

# HOUSE BILL No. 4659

April 13, 1989, Introduced by Reps. London, DeLange, Dolan, Martin, Krause, Walberg, Law, Willis Bullard, Stacey, Crandall, Bender, Emmons, Wartner, Strand, Nye, Miller, Dunaskiss and Camp and referred to the Committee on Labor.

A bill to amend Act No. 317 of the Public Acts of 1969, entitled as amended  
"Worker's disability compensation act of 1969,"  
as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws, by adding chapter 7a; and to repeal certain parts of the act.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 317 of the Public Acts of 1969, as  
2 amended, being sections 418.101 to 418.941 of the Michigan  
3 Compiled Laws, is amended by adding chapter 7a to read as  
4 follows:

5 CHAPTER 7A

## ACCIDENT FUND

1  
2 SEC. 761. (1) THE ACCIDENT FUND CREATED UNDER SECTION 701  
3 SHALL BE THE ACCIDENT FUND UNDER THIS CHAPTER AND SHALL HAVE ALL  
4 THE RIGHTS, LIABILITIES, AND DUTIES PROVIDED FOR IN THIS ACT.  
5 THE ASSETS AND LIABILITIES OF THE ACCIDENT FUND CREATED UNDER  
6 SECTION 701 SHALL BECOME THE PROPERTY AND OBLIGATION OF THE ACCI-  
7 DENT FUND CREATED UNDER THIS CHAPTER. MEMBER EMPLOYERS OF THE  
8 ACCIDENT FUND UNDER SECTION 701 SHALL BECOME MEMBERS OF A MEMBER-  
9 SHIP ORGANIZATION ORGANIZED UNDER THIS CHAPTER TO BE KNOWN AS THE  
10 "ACCIDENT FUND". THE ACCIDENT FUND MAY PROVIDE WORKER'S COMPEN-  
11 SATION INSURANCE, AND EMPLOYERS' LIABILITY INSURANCE FOR EMPLOY-  
12 ERS WRITTEN IN CONNECTION WITH WORKER'S COMPENSATION INSURANCE,  
13 INCLUDING LONGSHOREMEN'S AND HARBOR WORKER'S COMPENSATION INSUR-  
14 ANCE, AS REQUIRED. SUBJECT TO THE REQUIREMENTS OF CHAPTER 6, THE  
15 ACCIDENT FUND MAY ENGAGE IN THE BUSINESS OF SERVICING ANY  
16 APPROVED WORKER'S COMPENSATION SELF-INSURANCE PROGRAM FOR AN  
17 INDIVIDUAL OR GROUP OF EMPLOYERS. THE ACCIDENT FUND IS AN INDE-  
18 PENDENT MEMBERSHIP ORGANIZATION, SEPARATE AND DISTINCT FROM THE  
19 STATE. THE ACCIDENT FUND IS NEITHER AN AGENCY NOR AN INSTRUMEN-  
20 Tality OF THE STATE. EXCEPT AS PROVIDED IN THIS CHAPTER, THE  
21 ACCIDENT FUND IS SUBJECT TO THE INSURANCE CODE OF 1956 AND ANY  
22 OTHER LAWS OF THE STATE OF MICHIGAN AND THE RULES PROMULGATED BY  
23 THE INSURANCE COMMISSIONER THAT PERTAIN TO DOMESTIC MUTUAL INSUR-  
24 ERS AUTHORIZED TO TRANSACT THE BUSINESS OF INSURANCE IN THIS  
25 STATE, AND IS VESTED WITH THE CORPORATE POWERS PROVIDED BY THE  
26 INSURANCE CODE OF 1956 AND OTHER APPLICABLE LAWS OF THE STATE OF  
27 MICHIGAN. MEMBERSHIP IN AND COVERAGE BY THE ACCIDENT FUND MAY BE

