

HOUSE BILL No. 4996

July 13, 1989, Introduced by Reps. Ciaramitaro, Jondahl, Emerson, Brown, Power, Gire, Gubow and Perry Bullard and referred to the Committee on Consumers.

A bill to amend sections 2103, 2236, 2242, 2806, 2810, 2812, 2826, 2827, 2836, 2842, 2845, 2860, 2901, 3020, 3448, 3606, and 4430 of Act No. 218 of the Public Acts of 1956, entitled as amended

"The insurance code of 1956,"

section 2103 as amended by Act No. 461 of the Public Acts of 1980, sections 2236, 2242, 3606, and 4430 as amended by Act No. 52 of the Public Acts of 1987, section 2836 as amended by Act No. 495 of the Public Acts of 1980, section 2845 as amended by Act No. 386 of the Public Acts of 1984, section 2901 as amended by Act No. 428 of the Public Acts of 1982, and sections 3020 and 3448 as amended by Act No. 168 of the Public Acts of 1987, being sections 500.2103, 500.2236, 500.2242, 500.2806, 500.2810, 500.2812, 500.2826, 500.2827, 500.2836, 500.2842, 500.2845, 500.2860, 500.2901, 500.3020, 500.3448, 500.3606, and 500.4430 of

the Michigan Compiled Laws; to add sections 2250 and 2833; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2103, 2236, 2242, 2806, 2810, 2812,
2 2826, 2827, 2836, 2842, 2845, 2860, 2901, 3020, 3448, 3606, and
3 4430 of Act No. 218 of the Public Acts of 1956, section 2103 as
4 amended by Act No. 461 of the Public Acts of 1980, sections 2236,
5 2242, 3606, and 4430 as amended by Act No. 52 of the Public Acts
6 of 1987, section 2836 as amended by Act No. 495 of the Public
7 Acts of 1980, section 2845 as amended by Act No. 386 of the
8 Public Acts of 1984, section 2901 as amended by Act No. 428 of
9 the Public Acts of 1982, and sections 3020 and 3448 as amended by
10 Act No. 168 of the Public Acts of 1987, being sections 500.2103,
11 500.2236, 500.2242, 500.2806, 500.2810, 500.2812, 500.2826,
12 500.2827, 500.2836, 500.2842, 500.2845, 500.2860, 500.2901,
13 500.3020, 500.3448, 500.3606, and 500.4430 of the Michigan
14 Compiled Laws, are amended and sections 2250 and 2833 are added
15 to read as follows:

16 Sec. 2103. (1) "Eligible person", for automobile insurance,
17 means a person who is an owner or registrant of an automobile
18 registered or to be registered in this state or who holds a valid
19 Michigan license to operate a motor vehicle, but does not include
20 any of the following:

21 (a) A person who is not required to maintain security pursu-
22 ant to section 3101, unless the person intends to reside in this
23 state for 30 days or more and makes a written statement of that
24 intention on a form approved by the commissioner.

1 (b) A person whose license to operate a vehicle is under
2 suspension or revocation.

3 (c) A person who has been convicted within the immediately
4 preceding 5-year period of fraud or intent to defraud involving
5 an insurance claim or an application for insurance; or an indi-
6 vidual who has been successfully denied, within the immediately
7 preceding 5-year period, payment by an insurer of a claim in
8 excess of \$1,000.00 under an automobile insurance policy, ~~where~~
9 IF there is evidence of fraud or intent to defraud involving an
10 insurance claim or application.

11 (d) A person who, during the immediately preceding 3-year
12 period, has been convicted under, or who has been subject to an
13 order of disposition of the probate court for a violation of, any
14 of the following:

15 (i) Section 324 or 325 of THE MICHIGAN PENAL CODE, Act
16 No. 328 of the Public Acts of 1931, as amended, being sections
17 750.324 and 750.325 of the Michigan Compiled Laws; section 1 of
18 Act No. 214 of the Public Acts of 1931, being section 752.191 of
19 the Michigan Compiled Laws; or under any other law of this state
20 the violation of which constitutes a felony resulting from the
21 operation of a motor vehicle.

22 (ii) Section 625 of THE MICHIGAN VEHICLE CODE, Act No. 300
23 of the Public Acts of 1949, as amended, being section 257.625 of
24 the Michigan Compiled Laws.

25 (iii) Section 617, 617a, 618, or 619 of Act No. 300 of the
26 Public Acts of 1949, as amended, being sections 257.617,
27 257.617a, 257.618, and 257.619 of the Michigan Compiled Laws.

1 (iv) Section 626 of Act No. 300 of the Public Acts of 1949,
2 as amended, being section 257.626 of the Michigan Compiled Laws;
3 or for a similar violation under the laws of any other state or a
4 municipality within or without this state.

5 (v) Section 625b of Act No. 300 of the Public Acts of 1949,
6 as amended, being section 257.625b of the Michigan Compiled
7 Laws.

8 (e) A person whose vehicle insured or to be insured under
9 the policy fails to meet the motor vehicle safety requirements of
10 sections 683 to 711 of Act No. 300 of the Public Acts of 1949, as
11 amended, being sections 257.683 to 257.711 of the Michigan
12 Compiled Laws.

13 (f) A person whose policy of automobile insurance has been
14 canceled because of nonpayment of premium or financed premium
15 within the immediately preceding 2-year period, unless the pre-
16 mium due on a policy for which application has been made is paid
17 in full before issuance or renewal of the policy.

18 (g) A person who fails to obtain or maintain membership in a
19 club, group, or organization, if membership is a uniform require-
20 ment of the insurer as a condition of providing insurance, and if
21 the dues, charges, or other conditions for membership are applied
22 uniformly throughout this state, are not expressed as a percen-
23 tage of premium, and do not vary with respect to the rating clas-
24 sification of the member except for the purpose of offering a
25 membership fee to family units. Membership fees may vary in
26 accordance with the amount or type of coverage if the ~~purchase~~

1 PURCHASE of additional coverage, either as to type or amount, is
2 not a condition for reduction of dues or fees.

3 (h) A person whose driving record for the 3-year period
4 immediately preceding application for or renewal of a policy,
5 has, pursuant to section 2119a, an accumulation of more than the
6 following:

7 (i) Five insurance eligibility points, if the application or
8 renewal occurs on or before December 31, 1982.

9 (ii) Six insurance eligibility points, if the application or
10 renewal occurs on or after January 1, 1983.

11 (2) "Eligible person", for home insurance, means a person
12 who is the owner-occupant or tenant of a dwelling of any of the
13 following types: a house, a condominium unit, a cooperative
14 unit, a room, or an apartment; or a person who is the
15 owner-occupant of a multiple unit dwelling of not more than 4
16 residential units. Eligible person does not include any of the
17 following:

18 (a) A person who has been convicted, in the immediately pre-
19 ceding 5-year period, of 1 or more of the following:

20 (i) Arson, or conspiracy to commit arson.

21 (ii) A crime under sections 72 to 77, 112, 211a, 377a, 377b,
22 or 380 of Act No. 328 of the Public Acts of 1931, as amended,
23 being sections 750.72 to 750.77, 750.112, 750.211a, 750.377a,
24 750.377b, and 750.380 of the Michigan Compiled Laws.

25 (iii) A crime under section 92, 151, 157b, or 218 of Act
26 No. 328 of the Public Acts of 1931, as amended, being sections
27 750.92, 750.151, 750.157b, and 750.218 of the Michigan Compiled

1 Laws, based upon a crime described in subparagraph (ii) committed
2 by or on behalf of the person.

3 (b) A person who has been successfully denied, within the
4 immediately preceding 5-year period, payment by an insurer of a
5 claim under a home insurance policy in excess of \$2,000.00, based
6 on evidence of arson, conspiracy to commit arson, misrepresenta-
7 tion, fraud, or ~~conspiracy~~ CONSPIRACY to commit fraud, commit-
8 ted by or on behalf of the person, if the amount of the denied
9 claim was greater than any of the following:

10 (i) For a claim under a repair cost policy, 15% of the
11 amount of insurance in force.

12 (ii) For a claim under a replacement cost policy, 10% of the
13 amount of insurance in force.

14 (c) A person who insures or seeks to insure a dwelling which
15 is being used for an illegal or demonstrably hazardous purpose.

16 (d) A person who refuses to purchase an amount of insurance
17 equal to at least 80% of the replacement cost of the property
18 insured or to be insured under a replacement cost policy.

19 (e) A person who refuses to purchase an amount of insurance
20 equal to at least 100% of the market value of the property
21 insured or to be insured under a repair cost policy.

22 (f) A person who refuses to purchase an amount of insurance
23 equal to at least 100% of the actual cash value of the property
24 insured or to be insured under a tenant or renter's home insur-
25 ance policy.

