[No. 479]

(HB 5587)

AN ACT to amend 1893 PA 206, entitled "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes on property, and for the collection of taxes levied; making those taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale or forfeiture and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection with property delinquent for taxes; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal acts and parts of acts," by amending section 44 (MCL 211.44), as amended by 2000 PA 364.

The People of the State of Michigan enact:

211.44 Collection of taxes; mailing, contents, forms, and expense of tax statement; failure to send or receive notice; time and place for receiving taxes; property tax administration fees; return of excess; cost of appeals; waiver of interest, penalty charge, or property tax administration fee; use of fee; cost of treasurer's bond; enforcement of collection; seizing property or bringing action; amounts includable in return of delinquent taxes; distributions by county treasurer; local governing body authorization for imposition of fees or late penalty charges; annual statement; taxes levied after December 31, 2001 on qualified real property; definitions.

Sec. 44. (1) Upon receipt of the tax roll, the township treasurer or other collector shall proceed to collect the taxes. The township treasurer or other collector shall mail to each taxpayer at the taxpayer's last known address on the tax roll or to the taxpayer's designated agent a statement showing the description of the property against which the tax is levied, the taxable value of the property, and the amount of the tax on the property. If a tax statement is mailed to the taxpayer, a tax statement sent to a taxpayer's designated agent may be in a summary form or may be in an electronic data processing format. If the tax statement information is provided to both a taxpayer and the taxpayer's designated agent, the tax statement mailed to the taxpayer may be identified as an informational copy. A township treasurer or other collector electing to send a tax statement to a taxpayer's designated agent or electing not to include an itemization in the manner described in subsection (10)(d) in a tax statement mailed to the taxpayer shall, upon request, mail a detailed copy of the tax statement, including an itemization of the amount of tax in the manner described by subsection (10)(d), to the taxpayer without charge.

(2) The expense of preparing and mailing the statement shall be paid from the county, township, city, or village funds. Failure to send or receive the notice does not prejudice the right to collect or enforce the payment of the tax. The township treasurer shall remain in the office of the township treasurer at some convenient place in the township on each Friday in the month of December, from 9 a.m. to 5 p.m. to receive taxes, but shall receive

taxes upon a weekday when they are offered. However, if a Friday in the month of December is Christmas eve, Christmas day, New Year's eve, or a day designated by the township as a holiday for township employees, the township treasurer is not required to remain in the office of the township treasurer on that Friday, but shall remain in the office of the township treasurer at some convenient place in the township from 9 a.m. to 5 p.m. on the day most immediately preceding that Friday that is not Christmas eve, Christmas day, New Year's eve, or a day designated by the township as a holiday for township employees, to receive taxes.

(3) Except as provided by subsection (7), on a sum voluntarily paid before February 15 of the succeeding year, the local property tax collecting unit shall add a property tax administration fee of not more than 1% of the total tax bill per parcel. However, unless otherwise provided for by an agreement between the assessing unit and the collecting unit, if a local property tax collecting unit other than a village does not also serve as the local assessing unit, the excess of the amount of property tax administration fees over the expense to the local property tax collecting unit in collecting the taxes, but not less than 80% of the fee imposed, shall be returned to the local assessing unit. A property tax administration fee is defined as a fee to offset costs incurred by a collecting unit in assessing property values, in collecting the property tax levies, and in the review and appeal processes. The costs of any appeals, in excess of funds available from the property tax administration fee, may be shared by any taxing unit only if approved by the governing body of the taxing unit. Except as provided by subsection (7), on all taxes paid after February 14 and before March 1 the governing body of a city or township may authorize the treasurer to add to the tax a property tax administration fee to the extent imposed on taxes paid before February 15 and a late penalty charge equal to 3% of the tax. The governing body of a city or township may waive interest from February 15 to the last day of February on a summer property tax that has been deferred under section 51 or any late penalty charge for the homestead property of a senior citizen, paraplegic, quadriplegic, hemiplegic, eligible serviceperson, eligible veteran, eligible widow or widower, totally and permanently disabled person, or blind person, as those persons are defined in chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, if the person makes a claim before February 15 for a credit for that property provided by chapter 9 of the income tax act of 1967, 1967 PA 281, MCL 206.501 to 206.532, if the person presents a copy of the form filed for that credit to the local treasurer, and if the person has not received the credit before February 15. The governing body of a city or township may waive interest from February 15 to the last day of February on a summer property tax deferred under section 51 or any late penalty charge for a person's property that is subject to a farmland development rights agreement recorded with the register of deeds of the county in which the property is situated as provided in section 36104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36104, if the person presents a copy of the development rights agreement or verification that the property is subject to a development rights agreement before February 15. A 4% county property tax administration fee, a property tax administration fee to the extent imposed on and if authorized under subsection (7) for taxes paid before March 1, and interest on the tax at the rate of 1% per month shall be added to taxes collected by the township or city treasurer after the last day of February and before settlement with the county treasurer, and the payment shall be treated as though collected by the county treasurer. If the statements required to be mailed by this section are not mailed before December 31, the treasurer shall not impose a late penalty charge on taxes collected after February 14.

(4) The governing body of a local property tax collecting unit may waive all or part of the property tax administration fee or the late penalty charge, or both. A property tax

administration fee collected by the township treasurer shall be used only for the purposes for which it may be collected as specified by subsection (3) and this subsection. If the bond of the treasurer, as provided in section 43, is furnished by a surety company, the cost of the bond may be paid by the township from the property tax administration fee.

(5) If apprehensive of the loss of personal tax assessed upon the roll, the township treasurer may enforce collection of the tax at any time, and if compelled to seize property or bring an action in December may add, if authorized under subsection (7), a property tax administration fee of not more than 1% of the total tax bill per parcel and 3% for a late penalty charge.

(6) Along with taxes returned delinquent to a county treasurer under section 55, the amount of the property tax administration fee prescribed by subsection (3) that is imposed and not paid shall be included in the return of delinquent taxes and, when delinquent taxes are distributed by the county treasurer under this act, the delinquent property tax administration fee shall be distributed to the treasurer of the local unit who transmitted the statement of taxes returned as delinquent. Interest imposed upon delinquent property taxes under this act shall also be imposed upon the property tax administration fee and, for purposes of this act other than for the purpose of determining to which local unit the county treasurer shall distribute a delinquent property tax administration fee, any reference to delinquent taxes shall be considered to include the property tax administration fee returned as delinquent for the same property.

(7) The local property tax collecting treasurer shall not impose a property tax administration fee, collection fee, or any type of late penalty charge authorized by law or charter unless the governing body of the local property tax collecting unit approves, by resolution or ordinance adopted after December 31, 1982, an authorization for the imposition of a property tax administration fee, collection fee, or any type of late penalty charge provided for by this section or by charter, which authorization shall be valid for all levies that become a lien after the resolution or ordinance is adopted. However, unless otherwise provided for by an agreement between the assessing unit and the collecting unit, a local property tax collecting unit that does not also serve as the assessing unit shall impose a property tax administration fee on each parcel at a rate equal to the rate of the fee imposed for city or township taxes on that parcel.

(8) The annual statement required by 1966 PA 125, MCL 565.161 to 565.164, or a monthly billing form or mortgagor passbook provided instead of that annual statement shall include a statement to the effect that a taxpayer who was not mailed the tax statement or a copy of the tax statement by the township treasurer or other collector shall receive, upon request and without charge, a copy of the tax statement from the township treasurer or other collector or, if the tax statement has been mailed to the taxpayer's designated agent, from either the taxpayer's designated agent or the township treasurer or other collector. A designated agent who is subject to 1966 PA 125, MCL 565.161 to 565.164, and who has been mailed the tax statement for taxes that became a lien in the calendar year immediately preceding the year in which the annual statement may be required to be furnished shall mail, upon request and without charge to a taxpayer who was not mailed that tax statement or a copy of that tax statement, a copy of that tax statement.

(9) For taxes levied after December 31, 2001, if taxes levied on qualified real property remain unpaid on February 15, all of the following shall apply:

(a) The unpaid taxes on that qualified real property shall be collected in the same manner as unpaid taxes levied on personal property are collected under this act.

(b) Unpaid taxes on qualified real property shall not be returned as delinquent to the county treasurer for forfeiture, foreclosure, and sale under sections 78 to 79a.

(c) If a county treasurer discovers that unpaid taxes on qualified real property have been returned as delinquent for forfeiture, foreclosure, and sale under sections 78 to 79a, the county treasurer shall return those unpaid taxes to the appropriate local tax collection unit for collection as provided in subdivision (a).

(10) As used in this section:

(a) "Designated agent" means an individual, partnership, association, corporation, receiver, estate, trust, or other legal entity that has entered into an escrow account agreement or other agreement with the taxpayer that obligates that individual or legal entity to pay the property taxes for the taxpayer or, if an agreement has not been entered into, that was designated by the taxpayer on a form made available to the taxpayer by the township treasurer and filed with that treasurer. The designation by the taxpayer shall remain in effect until revoked by the taxpayer in a writing filed with the township treasurer. The form made available by the township treasurer shall include a statement that submission of the form allows the treasurer to mail the tax statement to the designated agent instead of to the taxpayer and a statement notifying the taxpayer of his or her right to revoke the designation by a writing filed with the township treasurer.

(b) "Qualified real property" means buildings and improvements located upon leased real property that are assessed as real property under section 2(1)(c), except buildings and improvements exempt under section 9f, if the value of the buildings or improvements is not otherwise included in the assessment of the real property.

(c) "Taxpayer" means the owner of the property on which the tax is imposed.

(d) When describing in subsection (1) that the amount of tax on the property must be shown in the tax statement, "amount of tax" means an itemization by dollar amount of each of the several ad valorem property taxes and special assessments that a person may pay under section 53 and an itemization by millage rate, on either the tax statement or a separate form accompanying the tax statement, of each of the several ad valorem property taxes that a person may pay under section 53. The township treasurer or other collector may replace the itemization described in this subdivision with a statement informing the taxpayer that the itemization of the dollar amount and millage rate of the taxes is available without charge from the local property tax collecting unit.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 480]

(HB 5991)

AN ACT to amend 1962 PA 174, entitled "An act to enact the uniform commercial code, relating to certain commercial transactions in or regarding personal property and contracts and other documents concerning them, including sales, commercial paper, bank deposits and collections, letters of credit, bulk transfers, warehouse receipts, bills of lading, other documents of title, investment securities, leases, and secured transactions, including certain sales of accounts, chattel paper and contract rights; to provide for public notice to third parties in certain circumstances; to regulate procedure, evidence and damages in certain court actions involving such transactions, contracts or documents; to make uniform the law with respect thereto; to make an appropriation; to provide penalties; and to repeal certain acts and parts of acts," by amending section 9201 (MCL 440.9201), as amended by 2002 PA 18.

The People of the State of Michigan enact:

440.9201 General effectiveness of security agreement.

Sec. 9201. (1) Except as otherwise provided in this act, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(2) A transaction subject to this article is subject to any applicable rule of law that establishes a different rule for consumers and to each of the following, as applicable:

(a) The regulatory loan act of 1963, 1939 PA 21, MCL 493.1 to 493.26.

(b) 1939 PA 305, MCL 566.301 to 566.302.

(c) The motor vehicle sales finance act, 1950 (Ex Sess) PA 27, MCL 492.101 to 492.141.

(d) The mobile home commission act, 1987 PA 96, MCL 125.2301 to 125.2349.

(e) The Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(f) 1978 PA 387, MCL 257.931 to 257.937.

(g) 1986 PA 87, MCL 257.1401 to 257.1410.

(h) The grain dealers act, 1939 PA 141, MCL 285.61 to 285.82a.

(i) The Michigan family farm development act, 1982 PA 220, MCL 285.251 to 285.279.

(j) The natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(k) 1982 PA 459, MCL 325.851 to 325.858.

(*l*) 1970 PA 90, MCL 442.311 to 442.315.

(m) 1971 PA 227, MCL 445.111 to 445.117.

(n) The retail installment sales act, 1966 PA 224, MCL 445.851 to 445.873.

(o) The Michigan consumer protection act, 1976 PA 331, MCL 445.901 to 445.922.

(p) The home improvement finance act, 1965 PA 332, MCL 445.1101 to 445.1431.

(q) 1941 PA 238, MCL 566.1.

(r) The garage keeper's lien act, 1915 PA 312, MCL 570.301 to 570.309.

