

Act No. 126
Public Acts of 1990
Approved by the Governor
June 25, 1990
Filed with the Secretary of State
June 26, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Reps. Brown, Mathieu, Hoekman and Sikkema

ENROLLED HOUSE BILL No. 5782

AN ACT to amend sections 3601, 7001, and 7020 of Act No. 218 of the Public Acts of 1956, entitled as amended "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability, and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state, and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance, and with respect to certain claims against uninsured or self-insured persons; and to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile

theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal certain acts and parts of acts; to repeal certain acts and parts of acts on specific dates; and to provide penalties for the violation of this act," sections 7001 and 7020 as added by Act No. 121 of the Public Acts of 1986, being sections 500.3601, 500.7001, and 500.7020 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 3601, 7001, and 7020 of Act No. 218 of the Public Acts of 1956, sections 7001 and 7020 as added by Act No. 121 of the Public Acts of 1986, being sections 500.3601, 500.7001, and 500.7020 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 3601. Group disability insurance is hereby declared to be that form of voluntary disability insurance covering not less than 5 employees or members, with or without their eligible dependents, written under a master policy issued to any governmental corporation, unit, agency, or department thereof, or to any corporation, co-partnership, individual employer, or any association, upon application of any executive officer or trustee of such association having a constitution or bylaws, and formed in good faith for purposes other than that of obtaining insurance where officers, members, employees, or classes or departments thereof may be insured for their individual benefit.

Sec. 7001. As used in this chapter:

- (a) "Board" means the board of trustees of the multiple employer welfare arrangement security fund.
- (b) "Cash reserves" means federally guaranteed obligations that have a fixed recoverable principal amount or an irrevocable and unconditional letter of credit.
- (c) "Covered claim" means an obligation of an insolvent MEWA to pay a claim that is covered by the MEWA to a covered employee or dependent who is a resident of this state.
- (d) "Employee welfare benefit plan" means that term as defined in section 3 of the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829, 29 U.S.C. 1002.
- (e) "Fund" means the multiple employer welfare arrangement security fund.
- (f) "Insolvent MEWA" means a MEWA authorized to do business in this state for which a domiciliary or ancillary receiver has been appointed in this state.
- (g) "Letter of credit" means a letter of credit that meets all of the following requirements:
 - (i) Is issued by a federally insured financial institution.
 - (ii) Is issued upon such terms and in a form approved by the commissioner.
 - (iii) Is subject to draw by the commissioner, upon giving 5 business days' written notice to the MEWA, or by the MEWA for the subscriber's benefit if the MEWA is unable to pay claims as they come due.
- (h) "Multiple employer welfare arrangement" or "MEWA" means that term as defined in section 3 of the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829, 29 U.S.C. 1002, which meets either or both of the following criteria:
 - (i) One or more of the employer members in the MEWA is either domiciled in this state or has its principal headquarters or principal administrative office in this state.
 - (ii) The MEWA solicits an employer that is domiciled in this state or has its principal headquarters or principal administrative office in this state.

Sec. 7020. (1) The policies issued by the MEWA shall provide for a premium or premium deposit payable in cash and, except as herein provided, for a contingent premium at least equal to 1 month's premium or premium deposit, which may be prefunded, and in no event shall a member be liable for a greater amount than the premium or premium deposit expressed in the policy.

(2) The MEWA may issue its policy without a contingent premium when it has cash reserves as provided in section 7040.

(3) If at any time the cash reserves are less than the requirement of section 7040, the MEWA shall immediately collect upon policies with a contingent premium a sufficient proportionate part thereof to restore the cash reserves, provided no member shall be liable for any part of the contingent premium in excess of the amount demanded within 1 year after the termination of the policy. The commissioner may by written order direct that proceedings to restore the reserves be deferred during the time fixed in the order.

This act is ordered to take immediate effect.

.....
Clerk of the House of Representatives.

.....
Secretary of the Senate.

Approved.....

.....
Governor.