26 (g) A person whose policy of home insurance has been
27 ~~cancelled~~ CANCELED because of nonpayment of premium within the

1 immediately preceding 2-year period, unless the premium due on
2 the policy is paid in full before issuance or renewal of the
3 policy.

4 (h) A person who insures or seeks to insure a dwelling, if
5 the insured value is not any of the following:

6 (i) For a repair cost policy, at least \$7,500.00.

7 (ii) For a replacement policy, at least \$15,000.00 or
8 another amount which the commissioner may establish biennially on
9 and after January 1, 1983, pursuant to rules promulgated by the
10 commissioner under THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act
11 No. 306 of the Public Acts of 1969, as amended, BEING SECTIONS
12 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS, based upon
13 changes in applicable construction cost indices.

14 (j) A person who insures or seeks to insure a dwelling which
15 does not meet minimum standards of insurability as established by
16 rules promulgated by the commissioner pursuant to Act No. 306 of
17 the Public Acts of 1969, as amended.

18 (k) A person whose real property taxes with respect to the
19 dwelling insured or to be insured have been and are delinquent
20 for 2 or more years at the time of renewal of, or application
21 for, home insurance.

22 (l) A person who has failed to procure or maintain member-
23 ship in a club, group, or organization, if membership is a uni-
24 form requirement of the insurer, and if the dues, charges, or
25 other conditions for membership are applied uniformly throughout
26 this state, are not expressed as a percentage of premium, and do
27 not vary with respect to the rating classification of the member

1 except for the purpose of offering a membership fee to family
2 units. Membership fees may vary in accordance with the amount or
3 type of coverage if the purchase of additional coverage, either
4 as to type or amount, is not a condition for reduction of dues or
5 fees.

6 (3) "Home insurance" means any of the following, but does
7 not include insurance intended to insure commercial, industrial,
8 professional, or business property, obligations, or liabilities:

9 (a) ~~Insurance~~ FIRE INSURANCE for an insured's dwelling of
10 a type described in subsection (2). ~~, provided by a Michigan~~
11 ~~standard policy as described in section 2832.~~

12 (b) ~~When~~ IF contained in or indorsed to a ~~Michigan~~
13 ~~standard~~ FIRE INSURANCE policy providing insurance for the
14 insured's residence, other insurance intended primarily to insure
15 nonbusiness property, obligations, and liabilities.

16 (c) Other insurance coverages for an insured's residence as
17 prescribed by rule promulgated by the commissioner pursuant to
18 Act No. 306 of the Public Acts of 1969, as amended. A rule pro-
19 posed for promulgation by the commissioner pursuant to this sec-
20 tion shall be transmitted in advance to each member of the stand-
21 ing committee in the house and in the senate which has jurisdic-
22 tion over insurance.

23 (4) "Insurance eligibility points" means all of the
24 following:

25 (a) Points calculated, according to the following schedule,
26 for convictions, determinations of responsibility for civil
27 infractions, or findings of responsibility in probate court:

1 (i) For a violation of any lawful speed limit by more than
2 15 miles per hour, or careless driving, 4 points.

3 (ii) For a violation of any lawful speed limit by more than
4 10 miles per hour, but less than 16 miles per hour, 3 points.

5 (iii) For a violation of any lawful speed limit by 10 miles
6 per hour or less, 2 points.

7 (iv) For a violation of any speed limit by 15 miles per hour
8 or less on a roadway which had a lawfully posted maximum speed of
9 70 miles per hour as of January 1, 1974, 2 points.

10 (v) For all other moving violations pertaining to the opera-
11 tion of motor vehicles, 2 points.

12 (b) Points calculated, according to the following schedule,
13 for determinations that the person was substantially at-fault, as
14 defined in section 2104(4):

15 (i) For the first substantially at-fault accident, 3
16 points.

17 (ii) For the second and each subsequent substantially
18 at-fault accident, 4 points.

19 (5) "Insurer" means an insurer authorized to transact in
20 this state the kind or combination of kinds of insurance consti-
21 tuting automobile insurance or home insurance, as defined in this
22 chapter.

23 Sec. 2236. (1) ~~No~~ A basic insurance policy form or annu-
24 ity contract form shall NOT be issued or delivered to any person
25 in this state, and ~~no~~ AN INSURANCE OR ANNUITY application form
26 ~~where~~ IF a written application is required and is to be made a
27 part of ~~such~~ THE policy or contract, ~~no~~ A printed rider or

1 indorsement form or form of renewal certificate, and ~~no~~ A group
2 certificate in connection with ~~any such~~ THE policy or contract,
3 shall NOT be issued or delivered to ~~any~~ A person in this state,
4 until a copy of the form ~~thereof~~ is filed with the ~~department~~
5 ~~of~~ insurance BUREAU and approved by the commissioner as conform-
6 ing with the requirements of this code and not inconsistent with
7 the law. Failure of the commissioner to act within 30 days after
8 submittal shall constitute approval. All such forms, except pol-
9 icies of disability insurance as defined in section 3400 shall be
10 plainly printed with type size not less than 8-point unless the
11 commissioner determines that ~~such portions of any such~~ A POR-
12 TION OF THE form printed with type less than 8-point is not
13 deceptive or misleading.

14 (2) An insurer may satisfy its obligations to make form fil-
15 ings by becoming a member of, or a subscriber to, a rating orga-
16 nization, licensed under section 2436 or 2630, which makes such
17 filings and by filing with the commissioner a copy of its autho-
18 rization of the rating organization to make the filings on its
19 behalf. Every member of or subscriber to a rating organization
20 shall adhere to the form filings made on its behalf by the orga-
21 nization except that ~~any~~ AN insurer may file with the commis-
22 sioner a substitute form, and thereafter if a subsequent form
23 filing by the rating organization affects the use of the substi-
24 tute form, the insurer shall review its use and notify the com-
25 missioner to withdraw its substitute form.

26 (3) BEGINNING JULY 1, 1990, THE COMMISSIONER SHALL NOT
27 APPROVE A FORM FILED PURSUANT TO THIS SECTION PROVIDING FOR OR

1 RELATING TO AN INSURANCE POLICY OR AN ANNUITY CONTRACT FOR
2 PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES IF THE FORM FAILS TO
3 OBTAIN THE READABILITY SCORE OR MEET THE OTHER REQUIREMENTS OF
4 THIS SUBSECTION, AS APPLICABLE:

5 (A) THE READABILITY SCORE FOR A FORM FOR WHICH APPROVAL IS
6 REQUIRED BY THIS SECTION SHALL NOT BE LESS THAN 45, AS DETERMINED
7 BY THE METHOD PROVIDED IN SUBDIVISIONS (B) AND (C).

8 (B) THE READABILITY SCORE FOR A FORM SHALL BE DETERMINED AS
9 FOLLOWS:

10 (i) FOR A FORM CONTAINING NOT MORE THAN 10,000 WORDS, THE
11 ENTIRE FORM SHALL BE ANALYZED. FOR A FORM CONTAINING MORE THAN
12 10,000 WORDS, NOT LESS THAN TWO 200-WORD SAMPLES PER PAGE SHALL
13 BE ANALYZED INSTEAD OF THE ENTIRE FORM. THE SAMPLES SHALL BE
14 SEPARATED BY AT LEAST 20 PRINTED LINES.

15 (ii) COUNT THE NUMBER OF WORDS AND SENTENCES IN THE FORM OR
16 SAMPLES AND DIVIDE THE TOTAL NUMBER OF WORDS BY THE TOTAL NUMBER
17 OF SENTENCES. MULTIPLY THIS QUOTIENT BY A FACTOR OF 1.015.

18 (iii) COUNT THE TOTAL NUMBER OF SYLLABLES IN THE FORM OR
19 SAMPLES AND DIVIDE THE TOTAL NUMBER OF SYLLABLES BY THE TOTAL
20 NUMBER OF WORDS. MULTIPLY THIS QUOTIENT BY A FACTOR OF 84.6. AS
21 USED IN THIS SUBPARAGRAPH, "SYLLABLE" MEANS A UNIT OF SPOKEN LAN-
22 GUAGE CONSISTING OF 1 OR MORE LETTERS OF A WORD AS INDICATED BY
23 AN ACCEPTED DICTIONARY. IF THE DICTIONARY SHOWS 2 OR MORE
24 EQUALLY ACCEPTABLE PRONUNCIATIONS OF A WORD, THE PRONUNCIATION
25 CONTAINING FEWER SYLLABLES MAY BE USED.

1 (iv) ADD THE FIGURES OBTAINED IN SUBPARAGRAPHS (ii) AND
2 (iii) AND SUBTRACT THIS SUM FROM 206.835. THE FIGURE OBTAINED
3 EQUALS THE READABILITY SCORE FOR THE FORM.