(s) 1939 PA 3, MCL 460.1 to 460.10cc.

(t) 1981 PA 155, MCL 445.611 to 445.620c.

(u) The special tools lien act.

(3) In case of conflict between this article and a rule of law, statute, or regulation described in subsection (2), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (2) has only the effect the statute or regulation specifies.

(4) This article does not validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (2), or extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5993 of the 91st Legislature is enacted into law.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

Compiler's note: House Bill No. 5993, referred to in enacting section 1, was filed with the Secretary of State June 27, 2002, and became P.A. 2002, No. 481, Imd. Eff. June 27, 2002.

[No. 481]

(HB 5993)

AN ACT to provide for and establish possession and ownership rights in special tools for use in the fabrication of metal parts under certain conditions; to require procedures to establish a lien; and to establish and maintain a lien on certain special tools.

The People of the State of Michigan enact:

570.541 Short title.

Sec. 1. This act shall be known and may be cited as the "special tools lien act".

570.542 Definitions.

Sec. 2. For purposes of this act:

(a) "Customer" means a person who causes a special tool builder to design, develop, manufacture, assemble for sale, or otherwise make a special tool for use in the design, development, manufacture, assembly, or fabrication of metal parts, or a person who causes an end user to use a special tool to design, develop, manufacture, assemble, or fabricate a metal product.

(b) "End user" means a person who uses a special tool as part of his or her manufacturing process.

(c) "Special tool" means any tools, dies, jigs, gauges, gauging fixtures, special machinery, cutting tools, or metal castings manufactured by a special tool builder.

(d) "Special tool builder" means a person who designs, develops, manufactures, or assembles special tools for sale.

(e) "Person" means an individual, firm, partnership, association, corporation, limited liability company, or other legal entity.

570.543 Special tools; unclaimed possession; transfer of rights from customer to end user; destruction.

Sec. 3. Unless otherwise agreed in writing, if a customer does not claim possession of a special tool from the end user within 3 years from the last use with that end user of the special tool, all rights, title, and interest in the special tool may, at the option of the end user, be transferred by operation of law to the end user for purpose of destroying the special tool.

570.545 Transfer of rights to end user; notice; waiting period.

Sec. 5. After the expiration of the 3-year period set forth in section 3, if an end user chooses to have all rights, title, and interest in a special tool transferred to the end user

by operation of law, the end user shall send written notice by registered mail, return receipt requested, to an address designated in writing by the customer, or if not so designated, to the customer's last known address, indicating that the end user intends to terminate the customer's rights, title, and interest in the special tool, by having all rights, title, and interest in the special tool transferred to the end user by operation of law, under this act.

570.547 Return receipt of notice; possession unclaimed; transfer.

Sec. 7. If a customer does not claim possession of the special tool within 120 days after the date the end user receives the return receipt of the notice sent under section 5, or does not make other arrangements with the end user for storage of the special tool within the time limit set forth in this section, all rights, title, and interest of the customer in the special tool shall be transferred by operation of law to the end user for purposes of destroying the special tool. This section shall not be construed to affect a right of a customer under federal patent or copyright law or any state or federal law pertaining to unfair competition.

570.549 Retroactive application of waiting period.

Sec. 9. The 3-year waiting period provided in section 3 shall apply retroactively in the case of a special tool in the possession of an end user on the effective date of this act.

570.551 Applicability and construction of §§ 570.543, 570.545, 570.547, and 570.549.

Sec. 11. Sections 3, 5, 7, and 9 shall not apply if an end user retains title to and possession of a special tool. Sections 3, 5, 7, and 9 shall not be construed to grant a customer rights, title, or interest in a special tool.

570.553 Lien; possession.

Sec. 13. An end user has a lien, dependent on possession, on any special tool in the end user's possession belonging to a customer for the amount due the end user from the customer for metal fabrication work performed with the special tool. An end user may retain possession of the special tool until the amount due is paid.

570.555 Enforcement of lien; notice

Sec. 15. Before enforcing a lien granted to an end user under section 13, notice in writing shall be given to the customer, delivered personally or sent by registered mail to the last known address of the customer. The notice shall state that a lien is claimed for the amount due for metal fabrication work or for making or improving the special tool. The notice shall include a demand for payment.

570.557 Sale of special tool at public auction; conditions.

Sec. 17. If the end user has not been paid the amount due within 90 days after the notice has been received by the customer provided in section 15, the end user may sell the special tool at a public auction if both of the following occur:

(a) The special tool is still in the end user's possession.

(b) The end user complies with section 19.

570.559 Sale of special tool at public auction; notice; information; notice nondeliverable; dispute.

Sec. 19. (1) Before an end user may sell the special tool, the end user shall notify, by registered mail, return receipt requested, the customer and any person whose security interest is perfected by filing. The notice shall include the following information:

(a) The end user's intention to sell the special tool 60 days after the customer's receipt of the notice.

(b) A description of the special tool to be sold.

(c) The time and place of the sale.

(d) An itemized statement for the amount due.

(e) A statement that the product produced by the special tool complies with the quality and quantity ordered.

(2) If there is not a return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the end user shall publish notice of the end user's intention to sell the special tool in a newspaper of general circulation in the place where the special tool is being held for sale by the end user and in the place of the customer's last known address. The notice shall include a description of the special tool and the name of the customer.

(3) If a customer disagrees with the notice described in subsection (1), the customer shall notify the end user in writing by registered mail, return receipt requested, that the product produced by the special tool did not meet the quality or quantity ordered. An end user who receives this notice shall not sell the special tool until the dispute is resolved.

570.561 Payment of proceeds to prior lienholder; payment of amount to end user possessing lien or to customer.

Sec. 21. (1) If the sale is for a sum greater than the amount of the lien, the proceeds shall first be paid to the prior lienholder who has a perfected lien in an amount sufficient to extinguish that interest. Any excess shall next be paid to the end user who possesses a lien under this act in an amount sufficient to extinguish that interest. Any remainder shall then be paid to the customer.

(2) A sale shall not be made under this act if it would be in violation of any right of a customer under federal patent or copyright law.

570.563 Information recorded by special tool builder; filing financial statement; constructive notice of lien on special tool; attachment; duration of lien; priority.

Sec. 23. (1) A special tool builder shall permanently record on every special tool that the special tool builder fabricates, repairs, or modifies the special tool builder's name, street address, city, and state.

(2) A special tool builder shall file a financing statement in accordance with the requirements of section 9502 of the uniform and commercial code, 1962 PA 174, MCL 440.9502.

(3) A special tool builder has a lien on any special tool identified pursuant to subsection (1). The amount of the lien is the amount that a customer or end user owes the special tool builder for the fabrication, repair, or modification of the special tool. The information that the special tool builder is required to record on the special tool under subsection (1) and the financing statement required under subsection (2) shall constitute actual and constructive notice of the special tool builder's lien on the special tool.

(4) The special tool builder's lien attaches when actual or constructive notice is received. The special tool builder retains the lien that attaches under this section even if the special tool builder is not in physical possession of the special tool for which the lien is claimed.

(5) The lien remains valid until the first of the following events takes place:

(a) The special tool builder is paid the amount owed by the customer or end user.

(b) The customer receives a verified statement from the end user that the end user has paid the amount for which the lien is claimed.

(c) The financing statement is terminated.

(6) The priority of a lien created under this act on a special tool shall be determined by the time the lien attaches. The first lien to attach shall have priority over liens that attach subsequent to the first lien.

570.565 Enforcement of lien; notice.

Sec. 25. To enforce a lien that attaches under section 23, the special tool builder shall give notice of the lien in writing to the customer and the end user. The notice shall be given by hand delivery or certified mail, return receipt requested, to the last known address of the customer and to the last known address of the end user. The notice shall state that a lien is claimed, the amount that the special tool builder claims it is owed for fabrication, repair, or modification of the special tool, and a demand for payment.

570.567 Rights of possession.

Sec. 27. Subject to section 29, if the special tool builder has not been paid the amount claimed in the notice required under section 25 within 90 days after the notice required under section 25 has been received by the customer and the end user, the special tool builder has a right to possession of the special tool and may enforce the right to possession of the special tool by judgment, foreclosure, or any available judicial procedure. The special tool builder may do 1 or more of the following:

(a) Take possession of the special tool. The special tool builder may take possession without judicial process if this can be done without breach of the peace.

(b) Sell the special tool in a public auction.

570.569 Sale of special tool with lien asserted.

Sec. 29. (1) Before a special tool builder may sell a special tool for which a lien is claimed and for which the required notice has been sent under section 25, the special tool builder shall notify the customer, the end user, and all other persons that have a perfected security interest in the special tool under part 5 of article 9 of the uniform commercial code, 1962 PA 174, MCL 440.9501 to 440.9527, by certified mail, return receipt requested, of all of the following:

(a) The special tool builder's intention to sell the special tool 60 days after the receipt of the notice.

(b) A description of the special tool to be sold.

(c) The last known location of the special tool.

(d) The time and place of the sale.

(e) An itemized statement of the amount due.

(f) A statement that the special tool was accepted and the acceptance was not subsequently rejected.

(2) If there is no return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the special tool builder shall publish notice of the special tool builder's intention to sell the special tool in a newspaper of general circulation in the place where the special tool is last known to be located, in the place of the customer's last known address, and in the place of the end user's last known address. The published notice shall include a description of the special tool and the name of the customer and the end user.

(3) If a customer or end user against whom the lien is asserted disagrees that the special tool was accepted or that the acceptance was not subsequently rejected, the customer or end user shall notify the special tool builder in writing by certified mail, return receipt requested, that the special tool was not accepted or that the acceptance was subsequently rejected. A special tool builder who receives this notice shall not sell the special tool until the dispute is resolved.

570.571 Sale of special tool; use of excess proceeds; prohibition.

Sec. 31. (1) If the proceeds of the sale are greater than the amount of the lien, the proceeds shall first be paid to the special tool builder in the amount necessary to satisfy the lien. All proceeds in excess of the lien shall be paid to the customer.

(2) A sale shall not be made or possession shall not be obtained under section 27 if it would be in violation of any right of a customer or end user under federal patent, bankruptcy, or copyright law.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 482]

(SB 920)

AN ACT to authorize the state administrative board to convey certain properties in Branch county and in Wayne county; to prescribe conditions for the conveyances; to provide for disposition of the revenue from the conveyances; and to define the term "undeveloped property" in the Declaration of Restrictions applicable to the Westside Industrial Redevelopment Project U.R. Mich. 1-4 in which the Wayne county property is located; to authorize the state administrative board to transfer certain property between state departments; and to authorize the department of management and budget to dispose of certain buildings.

The People of the State of Michigan enact:

Conveyance of property to Coldwater township, Branch county; consideration; jurisdiction; description.

Sec. 1. The state administrative board, on behalf of the state, may convey to the township of Coldwater, in Branch county, for consideration of $1.00, certain state owned property that is adjacent to a parcel of property previously conveyed by the state to the township of Coldwater, and that is now under the jurisdiction of the department of corrections and located in Branch county, Michigan, and is more particularly described as:

A parcel of land in the SW 1/4 of section 10, T6S, R6W, Branch County, Michigan and more particularly described as commencing at the southwest corner of said section 10;

thence N00°46'35"W 851.64 feet, on the west line of said section 10 to the point of beginning of this description; thence N00°46'35"W 444.00 feet on said west line; thence N89°59'49"E 379.40 feet; thence S00°46'35"E 444.00 feet; thence S89°59'49"W 379.40 feet, to the point of beginning, subject to the right-of-way within US-27 which extends 33 feet from the section line, containing 3.87 acres, more or less.

Adjustment of description.

Sec. 2. The description of the parcel in section 1 is approximate and for purposes of the conveyance is subject to adjustment as the state administrative board or attorney general considers necessary by survey or other legal description.

Provisions.

Sec. 3. The conveyance authorized by section 1 shall provide for both of the following:

(a) That the property shall be used exclusively for public recreational purposes, and that upon termination of that use or use for any other purpose, the state may reenter and repossess the property, terminating the grantee's estate in the property.

(b) That if the grantee disputes the state's exercise of its right of reentry and fails to promptly deliver possession of the property to the state, the attorney general, on behalf of the state, may bring an action to quiet title to, and regain possession of, the property.

Exposed wellheads; responsibility for fencing or securing.

