

HOUSE BILL No. 4157

February 14, 1989, Introduced by Reps. Brown, Middaugh, Johnson, Weeks, Varga, Wartner, Palamara, Dutko, Rocca, Stallworth, Runco, and Van Singel and referred to the Committee on Insurance.

A bill to amend the title and section 456 of Act No. 218 of the Public Acts of 1956, entitled as amended
"The insurance code of 1956,"

as amended by Act No. 1 of the Public Acts of 1981, being section 500.456 of the Michigan Compiled Laws; and to add chapter 18.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 456 of Act No. 218 of the
2 Public Acts of 1956, as amended by Act No. 1 of the Public Acts
3 of 1981, being section 500.456 of the Michigan Compiled Laws, are
4 amended and chapter 18 is added to read as follows:

TITLE

5
6 An act to revise, consolidate, and classify the laws relat-
7 ing to the insurance and surety business; to regulate the
8 incorporation or formation of domestic insurance and surety
9 companies and associations and the admission of foreign and alien

1 companies and associations; to provide their rights, powers, and
2 immunities and to prescribe the conditions on which companies and
3 associations organized, existing, or authorized under this act
4 may exercise their powers; to provide the rights, powers, and
5 immunities and to prescribe the conditions on which other per-
6 sons, firms, corporations, ~~and~~ associations, RISK RETENTION
7 GROUPS, AND PURCHASING GROUPS engaged in an insurance or surety
8 business may exercise their powers; to provide for the imposition
9 of a privilege fee on domestic insurance companies and associa-
10 tions and the state accident fund; to provide for the imposition
11 of a tax on the business of foreign and alien companies and asso-
12 ciations; TO PROVIDE FOR THE IMPOSITION OF A TAX ON RISK RETEN-
13 TION GROUPS AND PURCHASING GROUPS; to provide for the imposition
14 of a tax on the business of surplus line agents; to modify tort
15 liability arising out of certain accidents; to provide for
16 limited actions with respect to that modified tort liability, and
17 to prescribe certain procedures for maintaining those actions; to
18 require security for losses arising out of certain accidents; to
19 provide for the continued availability and affordability of auto-
20 mobile insurance and homeowners insurance in this state, and to
21 facilitate the purchase of that insurance by all residents of
22 this state at fair and reasonable rates; to provide for certain
23 reporting with respect to insurance, and with respect to certain
24 claims against uninsured or self-insured persons; and to pre-
25 scribe duties for certain state departments and officers with
26 respect to that reporting; to provide for certain assessments; to
27 establish and continue certain state insurance funds; to modify

1 and clarify the status, rights, powers, duties, and operations of
2 the nonprofit malpractice insurance fund; to provide for the
3 departmental supervision and regulation of the insurance and
4 surety business within this state; to provide for the conserva-
5 tion, rehabilitation, or liquidation of unsound or insolvent
6 insurers; to provide for the protection of policyholders, claim-
7 ants, and creditors of unsound or insolvent insurers; to provide
8 for associations of insurers to protect policyholders and claim-
9 ants in the event of insurer insolvencies; to prescribe educa-
10 tional requirements for insurance agents and solicitors; to pro-
11 vide for the regulation of multiple employer welfare arrange-
12 ments; to create an automobile theft prevention authority to
13 reduce the number of automobile thefts in this state; to pre-
14 scribe the powers and duties of the automobile theft prevention
15 authority; to provide certain powers and duties upon certain
16 officials, departments, and authorities of this state; to repeal
17 certain acts and parts of acts; to repeal certain acts and parts
18 of acts on specific dates; and to provide penalties for the vio-
19 lation of this act.

20 Sec. 456. Every insurance company, ~~or~~ association, RISK
21 RETENTION GROUP, OR PURCHASING GROUP not organized under the
22 statutes of this state shall ~~also~~ FILE WITH THE COMMISSIONER,
23 as a condition precedent to doing business in this state, ~~file~~
24 ~~with the commissioner~~ its irrevocable written stipulation, duly
25 authenticated by the company OR GROUP, stipulating and agreeing
26 that any legal process affecting the company OR GROUP, served on
27 the commissioner or the commissioner's deputies, shall have the

1 same effect as if personally served on the company OR GROUP. A
2 copy of the appointment shall be filed with the commissioner.
3 Service upon the commissioner shall be ~~deemed~~ CONSIDERED suffi-
4 cient service upon the company OR GROUP and the fee for service
5 shall be in the amount of \$5.00 payable at time of service. This
6 appointment shall remain in force as long as any liability
7 remains within ~~the~~ THIS state. ~~of Michigan.~~

8 CHAPTER 18

9 SEC. 1801. AS USED IN THIS CHAPTER:

10 (A) "CHARTERED" MEANS A RISK RETENTION GROUP LICENSED AND
11 AUTHORIZED TO ENGAGE IN BUSINESS AS A LIABILITY INSURANCE COMPANY
12 IN A STATE.

13 (B) "HAZARDOUS FINANCIAL CONDITION" MEANS THAT, BASED ON ITS
14 PRESENT OR REASONABLY ANTICIPATED FINANCIAL CONDITION, A RISK
15 RETENTION GROUP, ALTHOUGH NOT YET FINANCIALLY IMPAIRED OR INSOL-
16 VENT, IS UNLIKELY TO BE ABLE TO MEET OBLIGATIONS TO POLICYHOLDERS
17 WITH RESPECT TO KNOWN CLAIMS AND REASONABLY ANTICIPATED CLAIMS OR
18 TO PAY OTHER OBLIGATIONS IN THE NORMAL COURSE OF BUSINESS.

