

# SENATE BILL No. 712

December 5, 1989, Introduced by Senators POSTHUMUS, DE GROW  
SHINKLE and EHLERS and referred to the Committee on  
Commerce and Technology.

A bill to amend the title and sections 2103, 2111, 2111a, 2111b, 2111c, 2134, 2136, 2138, 3015, 3101, 3104, 3107, 3109, 3109a, 3113, 3116, 3135, 3142, 3315, 6101, 6103, 6105, 6107, and 6110 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, section 2111 as amended by Act No. 150 of the Public Acts of 1987, sections 2111a, 2111b, 2111c, 2134, 2136, 2138, 3015, 3315, 6101, 6103, 6105, 6107, and 6110 as added by Act No. 10 of the Public Acts of 1986, section 3101 as amended by Act No. 126 of the Public Acts of 1988, section 3104 as amended by Act No. 445 of the Public Acts of 1980, section 3107 as amended by Act No. 312 of the Public Acts of 1988, and section 3113 as amended by Act No. 93 of the Public Acts of 1986, being sections

500.2103, 500.2111, 500.2111a, 500.2111b, 500.2111c, 500.2134, 500.2136, 500.2138, 500.3015, 500.3101, 500.3104, 500.3107, 500.3109, 500.3109a, 500.3113, 500.3116, 500.3135, 500.3142, 500.3315, 500.6101, 500.6103, 500.6105, 500.6107, and 500.6110 of the Michigan Compiled Laws; to add section 2111d; and to repeal certain parts of the act.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Section 1. The title and sections 2103, 2111, 2111a, 2111b,  
2   2111c, 2134, 2136, 2138, 3015, 3101, 3104, 3107, 3109, 3109a,  
3   3113, 3116, 3135, 3142, 3315, 6101, 6103, 6105, 6107, and 6110 of  
4   Act No. 218 of the Public Acts of 1956, section 2103 as amended  
5   by Act No. 461 of the Public Acts of 1980, section 2111 as  
6   amended by Act No. 150 of the Public Acts of 1987, sections  
7   2111a, 2111b, 2111c, 2134, 2136, 2138, 3015, 3315, 6101, 6103,  
8   6105, 6107, and 6110 as added by Act No. 10 of the Public Acts of  
9   1986, section 3101 as amended by Act No. 126 of the Public Acts  
10   of 1988, section 3104 as amended by Act No. 445 of the Public  
11   Acts of 1980, section 3107 as amended by Act No. 312 of the  
12   Public Acts of 1988, and section 3113 as amended by Act No. 93 of  
13   the Public Acts of 1986, being sections 500.2103, 500.2111,  
14   500.2111a, 500.2111b, 500.2111c, 500.2134, 500.2136, 500.2138,  
15   500.3015, 500.3101, 500.3104, 500.3107, 500.3109, 500.3109a,  
16   500.3113, 500.3116, 500.3135, 500.3142, 500.3315, 500.6101,  
17   500.6103, 500.6105, 500.6107, and 500.6110 of the Michigan  
18   Compiled Laws, are amended and section 2111d is added to read as  
19   follows:

## TITLE

1  
2       An act to revise, consolidate, and classify the laws relat-  
3 ing to the insurance and surety business; to regulate the incor-  
4 poration or formation of domestic insurance and surety companies  
5 and associations and the admission of foreign and alien companies  
6 and associations; to provide their rights, powers, and immunities  
7 and to prescribe the conditions on which companies and associa-  
8 tions organized, existing, or authorized under this act may exer-  
9 cise their powers; to provide the rights, powers, and immunities  
10 and to prescribe the conditions on which other persons, firms,  
11 corporations, associations, risk retention groups, and purchasing  
12 groups engaged in an insurance or surety business may exercise  
13 their powers; to provide for the imposition of a privilege fee on  
14 domestic insurance companies and associations and the state acci-  
15 dent fund; to provide for the imposition of a tax on the business  
16 of foreign and alien companies and associations; to provide for  
17 the imposition of a tax on risk retention groups and purchasing  
18 groups; to provide for the imposition of a tax on the business of  
19 surplus line agents; to modify tort liability arising out of cer-  
20 tain accidents; to provide for limited actions with respect to  
21 that modified tort liability, and to prescribe certain procedures  
22 for maintaining those actions; to require security for losses  
23 arising out of certain accidents; to provide for the continued  
24 availability and affordability of automobile insurance and home-  
25 owners insurance in this state, and to facilitate the purchase of  
26 that insurance by all residents of this state at fair and  
27 reasonable rates; to provide for certain reporting with respect

1 to insurance, and with respect to certain claims against  
2 uninsured or self-insured persons; and to prescribe duties for  
3 certain state departments and officers with respect to that  
4 reporting; to provide for certain assessments; to establish and  
5 continue certain state insurance funds; to modify and clarify the  
6 status, rights, powers, duties, and operations of the nonprofit  
7 malpractice insurance fund; to provide for the departmental  
8 supervision and regulation of the insurance and surety business  
9 within this state; to provide for the conservation, rehabilita-  
10 tion, or liquidation of unsound or insolvent insurers; to provide  
11 for the protection of policyholders, claimants, and creditors of  
12 unsound or insolvent insurers; to provide for associations of  
13 insurers to protect policyholders and claimants in the event of  
14 insurer insolvencies; to prescribe educational requirements for  
15 insurance agents and solicitors; to provide for the regulation of  
16 multiple employer welfare arrangements; to create an automobile  
17 theft AND DRUNK DRIVING prevention authority; ~~to reduce the~~  
18 ~~number of automobile thefts in this state;~~ to prescribe the  
19 powers and duties of the automobile theft AND DRUNK DRIVING pre-  
20 vention authority; to provide certain powers and duties upon cer-  
21 tain officials, departments, and authorities of this state; to  
22 repeal certain acts and parts of acts; to repeal certain acts and  
23 parts of acts on specific dates; and to provide penalties for the  
24 violation of this act.

25       Sec. 2103. (1) "Eligible person", for automobile insurance,  
26 means a person who is an owner or registrant of an automobile  
27 registered or to be registered in this state or who holds a valid

1 Michigan license to operate a motor vehicle, but does not include  
2 any of the following:

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

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

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

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

21 (i) Section 324 ~~or 325~~ of THE MICHIGAN PENAL CODE, Act  
22 No. 328 of the Public Acts of 1931, as amended, being ~~sections~~  
23 SECTION 750.324 ~~and 750.325~~ of the Michigan Compiled Laws; sec-  
24 tion 1 of Act No. 214 of the Public Acts of 1931, being section  
25 752.191 of the Michigan Compiled Laws; or under any other law of  
26 this state the violation of which constitutes a felony resulting  
27 from the operation of a motor vehicle.

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

4           (iii) Section 617, 617a, 618, or 619 of Act No. 300 of the  
5 Public Acts of 1949, as amended, being sections 257.617,  
6 257.617a, 257.618, and 257.619 of the Michigan Compiled Laws.

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

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

14           (vi) SECTION 626A OF ACT NO. 300 OF THE PUBLIC ACTS OF 1949,  
15 BEING SECTION 257.626A OF THE MICHIGAN COMPILED LAWS.

16           (e) A person whose vehicle insured or to be insured under  
17 the policy fails to meet the motor vehicle safety requirements of  
18 sections 683 to 711 of Act No. 300 of the Public Acts of 1949, as  
19 amended, being sections 257.683 to 257.711 of the Michigan  
20 Compiled Laws.

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

26           (g) A person who fails to obtain or maintain membership in a  
27 club, group, or organization, if membership is a uniform

1 requirement of the insurer as a condition of providing insurance,  
 2 and if the dues, charges, or other conditions for membership are  
 3 applied uniformly throughout this state, are not expressed as a  
 4 percentage of premium, and do not vary with respect to the rating  
 5 classification of the member except for the purpose of offering a  
 6 membership fee to family units. Membership fees may vary in  
 7 accordance with the amount or type of coverage if the ~~purchase~~  
 8 PURCHASE of additional coverage, either as to type or amount, is  
 9 not a condition for reduction of dues or fees.

10 (h) A person whose driving record for the 3-year period  
 11 immediately preceding application for or renewal of a policy,  
 12 has, pursuant to section 2119a, an accumulation of more than ~~the~~  
 13 ~~following: (i) Five insurance eligibility points, if the appli-~~  
 14 ~~cation or renewal occurs on or before December 31, 1982. (ii)~~  
 15 ~~Six 6 insurance eligibility points. , if the application or~~  
 16 ~~renewal occurs on or after January 1, 1983.~~

17 (2) "Eligible person", for home insurance, means a person  
 18 who is the owner-occupant or tenant of a dwelling of any of the  
 19 following types: a house, a condominium unit, a cooperative  
 20 unit, a room, or an apartment; or a person who is the  
 21 owner-occupant of a multiple unit dwelling of not more than 4  
 22 residential units. Eligible person does not include any of the  
 23 following:

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

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

1       (ii) A crime under sections 72 to 77, 112, 211a, 377a, 377b,  
2 or 380 of Act No. 328 of the Public Acts of 1931, as amended,  
3 being sections 750.72 to 750.77, 750.112, 750.211a, 750.377a,  
4 750.377b, and 750.380 of the Michigan Compiled Laws.

5       (iii) A crime under section 92, 151, 157b, or 218 of Act  
6 No. 328 of the Public Acts of 1931, as amended, being sections  
7 750.92, 750.151, 750.157b, and 750.218 of the Michigan Compiled  
8 Laws, based upon a crime described in subparagraph (ii) committed  
9 by or on behalf of the person.

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

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

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

21       (c) A person who insures or seeks to insure a dwelling  
22 ~~which~~ THAT is being used for an illegal or demonstrably hazard-  
23 ous purpose.

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



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

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

8 (g) A person whose policy of home insurance has been  
9 ~~cancelled~~ CANCELED because of nonpayment of premium within the  
10 immediately preceding 2-year period, unless the premium due on  
11 the policy is paid in full before issuance or renewal of the  
12 policy.

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

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

16 (ii) For a replacement policy, at least \$15,000.00 or  
17 another amount which the commissioner may establish biennially on  
18 and after January 1, 1983, pursuant to rules promulgated by the  
19 commissioner under THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act  
20 No. 306 of the Public Acts of 1969, as amended, BEING SECTIONS  
21 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS, based upon  
22 changes in applicable construction cost indices.

23 (j) A person who insures or seeks to insure a dwelling  
24 ~~which~~ THAT does not meet minimum standards of insurability as  
25 established by rules promulgated by the commissioner pursuant to  
26 Act No. 306 of the Public Acts of 1969, as amended.

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

5 (l) A person who has failed to procure or maintain member-  
6 ship in a club, group, or organization, if membership is a uni-  
7 form requirement of the insurer, and if the dues, charges, or  
8 other conditions for membership are applied uniformly throughout  
9 this state, are not expressed as a percentage of premium, and do  
10 not vary with respect to the rating classification of the member  
11 except for the purpose of offering a membership fee to family  
12 units. Membership fees may vary in accordance with the amount or  
13 type of coverage if the purchase of additional coverage, either  
14 as to type or amount, is not a condition for reduction of dues or  
15 fees.