Sec. 4. The conveyance authorized by section 1 shall provide that Coldwater township is responsible for fencing or otherwise securing any exposed wellheads that exist on the property being conveyed.

Quitclaim deed; reservation of mineral rights.

Sec. 5. The conveyance authorized by section 1 shall be by quitclaim deed approved by the attorney general and shall reserve mineral rights to the state.

Disposition of revenue.

Sec. 6. The revenue received under section 1 shall be deposited in the state treasury and credited to the general fund.

Transfer of land in Lansing township, Ingham county, from department of management and budget to department of military and veterans affairs; description; effective upon resolution; approval by attorney general; disposal of surplus buildings; use of unexpended funds.

Sec. 7. (1) The state administrative board may transfer from the department of management and budget to the department of military and veterans affairs, without consideration, a parcel of land in the township of Lansing, Ingham county, Michigan, which is under the jurisdiction of the department of management and budget and is more specifically described as follows:

A parcel of land in the N 1/2 of section 5, T4N, R2W, Lansing Township, Ingham County, Michigan and more particularly described as commencing at the N 1/4 corner of said section 5; thence S00° 12'07"W 300.00 feet, on the N-S 1/4 line of said section 5 to the point of beginning of this description; thence S90°00'00"E 633.49 feet; thence S00°00'11"W 590.04 feet; thence S89°59'49"E 120.00 feet; thence S00°00'11"W 170.00 feet; thence S47°25'08"E 65.73 feet; thence S89°38'54"E 470.00 feet, to the west right of way line of Martin Luther

King JR. Boulevard; thence S00°28'14"W 115.00 feet, on said right of way to the south line of the N 1/2 of said section 5; thence N89°38'54"W 1274.14 feet, on said south line to the N-S 1/4 line of said section 5; thence S89°39'59"W 247.34 feet, on said south line to the northerly right of way of the CSX Railroad; thence N53°45'56"W 210.00 feet, on said railroad right of way; thence N00°17'04"W 791.90 feet; thence N90°00'00"E 423.88 feet, to the point of beginning, containing 24.25 acres.

(2) The transfer authorized by this section shall be effective when approved by a resolution of the state administrative board.

(3) All documents regarding the transfer of the property described in subsection (1) shall be approved by the attorney general.

(4) The department of management and budget may demolish, dismantle, or otherwise dispose of the following surplus buildings, each of which is located on the property described in subsection (1):

(a) Department of management and budget building "Federal Surplus Warehouse".

(b) Department of management and budget building "DMB Trades Building".

(c) Department of management and budget building "Storage Building".

(5) The department of management and budget may use unexpended funds appropriated in section 101 of 1997 PA 114 for demolition of the facilities listed in subsection (4).

Conveyance of property in city of Detroit, Wayne county; jurisdiction; fair market value; description; adjustment; consideration; appraisal; quitclaim deed; disposition of net revenue; "net revenue" defined; "undeveloped property" defined.

Sec. 8. (1) The state administrative board, on behalf of the state and subject to the terms stated in this section, may convey for not less than fair market value all or portions of certain state owned property now under the jurisdiction of the department of transportation and located in the city of Detroit, Wayne county, Michigan, and more particularly described as:

All of Lots 1 through 14, inclusive, of Block 33, except the Northeasterly part of Lot 1 taken for road purposes, and all that part of the Westerly 1/2 of vacated Fifth Street adjacent to said Lot 14 and to said part of Lot 1 lying northerly of the northwesterly line of Lafayette Boulevard, as recited in the J.C.C., Page 346, on March 22, 1960, and the vacated alley in said Block 33, of the Subdivision of that Part of the Labrosse (or Berthelet) Farm, and the Forsyth Farm South of Michigan Avenue, Map of the Western Addition to the City of Detroit, by John Mullett, Surveyor, July 3, 1835, City of Detroit, Wayne County, Michigan, as recorded in Liber 14 of Deeds, Page 136, Wayne County Records, and Lot 7, of Block 32, except the northeasterly part of Lot 7 taken for road purposes, and all that part of the Easterly 1/2 of vacated Fifth Street adjacent to said part of Lot 7 lying northerly of the northwesterly line of Lafayette Boulevard, as recited in the J.C.C., Page 346, on March 22, 1960, of the Plat of the Subdivision of Private Claim 247, City of Detroit, Wayne County, Michigan, as recorded in Liber 44 of Deeds, Page 1, Wayne County Records, said parcel of land being more particularly described as:

BEGINNING at the southeast corner of Howard Street and Sixth Street at the northwest corner of said Lot 7; thence N60°01'23"E 317.00 feet along the southeasterly line of Howard Street and northwesterly line of said Lots 1 through 7 to a point which is 17 feet easterly from the northwesterly corner of said Lot 1; thence along a line extended southeasterly and passing through a point on the easterly line of said Lot 1 which is 55 feet northerly of the southeasterly corner thereof and continuing to a point on the

centerline of said Fifth Street, said line bears S54°47'15"E 143.87 feet; thence southeasterly along a line that passes through a point on the southeasterly line of Lafayette Boulevard which is 4 feet northeasterly from the northwest corner of Lot 5, of William A. Moore's Subdivision of Block 24 of the Subdivision of the Jones Farm, as recorded in Liber 12 of Plats, Page 76, Wayne County Records, said line bears S50°40'19"E 158.49 feet to the northwesterly line of Lafayette Boulevard; thence S60°00'34"W 431.26 feet along said northwesterly line of Lafayette Boulevard to the southwest corner of said Lot 8 in said Block 33 to the northeasterly line of Sixth Street; thence N30°00'47"W 279.87 feet along said northeasterly line to the Point of Beginning, containing 2.310 acres and being subject to easements and restrictions of record.

Excepting any easements of record.

(2) The description of the property in subsection (1) is approximate and for purposes of the conveyance is subject to adjustment as the state administrative board or attorney general considers necessary by survey or other legal description.

(3) As consideration for the property described in subsection (1), the state shall receive property, cash, or any combination thereof which equals or exceeds the fair market value.

(4) The fair market value of the property described in subsection (1) shall be determined by an appraisal as prepared by the state tax commission or an independent fee appraiser.

(5) The conveyance authorized by this section shall be by quitclaim deed approved by the attorney general.

(6) The net revenue received under this section shall be deposited in the appropriate transportation fund. If property is received as all or part of the consideration for the property described in subsection (1), the property may be placed under the jurisdiction of the department of management and budget.

(7) For the purposes of this act, "net revenue" means the proceeds received from the sale of the property described in subsection (1), less reimbursement for any costs to the state associated with the sale of the property and the lawful reimbursement of any transportation funds.

(8) For the purpose of clarifying the process by which the Detroit city council may amend the declaration of restrictions applicable to the west side industrial redevelopment project U.R. Mich. 1-4, as recorded in liber 13969, pages 906 - 932, liber 14408, pages 591 - 594, and liber 15264, pages 389 - 395, Wayne county records, the term "undeveloped property", as used in section 2 thereof, shall include both of the following:

(a) Property upon which there are no buildings or similar structures above grade, regardless of whether they may have previously existed thereon.

(b) Property upon which all buildings and similar structures existing at the time the declaration of restrictions shall be amended by the city council must be demolished and reduced to grade as a condition of effectiveness of such amendment.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 483]

(HB 5279)

AN ACT to amend 1927 PA 175, entitled "An act to revise, consolidate, and codify the laws relating to criminal procedure and to define the jurisdiction, powers, and duties of courts, judges, and other officers of the court under the provisions of this act; to provide laws relative to the rights of persons accused of criminal offenses and ordinance violations; to provide for the arrest of persons charged with or suspected of criminal offenses and ordinance violations; to provide for bail of persons arrested for or accused of criminal offenses and ordinance violations; to provide for the examination of persons accused of criminal offenses; to regulate the procedure relative to grand juries, indictments, informations, and proceedings before trial; to provide for trials of persons complained of or indicted for criminal offenses and ordinance violations and to provide for the procedure in those trials; to provide for judgments and sentences of persons convicted of criminal offenses and ordinance violations; to establish a sentencing commission and to prescribe its powers and duties; to provide for procedure relating to new trials and appeals in criminal and ordinance violation cases; to provide a uniform system of probation throughout this state and the appointment of probation officers; to prescribe the powers, duties, and compensation of probation officers; to provide penalties for the violation of the duties of probation officers; to provide for procedure governing proceedings to prevent crime and proceedings for the discovery of crime; to provide for fees of officers, witnesses, and others in criminal and ordinance violation cases; to set forth miscellaneous provisions as to criminal procedure in certain cases; to provide penalties for the violation of certain provisions of this act; and to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending section 13 of chapter II, section 2a of chapter IV, section 9a of chapter X, and sections 1 and 3c of chapter XI (MCL 762.13, 764.2a, 770.9a, 771.1, and 771.3c), section 13 of chapter II as amended by 1994 PA 286, section 9a of chapter X as amended by 2001 PA 208, and sections 1 and 3c of chapter XI as amended by 1998 PA 520.

The People of the State of Michigan enact:

CHAPTER II

762.13 Assignment as youthful trainee; duties of court.

Sec. 13. (1) If an individual is assigned to the status of a youthful trainee and the underlying charge is an offense punishable by imprisonment for a term of more than 1 year, the court shall do 1 of the following:

(a) Commit the individual to the department of corrections for custodial supervision and training for not more than 3 years in an institutional facility designated by the department for that purpose.

(b) Place the individual on probation for not more than 3 years subject to probation conditions as provided in section 3 of chapter XI.

(c) Commit the individual to the county jail for not more than 1 year.

(2) If an individual is assigned to the status of youthful trainee and the underlying charge is for an offense punishable by imprisonment for 1 year or less, the court shall place the individual on probation for not more than 2 years, subject to probation conditions as provided in section 3 of chapter XI.

(3) An individual placed on probation pursuant to this section shall be under the supervision of a probation officer. Upon commitment to and receipt by the department of corrections, a youthful trainee shall be subject to the direction of the department of corrections.

(4) If an individual is committed to the county jail under subsection (1)(c) or as a probation condition, the court may authorize work release or release for educational purposes.

(5) The court shall include in each order of probation for an individual placed on probation under this section that the department of corrections shall collect a probation supervision fee of not more than $135.00 multiplied by the number of months of probation ordered, but not more than 36 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. In determining the amount of the fee, the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$ 1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of probation ordered but not more than 36 months, if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(6) If the individual is assigned to youthful trainee status for a listed offense enumerated in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722, the department of corrections, sheriff or his or her designee, or the individual's probation officer shall register the individual or accept the individual's registration as provided under that act.

CHAPTER IV

764.2a Peace officer; exercise of authority in other county, city, village, township, or university; violation involving water vessel.

Sec. 2a. (1) A peace officer of a county, city, village, township, or university of this state may exercise the authority and powers of a peace officer outside the geographical boundaries of the officer's county, city, village, township, or university under any of the following circumstances:

(a) If the officer is enforcing the laws of this state in conjunction with the Michigan state police.

(b) If the officer is enforcing the laws of this state in conjunction with a peace officer of any other county, city, village, township, or university in which the officer may be.

(c) If the officer has witnessed an individual violate any of the following within the geographical boundaries of the officer's county, city, village, township, or university and immediately pursues the individual outside of the geographical boundaries of the officer's county, city, village, township, or university:

(*i*) A state law or administrative rule.

(*ii*) A local ordinance.

(*iii*) A state law, administrative rule, or local ordinance, the violation of which is a civil infraction, municipal civil infraction, or state civil infraction.

(2) The officer pursuing an individual under subsection (1)(c) may stop and detain the person outside the geographical boundaries of the officer's county, city, village, township, or university for the purpose of enforcing that law, administrative rule, or ordinance or enforcing any other law, administrative rule, or ordinance before, during, or immediately after the detaining of the individual. If the violation or pursuit involves a vessel moving on the waters of this state, the officer pursuing the individual may direct the operator of the vessel to bring the vessel to a stop or maneuver it in a manner that permits the officer to come beside the vessel.

CHAPTER X

770.9a Detention and denial of bail where defendant convicted of assaultive crime; "assaultive crime" defined; expediting appeal or application for leave to appeal.

Sec. 9a. (1) A defendant convicted of an assaultive crime and awaiting sentence shall be detained and shall not be admitted to bail unless the trial court finds by clear and convincing evidence that the defendant is not likely to pose a danger to other persons.