19 (C) "LIABILITY" MEANS LEGAL LIABILITY FOR DAMAGES INCLUDING
20 COSTS OF DEFENSE, LEGAL COSTS AND FEES, AND OTHER CLAIMS EXPENSES
21 BECAUSE OF PERSONAL INJURIES, PROPERTY DAMAGE, OR OTHER DAMAGE OR
22 LOSS, TO ANOTHER PERSON RESULTING FROM OR ARISING OUT OF A PROFIT
23 OR NONPROFIT BUSINESS, TRADE, PRODUCT, SERVICE, INCLUDING PROFES-
24 SIONAL SERVICE, A PREMISES OR OPERATION, OR AN ACTIVITY OF A
25 STATE OR LOCAL GOVERNMENT OR AN AGENCY OR POLITICAL SUBDIVISION
26 OF A STATE OR LOCAL GOVERNMENT. LIABILITY DOES NOT INCLUDE
27 PERSONAL RISK LIABILITY OR AN EMPLOYER'S LIABILITY WITH RESPECT

1 TO ITS EMPLOYEES OTHER THAN LEGAL LIABILITY UNDER CHAPTER 149, 35
2 STAT. 65, 45 U.S.C. 51 TO 60.

3 (D) "LIABILITY RISK RETENTION ACT OF 1986" MEANS THE LIABIL-
4 ITY RISK RETENTION ACT OF 1986, PUBLIC LAW 97-45, 15 U.S.C. 3901
5 TO 3906.

6 (E) "PERSONAL RISK LIABILITY" MEANS LIABILITY FOR DAMAGES
7 BECAUSE OF PERSONAL INJURY, PROPERTY DAMAGE, OR OTHER LOSS OR
8 DAMAGE, TO ANY PERSON RESULTING FROM A PERSONAL, FAMILY, OR
9 HOUSEHOLD RESPONSIBILITY OR ACTIVITY, AND NOT FROM RESPONSIBILI-
10 TIES OR ACTIVITIES DESCRIBED UNDER SUBDIVISION (C).

11 (F) "PLAN OF OPERATION" OR "FEASIBILITY STUDY" MEANS AN
12 ANALYSIS WHICH PRESENTS THE EXPECTED ACTIVITIES AND RESULTS OF A
13 RISK RETENTION GROUP INCLUDING ALL OF THE FOLLOWING:

14 (i) INFORMATION SUFFICIENT TO VERIFY THAT A RISK RETENTION
15 GROUP'S MEMBERS ARE ENGAGED IN BUSINESSES OR ACTIVITIES SIMILAR
16 OR RELATED WITH RESPECT TO THE LIABILITY TO WHICH THE MEMBERS ARE
17 EXPOSED BY VIRTUE OF A RELATED, SIMILAR, OR COMMON BUSINESS,
18 TRADE, PRODUCT, SERVICE, PREMISES, OR OPERATION.

19 (ii) FOR EACH STATE IN WHICH A RISK RETENTION GROUP INTENDS
20 TO OPERATE, THE COVERAGES, DEDUCTIBLES, COVERAGE LIMITS, RATES,
21 AND RATING CLASSIFICATION SYSTEMS FOR EACH LINE OF INSURANCE THE
22 GROUP INTENDS TO OFFER.

23 (iii) HISTORICAL AND EXPECTED LOSS EXPERIENCE OF THE PRO-
24 POSED RISK RETENTION GROUP MEMBERS AND NATIONAL EXPERIENCE OF
25 SIMILAR EXPOSURES IF THIS EXPERIENCE IS REASONABLY AVAILABLE.

26 (iv) FINANCIAL STATEMENTS FOR THE 3 YEARS IMMEDIATELY
27 PRECEDING THE SUBMISSION OF THE PLAN OF OPERATION OR FEASIBILITY

1 STUDY UNDER SECTION 1807 OR IF FINANCIAL STATEMENTS ARE NOT
2 AVAILABLE BECAUSE THE RISK RETENTION GROUP HAS NOT BEEN IN EXIS-
3 TENCE FOR 3 YEARS, ANY PREVIOUS YEARS' FINANCIAL STATEMENTS
4 TOGETHER WITH PRO FORMA FINANCIAL STATEMENTS AND PROJECTIONS FOR
5 THE UPCOMING 3-YEAR PERIOD.

6 (v) APPROPRIATE OPINIONS BY A QUALIFIED, INDEPENDENT CASU-
7 ALTY ACTUARY, INCLUDING A DETERMINATION OF MINIMUM PREMIUM OR
8 PARTICIPATION LEVELS REQUIRED OF THE RISK RETENTION GROUP TO COM-
9 MENCE OPERATIONS AND TO PREVENT A HAZARDOUS FINANCIAL CONDITION.

10 (vi) IDENTIFICATION OF MANAGEMENT, UNDERWRITING AND CLAIMS
11 PROCEDURES, MARKETING METHODS, MANAGERIAL OVERSIGHT METHODS,
12 INVESTMENT POLICIES, AND REINSURANCE AGREEMENTS OF THE RISK
13 RETENTION GROUP.

14 (vii) IDENTIFICATION OF EACH STATE IN WHICH THE RISK RETEN-
15 TION GROUP HAS OBTAINED, OR SOUGHT TO OBTAIN, A CHARTER, AND A
16 DESCRIPTION OF ITS STATUS IN THOSE STATES.