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

19 (a) Insurance for an insured's dwelling of a type described  
20 in subsection (2), provided by a Michigan standard policy as  
21 described in section 2832.

22 (b) ~~When~~ IF contained in or indorsed to a Michigan stan-  
23 dard policy providing insurance for the insured's residence,  
24 other insurance intended primarily to insure nonbusiness proper-  
25 ty, obligations, and liabilities.

26 (c) Other insurance coverages for an insured's residence as  
27 prescribed by rule promulgated by the commissioner pursuant to

1 Act No. 306 of the Public Acts of 1969, as amended. A rule  
2 proposed for promulgation by the commissioner pursuant to this  
3 section shall be transmitted in advance to each member of the  
4 standing committee in the house and in the senate which has  
5 jurisdiction over insurance.

6 (4) "Insurance eligibility points" means all of the  
7 following:

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

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

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

16 (iii) For a violation of ~~any~~ A lawful speed limit by 10  
17 miles per hour or less, 2 points.

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

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

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

1       (i) For the first substantially at-fault accident, 3  
2 points. AN INSURER MAY ELECT NOT TO AWARD POINTS FOR AN  
3 INSURED'S FIRST SUBSTANTIALLY AT-FAULT ACCIDENT.

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

6       (5) "Insurer" means an insurer authorized to transact in  
7 this state the kind or combination of kinds of insurance consti-  
8 tuting automobile insurance or home insurance, as defined in this  
9 chapter.

10       Sec. 2111. (1) Notwithstanding any provision of this ~~code~~  
11 ACT and this chapter to the contrary, classifications and terri-  
12 torial base rates used by any insurer in this state with respect  
13 to automobile insurance or home insurance shall conform to the  
14 applicable requirements of this section.

15       (2) Classifications established pursuant to this section for  
16 automobile insurance shall be based only upon 1 or more of the  
17 following factors, which shall be applied by an insurer on a uni-  
18 form basis throughout the state:

19       (a) With respect to all automobile insurance coverages:

20       (i) Either the age of THE driver; the length of driving  
21 experience; or the number of years licensed to operate a motor  
22 vehicle.

23       (ii) Driver primacy, based upon the proportionate use of  
24 each vehicle insured under the policy by individual drivers  
25 insured or to be insured under the policy.

26       (iii) Average miles driven weekly, annually, or both.

1 (iv) Type of use, such as business, farm, or pleasure use.

2 (v) Vehicle characteristics, features, and options, such as  
3 engine displacement, ability of vehicle and its equipment to pro-  
4 tect passengers from injury; and other similar items, including  
5 vehicle make and model.

6 (vi) Daily or weekly commuting mileage.

7 (vii) Number of cars insured by the insurer or number of  
8 licensed operators in the household. However, number of licensed  
9 operators shall not be used as an indirect measure of marital  
10 status.

11 (viii) Amount of insurance.

12 (b) In addition to the factors prescribed in subdivision

13 (a), with respect to personal protection insurance coverage:

14 (i) Earned income.

15 (ii) Number of dependents of income earners insured under  
16 the policy.

17 (iii) Coordination of benefits.

18 (iv) Use of a safety belt.

19 (c) In addition to the factors prescribed in subdivision

20 (a), with respect to collision and comprehensive coverages:

21 (i) The anticipated cost of vehicle repairs or replacement,  
22 which may be measured by age, price, cost new, or value of the  
23 insured automobile, and other factors directly relating to that  
24 anticipated cost.

25 (ii) Vehicle make and model.

26 (iii) Vehicle design characteristics related to vehicle  
27 damageability.

1 (iv) Vehicle characteristics relating to automobile theft  
2 prevention devices.

3 (d) With respect to all automobile insurance coverage other  
4 than comprehensive, successful completion by the individual  
5 driver or drivers insured under the policy of an accident preven-  
6 tion education course which meets the following criteria: —

7 (i) The course shall include a minimum of 8 hours of class-  
8 room instruction.

9 (ii) The course shall include, but not be limited to, a  
10 review of all of the following:

11 (A) The effects of aging on driving behavior.

12 (B) The shapes, colors, and types of road signs.

13 (C) The effects of alcohol and medication on driving.

14 (D) The laws relating to the proper use of a motor vehicle.

15 (E) Accident prevention measures.

16 (F) The benefits of safety belts and child restraints.

17 (G) Major driving hazards.

18 (H) Interaction with other highway users such as motorcy-  
19 clists, bicyclists, and pedestrians.

20 (3) ~~Before February 1, 1987, each~~ EACH insurer shall  
21 establish and maintain premium discount plans pursuant to the  
22 following:

23 (a) An automobile theft prevention premium discount plan. A  
24 premium discount plan required under this subdivision shall pro-  
25 vide for a premium discount for automobile comprehensive coverage  
26 based upon the installation of an approved automobile theft  
27 prevention device. As used in this subdivision, "approved

1 automobile theft prevention device" means a device ~~which~~ THAT  
2 is designed to prevent the theft of an insured's automobile and  
3 ~~which~~ THAT is approved by the board of directors of the automo-  
4 bile theft prevention authority.

5 (b) An automobile safety belt premium discount plan. A pre-  
6 mium discount plan required under this subdivision shall provide  
7 for a premium discount for automobile personal protection insur-  
8 ance of not less than 20%. A premium discount plan established  
9 pursuant to this subdivision may require the insured individual  
10 to certify in writing that he or she will wear a safety belt  
11 while operating the insured motor vehicle in compliance with sec-  
12 tion 710e of the Michigan vehicle code, Act No. 300 of the Public  
13 Acts of 1949, being section 257.710e of the Michigan Compiled  
14 Laws, as a condition to receiving the premium discount. If an  
15 insured receives a premium discount after providing such certifi-  
16 cation and is injured while operating a motor vehicle without  
17 wearing a safety belt at the time of the injury, an insurer may  
18 subsequently deny to such insured the right to participate in any  
19 premium discount plan established by the insurer pursuant to this  
20 subdivision for a period of 12 months. An insurer ~~which~~ THAT  
21 reduces its personal protection insurance rates after December 1,  
22 1985 by not less than 20% and does not increase such rates for a  
23 period of 12 months shall be considered to be in compliance with  
24 this subdivision.

25 ~~(c) This subsection shall not apply on and after July 1,~~  
26 ~~1991.~~

1       (4) Each insurer shall establish a secondary or merit rating  
2 plan for automobile insurance. A secondary or merit rating plan  
3 required under this subsection shall provide for premium sur-  
4 charges for any or all coverages for automobile insurance, based  
5 upon any or all of the following, when that information becomes  
6 available to the insurer:

7       (a) Substantially at-fault accidents, EXCEPT FOR THE FIRST  
8 SUBSTANTIALLY AT-FAULT ACCIDENT IF THE INSURER ELECTS NOT TO  
9 AWARD POINTS FOR THAT ACCIDENT AS PROVIDED IN  
10 SECTION 2103(4)(B)(i).

11       (b) Convictions for, determinations of responsibility for  
12 civil infractions for, or findings of responsibility in probate  
13 court for civil infractions for, violations under chapter VI of  
14 the Michigan vehicle code, Act No. 300 of the Public Acts of  
15 1949, as amended, being sections 257.601 to 257.750 of the  
16 Michigan Compiled Laws.

17       (5) An insurer shall not establish or maintain rates or  
18 rating classifications for automobile insurance based upon sex or  
19 marital status.

20       (6) Notwithstanding other provisions of this chapter, auto-  
21 mobile insurance risks shall be grouped by territory, and terri-  
22 torial base rates for coverages shall be established as provided  
23 in section 2111a and as follows:

24       (a) An insurer shall not be limited as to the number of ter-  
25 ritories employed in its rating plan.

26       ~~(b) An insurer shall not employ more than 20 different~~  
27 ~~territorial base rates for an automobile insurance coverage.~~



1 ~~This subdivision shall not apply from February 28, 1986 to~~  
2 ~~June 30, 1991.~~

3 (B) ~~(c)~~ A territorial base rate may be made applicable in  
4 1 or more territories contained in the rating plan of the  
5 insurer.

6 ~~(d) An insurer shall not employ a territorial base rate for~~  
7 ~~an automobile insurance package policy that is less than 45% of~~  
8 ~~the highest territorial base rate for the same policy, all other~~  
9 ~~rating classifications being the same. This subdivision shall~~  
10 ~~not apply from February 28, 1986 to June 30, 1991.~~

11 ~~(e) An insurer shall not employ a territorial base rate in a~~  
12 ~~territory for an automobile insurance package policy that is less~~  
13 ~~than 90% of the territorial base rate employed in any adjacent~~  
14 ~~territory for the same policy, all other rating classifications~~  
15 ~~being the same. This subdivision shall not apply from February~~  
16 ~~28, 1986 to June 30, 1991.~~

17 ~~(7) An insurer may elect at any time to exempt itself from~~  
18 ~~the requirements of subsection (6) by filing for an exemption~~  
19 ~~with the commissioner. An insurer electing this exemption shall~~  
20 ~~initially file a rating plan in which no territorial base rate~~  
21 ~~for an automobile insurance package policy is less than 45% of~~  
22 ~~the highest territorial base rate for the same policy, all other~~  
23 ~~rating classifications being the same. Five years from the date~~  
24 ~~of the initial filing the insurer shall be prohibited from using~~  
25 ~~a rating plan in which any territorial base rate for an automo-~~  
26 ~~bile insurance package policy will be less than 67% of the~~  
27 ~~highest territorial base rate for that same policy, all other~~

1 ~~rating classifications being the same. An insurer's election of~~  
2 ~~an exemption under this subsection is permanent, final, and not~~  
3 ~~subject to change. This subsection shall not apply from February~~  
4 ~~28, 1986 to June 30, 1991.~~

5 ~~(8) Beginning 1 year after the effective date of this sec-~~  
6 ~~tion, if an insurer can demonstrate to the commissioner, after an~~  
7 ~~opportunity for an evidentiary hearing held pursuant to the~~  
8 ~~administrative procedures act of 1969, Act No. 306 of the Public~~  
9 ~~Acts of 1969, as amended, being sections 24.201 to 24.328 of the~~  
10 ~~Michigan Compiled Laws, that clear and significant financial~~  
11 ~~impairment exists in the geographic territory or territories in~~  
12 ~~question because of the need for an additional territorial base~~  
13 ~~rate, or for a greater variance in the adjacent geographic terri-~~  
14 ~~tory differential contained in subsection (6)(e), the additional~~  
15 ~~territorial base rate, a greater variance, or both, shall be per-~~  
16 ~~mitted for use by the insurer or a licensed rating organization~~  
17 ~~on behalf of that insurer, at such time as the need exists.~~  
18 ~~Evidence shall not include financial impairment resulting from~~  
19 ~~exemptions granted to other insurers. This subsection shall not~~  
20 ~~apply from February 28, 1986 to June 30, 1991.~~