1 PROVIDED TO EMPLOYERS WHO REQUEST MEMBERSHIP AND COVERAGE IN  
2 WRITING AND WHOSE RISK IS INSURABLE AND RATABLE ACCORDING TO GEN-  
3 ERALLY ACCEPTED UNDERWRITING PRACTICES AND RATING PROCEDURES.  
4 THE ACCIDENT FUND SHALL LEVY AND COLLECT FROM MEMBER EMPLOYERS  
5 PREMIUMS ESTABLISHED IN ACCORDANCE WITH CHAPTER 24 OF THE INSUR-  
6 ANCE CODE OF 1956. THE ACCIDENT FUND SHALL DETERMINE AND COLLECT  
7 FEES FOR SPECIFIC AND APPORTIONED EXPENSES OF ADMINISTRATION REL-  
8 EVANT TO SERVICING APPROVED WORKER'S COMPENSATION SELF-INSURANCE  
9 PROGRAMS. ASSETS OF THE ACCIDENT FUND SHALL ACCRUE TO THE BENE-  
10 FIT OF THE MEMBER EMPLOYERS. THE ACCIDENT FUND SHALL MAINTAIN  
11 FACILITIES NECESSARY FOR ITS OPERATIONS AND MAY ACQUIRE AND HOLD  
12 REAL ESTATE IN ACCORDANCE WITH THE INSURANCE LAWS OF THIS STATE.

13 (2) AS USED IN THIS CHAPTER, "INSURANCE CODE OF 1956" MEANS  
14 ACT NO. 218 OF THE PUBLIC ACTS OF 1956, BEING SECTIONS 500.100 TO  
15 500.8302 OF THE MICHIGAN COMPILED LAWS.

16 SEC. 763. THE ACCIDENT FUND SHALL QUALIFY FOR A CERTIFICATE  
17 OF AUTHORITY TO TRANSACT INSURANCE IN THIS STATE AND SHALL BE  
18 SUBJECT TO THE PROVISIONS OF THIS ACT IN THE SAME MANNER AS A  
19 DOMESTIC MUTUAL INSURER AUTHORIZED TO TRANSACT ALL KINDS OF  
20 INSURANCE AS DEFINED IN CHAPTER 6 OF THE INSURANCE CODE OF 1956,  
21 EXCEPT LIFE INSURANCE AS DEFINED IN SECTION 602 OF THE INSURANCE  
22 CODE OF 1956.

23 SEC. 765. (1) THE ACCIDENT FUND IS A MEMBER OF THE PROPERTY  
24 AND CASUALTY GUARANTY ASSOCIATION CREATED BY THE INSURANCE CODE  
25 OF 1956 AND THE LAWS OF THE STATE OF MICHIGAN.

1 (2) THE ACCIDENT FUND MAY REINSURE ITS CATASTROPHIC RISKS  
2 WITH INSURERS AUTHORIZED TO DO SO UNDER THE INSURANCE CODE OF  
3 1956 AND ANY OTHER APPLICABLE LAWS OF THE STATE OF MICHIGAN.

4 (3) THE ACCIDENT FUND MAY SECURE MEMBERSHIP IN ANY ORGANI-  
5 ZATION OF INSURERS ENGAGED IN JOINT UNDERWRITING, JOINT REINSUR-  
6 ANCE, OR OPERATING AN ASSIGNED RISK PLAN AUTHORIZED UNDER THE  
7 INSURANCE CODE OF 1956 AND ANY OTHER APPLICABLE LAWS OF THE STATE  
8 OF MICHIGAN AND AVAILABLE TO IT.

9 (4) THE ACCIDENT FUND MAY SECURE MEMBERSHIP IN OR SUBSCRIBE  
10 FOR SERVICES OF ANY ADVISORY OR STATISTICAL ORGANIZATION AUTHO-  
11 RIZED UNDER THE INSURANCE CODE OF 1956 AND ANY OTHER APPLICABLE  
12 LAWS OF THIS STATE AND AVAILABLE TO IT.

13 SEC. 767. THE ACCIDENT FUND SHALL DETERMINE THE AMOUNT OF  
14 THE PREMIUMS WHICH AN EMPLOYER SHALL PAY TO THE ACCIDENT FUND,  
15 PRESCRIBE WHEN AND IN WHAT MANNER THE PREMIUMS SHALL BE PAID, AND  
16 MAY CHANGE THE AMOUNT OF PREMIUMS WITH RESPECT TO AN EMPLOYER AS  
17 CIRCUMSTANCES MAY REQUIRE AND THE CONDITION OF THE EMPLOYERS'  
18 PLANTS, ESTABLISHMENTS, OR PLACES OF WORK WITH RESPECT TO THE  
19 SAFETY OF THE EMPLOYEES MAY JUSTIFY. INSURANCE RATES, RATING  
20 SYSTEMS, AND PLANS AND PRACTICES USED TO DETERMINE PREMIUMS SHALL  
21 BE DETERMINED IN ACCORDANCE WITH CHAPTER 24 OF THE INSURANCE CODE  
22 OF 1956 AND ANY OTHER APPLICABLE LAWS OF THE STATE OF MICHIGAN.