17 (viii) OTHER MATTERS AS MAY BE PRESCRIBED BY THE COMMIS-
18 SIONER OF THE STATE IN WHICH THE RISK RETENTION GROUP IS
19 CHARTERED.

20 (G) "PURCHASING GROUP" MEANS A GROUP WHICH MEETS ALL OF THE
21 FOLLOWING:

22 (i) HAS AS 1 OF ITS PURPOSES THE PURCHASE OF LIABILITY
23 INSURANCE ON A GROUP BASIS.

24 (ii) IS COMPOSED OF MEMBERS WHOSE BUSINESSES OR ACTIVITIES
25 ARE SIMILAR OR RELATED WITH RESPECT TO THE LIABILITY TO WHICH
26 MEMBERS ARE EXPOSED BY VIRTUE OF A RELATED, SIMILAR, OR COMMON
27 BUSINESS, TRADE, PRODUCT, SERVICE, PREMISES, OR OPERATION.

1 (iii) PURCHASES INSURANCE ONLY FOR ITS GROUP MEMBERS AND
2 ONLY TO COVER THEIR SIMILAR OR RELATED LIABILITY EXPOSURE, AS
3 DESCRIBED IN SUBPARAGRAPH (ii).

4 (iv) IS DOMICILED IN A STATE.

5 (H) "RISK RETENTION GROUP" MEANS A CORPORATION OR OTHER
6 LIMITED LIABILITY ASSOCIATION WHICH MEETS ALL OF THE FOLLOWING
7 CRITERIA:

8 (i) IS EITHER OF THE FOLLOWING:

9 (A) CHARTERED IN A STATE.

10 (B) BEFORE JANUARY 1, 1985 WAS CHARTERED OR LICENSED AND
11 AUTHORIZED TO ENGAGE IN THE BUSINESS OF INSURANCE UNDER THE LAWS
12 OF BERMUDA OR THE CAYMAN ISLANDS AND BEFORE JANUARY 1, 1985 HAD
13 CERTIFIED TO THE INSURANCE COMMISSIONER OF AT LEAST 1 STATE THAT
14 IT SATISFIED THE CAPITALIZATION REQUIREMENTS OF THAT STATE,
15 EXCEPT THAT THE GROUP SHALL BE CONSIDERED TO BE A RISK RETENTION
16 GROUP ONLY IF IT HAS BEEN ENGAGED IN BUSINESS CONTINUOUSLY SINCE
17 JANUARY 1, 1985 AND ONLY FOR THE PURPOSE OF CONTINUING TO PROVIDE
18 INSURANCE TO COVER PRODUCT LIABILITY OR COMPLETED OPERATIONS
19 LIABILITY AS THOSE TERMS WERE DEFINED BEFORE THE OCTOBER 27, 1986
20 AMENDMENTS TO THE LIABILITY RISK RETENTION ACT OF 1986.

21 (ii) DOES NOT EXCLUDE A PERSON FROM MEMBERSHIP SOLELY TO
22 PROVIDE MEMBERS OF THE GROUP WITH A COMPETITIVE ADVANTAGE OVER
23 THAT PERSON.

24 (iii) HAS EITHER OF THE FOLLOWING:

25 (A) AS ITS OWNERS ONLY PERSONS WHO COMPRISE THE MEMBERSHIP
26 OF THE RISK RETENTION GROUP AND WHO ARE PROVIDED INSURANCE BY THE
27 GROUP.

1 (B) AS ITS SOLE MEMBER AND SOLE OWNER AN ORGANIZATION WHICH
2 IS OWNED BY PERSONS WHO ARE PROVIDED INSURANCE BY THE RISK RETEN-
3 TION GROUP.

4 (iv) ITS MEMBERS ARE ENGAGED IN BUSINESSES OR ACTIVITIES
5 SIMILAR OR RELATED WITH RESPECT TO THE LIABILITY OF WHICH MEMBERS
6 ARE EXPOSED BY VIRTUE OF A RELATED, SIMILAR, OR COMMON BUSINESS
7 TRADE, PRODUCT, SERVICE, PREMISES, OR OPERATION.

8 (v) IS ORGANIZED FOR, AND WHOSE ACTIVITIES ARE LIMITED TO,
9 THE PROVISION OF EITHER OR BOTH OF THE FOLLOWING:

10 (A) LIABILITY INSURANCE FOR ASSUMING AND SPREADING ALL OR A
11 PORTION OF THE LIABILITY OF ITS GROUP MEMBERS.

12 (B) REINSURANCE WITH RESPECT TO THE LIABILITY OF ANOTHER
13 RISK RETENTION GROUP, OR ANY MEMBERS OF THAT OTHER GROUP, WHICH
14 IS ENGAGED IN BUSINESSES OR ACTIVITIES ENABLING THE GROUP OR
15 MEMBER TO MEET THE REQUIREMENT UNDER SUBPARAGRAPH (iv) FOR MEM-
16 BERSHIP IN THE RISK RETENTION GROUP WHICH PROVIDES THE
17 REINSURANCE.

18 (vi) THE NAME OF THE GROUP INCLUDES THE PHRASE "RISK RETEN-
19 TION GROUP".

20 (I) "STATE" MEANS ANY STATE OF THE UNITED STATES OR THE
21 DISTRICT OF COLUMBIA.