(2) A defendant convicted of an assaultive crime and sentenced to a term of imprisonment who has filed an appeal or an application for leave to appeal shall be detained and shall not be admitted to bail unless the trial court or the court to which the appeal is taken finds by clear and convincing evidence that both of the following exist:

(a) The defendant is not likely to pose a danger to other persons.

(b) The appeal or application raises a substantial question of law or fact.

(3) As used in this section, "assaultive crime" means an offense against a person described in section 81c(3), 82, 83, 84, 86, 87, 88, 89, 90a, 90b(a) or (b), 91, 200 to 212a, 316, 317, 321, 349, 349a, 350, 397, 411h(2)(b) or (3), 411i, 520b, 520c, 520d, 520e, 520g, 529, 529a, 530, or 543a to 543z of the Michigan penal code, 1931 PA 328, MCL 750.81c(3), 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.90a, 750.90b, 750.91, 750.200 to 750.212a, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.411h, 750.411i, 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, 750.530, and 750.543a to 750.543z.

(4) The appeal or application for leave to appeal filed by a person denied bail under this section shall be expedited pursuant to rules adopted for that purpose by the supreme court.

CHAPTER XI

771.1 Requirements for probation; delayed sentence; fee; life probation; applicability of section to certain juveniles.

Sec. 1. (1) In all prosecutions for felonies or misdemeanors other than murder, treason, criminal sexual conduct in the first or third degree, armed robbery, and major controlled substance offenses not described in subsection (4), if the defendant has been found guilty

upon verdict or plea and the court determines that the defendant is not likely again to engage in an offensive or criminal course of conduct and that the public good does not require that the defendant suffer the penalty imposed by law, the court may place the defendant on probation under the charge and supervision of a probation officer.

(2) Except as provided in subsection (4), in an action in which the court may place the defendant on probation, the court may delay sentencing the defendant for not more than 1 year to give the defendant an opportunity to prove to the court his or her eligibility for probation or other leniency compatible with the ends of justice and the defendant's rehabilitation. When sentencing is delayed, the court shall enter an order stating the reason for the delay upon the court's records. The delay in passing sentence does not deprive the court of jurisdiction to sentence the defendant at any time during the period of delay.

(3) If a defendant is before the circuit court and the court delays imposing sentence under subsection (2), the court shall include in the delayed sentence order that the department of corrections shall collect a supervision fee of not more than $135.00 multiplied by the number of months of delay ordered, but not more than 12 months. The fee is payable when the delayed sentence order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that defendant. In determining the amount of the fee, the court shall consider the defendant's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0.00-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$ 1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of delay ordered but not more than 12 months, if the court determines that the defendant has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(4) The sentencing judge may place a defendant on life probation pursuant to subsection (1) if the defendant is convicted for a violation of section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, or conspiracy to commit either offense. Subsection (2) does not apply to this subsection.

(5) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

771.3c Probation supervision fee; enforcement of probation oversight fee; person subject to other obligations arising out of criminal proceeding; applicability of section to certain juveniles.

Sec. 3c. (1) The circuit court shall include in each order of probation for a defendant convicted of a crime that the department of corrections shall collect a probation supervision fee of not more than $135.00 multiplied by the number of months of probation ordered, but not more than 60 months. The fee is payable when the probation order is entered, but the fee may be paid in monthly installments if the court approves installment payments for that probationer. In determining the amount of the fee, the court shall consider the probationer's projected income and financial resources. The court shall use the following table of projected monthly income in determining the amount of the fee to be ordered:

Projected Monthly Income	Amount of Fee
$ 0-249.99	$ 0.00
$ 250.00-499.99	$10.00
$ 500.00-749.99	$25.00
$ 750.00-999.99	$40.00
$ 1,000.00 or more	5% of projected monthly income, but not more than $135.00

The court may order a higher amount than indicated by the table, up to the maximum of $135.00 multiplied by the number of months of probation ordered, but not more than 60 months, if the court determines that the probationer has sufficient assets or other financial resources to warrant the higher amount. If the court orders a higher amount, the amount and the reasons for ordering that amount shall be stated in the court order. The fee shall be collected as provided in section 25a of the corrections code of 1953, 1953 PA 232, MCL 791.225a. A person shall not be subject to more than 1 supervision fee at the same time. If a supervision fee is ordered for a person for any month or months during which that person already is subject to a supervision fee, the court shall waive the fee having the shorter remaining duration.

(2) If a person who is subject to a probation supervision fee is also subject to any combination of fines, costs, restitution orders, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations shall be as otherwise provided in section 22 of chapter XV.

(3) This section does not apply to a juvenile placed on probation and committed under section 1(3) or (4) of chapter IX to an institution or agency described in the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 484]

(HB 6062)

AN ACT to amend 1987 PA 230, entitled "An act to authorize certain local governmental units to incorporate municipal health facilities corporations and subsidiary municipal health facilities corporations for establishing, modifying, operating, and managing health services and acquiring, constructing, adding to, repairing, remodeling, renovating, equipping, and re-equipping hospitals and other health care facilities and related purposes; to provide for the application of this act to existing municipal hospitals and for the transfer of ownership of hospital funds and personal property; to validate and ratify the existence, organization, actions, proceedings, and board membership of existing organizations acting as county public hospitals; to provide for the appointment of trustees; to grant certain powers of a public body corporate to health facilities corporations and subsidiary health facilities corporations; to empower certain local governmental units to encumber property for the benefit of, transfer or make property available to, issue bonds to construct facilities to be used by, appropriate funds for, and levy a tax for, municipal health facilities corporations and subsidiary municipal health facilities corporations; to empower certain local governmental units to guarantee obligations of municipal health facilities corporations and subsidiary municipal health facilities corporations and to permit certain local governmental units to pledge their full faith and credit to pay such guaranties; to provide for transfer of ownership or operation of health care facilities and health services to nonprofit health care organizations; to authorize municipal health facilities corporations and subsidiary municipal health facilities corporations to borrow money and issue notes for the purposes of meeting expenses of operation and to issue corporation obligations for the purpose of acquisition, construction, repair, remodeling, equipping or re-equipping of health care facilities and for the refinancing, refunding, or refunding in advance of indebtedness of the municipal health facilities corporations or the subsidiary municipal health facilities corporations or of indebtedness of certain local governmental units undertaken on their behalf; to authorize municipal health facilities corporations and subsidiary municipal health facilities corporations to enter into mortgages, deeds of trust, and other agreements for security which may include provisions for the appointment of receivers; to exempt obligations and property of municipal health facilities corporations and subsidiary municipal health facilities corporations from taxation; and to provide other rights, powers, and duties of municipal health facilities corporations and subsidiary municipal health facilities corporations," by amending section 305 (MCL 331.1305), as amended by 1988 PA 502.

The People of the State of Michigan enact:

331.1305 Powers of local governmental unit generally.

Sec. 305. Subject to applicable licensing and other regulatory requirements, a local governmental unit may do any or all of the following:

(a) Acquire health care facilities by purchase, gift, devise, lease, sublease, installment purchase agreement, land contract, option, or other means; construct, add to, repair, remodel, renovate, equip, and re-equip health care facilities for use, in whole or in part, by a corporation or a subsidiary corporation; borrow money and issue bonds in accordance with 1923 PA 118, MCL 141.61 to 141.66; enter into contracts of lease under 1948 (1st Ex Sess) PA 31, MCL 123.951 to 123.965; or enter into obligations under other applicable laws to acquire health care facilities. However, whether or not otherwise permitted by law, a local governmental unit shall not borrow funds, lease property, or acquire property pursuant to a lease purchase agreement with a local hospital authority incorporated under the hospital finance authority act, 1969 PA 38, MCL 331.31 to 331.84, nor shall a local

governmental unit otherwise receive the proceeds of bonds issued by a local hospital authority, except as consideration for property transferred by the local governmental unit to a third party. Any bonding proposal requiring approval of the electors of a local governmental unit may be presented at the same election described in sections 201 and 202 or sections 251 and 252.

(b) Transfer or make available health care facilities and other real and personal property to a corporation or a subsidiary corporation by sale, lease, sublease, installment sale agreement, contract, or other means on terms, with or without monetary consideration, approved by the county board of commissioners, city council, or village council. A health care facility owned and operated by a corporation or a subsidiary corporation shall not be considered to be owned or operated by the local governmental unit.

(c) Grant mortgages, security interests, and other liens in, pledge or sell and lease back its interests in health care facilities and other real and personal property to secure bonds, notes, or other obligations of a corporation or subsidiary corporation, upon terms approved by the county board of commissioners, city council, or village council. The amount of the bonds, notes, or other obligations shall not be included in computing the net bonded indebtedness of the local governmental unit for the purposes of debt limitations imposed by any constitutional, statutory, or charter provision, unless the local governmental unit pledges full faith and credit to the payment of the bond, note, or other obligation.

(d) Guarantee any corporation obligation, bond, note, or other obligation of a corporation or a subsidiary corporation on terms approved by the county board of commissioners, city council, or village council, and pledge specified revenues or assets of the local governmental unit or the full faith and credit of the local governmental unit to the payment of the guaranty. The resolution of the county board of commissioners, city council, or village council approving any guaranty which pledges the full faith and credit of the local governmental unit shall contain a proviso that the resolution shall not become effective and binding upon the local governmental unit until it has been approved by a majority of the electors voting at a special or regular local governmental unit election. The election proceedings under this subdivision shall be conducted in accordance with the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992. The amount of any bonds, notes, or other obligations secured by a guaranty that pledges the full faith and credit of the local governmental unit shall be included in computing the net bonded indebtedness of the local governmental unit for the purposes of debt limitations imposed by any constitutional, statutory, or charter provision.

(e) Loan to a corporation or a subsidiary corporation money from the general fund of the local governmental unit or from funds not raised by taxation available to the local governmental unit for the acquisition of or improvements to health care facilities, operation of health services or for any other purpose of the corporation or subsidiary corporation, and enter into agreements with the borrowing corporation or subsidiary corporation for the repayment of those loans over a term not to exceed 30 years, with or without security.

(f) Appropriate money and transfer the money to 1 or more corporations or subsidiary corporations established by the local governmental unit for the acquisition of or improvements to health care facilities, operation of health services, or any other purpose of the corporations or subsidiary corporations. The total sums appropriated for those purposes each year from the general fund of the local governmental unit shall be in addition to any taxes and appropriations to satisfy local governmental unit indebtedness under bonds, notes, or guaranties described in subdivisions (a) and (d). Money may be appropriated from funds not raised by taxation and available to the local governmental unit for those purposes without limitation.

(g) Notwithstanding subdivision (f), a county with a county public hospital organized and operated under 1945 PA 109, MCL 331.201 to 331.213, or 1925 PA 177, MCL 332.151 to 332.164, on February 27, 1988 may assess taxes not to exceed in any 1 year 1 mill on each dollar of assessed valuation of the county for the purpose of acquisition, construction, and operation of any health care facilities without a vote of county electors, and may appropriate money from its general fund for the acquisition, construction, and operation of any health care facilities without limitation.

(h) Enter into agreements or arrangements for a corporation or a subsidiary corporation to provide health services to local governmental unit employees, dependents of local governmental unit employees, indigents, or others, providing for payment for health services in any of the ways described in section 303(g).

(i) Sell, contract, or make available to corporations or subsidiary corporations established by the local governmental unit, administrative, management, and other services necessary or convenient to fulfill the purposes of the corporation or subsidiary corporation, and purchase the services from a corporation or subsidiary corporation that may be required for any local governmental unit purpose.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 485]

(HB 5804)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 222 and 244 (MCL 257.222 and 257.244), section 222 as amended by 2000 PA 397 and section 244 as amended by 2000 PA 369, and by adding section 17c.

The People of the State of Michigan enact:

257.17c "Flood vehicle" defined.

Sec. 17c. "Flood vehicle" means a vehicle that was submerged in water to the point that water entered the passenger compartment or trunk over the sill of the trunk floor pan or doorsill or a vehicle acquired by an insurance company as part of the settlement of a water damage claim.

257.222 Registration certificate and certificate of title; issuance; rebuilt, salvage, or scrap certificate of title issued by another state; delivery; manufacture; contents; coat of arms; conduct constituting misdemeanor; penalties; certificate of title for certain vehicles to be different in color; contents of legend.

