behalf may
9 designate information included in the filing or any accompanying
10 information as a trade secret. The insurer or the rating
11 organization filing on behalf of the insurer shall demonstrate to
12 the director that the designated information is a trade secret. If
13 the director determines that the information is a trade secret, the
14 information is not subject to public inspection and is exempt from
15 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
16 As used in this subsection, "trade secret" means that term as
17 defined in section 2 of the uniform trade secrets act, 1998 PA 448,
18 MCL 445.1902. However, trade secret does not include filings and
19 information accompanying filings under this section that were
20 subject to public inspection before ~~the effective date of the~~
21 ~~amendatory act that added this sentence.~~ **January 11, 2016.**

22 (6) An insurer shall not make, issue, or renew a contract or
23 policy except in accordance with filings that are in effect for the
24 insurer under this chapter.

25 **(7) A filing under this chapter must specify that the insurer**
26 **will not refuse to insure, refuse to continue to insure, or limit**
27 **the amount of coverage available because of the location of the**
28 **risk, and that the insurer recognizes those practices to constitute**
29 **redlining. An insurer shall not engage in redlining as described in**



1 this subsection.

2 Sec. 2116b. (1) Subject to subsection (2), an automobile
3 insurer shall not refuse to insure, refuse to continue to insure,
4 limit coverage available to, charge a reinstatement fee for, or
5 increase the premiums for automobile insurance for an eligible
6 person solely because the person previously failed to maintain
7 insurance required by section 3101 for a vehicle owned by the
8 person.

9 (2) This section only applies to an eligible person that
10 applies for automobile insurance within 1 year after the effective
11 date of this section.

12 Sec. 2118. (1) As a condition of maintaining its certificate
13 of authority, an insurer shall not refuse to insure, refuse to
14 continue to insure, or limit coverage available to an eligible
15 person for automobile insurance, except in accordance with
16 underwriting rules established ~~pursuant to~~ **as provided in** this
17 section and sections 2119 and 2120.

18 (2) The underwriting rules that an insurer may establish for
19 automobile insurance ~~shall~~ **must** be based only on the following:

20 (a) Criteria identical to the standards set forth in section
21 2103(1).

22 (b) The insurance eligibility point accumulation in excess of
23 the amounts established by section 2103(1) of a member of the
24 household of the eligible person insured or to be insured, if the
25 member of the household usually accounts for 10% or more of the use
26 of a vehicle insured or to be insured. For purposes of this
27 subdivision, a person who is the principal driver for 1 automobile
28 insurance policy ~~shall be~~ **is** rebuttably presumed not to usually
29 account for more than 10% of the use of other vehicles of the



1 household not insured under the policy of that person.

2 (c) With respect to a vehicle insured or to be insured,
3 substantial modifications from the vehicle's original manufactured
4 state for purposes of increasing the speed or acceleration
5 capabilities of the vehicle.

6 (d) Except as otherwise provided in section 2116a **or 2116b**,
7 failure by the person to provide proof that insurance required by
8 section 3101 was maintained in force with respect to any vehicle
9 that was both owned by the person and driven or moved by the person
10 or by a member of the household of the person during the 6-month
11 period immediately preceding application. ~~Such~~**The** proof ~~shall~~**must**
12 take the form of a certification by the person on a form provided
13 by the insurer that the vehicle was not driven or moved without
14 maintaining the insurance required by section 3101 during the 6-
15 month period immediately preceding application.

16 (e) Type of vehicle insured or to be insured, based on 1 of
17 the following, without regard to the age of the vehicle:

18 (i) The vehicle is of limited production or of custom
19 manufacture.

20 (ii) The insurer does not have a rate lawfully in effect for
21 the type of vehicle.

22 (iii) The vehicle represents exposure to extraordinary expense
23 for repair or replacement under comprehensive or collision
24 coverage.

25 (f) Use of a vehicle insured or to be insured for
26 transportation of passengers for hire, for rental purposes, or for
27 commercial purposes. Rules under this subdivision ~~shall~~**must** not be
28 based on the use of a vehicle for volunteer or charitable purposes
29 or for which reimbursement for normal operating expenses is



1 received.

2 (g) Payment of a minimum deposit at the time of application or
3 renewal, not to exceed the smallest deposit required under an
4 extended payment or premium finance plan customarily used by the
5 insurer.

6 (h) For purposes of requiring comprehensive deductibles of not
7 more than \$150.00, or of refusing to insure if the person refuses
8 to accept a required deductible, the claim experience of the person
9 with respect to comprehensive coverage.

10 (i) Total abstinence from the consumption of alcoholic
11 beverages except if such beverages are consumed as part of a
12 religious ceremony. However, an insurer shall not ~~utilize~~**use** an
13 underwriting rule based on this subdivision unless the insurer ~~has~~
14 ~~been~~**was** authorized to transact automobile insurance in this state
15 ~~prior to~~**before** January 1, 1981, and has consistently ~~utilized~~**used**
16 such an underwriting rule as part of the insurer's automobile
17 insurance underwriting since being authorized to transact
18 automobile insurance in this state.

19 (j) One or more incidents involving a threat, harassment, or
20 physical assault by the insured or applicant for insurance on an
21 insurer employee, agent, or agent employee while acting within the
22 scope of his or her employment, ~~so long as~~**if** a report of the
23 incident was filed with an appropriate law enforcement agency.

24 Sec. 2120. (1) Affiliated insurers may establish underwriting
25 rules so that each affiliate will provide automobile insurance only
26 to certain eligible persons. This subsection ~~shall apply~~**applies**
27 only if an eligible person can obtain automobile insurance from 1
28 of the affiliates. The underwriting rules ~~shall~~**must** be in
29 compliance with this section and sections 2118 and 2119.



1 (2) An insurer may establish separate rating plans so that
 2 certain eligible persons are provided automobile insurance under 1
 3 rating plan and other eligible persons are provided automobile
 4 insurance under another rating plan. This subsection ~~shall apply~~
 5 **applies** only if all eligible persons can obtain automobile
 6 insurance under a rating plan of the insurer. Underwriting rules
 7 consistent with this section and sections 2118 and 2119 ~~shall must~~
 8 be established to define the rating plan applicable to each
 9 eligible person.

10 (3) Underwriting rules under this section ~~shall must~~ be based
 11 only on the following:

12 (a) With respect to a vehicle insured or to be insured,
 13 substantial modifications from the vehicle's original manufactured
 14 state for purposes of increasing the speed or acceleration
 15 capabilities of the vehicle.

16 (b) Except as otherwise provided in section 2116a **or 2116b**,
 17 failure of the person to provide proof that insurance required by
 18 section 3101 was maintained in force with respect to any vehicle
 19 owned and operated by the person or by a member of the household of
 20 the person during the 6-month period immediately preceding
 21 application or renewal of the policy. ~~Such~~**The** proof ~~shall must~~
 22 take the form of a certification by the person that the required
 23 insurance was maintained in force for the 6-month period with
 24 respect to ~~such~~**the** vehicle.

25 (c) For purposes of insuring persons who have refused a
 26 deductible lawfully required under section 2118(2) (h), the claim
 27 experience of the person with respect to comprehensive coverage.

28 (d) Refusal of the person to pay a minimum deposit required
 29 under section 2118(2) (g).



1 (e) A person's insurance eligibility point accumulation under
 2 section 2103(1)(h), or the total insurance eligibility point
 3 accumulation of all persons who account for 10% or more of the use
 4 of 1 or more vehicles insured or to be insured under the policy.

5 (f) The type of vehicle insured or to be insured as provided
 6 in section 2118(2)(e).

7 Sec. 3101. (1) ~~The~~ **Except as provided in section 3107d, the**
 8 owner or registrant of a motor vehicle required to be registered in
 9 this state shall maintain security for payment of benefits under
 10 personal protection insurance ~~—and~~ property protection insurance
 11 **as required under this chapter,** and residual liability insurance.
 12 Security is only required to be in effect during the period the
 13 motor vehicle is driven or moved on a highway. Notwithstanding any
 14 other provision in this act, an insurer that has issued an
 15 automobile insurance policy on a motor vehicle that is not driven
 16 or moved on a highway may allow the insured owner or registrant of
 17 the motor vehicle to delete a portion of the coverages under the
 18 policy and maintain the comprehensive coverage portion of the
 19 policy in effect.

20 (2) As used in this chapter:

21 (a) "Automobile insurance" means that term as defined in
 22 section 2102.

23 (b) "Commercial quadricycle" means a vehicle to which all of
 24 the following apply:

25 (i) The vehicle has fully operative pedals for propulsion
 26 entirely by human power.

27 (ii) The vehicle has at least 4 wheels and is operated in a
 28 manner similar to a bicycle.

29 (iii) The vehicle has at least 6 seats for passengers.



1 (iv) The vehicle is designed to be occupied by a driver and
2 powered either by passengers providing pedal power to the drive
3 train of the vehicle or by a motor capable of propelling the
4 vehicle in the absence of human power.

5 (v) The vehicle is used for commercial purposes.

6 (vi) The vehicle is operated by the owner of the vehicle or an
7 employee of the owner of the vehicle.

8 (c) "Electric bicycle" means that term as defined in section
9 13e of the Michigan vehicle code, 1949 PA 300, MCL 257.13e.

10 (d) "Golf cart" means a vehicle designed for transportation
11 while playing the game of golf.

12 (e) "Highway" means highway or street as that term is defined
13 in section 20 of the Michigan vehicle code, 1949 PA 300, MCL
14 257.20.

15 (f) "Moped" means that term as defined in section 32b of the
16 Michigan vehicle code, 1949 PA 300, MCL 257.32b.

17 (g) "Motorcycle" means a vehicle that has a saddle or seat for
18 the use of the rider, is designed to travel on not more than 3
19 wheels in contact with the ground, and is equipped with a motor
20 that exceeds 50 cubic centimeters piston displacement. For purposes
21 of this subdivision, the wheels on any attachment to the vehicle
22 are not considered as wheels in contact with the ground. Motorcycle
23 does not include a moped or an ORV.

24 (h) "Motorcycle accident" means a loss that involves the
25 ownership, operation, maintenance, or use of a motorcycle as a
26 motorcycle, but does not involve the ownership, operation,
27 maintenance, or use of a motor vehicle as a motor vehicle.

28 (i) "Motor vehicle" means a vehicle, including a trailer, that
29 is operated or designed for operation on a public highway by power



1 other than muscular power and has more than 2 wheels. Motor vehicle
2 does not include any of the following:

3 (i) A motorcycle.

4 (ii) A moped.

5 (iii) A farm tractor or other implement of husbandry that is not
6 subject to the registration requirements of the Michigan vehicle
7 code under section 216 of the Michigan vehicle code, 1949 PA 300,
8 MCL 257.216.

9 (iv) An ORV.

10 (v) A golf cart.

11 (vi) A power-driven mobility device.

12 (vii) A commercial quadricycle.

13 (viii) An electric bicycle.

14 (j) "Motor vehicle accident" means a loss that involves the
15 ownership, operation, maintenance, or use of a motor vehicle as a
16 motor vehicle regardless of whether the accident also involves the
17 ownership, operation, maintenance, or use of a motorcycle as a
18 motorcycle.

19 (k) "ORV" means a motor-driven recreation vehicle designed for
20 off-road use and capable of cross-country travel without benefit of
21 road or trail, on or immediately over land, snow, ice, marsh,
22 swampland, or other natural terrain. ORV includes, but is not
23 limited to, a multitrack or multiwheel drive vehicle, a motorcycle
24 or related 2-wheel, 3-wheel, or 4-wheel vehicle, an amphibious
25 machine, a ground effect air cushion vehicle, an ATV as defined in
26 section 81101 of the natural resources and environmental protection
27 act, 1994 PA 451, MCL 324.81101, or other means of transportation
28 deriving motive power from a source other than muscle or wind. ORV
29 does not include a vehicle described in this subdivision that is



1 registered for use on a public highway and has the security
2 required under subsection (1) or section 3103 in effect.

3 (l) "Owner" means any of the following:

4 (i) A person renting a motor vehicle or having the use of a
5 motor vehicle, under a lease or otherwise, for a period that is
6 greater than 30 days.

7 (ii) A person renting a motorcycle or having the use of a
8 motorcycle under a lease for a period that is greater than 30 days,
9 or otherwise for a period that is greater than 30 consecutive days.
10 A person who borrows a motorcycle for a period that is less than 30
11 consecutive days with the consent of the owner is not an owner
12 under this subparagraph.

13 (iii) A person that holds the legal title to a motor vehicle or
14 motorcycle, other than a person engaged in the business of leasing
15 motor vehicles or motorcycles that is the lessor of a motor vehicle
16 or motorcycle under a lease that provides for the use of the motor
17 vehicle or motorcycle by the lessee for a period that is greater
18 than 30 days.

19 (iv) A person that has the immediate right of possession of a
20 motor vehicle or motorcycle under an installment sale contract.

21 (m) "Power-driven mobility device" means a wheelchair or other
22 mobility device powered by a battery, fuel, or other engine and
23 designed to be used by an individual with a mobility disability for
24 the purpose of locomotion.

25 (n) "Registrant" does not include a person engaged in the
26 business of leasing motor vehicles or motorcycles that is the
27 lessor of a motor vehicle or motorcycle under a lease that provides
28 for the use of the motor vehicle or motorcycle by the lessee for a
29 period that is longer than 30 days.