22 SEC. 1803. (1) TO BE CHARTERED IN THIS STATE, A RISK RETEN-
23 TION GROUP SHALL OBTAIN A CERTIFICATE OF AUTHORITY FROM THE COM-
24 MISSIONER AND BE LICENSED AS A DOMESTIC STOCK OR MUTUAL CASUALTY
25 INSURER.

26 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A RISK
27 RETENTION GROUP CHARTERED IN THIS STATE SHALL COMPLY WITH ALL

1 STATUTES, RULES, REGULATIONS, AND REQUIREMENTS APPLICABLE TO
2 DOMESTIC STOCK OR MUTUAL CASUALTY INSURERS.

3 (3) A CERTIFICATE OF AUTHORITY ISSUED TO A RISK RETENTION
4 GROUP CHARTERED IN THIS STATE SHALL BE LIMITED TO THE BUSINESS OF
5 INSURANCE FOR LIABILITY.

6 SEC. 1805. TO BE CHARTERED IN THIS STATE, A RISK RETENTION
7 GROUP SHALL PROVIDE TO THE COMMISSIONER IN SUMMARY FORM, AT THE
8 TIME OF ITS APPLICATION FOR A CERTIFICATE OF AUTHORITY, ALL OF
9 THE FOLLOWING:

10 (A) THE IDENTITY OF THE INITIAL MEMBERS OF THE RISK RETEN-
11 TION GROUP.

12 (B) THE IDENTITY OF THOSE INDIVIDUALS WHO ORGANIZED THE RISK
13 RETENTION GROUP OR WHO WILL PROVIDE ADMINISTRATIVE SERVICES OR
14 OTHERWISE INFLUENCE OR CONTROL THE ACTIVITIES OF THE GROUP.

15 (C) THE AMOUNT AND NATURE OF INITIAL CAPITALIZATION.

16 (D) THE COVERAGES TO BE AFFORDED.

17 (E) THE STATES IN WHICH THE RISK RETENTION GROUP INTENDS TO
18 OPERATE.

19 SEC. 1807. BEFORE IT MAY OFFER INSURANCE IN THIS STATE, A
20 RISK RETENTION GROUP CHARTERED IN THIS STATE SHALL SUBMIT TO THE
21 COMMISSIONER FOR APPROVAL A PLAN OF OPERATION OR FEASIBILITY
22 STUDY AND, WITHIN 10 DAYS OF A CHANGE, SHALL SUBMIT AN APPROPRI-
23 ATE REVISION IF A SUBSEQUENT MATERIAL CHANGE IN AN ITEM OF THE
24 PLAN OF OPERATION OR FEASIBILITY STUDY OCCURS. THE RISK RETEN-
25 TION GROUP SHALL NOT OFFER ANY ADDITIONAL KINDS OF LIABILITY
26 INSURANCE UNTIL A REVISION OF THE PLAN OF OPERATION OR
27 FEASIBILITY STUDY IS APPROVED BY THE COMMISSIONER.

1 SEC. 1809. THE NAME UNDER WHICH A RISK RETENTION GROUP
2 CHARTERED IN THIS STATE MAY BE AUTHORIZED AS A DOMESTIC CASUALTY
3 INSURER SHALL BE A BRIEF DESCRIPTION OF THE RISK RETENTION
4 GROUP'S MEMBERSHIP FOLLOWED BY THE PHRASE "RISK RETENTION
5 GROUP".

6 SEC. 1811. BEFORE OFFERING INSURANCE IN THIS STATE, A RISK
7 RETENTION GROUP NOT CHARTERED IN THIS STATE SHALL SUBMIT TO THE
8 COMMISSIONER ALL OF THE FOLLOWING:

9 (A) A STATEMENT IDENTIFYING ANY STATE IN WHICH THE RISK
10 RETENTION GROUP IS CHARTERED AS A LIABILITY INSURANCE COMPANY,
11 THE DATE ON WHICH IT WAS CHARTERED, AND ITS PRINCIPAL PLACE OF
12 BUSINESS.

13 (B) A COPY OF THE RISK RETENTION GROUP'S PLAN OF OPERATION
14 OR FEASIBILITY STUDY AND REVISIONS OF THE PLAN OR STUDY SUBMITTED
15 TO THE STATE IN WHICH THE RISK RETENTION GROUP IS CHARTERED.
16 HOWEVER, THE SUBMISSION OF A PLAN OF OPERATION OR FEASIBILITY
17 STUDY SHALL NOT APPLY WITH RESPECT TO ANY LINE OR CLASSIFICATION
18 OF LIABILITY INSURANCE WHICH WAS DEFINED IN THE LIABILITY RISK
19 RETENTION ACT OF 1986 BEFORE THE OCTOBER 27, 1986 AMENDMENTS TO
20 THAT ACT AND WAS OFFERED BEFORE OCTOBER 27, 1986 BY A RISK RETEN-
21 TION GROUP WHICH HAD BEEN CHARTERED AND OPERATING FOR NOT LESS
22 THAN 3 YEARS BEFORE OCTOBER 27, 1986. A REVISION TO THE RISK
23 RETENTION GROUP'S PLAN OF OPERATION OR FEASIBILITY STUDY SUBMIT-
24 TED UNDER THIS SUBDIVISION SHALL BE SUBMITTED AT THE SAME TIME
25 THE REVISION IS SUBMITTED TO THE COMMISSIONER OF THE RISK RETEN-
26 TION GROUP'S CHARTERING STATE.