4 (C) FOR THE PURPOSES OF SUBDIVISION (B)(ii) AND (iii), THE
5 FOLLOWING PROCEDURES SHALL BE USED:

6 (i) A CONTRACTION, HYPHENATED WORD, OR NUMBERS AND LETTERS
7 WHEN SEPARATED BY SPACES SHALL BE COUNTED AS 1 WORD.

8 (ii) A UNIT OF WORDS ENDING WITH A PERIOD, SEMICOLON, OR
9 COLON, BUT EXCLUDING HEADINGS AND CAPTIONS, SHALL BE COUNTED AS 1
10 SENTENCE.

11 (D) IN DETERMINING THE READABILITY SCORE, THE METHOD PRO-
12 VIDED IN SUBDIVISIONS (B) AND (C):

13 (i) SHALL BE APPLIED TO AN INSURANCE POLICY FORM OR AN ANNU-
14 ITY CONTRACT, TOGETHER WITH A RIDER OR INDORSEMENT FORM USUALLY
15 ASSOCIATED WITH SUCH AN INSURANCE POLICY FORM OR ANNUITY
16 CONTRACT.

17 (ii) SHALL NOT BE APPLIED TO WORDS OR PHRASES THAT ARE
18 DEFINED IN AN INSURANCE POLICY FORM, AN ANNUITY CONTRACT, OR
19 RIDERS, INDORSEMENTS, OR GROUP CERTIFICATES PURSUANT TO AN INSUR-
20 ANCE POLICY FORM OR ANNUITY CONTRACT IF THE DEFINITION OF THE
21 WORDS OR PHRASES HAS A READABILITY SCORE OF NOT LESS THAN 45.

22 (iii) SHALL NOT BE APPLIED TO LANGUAGE SPECIFICALLY AGREED
23 UPON THROUGH COLLECTIVE BARGAINING OR REQUIRED BY A COLLECTIVE
24 BARGAINING AGREEMENT.

25 (iv) SHALL NOT BE APPLIED TO LANGUAGE THAT IS PRESCRIBED BY
26 STATE OR FEDERAL STATUTE OR BY RULES OR REGULATIONS PROMULGATED
27 PURSUANT TO A STATE OR FEDERAL STATUTE.

1 (E) EACH FORM FOR WHICH APPROVAL IS REQUIRED BY THIS SECTION
2 SHALL CONTAIN BOTH OF THE FOLLOWING:

3 (i) TOPICAL CAPTIONS.

4 (ii) EXCLUSIONS FROM OR TO COVERAGE, TO FOLLOW IMMEDIATELY
5 AFTER THE INSURING AGREEMENTS ESTABLISHING THE COVERAGE.

6 (F) EACH INSURANCE POLICY AND ANNUITY CONTRACT THAT HAS MORE
7 THAN 3,000 WORDS PRINTED ON NOT MORE THAN 3 PAGES OF TEXT OR THAT
8 HAS MORE THAN 3 PAGES OF TEXT REGARDLESS OF THE NUMBER OF WORDS
9 SHALL CONTAIN A TABLE OF CONTENTS.

10 (G) EACH RIDER OR INDORSEMENT FORM THAT CHANGES COVERAGE
11 SHALL DO ALL OF THE FOLLOWING:

12 (i) CONTAIN A PROPERLY DESCRIPTIVE TITLE.

13 (ii) REPRODUCE EITHER THE ENTIRE PARAGRAPH OR THE PROVISION
14 AS CHANGED.

15 (iii) BE ACCOMPANIED BY AN EXPLANATION OF THE CHANGE.

16 (4) ANY CHANGE OR ADDITION TO A POLICY OR ANNUITY CONTRACT
17 FORM FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES, WHETHER BY
18 INDORSEMENT, RIDER, OR OTHERWISE, OR A CHANGE OR ADDITION TO A
19 RIDER OR INDORSEMENT FORM TO SUCH POLICY OR ANNUITY CONTRACT
20 FORM, WHICH POLICY OR ANNUITY CONTRACT FORM HAS NOT BEEN PREVI-
21 OUSLY APPROVED UNDER SUBSECTION (3), SHALL NOT BE APPROVED UNLESS
22 THE POLICY OR ANNUITY CONTRACT FORM AND ALL RIDER AND INDORSEMENT
23 FORMS RELATING TO THE POLICY OR ANNUITY CONTRACT FORM ARE ALSO
24 SUBMITTED FOR APPROVAL PURSUANT TO SUBSECTION (3).

25 (5) ~~-(3)-~~ Upon written notice to the insurer, the commis-
26 sioner may disapprove, withdraw approval, or prohibit the
27 issuance, advertising, or delivery of any form to any person in

1 this state if it violates any provisions of this code, or
2 contains inconsistent, ambiguous, or misleading clauses, or con-
3 tains exceptions and conditions that unreasonably or deceptively
4 affect the risk purported to be assumed in the general coverage
5 of the policy. The notice shall specify the objectionable provi-
6 sions or conditions and state the reasons for the commissioner's
7 decision. If the form is legally in use by the insurer in this
8 state, the notice shall give the effective date of the
9 commissioner's disapproval, which shall not be less than 30 days
10 subsequent to the mailing or delivery of ~~such~~ THE notice to the
11 insurer. If the form is not legally in use, then disapproval
12 shall be effective ~~forthwith~~ IMMEDIATELY.

13 (6) ~~(4) Whenever~~ IF a form is disapproved ~~—~~ or approval
14 is withdrawn under the provisions of this code, the insurer shall
15 be entitled upon demand to a hearing before the commissioner or a
16 deputy commissioner within 30 days ~~of~~ AFTER THE notice of dis-
17 approval or of withdrawal of approval; and after the hearing, the
18 commissioner shall make findings of fact and law, and either
19 affirm, modify, or withdraw his or her original order or
20 decision.

21 (7) ~~(5)~~ Any issuance, use, or delivery by an insurer of
22 any form without the prior approval of the commissioner as
23 required by subsection (1) or after withdrawal of approval as
24 provided by subsection ~~(3)~~ (5) constitutes a separate violation
25 for which the commissioner may order the imposition of a civil
26 penalty of \$25.00 for each offense, but not to exceed the maximum
27 penalty of \$500.00 for any 1 series of offenses relating to any 1

1 basic policy form, which penalty may be recovered by the attorney
2 general as provided in section 230.

3 (8) ~~(6)~~ The filing requirements of this section shall not
4 apply to:

5 (a) Insurance against loss of or damage to:

6 (i) Imports, exports, or domestic shipments.

7 (ii) Bridges, tunnels, or other instrumentalities of trans-
8 portation and communication.

9 (iii) Aircraft and attached equipment.

10 (iv) Vessels and watercraft under construction or owned by
11 or used in a business or having a straight-line hull length of
12 more than 24 feet.

13 (b) Insurance against loss resulting from liability, other
14 than worker's compensation or employers' liability arising out of
15 the ownership, maintenance, or use of:

16 (i) Imports, exports, or domestic shipments.

17 (ii) Aircraft and attached equipment.

18 (iii) Vessels and watercraft under construction or owned by
19 or used in a business or having a straight-line hull length of
20 more than 24 feet.

21 (c) Surety bonds other than fidelity bonds.

22 (d) Policies, riders, indorsements, or forms of unique char-
23 acter designed for and used with relation to insurance upon a
24 particular subject, or which relate to the manner of distribution
25 of benefits or to the reservation of rights and benefits under
26 life or disability insurance policies and are used at the request
27 of the individual policyholder, contract holder, or certificate

1 holder. Beginning September 1, 1968, the commissioner by order
2 may exempt from the filing requirements of this section and sec-
3 tions 2242, 3606, and 4430 for so long as he or she deems proper
4 any insurance document or form or type thereof, except that por-
5 tion of the document or form that establishes a relationship
6 between group disability insurance and personal protection insur-
7 ance benefits subject to exclusions or deductibles pursuant to
8 section 3109a, as specified in the order to which this section
9 practicably may not be applied, or the filing and approval of
10 which are deemed unnecessary for the protection of the public.
11 Insurance documents or forms providing medical payments or income
12 replacement benefits, except that portion of the document or form
13 that establishes a relationship between group disability insur-
14 ance and personal protection insurance benefits subject to exclu-
15 sions or deductibles pursuant to section 3109a, exempt by order
16 of the commissioner from the filing requirements of this section
17 and sections 2242 and 3606 are deemed approved by the commis-
18 sioner for purposes of section 3430.

19 (9) ~~(7)~~ Every order made by the commissioner under the
20 provisions of this section shall be subject to court review as
21 provided in section 244.