1 (3) Security required by subsection (1) may be provided under
 2 a policy issued by an authorized insurer that affords insurance for
 3 the payment of benefits described in subsection (1). A policy of
 4 insurance represented or sold as providing security is considered
 5 to provide insurance for the payment of the benefits.

6 (4) Security required by subsection (1) may be provided by any
 7 other method approved by the secretary of state as affording
 8 security equivalent to that afforded by a policy of insurance, if
 9 proof of the security is filed and continuously maintained with the
 10 secretary of state throughout the period the motor vehicle is
 11 driven or moved on a highway. The person filing the security has
 12 all the obligations and rights of an insurer under this chapter.
 13 When the context permits, "insurer" as used in this chapter,
 14 includes a person that files the security as provided in this
 15 section.

16 (5) An insurer that issues a policy that provides the security
 17 required under subsection (1) may exclude coverage under the policy
 18 as provided in section 3017.

19 Sec. 3101a. (1) An insurer, in conjunction with the issuance
 20 of an automobile insurance policy, shall provide to the insured 1
 21 certificate of insurance for each insured vehicle and for private
 22 passenger nonfleet automobiles listed on the policy shall supply to
 23 the secretary of state the automobile insurer's name, the name of
 24 the named insured, the named insured's address, the vehicle
 25 identification number for each vehicle listed on the policy, and
 26 the policy number. The insurer shall transmit the information
 27 required under this subsection in a format as required by the
 28 secretary of state. The secretary of state shall not require the
 29 information to be transmitted more frequently than every 14 days.



1 (2) The secretary of state shall provide policy information
 2 received under subsection (1) to the Michigan automobile insurance
 3 placement facility as required for the Michigan automobile
 4 insurance placement facility to comply with this act. Information
 5 received by the Michigan automobile insurance placement facility
 6 under this subsection is confidential and is not subject to the
 7 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. The
 8 Michigan automobile insurance placement facility shall only use the
 9 information for purposes of administering the assigned claims plan
 10 under this chapter and shall not disclose the information to any
 11 person unless it is for the purpose of administering the assigned
 12 claims plan or in compliance with an order by a court of competent
 13 jurisdiction in connection with a fraud investigation or
 14 prosecution.

15 (3) ~~(2)~~—The secretary of state shall provide policy
 16 information received under subsection (1) to the department of
 17 health and human services as required for the department of health
 18 and human services to comply with 2006 PA 593, MCL 550.281 to
 19 550.289.

20 (4) ~~(3)~~—The secretary of state shall accept as proof of
 21 vehicle insurance a transmission of the insured vehicle's vehicle
 22 identification number. Policy information submitted by an insurer
 23 and received by the secretary of state under this section is
 24 confidential, is not subject to the freedom of information act,
 25 1976 PA 442, MCL 15.231 to 15.246, and ~~shall~~**must** not be disclosed
 26 to any person except the department of health and human services
 27 for purposes of 2006 PA 593, MCL 550.281 to 550.289, or pursuant to
 28 an order by a court of competent jurisdiction in connection with a
 29 claim or fraud investigation or prosecution. The transmission to



1 the secretary of state of a vehicle identification number is proof
 2 of insurance to the secretary of state for motor vehicle
 3 registration purposes only and is not evidence that a policy of
 4 insurance actually exists between an insurer and an individual.

5 (5) ~~(4)~~—A person who supplies false information to the
 6 secretary of state under this section or who issues or uses an
 7 altered, fraudulent, or counterfeit certificate of insurance is
 8 guilty of a misdemeanor punishable by imprisonment for not more
 9 than 1 year or a fine of not more than \$1,000.00, or both.

10 (6) ~~(5)~~—The department of health and human services shall
 11 report to the senate and house of representatives appropriations
 12 committees and standing committees concerning insurance issues on
 13 the number of claims and total dollar amount recovered from
 14 automobile insurers under 2006 PA 593, MCL 550.281 to 550.289. The
 15 reports required by this subsection must be given to the
 16 appropriations committees and standing committees concerning
 17 insurance issues by December 30 of each year and must cover the
 18 preceding 12-month period.

19 (7) ~~(6)~~—As used in this section:

20 (a) "Automobile insurance" means that term as defined in
 21 section 3303.

22 (b) "Private passenger nonfleet automobile" means that term as
 23 defined in section 3303.

24 Sec. 3104. (1) ~~An~~ **The catastrophic claims association is**
 25 **created as an** unincorporated, nonprofit association. ~~to be known as~~
 26 ~~the catastrophic claims association, hereinafter referred to as the~~
 27 ~~association, is created.~~ Each insurer engaged in writing insurance
 28 coverages that provide the security required by section 3101(1)
 29 ~~within~~ **in** this state, as a condition of its authority to transact



1 insurance in this state, shall be a member of the association and
 2 ~~shall be is~~ bound by the plan of operation of the association. ~~Each~~
 3 **An** insurer engaged in writing insurance coverages that provide the
 4 security required by section 3103(1) ~~within in~~ this state, as a
 5 condition of its authority to transact insurance in this state,
 6 ~~shall be is~~ considered **to be** a member of the association, but only
 7 for purposes of premiums under subsection (7)(d). Except as
 8 expressly provided in this section, the association is not subject
 9 to any laws of this state with respect to insurers, but in all
 10 other respects the association is subject to the laws of this state
 11 to the extent that the association would be if it were an insurer
 12 organized and subsisting under chapter 50.

13 (2) ~~The~~ **For a motor vehicle accident policy issued or renewed**
 14 **before 6 months after the effective date of the amendatory act that**
 15 **added section 3107c and for a motor vehicle accident policy issued**
 16 **or renewed after 6 months after the effective date of the**
 17 **amendatory act that added section 3107c for which the coverage**
 18 **level under section 3107c(1)(d) applies, the** association shall
 19 provide and each member shall accept indemnification for 100% of
 20 the amount of ultimate loss sustained under personal protection
 21 insurance coverages in excess of the following amounts in each loss
 22 occurrence:

23 (a) For a motor vehicle accident policy issued or renewed
 24 before July 1, 2002, \$250,000.00.

25 (b) For a motor vehicle accident policy issued or renewed
 26 during the period July 1, 2002 to June 30, 2003, \$300,000.00.

27 (c) For a motor vehicle accident policy issued or renewed
 28 during the period July 1, 2003 to June 30, 2004, \$325,000.00.

29 (d) For a motor vehicle accident policy issued or renewed



1 during the period July 1, 2004 to June 30, 2005, \$350,000.00.

2 (e) For a motor vehicle accident policy issued or renewed
3 during the period July 1, 2005 to June 30, 2006, \$375,000.00.

4 (f) For a motor vehicle accident policy issued or renewed
5 during the period July 1, 2006 to June 30, 2007, \$400,000.00.

6 (g) For a motor vehicle accident policy issued or renewed
7 during the period July 1, 2007 to June 30, 2008, \$420,000.00.

8 (h) For a motor vehicle accident policy issued or renewed
9 during the period July 1, 2008 to June 30, 2009, \$440,000.00.

10 (i) For a motor vehicle accident policy issued or renewed
11 during the period July 1, 2009 to June 30, 2010, \$460,000.00.

12 (j) For a motor vehicle accident policy issued or renewed
13 during the period July 1, 2010 to June 30, 2011, \$480,000.00.

14 (k) For a motor vehicle accident policy issued or renewed
15 during the period July 1, 2011 to June 30, 2013, \$500,000.00.

16 **(l) For a motor vehicle accident policy issued or renewed**
17 **during the period July 1, 2013 to June 30, 2015, \$530,000.00.**

18 **(m) For a motor vehicle accident policy issued or renewed**
19 **during the period July 1, 2015 to June 30, 2017, \$545,000.00.**

20 **(n) For a motor vehicle accident policy issued or renewed**
21 **during the period July 1, 2017 to June 30, 2019, \$555,000.00.**

22 **(o) For a motor vehicle accident policy issued or renewed**
23 **during the period July 1, 2019 to June 30, 2021, \$580,000.00.**

24 Beginning July 1, ~~2013, 2021~~, this ~~\$500,000.00~~ **\$580,000.00** amount
25 ~~shall~~ **must** be increased biennially on July 1 of each odd-numbered
26 year, for policies issued or renewed before July 1 of the following
27 odd-numbered year, by the lesser of 6% or the ~~consumer price index,~~
28 **Consumer Price Index**, and rounded to the nearest \$5,000.00. ~~This~~
29 **The association shall calculate this** biennial adjustment ~~shall be~~



1 ~~calculated by the association~~ by January 1 of the year of its July
2 1 effective date.

3 (3) An insurer may withdraw from the association only ~~upon~~ **on**
4 ceasing to write insurance that provides the security required by
5 section 3101(1) in this state.

6 (4) An insurer whose membership in the association has been
7 terminated by withdrawal ~~shall continue~~ **continues** to be bound by
8 the plan of operation, and ~~upon~~ **on** withdrawal, all unpaid premiums
9 that have been charged to the withdrawing member are payable as of
10 the effective date of the withdrawal.

11 (5) An unsatisfied net liability to the association of an
12 insolvent member ~~shall~~ **must** be assumed by and apportioned among the
13 remaining members of the association as provided in the plan of
14 operation. The association has all rights allowed by law on behalf
15 of the remaining members against the estate or funds of the
16 insolvent member for ~~sums~~ **money** due the association.

17 (6) If a member has been merged or consolidated into another
18 insurer or another insurer has reinsured a member's entire business
19 that provides the security required by section 3101(1) in this
20 state, the member and successors in interest of the member remain
21 liable for the member's obligations.

22 (7) The association shall do all of the following on behalf of
23 the members of the association:

24 (a) Assume 100% of all liability as provided in subsection
25 (2).

26 (b) Establish procedures by which members ~~shall~~ **must** promptly
27 report to the association each claim that, on the basis of the
28 injuries or damages sustained, may reasonably be anticipated to
29 involve the association if the member is ultimately held legally



1 liable for the injuries or damages. Solely for the purpose of
 2 reporting claims, the member shall in all instances consider itself
 3 legally liable for the injuries or damages. The member shall also
 4 advise the association of subsequent developments likely to
 5 materially affect the interest of the association in the claim.

6 (c) Maintain relevant loss and expense data ~~relative~~ **relating**
 7 to all liabilities of the association and require each member to
 8 furnish statistics, in connection with liabilities of the
 9 association, at the times and in the form and detail as ~~may be~~
 10 required by the plan of operation.

11 (d) In a manner provided for in the plan of operation,
 12 calculate and charge to members of the association a total premium
 13 sufficient to cover the expected losses and expenses of the
 14 association that the association will likely incur during the
 15 period for which the premium is applicable. The **total** premium ~~shall~~
 16 **must** include an amount to cover incurred but not reported losses
 17 for the period and ~~may~~ **must** be adjusted for any excess or deficient
 18 premiums from previous periods. Excesses or deficiencies from
 19 previous periods ~~may~~ **must either** be fully adjusted in a single
 20 period or ~~may~~ be adjusted over several periods in a manner provided
 21 for in the plan of operation. Each member ~~shall~~ **must** be charged an
 22 amount equal to that member's total written car years of insurance
 23 providing the security required by section 3101(1) or 3103(1), or
 24 both, written in this state during the period to which the premium
 25 applies, **with the total written car years of insurance** multiplied
 26 by the **applicable** average premium per car. The average premium per
 27 car ~~shall be~~ **is** the total premium, ~~calculated as adjusted for any~~
 28 **excesses or deficiencies**, divided by the total written car years of
 29 insurance providing the security required by section 3101(1) or



1 3103(1), **or both**, written in this state of all members during the
 2 period to which the premium applies, **excluding cars insured under a**
 3 **policy with a coverage limit under section 3107c(1)(a), (b), or (c)**
 4 **or as to which an election to not maintain personal protection**
 5 **insurance benefits has been made under section 3107d except for any**
 6 **portion of total premium that is an adjustment for a deficiency in**
 7 **a previous period. A member may not be charged a premium for a car**
 8 **insured under a policy with a coverage limit under section**
 9 **3107c(1)(a), (b), or (c) or as to which an election to not maintain**
 10 **personal protection insurance benefits has been made under section**
 11 **3107d other than for the portion of the total premium attributable**
 12 **to an adjustment for a deficiency in a previous period.** A member
 13 ~~shall~~**must** be charged a premium for a historic vehicle that is
 14 insured with the member of 20% of the premium charged for a car
 15 insured with the member. ~~As used in this subdivision:~~

16 ~~(i) "Car" includes a motorcycle but does not include a historic~~
 17 ~~vehicle.~~

18 ~~(ii) "Historic vehicle" means a vehicle that is a registered~~
 19 ~~historic vehicle under section 803a or 803p of the Michigan vehicle~~
 20 ~~code, 1949 PA 300, MCL 257.803a and 257.803p.~~

21 (e) Require and accept the payment of premiums from members of
 22 the association as provided for in the plan of operation. The
 23 association shall do either of the following:

24 (i) Require payment of the premium in full within 45 days after
 25 the premium charge.

26 (ii) Require payment of the premiums to be made periodically to
 27 cover the actual cash obligations of the association.

28 (f) Receive and distribute all ~~sums~~**money** required by the
 29 operation of the association.