1 (C) A COPY OF THE RISK RETENTION GROUP'S FINANCIAL STATEMENT
2 SUBMITTED TO THE STATE IN WHICH THE RISK RETENTION GROUP IS
3 CHARTERED. THE FINANCIAL STATEMENT SHALL BE CERTIFIED BY AN
4 INDEPENDENT PUBLIC ACCOUNTANT AND CONTAIN A STATEMENT OF OPINION
5 ON LOSS AND LOSS ADJUSTMENT EXPENSE RESERVES MADE BY A MEMBER OF
6 THE AMERICAN ACADEMY OF ACTUARIES OR A QUALIFIED LOSS RESERVE
7 SPECIALIST.

8 (D) A COPY OF THE MOST RECENT EXAMINATION OF THE RISK RETEN-
9 TION GROUP AND UPON REQUEST BY THE COMMISSIONER, ANY EXAMINATION
10 OF THE RISK RETENTION GROUP, AS CERTIFIED BY THE COMMISSIONER OR
11 PUBLIC OFFICIAL CONDUCTING THE EXAMINATION.

12 (E) UPON REQUEST BY THE COMMISSIONER, A COPY OF ANY AUDIT
13 PERFORMED WITH RESPECT TO THE RISK RETENTION GROUP AND OTHER
14 INFORMATION AS CONSIDERED NECESSARY BY THE COMMISSIONER IN ORDER
15 TO DETERMINE THE RISK RETENTION GROUP'S FINANCIAL CONDITION.

16 (F) A \$25.00 REGISTRATION FEE AND, ON A FORM PRESCRIBED BY
17 THE COMMISSIONER, A STATEMENT OF REGISTRATION WHICH DESIGNATES
18 THE COMMISSIONER AS ITS AGENT FOR THE PURPOSE OF RECEIVING SERV-
19 ICE OF LEGAL DOCUMENTS OR PROCESS.

20 (G) OTHER INFORMATION AS MAY BE REQUIRED TO VERIFY THE RISK
21 RETENTION GROUP'S CONTINUING QUALIFICATION AS A RISK RETENTION
22 GROUP.

23 SEC. 1813. A RISK RETENTION GROUP WHICH DOES NOT HAVE A
24 CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER SHALL BE
25 LIABLE FOR THE PAYMENT OF A TAX OF 2% ON DIRECT BUSINESS FOR A
26 RISK RESIDENT OR LOCATED WITHIN THIS STATE AND SHALL REPORT TO

1 THE COMMISSIONER THE NET DIRECT PREMIUMS WRITTEN FOR THAT
2 BUSINESS.

3 SEC. 1815. (1) A RISK RETENTION GROUP, NOT CHARTERED IN
4 THIS STATE AND DOING BUSINESS IN THIS STATE, AND THE RISK RETEN-
5 TION GROUP'S AGENTS AND REPRESENTATIVES, SHALL COMPLY WITH CHAP-
6 TER 20.

7 (2) A RISK RETENTION GROUP NOT CHARTERED IN THIS STATE AND
8 DOING BUSINESS IN THIS STATE SHALL SUBMIT TO AN EXAMINATION BY
9 THE COMMISSIONER TO DETERMINE ITS FINANCIAL CONDITION IF THE COM-
10 MISSIONER OF THE CHARTER STATE HAS NOT INITIATED AN EXAMINATION
11 OR DOES NOT INITIATE AN EXAMINATION WITHIN 60 DAYS AFTER A
12 REQUEST BY THE COMMISSIONER OF THIS STATE. AN EXAMINATION UNDER
13 THIS SUBSECTION SHOULD BE COORDINATED WITH EXAMINATION REQUESTS
14 IN OTHER STATES TO AVOID UNJUSTIFIED REPETITION AND CONDUCTED IN
15 AN EXPEDITIOUS MANNER IN ACCORDANCE WITH GENERALLY ACCEPTED
16 AUDITING STANDARDS.

17 SEC. 1817. A RISK RETENTION GROUP NOT CHARTERED IN THIS
18 STATE AND DOING BUSINESS IN THIS STATE SHALL COMPLY WITH A LAWFUL
19 ORDER ISSUED IN A VOLUNTARY DISSOLUTION PROCEEDING OR IN A DELIN-
20 QUENCY PROCEEDING COMMENCED BY THE COMMISSIONER IF THERE HAS BEEN
21 A FINDING OF FINANCIAL IMPAIRMENT AFTER AN EXAMINATION PERFORMED
22 UNDER SECTION 1815(2).

23 SEC. 1819. AN APPLICATION FORM FOR INSURANCE FROM A RISK
24 RETENTION GROUP CHARTERED OR DOING BUSINESS IN THIS STATE, AS
25 WELL AS THE FRONT AND DECLARATION PAGES OF A POLICY ISSUED BY A
26 RISK RETENTION GROUP, SHALL CONTAIN IN 10-POINT TYPE THE
27 FOLLOWING NOTICE:

"NOTICE

1

2 THIS POLICY IS ISSUED BY YOUR RISK RETENTION GROUP. YOUR
3 RISK RETENTION GROUP MAY NOT BE SUBJECT TO ALL OF THE INSURANCE
4 LAWS AND REGULATIONS OF YOUR STATE. STATE INSURANCE INSOLVENCY
5 GUARANTY FUNDS ARE NOT AVAILABLE FOR YOUR RISK RETENTION GROUP."