22 Sec. 2242. (1) Except as otherwise provided in section
23 ~~2236(6)(d)~~ 2236(8)(D), ~~no~~ A group disability policy ~~may~~
24 SHALL NOT be issued or delivered in this state unless a copy of
25 the form has been filed with the commissioner and approved by him
26 or her.

1 (2) The commissioner may within 30 days after the filing of
2 ~~any~~ A disability insurance policy form applicable to individual
3 or family expense coverage, disapprove the form for any of the
4 following, subject to the requirements as to notice, hearing, and
5 appeal set forth in sections 244 and 2236:

6 (a) The benefits provided therein are unreasonable in rela-
7 tion to the premium charged.

8 (b) It contains a provision or provisions which are unjust,
9 unfair, inequitable, misleading, deceptive, or encourage misrep-
10 resentation of ~~such~~ THE policy.

11 (c) It does not comply with other provisions of law.

12 (3) The commissioner may at any time withdraw his or her
13 approval of ~~any~~ AN individual or family expense policy form on
14 any of the grounds stated in subsection (2), subject to the
15 requirements as to notice, hearing, and appeal set forth in sec-
16 tions 244 and 2236. An insurer shall not issue the form after
17 the effective date of the withdrawal of approval.

18 SEC. 2250. BINDERS OR OTHER CONTRACTS FOR TEMPORARY INSUR-
19 ANCE SHALL BE CONSIDERED TO INCLUDE ALL OF THE TERMS AND CONDI-
20 TIONS OF THE POLICY FOR WHICH APPLICATION IS MADE.

21 Sec. 2806. ~~(1) The printed form of a policy of fire insur-~~
22 ~~ance, as set forth in section 2832, shall be known and designated~~
23 ~~as the "Michigan standard policy."~~

24 ~~(2) No~~ A policy or contract of fire insurance shall NOT be
25 made, issued, or delivered by ~~any~~ AN insurer or by ~~any~~ AN
26 agent or representative ~~thereof~~ OF AN INSURER, on any property
27 in this state, unless it ~~shall conform as to all provisions,~~

~~1 stipulations, agreements and conditions, with such form of~~
~~2 policy~~ CONFORMS TO THE PROVISIONS OF THIS CHAPTER.

3 Sec. 2810. If ~~the standard~~ A fire policy is issued by a
 4 mutual, cooperative, or reciprocal insurer having special regula-
 5 tions with respect to the payment by the policyholder of
 6 assessments, ~~such~~ THE regulations shall be printed upon the
 7 policy, and ~~any such~~ THE insurer may print upon the policy
 8 ~~such~~ regulations as may be required by its home state ~~—~~ or
 9 appropriate to its form of organization.

10 Sec. 2812. Two or more insurers authorized to transact fire
 11 insurance in this state may, with the approval of the commission-
 12 er, issue a combination ~~standard form of~~ FIRE policy which
 13 shall contain the following provisions:

14 (A) ~~(1)~~ A provision substantially to the effect that the
 15 insurers executing ~~such~~ THE policy shall be severally liable
 16 for the full amount of any loss or damage, according to the terms
 17 of the policy, or for specified percentages or amounts thereof,
 18 aggregating the full amount of ~~such~~ THE insurance under ~~such~~
 19 THE policy.

20 (B) ~~(2)~~ A provision substantially to the effect that serv-
 21 ice of process, or of any notice or proof of loss required by
 22 ~~such~~ THE policy, upon any of the insurers executing ~~such~~ THE
 23 policy, shall be ~~deemed to be~~ CONSIDERED service upon all
 24 ~~such~~ THE insurers.

25 Sec. 2826. ~~Riders and endorsements may, in consideration~~
 26 ~~of adequate premium or premium deposit, be added to the standard~~
 27 AN INSURER MAY ISSUE A fire insurance policy, insuring property,

1 ~~whereby~~ BY WHICH the insurer agrees to reimburse and indemnify
2 the insured for the difference between the actual value of the
3 insured property at the time any loss or damages occurs, and the
4 amount actually expended to repair, rebuild, or replace with new
5 materials of like size, kind, and quality, but not to exceed the
6 amount of liability covered by the ~~riders or endorsements, such~~
7 ~~property as has been damaged or destroyed by fire or other perils~~
8 ~~insured against, except~~ FIRE POLICY. A FIRE POLICY ISSUED PUR-
9 SUANT TO THIS SECTION MAY PROVIDE that there shall be no liabil-
10 ity by the insurer ~~under the terms of said riders or~~
11 ~~endorsements~~ to pay the amount specified in the ~~riders or~~
12 ~~endorsements~~ POLICY unless the property damaged is actually
13 repaired, rebuilt, or replaced at the same or another site.

14 Sec. 2827. (1) ~~In consideration for adequate premium or~~
15 ~~premium deposit, riders or endorsements may be added to the~~
16 ~~standard~~ AN INSURER MAY ISSUE A fire policy, insuring property,
17 by which the insurer agrees to reimburse and indemnify the
18 insured for the difference between the actual cash value of the
19 lost or damaged insured property at the time of the loss or
20 damage, and the amount actually necessary to repair, rebuild, or
21 replace the lost or damaged insured property to a condition and
22 appearance similar to that which existed at the time of the loss
23 or damage based on the use of conventional materials and con-
24 struction methods which are currently available without extraor-
25 dinary expense. The insurer's liability shall not exceed the
26 amount of liability covered by the contract of insurance.

1 (2) The contract of insurance established pursuant to
2 subsection (1) shall not preclude an insured from selecting a
3 cash settlement based on the actual cash value of the lost or
4 damaged insured property at the time of the loss or damage, but
5 not to exceed the amount of liability covered by the contract.

6 (3) The contract of insurance established pursuant to sub-
7 section (1) may provide that there shall be no liability on the
8 part of the insurer to pay an amount in excess of the actual cash
9 value of the lost or damaged insured property at the time of the
10 loss or damage, unless the lost or damaged property is actually
11 repaired, rebuilt, or replaced at the same or another contiguous
12 site. However, this subsection shall not apply if the amount of
13 loss or damage to the insured property under the standards of
14 subsection (1) exceeds the amount of liability covered by the
15 contracts.

16 SEC. 2833. (1) EACH FIRE INSURANCE POLICY ISSUED OR DELIV-
17 ERED IN THIS STATE SHALL CONTAIN THE FOLLOWING PROVISIONS:

18 (A) THAT THE POLICY SHALL PROVIDE, AT A MINIMUM, COVERAGE
19 FOR THE ACTUAL CASH VALUE OF THE PROPERTY AT THE TIME OF THE
20 LOSS, SUBJECT TO ALL OTHER PROVISIONS CONTAINED HEREIN.

21 (B) THAT THE POLICY SHALL PROVIDE, AT A MINIMUM, COVERAGE
22 FOR DIRECT LOSS BY FIRE AND LIGHTNING AND PRO RATA COVERAGE FOR 5
23 DAYS FOR INSURED PROPERTY REMOVED TO ANOTHER LOCATION IF IT IS
24 MOVED TO PRESERVE IT FROM DAMAGE BY A COVERED PERIL.

25 (C) THAT THE POLICY MAY BE VOID ON THE BASIS OF MISREPRESEN-
26 TATION, FRAUD, OR CONCEALMENT.

1 (D) THAT PROPERTY WHICH IS NOT COVERED UNDER THE POLICY.

2 (E) THOSE PERILS THAT ARE NOT COVERED UNDER THE POLICY.

3 (F) THOSE CONDITIONS WHICH RESULT IN THE SUSPENSION OR
4 RESTRICTION OF INSURANCE.

5 (G) THE PROCEDURE FOR WAIVING OR CHANGING A PROVISION UNDER
6 THE POLICY.

7 (H) THAT THE POLICY MAY BE CANCELED AT ANY TIME AT THE
8 REQUEST OF THE INSURED, IN WHICH CASE THE INSURER SHALL, UPON
9 DEMAND AND SURRENDER OF THE POLICY, REFUND THE EXCESS OF PAID
10 PREMIUM OR ASSESSMENT ABOVE THE CUSTOMARY SHORT RATES FOR THE
11 EXPIRED TIME.