1 (g) Establish procedures for reviewing claims procedures and
 2 practices of members of the association. If the claims procedures
 3 or practices of a member are considered inadequate to properly
 4 service the liabilities of the association, the association may
 5 undertake or may contract with another person, including another
 6 member, to adjust or assist in the adjustment of claims for the
 7 member on claims that create a potential liability to the
 8 association and may charge the cost of the adjustment to the
 9 member.

10 (h) **Provide any records necessary or requested by the director**
 11 **for the actuarial examination under subsection (21).**

12 (i) **Subject to subsection (23), obey an order of the director**
 13 **for a rebate under subsection (22).**

14 (8) In addition to other powers granted to it by this section,
 15 the association may do all of the following:

16 (a) Sue and be sued in the name of the association. A judgment
 17 against the association ~~shall~~**does** not create any direct liability
 18 against the individual members of the association. The association
 19 may provide for the indemnification of its members, members of the
 20 board of directors of the association, and officers, employees, and
 21 other persons lawfully acting on behalf of the association.

22 (b) Reinsure all or any portion of its potential liability
 23 with reinsurers licensed to transact insurance in this state or
 24 approved by the ~~commissioner~~**director**.

25 (c) Provide for appropriate housing, equipment, and personnel
 26 as ~~may be~~ necessary to assure the efficient operation of the
 27 association.

28 (d) Pursuant to the plan of operation, adopt reasonable rules
 29 for the administration of the association, enforce those rules, and



1 delegate authority, as the board considers necessary to assure the
2 proper administration and operation of the association consistent
3 with the plan of operation.

4 (e) Contract for goods and services, including independent
5 claims management, actuarial, investment, and legal services, from
6 others ~~within in~~ or ~~without outside of~~ this state to assure the
7 efficient operation of the association.

8 (f) Hear and determine complaints of a company or other
9 interested party concerning the operation of the association.

10 (g) Perform other acts not specifically enumerated in this
11 section that are necessary or proper to accomplish the purposes of
12 the association and that are not inconsistent with this section or
13 the plan of operation.

14 (9) A board of directors is created, ~~hereinafter referred to~~
15 ~~as the board, which shall be responsible for the operation of~~ **and**
16 **shall operate** the association consistent with the plan of operation
17 and this section.

18 (10) The plan of operation ~~shall~~ **must** provide for all of the
19 following:

20 (a) The establishment of necessary facilities.

21 (b) The management and operation of the association.

22 (c) Procedures to be utilized in charging premiums, including
23 adjustments from excess or deficient premiums from prior periods.
24 **The plan must require that any deficiency from a prior period be**
25 **amortized over not fewer than 15 years.**

26 (d) Procedures for a rebate to members of the association, for
27 distribution to insureds as provided in subsection (24), as ordered
28 by the director under subsection (22). The procedures must provide
29 for a distribution of a rebate attributable to a historic vehicle



1 equal to 20% of the rebate for a car that is not a historic
2 vehicle.

3 (e) ~~(d)~~—Procedures governing the actual payment of premiums to
4 the association.

5 (f) ~~(e)~~—Reimbursement of each member of the board by the
6 association for actual and necessary expenses incurred on
7 association business.

8 (g) ~~(f)~~—The investment policy of the association.

9 (h) ~~(g)~~—Any other matters required by or necessary to
10 effectively implement this section.

11 (11) ~~Each~~**The** board shall ~~must~~ include members that would
12 contribute a total of not less than 40% of the total premium
13 calculated pursuant to ~~under~~ subsection (7) (d). Each ~~director shall~~
14 ~~be~~**board member is** entitled to 1 vote. The initial term of office
15 of a ~~director shall be~~**board member is** 2 years.

16 (12) As part of the plan of operation, the board shall adopt
17 rules providing for the composition ~~and term of successor boards to~~
18 the ~~initial~~**board and the terms of board members**, consistent with
19 the membership composition requirements in subsections (11) and
20 (13). Terms of the ~~directors shall~~**board members must** be staggered
21 so that the terms of all the ~~directors~~**board members** do not expire
22 at the same time and so that a ~~director~~**board member** does not serve
23 a term of more than 4 years.

24 (13) The board shall ~~must~~ consist of 5 ~~directors~~**board**
25 **members** and the ~~commissioner~~**director, who** shall ~~be~~**serve as** an ex
26 officio member of the board without vote.

27 (14) ~~Each director~~**The director** shall ~~be appointed by the~~
28 ~~commissioner and~~**appoint the board members. A board member** shall
29 serve until ~~that member's~~**his or her** successor is selected and



1 qualified. The **board shall elect the** chairperson of the board.
 2 ~~shall be elected by the board. A~~ **The director shall fill any**
 3 vacancy on the board ~~shall be filled by the commissioner consistent~~
 4 ~~with~~ **as provided in** the plan of operation.

5 (15) ~~After the board is appointed, the~~ **The** board shall meet as
 6 often as the chairperson, the ~~commissioner,~~ **director,** or the plan
 7 of operation ~~shall require,~~ **requires,** or at the request of any 3
 8 ~~members of the board.~~ **board members.** The chairperson shall retain
 9 ~~the right to~~ **may** vote on all issues. Four ~~members of the board~~
 10 **board members** constitute a quorum.

11 (16) ~~An~~ **The board shall furnish to each member of the**
 12 **association an** annual report of the operations of the association
 13 in a form and detail as ~~may be determined by the board.~~ ~~shall be~~
 14 ~~furnished to each member.~~

15 (17) ~~Not more than 60 days after the initial organizational~~
 16 ~~meeting of the board, the board shall submit to the commissioner~~
 17 ~~for approval a proposed plan of operation consistent with the~~
 18 ~~objectives and provisions of this section, which shall provide for~~
 19 ~~the economical, fair, and nondiscriminatory administration of the~~
 20 ~~association and for the prompt and efficient provision of~~
 21 ~~indemnity. If a plan is not submitted within this 60-day period,~~
 22 ~~then the commissioner, after consultation with the board, shall~~
 23 ~~formulate and place into effect a plan consistent with this~~
 24 ~~section.~~

25 (18) ~~The plan of operation, unless approved sooner in writing,~~
 26 ~~shall be considered to meet the requirements of this section if it~~
 27 ~~is not disapproved by written order of the commissioner within 30~~
 28 ~~days after the date of its submission. Before disapproval of all or~~
 29 ~~any part of the proposed plan of operation, the commissioner shall~~



1 ~~notify the board in what respect the plan of operation fails to~~
 2 ~~meet the requirements and objectives of this section. If the board~~
 3 ~~fails to submit a revised plan of operation that meets the~~
 4 ~~requirements and objectives of this section within the 30-day~~
 5 ~~period, the commissioner shall enter an order accordingly and shall~~
 6 ~~immediately formulate and place into effect a plan consistent with~~
 7 ~~the requirements and objectives of this section.~~

8 (17) ~~(19) The proposed plan of operation or~~ **Any** amendments to
 9 the plan of operation are subject to majority approval by the
 10 board, ~~ratified~~ **ratification** by a majority of the membership **of the**
 11 **association** having a vote, with voting rights being apportioned
 12 according to the premiums charged in subsection (7) (d), and ~~are~~
 13 ~~subject to approval by the commissioner.~~ **director.**

14 (18) ~~(20) Upon approval by the commissioner and ratification~~
 15 ~~by the members of the plan submitted, or upon the promulgation of a~~
 16 ~~plan by the commissioner, each~~ **An** insurer authorized to write
 17 insurance providing the security required by section 3101(1) in
 18 this state, as provided in this section, is bound by and shall
 19 formally subscribe to and participate in the plan ~~approved of~~
 20 **operation** as a condition of maintaining its authority to transact
 21 insurance in this state.

22 (19) ~~(21) The association is subject to all the reporting,~~
 23 ~~loss reserve, and investment requirements of the commissioner~~
 24 **director** to the same extent as ~~would~~ **is** a member of the
 25 association.

26 (20) ~~(22) Premiums charged members by the association shall~~
 27 **must** be recognized in the rate-making procedures for insurance
 28 rates in the same manner that expenses and premium taxes are
 29 recognized. **If a member of the association passes on any portion of**



1 the premium payable under this section to an insured, the amount
 2 passed on must equal the portion of the premium payable by the
 3 member under this section attributable to the car or historic
 4 vehicle insured, including any adjustments for excesses or
 5 deficiencies from a previous period.

6 (21) ~~(23)~~ The ~~commissioner~~ director or an authorized
 7 representative of the ~~commissioner~~ director may visit the
 8 association at any time and examine any and all of the
 9 association's affairs. Beginning July 1, 2019, and every third year
 10 after 2019, the director shall engage 1 or more independent
 11 actuaries to examine the affairs and records of the association for
 12 the previous 3 years. The actuarial examination must be conducted
 13 using sound actuarial principles consistent with the applicable
 14 statements of principles and the code of professional conduct
 15 adopted by the Casualty Actuarial Society. By September 1, 2019 and
 16 by September 1 of every third year after 2019, the director shall
 17 provide a report to the legislature on the results of the audit
 18 conducted under this subsection.

19 (22) If the actuarial examination under subsection (21) shows
 20 that the assets of the association exceed 120% of its liabilities,
 21 including incurred but not reported liabilities, and if the rebate
 22 will not threaten the association's ongoing ability to provide
 23 reimbursements for personal protection insurance benefits based on
 24 sound actuarial principles consistent with the applicable
 25 statements of principles and the code of professional conduct
 26 adopted by the Casualty Actuarial Society, the director shall order
 27 the association to rebate an amount equal to the difference between
 28 the total excess and 120% of the liabilities of the association,
 29 including incurred but not reported liabilities, under subsection



1 (10) (d) and order the members of the association to distribute the
2 rebates under subsection (24).

3 (23) Within 30 days after receiving an order from the director
4 under subsection (22), the association may request a hearing to
5 review the order by filing a written request with the director. The
6 department shall conduct the review as a contested case under the
7 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
8 24.328.

9 (24) A member of the association shall distribute any rebate
10 it receives under subsection (10) (d) to the persons that it insures
11 under policies that provide the security required under section
12 3101(1) or 3103(1), or both, and that are subject to a premium
13 under this section on a uniform basis per car and historic vehicle
14 in a manner and on the date or dates provided by the director in
15 accordance with an order issued by the director. A rebate
16 attributable to a historic vehicle must be equal to 20% of the
17 rebate for a car that is not a historic vehicle.

18 (25) By September 1 of each year, the association shall
19 prepare, submit to the committees of the senate and house of
20 representatives with jurisdiction over insurance matters, and post
21 on the association website an annual consumer statement, written in
22 a manner intended for the general public. The statement must
23 include all of the following:

24 (a) The number of claims opened during the preceding 12
25 months, the amount expended on the claims, and the future
26 anticipated costs of the claims.

27 (b) For each of the preceding 10 years, the total number of
28 open claims, the amount expended on the claims, and the anticipated
29 future costs of the claims.



1 (c) For each of the preceding 10 years, the total number of
2 claims closed and the amount expended on the claims.

3 (d) For each of the preceding 10 years, the ratio of claims
4 opened to claims closed.

5 (e) For each of the preceding 10 years, the average length of
6 open claims.

7 (f) A statement of the current financial condition of the
8 association and the reasons for any deficit or surplus in collected
9 assessments compared to losses.

10 (g) A statement of the assumptions, methodology, and data used
11 to make revenue projections. As used in this subdivision, "revenue"
12 means return on investments.

13 (h) A statement of the assumptions, methodology, and data used
14 to make cost projections.

15 (i) A list of the association's assets, sorted by category or
16 type of asset, such as stocks, bonds, or mutual funds, and the
17 expected return on each asset.

18 (j) The total amount of the association's discounted and
19 undiscounted liabilities and a description and explanation of the
20 liabilities, including an explanation of the association's
21 definition of the terms discounted and undiscounted.

22 (k) Measures taken by the association to contain costs.

23 (l) A statement explaining what portion of the assessment to
24 insureds as recognized in rates under subsection (20) is
25 attributable to claims occurring in the previous 12 months,
26 administrative costs, and the amount, if any, to adjust for past
27 deficits.

28 (m) A statement explaining any qualifications identified by
29 the independent auditors in the most recent audit report prepared



1 under subsection (21).

2 (n) A loss payment summary for each of the preceding years by
3 category.

4 (o) For each of the preceding 10 years, an injury type
5 summary, categorizing the injuries suffered by claimants the
6 payment of whose claims are being reimbursed by the association, by
7 brain injuries, injuries resulting in quadriplegia, injuries
8 resulting in paraplegia, burn injuries, and other injuries.

9 (p) A summary of investment returns over the preceding 10
10 years showing the investment balance, the investment gain, and the
11 percentage return on the investment balance.

12 (q) A summary of the mortality assumptions used in making cost
13 projections.

14 (r) A summary of any financial practices that differ from
15 those found in the National Association of Insurance Commissioners
16 Accounting Practices and Procedures Manual.

17 (26) By September 1 of each year, the association shall
18 prepare and provide to the committees of the senate and house of
19 representatives with jurisdiction over insurance matters an annual
20 report of the association. The report must contain all of the
21 following:

22 (a) An executive summary.

23 (b) A discussion of the mortality assumptions used by the
24 association in making cost projections.

25 (c) An evaluation of the accuracy of the association's
26 actuarial assumptions over the preceding 5 years.

27 (d) The annual consumer statement prepared under subsection
28 (25).