6 SEC. 1821. A RISK RETENTION GROUP CHARTERED OR DOING BUSI-
7 NESS IN THIS STATE SHALL NOT DO ANY OF THE FOLLOWING:

8 (A) SOLICIT OR SELL INSURANCE TO A PERSON WHO IS NOT ELIGI-
9 BLE FOR MEMBERSHIP IN THE GROUP.

10 (B) SOLICIT OR SELL INSURANCE IF THE RISK RETENTION GROUP IS
11 IN A HAZARDOUS FINANCIAL CONDITION OR IS FINANCIALLY IMPAIRED.

12 (C) HAVE AS A MEMBER OR OWNER, WHETHER DIRECTLY OR INDIRECT-
13 LY, AN INSURANCE COMPANY, UNLESS ALL MEMBERS OF THE RISK RETEN-
14 TION GROUP ARE INSURANCE COMPANIES.

15 (D) ISSUE AN INSURANCE POLICY WITH TERMS WHICH PROVIDE, OR
16 COULD BE CONSTRUED TO PROVIDE, COVERAGE PROHIBITED GENERALLY BY
17 LAW OR DECLARED UNLAWFUL BY A FINAL AND BINDING DECISION OF AN
18 APPELLATE COURT THAT HAS CONSIDERED THE MATTER.

19 SEC. 1823. A RISK RETENTION GROUP THAT VIOLATES A PROVISION
20 OF THIS CHAPTER SHALL BE SUBJECT TO FINES AND PENALTIES APPLICA-
21 BLE TO LICENSED INSURERS, INCLUDING REVOCATION OF THE RIGHT TO DO
22 BUSINESS IN THIS STATE. A RISK RETENTION GROUP OPERATING IN THIS
23 STATE PRIOR TO JULY 1, 1989 SHALL COMPLY WITH SECTION 1811 BY
24 AUGUST 1, 1989.

1 SEC. 1825. (1) BEFORE DOING BUSINESS IN THIS STATE, A
2 PURCHASING GROUP SHALL PROVIDE THE COMMISSIONER WITH ALL OF THE
3 FOLLOWING:

4 (A) THE IDENTITY OF THE NAME OF THE PURCHASING GROUP THROUGH
5 WHICH IT IS PURCHASING LIABILITY INSURANCE.

6 (B) THE IDENTITY OF THE STATE IN WHICH THE PURCHASING GROUP
7 IS DOMICILED.

8 (C) THE IDENTITY OF ALL OTHER STATES IN WHICH THE PURCHASING
9 GROUP INTENDS TO DO BUSINESS OR IS DOING BUSINESS.

10 (D) THE IDENTITY OF THE SPECIFIC TYPES AND CLASSIFICATIONS
11 OF LIABILITY INSURANCE WHICH THE PURCHASING GROUP INTENDS TO
12 PURCHASE.

13 (E) THE IDENTITY OF ANY INSURANCE COMPANY FROM WHICH THE
14 GROUP INTENDS TO PURCHASE ITS INSURANCE AND THE DOMICILE OF THOSE
15 COMPANIES.

16 (F) THE METHOD BY WHICH, AND IF APPLICABLE, THE PERSON
17 THROUGH WHOM, INSURANCE WILL BE OFFERED TO THE PURCHASING GROUP'S
18 MEMBERS WHOSE RISKS ARE RESIDENT OR LOCATED IN THIS STATE.

19 (G) THE IDENTITY OF THE OFFICER OR PERSON RESPONSIBLE FOR
20 THE PURCHASING GROUP.

21 (H) OTHER INFORMATION AS MAY BE REQUIRED BY THE COMMISSIONER
22 TO VERIFY THAT THE PURCHASING GROUP IS QUALIFIED UNDER THIS
23 CHAPTER.

24 (2) A PURCHASING GROUP SHALL NOTIFY THE COMMISSIONER OF ANY
25 CHANGES IN ANY OF THE ITEMS SET FORTH IN SUBSECTION (1) WITHIN 10
26 DAYS OF THE CHANGE.

1 (3) A PURCHASING GROUP SHALL NOTIFY THE COMMISSIONER
2 ANNUALLY OF ITS INTENTION TO CONTINUE DOING BUSINESS IN THIS
3 STATE.

4 SEC. 1827. (1) THE PURCHASING GROUP AND ANY INSURER OF THE
5 PURCHASING GROUP WHICH HAS NOT SUBMITTED A REGISTRATION FEE SHALL
6 SUBMIT A \$25.00 REGISTRATION FEE AND, ON A FORM PRESCRIBED BY THE
7 COMMISSIONER, A STATEMENT OF REGISTRATION WHICH DESIGNATES THE
8 COMMISSIONER AS ITS AGENT FOR THE PURPOSE OF RECEIVING SERVICE OF
9 LEGAL DOCUMENTS OR PROCESS.

10 (2) SUBSECTION (1) SHALL NOT APPLY TO A PURCHASING GROUP
11 WHICH MEETS ALL OF THE FOLLOWING:

12 (A) WAS A PURCHASING GROUP UNDER THE REQUIREMENTS OF THE
13 LIABILITY RISK RETENTION ACT OF 1986 BEFORE OCTOBER 27, 1986.

14 (B) ONLY PURCHASES INSURANCE THAT WAS AUTHORIZED UNDER THE
15 LIABILITY RISK RETENTION ACT OF 1986 BEFORE OCTOBER 27, 1986.

16 (C) WAS DOMICILED IN A STATE BEFORE APRIL 1, 1986 AND IS
17 DOMICILED IN A STATE ON AND AFTER SEPTEMBER 25, 1981.