21 ~~(9) If the commissioner finds, solely on the evidence~~  
22 ~~presented, that a greater variance in the adjacent geographic~~  
23 ~~territory differential than that authorized under subsection~~  
24 ~~(6)(e) is justified, the increase in variance shall not exceed~~  
25 ~~100% of that authorized under that subsection. If an increase in~~  
26 ~~variance in the adjacent geographic territory differential~~  
27 ~~greater than 100% of that authorized under subsection (6)(e) is~~

1 ~~justified, the commissioner shall require the creation of an~~  
 2 ~~additional territorial base rate. This subsection shall not~~  
 3 ~~apply from February 28, 1986 to June 30, 1991.~~

4 ~~(10) An exemption granted under subsections (8) and (9)~~  
 5 ~~shall be applicable only to the geographic territory or territo-~~  
 6 ~~ries in question, and only to the insurer requesting the~~  
 7 ~~exemption. This subsection shall not apply from February 28,~~  
 8 ~~1986 to June 30, 1991.~~

9 ~~(11) An insurer shall not have more than 5 exemptions in~~  
 10 ~~force at any 1 time. For purposes of determining the number of~~  
 11 ~~existing exemptions, each additional territorial base rate or~~  
 12 ~~each increase in variance in the adjacent geographic territory~~  
 13 ~~differential granted, shall be considered to be a separate~~  
 14 ~~exemption. This subsection shall not apply from February 28,~~  
 15 ~~1986 to June 30, 1991.~~

16 (7) ~~(12)~~ This section shall not be construed as limiting  
 17 insurers or rating organizations from establishing and maintain-  
 18 ing statistical reporting territories. This section shall not be  
 19 construed to prohibit an insurer from establishing or maintain-  
 20 ing, for automobile insurance, a premium discount plan for senior  
 21 citizens in this state who are 65 years of age or older, if the  
 22 plan is uniformly applied by the insurer throughout this state.  
 23 If an insurer has not established and maintained such a premium  
 24 discount plan for senior citizens, the insurer shall offer  
 25 reduced premium rates to senior citizens in this state who are 65  
 26 years of age or older and who drive less than 3,000 miles per  
 27 year, regardless of statistical data.

1       (8) ~~—(13)—~~ Classifications established pursuant to this  
2 section for home insurance other than inland marine insurance  
3 provided by policy floaters or endorsements shall be based only  
4 upon 1 or more of the following factors:

5       (a) Amount and types of coverage.

6       (b) Security and safety devices, including locks, smoke  
7 detectors, and similar, related devices.

8       (c) Repairable structural defects reasonably related to  
9 risk.

10       (d) Fire protection class.

11       (e) Construction of structure, based on structure size,  
12 building material components, and number of units.

13       (f) Loss experience of the insured, based upon prior claims  
14 attributable to factors under the control of the insured ~~—which—~~  
15 THAT have been paid by an insurer.

16       (g) Use of smoking materials within the structure.

17       (h) Distance of the structure from a fire hydrant.

18       (i) Availability of law enforcement or crime prevention  
19 services.

20       (9) ~~—(14)—~~ Notwithstanding other provisions of this chapter,  
21 home insurance risks shall be grouped by territory, and territo-  
22 rial base rates for coverages shall be established as follows:

23       (a) An insurer shall not be limited as to the number of ter-  
24 ritories employed in its rating plan. However, an insurer shall  
25 not employ more than 3 different territorial base rates for a  
26 home insurance coverage. A territorial base rate may be made

1 applicable in 1 or more territories contained in the rating plan  
2 of the insurer.

3 (b) An insurer shall not employ a territorial base rate for  
4 home insurance for owner-occupied dwelling policies that is less  
5 than 70% of the highest territorial base rate for the same  
6 policy, all other rating classifications being the same.

7 (c) An insurer shall not employ a territorial base rate for  
8 home insurance for renter or tenant policies that is less than  
9 65% of the highest territorial base rate for the same policy, all  
10 other rating classifications being the same.

11 ~~(10) (15) An insurer shall not utilize factors other than~~  
12 ~~those prescribed in this section in establishing classifications~~  
13 ~~for automobile insurance and home insurance until January 1,~~  
14 ~~1982. However, on and after January 1, 1982, an AN insurer may~~  
15 ~~utilize factors in addition to those specified in this section,~~  
16 ~~if the commissioner finds, after a hearing held pursuant to the~~  
17 ~~administrative procedures act of 1969, Act No. 306 of the Public~~  
18 ~~Acts of 1969, as amended, being sections 24.201 to 24.328 of the~~  
19 ~~Michigan Compiled Laws, that the factors would encourage innova-~~  
20 ~~tion, would encourage insureds to minimize the risks of loss from~~  
21 ~~hazards insured against, and would be consistent with the pur-~~  
22 ~~poses of this chapter.~~

23 Sec. 2111a. (1) Except as otherwise provided in this sec-  
24 tion, before April 1, 1986, an insurer shall not charge a terri-  
25 torial base rate for an automobile insurance package policy in a  
26 territory within an urban area which exceeds the territorial base  
27 rate ~~which~~ THAT would have been charged by the Michigan

1 automobile insurance placement facility in that territory using  
2 the weighted average of the base rates charged in each facility  
3 territory by the 5 largest insurer groups, determined by volun-  
4 tary net direct automobile insurance car years written in the  
5 state for the calendar year ending December 31, 1984 as reported  
6 to the statistical agent, and based upon the data used by the  
7 facility to determine the facility rates ~~which~~ THAT were effec-  
8 tive January 1, 1986. However, this subsection does not require  
9 an insurer to reduce its territorial base rates within an urban  
10 area ~~which~~ THAT are in effect on ~~the effective date of this~~  
11 ~~section~~ FEBRUARY 28, 1986.

12 (2) On and after April 1, 1986, except as otherwise provided  
13 in subsection (3), an insurer shall not increase in any 12-month  
14 period the rates for automobile insurance package policies in  
15 territories within an urban area by an amount ~~which~~ THAT is  
16 greater than 4% plus the consumer price index. The insurer may  
17 redefine rating territories for automobile insurance package pol-  
18 icies in an urban area; however, such redefinition, at the time  
19 of the redefinition, shall not result in a weighted average rate  
20 in the urban area which is greater than the weighted average rate  
21 in the urban area without redefinition of the territories. The  
22 insurer shall not use more than 6 territories within an urban  
23 area. The sum of the percentage increases for an insurer in a  
24 12-month period as permitted under this subsection shall be less  
25 than or equal to 4% plus the consumer price index and each per-  
26 centage increase shall be computed in accordance with the  
27 following:

1       The difference between the total written premium at the  
2       proposed rates minus the total written premium at cur-  
3       rent rates, divided by total written premium at current  
4       rates, and multiplied by 100.

5       (3) On and after February 1, 1988, an insurer may elect to  
6       be subject to the limitations provided in this subsection instead  
7       of the limitations provided in subsection (2). An insurer elect-  
8       ing to be subject to this subsection shall not increase the rates  
9       for automobile insurance package policies in territories within  
10      an urban area by a percentage ~~which~~ THAT is greater than the  
11      insurer's nonurban average percentage increase, which nonurban  
12      average percentage increase shall be reduced by the sum of the  
13      percentage increases made by the insurer under subsection (2)  
14      during the 12 months immediately preceding the date of the filing  
15      of the proposed increase pursuant to this subsection. The  
16      insurer may redefine rating territories for automobile insurance  
17      package policies in an urban area; however, such redefinition, at  
18      the time of the redefinition, shall not result in a weighted  
19      average rate in the urban area ~~which~~ THAT is greater than the  
20      weighted average rate in the urban area without redefinition of  
21      the territories. The insurer shall not use more than 6 territo-  
22      ries within an urban area. An insurer ~~which~~ THAT elects to be  
23      subject to the limitation under this subsection shall remain  
24      subject to this subsection.

25      (4) Any rate filing for automobile insurance package  
26      policies made after December 15, 1985 shall not be modified,

1 changed, or altered for a period of 6 months after the effective  
2 date of such filing. This subsection shall not prohibit an  
3 insurer from making rate filings at any time that only provide  
4 changes to rates based upon assessments levied against insurers  
5 pursuant to section 3104 or 3330. Such rate filings shall not be  
6 considered rate filings for purposes of this subsection.

7 (5) As used in this section:

8 (a) "Consumer price index" means the annual average percent-  
9 tage increase in the Detroit consumer price index for all items  
10 for the prior 12-month period as reported by the United States  
11 department of labor and as certified by the commissioner.

12 (b) "Nonurban average percentage increase" means the percent-  
13 tage increase of an insurer's weighted average rate outside of an  
14 urban area, if any, which is obtained by dividing the weighted  
15 average of the proposed rates of the insurer outside an urban  
16 area by the highest weighted average rate of the insurer outside  
17 an urban area on file with the commissioner during the 6 months  
18 immediately preceding the date of the filing of the proposed  
19 increase, subtracting 1 from this quotient, and multiplying the  
20 difference by 100. The weights used in obtaining the weighted  
21 averages in this subdivision shall be the written car years of  
22 the insurer in each rating territory. If a negative percentage  
23 is calculated under this subdivision, there shall be no nonurban  
24 average percentage increase under this subdivision.

25 (c) "Urban area" means the area within the boundaries of a  
26 city in this state which has a population of 1,000,000 or more as  
27 determined by the latest of each succeeding federal decennial



1 census and includes any city located wholly within the boundaries  
 2 of a city in this state which has a population of 1,000,000 or  
 3 more as determined by the latest of each succeeding federal  
 4 decennial census.