Sec. 222. (1) Except as otherwise provided in this act, the secretary of state shall issue a registration certificate and a certificate of title when registering a vehicle upon receipt of the required fees. The secretary of state shall issue a flood, rebuilt, salvage, or scrap certificate of title for a vehicle brought into this state from another state or jurisdiction that has a flood, rebuilt, salvage, or scrap certificate of title issued by that other state or jurisdiction.

(2) The secretary of state shall deliver the registration certificate to the owner. The certificate shall contain on its face the date issued, the name and address of the owner, the registration number assigned to the vehicle, and a description of the vehicle as determined by the secretary of state.

(3) The certificate of title shall be manufactured in a manner to prohibit as nearly as possible the ability to reproduce, alter, counterfeit, forge, or duplicate the certificate of title without ready detection. The certificate shall contain on its face the identical information required on the face of the registration certificate; if the vehicle is a motor vehicle, the number of miles, not including the tenths of a mile, registered on the vehicle's odometer at the time of transfer; whether the vehicle is to be used or has been used as a taxi, as a police vehicle, or by a political subdivision of this state, unless the vehicle is owned by a dealer and loaned or leased to a political subdivision of this state for use as a driver education vehicle; whether the vehicle is a salvage vehicle; if the vehicle has previously been issued a rebuilt certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; if the vehicle has been issued a scrap certificate of title from this state or a comparable certificate of title from any other state or jurisdiction; if the vehicle is a flood vehicle or has previously been issued a flood certificate of title from this state or any other state or jurisdiction; if the owner or co-owner or lessee or co-lessee of the vehicle is subject to registration denial under section 219(1)(d); a statement of the owner's title and of all security interests in the vehicle or in an accessory on the vehicle as set forth in the application; the date that the application was filed; and any other information that the secretary of state may require.

(4) The certificate of title shall contain a form for assignment of title or interest and warranty of title by the owner with space for the notation of a security interest in the vehicle and in an accessory on the vehicle, which at the time of a transfer shall be certified and signed, and space for a written odometer mileage statement that is required upon transfer pursuant to section 233a. The certificate of title may also contain other forms that the secretary of state considers necessary to facilitate the effective administration of this act. The certificate shall bear the coat of arms of this state.

(5) The secretary of state shall mail or deliver the certificate of title to the owner or other person the owner may direct in a separate instrument, in a form prescribed by the secretary of state.

(6) A person who intentionally reproduces, alters, counterfeits, forges, or duplicates a certificate of title or who uses a reproduced, altered, counterfeited, forged, or duplicated certificate of title shall be punished as follows:

(a) If the intent of reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for 1 or more years, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for a period equal to that which could be imposed for the commission of the offense the person had the

intent to aid or commit. The court may also assess a fine of not more than $10,000.00 against the person.

(b) If the intent of the reproduction, alteration, counterfeiting, forging, duplication, or use was to commit or aid in the commission of an offense punishable by imprisonment for not more than 1 year, the person committing the reproduction, alteration, counterfeiting, forging, duplication, or use is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $1,000.00, or both.

(7) The certificate of title for a police vehicle, a vehicle owned by a political subdivision of this state, a salvage vehicle, a rebuilt vehicle, a scrap vehicle, or a flood vehicle shall be different in color from the certificate of title for all other vehicles unless the vehicle is loaned or leased to a political subdivision of this state for use as a driver education vehicle.

(8) A scrap certificate of title shall contain a legend that the vehicle is not to be titled or registered and is to be used for parts or scrap metal only.

(9) A certificate of title shall not be issued for a vehicle which has had a salvage certificate of title unless the certificate of title contains a legend that discloses the vehicle's former condition to consumers and potential purchasers.

257.244 Operation of vehicle by manufacturer, subcomponent system producer, dealer, or transporter with special plate; unauthorized use of special plate; penalties; surety bond or insurance; number of plates; operation of vehicle with dealer plate by vendee or prospective purchaser.

Sec. 244. (1) A manufacturer owning any vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway primarily for the purposes of transporting or testing or in connection with a golf tournament or a public civic event, if the vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state.

(2) A producer of a vehicle subcomponent system essential to the operation of the vehicle or the safety of an occupant may operate or move a motor vehicle upon a street or highway solely to transport or test the subcomponent system if the motor vehicle displays, in the manner prescribed in section 225, 1 special plate approved by the secretary of state. To be eligible for the special plate, the subcomponent system producer must be either a recognized subcomponent system producer or must be a subcomponent system producer under contract with a vehicle manufacturer.

(3) A dealer owning any vehicle of a type otherwise required to be registered under this act may operate or move the vehicle upon a street or highway without registering the vehicle if the vehicle displays, in the manner prescribed in section 225, 1 special plate issued to the owner by the secretary of state. As used in this subsection, "dealer" includes any employee, servant, or agent of the dealer.

(4) A transporter may operate or move any vehicle of like type upon a street or highway solely to deliver the vehicle upon displaying a special plate issued to him or her as provided in this chapter.

(5) The plates described in this section shall not be used on service cars or wreckers which are being operated as an adjunct of a licensee's business. A manufacturer, transporter, or dealer, making or permitting any unauthorized use of a special plate under this chapter is considered to have forfeited its license under this chapter and the secretary of state, after notice and a hearing, may suspend or cancel the right to use the plates and cause the plates to be surrendered to and repossessed by the state.

(6) Transporters shall furnish a sufficient surety bond or policy of insurance as protection for public liability and property damage as may be required by the secretary of state.

(7) The secretary of state shall determine the number of plates a manufacturer, dealer, or transporter reasonably needs in his or her business.

(8) Upon the sale of a vehicle otherwise required to be registered under this act, the vendee shall be permitted to operate the vehicle upon a street or highway for not more than 72 hours after taking possession, but during that time the vehicle shall have the dealer plate attached as provided in this section. The application for registration shall be made in the name of the vendee before the vehicle is used. The dealer and the vendee shall be jointly responsible for the return of the dealer plate to the dealer within 72 hours, and the failure of the vendee to return or the vendor to use due diligence to procure the dealer plate shall constitute a misdemeanor, and in addition the license of the dealer may be revoked. The vendee, while using the dealer's plate, shall have in his or her possession proof that clearly indicates the date of sale of the motor vehicle.

(9) Vehicles owned by the dealer and bearing the dealer's plate may be driven upon a street or highway for demonstration purposes by any prospective buyer for a period of 72 hours.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 486]

(HB 5591)

AN ACT to amend 1967 PA 281, entitled "An act to meet deficiencies in state funds by providing for the imposition, levy, computation, collection, assessment, and enforcement by lien and otherwise of taxes on or measured by net income; to prescribe the manner and time of making reports and paying the taxes, and the functions of public officers and others as to the taxes; to permit the inspection of the records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits and refunds of the taxes; to prescribe penalties for the violation of this act; to provide an appropriation; and to repeal certain acts and parts of acts," by amending section 471 (MCL 206.471), as amended by 1996 PA 484.

The People of the State of Michigan enact:

206.471 Administration of tax by department; forms; rules; printing summary of state expenditures and revenues in instruction booklet; space on tax return for school district; information to be provided in instruction booklet about purchase of annual state park motor vehicle permit; listing of credit and deduction; posting of list on website.

Sec. 471. (1) The tax imposed by this act shall be administered by the department. The department shall prescribe forms for use by taxpayers and may promulgate rules for all of the following:

(a) The maintenance by taxpayers of records, books, and accounts.

(b) The computation of the tax.

(c) The manner and time of changing or electing accounting methods and of exercising the accounting method options contained in this act.

(d) The making of returns, the payment of tax due, and the ascertainment, assessment, and collection of the tax.

(2) The rules shall follow the rulings of the United States internal revenue service with respect to the federal income tax if those rulings are not inconsistent with this act, and the department may adopt as a part of the rules any portions of the internal revenue code or rulings, in whole or in part.

(3) A summary of state expenditures and revenues by major category, in dollar amounts and percentage of total, for the most recent state fiscal year that the information is available, shall be printed in the instruction booklet accompanying each state income tax return.

(4) Each state income tax return shall contain a space for the taxpayer to indicate the school district in which the taxpayer resides.

(5) The department may provide information in the instruction booklet about the purchase of an annual state park motor vehicle permit pursuant to part 741 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.74101 to 324.74125.

(6) In the instruction booklet that accompanies the annual return required under this act, the department shall provide a clear and concise listing of each credit and each deduction allowed under this act and a reference to a detailed explanation.

(7) The department shall post the list described in subsection (6) on the department's official website.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 487]

(HB 5928)

AN ACT to amend 2000 PA 92, entitled "An act to codify the licensure and regulation of certain persons engaged in processing, manufacturing, production, packing, preparing, repacking, canning, preserving, freezing, fabricating, storing, selling, serving, or offering for sale food or drink for human consumption; to prescribe powers and duties of the department of agriculture; to provide for delegation of certain powers and duties to certain local units of government; to provide exemptions; to regulate the labeling, manufacture, distribution, and sale of food for protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of foods in violation of this act; to provide standards for food products and food establishments; to provide for enforcement of the act; to provide penalties and remedies for violation of the act; to provide for fees; to provide for promulgation of rules; and to repeal acts and parts of acts," by amending sections 1109, 1119, 3119, 4111, 4117, 6101, 6149, and 7101 (MCL 289.1109, 289.1119, 289.3119, 289.4111, 289.4117, 289.6101, 289.6149, and 289.7101); and to repeal acts and parts of acts.

The People of the State of Michigan enact:

289.1109 Definitions; I to P.

Sec. 1109. As used in this act:

(a) "Imminent or substantial hazard" means a condition at a food establishment that the director determines requires immediate action to prevent endangering the health of people.

(b) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article and includes a requirement imposed under this act that any word, statement, or other information appearing on the display also appear on the outside container or wrapper of the retail package of the article or be easily legible through the outside container or wrapper.

(c) "Labeling" means all labels and other written, printed, or graphic matter upon an article, any of its containers or wrappers, or accompanying the article.

(d) "License limitation" means an action by which the director imposes restrictions or conditions, or both, on a license of a food establishment.

(e) "License holder" means the entity that is legally responsible for the operation of the food establishment including the owner, the owner's agent, or other person operating under apparent authority of the owner possessing a valid license to operate a food establishment.

(f) "Limited wholesale food processor" means a wholesale food processor that has $25,000.00 or less in annual gross wholesale sales made or business done in wholesale sales in the preceding licensing year, or $25,000.00 or less of the food is reasonably anticipated to be sold for the current licensing year. Only the food sales from the wholesale food processor operation are used in computing the annual gross sales under this subdivision.

(g) "Local health department" means that term as defined in section 1105 of the public health code, MCL 333.1105, and having those powers and duties as described in part 24 of the public health code, MCL 333.2401 to 333.2498.

(h) "Misbranded" means food to which any of the following apply:

(*i*) Its labeling is false or misleading in any particular.

(*ii*) It is offered for sale under the name of another food.

(*iii*) It is an imitation of another food unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated.

(*iv*) Its container is so made, formed, or filled as to be misleading.

(*v*) It is in package form, unless it bears a label containing both the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations as are permitted and exemptions as to small packages as are established by rules prescribed by the department.

(*vi*) Any word, statement, or other labeling required by this act is not prominently placed on the label or labeling conspicuously and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(*vii*) It purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by this act or under the federal act, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(*viii*) It purports to be or is represented to be either of the following:

(A) A food for which a standard of quality has been prescribed by this act or rules and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard.

(B) A food for which a standard or standards of fill of container have been prescribed by this act or rules and it falls below the standard of fill of container applicable, unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard.

(*ix*) It does not bear labeling clearly giving the common or usual name of the food, if one exists, and if fabricated from 2 or more ingredients, the common or usual name of each ingredient except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each and under other circumstances as established by rules regarding exemptions based upon practicality, potential deception, or unfair competition.

(*x*) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless the labeling states that fact and under other circumstances as established by rules regarding exemptions based upon practicality.

(*xi*) If a food intended for human consumption and offered for sale, its label and labeling do not bear the nutrition information required under section 403(q) of the federal act, 21 U.S.C. 343.

(*xii*) It is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded.

(*xiii*) It is a color additive whose packaging and labeling are not in conformity with packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.

(i) "Mobile food establishment" means a food establishment operating from a vehicle or watercraft that returns to a licensed commissary for servicing and maintenance at least once every 24 hours.

(j) "Mobile food establishment commissary" means an operation that is capable of servicing a mobile food establishment.