18 (D) BEFORE SEPTEMBER 25, 1981 PURCHASED INSURANCE FROM AN
19 INSURANCE CARRIER LICENSED IN A STATE AND SINCE SEPTEMBER 25,
20 1981, PURCHASED ITS INSURANCE FROM AN INSURANCE CARRIER LICENSED
21 IN A STATE.

22 (3) A PURCHASING GROUP UNDER SUBSECTION (1) SHALL FURNISH
23 INFORMATION AS REQUESTED BY THE COMMISSIONER THAT DOES ALL OF THE
24 FOLLOWING:

25 (A) VERIFIES THAT THE ENTITY QUALIFIES AS A PURCHASING
26 GROUP.

1 (B) DETERMINES WHERE THE PURCHASING GROUP IS LOCATED.

2 (C) DETERMINES APPROPRIATE TAX TREATMENT.

3 (4) A PURCHASING GROUP WHICH WAS DOING BUSINESS IN THIS
4 STATE PRIOR TO JULY 1, 1989 SHALL PROVIDE THE INFORMATION
5 REQUIRED BY SECTION 1825 TO THE COMMISSIONER BY AUGUST 1, 1989.

6 SEC. 1829. (1) A PURCHASING GROUP DOING BUSINESS IN THIS
7 STATE SHALL NOT PURCHASE INSURANCE FOR RISKS RESIDENT OR LOCATED
8 IN THIS STATE FROM A RISK RETENTION GROUP THAT IS NOT CHARTERED
9 IN A STATE OR FROM AN INSURER NOT AUTHORIZED IN THIS STATE UNLESS
10 THE PURCHASE IS EFFECTED PURSUANT TO CHAPTER 19.

11 (2) A PURCHASING GROUP WHICH OBTAINS LIABILITY INSURANCE
12 FROM AN INSURER NOT AUTHORIZED IN THIS STATE OR A RISK RETENTION
13 GROUP SHALL INFORM IN WRITING EACH OF THE MEMBERS OF THE GROUP
14 WHICH HAVE A RISK RESIDENT OR LOCATED IN THIS STATE THAT THE RISK
15 IS NOT PROTECTED BY AN INSURANCE INSOLVENCY GUARANTY FUND IN THIS
16 STATE AND THAT THE RISK RETENTION GROUP OR THE INSURER MAY NOT BE
17 SUBJECT TO ALL INSURANCE LAWS AND REGULATIONS OF THIS STATE.

18 (3) A PURCHASING GROUP SHALL NOT PURCHASE INSURANCE PROVID-
19 ING FOR A DEDUCTIBLE OR SELF-INSURED RETENTION, UNLESS THE
20 DEDUCTIBLE OR SELF-INSURED RETENTION IS THE SOLE RESPONSIBILITY
21 OF EACH INDIVIDUAL MEMBER OF THE PURCHASING GROUP.

22 SEC. 1831. PREMIUM TAXES AND OTHER TAXES PAID FOR COVERAGE
23 OF RISKS RESIDENT OR LOCATED IN THIS STATE BY A PURCHASING GROUP
24 OR ANY MEMBERS OF THE PURCHASING GROUP SHALL BE IMPOSED AT THE
25 SAME RATE AND SUBJECT TO THE SAME INTEREST, FINES, AND PENALTIES
26 AS THAT APPLICABLE TO PREMIUM TAXES AND OTHER TAXES PAID FOR

1 SIMILAR COVERAGE FROM A SIMILAR INSURANCE SOURCE BY OTHER
2 INSUREDS.

3 SEC. 1833. (1) A RISK RETENTION GROUP CHARTERED OR DOING
4 BUSINESS IN THIS STATE SHALL NOT JOIN OR CONTRIBUTE FINANCIALLY
5 TO THE PROPERTY AND CASUALTY GUARANTY ASSOCIATION CREATED UNDER
6 CHAPTER 79 OR OTHER SIMILAR ASSOCIATION OR MECHANISM IN THIS
7 STATE. A RISK RETENTION GROUP, ITS INSUREDS, OR CLAIMANTS
8 AGAINST ITS INSUREDS, SHALL NOT RECEIVE ANY BENEFIT FROM THE
9 PROPERTY AND CASUALTY GUARANTY ASSOCIATION OR OTHER SIMILAR ASSO-
10 CIATION OR MECHANISM FOR CLAIMS ARISING UNDER THE INSURANCE POLI-
11 CIES ISSUED BY THE RISK RETENTION GROUP.

12 (2) A PURCHASING GROUP OBTAINING INSURANCE COVERING ITS
13 MEMBERS' RISKS FROM AN INSURER NOT AUTHORIZED IN THIS STATE OR A
14 RISK RETENTION GROUP SHALL NOT BE COVERED BY THE PROPERTY AND
15 CASUALTY GUARANTY ASSOCIATION OR SIMILAR ASSOCIATION OR MECHANISM
16 IN THIS STATE.

17 (3) IF A PURCHASING GROUP OBTAINS INSURANCE COVERING ITS
18 MEMBERS' RISKS FROM AN INSURER AUTHORIZED IN THIS STATE, ONLY
19 RISKS RESIDENT OR LOCATED IN THIS STATE SHALL BE COVERED BY THE
20 PROPERTY AND CASUALTY GUARANTY ASSOCIATION UNDER CHAPTER 79.