12 (I) THAT THE POLICY MAY BE CANCELED AT ANY TIME BY THE
13 INSURER BY MAILING TO EACH INSURED NAMED IN THE POLICY AT THE
14 INSURED'S ADDRESS LAST KNOWN TO THE INSURER OR AN AUTHORIZED
15 AGENT OF THE INSURER, NOT LESS THAN 30 DAYS BEFORE THE CANCELLA-
16 TION, WITH POSTAGE FULLY PREPAID, A WRITTEN NOTICE OF CANCELLA-
17 TION WITH OR WITHOUT TENDER OF THE EXCESS OF PAID PREMIUM OR
18 ASSESSMENT ABOVE THE PRO RATA PREMIUM FOR THE EXPIRED TIME. THE
19 EXCESS, IF NOT TENDERED, SHALL BE REFUNDED ON DEMAND AND THE
20 NOTICE OF CANCELLATION SHALL STATE THAT THE EXCESS PREMIUM, IF
21 NOT TENDERED, WILL BE REFUNDED ON DEMAND.

22 (J) THAT THE MINIMUM EARNED PREMIUM ON A POLICY WHICH IS
23 CANCELED BY THE INSURED OR THE INSURER SHALL NOT BE LESS THAN THE
24 PRO RATA PREMIUM FOR THE EXPIRED TIME OR \$25.00, WHICHEVER IS
25 LESS.

26 (K) THAT IF A LOSS IS PAYABLE UNDER THE POLICY, IN WHOLE OR
27 IN PART, TO A DESIGNATED MORTGAGEE NOT NAMED IN THE POLICY AS THE

1 INSURED, THE INTEREST IN THE POLICY MAY BE CANCELED BY THE
2 INSURER BY GIVING TO THE MORTGAGEE NOT LESS THAN 10 DAYS' WRITTEN
3 NOTICE OF CANCELLATION. IF THE INSURED FAILS TO RENDER PROOF OF
4 LOSS, THE MORTGAGEE, UPON NOTICE, SHALL RENDER PROOF OF LOSS
5 WITHIN 60 DAYS AFTER THE NOTICE. IF THE INSURER CLAIMS THAT NO
6 LIABILITY EXISTED AS TO THE MORTGAGOR OR OWNER, IT SHALL, TO THE
7 EXTENT OF PAYMENT OF LOSS TO THE MORTGAGEE, BE SUBROGATED TO ALL
8 THE MORTGAGEE'S RIGHTS OF RECOVERY, BUT WITHOUT IMPAIRING THE
9 MORTGAGEE'S RIGHT TO SUE; OR THE INSURER MAY PAY OFF THE MORTGAGE
10 DEBT AND REQUIRE AN ASSIGNMENT OF THE DEBT AND OF THE MORTGAGE.
11 SUBROGATION PURSUANT TO THIS SUBDIVISION SHALL INCLUDE CONTRAC-
12 TUAL AS WELL AS TORT RIGHTS OF ACTION, BUT ONLY TO THE EXTENT OF
13 THE LOSS. AN ACTION MAY BE MAINTAINED BY EITHER THE INSURED OR
14 INSURER OR BY BOTH OF THEM JOINTLY, TO RECOVER THEIR RESPECTIVE
15 PORTIONS OF THE LOSS.

16 (L) THAT THE INSURER'S LIABILITY SHALL BE LIMITED TO THE PRO
17 RATA SHARE WITH OTHER INSURANCE FOR THE PERIL INVOLVED.

18 (M) THE NOTIFICATION REQUIREMENTS WHEN A LOSS OCCURS.

19 (N) THAT IF THE INSURED AND INSURER FAIL TO AGREE ON THE
20 ACTUAL CASH VALUE OR AMOUNT OF THE LOSS, EITHER PARTY MAY MAKE A
21 WRITTEN DEMAND THAT THE AMOUNT OF THE LOSS OR THE ACTUAL CASH
22 VALUE BE SET BY APPRAISAL. IF EITHER MAKES A WRITTEN DEMAND FOR
23 APPRAISAL, EACH PARTY SHALL SELECT A COMPETENT, INDEPENDENT
24 APPRAISER AND NOTIFY THE OTHER OF THE APPRAISER'S IDENTITY WITHIN
25 20 DAYS AFTER RECEIPT OF THE WRITTEN DEMAND. THE 2 APPRAISERS
26 SHALL THEN SELECT A COMPETENT, IMPARTIAL UMPIRE. IF THE 2
27 APPRAISERS ARE UNABLE TO AGREE UPON AN UMPIRE WITHIN 15 DAYS, THE

1 INSURED OR INSURER MAY ASK A JUDGE OF THE CIRCUIT COURT FOR THE
2 COUNTY IN WHICH THE LOSS OCCURRED OR IN WHICH THE PROPERTY IS
3 LOCATED TO SELECT AN UMPIRE. THE APPRAISERS SHALL THEN SET THE
4 AMOUNT OF THE LOSS AND ACTUAL CASH VALUE AS TO EACH ITEM. IF THE
5 APPRAISERS SUBMIT A WRITTEN REPORT OF AN AGREEMENT TO THE INSUR-
6 ER, THE AMOUNT AGREED UPON SHALL BE THE AMOUNT OF THE LOSS. IF
7 THE APPRAISERS FAIL TO AGREE WITHIN A REASONABLE TIME, THEY SHALL
8 SUBMIT THEIR DIFFERENCES TO THE UMPIRE. WRITTEN AGREEMENT SIGNED
9 BY ANY 2 OF THESE 3 SHALL SET THE AMOUNT OF THE LOSS. EACH
10 APPRAISER SHALL BE PAID BY THE PARTY SELECTING THAT APPRAISER.
11 OTHER EXPENSES OF THE APPRAISAL AND THE COMPENSATION OF THE
12 UMPIRE SHALL BE PAID EQUALLY BY THE INSURED AND THE INSURER.

13 (O) THAT THE INSURER MAY REPAIR, REPLACE, REBUILD, OR TAKE
14 THE PROPERTY.

15 (P) THAT THERE CAN BE NO ABANDONMENT TO THE INSURER OF ANY
16 PROPERTY.

17 (Q) EXCEPT AS OTHERWISE PROVIDED IN SECTION 2845, THAT THE
18 LOSS IS PAYABLE WITHIN 30 DAYS AFTER RECEIPT OF PROOF OF AMOUNT
19 OF LOSS.

20 (R) THAT AN ACTION UNDER THE POLICY MAY BE COMMENCED ONLY
21 AFTER COMPLIANCE WITH THE POLICY REQUIREMENTS. AN ACTION MUST BE
22 COMMENCED WITHIN 1 YEAR AFTER THE LOSS OR WITHIN THE TIME PERIOD
23 SPECIFIED IN THE POLICY, WHICHEVER IS LONGER. THE TIME FOR COM-
24 MENCING AN ACTION IS TOLLED FROM THE TIME THE INSURED NOTIFIES
25 THE INSURER OF THE LOSS UNTIL THE INSURER FORMALLY DENIES
26 LIABILITY.

1 (S) THAT THE INSURER IS SUBROGATED TO THE INSURED'S RIGHT OF
2 RECOVERY FROM OTHER PARTIES.

3 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, EACH FIRE
4 INSURANCE POLICY ISSUED OR DELIVERED IN THIS STATE PURSUANT TO
5 SUBSECTION (1) SHALL CONTAIN, AT A MINIMUM, THE COVERAGE PROVIDED
6 IN THE STANDARD FIRE POLICY UNDER FORMER SECTION 2832.

7 Sec. 2836. (1) An insurer shall not base a defense under
8 the terms of ~~the Michigan standard policy or any other~~ A fire
9 insurance policy permitted to be used in this state, upon a
10 breach of warranty or condition occurring before loss, unless the
11 breach exists at the time of the loss or contributes to the loss
12 ~~—~~ or to the amount of the loss.

13 (2) Except as otherwise provided in section 2845, losses
14 under any fire insurance policy shall be paid within 30 days
15 AFTER RECEIPT OF PROOF OF THE AMOUNT OF THE LOSS, notwithstanding
16 the provisions of any contract or statute to the contrary.

17 ~~(3) If, under any appraisal clause in a fire insurance~~
18 ~~policy, it is provided that an umpire shall be selected by a~~
19 ~~judge of a court of record, this shall be construed to mean a~~
20 ~~judge of the circuit court for the county in which the loss~~
21 ~~occurred or in which the property is located.~~

22 ~~(4) Whenever an insurer is entitled by the terms of the~~
23 ~~Michigan standard policy to subrogation against a third party,~~
24 ~~this shall be considered to include contractual as well as tort~~
25 ~~rights of action, but only to the extent of the loss. An action~~
26 ~~may be maintained by either the insured or insurer or by both of~~
27 ~~them jointly, to recover their respective portions of the loss.~~

1 Sec. 2842. (1) ~~Any~~ AN insurer authorized to do business
2 within ~~the~~ THIS state ~~of Michigan~~ may attach to ~~any~~ AN
3 existing policy or to one to be issued by ~~such~~ THE insurer an
4 average or pro rata clause.