29 (e) Anything else the association determines is necessary to



1 advise the legislature about the operations of the association.

2 (27) ~~(24)~~—The association does not have liability for losses
3 occurring before July 1, 1978. **After the effective date of the**
4 **amendatory act that added section 3107c, the association does not**
5 **have liability for an ultimate loss under personal protection**
6 **insurance coverage for a motor vehicle accident policy to which a**
7 **limit under section 3107c(1) (a) to (c) is applicable.**

8 (28) ~~(25)~~—As used in this section:

9 (a) "Association" means the catastrophic claims association
10 created in subsection (1).

11 (b) "Board" means the board of directors of the association
12 created in subsection (9).

13 (c) "Car" includes a motorcycle but does not include a
14 historic vehicle.

15 (d) ~~(a)~~—"Consumer price index"—**Price Index** means the
16 percentage of change in the ~~consumer price index~~—**Consumer Price**
17 **Index** for all urban consumers in the United States city average for
18 all items for the 24 months ~~prior to~~—**before** October 1 of the year
19 ~~prior to~~—**before** the July 1 effective date of the biennial
20 adjustment under subsection ~~(2) (k)~~—**(2) (o)** as reported by the United
21 States ~~department of labor, bureau of labor statistics,~~—**Department**
22 **of Labor, Bureau of Labor Statistics,** and as certified by the
23 ~~commissioner.~~**director.**

24 (e) "Historic vehicle" means a vehicle that is a registered
25 historic vehicle under section 803a or 803p of the Michigan vehicle
26 code, 1949 PA 300, MCL 257.803a and 257.803p.

27 (f) ~~(b)~~—"Motor vehicle accident policy" means a policy
28 providing the coverages required under section 3101(1).

29 (g) ~~(e)~~—"Ultimate loss" means the actual loss amounts that a



1 member is obligated to pay and that are paid or payable by the
 2 member, and do not include claim expenses. An ultimate loss is
 3 incurred by the association on the date that the loss occurs.

4 Sec. 3107. (1) ~~Except as provided in subsection (2),~~ **Subject**
 5 **to the exceptions and limitations in this chapter,** personal
 6 protection insurance benefits are payable for the following:

7 (a) Allowable expenses consisting of ~~all~~ reasonable charges
 8 incurred for reasonably necessary products, services and
 9 accommodations for an injured person's care, recovery, or
 10 rehabilitation. Allowable expenses ~~within personal protection~~
 11 ~~insurance coverage shall~~ **do** not include either of the following:

12 (i) Charges for a hospital room in excess of a reasonable and
 13 customary charge for semiprivate accommodations, ~~except if~~ **unless**
 14 the injured person requires special or intensive care.

15 (ii) Funeral and burial expenses in excess of the amount set
 16 forth in the policy, which ~~shall~~ **must** not be less than \$1,750.00 or
 17 more than \$5,000.00.

18 (b) Work loss consisting of loss of income from work an
 19 injured person would have performed during the first 3 years after
 20 the date of the accident if he or she had not been injured. Work
 21 loss does not include any loss after the date on which the injured
 22 person dies. Because the benefits received from personal protection
 23 insurance for loss of income are not taxable income, the benefits
 24 payable for ~~such the~~ loss of income ~~shall~~ **must** be reduced 15%
 25 unless the claimant presents to the insurer in support of his or
 26 her claim reasonable proof of a lower value of the income tax
 27 advantage in his or her case, in which case the lower value ~~shall~~
 28 ~~apply.~~ **must be applied.** For the period beginning October 1, 2012
 29 through September 30, 2013, the benefits payable for work loss



1 sustained in a single 30-day period and the income earned by an
 2 injured person for work during the same period together ~~shall~~**must**
 3 not exceed \$5,189.00, which maximum ~~shall apply~~**must be applied** pro
 4 rata to any lesser period of work loss. Beginning October 1, 2013,
 5 the maximum ~~shall~~**must** be adjusted annually to reflect changes in
 6 the cost of living under rules prescribed by the ~~commissioner~~
 7 **director**, but any change in the maximum ~~shall apply~~**must be applied**
 8 only to benefits arising out of accidents occurring ~~subsequent to~~
 9 **after** the date of change in the maximum.

10 (c) Expenses not exceeding \$20.00 per day, reasonably incurred
 11 in obtaining ordinary and necessary services in lieu of those that,
 12 if he or she had not been injured, an injured person would have
 13 performed during the first 3 years after the date of the accident,
 14 not for income but for the benefit of himself or herself or of his
 15 or her dependent.

16 (2) Both of the following apply to personal protection
 17 insurance benefits payable under subsection (1):

18 (a) A person who is 60 years of age or older and in the event
 19 of an accidental bodily injury would not be eligible to receive
 20 work loss benefits under subsection (1)(b) may waive coverage for
 21 work loss benefits by signing a waiver on a form provided by the
 22 insurer. An insurer shall offer a reduced premium rate to a person
 23 who waives coverage under this ~~subsection~~**subdivision** for work loss
 24 benefits. Waiver of coverage for work loss benefits applies only to
 25 work loss benefits payable to the person or persons who have signed
 26 the waiver form.

27 (b) An insurer ~~shall~~**is** not ~~be~~ required to provide coverage
 28 for the medical use of marihuana or for expenses related to the
 29 medical use of marihuana.



1 Sec. 3107c. (1) Except as provided in section 3107d, and
2 subject to subsection (5), for an insurance policy that provides
3 the security required under section 3101(1) and is issued or
4 renewed after 6 months after the effective date of the amendatory
5 act that added this section, the person named or to be named in the
6 policy shall, in a way required under section 3107e and on a form
7 approved by the director, select 1 of the following coverage levels
8 for personal protection insurance benefits under section
9 3107(1) (a) :

10 (a) A limit per person per loss occurrence, consisting of both
11 of the following:

12 (i) A \$50,000.00 limit for any personal protection insurance
13 benefits under section 3107(1) (a) .

14 (ii) An additional \$200,000.00 for medically necessary
15 treatment rendered at an acute care unit or trauma center of a
16 hospital immediately after the accidental bodily injury and until
17 the patient is stable.

18 (b) A limit of \$250,000.00 per individual per loss occurrence
19 for any personal protection insurance benefits under section
20 3107(1) (a) .

21 (c) A limit of \$500,000.00 per individual per loss occurrence
22 for any personal protection insurance benefits under section
23 3107(1) (a) .

24 (d) No limit for personal protection insurance benefits under
25 section 3107(1) (a) .

26 (2) The form required under subsection (1) must do all of the
27 following:

28 (a) State, in a conspicuous manner, the benefits and risks
29 associated with each coverage option.



1 (b) Provide a way for the person to mark the form to
2 acknowledge that he or she has read the form and understands the
3 options available.

4 (c) Allow the insured person to mark the form to make the
5 selection of coverage level under subsection (1).

6 (d) Require the person to sign the form.

7 (3) If an insurance policy is issued or renewed as described
8 in subsection (1) and the person named in the policy has not made
9 an effective selection under subsection (1) but a premium or
10 portion of a premium has been paid, there is a rebuttable
11 presumption that the amount of the premium accurately reflects the
12 level of coverage applicable to the policy under subsection (1).

13 (4) If an insurance policy is issued or renewed as described
14 in subsection (1), the person named in the policy has not made an
15 effective selection under subsection (1), and a presumption under
16 subsection (3) does not apply, the limit under subsection (1)(a)
17 applies to the policy.

18 (5) The coverage level selected under subsection (1) applies
19 to the person named in the policy, the person's spouse, and a
20 relative of either domiciled in the same household, and any other
21 person with a right to claim personal protection insurance benefits
22 under the policy.

23 (6) If benefits are payable under section 3107(1)(a) under 2
24 or more insurance policies, the benefits are only payable up to an
25 aggregate coverage limit for both or all of the policies that
26 equals the highest available coverage limit under any 1 of the
27 policies.

28 (7) An insurer shall offer, for a policy that provides the
29 security required under section 3101(1) to which a limit under



1 subsection (1) (a) to (c) applies, a rider that will provide
2 coverage for attendant care in excess of the applicable limit.

3 Sec. 3107d. (1) For an insurance policy that provides the
4 security required under section 3101(1) and is issued or renewed
5 after 6 months after the effective date of the amendatory act that
6 added this section, the person named or to be named in the policy
7 who is a qualified person may, in a way required under section
8 3107e and on a form approved by the director, elect to not maintain
9 coverage for personal protection insurance benefits payable under
10 section 3107(1) (a). The person named in the policy shall, when
11 requesting issuance or renewal of the policy, provide to the
12 insurer a document from the person that provides the qualified
13 health coverage stating that the person named in the policy has
14 qualified health coverage.

15 (2) The form required under subsection (1) must do all of the
16 following:

17 (a) Require the person named or to be named in the policy to
18 mark the form to certify whether he or she is a qualified person.

19 (b) Disclose in a conspicuous manner that a qualified person
20 is not obligated to but may purchase coverage for personal
21 protection insurance coverage benefits payable under section
22 3107(1) (a).

23 (c) State, in a conspicuous manner, the coverage levels
24 available under section 3107c.

25 (d) State, in a conspicuous manner, the benefits and risks
26 associated with not maintaining the coverage.

27 (e) State, in a conspicuous manner, that if during the term of
28 the policy the person ceases to have qualified health insurance,
29 the person has 14 days to notify the insurer or the person will be



1 excluded from all personal protection insurance coverage benefits
2 under section 3107(1) (a) .

3 (f) Provide a way for the person named or to be named in the
4 policy to mark the form to acknowledge that he or she has read the
5 form and understands it and that he or she understands the options
6 available to him or her.

7 (g) If the person named or to be named in the policy is a
8 qualified person, provide the person a way to mark the form to
9 elect not to maintain the coverage.

10 (h) Require the person to sign the form.

11 (3) If an insurance policy is issued or renewed as described
12 in subsection (1) and the person named in the policy has not made
13 an effective election under subsection (1) but a premium or portion
14 of a premium has been paid, there is a rebuttable presumption that
15 the amount of the premium accurately reflects whether the person
16 elected to maintain coverage for personal protection benefits under
17 section 3107(1) (a) .

18 (4) If an insurance policy is issued or renewed as described
19 in subsection (1), the person named in the policy has not made an
20 effective election under subsection (1), and a presumption under
21 subsection (3) does not apply, the policy is considered to provide
22 personal protection benefits under section 3107(1) (a) .

23 (5) An election under this section applies to the person named
24 in the policy, the person's spouse, a relative of either domiciled
25 in the same household, and any other person who would have had a
26 right to claim personal protection insurance benefits under the
27 policy but for the election.

28 (6) If a person named in an insurance policy under which
29 coverage for personal protection insurance benefits payable under



1 section 3107(1) (a) are not maintained under this section ceases,
2 during the term of the policy, to be covered under qualified health
3 coverage, the person shall, within 14 days, notify the insurer that
4 the person is no longer a qualified person. All of the following
5 apply under this subsection:

6 (a) During the 14-day period, if a person to whom the election
7 under this section applies as described in subsection (5) suffers
8 accidental bodily injury arising from a motor vehicle accident, the
9 person is entitled to claim benefits under the assigned claims
10 plan.

11 (b) If the person named in the insurance policy notifies the
12 insurer within the 14-day period, the person shall obtain insurance
13 that provides the security required under section 3101(1) that
14 includes the coverage that was not maintained under this section.

15 (c) If the person named in the insurance policy does not
16 notify the insurer within the 14-day period and a person to whom
17 the election under this section applies as described in subsection
18 (5) suffers accidental bodily injury arising from a motor vehicle
19 accident, unless the injured person is entitled to coverage under
20 some other policy, the injured person is not entitled to be paid
21 personal protection insurance benefits under section 3107(1) (a) for
22 the injury.

23 (7) As used in this section:

24 (a) "Qualified health coverage" means either of the following:

25 (i) Other health or accident coverage that does not exclude or
26 limit coverage for injuries related to motor vehicle accidents.

27 (ii) Coverage under the federal Medicare program established
28 under subchapter XVIII of the social security act, 42 USC 1395 to
29 1395III.



1 (iii) Medicaid coverage under a program for medical assistance
 2 established under subchapter XIX of the social security act, 42 USC
 3 1396 to 1396w-5.

4 (b) "Qualified person" means a person who has qualified health
 5 coverage.

6 Sec. 3107e. (1) A form under section 3107c or 3107d must be
 7 delivered to the person insured or to be insured under the policy
 8 using 1 of the following methods:

9 (a) Personal delivery.

10 (b) First-class mail, postage prepaid.

11 (c) Electronic means in accordance with section 2266.

12 (2) A person must make a selection under section 3107c or an
 13 election under section 3107d in 1 of the following ways:

14 (a) Marking and signing a paper form.

15 (b) Giving verbal instructions, in person or telephonically,
 16 that the form be marked and signed in behalf of the person.

17 (c) Electronically marking the form and providing an
 18 electronic signature as provided in the uniform electronic
 19 transactions act, 2000 PA 305, MCL 450.831 to 450.849.