21 (4) A RISK RETENTION GROUP CHARTERED OR DOING BUSINESS IN
22 THIS STATE WHICH OFFERS COVERAGE FOR THE SECURITY REQUIRED UNDER
23 CHAPTER 31 SHALL BE A PARTICIPATING MEMBER IN THE MICHIGAN AUTO-
24 MOBILE INSURANCE PLACEMENT FACILITY ESTABLISHED UNDER CHAPTER 33
25 FOR THE PURPOSE OF SHARING IN THE EQUITABLE APPORTIONMENT AMONG
26 INSURERS OF LIABILITY INSURANCE LOSSES AND EXPENSES INCURRED ON
27 POLICIES WRITTEN THROUGH THAT FACILITY. THE RISK RETENTION GROUP

1 SHALL SUBMIT SUFFICIENT INFORMATION TO THE COMMISSIONER, OR TO
2 WHOMEVER THE COMMISSIONER MAY DESIGNATE, TO ENABLE THE APPORTION-
3 MENT ON A NONDISCRIMINATORY BASIS OF THE RISK RETENTION GROUP'S
4 PROPORTIONATE SHARE OF THE LOSSES AND EXPENSES.

5 SEC. 1835. (1) A PERSON, FIRM, ASSOCIATION, OR CORPORATION
6 SHALL NOT ACT OR AID IN ANY MANNER IN SOLICITING, NEGOTIATING, OR
7 PROCURING LIABILITY INSURANCE IN THIS STATE FROM A RISK RETENTION
8 GROUP UNLESS THE PERSON, FIRM, ASSOCIATION, OR CORPORATION IS
9 LICENSED UNDER CHAPTER 12 OR CHAPTER 19.

10 (2) A PERSON, FIRM, ASSOCIATION, OR CORPORATION SHALL NOT
11 ACT OR AID IN ANY MANNER IN SOLICITING, NEGOTIATING, OR PROCURING
12 LIABILITY INSURANCE IN THIS STATE FOR A PURCHASING GROUP FROM AN
13 AUTHORIZED INSURER OR A RISK RETENTION GROUP CHARTERED IN THIS
14 STATE UNLESS THE PERSON, FIRM, ASSOCIATION, OR CORPORATION IS
15 LICENSED UNDER CHAPTER 12.

16 (3) A PERSON, FIRM, ASSOCIATION, OR CORPORATION SHALL NOT
17 ACT OR AID IN ANY MANNER IN SOLICITING, NEGOTIATING, OR PROCURING
18 LIABILITY INSURANCE FROM AN INSURER NOT AUTHORIZED TO DO BUSINESS
19 IN THIS STATE ON BEHALF OF A PURCHASING GROUP LOCATED IN THIS
20 STATE UNLESS THE PERSON, FIRM, ASSOCIATION, OR CORPORATION IS
21 LICENSED UNDER CHAPTER 19.

22 (4) FOR THE PURPOSE OF ACTING AS AN AGENT OR BROKER FOR A
23 RISK RETENTION GROUP OR PURCHASING GROUP UNDER SUBSECTIONS (1)
24 AND (2), THE REQUIREMENT OF RESIDENCE IN THIS STATE SHALL NOT
25 APPLY. HOWEVER, LICENSURE OF A NONRESIDENT UNDER CHAPTER 19
26 SHALL BE FOR THE LIMITED PURPOSE OF SOLICITING, NEGOTIATING, OR

1 PROCURING LIABILITY INSURANCE FROM A RISK RETENTION GROUP NOT
2 CHARTERED IN THIS STATE.

3 SEC. 1837. THE COMMISSIONER MAY USE ANY OF THE POWERS
4 ESTABLISHED UNDER THIS ACT TO ENFORCE THE LAWS OF THIS STATE SO
5 LONG AS THOSE POWERS HAVE NOT BEEN SPECIFICALLY PREEMPTED BY THE
6 LIABILITY RISK RETENTION ACT OF 1986. FOR RISK RETENTION GROUPS,
7 THE COMMISSIONER'S INJUNCTIVE AUTHORITY IS RESTRICTED BY THE
8 REQUIREMENT THAT AN INJUNCTION BE ISSUED BY A COURT OF COMPETENT
9 JURISDICTION.

10 SEC. 1839. IF A LAW OF THIS STATE OR ANY POLITICAL SUBDIVI-
11 SION OF THIS STATE REQUIRES A DEMONSTRATION OF FINANCIAL RESPON-
12 SIBILITY AS A CONDITION FOR OBTAINING A LICENSE OR PERMIT TO
13 UNDERTAKE SPECIFIED ACTIVITIES, AND THE REQUIREMENT MAY NOT BE
14 SATISFIED BY OBTAINING INSURANCE COVERAGE FROM AN INSURER NOT
15 AUTHORIZED TO DO BUSINESS IN THIS STATE, THE REQUIREMENT SHALL
16 NOT BE SATISFIED BY PURCHASING INSURANCE FROM A RISK RETENTION
17 GROUP NOT CHARTERED AND AUTHORIZED IN THIS STATE.

18 SEC. 1841. THE COMMISSIONER MAY PROMULGATE RULES PURSUANT
19 TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT NO. 306 OF THE
20 PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO 24.328 OF THE
21 MICHIGAN COMPILED LAWS, RELATING TO RISK RETENTION GROUPS AS MAY
22 BE NECESSARY OR DESIRABLE TO CARRY OUT THE PROVISIONS OF THIS
23 CHAPTER.

24 Section 2. This amendatory act shall take effect July 1,
25 1989.