(k) "Person" means an individual, sole proprietorship, partnership, corporation, association, or other legal entity.

(*l*) "Pesticide chemical" means any substance that, alone, in chemical combination, or in formulation with 1 or more other substances, is a pesticide within the meaning of the federal insecticide, fungicide, and rodenticide act, chapter 125, 86 Stat. 973, 7 U.S.C. 136 to 136i, 136j to 136r, and 136s to 136y, and is used in the production, storage, or transportation of raw agricultural commodities.

(m) "Principal display panel" means that part of a label that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

(n) "Public health code" means 1978 PA 368, MCL 333.1101 to 333.25211.

289.1119 Rules; "act" and "establishment" defined.

Sec. 1119. (1) Except as rescinded, rules promulgated under public acts repealed by this act retain authorization under this act.

(2) Notwithstanding R 285.553.1 of the Michigan administrative code, the following terms have the following meanings for purposes of those rules:

(a) "Act" means the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(b) "Establishment" means any farm crop storage where food is handled, stored, or prepared and that is exempt from the requirements of section 7101.

289.3119 Additional license fees; collection; exemptions; adjustments; forwarding applications.

Sec. 3119. (1) Except as otherwise provided for in subsection (2), upon submission of an application, an applicant for a food service establishment license shall pay to the local health department having jurisdiction the required fees authorized by section 2444 of the public health code, MCL 333.2444, and an additional state license fee as follows:

(a) Vending machine location fee	$	2.50.
(b) Temporary food service establishment	$	2.50.
(c) Food service establishment	$	19.00.
(d) Mobile food establishment commissary	$	19.00.
(e) Special transitory food unit	$	30.00.

(2) When licensing a special transitory food unit, a local health department shall impose a fee of $117.00, which includes the additional state license fee imposed under subsection (1) unless exempted under subsection (4) or (5).

(3) The state license fee required under subsection (1) shall be collected by the local health department at the time the license application is submitted. The state license fee is due and payable by the local health department to the state within 60 days after the fee is collected.

(4) A school or other educational institution is exempt from paying the fees imposed under section 2444 of the public health code, MCL 333.2444, and the additional state license fee imposed under subsections (1) and (2) but is not exempt from the other provisions of this chapter.

(5) A charitable, religious, fraternal, service, civic, or other nonprofit organization that has tax-exempt status under section 501(c)(3) of the internal revenue code of 1986 is exempt from paying additional state license fees imposed under this section except for the vending machine location license fee. An organization seeking an exemption under this subsection shall furnish to the department or a local health department evidence of its tax-exempt status.

(6) A veteran who has a waiver of a license fee under the circumstances described in 1921 PA 359, MCL 35.441 to 35.443, is exempt from paying the fees prescribed in this section.

(7) The department shall adjust on an annual basis the fees prescribed by subsections (1) and (2), as adjusted after November 8, 2000, by an amount determined by the state treasurer to reflect the cumulative annual percentage change in the Detroit consumer price index but not to exceed 5%. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the bureau of labor statistics of the United States department of labor or its successor. The adjustment shall be rounded to the nearest dollar to set each year's fee under this subsection, but the absolute value shall be carried over and used to calculate the next annual adjustment.

(8) The local health department shall forward the license applications to the department with appropriate recommendations.

289.4111 License fees; food sanitation fees.

Sec. 4111. (1) The department shall impose the following license fees for each year or portion of a year:

(a) Retail food establishment: $67.00.

(b) Extended retail food establishment: $172.00.

(c) Wholesale food processor: $172.00.

(d) Limited wholesale food processor: $67.00.

(e) Mobile food establishment: $172.00.

(f) Temporary food establishment: $25.00.

(g) Special transitory food unit: $117.00.

(h) Mobile food establishment commissary: $172.00.

(i) Food warehouse: $67.00.

(j) Food service establishment: the amounts described in subsection (2).

(2) If a local health department no longer conducts a food service sanitation program, the department, in consultation with the commission of agriculture, shall set the food sanitation fees to be imposed for the department's services performed under subsection (1)(j). The fees imposed shall equal, as nearly as possible, 1/2 of the department's cost of providing the service. The conduct of the services resulting from a cessation of a food service sanitation program is considered an imminent or substantial hazard that allows the department to impose the service fees for up to 12 months after the date of cessation by the local health department. After the 12-month period, the department shall collect the fees only in the amount provided by amendment of this act or as authorized pursuant to appropriation.

289.4117 Disposition of money collected; consumer food safety education fund; industry food-safety education fund; creation; advisory committee; use and carrying forward of funds; "fee-exempt food establishment" defined.

Sec. 4117. (1) Except as provided in subsections (2) and (3), money collected under this chapter by the department shall be credited to the general fund of the state.

(2) A consumer food safety education fund is created as a revolving fund in the department of treasury. The consumer food safety education fund shall be administered by the department and funded by adding $3.00 to the fee for each food establishment license in all categories except vending machines and in cases of fee-exempt food establishments. The money in the fund shall be used to provide statewide training and education to consumers on food safety. An advisory committee consisting of at least 9 people representing consumers, industry, government, and academia shall advise the department on the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried forward into the next fiscal year.

(3) An industry food-safety education fund is created as a revolving fund in the department of treasury. The industry food-safety education fund shall be administered by the department and funded by adding $2.00 to the fee for each food service establishment license in all categories except vending machines and in cases of fee-exempt food establishments. The money in the fund shall be used to provide food safety training and education to food service establishment employees and agents of the director who enforce this act. The advisory committee created in subsection (2) shall advise the department on

the use of the funds. Money remaining in the fund at the end of the fiscal year shall be carried forward into the next fiscal year.

(4) As used in this section, "fee-exempt food establishment" means a food establishment exempt from all state and local food establishment license fees under either of the following circumstances:

(a) The education institution exemption under section 3119(4).

(b) A nonprofit organization that has an exemption under section 3119(5) combined with an exemption from the local health department sanitation service fee under section 2444 of the public health code, MCL 333.2444.

289.6101 Incorporation by reference; changes or updates by rule; annexes.

Sec. 6101. (1) Chapters 1 through 8 of the food code are incorporated by reference except as amended and modified as follows:

(a) Section 3-401.11(B) is modified so that the oven temperature for high humidity oven temperature reads "54°C (130°F) or higher".

(b) Where provisions of this act and rules promulgated under this act specify different requirements.

(c) Section 3-201.11(D) is modified so that "subparagraph 3-401.11(C)(1)" reads "subparagraph 3-401.11(D)(1)".

(d) Section 6-101.11 is modified to add after subparagraph (A)(3): "(B) In a temporary food establishment:".

(2) The director, by promulgation of a rule, may adopt any changes or updates to the food code.

(3) The annexes of the food code are considered persuasive authority for interpretation of the food code.

289.6149 Definitions; satisfaction of section 3-603.11 of food code; disclosures; reminders; text; exemptions.

Sec. 6149. (1) As used in this section:

(a) "Disclosure" means a written identification as to which items are, or can be, ordered raw or undercooked in their entirety, or items that contain an ingredient that is raw or undercooked.

(b) "Publicly available" means accessible to consumers, without their having to request it, before their placing their food orders or making their selections.

(c) "Reminder" means a written notice concerning the significant health risk of consuming raw or undercooked animal foods.

(d) "Selection information" means whatever consumers read to make their order selections, such as menu, table tent, placard, chalkboard, or other written means.

(2) To satisfy section 3-603.11 of the food code, the food establishment must meet the prescriptions of this section.

(3) The food establishment shall make a disclosure in the selection information that an item contains raw or undercooked food of animal origin by either or both of the following methods:

(a) Items are described to include the disclosure, such as "oysters on the half shell (raw oysters)", "raw-egg caesar salad", "eggs (may be requested undercooked)", and "hamburgers

(can be cooked to order)". The disclosure is not limited to those items and descriptions in this subdivision but includes items and descriptions of a similar nature.

(b) Items are asterisked with a footnote that states the items are served raw or undercooked, contain, or may contain raw or undercooked ingredients.

(4) A reminder of the significantly increased risk associated with eating foods subject to the disclosure in raw or undercooked form is satisfied by 1 of the following methods:

(a) Items requiring disclosure are asterisked on the selection information to a footnote that states 1 of the following disclosures:

(*i*) "Regarding the safety of these items, written information is available on request.".

(*ii*) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness.".

(*iii*) "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions.".

(b) Either of the reminders listed under subdivision (a)(*ii*) or (*iii*) is used and appears at least once in the selection information on the first interior page or the page where the first item requiring disclosure appears. When the option described in this subdivision is used, the word "NOTICE" shall appear before the reminder statement.

(c) A publicly available placard supplies the reminder of the significantly increased risk and meets the following requirements:

(*i*) It is titled "NOTICE" and contains 1 of the reminders listed in subdivision (a)(*ii*) or (*iii*).

(*ii*) It is posted near the customer entrances of the establishment and is clearly visible to the customers.

(*iii*) All letters in the title are capitalized in bold, arial font not less than 44-point font size and, if menu items are on the placard, then all letters are equally readable as the menu items on the placard.

(*iv*) All letters in the reminder are arial font not less than 36-point font size.

(*v*) The reminder is placed at approximately eye level and is easily readable from the point at which consumers would normally stand to read it.

(*vi*) The reminder maintains visibility in layout, format, and graphics in contrast to other posted materials.

(d) The United States food and drug administration model consumer advisory brochure or equivalent as determined by the director is publicly available.

(5) A reminder may be tailored to be product specific if a food establishment either has a limited menu or offers only specific animal-derived foods in raw or undercooked, ready-to-eat form.

(6) The language for the menu items shall match the language used for the disclosure and the reminder. The disclosure and reminder may also be in additional languages.

(7) The text for disclosures and reminders shall meet the following requirements:

(a) The text size for statements on handheld menus or table tents shall be visually equivalent to at least 11-point font size or may be visually equivalent to the font size of menu item descriptions.

(b) Text color provides a clear contrast to background.

(8) Table tents, placards, or chalkboards that are used exclusively to list food items that are offered as daily, weekly, or temporary specials are exempt from the requirements

of this section when those food items also appear in the primary selection information that contains the disclosures and reminders meeting the requirements of this section.

289.7101 Compliance with federal regulations; exception.

Sec. 7101. Subject to section 1119(2), a food processing plant shall comply with the regulations of the food and drug administration in 21 C.F.R. part 110, except that refrigerated potentially hazardous food shall be stored at 4.4 degrees centigrade (40 degrees Fahrenheit) or below.

Repeal of §§ 289.6119, 289.6121, 289.6123, and 289.6145.

Enacting section 1. Sections 6119, 6121, 6123, and 6145 of the food law of 2000, 2000 PA 92, MCL 289.6119, 289.6121, 289.6123, and 289.6145, are repealed.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 27, 2002.

[No. 488]

(HB 5889)

AN ACT to amend 1955 PA 10, entitled "An act to provide for the registration of historic sites," by amending the title and sections 1 and 2 (MCL 399.151 and 399.152) and by adding sections 3, 4, 5, 6, 7, 8, 9, and 10.

The People of the State of Michigan enact:

TITLE

An act to provide for the registration of historic sites; to authorize certain fees; to prescribe powers, duties, and responsibilities for certain state officers; and to prescribe penalties and civil remedies for violations of this act.

399.151 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan historical markers act".

399.152 Definitions.

Sec. 2. As used in this act:

(a) "Application" means applying for the placement of an official Michigan historical marker at the location of a historic resource or site and for the resource's or site's listing in the state register of historic sites.

(b) "Center" means the Michigan historical center established in the department.

(c) "Commission" means the Michigan historical commission created in section 1 of 1913 PA 271, MCL 399.1.

(d) "Department" means the department of history, arts, and libraries created in section 3 of the history, arts, and libraries act, 2001 PA 63, MCL 399.703.

(e) "Historic resource" means a publicly or privately owned building, structure, site, object, or open space of historic significance to Michigan.

(f) "Historic significance" means value in relation to historical, architectural, archaeological, engineering, or cultural disciplines.

(g) "Person" means an individual, partnership, corporation, association, or other private legal entity.

(h) "Work" means construction, addition, alteration, repair, moving, excavation, or demolition.

399.153 Historic preservation as public purpose; administration of Michigan historical marker program; goals.

Sec. 3. Historic preservation and related public education are declared to be public purposes. In fulfillment of these purposes, the department may administer a Michigan historical marker program with the following goals:

(a) Identify and locate historic sites and subjects having historic significance to this state.