20 Sec. 3111. Personal protection insurance benefits are payable
 21 for accidental bodily injury suffered in an accident occurring out
 22 of this state, if the accident occurs within the United States, its
 23 territories and possessions, or ~~in~~ Canada, and the person whose
 24 injury is the basis of the claim was at the time of the accident a
 25 named insured under a personal protection insurance policy, ~~his~~ **the**
 26 spouse **of a named insured**, a relative of either domiciled in the
 27 same household, or an occupant of a vehicle involved in the
 28 accident, ~~whose~~ **if the occupant was a resident of this state or if**
 29 **the** owner or registrant **of the vehicle** was insured under a personal



1 protection insurance policy or ~~has~~ provided security approved by
 2 the secretary of state under ~~subsection (4) of section~~
 3 ~~3101-3101(4)~~ .

4 Sec. 3112. Personal protection insurance benefits are payable
 5 to or for the benefit of an injured person or, in case of his **or**
 6 **her** death, to or for the benefit of his **or her** dependents. **A health**
 7 **care provider listed in section 3157 may make a claim and assert a**
 8 **direct cause of action against an insurer, or under the assigned**
 9 **claims plan under sections 3171 to 3175, to recover overdue**
 10 **benefits payable for charges for products, services, or**
 11 **accommodations provided to an injured person.** Payment by an insurer
 12 in good faith of personal protection insurance benefits, to or for
 13 the benefit of a person who it believes is entitled to the
 14 benefits, discharges the insurer's liability to the extent of the
 15 payments unless the insurer has been notified in writing of the
 16 claim of some other person. If there is doubt about the proper
 17 person to receive the benefits or the proper apportionment among
 18 the persons entitled ~~thereto,~~ **to the benefits**, the insurer, the
 19 claimant, or any other interested person may apply to the circuit
 20 court for an appropriate order. The court may designate the payees
 21 and make an equitable apportionment, taking into account the
 22 relationship of the payees to the injured person and other factors
 23 as the court considers appropriate. In the absence of a court order
 24 directing otherwise the insurer may pay:

25 (a) To the dependents of the injured person, the personal
 26 protection insurance benefits accrued before his **or her** death
 27 without appointment of an administrator or executor.

28 (b) To the surviving spouse, the personal protection insurance
 29 benefits due any dependent children living with the spouse.



1 Sec. 3113. A person is not entitled to be paid personal
2 protection insurance benefits for accidental bodily injury if at
3 the time of the accident any of the following circumstances
4 existed:

5 (a) The person was willingly operating or willingly using a
6 motor vehicle or motorcycle that was taken unlawfully, and the
7 person knew or should have known that the motor vehicle or
8 motorcycle was taken unlawfully.

9 (b) The person was the owner or registrant of a motor vehicle
10 or motorcycle involved in the accident with respect to which the
11 security required by section 3101 or 3103 was not in effect.

12 (c) The person was not a resident of this state. ~~was an~~
13 ~~occupant of a motor vehicle or motorcycle not registered in this~~
14 ~~state, and the motor vehicle or motorcycle was not insured by an~~
15 ~~insurer that has filed a certification in compliance with section~~
16 ~~3163.~~

17 (d) The person was operating a motor vehicle or motorcycle as
18 to which he or she was named as an excluded operator as allowed
19 under section 3009(2).

20 (e) The person was the owner or operator of a motor vehicle
21 for which coverage was excluded under a policy exclusion authorized
22 under section 3017.

23 Sec. 3114. (1) Except as provided in subsections (2), (3), and
24 (5), a personal protection insurance policy described in section
25 3101(1) applies to accidental bodily injury to the person named in
26 the policy, the person's spouse, and a relative of either domiciled
27 in the same household, if the injury arises from a motor vehicle
28 accident. A personal injury insurance policy described in section
29 3103(2) applies to accidental bodily injury to the person named in



1 the policy, the person's spouse, and a relative of either domiciled
2 in the same household, if the injury arises from a motorcycle
3 accident. If personal protection insurance benefits or personal
4 injury benefits described in section 3103(2) are payable to or for
5 the benefit of an injured person under his or her own policy and
6 would also be payable under the policy of his or her spouse,
7 relative, or relative's spouse, the injured person's insurer shall
8 pay all of the benefits and is not entitled to recoupment from the
9 other insurer.

10 (2) A person ~~suffering~~ **who suffers** accidental bodily injury
11 while an operator or a passenger of a motor vehicle operated in the
12 business of transporting passengers shall receive the personal
13 protection insurance benefits to which the person is entitled from
14 the insurer of the motor vehicle. This subsection does not apply to
15 a passenger in any of the following, unless the passenger is not
16 entitled to personal protection insurance benefits under any other
17 policy:

18 (a) A school bus, as defined by the department of education,
19 providing transportation not prohibited by law.

20 (b) A bus operated by a common carrier of passengers certified
21 by the department of transportation.

22 (c) A bus operating under a government sponsored
23 transportation program.

24 (d) A bus operated by or providing service to a nonprofit
25 organization.

26 (e) A taxicab insured as prescribed in section 3101 or 3102.

27 (f) A bus operated by a canoe or other watercraft, bicycle, or
28 horse livery used only to transport passengers to or from a
29 destination point.



1 (g) A transportation network company vehicle.

2 (h) **A motor vehicle insured under a policy for which the**
 3 **person named in the policy has elected to not maintain coverage for**
 4 **personal protection insurance benefits under section 3107d.**

5 (3) An employee, his or her spouse, or a relative of either
 6 domiciled in the same household, who suffers accidental bodily
 7 injury while an occupant of a motor vehicle owned or registered by
 8 the employer, shall receive personal protection insurance benefits
 9 to which the employee is entitled from the insurer of the furnished
 10 vehicle. **This subsection does not apply to a motor vehicle insured**
 11 **under a policy for which the person named in the policy has elected**
 12 **to not maintain coverage for personal protection insurance benefits**
 13 **under section 3107d.**

14 (4) Except as provided in subsections ~~(1) to~~ **(2) and (3)**, a
 15 person ~~suffering~~ **who suffers** accidental bodily injury arising from
 16 a motor vehicle accident while an occupant of a motor vehicle **who**
 17 **is not covered under a personal protection insurance policy as**
 18 **provided in subsection (1)** shall claim personal protection
 19 insurance benefits ~~from insurers in the following order of~~
 20 ~~priority:~~

21 ~~(a) The insurer of the owner or registrant of the vehicle~~
 22 ~~occupied.~~

23 ~~(b) The insurer of the operator of the vehicle occupied.~~**under**
 24 **the assigned claims plan under sections 3171 to 3175.**

25 (5) ~~A~~ **Subject to subsections (6) and (7)**, a person ~~suffering~~
 26 **who suffers** accidental bodily injury arising from a motor vehicle
 27 accident that shows evidence of the involvement of a motor vehicle
 28 while an operator or passenger of a motorcycle shall claim personal
 29 protection insurance benefits from insurers in the following order



1 of priority:

2 (a) The insurer of the owner or registrant of the motor
3 vehicle involved in the accident.

4 (b) The insurer of the operator of the motor vehicle involved
5 in the accident.

6 (c) The motor vehicle insurer of the operator of the
7 motorcycle involved in the accident.

8 (d) The motor vehicle insurer of the owner or registrant of
9 the motorcycle involved in the accident.

10 (6) **If an applicable insurance policy in an order of priority**
11 **under subsection (5) is a policy for which the person named in the**
12 **policy has elected to not maintain coverage for personal protection**
13 **insurance benefits under section 3107d, the injured person shall**
14 **claim benefits only under other policies, subject to subsection**
15 **(7), in the same order of priority for which no such election has**
16 **been made. If there are no other policies for which no such**
17 **election has been made, the injured person shall claim benefits**
18 **under the next order of priority or, if there is not a next order**
19 **of priority, under the assigned claims plan under sections 3171 to**
20 **3175.**

21 (7) **If personal protection insurance benefits are payable**
22 **under subsection (5) under 2 or more insurance policies in the same**
23 **order of priority, the benefits are only payable up to an aggregate**
24 **coverage limit for both or all of the policies that equals the**
25 **highest available coverage limit under any 1 of the policies.**

26 (8) ~~(6) If Subject to subsections (6) and (7), if 2 or more~~
27 ~~insurers are in the same order of priority to provide personal~~
28 ~~protection insurance benefits under subsection (5), an insurer~~
29 ~~paying that pays~~ **benefits due is entitled to partial recoupment**



1 from the other insurers in the same order of priority, and a
 2 reasonable amount of partial recoupment of the expense of
 3 processing the claim, in order to accomplish equitable distribution
 4 of the loss among all of the insurers.

5 (9) ~~(7)~~—As used in this section:

6 (a) "Personal vehicle", ~~"prearranged ride"~~, and
 7 "transportation network company digital network", and
 8 **"transportation network company prearranged ride"** mean those terms
 9 as defined in section 2 of the limousine, taxicab, and
 10 transportation network company act, **2016 PA 345, MCL 257.2102.**

11 (b) "Transportation network company vehicle" means a personal
 12 vehicle while the driver is logged on to the transportation network
 13 company digital network or while the driver is engaged in a
 14 **transportation network company** prearranged ride.

15 Sec. 3115. ~~(1)~~—Except as provided in ~~subsection (1) of section~~
 16 ~~3114, 3114(1)~~, a person ~~suffering~~ **who suffers** accidental bodily
 17 injury while not an occupant of a motor vehicle shall claim
 18 personal protection insurance benefits ~~from insurers in the~~
 19 ~~following order of priority:~~

20 ~~(a) Insurers of owners or registrants of motor vehicles~~
 21 ~~involved in the accident.~~

22 ~~(b) Insurers of operators of motor vehicles involved in the~~
 23 ~~accident.~~ **under the assigned claims plan under sections 3171 to**
 24 **3175.**

25 ~~(2) When 2 or more insurers are in the same order of priority~~
 26 ~~to provide personal protection insurance benefits an insurer paying~~
 27 ~~benefits due is entitled to partial recoupment from the other~~
 28 ~~insurers in the same order of priority, together with a reasonable~~
 29 ~~amount of partial recoupment of the expense of processing the~~



1 ~~claim, in order to accomplish equitable distribution of the loss~~
 2 ~~among such insurers.~~

3 ~~(3) A limit upon the amount of personal protection insurance~~
 4 ~~benefits available because of accidental bodily injury to 1 person~~
 5 ~~arising from 1 motor vehicle accident shall be determined without~~
 6 ~~regard to the number of policies applicable to the accident.~~

7 Sec. 3135. (1) A person remains subject to tort liability for
 8 noneconomic loss caused by his or her ownership, maintenance, or
 9 use of a motor vehicle only if the injured person has suffered
 10 death, serious impairment of body function, or permanent serious
 11 disfigurement.

12 (2) For a cause of action for damages ~~pursuant to~~**under**
 13 subsection (1) ~~filed on or after July 26, 1996, or (3) (d)~~, all of
 14 the following apply:

15 (a) The issues of whether the injured person has suffered
 16 serious impairment of body function or permanent serious
 17 disfigurement are questions of law for the court if the court finds
 18 either of the following:

19 (i) There is no factual dispute concerning the nature and
 20 extent of the person's injuries.

21 (ii) There is a factual dispute concerning the nature and
 22 extent of the person's injuries, but the dispute is not material to
 23 the determination whether the person has suffered a serious
 24 impairment of body function or permanent serious disfigurement.
 25 However, for a closed-head injury, a question of fact for the jury
 26 is created if a licensed allopathic or osteopathic physician who
 27 regularly diagnoses or treats closed-head injuries testifies under
 28 oath that there may be a serious neurological injury.

29 (b) Damages ~~shall~~**must** be assessed on the basis of comparative



1 fault, except that damages ~~shall~~**must** not be assessed in favor of a
2 party who is more than 50% at fault.

3 (c) Damages ~~shall~~**must** not be assessed in favor of a party who
4 was operating his or her own vehicle at the time the injury
5 occurred and did not have in effect for that motor vehicle the
6 security required by section 3101 at the time the injury occurred.

7 (3) Notwithstanding any other provision of law, tort liability
8 arising from the ownership, maintenance, or use within this state
9 of a motor vehicle with respect to which the security required by
10 section 3101 was in effect is abolished except as to:

11 (a) Intentionally caused harm to persons or property. Even
12 though a person knows that harm to persons or property is
13 substantially certain to be caused by his or her act or omission,
14 the person does not cause or suffer that harm intentionally if he
15 or she acts or refrains from acting for the purpose of averting
16 injury to any person, including himself or herself, or for the
17 purpose of averting damage to tangible property.

18 (b) Damages for noneconomic loss as provided and limited in
19 subsections (1) and (2).

20 (c) Damages for allowable expenses, work loss, and survivor's
21 loss as defined in sections 3107 to 3110 in excess of **any**
22 **applicable limit under section 3107c or** the daily, monthly, and 3-
23 year limitations contained in those sections, **or without limit for**
24 **allowable expenses if an election to not maintain that coverage was**
25 **made under section 3107d.** The party liable for damages is entitled
26 to an exemption reducing his or her liability by the amount of
27 taxes that would have been payable on account of income the injured
28 person would have received if he or she had not been injured.

29 (d) Damages for economic loss by a nonresident. ~~in excess of~~



1 ~~the personal protection insurance benefits provided under section~~
 2 ~~3163(4). Damages under this subdivision are not recoverable to the~~
 3 ~~extent that benefits covering the same loss are available from~~
 4 ~~other sources, regardless of the nature or number of benefit~~
 5 ~~sources available and regardless of the nature or form of the~~
 6 ~~benefits.~~**However, to recover under this subdivision, the**
 7 **nonresident must have suffered death, serious impairment of body**
 8 **function, or permanent serious disfigurement.**

9 (e) Damages up to \$1,000.00 to a motor vehicle, to the extent
 10 that the damages are not covered by insurance. An action for
 11 damages under this subdivision ~~shall~~**must** be conducted as provided
 12 in subsection (4).