5 ~~(6) This section is repealed effective July 1, 1991.~~

6 Sec. 2111b. An insurer shall not utilize a territorial base  
 7 rate for automobile insurance package policies for a territory  
 8 outside of the boundaries of an urban area ~~which~~ THAT is  
 9 greater than the insurer's highest territorial base rate within  
 10 an urban area. ~~This section is repealed effective July 1,~~  
 11 ~~1991.~~

12 Sec. 2111c. ~~(1) Between January 1, 1987 and October 1,~~  
 13 ~~1987,~~ BY JULY 1, 1991 AND BY JULY 1 OF EVERY ODD YEAR AFTER  
 14 1991, the commissioner shall prepare a report ~~which~~ THAT  
 15 details the theft of automobiles AND DRUNK DRIVING RELATED  
 16 ACCIDENTS occurring in this state ~~since February 1, 1986~~ FOR  
 17 THE PREVIOUS 2 YEARS and assesses the impact of the thefts AND  
 18 DRUNK DRIVING RELATED ACCIDENTS on rates charged for automobile  
 19 insurance. The director of the department of state police,  
 20 insurers, the state court administrative office, and the automo-  
 21 bile theft AND DRUNK DRIVING prevention authority shall cooperate  
 22 in the development of the report as requested by the commissioner  
 23 and shall make available records and statistics concerning auto-  
 24 mobile thefts AND DRUNK DRIVING ARRESTS AND DRUNK DRIVING RELATED  
 25 ACCIDENTS, including the number of automobile thefts AND DRUNK  
 26 DRIVING ARRESTS AND DRUNK DRIVING RELATED ACCIDENTS, number of  
 27 prosecutions and convictions involving automobile thefts AND

1 DRUNK DRIVING, and automobile theft recidivism. The commissioner  
 2 shall evaluate the impact automobile theft ~~has~~ AND DRUNK DRIV-  
 3 ING HAVE on the citizens of this state and the costs incurred by  
 4 the citizens through insurance, police enforcement, prosecution,  
 5 and incarceration due to automobile thefts AND DRUNK DRIVING.  
 6 ~~By July 1 of every odd year after 1987, the commissioner shall~~  
 7 ~~prepare a similar report reviewing the automobile theft data for~~  
 8 ~~the previous 2 years.~~ The report required by this subsection  
 9 shall be submitted to the legislature and the automobile theft  
 10 AND DRUNK DRIVING prevention authority.

11 ~~(2) Between January 1, 1989 and October 1, 1989, the com-~~  
 12 ~~missioner shall prepare a report to the legislature which does~~  
 13 ~~both of the following:~~

14 ~~(a) Reviews and evaluates the effect of the 1986 amendatory~~  
 15 ~~act which added this section on the rating structure for automo-~~  
 16 ~~bile insurance in this state.~~

17 ~~(b) Recommends existing or alternative mechanisms or regula-~~  
 18 ~~tory schemes to assure that automobile insurance is available at~~  
 19 ~~fair and equitable rates.~~

20 ~~(3) This section is repealed effective July 1, 1991.~~

21 SEC. 2111D. BY MARCH 1, 1990, EACH INSURER SHALL REDUCE ITS  
 22 PRIVATE PASSENGER NONFLEET AUTOMOBILE INSURANCE BASE RATES IN  
 23 EFFECT IN THIS STATE ON OR AFTER OCTOBER 1, 1989 FOR PERSONAL  
 24 PROTECTION INSURANCE AND RESIDUAL LIABILITY INSURANCE BY AN  
 25 AMOUNT THAT WOULD RESULT IN A COMBINED REDUCTION FOR THOSE COVER-  
 26 AGES OF NOT LESS THAN 25%. ASSESSMENTS FOR THE MICHIGAN  
 27 CATASTROPHIC CLAIMS ASSOCIATION, PROPERTY CASUALTY CLAIMS

1 ASSOCIATION, AUTOMOBILE THEFT AND DRUNK DRIVING PREVENTION  
2 AUTHORITY, AND THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACIL-  
3 ITY SHALL NOT BE CONSIDERED IN ACHIEVING THE REDUCTION REQUIRED  
4 BY THIS SECTION.

5 Sec. 2134. ~~-(1)-~~ Each insurer transacting automobile insur-  
6 ance in this state shall:

7 (a) Be a paying member of the national automobile theft  
8 bureau.

9 (b) Secure from each insured the vehicle identification  
10 number for each vehicle insured by the insurer.

11 ~~-(2)- This section is repealed effective July 1, 1991.-~~

12 Sec. 2136. Each insurer, when writing automobile comprehen-  
13 sive insurance coverage for a person who was not previously a  
14 policyholder with the insurer or when insuring an automobile  
15 ~~which~~ THAT was not previously insured by the insurer for a  
16 person who was previously a policyholder with the insurer but who  
17 has filed a claim with the insurer within the preceding 3 years  
18 to recover for the theft of an automobile, shall verify the exis-  
19 tence of the automobile being insured. To comply with this sec-  
20 tion, an insurer shall either make a personal inspection of the  
21 automobile or obtain not less than 2 photographs of the automo-  
22 bile ~~which~~ THAT depict the automobile diagonally from the front  
23 and rear. This section shall not apply when an agent subject to  
24 section 1209(2) transfers a person's automobile comprehensive  
25 insurance coverage from an insurer which has authorized the agent  
26 to another insurer which has authorized the agent. ~~This section~~  
27 ~~is repealed effective July 1, 1991.-~~

1       Sec. 2138. An insurer shall not make a claim payment on an  
2 automobile insurance policy for a loss arising from the theft of  
3 an automobile covered under the policy unless the insured has  
4 filed a report of the theft to the state police or the law  
5 enforcement agency within whose jurisdiction the theft occurred.  
6 ~~This section is repealed effective July 1, 1991.~~

7       Sec. 3015. (1) Each automobile insurance policy delivered  
8 or issued for delivery in this state ~~which~~ THAT provides cover-  
9 age for the theft of an automobile may include either or both of  
10 the following provisions:

11       (a) A provision ~~which~~ THAT imposes a \$500.00 deductible to  
12 the theft loss of the automobile if the automobile was unattended  
13 when stolen and was stolen while the keys to the automobile were  
14 located in the passenger compartment of the automobile. ~~Such~~  
15 THIS deductible shall not apply ~~when~~ IF the automobile is the  
16 subject of a bailment contract.

17       (b) A provision ~~which~~ THAT reduces the recovery under the  
18 policy by 10% for the theft loss of the automobile if the automo-  
19 bile was unattended when stolen and was stolen while the keys to  
20 the automobile were located in the passenger compartment of the  
21 automobile. The reduction under this subdivision shall not apply  
22 ~~when~~ IF the automobile is the subject of a bailment contract.

23       (2) If an insurer includes either or both of the provisions  
24 provided in subsection (1) in an automobile insurance policy  
25 ~~which~~ THAT provides coverage for the theft of an automobile,  
26 the insurer shall include the provision or provisions in each  
27 automobile insurance policy providing coverage for the theft of

1 an automobile that is thereafter delivered or issued for delivery  
2 by the insurer.

3 ~~(3) This section is repealed effective July 1, 1991.~~

4 Sec. 3101. (1) The owner or registrant of a motor vehicle  
5 required to be registered in this state shall maintain security  
6 for payment of benefits under personal protection insurance,  
7 property protection insurance, and residual liability insurance.  
8 Security shall only be required to be in effect during the period  
9 the motor vehicle is driven or moved upon a highway.  
10 Notwithstanding any other provision in this act, an insurer that  
11 has issued an automobile insurance policy on a motor vehicle that  
12 is not driven or moved upon a highway may allow the insured owner  
13 or registrant of the motor vehicle to delete a portion of the  
14 coverages under the policy and maintain the comprehensive cover-  
15 age portion of the policy in effect.

16 (2) As used in this chapter:

17 (a) "Automobile insurance" means that term as defined in  
18 section 2102.

19 (b) "Highway" means that term as defined in section 20 of  
20 the Michigan vehicle code, Act No. 300 of the Public Acts of  
21 1949, being section 257.20 of the Michigan Compiled Laws.

22 (c) "Motorcycle" means a vehicle REQUIRED TO BE REGISTERED  
23 FOR USE ON A PUBLIC HIGHWAY IN THIS STATE having a saddle or seat  
24 for the use of the rider, designed FOR OPERATION UPON A PUBLIC  
25 HIGHWAY AND to travel on not more than 3 wheels in contact with  
26 the ground, ~~which~~ AND THAT is equipped with a motor that  
27 exceeds 50 cubic centimeters piston displacement. The wheels on

1 any attachment to the vehicle shall not be considered as wheels  
2 in contact with the ground. Motorcycle does not include a moped,  
3 as defined in section 32b of the Michigan vehicle code, Act  
4 No. 300 of the Public Acts of 1949, being section 257.32b of the  
5 Michigan Compiled Laws, OR AN ORV AS DEFINED IN SECTION 1 OF ACT  
6 NO. 319 OF THE PUBLIC ACTS OF 1975, BEING SECTION 257.1601 OF THE  
7 MICHIGAN COMPILED LAWS.

8 (d) "Motorcycle accident" means a loss involving the owner-  
9 ship, operation, maintenance, or use of a motorcycle as a motor-  
10 cycle, but not involving the ownership, operation, maintenance,  
11 or use of a motor vehicle as a motor vehicle.

12 (e) "Motor vehicle" means a vehicle REQUIRED TO BE REGIS-  
13 TERED FOR USE ON A PUBLIC HIGHWAY IN THIS STATE, including a  
14 trailer, operated or designed for operation upon a public highway  
15 by power other than muscular power which has more than 2 wheels.  
16 Motor vehicle does not include a motorcycle or a moped, as  
17 defined in section 32b of Act No. 300 of the Public Acts of 1949,  
18 being section 257.32b of the Michigan Compiled Laws, OR AN ORV AS  
19 DEFINED IN SECTION 1 OF ACT NO. 319 OF THE PUBLIC ACTS OF 1975,  
20 BEING SECTION 257.1601 OF THE MICHIGAN COMPILED LAWS. Motor vehi-  
21 cle does not include a farm tractor or other implement of hus-  
22 bandry which is not subject to the registration requirements of  
23 the Michigan vehicle code pursuant to section 216 of the Michigan  
24 vehicle code, Act No. 300 of the Public Acts of 1949, being sec-  
25 tion 257.216 of the Michigan Compiled Laws.

26 (f) "Motor vehicle accident" means a loss involving the  
27 ownership, operation, maintenance, or use of a motor vehicle as a

1 motor vehicle regardless of whether the accident also involves  
2 the ownership, operation, maintenance, or use of a motorcycle as  
3 a motorcycle.

4 (g) "Owner" means any of the following:

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

8 (ii) A person who holds the legal title to a vehicle, other  
9 than a person engaged in the business of leasing motor vehicles  
10 who is the lessor of a motor vehicle pursuant to a lease provid-  
11 ing for the use of the motor vehicle by the lessee for a period  
12 that is greater than 30 days.

13 (iii) A person who has the immediate right of possession of  
14 a motor vehicle under an installment sale contract.

15 (H) "OWNERSHIP, OPERATION, MAINTENANCE, OR USE OF A MOTOR  
16 VEHICLE AS A MOTOR VEHICLE" MEANS THAT THE INVOLVEMENT OF THE  
17 MOTOR VEHICLE IN THE INJURY WAS DIRECTLY RELATED TO THE TRANSPOR-  
18 TATION FUNCTION OF THE MOTOR VEHICLE.

19 (I) ~~-(h)-~~ "Registrant" does not include a person engaged in  
20 the business of leasing motor vehicles who is the lessor of a  
21 motor vehicle pursuant to a lease providing for the use of the  
22 motor vehicle by the lessee for a period that is greater than 30  
23 days.

24 (3) Security may be provided under a policy issued by an  
25 insurer duly authorized to transact business in this state  
26 ~~-which-~~ THAT affords insurance for the payment of benefits  
27 described in subsection (1). A policy of insurance represented

1 or sold as providing security shall be deemed to provide  
2 insurance for the payment of the benefits.