5 (2) ~~Such~~ THE AVERAGE OR PRO RATA clause shall be made sub-
6 stantially in the following form:

7 "It is hereby agreed, in case of loss, this policy shall
8 attach in or on each building, division, or location in such pro-
9 portion as the values in or on ~~such~~ THE buildings, division, or
10 location bear to the aggregate value of the property insured."

11 (3) It shall not be necessary for all average or pro rata
12 rider clauses to be in the exact language used in subsection (2),
13 ~~of this section,~~ but ~~no~~ such clause shall NOT be attached to
14 ~~any~~ A policy unless the form ~~thereof shall have been~~ OF THE
15 CLAUSE WAS filed with and received the approval of the
16 commissioner.

17 Sec. 2845. (1) Except as otherwise provided in this sec-
18 tion, with respect to insured real property located in a city,
19 village, or township which has elected to apply this section as
20 provided in subsection (1), when a claim is filed for a loss to
21 insured real property due to fire or explosion and a final set-
22 tlement is reached on the loss to the insured real property, an
23 insurer shall withhold from payment 15% of the actual cash value
24 of the insured real property at the time of the loss or 15% of
25 the final settlement, whichever is less. At the time that 15% of
26 the settlement or judgment is withheld, the insurer shall give
27 notice of the withholding to the treasurer of the city, village,

1 or township in which the insured real property is located, to the
2 insured, and to any mortgagee having an existing lien or liens
3 against the insured real property, if the mortgagee is named on
4 the policy. In the case of a judgment, notice shall also be pro-
5 vided to the court in which judgment was entered. The notice
6 shall include all of the following:

7 (a) The identity and address of the insurer.

8 (b) The name and address of each policyholder, including any
9 mortgagee.

10 (c) Location of the insured real property.

11 (d) The date of loss, policy number, and claim number.

12 (e) The amount of money withheld.

13 (f) A statement that the city, village, or township may have
14 the withheld amount paid into a trust or escrow account estab-
15 lished for the purposes of this section if it shows cause, pursu-
16 ant to subsection (2), within 15 days that the money should be
17 withheld to protect the public health and safety, otherwise the
18 withheld amount shall be paid to the insured at the expiration of
19 15 days.

20 (g) An explanation of the provisions of this section.

21 (2) In order for a city, village, or township to escrow the
22 amount withheld by the insurer, and to retain that amount, the
23 following procedure shall be used:

24 (a) An affidavit prepared by the chief fire official or
25 another authorized representative of the city, village, or town-
26 ship designated by the governing body of the city, village, or
27 township that the damaged insured structure violates existing

1 named health and safety standards requiring the escrow of the
2 withheld amount as surety for the repair, replacement, or removal
3 of the damaged structure shall constitute cause for the escrowing
4 of the withheld amount.

5 (b) In the case of a settlement, the affidavit shall be sent
6 to the insurer, the insured, and any mortgagees. Upon receipt of
7 the affidavit, the insurer shall forward the withheld amount to
8 the treasurer of the city, village, or township, and shall pro-
9 vide notice of the forwarding to the insured and any mortgagees.

10 (c) In the case of a judgment, the affidavit shall be sent
11 to the insurer, the insured, any mortgagees, and the court in
12 which judgment was entered. Upon the motion of the city, vil-
13 lage, or township, the court shall order the withheld amount to
14 be transmitted to the treasurer of the city, village, or
15 township.

16 (d) Within 30 days after the escrowing of the withheld
17 amount under this section, the city, village, or township may
18 apply to the circuit court for declaratory relief in order to
19 establish its rights to the policy proceeds held in escrow by the
20 city, village, or township. The city, village, or township shall
21 have such a right to the proceeds upon a showing that the health,
22 safety, and welfare of the inhabitants of the city, village, or
23 township will be jeopardized unless such proceeds are retained by
24 the city, village, or township. If declaratory relief is grant-
25 ed, the court shall issue an order permitting the city, village,
26 or township to retain the proceeds as requested, in accordance
27 with the provisions of this section, to be used as provided in

1 this section. If the city, village, or township fails to apply
2 for declaratory relief within the 30-day period, or if declara-
3 tory relief is denied, the city, village, or township shall imme-
4 diately return to the insured the proceeds held in escrow.

5 (3) Upon receipt of money and information from an insurer as
6 prescribed in subsections (1) and (2), the local treasurer shall
7 record the information and the date of receipt of the money and
8 shall immediately deposit the money in a trust or escrow account
9 established for purposes of this section. The account may be
10 interest-bearing. If the mortgage on the insured property is in
11 default, the treasurer of the city, village, or township, upon
12 written request from a first mortgagee of property with respect
13 to which policy proceeds were withheld and placed into a trust or
14 escrow account under subsections (1) and (2) and this subsection,
15 shall release to the mortgagee all or any part of the policy pro-
16 ceeds received by the city, village, or township with respect to
17 that property, not later than 10 days after receipt of the writ-
18 ten request by the mortgagee, to the extent necessary to satisfy
19 any outstanding lien of the mortgagee.

20 (4) Except as provided in subsection (7), money deposited in
21 an account pursuant to subsection (3) shall not be commingled
22 with city, village, or township funds. Any interest earned on
23 money placed in a trust or escrow account shall be retained by
24 the city, village, or township to defray expenses incurred under
25 this section.

26 (5) Except as provided in subdivision (c), the policy
27 proceeds deposited under subsection (3) shall immediately be

1 forwarded to the insured when the chief fire official or another
2 authorized representative of the city, village, or township des-
3 ignated by the governing body of the city, village, or township
4 receives or is shown reasonable proof of any of the following:

5 (a) That the damaged or destroyed portions of the insured
6 structure have been repaired or replaced, except to the extent
7 that the amount withheld under this subsection is needed to com-
8 plete repair or replacement.

9 (b) That the damaged or destroyed structure and all remnants
10 of the structure have been removed from the land on which the
11 structure or the remnants of the structure were situated, in com-
12 pliance with the local code requirements of the city, village, or
13 township in which the structure was located.

14 (c) That the insured has entered into a contract to perform
15 repair, replacement, or removal services with respect to the
16 insured real property and that the insured consents to payment of
17 funds directly to the contractor performing the services. Funds
18 released under this subdivision may be forwarded only to a con-
19 tractor performing services on the insured property.

20 (6) Reasonable proof required under subsection (5) shall
21 include any of the following:

22 (a) Originals or copies of pertinent contracts, invoices,
23 receipts, and other similar papers evidencing both the work per-
24 formed or to be performed and the materials used or to be used by
25 all contractors performing repair, replacement, or removal serv-
26 ices with respect to the insured real property, other than a
27 contractor subject to subdivision (b).

1 (b) An affidavit executed by the contractor which has
2 performed the greatest amount of repair or replacement work on
3 the structure, or which has done most of the clearing and removal
4 work if structure repair or replacement is not to be performed.
5 The contractor shall attach to the affidavit all pertinent con-
6 tracts, invoices, and receipts and shall swear that these
7 attached papers correctly indicate the nature and extent of the
8 work performed to date by the contractor and the materials used.

9 (c) An inspection of the insured real property to verify
10 that repair, replacement, or clearing has been completed in
11 accordance with subsection (5).

12 (7) If with respect to a loss, reasonable proof is not
13 received by or shown to a fire official or another authorized
14 representative of the city, village, or township designated by
15 the governing body of the city, village, or township within 445
16 days after the policy proceeds portion was received by the trea-
17 surer, the city, village, or township shall use the retained pro-
18 ceeds to secure, repair, or demolish the damaged or destroyed
19 structure and clear the property in question, so that the struc-
20 ture and property are in compliance with local code requirements
21 and applicable ordinances of the city, village, or township. Any
22 unused portion of the retained proceeds shall be returned to the
23 insured.

24 (8) A final settlement shall not include the payment of
25 policy proceeds for personal property or contents damage or for
26 additional coverage not contained in the ~~Michigan standard~~

1 ~~policy set forth in section 2832~~ FIRE COVERAGE PORTION OF THE
2 FIRE INSURANCE POLICY.

3 (9) There shall not be liability on the part of, and a cause
4 of action shall not arise against, an insurer or an agent or
5 employee of an insurer for withholding or transferring money in
6 the course of complying or attempting to comply with this
7 section.

8 (10) This section shall apply only to final settlements
9 which exceed 49% of the insurance on the insured real property.

10 (11) This section shall apply only to property located in a
11 city, village, or township if the city, village, or township pur-
12 suant to a resolution by the governing body notifies the commis-
13 sioner in writing that the city, village, or township has estab-
14 lished a trust or escrow account to be used as prescribed in this
15 section and intends to uniformly apply this section with respect
16 to all property located within the city, village, or township
17 following written notification to the commissioner. The commis-
18 sioner shall prepare and distribute a list of all cities, vil-
19 lages, and townships which have elected to apply this section to
20 all insurance companies transacting property insurance in this
21 state.