13 (4) All of the following apply to an action for damages under
 14 subsection (3)(e):

15 (a) Damages ~~shall~~**must** be assessed on the basis of comparative
 16 fault, except that damages ~~shall~~**must** not be assessed in favor of a
 17 party who is more than 50% at fault.

18 (b) Liability is not a component of residual liability, as
 19 prescribed in section 3131, for which maintenance of security is
 20 required by this act.

21 (c) The action ~~shall~~**must** be commenced, whenever legally
 22 possible, in the small claims division of the district court or the
 23 municipal court. If the defendant or plaintiff removes the action
 24 to a higher court and does not prevail, the judge may assess costs.

25 (d) A decision of the court is not res judicata in any
 26 proceeding to determine any other liability arising from the same
 27 circumstances that gave rise to the action.

28 (e) Damages ~~shall~~**must** not be assessed if the damaged motor
 29 vehicle was being operated at the time of the damage without the



1 security required by section 3101.

2 (5) As used in this section, "serious impairment of body
3 function" means an objectively manifested impairment of an
4 important body function that affects the person's general ability
5 to lead his or her normal life.

6 Sec. 3142. (1) Personal protection insurance benefits are
7 payable as loss accrues.

8 (2) ~~Personal~~**Subject to subsection (3), personal** protection
9 insurance benefits are overdue if not paid within 30 days after an
10 insurer receives reasonable proof of the fact and of the amount of
11 loss sustained. ~~If~~**Subject to subsection (3), if** reasonable proof
12 is not supplied as to the entire claim, the amount supported by
13 reasonable proof is overdue if not paid within 30 days after the
14 proof is received by the insurer. ~~Any~~**Subject to subsection (3),**
15 **any** part of the remainder of the claim that is later supported by
16 reasonable proof is overdue if not paid within 30 days after the
17 proof is received by the insurer. For the purpose of calculating
18 the extent to which benefits are overdue, payment ~~shall~~**must** be
19 treated as made on the date a draft or other valid instrument was
20 placed in the United States mail in a properly addressed, postpaid
21 envelope, or, if not so posted, on the date of delivery.

22 (3) **For personal protection insurance benefits under section**
23 **3107(1) (a), payment for a product, service, or accommodations is**
24 **not overdue if a bill for the product, service, or accommodations**
25 **is not provided to the insurer within 90 days after the product,**
26 **service, or accommodations is provided.**

27 (4) ~~(3)~~An overdue payment bears simple interest at the rate
28 of 12% per annum.

29 Sec. 3148. (1) ~~An~~**Subject to subsections (3), (6), and (7), an**



1 attorney ~~is entitled to~~ **may be awarded** a reasonable fee for
2 advising and representing a claimant in an action for personal or
3 property protection insurance benefits ~~which~~ **that** are overdue. The
4 attorney's fee ~~shall be~~ **is** a charge against the insurer in addition
5 to the benefits recovered, if the court finds that the insurer
6 unreasonably refused to pay the claim or unreasonably delayed in
7 making proper payment. **An attorney advising or representing an**
8 **injured person concerning a claim for payment of personal**
9 **protection insurance benefits from an insurer shall not claim,**
10 **file, or serve a lien for payment of a fee or fees until all of the**
11 **following apply:**

12 (a) A payment for the claim is authorized under this chapter.

13 (b) A payment for the claim is overdue under this chapter.

14 (c) The attorney notifies the resident agent of the insurer in
15 writing that the payment for the claim is overdue under this
16 chapter.

17 (d) Within 30 days after the insurer receives the notice under
18 subdivision (c), the insurer does not either provide reasonable
19 proof that the insurer is not responsible for the payment or take
20 remedial action.

21 (2) If an attorney claims, files, serves, or enforces a lien
22 in a manner prohibited by subsection (1), an insurer or other
23 person aggrieved by the lien is entitled to court costs and
24 reasonable attorney fees related to opposition of the imposition of
25 the lien.

26 (3) If an action involves a number of claims, the court shall
27 reduce an attorney's fee under subsection (1) in the proportion
28 that the number of claims that were not determined to have been
29 unreasonably refused or delayed bears to the total number of claims



1 presented in the action.

2 (4) ~~(2) An A court may award an insurer may be allowed by a~~
 3 ~~court an award of a reasonable sum-amount~~ against a claimant as an
 4 ~~attorney's-attorney~~ fee for the insurer's attorney in defense
 5 ~~defending~~ against ~~a-any of the following:~~

6 (a) A claim that was in some respect fraudulent or so
 7 excessive as to have no reasonable foundation.

8 (b) A claim for benefits for a treatment, product, service,
 9 rehabilitative occupational training, or accommodation that was not
 10 medically necessary or that was for an excessive amount.

11 (c) A claim for which the client was solicited by the attorney
 12 in violation of the law of this state or the Michigan rules of
 13 professional conduct.

14 (5) To the extent that personal or property protection
 15 insurance benefits are then due or thereafter come due to the
 16 claimant because of loss resulting from the injury on which the
 17 claim is based, ~~such a-an attorney~~ fee awarded in favor of the
 18 ~~insurer~~ may be ~~treated-taken~~ as an offset against ~~such-the~~
 19 ~~benefits. ; also, judgment-Judgment~~ may also be entered against the
 20 claimant for any amount of ~~a-an attorney~~ fee awarded ~~against him~~
 21 ~~and-that is~~ not offset ~~in this way-against benefits~~ or otherwise
 22 paid.

23 (6) For a dispute over payment for allowable expenses under
 24 section 3107(1) (a) for attendant care or nursing services, attorney
 25 fees may be awarded in relation to expenses recovered for the 12
 26 months preceding the date the insurer is notified of the dispute.
 27 Attorney fees must not be awarded in relation to expenses paid
 28 after the date the insurer is notified of the dispute, including
 29 any future payments ordered after the judgment is entered.



1 (7) A court shall not award a fee to an attorney for advising
 2 or representing a claimant in an action for personal or property
 3 protection insurance benefits for a treatment, product, service,
 4 rehabilitative occupational training, or accommodation provided to
 5 the claimant if the attorney or a related person of the attorney
 6 has, or had at the time the treatment, product, service,
 7 rehabilitative occupational training, or accommodation was
 8 provided, a direct or indirect financial interest in the person
 9 that provided the treatment, product, service, rehabilitative
 10 occupational training, or accommodation. For purposes of this
 11 subsection, a direct or indirect financial interest exists if the
 12 person that provided the treatment, product, service,
 13 rehabilitative occupational training, or accommodation makes a
 14 direct or indirect payment or grants a financial incentive to the
 15 attorney or a related person of the attorney relating to the
 16 treatment, product, service, rehabilitative occupational training,
 17 or accommodation within 24 months before or after the treatment,
 18 product, service, rehabilitative occupational training, or
 19 accommodation is provided.

20 Sec. 3157. (1) ~~A~~ Subject to subsections (2) and (3), a person,
 21 including, but not limited to, a physician, hospital, clinic, or
 22 other ~~person or institution,~~ **that** lawfully ~~rendering~~ **renders**
 23 treatment, **products, services, or accommodations** to an injured
 24 person for an accidental bodily injury covered by personal
 25 protection insurance, ~~and a person or institution providing~~ **or that**
 26 **provides** rehabilitative occupational training **to the injured person**
 27 following the injury, may charge a reasonable amount for the
 28 **treatment, training,** products, services, and accommodations.
 29 ~~rendered.~~ The charge ~~shall~~ **must** not exceed the amount the person ~~or~~



1 ~~institution~~ customarily charges for like **treatment, training,**
 2 products, services, and accommodations in cases ~~not involving that~~
 3 **do not involve personal protection** insurance.

4 (2) Subject to subsections (3) and (6), a person that renders
 5 a treatment, training, product, service, or accommodation to an
 6 injured person for an accidental bodily injury is not eligible for
 7 payment or reimbursement under this chapter of more than the amount
 8 payable for the treatment, training, product, service, or
 9 accommodation under R 418.10101 to R 418.101503 of the Michigan
 10 Administrative Code or schedules of maximum fees for worker's
 11 compensation developed under those rules, in effect on the
 12 effective date of the amendatory act that added this subsection.
 13 The director shall review any changes to R 418.10101 to R
 14 418.101503 of the Michigan Administrative Code or schedules of
 15 maximum fees for worker's compensation developed under those rules.
 16 If the director determines that the changes are reasonable and
 17 appropriate for purposes of assuring affordable automobile
 18 insurance in this state, the changes apply for purposes of this
 19 subsection and the director shall issue an order to that effect.

20 (3) For attendant care rendered in the injured person's home,
 21 an insurer is only required to pay benefits for attendant care up
 22 to the hourly limitation in section 315 of the worker's disability
 23 compensation act of 1969, 1969 PA 317, MCL 418.315. This subsection
 24 only applies if the attendant care is provided directly, or
 25 indirectly through another person, by any of the following:

26 (a) An individual who is related to the injured person.

27 (b) An individual who is domiciled in the household of the
 28 injured person.

29 (c) An individual with whom the injured person had a business



1 or social relationship before the injury.

2 (4) An insurer may contract to pay benefits for attendant care
3 for more than the hourly limitation under subsection (3).

4 (5) If R 418.10101 to R 418.101503 of the Michigan
5 Administrative Code or schedules of maximum fees for worker's
6 compensation developed under those rules, in effect on the
7 effective date of the amendatory act that added this subsection,
8 including any changes applicable under subsection (2), do not
9 provide an amount payable for treatment, training, product,
10 service, or accommodation rendered to an injured person for
11 accidental bodily injury covered by personal protection insurance
12 or rehabilitative occupational training to the injured person
13 following the injury, the person that renders the treatment,
14 product, service, or accommodation is not eligible for payment or
15 reimbursement under this chapter of more than the average amount
16 accepted by the person as payment or reimbursement in full for the
17 treatment, training, product, service, or accommodation during the
18 preceding calendar year in cases that do not involve personal
19 protection insurance.

20 (6) A neurological rehabilitation clinic is not entitled to
21 payment or reimbursement for a treatment, training, product,
22 service, or accommodation unless the neurological rehabilitation
23 clinic is accredited by the Commission on Accreditation of
24 Rehabilitation Facilities or a similar organization recognized by
25 the director for purposes of accreditation under this subsection.
26 This subsection does not apply to a neurological rehabilitation
27 clinic that is in the process of becoming accredited as required
28 under this subsection on the effective date of the amendatory act
29 that added this subsection, unless 3 years have passed since the



1 beginning of that process and the neurological rehabilitation
2 clinic is still not accredited.

3 (7) Subsections (2) to (6) apply to a treatment, training,
4 product, service, or accommodation rendered after the effective
5 date of the amendatory act that added this subsection, regardless
6 of when the accidental bodily injury occurred. Subsections (2) to
7 (6) apply regardless of whether indemnification for the charge is
8 being made by the catastrophic claims association under section
9 3104.

10 (8) As used in this section, "neurological rehabilitation
11 clinic" means a person that provides post-acute brain and spinal
12 rehabilitation care.

13 Sec. 3157a. (1) By rendering any treatment, products,
14 services, or accommodations to 1 or more injured persons for an
15 accidental bodily injury covered by personal protection insurance
16 under this chapter after the effective date of the amendatory act
17 that added this section, a physician, hospital, clinic, or other
18 person is considered to have agreed to do both of the following:

19 (a) Submit necessary records and other information concerning
20 treatment, products, services, or accommodations provided for
21 utilization review under this section.

22 (b) Comply with any decision of the department under this
23 section.

24 (2) A physician, hospital, clinic, or other person or
25 institution that knowingly submits false or misleading records or
26 other information to an insurer, the association created under
27 section 3104, or the department under this section is guilty of a
28 misdemeanor punishable by imprisonment for not more than 1 year or
29 a fine of not more than \$1,000.00, or both.



1 (3) The department shall promulgate rules under the
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
3 24.328, to do both of the following:

4 (a) Establish criteria or standards for utilization review
5 that identify utilization of treatment, products, services, or
6 accommodations under this chapter above the usual range of
7 utilization for the treatment, products, services, or
8 accommodations based on medically accepted standards.

9 (b) Provide procedures related to utilization review,
10 including procedures for all of the following:

11 (i) Acquiring necessary records, medical bills, and other
12 information concerning the treatment, products, services, or
13 accommodations provided.

14 (ii) Allowing an insurer to request an explanation for and
15 requiring a physician, hospital, clinic, or other person to explain
16 the necessity or indication for treatment, products, services, or
17 accommodations provided.

18 (iii) Appealing determinations.

19 (4) If a physician, hospital, clinic, or other person provides
20 treatment, products, services, or accommodations under this chapter
21 that are not usually associated with, are longer in duration than,
22 are more frequent than, or extend over a greater number of days
23 than the treatment, products, services, or accommodations usually
24 require for the diagnosis or condition for which the patient is
25 being treated, the insurer or the association created under section
26 3104 may require the physician, hospital, clinic, or other person
27 to explain the necessity or indication for the treatment, products,
28 services, or accommodations in writing under the procedures
29 provided under subsection (3).