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

13 Sec. 3104. (1) An unincorporated, nonprofit association to  
14 be known as the catastrophic claims association, hereinafter  
15 referred to as the association, is created. Each insurer engaged  
16 in writing insurance coverages which provide the security  
17 required by section 3101(1) within this state, as a condition of  
18 its authority to transact insurance in this state, shall be a  
19 member of the association and shall be bound by the REVISED plan  
20 of operation of the association. Each insurer engaged in writing  
21 insurance coverages which provide the security required by sec-  
22 tion 3103(1) within this state, as a condition of its authority  
23 to transact insurance in this state, shall be considered a member  
24 of the association, but only for purposes of assessments under  
25 subsection (7)(d). Except as expressly provided in this section,  
26 the association shall not be subject to any laws of this state  
27 with respect to insurers, but in all other respects the



1 association shall be subject to the laws of this state to the  
2 extent that the association would be were it an insurer organized  
3 and subsisting under chapter 50 AND SHALL BE CONSIDERED AN  
4 INSURER FOR PURPOSES OF OPERATING PURSUANT TO THE PRUDENT PUR-  
5 CHASER ACT, ACT NO. 233 OF THE PUBLIC ACTS OF 1984, BEING SEC-  
6 TIONS 550.51 TO 550.63 OF THE MICHIGAN COMPILED LAWS.

7 (2) The association shall provide and each member shall  
8 accept indemnification for 100% of the amount of ultimate loss  
9 sustained under personal protection insurance coverages in excess  
10 of \$250,000.00 in each loss occurrence ADJUSTED ANNUALLY IN  
11 ACCORDANCE WITH THE CONSUMER PRICE INDEX FOR INSURANCE POLICIES  
12 ISSUED PURSUANT TO SECTION 3101. INDEMNIFICATION SHALL BE PRO-  
13 VIDED ONLY TO MEMBER INSURERS WITH CERTIFICATES OF AUTHORITY TO  
14 TRANSACT INSURANCE IN THIS STATE FOR POLICIES OF PERSONAL PROTEC-  
15 TION INSURANCE ISSUED OR DELIVERED IN THIS STATE. As used in  
16 this section: ~~"ultimate"~~

17 (A) "CONSUMER PRICE INDEX" MEANS THE ANNUAL AVERAGE PERCENTAGE  
18 INCREASE IN THE MICHIGAN CONSUMER PRICE INDEX FOR ALL ITEMS  
19 FOR THE PRIOR 12-MONTH PERIOD AS REPORTED BY THE UNITED STATES  
20 DEPARTMENT OF LABOR AND AS CERTIFIED BY THE COMMISSIONER.

21 (B) "ULTIMATE loss" means the actual loss amounts which a  
22 member is obligated to pay and which are paid or payable by the  
23 member, and shall not include claim expenses. An ultimate loss  
24 is incurred by the association on the date which the loss  
25 occurs.

1           (3) An insurer may withdraw from the association only upon  
2     ceasing to write insurance which provides the security required  
3     by section 3101(1) in this state.

4           (4) An insurer whose membership in the association has been  
5     terminated by withdrawal shall continue to be bound by the  
6     REVISED plan of operation, and upon withdrawal, all unpaid premi-  
7     ums ~~which~~ THAT have been charged to the withdrawing member  
8     shall be payable as of the effective date of the withdrawal.

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

15          (6) ~~When~~ IF a member has been merged or consolidated into  
16    another insurer or another insurer has reinsured a member's  
17    entire business ~~which~~ THAT provides the security required by  
18    section 3101(1) in this state, the member and successors in  
19    interest of the member shall remain liable for the member's  
20    obligations.

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

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

25          (b) Establish procedures by which members shall promptly  
26    report to the association each claim ~~which~~ THAT, on the basis  
27    of the injuries or damages sustained, may reasonably be

1 anticipated to involve the association if the member is  
2 ultimately held legally liable for the injuries or damages.  
3 Solely for the purpose of reporting claims, the member shall in  
4 all instances consider itself legally liable for the injuries or  
5 damages. The member shall also advise the association of subse-  
6 quent developments likely to materially affect the interest of  
7 the association in the claim.

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

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

1 multiplied by the average premium per car AND ADJUSTED TO REFLECT  
2 THE MEMBER'S INSUREDS WHO HAVE SELECTED COVERAGE UNDER  
3 SECTION 3107(1)(A)(ii) AND THE AMOUNT OF COVERAGE SELECTED. The  
4 average premium per car shall be the total premium calculated  
5 divided by the total earned car years of insurance providing the  
6 security required by section 3101(1) or 3103(1) written in this  
7 state of all members during the period to which the premium  
8 applies. As used in this subdivision, "car" includes a  
9 motorcycle.

10 (e) Require and accept the payment of premiums from members  
11 of the association as provided for in the REVISED plan of  
12 operation. The association shall do either of the following:

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

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

17 (f) Receive and distribute all sums required by the opera-  
18 tion of the association.

19 (g) Establish procedures for reviewing claims procedures and  
20 practices of members of the association. If the claims proce-  
21 dures or practices of a member are considered inadequate to prop-  
22 erly service the liabilities of the association, the association  
23 may undertake or may contract with another person, including  
24 another member, to adjust or assist in the adjustment of claims  
25 for the member on claims ~~which~~ THAT create a potential liabil-  
26 ity to the association and may charge the cost of the adjustment  
27 to the member.

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

3       (a) Sue and be sued in the name of the association. A judg-  
4 ment against the association shall not create any direct liabil-  
5 ity against the individual members of the association. The asso-  
6 ciation may provide for the indemnification of its members, mem-  
7 bers of the board of directors of the association, and officers,  
8 employees, and other persons lawfully acting on behalf of the  
9 association.

10       (b) Reinsure all or any portion of its potential liability  
11 with reinsurers licensed to transact insurance in this state or  
12 approved by the commissioner.

13       (c) Provide for appropriate housing, equipment, and person-  
14 nel as may be necessary to assure the efficient operation of the  
15 association.

16       (d) Pursuant to the REVISED plan of operation, adopt reason-  
17 able rules for the administration of the association, enforce  
18 those rules, and delegate authority, as the board considers nec-  
19 essary to assure the proper administration and operation of the  
20 association consistent with the REVISED plan of operation.

21       (e) Contract for goods and services, including independent  
22 claims management, actuarial, investment, and legal services,  
23 from others within or without this state to assure the efficient  
24 operation of the association.

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

1 (G) PARTICIPATE AT THE ASSOCIATION'S EXPENSE IN THE  
2 ADJUSTMENT OR MANAGEMENT OF CLAIMS FOR MEMBERS.

3 (H) UNDERTAKE AND FUND STUDIES ON TREATMENTS, TECHNIQUES,  
4 AND OTHER MEASURES AND PROCEDURES TO REDUCE THE COSTS ASSOCIATED  
5 WITH CATASTROPHIC CLAIMS.

6 (I) ~~-(g)-~~ Perform other acts not specifically enumerated in  
7 this section ~~which~~ THAT are necessary or proper to accomplish  
8 the purposes of the association and ~~which~~ THAT are not incon-  
9 sistent with this section or the REVISED plan of operation.

10 (9) A board of directors is created, hereinafter referred to  
11 as the board, which shall be responsible for the operation of the  
12 association consistent with the REVISED plan of operation and  
13 this section.

14 (10) The REVISED plan of operation shall provide for all of  
15 the following:

16 (a) The establishment of necessary facilities.

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

18 ~~-(c) A preliminary premium, payable by each member in pro-~~  
19 ~~portion to its total first-year premium, for initial expenses~~  
20 ~~necessary to commence operation of the association.~~

21 (C) ~~-(d)-~~ Procedures to be utilized in charging premiums,  
22 including adjustments from excess or deficient premiums from  
23 prior periods.

24 (D) ~~-(e)-~~ Procedures governing the actual payment of premi-  
25 ums to the association.

1 (E) ~~-(f)-~~ Reimbursement of each member of the board by the  
2 association for actual and necessary expenses incurred on  
3 association business.

4 (F) ~~-(g)-~~ The investment policy of the association.

5 (G) ~~-(h)-~~ Any other matters required by or necessary to  
6 effectively implement this section.

7 (11) ~~Not more than 30 days after the effective date of this~~  
8 ~~section, the commissioner shall convene an organizational meeting~~  
9 ~~of the board. The board shall be initially composed of 5 members~~  
10 ~~of the association appointed by the commissioner to serve as~~  
11 ~~directors, and the commissioner or a designated representative of~~  
12 ~~the commissioner serving as an ex officio member of the board~~  
13 ~~without vote. The initial board and each successor~~ EACH board  
14 shall include members ~~which~~ THAT would contribute a total of  
15 not less than 40% of the total premium calculated pursuant to  
16 subsection (7)(d). Each director AND THE COMMISSIONER shall be  
17 entitled to 1 vote. The initial term of office of a director  
18 shall be 2 years.

19 (12) As part of the REVISED plan of operation, the board  
20 shall adopt rules providing for the composition and term of suc-  
21 cessor boards to the initial board, consistent with the member-  
22 ship composition requirements in subsections (11) and (13).  
23 Terms of the directors shall be staggered so that the terms of  
24 all the directors do not expire at the same time and so that a  
25 director does not serve a term of more than 4 years.

1       (13) The board shall consist of 5 directors and the  
2 commissioner. ~~shall be an ex officio member of the board~~  
3 ~~without vote.~~

4       (14) Each director shall be appointed by the commissioner  
5 and shall serve until that member's successor is selected and  
6 qualified. The chairperson of the board shall be elected by the  
7 board. A vacancy on the board shall be filled by the commis-  
8 sioner consistent with the REVISED plan of operation.

9       (15) After the board is appointed, the board shall meet as  
10 often as the chairperson, the commissioner, or the REVISED plan  
11 of operation shall require, or at the request of any 3 members of  
12 the board. The chairperson shall retain the right to vote on all  
13 issues. Four members of the board shall constitute a quorum.

14       (16) An annual report of the operations of the association  
15 in a form and detail as may be determined by the board shall be  
16 furnished to each member.

17       (17) ~~Not more than 60 days after the initial organizational~~  
18 ~~meeting of the board,~~ BY JULY 1, 1990, the board shall submit to  
19 the commissioner for approval a REVISED proposed plan of opera-  
20 tion consistent with the objectives and provisions of this sec-  
21 tion, ~~which~~ THAT shall provide for the economical, fair, and  
22 nondiscriminatory administration of the association and for the  
23 prompt and efficient provision of indemnity. If a REVISED plan  
24 is not submitted ~~within this 60-day period~~ BY JULY 1, 1990,  
25 then the commissioner, after consultation with the board, shall  
26 formulate and place into effect a REVISED plan consistent with  
27 this section.