23 SEC. 769. (1) EVERY MEMBER EMPLOYER SHALL BE FURNISHED WITH  
24 A POLICY SHOWING THE PERIOD THE INSURANCE IS EFFECTIVE. THE  
25 PERIOD SHALL BE FOR 1 YEAR OR MORE, BUT A SHORTER PERIOD MAY BE  
26 SPECIFIED PURSUANT TO A MUTUALLY AGREED UPON ANNIVERSARY DATE.

1       (2) A POLICY OF INSURANCE ISSUED PURSUANT TO THIS CHAPTER  
2 SHALL CONTAIN A CANCELLATION PROVISION WHICH DESCRIBES THE  
3 CONDITIONS, TERMS, AND PROCEDURES WHEREBY THE ACCIDENT FUND OR  
4 THE MEMBER EMPLOYER MAY CANCEL THE POLICY. THIS CANCELLATION  
5 PROVISION SHALL CONFORM TO THE REQUIREMENTS OF THE INSURANCE CODE  
6 OF 1956 AND CHAPTER 6.

7       SEC. 771. ANY CONTROVERSY BETWEEN THE ACCIDENT FUND AND A  
8 MEMBER EMPLOYER IS SUBJECT TO THE REVIEW PROVIDED BY SECTION 2419  
9 OF THE INSURANCE CODE OF 1956 AND THE LAW REGARDING CONTROVERSIES  
10 ARISING BETWEEN INSURANCE COMPANIES AND INSURED EMPLOYERS. A  
11 CONTROVERSY BETWEEN THE ACCIDENT FUND AND A CLAIMANT FOR BENEFITS  
12 FROM THE ACCIDENT FUND SHALL BE DETERMINED PURSUANT TO THIS ACT,  
13 AND ANY OTHER APPLICABLE LAW OF THE STATE OF MICHIGAN.

14       SEC. 773. THE BOOKS, RECORDS, AND PAYROLLS OF EACH MEMBER  
15 EMPLOYER SHALL ALWAYS BE OPEN TO INSPECTION BY THE ACCIDENT FUND  
16 OR ITS DULY AUTHORIZED AGENT OR REPRESENTATIVE FOR THE PURPOSE OF  
17 ASCERTAINING THE CORRECTNESS OF THE AMOUNT OF THE PAYROLL  
18 REPORTED, THE NUMBER OF PERSONS EMPLOYED, AND OTHER INFORMATION  
19 REQUIRED FOR THE ADMINISTRATION OF THE ACCIDENT FUND.

20       SEC. 775. (1) THE ACCIDENT FUND SHALL KEEP COMPLETE RECORDS  
21 OF ALL BUSINESS TRANSACTED BY IT. THE ACCIDENT FUND SHALL ANNU-  
22 ALLY, ON OR BEFORE MARCH 1, OR AN AUTHORIZED EXTENSION OF TIME  
23 NOT TO EXCEED 30 DAYS PERMITTED BY THE INSURANCE COMMISSIONER,  
24 PREPARE UNDER OATH AND DEPOSIT WITH THE COMMISSIONER A STATEMENT  
25 CONCERNING ITS AFFAIRS UPON A FORM PROVIDED BY THE COMMISSIONER.

26       (2) THE ACCIDENT FUND MAY EMPLOY PERSONNEL IT CONSIDERS  
27 NECESSARY AND AS THE GOVERNING BOARD MAY AUTHORIZE, FOR THE

1 PROPER ADMINISTRATION OF THE ACCIDENT FUND, AT SUCH COMPENSATION  
2 AS MAY BE FIXED BY THE GOVERNING BOARD. IN ANY ADMINISTRATIVE OR  
3 JUDICIAL PROCEEDING SUCH PERSONNEL SHALL BE CONCLUSIVELY PRESUMED  
4 NOT TO BE IN STATE SERVICE.