1 (5) If an insurer or the association created under section
 2 3104 determines that a physician, hospital, clinic, or other person
 3 improperly overutilized or otherwise rendered or ordered
 4 inappropriate treatment, products, services, or accommodations, or
 5 that the cost of the treatment, products, services, or
 6 accommodations was inappropriate under this chapter, the physician,
 7 hospital, clinic, or other person may appeal the determination to
 8 the department under the procedures provided under subsection (3).

9 (6) If the department determines that an insurer complies with
 10 the criteria or standards for utilization review established under
 11 subsection (3), the department shall certify the insurer.

12 (7) As used in this section, "utilization review" means the
 13 initial evaluation by an insurer or the association created under
 14 section 3104 of the appropriateness in terms of both the level and
 15 the quality of treatment, products, services, or accommodations
 16 provided under this chapter based on medically accepted standards.

17 Sec. 3157b. Any proprietary information or sensitive
 18 personally identifiable information regarding a patient that is
 19 submitted to the department under section 3157a is exempt from
 20 disclosure under section 13(e) of the freedom of information act,
 21 1976 PA 442, MCL 15.243, and the department shall exempt any such
 22 information from disclosure under any other applicable exemptions
 23 under section 13 of the freedom of information act, 1976 PA 442,
 24 MCL 15.243.

25 Sec. 3163. ~~(1)~~—An insurer authorized to transact automobile
 26 liability insurance and personal and property protection insurance
 27 in this state shall file and maintain a written certification that
 28 ~~any~~ is not required to provide personal protection insurance or
 29 property protection insurance benefits under this chapter for



1 accidental bodily injury or property damage occurring in this state
 2 arising from the ownership, operation, maintenance, or use of a
 3 motor vehicle as a motor vehicle by an out-of-state resident who is
 4 insured under ~~its~~ **the insurer's** automobile liability insurance
 5 policies. ~~, is subject to the personal and property protection~~
 6 ~~insurance system under this act.~~

7 ~~(2) A nonadmitted insurer may voluntarily file the~~
 8 ~~certification described in subsection (1).~~

9 ~~(3) Except as otherwise provided in subsection (4), if a~~
 10 ~~certification filed under subsection (1) or (2) applies to~~
 11 ~~accidental bodily injury or property damage, the insurer and its~~
 12 ~~insureds with respect to that injury or damage have the rights and~~
 13 ~~immunities under this act for personal and property protection~~
 14 ~~insureds, and claimants have the rights and benefits of personal~~
 15 ~~and property protection insurance claimants, including the right to~~
 16 ~~receive benefits from the electing insurer as if it were an insurer~~
 17 ~~of personal and property protection insurance applicable to the~~
 18 ~~accidental bodily injury or property damage.~~

19 ~~(4) If an insurer of an out-of-state resident is required to~~
 20 ~~provide benefits under subsections (1) to (3) to that out-of-state~~
 21 ~~resident for accidental bodily injury for an accident in which the~~
 22 ~~out-of-state resident was not an occupant of a motor vehicle~~
 23 ~~registered in this state, the insurer is only liable for the amount~~
 24 ~~of ultimate loss sustained up to \$500,000.00. Benefits under this~~
 25 ~~subsection are not recoverable to the extent that benefits covering~~
 26 ~~the same loss are available from other sources, regardless of the~~
 27 ~~nature or number of benefit sources available and regardless of the~~
 28 ~~nature or form of the benefits.~~

29 Sec. 3172. (1) A person entitled to claim because of



1 accidental bodily injury arising out of the ownership, operation,
 2 maintenance, or use of a motor vehicle as a motor vehicle in this
 3 state may ~~obtain-claim~~ personal protection insurance benefits
 4 through the assigned claims plan if ~~no~~ **any of the following apply:**

5 (a) **No** personal protection insurance is applicable to the
 6 injury. ~~no~~

7 (b) **No** personal protection insurance applicable to the injury
 8 can be identified. ~~the~~

9 (c) **No** personal protection insurance applicable to the injury
 10 ~~cannot~~ **can** be ascertained because of a dispute between 2 or more
 11 automobile insurers concerning their obligation to provide coverage
 12 or the equitable distribution of the loss. ~~or the~~

13 (d) **The** only identifiable personal protection insurance
 14 applicable to the injury is, because of financial inability of 1 or
 15 more insurers to fulfill their obligations, inadequate to provide
 16 benefits up to the maximum prescribed. ~~In that case, unpaid~~

17 (2) **Unpaid** benefits due or coming due **as described in**
 18 **subsection (1)** may be collected under the assigned claims plan, and
 19 the insurer to which the claim is assigned is entitled to
 20 reimbursement from the defaulting insurers to the extent of their
 21 financial responsibility.

22 (3) **A person entitled to claim personal protection insurance**
 23 **benefits through the assigned claims plan under subsection (1)**
 24 **shall file a completed application on a claim form provided by the**
 25 **Michigan automobile insurance placement facility and provide**
 26 **reasonable proof of loss to the Michigan automobile insurance**
 27 **placement facility. The Michigan automobile insurance placement**
 28 **facility or an insurer assigned to administer a claim on behalf of**
 29 **the Michigan automobile insurance placement facility under the**



1 assigned claims plan shall specify in writing the materials that
 2 constitute a reasonable proof of loss within 60 days after receipt
 3 by the Michigan automobile insurance placement facility of an
 4 application that complies with this subsection.

5 (4) The Michigan automobile insurance placement facility or an
 6 insurer assigned to administer a claim on behalf of the Michigan
 7 automobile insurance placement facility under the assigned claims
 8 plan is not required to pay an interest penalty in connection with
 9 a claim for any period of time during which the claim is reasonably
 10 in dispute.

11 (5) ~~(2)~~ Except as otherwise provided in this subsection,
 12 personal protection insurance benefits, including benefits arising
 13 from accidents occurring before March 29, 1985, payable through the
 14 assigned claims plan ~~shall~~ **must** be reduced to the extent that
 15 benefits covering the same loss are available from other sources,
 16 regardless of the nature or number of benefit sources available and
 17 regardless of the nature or form of the benefits, to a person
 18 claiming personal protection insurance benefits through the
 19 assigned claims plan. This subsection only applies if the personal
 20 protection insurance benefits are payable through the assigned
 21 claims plan ~~because no personal protection insurance is applicable~~
 22 ~~to the injury, no personal protection insurance applicable to the~~
 23 ~~injury can be identified, or the only identifiable personal~~
 24 ~~protection insurance applicable to the injury is, because of~~
 25 ~~financial inability of 1 or more insurers to fulfill their~~
 26 ~~obligations, inadequate to provide benefits up to the maximum~~
 27 ~~prescribed.~~ **under subsection (1) (a), (b), or (d)**. As used in this
 28 subsection, "sources" and "benefit sources" do not include the
 29 program for medical assistance for the medically indigent under the



1 social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or
 2 ~~insurance under the health insurance for the aged act, title and~~
 3 **disabled under subchapter XVIII** of the social security act, 42 USC
 4 1395 to ~~1395kkk-1.1395lll~~.

5 (6) ~~(3)~~ If the obligation to provide personal protection
 6 insurance benefits cannot be ascertained because of a dispute
 7 between 2 or more automobile insurers concerning their obligation
 8 to provide coverage or the equitable distribution of the loss, and
 9 if a method of voluntary payment of benefits cannot be agreed upon
 10 among or between the disputing insurers, all of the following
 11 apply:

12 (a) The insurers who are parties to the dispute shall, or the
 13 claimant may, immediately notify the Michigan automobile insurance
 14 placement facility of their inability to determine their statutory
 15 obligations.

16 (b) ~~The claim shall be assigned by the Michigan automobile~~
 17 insurance placement facility **shall assign the claim** to an insurer
 18 and the insurer shall immediately provide personal protection
 19 insurance benefits to the claimant or claimants entitled to
 20 benefits.

21 ~~An action~~ **The insurer assigned the claim by the Michigan**
 22 **automobile insurance placement facility** shall ~~be~~ immediately
 23 ~~commenced~~ **commence an action** on behalf of the Michigan automobile
 24 insurance placement facility ~~by the insurer to whom the claim is~~
 25 ~~assigned~~ in circuit court to declare the rights and duties of any
 26 interested party.

27 (d) The insurer to whom the claim is assigned shall join as
 28 parties defendant to the action commenced under subdivision (c)
 29 each insurer disputing either the obligation to provide personal



1 protection insurance benefits or the equitable distribution of the
2 loss among the insurers.

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

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

21 **(7) The Michigan automobile insurance placement facility and**
22 **the insurer to whom a claim is assigned by the Michigan automobile**
23 **insurance placement facility are only required to provide personal**
24 **protection insurance benefits under section 3107(1)(a) up to the**
25 **limit provided in section 3107c(1)(a).**

26 Sec. 3173a. (1) The Michigan automobile insurance placement
27 facility shall **review a claim for personal protection insurance**
28 **benefits under the assigned claims plan, shall** make an initial
29 determination of ~~a claimant's~~**the** eligibility for benefits under



1 ~~this chapter and~~ the assigned claims plan, and shall deny an
 2 ~~obviously ineligible~~ a claim ~~—The that the Michigan automobile~~
 3 insurance placement facility determines is ineligible under this
 4 chapter or the assigned claims plan. If a claimant or person making
 5 a claim through or on behalf of a claimant fails to cooperate with
 6 the Michigan automobile insurance placement facility as required by
 7 subsection (2), the Michigan automobile insurance placement
 8 facility shall suspend benefits to the claimant under the assigned
 9 claims plan. A suspension under this subsection is not an
 10 irrevocable denial of benefits, and must continue only until the
 11 Michigan automobile insurance placement facility determines that
 12 the claimant or person making a claim through or on behalf of a
 13 claimant cooperates or resumes cooperation with the Michigan
 14 automobile insurance placement facility. The Michigan automobile
 15 insurance placement facility shall promptly notify in writing the
 16 claimant ~~shall be notified promptly in writing and any person that~~
 17 submitted a claim through or on behalf of a claimant of ~~the a~~
 18 denial and the reasons for the denial.

19 (2) A claimant or a person making a claim through or on behalf
 20 of a claimant shall cooperate with the Michigan automobile
 21 insurance placement facility in its determination of eligibility
 22 and the settlement or defense of any claim or suit, including, but
 23 not limited to, submitting to an examination under oath and
 24 compliance with sections 3151 to 3153. There is a rebuttable
 25 presumption that a person has satisfied the duty to cooperate under
 26 this section if all of the following apply:

27 (a) The person submitted a claim for personal protection
 28 insurance benefits under the assigned claims plan by submitting to
 29 the Michigan automobile insurance placement facility a complete



1 application on a form provided by the Michigan automobile insurance
2 placement facility in accordance with the assigned claims plan.

3 (b) The person provided reasonable proof of loss under the
4 assigned claims plan as described in section 3172.

5 (c) If required under this subsection to submit to an
6 examination under oath, the person submitted to the examination,
7 subject to all of the following:

8 (i) The person was provided at least 21 days' notice of the
9 examination.

10 (ii) The examination was conducted in a location reasonably
11 convenient for the person.

12 (iii) Any reasonable request by the person to reschedule the
13 date, time, or location of the examination was accommodated.

14 (3) The Michigan automobile insurance placement facility may
15 perform its functions and responsibilities under this section and
16 the assigned claims plan directly or through an insurer assigned by
17 the Michigan automobile insurance placement facility to administer
18 the claim on behalf of the Michigan automobile insurance placement
19 facility. The assignment of a claim by the Michigan automobile
20 insurance placement facility to an insurer is not a determination
21 of eligibility under this chapter or the assigned claims plan, and
22 a claim assigned to an insurer by the Michigan automobile insurance
23 placement facility may later be denied if the claim is not eligible
24 under this chapter or the assigned claims plan.

25 (4) ~~(2)~~—A person who presents or causes to be presented an
26 oral or written statement, including computer-generated
27 information, as part of or in support of a claim to the Michigan
28 automobile insurance placement facility, **or to an insurer to which**
29 **the claim is assigned under the assigned claims plan**, for payment



1 or another benefit knowing that the statement contains false
 2 information concerning a fact or thing material to the claim
 3 commits a fraudulent insurance act under section 4503 that is
 4 subject to the penalties imposed under section 4511. A claim that
 5 contains or is supported by a fraudulent insurance act as described
 6 in this subsection is ineligible for payment ~~or of personal~~
 7 **protection insurance** benefits under the assigned claims plan.