1       (18) The REVISED plan of operation, unless approved sooner  
2 in writing, shall be considered to meet the requirements of this  
3 section if it is not disapproved by written order of the commis-  
4 sioner within 30 days after the date of its submission. Before  
5 disapproval of all or any part of the REVISED proposed plan of  
6 operation, the commissioner shall notify the board in what  
7 respect the REVISED plan of operation fails to meet the require-  
8 ments and objectives of this section. If the board fails to  
9 submit a SECOND revised plan of operation ~~which~~ THAT meets the  
10 requirements and objectives of this section within the 30-day  
11 period, the commissioner shall enter an order accordingly and  
12 shall immediately formulate and place into effect a REVISED plan  
13 consistent with the requirements and objectives of this section.

14       (19) The REVISED proposed plan of operation or amendments to  
15 the REVISED plan of operation shall be subject to majority  
16 approval by the board, ratified by a majority of the membership,  
17 ~~having a vote,~~ with voting rights being apportioned according  
18 to the premiums charged in subsection (7)(d) and shall be subject  
19 to approval by the commissioner.

20       (20) Upon approval by the commissioner and ratification by  
21 the members of the REVISED plan submitted, or upon the promulga-  
22 tion of a REVISED plan by the commissioner, each insurer autho-  
23 rized to write insurance providing the security required by sec-  
24 tion 3101(1) in this state, as ~~defined~~ PROVIDED in this sec-  
25 tion, shall be bound by and shall formally subscribe to and par-  
26 ticipate in the REVISED plan approved as a condition of  
27 maintaining its authority to transact insurance in this state.

1       (21) The association shall be subject to all the reporting,  
2 loss reserve, and investment requirements of the commissioner to  
3 the same extent as would a member of the association.

4       (22) Premiums charged members by the association shall be  
5 recognized in the rate-making procedures for insurance rates in  
6 the same manner that expenses and premium taxes are recognized.

7       (23) The commissioner or an authorized representative of the  
8 commissioner may visit the association at any time and examine  
9 any and all the association's affairs.

10       (24) ~~This section shall take effect on July 1, 1978.~~ The  
11 association shall not have liability for losses occurring before  
12 ~~the effective date of this section~~ JULY 1, 1978.

13       Sec. 3107. (1) Personal protection insurance benefits are  
14 payable for the following:

15       (a) Allowable expenses ~~consisting of all reasonable~~  
16 ~~charges~~ AS PROVIDED IN SUBPARAGRAPHS (i) AND (ii) incurred for  
17 reasonably necessary products, services, and accommodations for  
18 an injured person's care, recovery, or rehabilitation.  
19 ~~Allowable expenses within personal protection insurance coverage~~  
20 ~~shall not include charges for a hospital room in excess of a rea-~~  
21 ~~sonable and customary charge for semiprivate accommodations~~  
22 ~~except when the injured person requires special or intensive~~  
23 ~~care, or before October 1, 1988 charges for funeral and burial~~  
24 ~~expenses in excess of \$1,000.00. Beginning October 1, 1988, ben-~~  
25 ~~efits for funeral and burial expenses shall be payable in the~~  
26 ~~amount set forth in the policy but shall not be less than~~  
27 ~~\$1,750.00 nor more than \$5,000.00.~~ ON FORMS APPROVED BY THE

1 COMMISSIONER, AN INSURER SHALL OFFER IN WRITING THE FOLLOWING  
2 COVERAGES AND AN INSURED SHALL SELECT IN WRITING 1 OF THE FOLLOW-  
3 ING COVERAGES:

4 (i) COVERAGE FOR ALLOWABLE EXPENSES FOR ALL REASONABLE  
5 CHARGES INCURRED FOR REASONABLY NECESSARY PRODUCTS, SERVICES, AND  
6 ACCOMMODATIONS FOR AN INJURED PERSON'S CARE, RECOVERY, OR  
7 REHABILITATION.

8 (ii) COVERAGE FOR ALLOWABLE EXPENSES FOR ALL REASONABLE  
9 CHARGES UP TO A \$250,000.00, \$500,000.00, \$1,000,000.00, OR  
10 \$2,000,000.00 LIMIT AS SELECTED BY THE INSURED, FOR REASONABLY  
11 NECESSARY PRODUCTS, SERVICES, AND ACCOMMODATIONS FOR AN INJURED  
12 PERSON'S CARE, RECOVERY, OR REHABILITATION. AN INSURER SHALL  
13 OFFER COVERAGE UNDER THIS SUBPARAGRAPH AT APPROPRIATELY REDUCED  
14 PREMIUM RATES AND SUBJECT TO PRIOR APPROVAL BY THE COMMISSIONER.  
15 COVERAGE UNDER THIS SUBPARAGRAPH SHALL APPLY ONLY TO BENEFITS  
16 PAYABLE TO THE PERSON NAMED IN THE POLICY, THE SPOUSE OF THE  
17 INSURED, AND ANY RELATIVE OF EITHER DOMICILED IN THE SAME  
18 HOUSEHOLD.

19 (b) ~~Work~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2),  
20 loss consisting of loss of income from work an injured person  
21 would have performed during the first 3 years after the date of  
22 the accident if he or she had not been injured and expenses not  
23 exceeding \$20.00 per day, reasonably incurred in obtaining ordi-  
24 nary and necessary services in lieu of those that, if he or she  
25 had not been injured, an injured person would have performed  
26 during the first 3 years after the date of the accident, not for  
27 income but for the benefit of himself or herself or of his or her

1 dependent. Work loss does not include any loss after the date on  
2 which the injured person dies. Because the benefits received  
3 from personal protection insurance for loss of income are not  
4 taxable income, the benefits payable for such loss of income  
5 shall be reduced 15% unless the claimant presents to the insurer  
6 in support of his or her claim reasonable proof of a lower value  
7 of the income tax advantage in his or her case, in which case the  
8 lower value shall apply. AN INSURER SHALL OFFER THE FOLLOWING  
9 COVERAGES:

10 (i) Beginning March 30, 1973, ~~the~~ benefits payable for  
11 work loss sustained in a single 30-day period and ~~the~~ income  
12 earned by an injured person for work during the same period IN AN  
13 AMOUNT THAT together shall not exceed \$1,000.00, which maximum  
14 shall apply pro rata to any lesser period of work loss.  
15 Beginning October 1, 1974, the maximum shall be adjusted annually  
16 to reflect changes in the cost of living under rules prescribed  
17 by the commissioner but any change in the maximum shall apply  
18 only to benefits arising out of accidents occurring subsequent to  
19 the date of change in the maximum.

20 (ii) BEGINNING APRIL 1, 1991, BENEFITS PAYABLE FOR WORK LOSS  
21 SUSTAINED IN A SINGLE 30-DAY PERIOD AND INCOME EARNED BY AN  
22 INJURED PERSON FOR WORK DURING THE SAME PERIOD IN AN AMOUNT THAT  
23 TOGETHER IS NOT LESS THAN \$1,000.00 AND APPLIES PRO RATA TO ANY  
24 LESSER PERIOD OF WORK LOSS.

25 (2) A PERSON MAY WAIVE COVERAGE FOR WORK LOSS BENEFITS FOR  
26 HIMSELF OR HERSELF ONLY UNDER SUBSECTION (1)(B). AN INSURER  
27 SHALL OFFER A REDUCED PREMIUM RATE TO A PERSON WHO WAIVES

1 COVERAGE UNDER THIS SUBSECTION FOR WORK LOSS BENEFITS UNDER  
2 SUBSECTION (1)(B).

3 (3) AS USED IN THIS SECTION, ALLOWABLE EXPENSES WITHIN PER-  
4 SONAL PROTECTION INSURANCE COVERAGE SHALL NOT INCLUDE CHARGES FOR  
5 A HOSPITAL ROOM IN EXCESS OF A REASONABLE AND CUSTOMARY CHARGE  
6 FOR SEMIPRIVATE ACCOMMODATIONS EXCEPT IF THE INJURED PERSON  
7 REQUIRES SPECIAL OR INTENSIVE CARE, OR FOR FUNERAL AND BURIAL  
8 EXPENSES IN THE AMOUNT SET FORTH IN THE POLICY WHICH SHALL NOT BE  
9 LESS THAN \$1,750.00 OR MORE THAN \$5,000.00. UNTIL RULES ARE  
10 PROMULGATED UNDER SUBSECTION (4), ALLOWABLE EXPENSES SHALL NOT  
11 EXCEED THE AMOUNT A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER  
12 IS REIMBURSED FOR TREATMENT, SERVICE, ACCOMMODATION, AND MEDICINE  
13 PURSUANT TO THE FEE SCHEDULES CONTAINED IN R 418.101 TO  
14 R 418.2324 OF THE MICHIGAN ADMINISTRATIVE CODE. ALLOWABLE  
15 EXPENSES FOR HOME HEALTH CARE SHALL NOT EXCEED THE REASONABLE AND  
16 CUSTOMARY CHARGES FOR SIMILAR CARE IN A LICENSED HEALTH CARE  
17 FACILITY. ALLOWABLE EXPENSES FOR HOME MODIFICATION ACCOMMODA-  
18 TIONS SHALL NOT EXCEED \$50,000.00 ADJUSTED ANNUALLY TO REFLECT  
19 CHANGES IN THE COST OF LIVING UNDER RULES PRESCRIBED BY THE COM-  
20 MISSIONER BUT ANY CHANGE IN THE MAXIMUM SHALL APPLY ONLY TO BENE-  
21 FITS ARISING OUT OF ACCIDENTS OCCURRING SUBSEQUENT TO THE DATE OF  
22 CHANGE IN THE MAXIMUM. ALLOWABLE EXPENSES FOR VOCATIONAL REHA-  
23 BILITATION SHALL BE LIMITED TO AN INJURED PERSON WHO WAS EMPLOYED  
24 WITHIN THE 1 YEAR IMMEDIATELY PRECEDING THE ACCIDENT AND TO THOSE  
25 EXPENSES THAT ARE REASONABLY NECESSARY TO RETURN THE PERSON TO  
26 THE EMPLOYMENT STATUS HE OR SHE HAD PRIOR TO THE ACCIDENT IN THE  
27 FOLLOWING ORDER OF PRIORITY:

1 (A) RETURN TO WORK PERFORMING THE SAME JOB WITH THE SAME  
2 EMPLOYER.

3 (B) RETURN TO WORK PERFORMING THE SAME BUT MODIFIED JOB WITH  
4 THE SAME EMPLOYER.

5 (C) RETURN TO WORK PERFORMING A DIFFERENT JOB, CAPITALIZING  
6 ON TRANSFERABLE SKILLS, WITH THE SAME EMPLOYER.

7 (D) RETURN TO WORK PERFORMING A DIFFERENT JOB, ONE THAT CAP-  
8 ITALIZES ON TRANSFERABLE SKILLS, WITH A DIFFERENT EMPLOYER.

9 (E) RETURN TO WORK PERFORMING A DIFFERENT JOB, ONE THAT  
10 REQUIRES EXTENSIVE AND PROLONGED TRAINING, WITH THE SAME OR DIF-  
11 FERENT EMPLOYER.