5 SEC. 777. ALL PAYMENTS FROM THE ACCIDENT FUND TO OR FOR  
6 EMPLOYEES OF MEMBER EMPLOYERS SHALL BE MADE PURSUANT TO THIS ACT,  
7 AND THE RULES OF THE BUREAU GOVERNING PAYMENT OF WORKERS' COMPEN-  
8 SATION BY CARRIERS.

9 SEC. 779. ANY PROCEEDINGS FOR THE LIQUIDATION OF THE ACCI-  
10 DENT FUND CREATED UNDER THIS CHAPTER OR FOR APPOINTMENT OF A  
11 RECEIVER SHALL COMPLY WITH THE INSURANCE CODE OF 1956 AND ANY  
12 OTHER APPLICABLE LAWS OF THE STATE OF MICHIGAN.

13 SEC. 781. THE BUSINESS AND AFFAIRS OF THE ACCIDENT FUND  
14 SHALL BE MANAGED BY ITS GOVERNING BOARD. AN ANNUAL MEETING OF  
15 THE MEMBER EMPLOYERS SHALL BE CALLED BY THE CHAIRPERSON OF THE  
16 GOVERNING BOARD IN LANSING IN OCTOBER, WHICH MAY BE ATTENDED BY  
17 THE MEMBER EMPLOYERS IN PERSON OR BY A REPRESENTATIVE. NOTICE OF  
18 THE ANNUAL MEETING SHALL BE MADE BY FIRST CLASS MAIL AT LEAST  
19 10 DAYS BEFORE THE DATE OF THE MEETING. AT THE ANNUAL MEETING  
20 THERE SHALL BE NOMINATED AND ELECTED BY THE MEMBERS PRESENT,  
21 15 MEMBER EMPLOYERS TO CONSTITUTE A GOVERNING BOARD, WHO SHALL  
22 SERVE FOR THE TERM OF 1 CALENDAR YEAR. IF A VACANCY OCCURS IN  
23 THE GOVERNING BOARD, THE REMAINING MEMBERS OF THE GOVERNING BOARD  
24 MAY APPOINT A MEMBER EMPLOYER TO FILL THE VACANCY PENDING THE  
25 NEXT ANNUAL MEETING OF THE MEMBER EMPLOYERS. THE GOVERNING BOARD  
26 SHALL ELECT 1 OF ITS MEMBERS CHAIRPERSON AND 4 OTHER MEMBERS WHO,

1 TOGETHER WITH THE CHAIRPERSON, SHALL CONSTITUTE AN EXECUTIVE  
2 COMMITTEE.

3 SEC. 783. (1) ALL OR A PORTION OF THE ASSETS AND OBLIGA-  
4 TIONS OF THE ACCIDENT FUND MAY BE TRANSFERRED TO ANY OTHER  
5 INSURER BY THE GOVERNING BOARD SUBJECT TO REVIEW AND APPROVAL BY  
6 THE INSURANCE COMMISSIONER. THE COMMISSIONER SHALL NOT APPROVE  
7 THE TRANSFER UNLESS THE TRANSFER WOULD BE CONSIDERED WITHIN THE  
8 PURPOSES OF THIS CHAPTER AND THE ASSETS TO BE TRANSFERRED ARE  
9 REASONABLY RELATED TO THE OBLIGATIONS TO BE ASSUMED.

10 (2) THE COMMISSIONER MAY ATTACH CONDITIONS TO A TRANSFER,  
11 BINDING ON BOTH THE TRANSFEREE AND THE TRANSFEROR, WHICH ARE REA-  
12 SONABLE AND NECESSARY, AND WHICH MAY INCLUDE CONDITIONS WHICH  
13 WILL:

14 (A) ASSURE CONTINUED WORKER'S COMPENSATION INSURANCE COVER-  
15 AGE AT A REASONABLE PRICE FOR ELIGIBLE EMPLOYERS.

16 (B) REQUIRE THE INSURER TO GUARANTEE, ASSUME, OR REINSURE OR  
17 CAUSE TO BE GUARANTEED, ASSUMED, OR REINSURED ALL CONTRACTS AND  
18 POLICIES OF THE ACCIDENT FUND.

19 (C) ASSURE THE TERMINATION OF ALL OBLIGATIONS OF THE ACCI-  
20 DENT FUND.

21 Section 2. Chapter 7 of Act No. 317 of the Public Acts of  
22 1969, being sections 418.701 to 418.755 of the Michigan Compiled  
23 Laws, is repealed.