8 (5) **The Michigan automobile insurance placement facility may**
 9 **contract with other persons for all or a portion of the goods and**
 10 **services necessary for operating and maintaining the assigned**
 11 **claims plan.**

12 Sec. 3174. A person claiming through the assigned claims plan
 13 shall notify the Michigan automobile insurance placement facility
 14 of his or her claim within ~~the time that would have been allowed~~
 15 ~~for filing an action for personal protection insurance benefits if~~
 16 ~~identifiable coverage applicable to the claim had been in effect.~~
 17 **The 1 year after the date of the accident. On an initial**
 18 **determination of a claimant's eligibility for benefits through the**
 19 **assigned claims plan, the** Michigan automobile insurance placement
 20 facility shall promptly assign the claim in accordance with the
 21 plan and notify the claimant of the identity and address of the
 22 insurer to which the claim is assigned. An action by ~~the a~~ claimant
 23 ~~shall not be commenced more than 30 days after receipt of notice of~~
 24 ~~the assignment or the last date on which the action could have been~~
 25 ~~commenced against an insurer of identifiable coverage applicable to~~
 26 ~~the claim, whichever is later.~~**must be commenced as provided in**
 27 **section 3145.**

28 Sec. 3175. (1) The assignment of claims under the assigned
 29 claims plan ~~shall~~**must** be made according to procedures established



1 in the assigned claims plan that assure fair allocation of the
 2 burden of assigned claims among insurers doing business in this
 3 state on a basis reasonably related to the volume of automobile
 4 liability and personal protection insurance they write on motor
 5 vehicles or the number of self-insured motor vehicles. An insurer
 6 to whom claims have been assigned shall make prompt payment of loss
 7 in accordance with this act. An insurer is entitled to
 8 reimbursement by the Michigan automobile insurance placement
 9 facility for the payments, the established loss adjustment cost,
 10 and an amount determined by use of the average annual 90-day United
 11 States treasury bill yield rate, as reported by the ~~council of~~
 12 ~~economic advisers~~ **Council of Economic Advisers** as of December 31 of
 13 the year for which reimbursement is sought, as follows:

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

18 (b) For the period from the end of the calendar year in which
 19 claims are paid by the insurer to the date payments for the
 20 operation of the assigned claims plan are due, the amount ~~shall~~
 21 **must** be determined by applying the annual yield rate specified in
 22 this subsection to the total claims payments and loss adjustment
 23 costs multiplied by a fraction, the denominator of which is 365 and
 24 the numerator of which is equal to the number of days that have
 25 elapsed between the end of the calendar year and the date payments
 26 for the operation of the assigned claims plan are due.

27 (2) ~~The~~ **An insurer assigned a claim by the Michigan automobile**
 28 **insurance placement facility under the assigned claims plan or a**
 29 **person authorized to act on behalf of the plan may bring an action**



1 **for reimbursement and indemnification of the claim on behalf of the**
 2 **Michigan automobile insurance placement facility. The** insurer to
 3 ~~whom claims have~~ **which the claim has** been assigned shall preserve
 4 and enforce rights to indemnity or reimbursement against third
 5 parties and account to the Michigan automobile insurance placement
 6 facility for the rights and shall assign the rights to the Michigan
 7 automobile insurance placement facility on reimbursement by the
 8 Michigan automobile insurance placement facility. This section does
 9 not preclude an insurer from entering into reasonable compromises
 10 and settlements with third parties against whom rights to indemnity
 11 or reimbursement exist. The insurer shall account to the Michigan
 12 automobile insurance placement facility for any compromises and
 13 settlements. The procedures established under the assigned claims
 14 ~~plan shall~~ **of operation must** establish reasonable standards for
 15 enforcing rights to indemnity or reimbursement against third
 16 parties, including a standard establishing an amount below which
 17 actions to preserve and enforce the rights need not be pursued.

18 (3) An action to enforce rights to indemnity or reimbursement
 19 against a third party ~~shall~~ **must** not be commenced after the later
 20 of ~~2~~ **the following:**

21 (a) **Two** years after the assignment of the claim to the
 22 insurer. ~~or 1~~

23 (b) **One** year after the date of the last payment to the
 24 claimant.

25 (c) **One year after the date the responsible third party is**
 26 **identified.**

27 (4) Payments for the operation of the assigned claims plan not
 28 paid by the due date ~~shall~~ bear interest at the rate of 20% per
 29 annum.



1 (5) The Michigan automobile insurance placement facility may
 2 enter into a written agreement with the debtor permitting the
 3 payment of the judgment or acknowledgment of debt in installments
 4 payable to the Michigan automobile insurance placement facility. A
 5 default in payment of installments under a judgment as agreed
 6 subjects the debtor to suspension or revocation of his or her motor
 7 vehicle license or registration in the same manner as for the
 8 failure by an uninsured motorist to pay a judgment by installments
 9 under section 3177, **including responsibility for expenses as**
 10 **provided in section 3177(4).**

11 Sec. 3177. (1) ~~An~~**The** insurer obligated to pay personal
 12 protection insurance benefits for accidental bodily injury to a
 13 person arising out of the ownership, maintenance, or use of an
 14 uninsured motor vehicle as a motor vehicle may recover ~~such all~~
 15 **benefits paid, and appropriate incurred** loss adjustment costs **and**
 16 **expenses, and incurred attorney fees** from the owner or registrant
 17 of the uninsured motor vehicle or from his or her estate. Failure
 18 of ~~such a person~~**the owner or registrant** to make payment within 30
 19 days after **a judgment is entered in an action for recovery under**
 20 **this subsection** is a ground for suspension or revocation of his or
 21 her motor vehicle registration and license as defined in section 25
 22 of the Michigan vehicle code, ~~Act No. 300 of the Public Acts of~~
 23 ~~1949, being section 257.25 of the Michigan Compiled Laws. An~~**1949**
 24 **PA 300, MCL 257.25. For purposes of this section, an** uninsured
 25 motor vehicle ~~for the purpose of this section~~ is a motor vehicle
 26 with respect to which security as required by sections 3101 and
 27 3102 is not in effect at the time of the accident.

28 (2) **The Michigan automobile insurance placement facility may**
 29 **make a written agreement with the owner or registrant of an**



1 uninsured vehicle or his or her estate permitting the payment of a
 2 judgment described in subsection (1) in installments payable to the
 3 Michigan automobile insurance placement facility. The motor vehicle
 4 registration and license shall ~~of an owner or registrant who makes~~
 5 a written agreement under this subsection must not be suspended or
 6 revoked and, ~~the motor vehicle registration and license shall if~~
 7 already suspended or revoked under subsection (1), must be restored
 8 if ~~the debtor enters into a written agreement with the secretary of~~
 9 state permitting the payment of the judgment in installments, if
 10 the payment of any installments is not in default.

11 (3) The secretary of state, ~~upon~~ on receipt of a certified
 12 abstract of court record of a judgment **described in subsection (1)**
 13 or notice from ~~the~~ an insurer **or the Michigan automobile insurance**
 14 **placement facility or its designee** of an acknowledgment of a debt
 15 **described in subsection (1)**, shall notify the owner or registrant
 16 ~~of an uninsured vehicle~~ of the provisions of subsection (1) at ~~that~~
 17 ~~person's~~ **the owner or registrant's** last ~~recorded~~ address **recorded**
 18 with the secretary of state and inform ~~that person~~ **the owner or**
 19 **registrant** of the right to enter into a written agreement **under**
 20 **this section** with the ~~secretary of state~~ **Michigan automobile**
 21 **insurance placement facility or its designee** for the payment of the
 22 judgment or debt in installments.

23 (4) Expenses for the suspension, revocation, or reinstatement
 24 of a motor vehicle registration or license under this section are
 25 the responsibility of the owner or registrant or of his or her
 26 estate. An owner or registrant whose registration or license is
 27 suspended under this section shall pay any reinstatement fee as
 28 required under section 320e of the Michigan vehicle code, 1949 PA
 29 300, MCL 257.320e.



CHAPTER 63

AUTOMOBILE INSURANCE FRAUD TASK FORCE

Sec. 6301. As used in this chapter:

(a) "Automobile insurance fraud" means a fraudulent insurance act as described in section 4503 that is committed in connection with automobile insurance, including an application for automobile insurance, regardless of whether the act constitutes a crime or another violation of law.

(b) "Fund" means the automobile insurance fraud fund created in section 6304.

(c) "Task force" means the automobile insurance fraud task force created under section 6302.

Sec. 6302. (1) The automobile insurance fraud task force is created in the department of state police. Members of the task force shall perform their duties on the task force under the direction of the director of the department of state police.

(2) The task force consists of the following members, appointed as follows:

(a) Five officers of the department of state police as described under section 6 of 1935 PA 59, MCL 28.6, appointed by the director of the department of state police.

(b) One employee of the department, appointed by the director.

(c) One representative of the catastrophic claims association created under section 3104, appointed by the catastrophic claims association board.

(d) One employee of the Michigan automobile insurance placement facility who is involved in the operation of the assigned claims plan created under section 3171, appointed by the Michigan automobile insurance placement facility.



1 (e) One employee of the department of attorney general,
2 appointed by the attorney general.

3 (3) A member of the task force shall serve at the pleasure of
4 the person that appointed the member. If a vacancy occurs on the
5 task force, the person with the power to appoint a member to the
6 vacant position shall make an appointment in the same manner as the
7 original appointment.

8 (4) The task force shall do all of the following:

9 (a) Receive records from the anti-fraud unit created under
10 Executive Order No. 2018-9.

11 (b) Collect and maintain claims of automobile insurance fraud.

12 (c) Investigate claims of automobile insurance fraud.

13 (d) Maintain records of its investigations.

14 (e) Pursue the prosecution, whether criminal or civil, of
15 persons that commit automobile insurance fraud.

16 (5) The task force may do 1 or more of the following:

17 (a) Share records of its investigations with other law
18 enforcement agencies and departments and agencies of this state.

19 (b) Review records of other law enforcement agencies and
20 departments and agencies of this state to assist in the
21 investigation of automobile insurance fraud and enforcement of laws
22 relating to automobile insurance fraud.

23 (c) Conduct outreach and coordination efforts with local and
24 state law enforcement agencies and departments and agencies of this
25 state to promote investigation and prosecution of automobile
26 insurance fraud.

27 (d) Anything else that it determines is necessary to
28 investigate and prosecute automobile insurance fraud in this state.

29 Sec. 6303. (1) Within 60 days after the effective date of this



1 chapter, the anti-fraud unit created as provided in Executive Order
2 No. 2018-9 shall transfer all records regarding claims of
3 automobile insurance fraud and investigation of claims of
4 automobile insurance fraud in its possession to the task force.

5 (2) After the anti-fraud unit has transferred the records as
6 required by subsection (1), the anti-fraud unit is dissolved.

7 Sec. 6304. (1) The automobile insurance fraud fund is created
8 within the state treasury.

9 (2) The state treasurer may receive money or other assets from
10 any source for deposit into the fund. The state treasurer shall
11 direct the investment of the fund. The state treasurer shall credit
12 to the fund interest and earnings from fund investments.

13 (3) Money in the fund at the close of the fiscal year must
14 remain in the fund and not lapse to the general fund.

15 (4) The department of state police is the administrator of the
16 fund for auditing purposes.

17 (5) The department of state police shall disburse money from
18 the fund, upon appropriation, as follows:

19 (a) Until 5 years after the effective date of this section,
20 money in the fund must be disbursed to the department of state
21 police, the department, the catastrophic claims association, the
22 Michigan automobile insurance placement facility, and the
23 department of the attorney general, in proportion to the number of
24 officers, employees, or representatives each of these has on the
25 task force. Money disbursed under this subdivision must be used for
26 the operation of the task force.

27 (b) Beginning 5 years after the effective date of this
28 section, the department of state police shall expend money from the
29 fund, upon appropriation for the operation of the task force.



1 Sec. 6305. (1) An insurer authorized to transact automobile
2 insurance in this state shall report data regarding automobile
3 insurance fraud by medical providers, attorneys, or other persons
4 to the task force.

5 (2) The department shall cooperate with the task force and
6 shall provide all available statistics on automobile fraud and
7 unfair claims practices to the task force on request.

8 Sec. 6307. (1) Beginning July 1 of the year after the
9 effective date of the amendatory act that added this section, the
10 task force shall prepare and publish an annual report to the
11 legislature on the task force's efforts to prevent automobile
12 insurance fraud by medical providers, attorneys, or other persons,
13 unfair claims practices of insurance companies, and cost savings
14 that have resulted from those efforts.

15 (2) The annual report to the legislature required by this
16 section must detail the automobile insurance fraud by medical
17 providers, attorneys, or other persons and unfair claims practices
18 of insurance companies occurring in this state for the previous
19 year, assess the impact of the fraud and unfair claims practices on
20 rates charged for automobile insurance, and outline any
21 expenditures made by the task force. The director shall cooperate
22 in developing the report as requested by the task force and shall
23 make available to the task force records and statistics concerning
24 automobile insurance fraud by medical providers, attorneys, or
25 other persons and unfair claims practices, including the number of
26 instances of suspected and confirmed automobile insurance fraud,
27 number of prosecutions and convictions involving automobile
28 insurance fraud, automobile insurance fraud recidivism, unfair
29 settlement practices and claims practices, including those reported



1 to the department under section 261, reimbursement rate practices,
2 timeliness of claims practices, and the use of independent medical
3 examiners. The task force shall evaluate the impact automobile
4 insurance fraud by medical providers, attorneys, or other persons
5 has on the citizens of this state and the costs incurred by the
6 citizens through insurance, police enforcement, prosecution, and
7 incarceration because of automobile insurance fraud. The task force
8 shall evaluate the impact unfair claims practices by insurers have
9 on the citizens of this state and shall determine the costs
10 incurred by the citizens through unnecessary litigation and bad-
11 faith practices.

12 (3) The task force shall submit the annual report to the
13 legislature required by this section to the standing committees of
14 the senate and house of representatives with primary jurisdiction
15 over insurance issues and the director.

16 Enacting section 1. Section 3112 of the insurance code of
17 1956, 1956 PA 218, MCL 500.3112, as amended by this amendatory act,
18 applies to products, services, or accommodations provided after the
19 effective date of this amendatory act.