12 (F) RETURN TO WORK IN SELF-EMPLOYMENT.

13 (4) THE COMMISSIONER SHALL PROMULGATE RULES ESTABLISHING  
14 SCHEDULES OF MAXIMUM FEES BY A HEALTH CARE FACILITY OR HEALTH  
15 CARE PROVIDER FOR TREATMENT, SERVICE, ACCOMMODATION, AND  
16 MEDICINE. THE SCHEDULES OF MAXIMUM FEES ESTABLISHED BY THESE  
17 RULES SHALL NOT EXCEED THE AMOUNTS ESTABLISHED IN THE SCHEDULES  
18 OF MAXIMUM FEES CONTAINED IN R 418.101 TO R 418.2324 OF THE  
19 MICHIGAN ADMINISTRATIVE CODE. THE COMMISSIONER SHALL SUBMIT THE  
20 PROPOSED RULES FOR PUBLIC HEARING PURSUANT TO THE ADMINISTRATIVE  
21 PROCEDURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969,  
22 BEING SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS,  
23 WITHIN 12 MONTHS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT  
24 THAT ADDED THIS SUBSECTION.

25 (5) THERE SHALL BE NO LIABILITY ON THE PART OF, AND NO CAUSE  
26 OF ACTION OF ANY NATURE SHALL ARISE AGAINST, AN INSURER OR AN  
27 INSURER'S AGENT, SOLICITOR, EMPLOYEE, OFFICER, OR DIRECTOR BASED

1 UPON AN INSURED'S SELECTION OF COVERAGE UNDER  
2 SECTION 3107(1)(A)(ii).

3 Sec. 3109. (1) Benefits provided or required to be provided  
4 under the laws of any state or the federal government shall be  
5 subtracted from the personal protection insurance benefits other-  
6 wise payable for the injury.

7 (2) An injured person is a natural person suffering acciden-  
8 tal bodily injury.

9 (3) An insurer providing personal protection insurance bene-  
10 fits may offer, at appropriately reduced premium rates, a deduct-  
11 ible of a specified dollar amount ~~which~~ THAT does not exceed  
12 ~~\$300.00~~ \$1,000.00 per accident. This deductible may be appli-  
13 cable to all or any specified types of personal protection insur-  
14 ance benefits but shall apply only to benefits payable to the  
15 person named in the policy, his OR HER spouse, and any relative  
16 of either domiciled in the same household. Any other deductible  
17 provisions require the prior approval of the commissioner.

18 Sec. 3109a. (1) ~~An insurer providing personal protection~~  
19 ~~insurance benefits shall offer, at appropriately reduced premium~~  
20 ~~rates, deductibles and exclusions reasonably related to other~~  
21 ~~health and accident coverage on the insured. The deductibles and~~  
22 ~~exclusions required to be offered by this section shall be~~  
23 ~~subject to prior approval by the commissioner and shall apply~~  
24 ~~only to benefits payable to the person named in the policy, the~~  
25 ~~spouse of the insured and any relative of either domiciled in the~~  
26 ~~same household.~~ PERSONAL PROTECTION INSURANCE BENEFITS OTHERWISE  
27 PAYABLE FOR THE INJURY SHALL NOT BE PAYABLE TO THE EXTENT AN

1 INSURED HAS OTHER HEALTH AND ACCIDENT COVERAGE OR BENEFITS IN  
2 ADDITION TO HIS OR HER PERSONAL PROTECTION INSURANCE BENEFITS.

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

7 (a) The person was using a motor vehicle or motorcycle  
8 ~~which~~ THAT he or she had taken unlawfully, unless the person  
9 reasonably believed that he or she was entitled to take and use  
10 the vehicle.

11 (b) The person was the owner or registrant of a motor vehi-  
12 cle or motorcycle involved in the accident with respect to which  
13 the security required by section 3101 or 3103 was not in effect.

14 (c) THE PERSON WAS THE OPERATOR OF OR PASSENGER IN A MOTOR  
15 VEHICLE OR MOTORCYCLE INVOLVED IN THE ACCIDENT AND HE OR SHE KNEW  
16 THAT THE SECURITY REQUIRED BY SECTION 3101 OR 3103 WAS NOT IN  
17 EFFECT.

18 (D) ~~-(c)-~~ The person was not a resident of this state ~~—~~  
19 AND was an occupant of a motor vehicle or motorcycle not regis-  
20 tered in this state. ~~— and was not insured by an insurer which~~  
21 ~~has filed a certification in compliance with section 3163.~~

22 Sec. 3116. (1) A subtraction from personal protection  
23 insurance benefits shall not be made because of the value of a  
24 claim in tort based on the same accidental bodily injury.

25 (2) A subtraction from or reimbursement for personal protec-  
26 tion insurance benefits paid or payable under this chapter shall  
27 be made only if recovery is realized upon a tort claim ~~arising~~



1 ~~from an accident occurring outside this state, a tort claim~~  
2 ~~brought within this state against the owner or operator of a~~  
3 ~~motor vehicle with respect to which the security required by sec-~~  
4 ~~tion 3101 (3) and (4) was not in effect, or a tort claim brought~~  
5 ~~within this state based on intentionally caused harm to persons~~  
6 ~~or property,~~ and shall be made only to the extent that the  
7 recovery realized by the claimant is for damages for which the  
8 claimant has received or would otherwise be entitled to receive  
9 personal protection insurance benefits. A subtraction shall be  
10 made only to the extent of the recovery, exclusive of reasonable  
11 attorneys' fees and other reasonable expenses incurred in effect-  
12 ing the recovery. If personal protection insurance benefits have  
13 already been received, the claimant shall repay to the insurers  
14 out of the recovery a sum equal to the benefits received, but not  
15 more than the recovery exclusive of reasonable attorneys' fees  
16 and other reasonable expenses incurred in effecting the  
17 recovery. The insurer shall have a lien on the recovery to this  
18 extent. A recovery by an injured person or his or her estate for  
19 loss suffered by the person shall not be subtracted in calculat-  
20 ing benefits due a dependent after the death and a recovery by a  
21 dependent for loss suffered by the dependent after the death  
22 shall not be subtracted in calculating benefits due the injured  
23 person.

24 (3) A personal protection insurer with a right of reimburse-  
25 ment under subsection (1), if suffering loss from inability to  
26 collect reimbursement out of a payment received by a claimant  
27 upon a tort claim is entitled to indemnity from a person who,

1 with notice of the insurer's interest, made the payment to the  
2 claimant without making the claimant and the insurer joint payees  
3 as their interests may appear or without obtaining the insurer's  
4 consent to a different method of payment.

5 (4) A subtraction or reimbursement shall not be due the  
6 claimant's insurer from that portion of any recovery to the  
7 extent that recovery is realized for noneconomic loss as provided  
8 in section 3135(1) and (2)(b) or for allowable expenses, work  
9 loss, and survivor's loss as defined in sections 3107 to 3110 in  
10 excess of the amount recovered by the claimant from his or her  
11 insurer.

12 Sec. 3135. (1) A person remains subject to tort liability  
13 for noneconomic loss caused by his or her ownership, maintenance,  
14 or use of a motor vehicle only if the injured person has suffered  
15 death, serious impairment of body function, or permanent serious  
16 disfigurement. FOR A CAUSE OF ACTION FOR DAMAGES PURSUANT TO  
17 THIS SUBSECTION ARISING ON AND AFTER JANUARY 1, 1990, ALL OF THE  
18 FOLLOWING APPLY:

19 (A) THE INJURED PERSON SHALL NOT HAVE SUFFERED SERIOUS  
20 IMPAIRMENT OF BODY FUNCTION UNLESS THE PERSON HAS SUFFERED AN  
21 OBJECTIVELY MANIFESTED IMPAIRMENT OF AN IMPORTANT BODY FUNCTION  
22 THAT AFFECTS HIS OR HER GENERAL ABILITY TO LEAD A NORMAL LIFE.  
23 THE ISSUE OF WHETHER AN INJURED PERSON HAS SUFFERED SERIOUS  
24 IMPAIRMENT OF BODY FUNCTION SHALL BE A QUESTION OF LAW FOR THE  
25 COURT.

26 (B) EXCEPT AS AUTHORIZED UNDER SECTION 5851 OF THE REVISED  
27 JUDICATURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961,

1 BEING SECTION 600.5851 OF THE MICHIGAN COMPILED LAWS, AN ACTION  
2 UNDER THIS SUBSECTION SHALL NOT BE COMMENCED LATER THAN 3 YEARS  
3 AFTER THE DATE OF THE ACCIDENT THAT CAUSES THE INJURY REGARDLESS  
4 OF WHEN THE PERSON DISCOVERS THAT HE OR SHE HAS SUFFERED A SERI-  
5 OUS IMPAIRMENT OF BODY FUNCTION, PERMANENT SERIOUS DISFIGUREMENT,  
6 OR DEATH.

7 (C) DAMAGES SHALL BE ASSESSED ON THE BASIS OF COMPARATIVE  
8 FAULT, EXCEPT THAT FOR CLAIMS FILED ON OR AFTER THE EFFECTIVE  
9 DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION DAMAGES  
10 SHALL NOT BE ASSESSED IN FAVOR OF A PARTY WHO IS MORE THAN 50% AT  
11 FAULT.

12 (2) Notwithstanding any other provision of law, tort liabil-  
13 ity arising from the ownership, maintenance, or use within this  
14 state of a motor vehicle with respect to which the security  
15 required by section ~~3101(3) and (4)~~ 3101(1) was in effect is  
16 abolished except as to:

17 (a) Intentionally caused harm to persons or property. Even  
18 though a person knows that harm to persons or property is sub-  
19 stantially certain to be caused by his or her act or omission,  
20 the person does not cause or suffer such harm intentionally if he  
21 or she acts or refrains from acting for the purpose of averting  
22 injury to any person, including himself or herself, or for the  
23 purpose of averting damage to tangible property.

24 (b) Damages for noneconomic loss as provided and limited in  
25 subsection (1).

26 (c) Damages for allowable expenses, work loss, and  
27 survivor's loss as defined in sections 3107 to 3110 in excess of

1 the daily, monthly, and 3-year limitations contained in those  
2 sections. The party liable for damages is entitled to an exemp-  
3 tion reducing his or her liability by the amount of taxes that  
4 would have been payable on account of income the injured person  
5 would have received if he or she had not been injured.

6 (d) Damages up to \$400.00 to motor vehicles, to the extent  
7 that the damages are not covered by insurance. An action for  
8 damages pursuant to this subdivision shall be conducted in com-  
9 pliance with subsection (3).

10 (3) In an action for damages pursuant to subsection (2)(d):

11 (a) Damages shall be assessed on the basis of comparative  
12 fault, except that damages shall not be assessed in favor of a  
13 party who is more than 50% at fault.

14 (b) Liability shall not be a component of residual liabili-  
15 ty, as prescribed in section 3131, for which maintenance of  
16 security is required by this act.