22 (12) A city, village, or township shall remain on the list
23 until a written request for deletion has been received by the
24 commissioner and the amended list has been prepared pursuant to
25 this subsection.

26 (13) A city, village, or township may apply to be added to
27 the list by making a written request for addition to the

1 commissioner. When a written request for addition from a city,
2 village, or township has been received by the commissioner, an
3 amended list shall be prepared and distributed indicating the
4 addition. The addition shall be effective on the date specified
5 by the commissioner in the amendment. The commissioner shall
6 notify the city, village, township, and insurance companies of
7 the effective date of the addition which shall be effective not
8 less than 30 days after receipt of notice by the insurance
9 company. A city, village, or township shall not apply this sec-
10 tion with respect to any loss which occurred before the effective
11 date of the addition.

12 (14) A city, village, or township may cease to apply this
13 section for a period of not less than 6 months upon not less than
14 30 days' written notice to the commissioner. After receipt of
15 request to be deleted from the list, the commissioner shall pre-
16 pare and distribute an amendment to the list indicating the
17 deletion. The deletion shall be effective on the date specified
18 by the commissioner in the amendment. The commissioner shall
19 notify the city, village, township, and insurance companies of
20 the effective date of the deletion which shall be effective not
21 less than 30 days after receipt of the notice by the insurance
22 company. A city, village, or township shall continue to apply
23 this section with respect to any loss which occurred before the
24 effective date of the deletion, notwithstanding the deletion.

25 (15) The commissioner shall promulgate rules to implement
26 and administer this section pursuant to the administrative
27 procedures act of 1969, Act No. 306 of the Public Acts of 1969,

1 as amended, being sections 24.201 to ~~24.315~~ 24.328 of the
2 Michigan Compiled Laws.

3 (16) The withholding requirements of this section shall not
4 apply if all of the following occur:

5 (a) Within 15 days after agreement on a final settlement
6 between the insured and the insurer, the insured has filed with
7 the insurer evidence of a contract to repair as described in sub-
8 section (6).

9 (b) The insured consents to the payment of funds directly to
10 the contractor performing the repair services. Funds released
11 under this subdivision may be forwarded only to a contractor per-
12 forming the repair services on the insured property.

13 (c) On receipt of the contract to repair, the insurer gives
14 notice to the city, village, or township in which the property is
15 situated that there will not be a withholding under this section
16 because of the repair contract.

17 (17) If the insured and the insurer have agreed on the demo-
18 lition costs or the debris removal costs as part of the final
19 settlement of the real property insured claim, the insurer shall
20 withhold 1 of the following sums, whichever sum is the largest,
21 and shall pay that sum in accordance with this section:

22 (a) The agreed cost of demolition or debris removal.

23 (b) Fifteen percent of the actual cash value of the insured
24 real property at the time of loss.

25 (c) Fifteen percent of the final settlement of the insured
26 real property claim.

1 (18) As used in this section, "final settlement" means a
2 determination of the amount due and owing to the insured, for a
3 loss to insured real property, ~~under the Michigan standard~~
4 ~~policy contained in section 2832,~~ by any of the following
5 means:

6 (a) Acceptance of a proof of loss by the insurer.

7 (b) Execution of a release by the insured.

8 (c) Acceptance of an arbitration award by both the insured
9 and the insurer.

10 (d) Judgment of a court of competent jurisdiction.

11 Sec. 2860. Any provision of ~~any~~ A FIRE INSURANCE policy,
12 ~~or any contract or agreement~~ WHICH IS contrary to the provi-
13 sions of ~~sections 2824 (business suspension insurance) or 2826~~
14 ~~(depreciation or replacement insurance)~~ THIS CHAPTER, shall be
15 absolutely void, and ~~any~~ AN insurer issuing ~~any policy of~~
16 ~~insurance~~ A FIRE INSURANCE POLICY containing any such provision
17 shall be liable to the insured under ~~such~~ THE policy in the
18 same manner and to the same extent as if ~~such~~ THE provision
19 were not ~~therein~~ contained IN THE POLICY.

20 Sec. 2901. As used in this chapter:

21 (a) "Basic property insurance" means:

22 (i) Insurance against direct loss to any property caused by
23 perils as defined and limited in ~~the standard~~ A fire policy AS
24 PROVIDED IN CHAPTER 28 and AN extended coverage indorsement and
25 ~~the~~ A vandalism and malicious mischief indorsement or combina-
26 tion thereof as approved by the commissioner.

1 (ii) The following insurance coverages in the amounts and
2 subject to the deductibles and policy provisions approved by the
3 commissioner:

4 (A) Residence burglary and robbery.

5 (B) Mercantile robbery.

6 (C) Office burglary and robbery.

7 (D) Storekeeper's burglary and robbery.

8 (E) Mercantile safe burglary.

9 (F) Mercantile open stock burglary.

10 (b) "Inspection bureau" means ~~any~~ AN organization desig-
11 nated by the commissioner to act as the inspection bureau.

12 (c) "Qualified property", for basic property insurance,
13 means all real and tangible personal property at fixed locations
14 whether or not subject to exposure from an external hazard
15 located on property not owned or controlled by the prospective
16 insured, and whether or not subject to exposure from riot hazard,
17 which meets all of the following requirements:

18 (i) Is not used for farm purposes.

19 (ii) Complies with applicable state and local building codes
20 and ordinances to the extent conditions on the property reason-
21 ably related to the perils insured against cannot be the subject
22 of, or provide the basis for, a corrective administrative or
23 judicial order, a criminal prosecution, or a civil fine or
24 penalty. For purposes of this chapter, THE HOUSING LAW OF
25 MICHIGAN, Act No. 167 of the Public Acts of 1917, as amended,
26 being sections 125.401 to 125.543 of the Michigan Compiled Laws,
27 shall be considered to constitute, without regard to the

1 population limitations set forth in that act, the basic minimum
2 applicable standard for qualified property, and may be applied
3 for purposes of determining conformity with this section as if it
4 were enforceable against all property in the state.

5 (iii) Is not commonly owned or controlled, or combinable for
6 rating purposes, with property insured for similar coverages
7 elsewhere.

8 (iv) Is not owned or controlled by any person or group of
9 persons, except a city, county, township, village, school dis-
10 trict, college, university, other political subdivision of this
11 state, or an agency of a political subdivision of this state, who
12 owns or controls property within this state with an aggregate
13 insurable value in excess of 5% of the aggregate assessable pre-
14 miums for all participating members for the most recent available
15 calendar year.

16 (v) Is not used or occupied for an illegal purpose.

17 (vi) Is protected, where coverage included in subdivision
18 (a)(ii) is applied for, by all appropriate protective devices,
19 services, and procedures required pursuant to section 2924.

20 (d) "Assessable premiums", for basic property insurance,
21 means gross direct premiums less all premiums and dividends
22 returned to policyholders on policies written in this state for
23 the following kinds of insurance: fire, extended coverage and
24 allied lines, burglary and theft, inland marine, the components
25 comparable to the foregoing in commercial multiple peril, and any
26 other kind of insurance included in the definition of basic
27 property insurance in subdivision (a). Aggregate premiums shall

1 exclude premiums attributable to operation of the pool, premiums
2 on farm property, and premiums on policies covering solely air-
3 craft, watercraft, and motor vehicles.

4 (e) "Home insurance" means a homeowners multiple peril
5 insurance policy for qualified property containing all of the
6 following, but does not include insurance intended to insure com-
7 mercial, industrial, professional, or business property, obliga-
8 tions, or liabilities:

9 (i) ~~Insurance~~ FIRE INSURANCE for an insured's dwelling of
10 a type described in section 2103(2). ~~provided by Michigan~~
11 ~~standard policy as described in section 2032.~~

12 (ii) ~~When~~ IF contained in or endorsed to a ~~Michigan~~
13 ~~standard~~ FIRE INSURANCE policy providing insurance for the
14 insured's residence, other insurance intended primarily to insure
15 nonbusiness property, obligations, or liabilities.

16 (iii) Other insurance coverages for an insured's residence
17 as prescribed by rule promulgated by the commissioner pursuant to
18 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No. 306 of the
19 Public Acts of 1969, as amended, BEING SECTIONS 24.201 TO 24.328
20 OF THE MICHIGAN COMPILED LAWS. A rule proposed for promulgation
21 pursuant to this section shall be transmitted in advance to each
22 member of the standing committee in the house and the senate
23 which has jurisdiction over insurance.