(b) Educate the public about significant people, places, and things in Michigan history and thereby develop the public's knowledge of the importance of Michigan history.

(c) Encourage the public to preserve historic resources indicative of Michigan history and to develop a sense of identity as Michiganians.

(d) Enhance cultural tourism in this state by encouraging residents and visitors to investigate Michigan history and the state's historic sites.

(e) Unite people from various regions of this state through improved dissemination of information about historic resources and places.

399.154 Historic resource or site; listing; criteria.

Sec. 4. The department may list a historic resource or site in the state register of historic sites and commemorate the resource or site with the placement of an official Michigan historical marker if the historic resource or site meets written criteria adopted by the department upon recommendation of the commission.

399.155 Application; filing; form; attachments; fee; review; endorsement or denial of application.

Sec. 5. (1) An application may be filed by 1 of the following persons or agencies:

(a) A person owning or in possession of a historic resource or site or a person having written consent from the owner or person in possession of a historic resource or site.

(b) A department or agency of this state or of a political subdivision of the state owning, controlling, or in possession of a historic resource or site.

(2) A person or agency may submit application to the center only on a form prescribed by and obtained from the center. The form shall include all requested information and be accompanied by the following attachments:

(a) Current images, as prescribed by the center.

(b) Documentation from a recognized and authoritative source acceptable to the center, supporting the historic significance of the historic resource. This documentation shall demonstrate the historic significance of the historic resource.

(c) Any additional documents required by the center.

(3) An application and all attachments submitted to the center under subsection (2) become the property of the state.

(4) An applicant other than an agency shall pay the center an application fee of $250.00 at the time an application is submitted. The center may not process an application without this fee. The center shall deposit the fee in the historical marker fund created in section 9. The center shall refund the fee if the center decides the historic resource is not eligible for a historical marker.

(5) The center shall review each application for completeness and accuracy. The center's review may include verification of the accuracy of furnished information and the location of the historic resource or site. The center may require the applicant to furnish additional information considered necessary to complete the center's review of the application and attachments. Center representatives may visit the site if necessary.

(6) Submission of an application does not guarantee that a historic resource or site will receive an official Michigan historical marker. If the center concludes that the application meets the criteria for the placement of an official Michigan historical marker, the center shall endorse the application and prepare marker text for presentation to the commission. However, if the center concludes that the application fails to meet a criterion or another requirement for placement of a marker, the center shall notify the applicant of that decision in writing and shall specify the reason or reasons why the application is denied.

399.156 Official Michigan historical marker; words included; agreement.

Sec. 6. (1) Upon receipt of an application and proposed marker text from the center, the commission shall review, modify if necessary, and approve the text, and review and approve the location for each requested historical marker. The commission shall exercise its judgment and discretion in revising and approving proposed marker text and may advise the department on matters pertaining to applications and related decisions. The department shall issue an official site number for each historic resource or site designated for placement of an official Michigan historical marker.

(2) An official Michigan historical marker shall not include or mention the name of a living commissioner or any other living state official.

(3) An official Michigan historical marker shall include the words "Michigan historical center, department of history, arts, and libraries". The department may retrofit a marker that does not include these words.

(4) An official Michigan historical marker shall have a logo or seal with a wolverine emblem in its upper area or crest and include the words "registered Michigan historic site".

(5) The department may enter into a written agreement with another state, local, or federal agency regarding the placement of an official Michigan historical marker on property under the jurisdiction of the agency. The agreement may address security, payment for the marker, and other appropriate matters.

399.157 Official Michigan historical marker; property; control; ownership; transfer without permission prohibited; stolen or damaged marker; recovery.

Sec. 7. (1) An official Michigan historical marker approved by the department and the commission is the property of the state of Michigan and is subject to the exclusive control of the department, whether erected on public or private property. In addition to other

text on the marker, each marker shall include the conspicuous statement "property of the state of Michigan".

(2) The department shall not abandon an official Michigan historical marker. In all legal proceedings, in this state or elsewhere, there shall be an irrebuttable presumption against abandonment of the state of Michigan's ownership of an official Michigan historical marker.

(3) A person or agency in possession of a historic resource or site where an official Michigan historical marker is displayed shall not attempt to convey, sell, or otherwise transfer the marker. A conveyance, sale, or transfer is void unless made pursuant to written permission from the department.

(4) Upon discovering that an official Michigan historical marker may have been stolen or otherwise improperly or unlawfully removed from the historic resource or site where it was placed, the department, with advice and assistance from the attorney general, may commence an action, in this state or elsewhere, to recover the marker.

(5) Upon discovering that an official Michigan historical marker has been marred, vandalized, or otherwise damaged, the department, with advice and assistance from the attorney general, may commence an action, in this state or elsewhere, to recover the actual replacement cost of the marker, plus taxable costs, reasonable attorney fees, and interest calculated under section 6013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013. Revenue received under this subsection shall be deposited in the historical marker fund created in section 9.

399.158 Official Michigan historical marker; certain uses prohibited; violations as misdemeanor; penalty; grace period for return of marker; exception; deposit of amounts received under liability provisions.

Sec. 8. (1) A person or agency shall not exhibit, display, or use an official Michigan historical marker's distinctive design, configuration, pattern, or color combination, including a facsimile of an official Michigan historical marker, for any purpose without the department's written permission. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $1,000.00, or both.

(2) A person or agency shall not use for advertising, retail sales, or any other commercial purpose without the department's written permission any portion of the seal, emblem, and logo that appear in the crest of an official Michigan historical marker. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $5,000.00, or both.

(3) A person or agency shall not exhibit, display, or use a marker's seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, to represent his or her property as a registered Michigan historic site. A person or agency shall not exhibit, display, or use the seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, in a manner designed to lead another person to believe that the person's property is an official state historic site. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than $2,000.00 or more than $10,000.00, or both. If a person allegedly in violation of this subsection receives written notice from the department that the person is in apparent violation of the subsection and the person within 60 days of mailing of the notice ceases the violation by removing or no

longer using the seal, pattern, design, or color combination, or facsimile, prosecution under this subsection is barred.

(4) A person or agency shall not damage, destroy, deface, remove, tamper with, alter, or possess an official Michigan historical marker displayed at a historic resource or site without the department's written permission. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than $500.00 or more than $5,000.00, or both. A person who pleads guilty or nolo contendere or is determined guilty under this subsection is liable to this state in an amount double the cost of repair, replacement, and restoration of the official state historic site and official Michigan historical marker.

(5) A person, including a salvage company, commercial business, or a collector, shall not knowingly accept in trade or possess an official Michigan historical marker. A person that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than $1,000.00 or more than $10,000.00, or both. A person that pleads guilty or nolo contendere or is determined guilty under this subsection is liable to this state in an amount 3 times the cost of the repair, restoration, or replacement of the official Michigan historical marker.

(6) Within the first 90 days after the effective date of the amendatory act that added this subsection, a person possessing an official Michigan historical marker may return the marker to the department or to the sheriff of the person's county of residence without penalty for larceny or violating this act. However, this immunity shall not apply to a person that removed the marker if the removal of the marker resulted in death or personal injury. A sheriff shall hold a returned marker and shall notify the department that a marker has been returned. The department shall determine the disposition of the returned marker.

(7) The amounts received under the liability provisions of subsections (4) and (5) shall be deposited in the historical marker fund created in section 9.

399.159 Administration of program; gifts, grants, bequests, and appropriations; creation of historical marker fund; copyright and trademark provisions.

Sec. 9. (1) The department may accept gifts, grants, bequests, and appropriations for the purpose of administering the Michigan historical marker program, including, but not limited to, the manufacture and placement of an official Michigan historical marker, repair and maintenance of a marker, program administration, application reviews, marker restoration, marker recovery, and enforcement of this act.

(2) The amounts received under subsection (1) shall be credited to a fund, which is created and shall be known as the historical marker fund. The state treasurer shall direct the investment of the historical marker fund and shall credit to the fund all interest and earnings earned from fund investments. Money in the historical marker fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Notwithstanding any balance in the historical marker fund, nothing in this subsection shall obligate the department to pay for the maintenance, repair, or replacement of an official Michigan historical marker.

(3) The department may copyright the text on an official Michigan historical marker and may register as a trademark or service mark the logo, seal, and emblem associated with official Michigan historical markers. The department may license or sell rights to publish or otherwise use copyrighted marker text and to use the registered logo, seal, or emblem and shall deposit amounts received from sales and licensing in the historical marker fund created in subsection (2).

399.160 Moving or altering marker; withdrawal of marker designation.

Sec. 10. (1) An official Michigan historical marker placed to recognize a particular historic resource may be moved to and placed at another nearby site if the commission has been asked to give, and has given, written permission for the move.

(2) When making alterations to the exterior of a historic resource which has been commemorated by an official Michigan historical marker, the owner or other person in possession of the historic resource shall follow the United States secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67, when developing plans for and performing work on this historic resource. The owner or other person in possession of the historic resource may ask the center to review work plans prior to commencement of work.

(3) The center may withdraw a marker designation and may request the return of or may repossess an official Michigan historical marker from a historic resource or site if the center determines that the historic resource or site has lost its historic significance or integrity.

(4) If the center withdraws a marker designation, the person or agency in possession of the historic resource or site shall immediately return the marker to the center.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 28, 2002.

[No. 489]

(HB 5807)

AN ACT to amend 1990 PA 345, entitled "An act to create a state survey and remonumentation commission and to prescribe its powers and duties; to provide for the appointment of an executive director; to provide for a contract for the services of a state geodetic advisor; to create the state survey and remonumentation fund and to provide for its use; to coordinate and implement the monumentation and remonumentation of property controlling corners in this state and coordinate the establishment of geographic information systems; and to provide for certain powers and duties of certain state and local officers and agencies," by amending sections 8 and 12 (MCL 54.268 and 54.272), as amended by 1998 PA 5.

The People of the State of Michigan enact:

54.268 County monumentation and remonumentation plans.

Sec. 8. (1) Each county shall establish a county monumentation and remonumentation plan. Not later than 1 year after January 1, 1991, the commission shall create and distribute a model county plan that may be adopted by a county with any changes appropriate for that county. Not later than January 1, 1994, each county shall have submitted a county plan that is approved by the commission.

(2) A county plan shall provide for all of the following:

(a) The monumentation or remonumentation of the entire county, within 20 years, under the guidelines of the manual of instructions for the survey of the public lands of the

United States, 1973, prepared by the bureau of land management of the department of interior, technical bulletin 6, or subsequent editions.

(b) The provision of copies of all survey monumentation information produced by the county plan to the county surveyor and the commission.

(c) The filing with the county surveyor and the commission of copies of all monumentation or remonumentation documents required to be recorded with the register of deeds under the corner recordation act, 1970 PA 74, MCL 54.201 to 54.210d, or recorded with the register of deeds under 1970 PA 132, MCL 54.211 to 54.213.

(d) A perpetual monument maintenance plan that provides for all corners to be checked, and if necessary remonumented, at least once every 20 years.

(e) Any other provisions reasonably required by the commission for purposes of this act.

(3) Two or more contiguous counties may submit a multicounty plan, which shall meet the same requirements within each member county as are established for a county plan under this act.

(4) If a county fails to establish and submit a plan that is approved by the commission within the time required under subsection (1), the commission shall initiate and contract for the implementation of a county plan in that county pursuant to section 10.

(5) Upon the establishment and approval by the commission of a county plan, a county may expend or borrow funds to expedite the completion of its plan. If a county or 2 or more counties elect to expend or borrow funds to expedite their county plan, the commission shall enter into a contract to provide that the costs to expedite that plan including the payment of the principal of and interest on the bonds issued under subsection (7) are reimbursed or paid from the fund as provided in section 12(2) and (4).

(6) A county or 2 or more counties that expended or borrowed money to expedite their county plan after January 1, 1991 may recapture costs expended or borrowed and used to expedite that plan, which shall be paid out of the fund as provided in section 12(2) and (4). The commission shall pay those costs to the county over a period of not less than 10 years.