17 (4) Actions under subsection (2)(d) shall be commenced,  
18 whenever legally possible, in the small claims division of the  
19 district court or ~~the conciliation division of the common pleas~~  
20 ~~court of the city of Detroit or~~ the municipal court. If the  
21 defendant or plaintiff removes ~~such an~~ THE action to a higher  
22 court and does not prevail, the judge may assess costs.

23 (5) A decision of a court made pursuant to subsection (2)(d)  
24 ~~—~~ shall not be res judicata in any proceeding to determine any  
25 other liability arising from the same circumstances as gave rise  
26 to the action brought pursuant to subsection (2)(d).

1       ~~(6) Subsections (2)(d), (3), (4), and (5) shall take effect~~  
2       ~~July 1, 1980.~~

3       Sec. 3142. (1) Personal protection insurance benefits are  
4       payable as loss accrues.

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

18      (3) An overdue payment bears ~~simple~~ interest at the rate  
19      ~~of 12% per annum~~ SET BY SECTION 6013(6) OF THE REVISED JUDICA-  
20      TURE ACT OF 1961, ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING  
21      SECTION 600.6013 OF THE MICHIGAN COMPILED LAWS. INTEREST PAID  
22      UNDER THIS SUBSECTION SHALL BE OFFSET BY INTEREST PAYABLE UNDER  
23      SECTION 6013(6) OF ACT NO. 236 OF THE PUBLIC ACTS OF 1961.

24      Sec. 3315. The facility shall establish as part of its plan  
25      of operation a program to reduce the participation ratio of an  
26      insurer under section 3303(e)(i) based upon the number of private  
27      passenger nonfleet automobiles voluntarily written in an urban

1 area. The program shall also include reductions to the  
2 participation ratio for any increases in the number of private  
3 passenger nonfleet automobiles voluntarily written in an urban  
4 area. However, an insurer's participation ratio shall not be  
5 increased by more than 10% annually as a result of this section.  
6 As used in this section "urban area" means the area within the  
7 boundaries of a city in this state which has a population of  
8 1,000,000 or more as determined by the latest of each succeeding  
9 federal decennial census and includes any city located wholly  
10 within the boundaries of a city in this state which has a popula-  
11 tion of 1,000,000 or more as determined by the latest of each  
12 succeeding federal decennial census. ~~This section is repealed~~  
13 ~~effective July 1, 1991.~~

14 Sec. 6101. As used in this chapter:

15 (a) "Authority" means the automobile theft AND DRUNK DRIVING  
16 prevention authority.

17 (b) "Board" means the board of directors of the automobile  
18 theft AND DRUNK DRIVING prevention authority.

19 (c) "Economic automobile theft" means automobile theft per-  
20 petrated for financial gain.

21 Sec. 6103. (1) There is hereby created a public body corpo-  
22 rate and politic to be known as the automobile theft AND DRUNK  
23 DRIVING prevention authority.

24 (2) The purposes, powers, and duties of the authority shall  
25 be vested in and exercised by a board of directors.

26 (3) The board of directors shall consist of 7 members,  
27 appointed by the governor, with the advice and consent of the

1 senate, 2 of whom shall be representative of purchasers of  
2 automobile insurance in this state, 2 of whom shall be represen-  
3 tative of automobile insurers doing business in this state, 2 of  
4 whom shall be representative of law enforcement officials in this  
5 state, and 1 of whom shall be the director of the department of  
6 state police or his or her designee. The governor shall desig-  
7 nate 1 member to serve as the chairperson of the authority.

8 (4) Members of the board shall serve for a term of 4 years.

9 (5) Members of the board shall serve without compensation  
10 for their membership on the board, except that members of the  
11 board shall receive reasonable reimbursement for necessary travel  
12 and expenses.

13 (6) A majority of the members of the board shall constitute  
14 a quorum for the transaction of business at a meeting, or the  
15 exercise of a power or function of the authority, notwithstanding  
16 the existence of 1 or more vacancies. Notwithstanding any other  
17 provision of law, action may be taken by the authority at a meet-  
18 ing upon a vote of the majority of its members present in person  
19 or through the use of amplified telephonic equipment, if autho-  
20 rized by the bylaws of the board. The authority shall meet at  
21 the call of the chair or as may be provided in the bylaws of the  
22 authority. Meetings of the authority may be held anywhere within  
23 the state of Michigan.

24 (7) The authority shall be within the department of state  
25 police and shall exercise its prescribed statutory powers,  
26 duties, and functions independently of the head of that  
27 department. The budgeting, procurement, and related functions of

1 the authority, and administrative responsibilities for employees  
2 of the authority, shall be performed under the direction and  
3 supervision of the director of the department of state police.

4 Sec. 6105. The authority shall have the powers necessary or  
5 convenient to carry out and effectuate the purposes and provi-  
6 sions of this chapter and the purposes of the authority and the  
7 powers delegated by other laws, including, but not limited to,  
8 the power to:

9 (a) Sue and be sued; to have a seal and alter the same at  
10 pleasure; to have perpetual succession; to make, execute, and  
11 deliver contracts, conveyances, and other instruments necessary  
12 or convenient to the exercise of its powers; and to make and  
13 amend bylaws.

14 (b) Solicit and accept gifts, grants, loans, funds collected  
15 and placed in the automobile theft AND DRUNK DRIVING prevention  
16 fund, and other aids from any person or the federal, state, or a  
17 local government or any agency thereof.

18 (c) Make grants and investments.

19 (d) Procure insurance against any loss in connection with  
20 its property, assets, or activities.

21 (e) Invest any money held in reserve or sinking funds, or  
22 any money not required for immediate use or disbursement, at its  
23 discretion and to name and use depositories for its money.

24 (f) Contract for goods and services and engage personnel as  
25 is necessary, including the services of private consultants, man-  
26 agers, counsel, auditors, and others for rendering professional,



1 management, and technical assistance and advice, payable out of  
2 any money of the fund legally available for this purpose.

3 (g) Indemnify and procure insurance indemnifying any member  
4 of the board from personal loss or accountability from liability  
5 resulting from a member's action or inaction as a member of the  
6 board.

7 (h) Do all other things necessary or convenient to achieve  
8 the objectives and purposes of the authority, this chapter, or  
9 other laws.

10 Sec. 6107. (1) ~~Prior to April 1, 1986, and prior to~~  
11 ~~April 1 of each year thereafter, each~~ EACH insurer engaged in  
12 writing insurance coverages ~~which~~ THAT provide the security  
13 required by section 3101 (1) within this state, as a condition of  
14 its authority to transact insurance in this state, shall pay to  
15 the authority BOTH OF THE FOLLOWING ASSESSMENTS:

16 (A) PRIOR TO APRIL 1 OF EACH YEAR, an assessment equal to  
17 \$1.00 multiplied by the insurer's total earned car years of  
18 insurance providing the security required by section 3101 (1)  
19 written in this state during the immediately preceding calendar  
20 year.

21 (B) PRIOR TO APRIL 1, 1991 AND PRIOR TO APRIL 1 OF EACH YEAR  
22 THEREAFTER, AN ASSESSMENT EQUAL TO \$100.00 FOR EACH INSURED, AND  
23 COLLECTED FROM EACH INSURED, WHO HAS BEEN CONVICTED, OR SUBJECT  
24 TO A PROBATE COURT ORDER OF DISPOSITION, WITHIN 3 YEARS PRIOR TO  
25 THE APRIL 1 ASSESSMENT OF A VIOLATION OF ANY OF THE OFFENSES  
26 LISTED IN SECTION 2103(1) (D).

1       (2) Money received pursuant to subsection (1), and all other  
2 money received by the authority, shall be segregated and placed  
3 in a fund to be known as the automobile theft AND DRUNK DRIVING  
4 prevention fund. The automobile theft AND DRUNK DRIVING preven-  
5 tion fund shall be administered by the authority.

6       (3) Money in the automobile theft AND DRUNK DRIVING preven-  
7 tion fund shall be expended in the following order of priority:

8       (a) To pay the costs of administration of the authority.

9       (b) To achieve the purposes and objectives of this chapter,  
10 which may include, but not be limited to, the following:

11       (i) Provide financial support to the department of state  
12 police and local law enforcement agencies for economic automobile  
13 theft AND DRUNK DRIVING enforcement teams.

14       (ii) Provide financial support to state or local law  
15 enforcement agencies for programs designed to reduce the inci-  
16 dence of economic automobile theft AND DRUNK DRIVING.

17       (iii) Provide financial support to local prosecutors for  
18 programs designed to reduce the incidence of economic automobile  
19 theft AND DRUNK DRIVING.

20       (iv) Provide financial support to judicial agencies for pro-  
21 grams designed to reduce the incidence of economic automobile  
22 theft AND DRUNK DRIVING.

23       (v) Provide financial support for neighborhood or community  
24 organizations or business organizations for programs designed to  
25 reduce the incidence of automobile theft AND DRUNK DRIVING.

26       (vi) Conduct educational programs designed to inform  
27 automobile owners of methods of preventing automobile theft AND

1 OF THE DANGERS OF DRUNK DRIVING and to provide equipment, for  
 2 experimental purposes, to enable automobile owners to prevent  
 3 automobile theft.

4 (4) Money in the automobile theft AND DRUNK DRIVING preven-  
 5 tion fund shall only be used to enhance automobile theft AND  
 6 DRUNK DRIVING PREVENTION efforts as determined by the authority.

7 (5) Money in the automobile theft AND DRUNK DRIVING preven-  
 8 tion fund shall not be considered state money.

9 Sec. 6110. (1) The authority shall develop and implement a  
 10 plan of operation.

11 (2) The plan of operation shall include an assessment of the  
 12 scope of the problem of automobile theft AND DRUNK DRIVING,  
 13 including particular areas of the state where the problem is  
 14 greatest; an analysis of various methods of combating the problem  
 15 of automobile theft, ~~and~~ economic automobile theft, AND DRUNK  
 16 DRIVING; a plan for providing financial support to combat automo-  
 17 bile theft, ~~and~~ economic automobile theft, AND DRUNK DRIVING;  
 18 and an estimate of the funds required to implement the plan.

19 (3) The authority shall report annually on or before  
 20 February 1 to the governor and the legislature on its activities  
 21 in the preceding year.

22 Section 2. Sections 6115 and 6125 of Act No. 218 of the  
 23 Public Acts of 1956, being sections 500.6115 and 500.6125 of the  
 24 Michigan Compiled Laws, are repealed.

25 Section 3. Nothing in this 1989 amendatory act is intended  
 26 to alter or affect in any way the decisions of the United States  
 27 court of appeals for the sixth circuit in Northern Group

1 Services, Inc. v Auto Owners Insurance Company, 833 F. 2d 85  
2 (1987) or the Michigan supreme court in Federal Kemper Insurance  
3 Company, Inc. v Health Insurance Administration, Inc., 424 Mich  
4 537 (1986).