24 (f) "Qualified property", for home insurance, means an
25 owner-occupied or tenant-occupied dwelling of the following
26 types: a house, a condominium unit, a cooperative unit, a room,

1 an apartment, or an owner-occupied multiple unit dwelling of not
2 more than 4 residential units that:

3 (i) Meets all the requirements set forth in subdivision
4 (c).

5 (ii) Is not being used for a demonstrably hazardous
6 purpose.

7 (iii) Meets the minimum standards of insurability as estab-
8 lished by rule promulgated by the commissioner pursuant to Act
9 No. 306 of the Public Acts of 1969, as amended.

10 (iv) Is not intended for commercial, industrial, profession-
11 al, or business purposes, obligations, or liabilities.

12 (g) "Qualified applicant", for home insurance, means a
13 person who is an owner-occupant or a tenant-occupant of a quali-
14 fied property for home insurance, but does not include a person
15 who, in the immediately preceding 5 years, was either of the
16 following:

17 (i) Convicted of 1 or more of the following:

18 (A) Arson, or conspiracy to commit arson.

19 (B) A crime under sections 72 to 77, 112, 211a, 377a, 377b,
20 or 380 of THE MICHIGAN PENAL CODE, Act No. 328 of the Public Acts
21 of 1931, as amended, being sections 750.72 to 750.77, 750.112,
22 750.211a, 750.377a, 750.377b, and 750.380 of the Michigan
23 Compiled Laws.

24 (C) A crime under section 92, 151, 157b, or 218 of Act
25 No. 328 of the Public Acts of 1931, as amended, being sections
26 750.92, 750.151, 750.157b, and 750.218 of the Michigan Compiled

1 Laws, based upon a crime listed in subparagraph (B) committed by
2 or on behalf of the individual.

3 (ii) Successfully denied payments by the pool, based on
4 fraud or conspiracy to commit fraud by or on behalf of the appli-
5 cant, of a claim in excess of \$2,000.00 under a home insurance
6 policy, and if the amount of the denied claim was greater than
7 either of the following:

8 (A) For a claim under a repair cost policy, 15% of the
9 amount of insurance in force.

10 (B) For a claim under a replacement cost policy, 10% of the
11 amount of insurance in force.

12 (h) "Assessable premiums", for home insurance, means gross
13 direct premiums less all premiums and dividends returned to poli-
14 cyholders on policies written in this state as homeowners multi-
15 ple peril insurance.

16 (i) "Aggregate assessable premiums" means the assessable
17 premiums for basic property insurance plus the assessable premi-
18 ums for home insurance.

19 (j) "Participating member" means any member of the pool
20 which in any pertinent calendar period has aggregate assessable
21 premiums greater than zero.

22 Sec. 3020. (1) A policy of casualty insurance, except
23 worker's compensation, including all classes of motor vehicle
24 coverage, shall not be issued or delivered in this state by an
25 insurer authorized to do business in this state for which a pre-
26 mium or advance assessment is charged, unless the policy contains
27 the following provisions:

1 (a) That the policy may be canceled at any time at the
2 request of the insured, in which case the insurer shall, upon
3 demand and surrender of the policy, refund the excess of paid
4 premium or assessment above the pro rata rates for the expired
5 time, except as otherwise provided in subsections (2) and (3).

6 (b) That the policy may be canceled at any time by the
7 insurer by mailing to the insured at the insured's address last
8 known to the insurer or an authorized agent of the insurer, with
9 postage fully prepaid, a not less than 10 days' written notice of
10 cancellation with or without tender of the excess of paid premium
11 or assessment above the pro rata premium for the expired time.
12 The excess, if not tendered, shall be refunded on demand and the
13 notice of cancellation shall state that the excess premium, if
14 not tendered, will be refunded on demand.

15 (c) That the minimum earned premium on any policy canceled
16 pursuant to this subsection, other than automobile insurance as
17 defined in section 2102(2)(a) and (b), shall not be less than
18 ~~+15% of the total premium payable on the policy~~ THE PRO RATA
19 PREMIUM FOR THE EXPIRED TIME or \$25.00, whichever is greater.

20 (2) An insurer may file a rule with the commissioner provid-
21 ing for a minimum retention of premium for automobile insurance
22 as defined in section 2102(2)(a) and (b). The rule shall
23 describe the circumstances under which the retention shall be
24 applied and shall set forth the amount to be retained, which
25 shall be subject to the approval of the commissioner. The rule
26 shall include, but need not be limited to, the following
27 provisions:

1 (a) That a minimum retention shall be applied only when the
2 amount exceeds the amount which would have been retained had the
3 policy been canceled on a pro rata basis.

4 (b) That a minimum retention shall not apply to renewal
5 policies.

6 (c) That a minimum retention shall not apply when a policy
7 is canceled for the following reasons:

8 (i) The insured is no longer required to maintain security
9 pursuant to section 3101(1).

10 (ii) The insured has replaced the automobile insurance
11 policy being canceled with an automobile insurance policy from
12 another insurer and provides proof of the replacement coverage to
13 the canceling insurer.

14 (3) An insurer may file a rule with the commissioner provid-
15 ing for a minimum retention of premium for insurance on a motor-
16 cycle, watercraft, off-road vehicle, or snowmobile. The rule
17 shall describe the circumstances under which the retention shall
18 be applied and shall set forth the amount to be retained, which
19 shall be subject to the approval of the commissioner. As used in
20 this subsection:

21 (a) "Motorcycle" means that term as defined in section
22 3101.

23 (b) "Off-road vehicle" means an ORV as defined in section 1
24 of Act No. 319 of the Public Acts of 1975, being section 257.1601
25 of the Michigan Compiled Laws.

1 (c) "Snowmobile" means that term as defined in section 1 of
2 Act No. 74 of the Public Acts of 1968, being section 257.1501 of
3 the Michigan Compiled Laws.

4 (d) "Watercraft" means that term as defined in section 1 of
5 Act No. 160 of the Public Acts of 1976, being section 281.1201 of
6 the Michigan Compiled Laws.

7 (4) Cancellation as prescribed in this section shall be
8 without prejudice to any claim originating before the
9 cancellation. The mailing of notice shall be prima facie proof
10 of notice. Delivery of written notice shall be equivalent to
11 mailing.

12 (5) A notice of cancellation, including a cancellation
13 notice under section 3224, shall be accompanied by a statement
14 that the insured shall not operate or permit the operation of the
15 vehicle to which notice of cancellation is applicable, or operate
16 any other vehicle, unless the vehicle is insured as required by
17 law.

18 Sec. 3448. There may be a provision as follows:

19 **CANCELLATION:** The insurer may cancel this policy at any time
20 by written notice delivered to the insured, or mailed to the
21 insured, stating when, not less than 5 days thereafter, ~~such~~
22 THE cancellation shall be effective; and after the policy has
23 been continued beyond its original term the insured may cancel
24 this policy at any time by written notice delivered or mailed to
25 the insurer, effective upon receipt or on ~~such~~ A later date as
26 may be specified in ~~such~~ THE notice. In the event of
27 cancellation, the insurer will return promptly the excess of paid

1 premium above the pro rata premium for the expired time. The
2 minimum earned premium on any canceled policy shall not be less
3 than ~~15% of the total premium payable on the policy~~ THE PRO
4 RATA PREMIUM FOR THE EXPIRED TIME or \$25.00, whichever is
5 greater. Cancellation shall be without prejudice to any claim
6 originating prior to the effective date of cancellation.

7 Sec. 3606. (1) ~~Any~~ AN insurer authorized to write dis-
8 ability insurance in this state shall have the power to issue
9 group disability insurance policies.

10 (2) Except as otherwise provided in section ~~2236(6)(d), no~~
11 ~~such~~ 2236(8)(D), A group DISABILITY INSURANCE policy ~~may~~ SHALL
12 NOT be issued or delivered in this state unless a copy of the
13 form shall have been filed with the commissioner and approved by
14 him or her.

15 Sec. 4430. (1) Except as otherwise provided in
16 section ~~2236(6)(d), no~~ 2236(8)(D), A policy of group life
17 insurance shall NOT be issued or delivered in this state unless
18 and until a copy of the form thereof has been filed with the com-
19 missioner and approved by him or her.

20 (2) ~~No such~~ A policy OF GROUP LIFE INSURANCE shall NOT be
21 ~~so~~ issued or delivered unless it contains in substance the pro-
22 visions set forth in sections 4432 through 4442.

23 Section 2. Sections 2807, 2808, 2816, 2820, 2824, 2828,
24 2832, and 2840 of Act No. 218 of the Public Acts of 1956, being
25 sections 500.2807, 500.2808, 500.2816, 500.2820, 500.2824,
26 500.2828, 500.2832, and 500.2840 of the Michigan Compiled Laws,
27 are repealed.