(7) Upon the establishment and approval by the commission of a county plan, a county or 2 or more counties seeking to expedite their county plan may by resolution of the county board of commissioners, and without the vote of its electors, issue bonds payable primarily from the money received or to be received under the contract provided for in subsection (5). These bonds may be secured by a limited tax full faith and credit pledge of the county or counties. The bonds shall be payable in annual installments, and unless otherwise determined by the commission, the annual installments are not to exceed the length of the contract that the county or counties entered into with the commission under subsection (5). The issuance of bonds under this section shall be subject to the provisions of the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

54.272 State survey and remonumentation fund; use of monies; provisions applicable to deposited funds; payment to county or counties.

Sec. 12. (1) Money in the fund shall be used by the commission for the following purposes:

(a) Annual grants to the various counties to implement their county plans, excluding the perpetual monument maintenance plan described in section 8(2)(d).

(b) Annual grants to 2 or more counties to implement their multicounty plan, excluding the perpetual monument maintenance plan described in section 8(2)(d).

(c) The implementation of county plans that are initiated and contracted for by the commission pursuant to section 8(4).

(d) An annual grant to each county that has a county plan or to 2 or more counties that have a multicounty plan to implement the perpetual monument maintenance plan described in section 8(2)(d). The commission shall make not less than 5% of the total amount of the fund available for grants under this subdivision.

(e) The payment of contracts that are entered into by the commission under section 10.

(f) Other activities necessary, incidental, or appropriate to implement this act.

(2) In addition to the purposes described in subsection (1), money in the fund shall be used to pay the costs of expediting a plan or to reimburse the cost described in section 8(6) and (7), for a county or 2 or more counties that have elected to expend or borrow funds to expedite the implementation of the county's or counties' plan.

(3) Of the money collected and remitted to the state treasurer for deposit in the fund pursuant to section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, both of the following shall apply:

(a) An annual grant to a county pursuant to subsection (1)(a) or to 2 or more counties pursuant to subsection (1)(b) shall be in an amount that is not less than 40% of the amount of money collected in that county or those counties, as applicable, under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the calendar year immediately preceding the year in which the grant is made.

(b) If the commission initiates and contracts for the implementation of a county plan for a county pursuant to section 8(4), the commission shall annually spend an amount that is not less than 40% of the amount of money collected in that county under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the calendar year immediately preceding the year in which the expenditure is made, to implement that county plan.

(4) If the commission contracts with a county or 2 or more counties that elect to expend or borrow funds to expedite the implementation of the county's or counties' plan under section 6(2), the commission shall annually pay to that county or counties in lieu of any grant or payments under subsection (3) an amount that is not less than 40% of the amount of money collected in that county or counties under section 2567a of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567a, during the calendar year and will be paid in annual installments until the contract is paid in full.

This act is ordered to take immediate effect.
Approved June 27, 2002.
Filed with Secretary of State June 28, 2002.

[No. 490]

(HB 5362)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor

vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 803 (MCL 257.803).

The People of the State of Michigan enact:

257.803 Special plates for manufacturer, transporter, or dealer; fees.

Sec. 803. The secretary of state shall charge a $10.00 fee for each special plate issued under section 244. The secretary of state shall determine the number of special plates reasonably needed by a manufacturer, transporter, or dealer.

Effective date.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 491]

(HB 5360)

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending section 251 (MCL 257.251), as amended by 2000 PA 397.

The People of the State of Michigan enact:

257.251 Dealer records; form; contents; delivery of written statement to buyer; conditions to valid sale; maintenance and inspection of dealer records and inventory; inspections; summary suspension of license; order; hearing; rules.

Sec. 251. (1) Each new vehicle dealer, used vehicle dealer, and broker shall maintain a record in a manner prescribed by the secretary of state of each vehicle of a type subject to titling under this act that is bought, sold, or exchanged by the dealer or received or accepted by the dealer for sale or exchange.

(2) Each record shall contain the date of the purchase, sale, or exchange or receipt for the purpose of sale or exchange, a description of the vehicle, the name and address of the seller, the purchaser, and the alleged owner or other persons from whom the vehicle was purchased or received, or to whom it was sold or delivered. The record shall contain a copy of any odometer mileage statement received by the dealer when the dealer purchased or acquired a vehicle and a copy of the odometer mileage statement furnished by the dealer when the dealer sold or exchanged the vehicle as prescribed in section 233a. If the vehicle is purchased, sold, leased, or exchanged through a broker, the record shall include the broker's name and dealer license number and the amount of the broker's fee, commission, compensation, or other valuable consideration paid by the purchaser or lessee or paid by the dealer, or both. The records of all vehicles purchased, sold, leased, or exchanged through a broker maintained by the secretary of state shall be in an electronic format determined by the secretary of state. A dealer shall retain for not less than 5 years each odometer mileage statement the dealer receives and each odometer mileage statement furnished by the dealer upon the sale or exchange of a vehicle. The description of the vehicle, in the case of a motor vehicle, shall also include the vehicle identification number and other numbers or identification marks as may be on the vehicle, and shall also include a statement that a number has been obliterated, defaced, or changed, if that is the fact. For a trailer or semitrailer, the record shall include the vehicle identification number and other numbers or identification marks as may be on the trailer or semitrailer.

(3) Not more than 20 days after the delivery of the vehicle, the seller shall deliver to the buyer in person or by mail to the buyer's last known address a duplicate of a written statement, on a form prescribed by the secretary of state in conjunction with the department of treasury, describing clearly the name and address of the seller, the name and address of the buyer, the vehicle sold to the buyer, the cash sale price of the vehicle, the cash paid down by the buyer, the amount credited the buyer for a trade-in, a description of the trade-in, the amount charged for vehicle insurance, stating the types of insurance covered by the insurance policy, the amount charged for a temporary registration plate, the amount of any other charge and specifying its purpose, the net balance due from the buyer, and a summary of insurance coverage to be affected. If the vehicle sold is a new motor home, the written statement shall contain a description, including the year of manufacture, of every major component part of the vehicle that has its own manufacturer's certificate of origin. The written statement shall disclose if the vehicle sold is a vehicle that the seller had loaned or leased to a political subdivision of this state for use as a driver education vehicle. The written statement shall be dated, but not later than the actual date of delivery of the vehicle to the buyer. The original and all copies of the prescribed form shall contain identical information. The statement shall be furnished by the seller, shall be signed by the seller or the seller's agent and by the buyer, and shall be filed with the application for new title or registration. Failure of the seller to deliver this

written statement to the buyer does not invalidate the sale between the seller and the buyer.

(4) A retail vehicle sale is void unless both of the following conditions are met:

(a) The sale is evidenced by a written memorandum that contains the agreement of the parties and is signed by the buyer and the seller or the seller's agent.

(b) The agreement contains a place for acknowledgment by the buyer of the receipt of a copy of the agreement or actual delivery of the vehicle is made to the buyer.

(5) Each dealer record and inventory, including the record and inventory of a vehicle scrap metal processor not required to obtain a dealer license, shall be open to inspection by a police officer or an authorized officer or investigator of the secretary of state during reasonable or established business hours.

(6) A dealer licensed as a distressed vehicle transporter shall maintain records in a form as prescribed by the secretary of state. The records shall identify each distressed vehicle that is bought, acquired, and sold by the dealer. The record shall identify the person from whom a distressed vehicle was bought or acquired and the dealer to whom the vehicle was sold. The record shall indicate whether a certificate of title or salvage certificate of title was obtained by the dealer for each vehicle.

(7) A dealer licensed under this act shall maintain records for a period of 5 years. The records shall be made available for inspection by the secretary of state or other law enforcement officials. To determine or enforce compliance with this chapter or other applicable law, the secretary of state or any law enforcement official may inspect a dealer whenever he or she determines it is necessary. The secretary of state may issue an order summarily suspending the license of a dealer pursuant to section 92 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.292, based on an affidavit by a person familiar with the facts set forth in the affidavit that the dealer has failed to maintain the records required by this act or failed to provide the records for inspection as requested by the secretary of state, or has otherwise hindered, obstructed, or prevented the inspection of records authorized under this section. The dealer to whom the order is directed shall comply immediately, but on application to the department shall be afforded a hearing within 30 days pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. On the basis of the hearing, the summary order shall be continued, modified, or held in abeyance not later than 30 days after the hearing.

(8) A dealer licensed as a vehicle salvage pool operator or broker shall maintain records in a form as prescribed by the secretary of state. The records shall contain a description of each vehicle or salvageable part stored by the dealer, the name and address of the insurance company or person storing the vehicle or salvageable part, the period of time the vehicle or salvageable part was stored, and the person acquiring the vehicle or salvageable part. In the case of a late model vehicle, a record of the purchase or sale of a major component part of the vehicle shall be maintained identifying the part purchased or sold, the name and address of the seller or purchaser, the date of the purchase or sale, and the identification number assigned to the part by the dealer. The record of the purchase or sale of a part shall be maintained in or attached to the dealer's police book or hard copy of computerized data entries and reference codes and shall be accessible at the dealer's location. In addition, a dealer licensed as a broker shall maintain a record of the odometer mileage reading of each vehicle sold pursuant to an agreement between the broker and the buyer or the broker and the seller. The record of odometer mileage shall be maintained for 5 years and shall contain all of the information required by section 233a.

(9) A dealer licensed as a used vehicle parts dealer or an automotive recycler shall maintain records in a form prescribed by the secretary of state. The records shall contain

the date of purchase or acquisition of the vehicle, a description of the vehicle including the color, and the name and address of the person from whom the vehicle was acquired. If the vehicle is sold, the record shall contain the date of sale and the name and address of the purchaser. The record shall indicate if the certificate of title or salvage or scrap certificate of title was obtained by the dealer. In the case of a late model vehicle, a record of the purchase or sale of a major component of the vehicle shall be maintained identifying the part purchased or sold, the name and address of the seller or purchaser, the date of the purchase or sale, and the identification number assigned to the part by the dealer, except that a bumper remanufacturer is not required to maintain a record of the purchase of a bumper. However, a bumper remanufacturer shall assign and attach an identification number to a remanufactured bumper and maintain a record of the sale of the bumper. The record of the purchase or sale of a part shall be maintained in or attached to the dealer's police book or hard copy of computerized data entries and reference codes and shall be accessible at the dealer's location.

(10) A dealer licensed as a vehicle scrap metal processor shall maintain records as prescribed by the secretary of state. As provided in section 217c, the records shall contain for a vehicle purchased from a dealer a copy of the scrap vehicle inventory, including the name and address of the dealer, a description of the vehicle acquired, and the date of acquisition. If a vehicle is purchased or acquired from a person other than a dealer, the record shall contain the date of acquisition, a description of the vehicle, including the color, the name and address of the person from whom the vehicle was acquired, and whether a certificate of title or salvage or scrap certificate of title was obtained by the dealer.

(11) A dealer licensed as a foreign salvage vehicle dealer shall maintain records in a form prescribed by the secretary of state. The records shall contain the date of purchase or acquisition of each distressed vehicle, a description of the vehicle including the color, and the name and address of the person from whom the vehicle was acquired. If the vehicle is sold, the record shall contain the date of sale and the name and address of the purchaser. The record shall indicate if the certificate of title or salvage or scrap certificate of title was obtained by the dealer. In the case of a late model vehicle, a record of the purchase or sale of each salvageable part purchased or acquired in this state shall be maintained and the record shall contain the date of purchase or acquisition of the part, a description of the part, the identification number assigned to the part, and the name and address of the person to or from whom the part was purchased, acquired, or sold. The record of the sale, purchase, or acquisition of a part shall be maintained in the dealer's police book. The police book shall only contain vehicles and salvageable parts purchased in this state or used in the repair of a vehicle purchased in this state. The police book and the records of vehicle part sales, purchases, or acquisitions shall be made available at a location within the state for inspection by the secretary of state within 48 hours after a request by the secretary of state.

(12) The secretary of state shall make periodic unannounced inspections of the records, facilities, and inventories of automotive recyclers and used or secondhand vehicle parts dealers.

(13) The secretary of state may promulgate rules to implement this section pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

This act is ordered to take immediate effect.
Approved July 2, 2002.
Filed with Secretary of State July 3, 2002.

[No. 492]

(SB 991)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 2103, 2111, 2117, 2118, 2121, 2930, and 2930a (MCL 500.2103, 500.2111, 500.2117, 500.2118, 500.2121, 500.2930, and 500.2930a), section 2103 as amended by 2001 PA 147, section 2111 as amended by 1996 PA 98, section 2117 as amended by 2001 PA 25, section 2118 as amended by 1988 PA 43, section 2121 as amended by 1998 PA 26, and section 2930a as amended by 1980 PA 461.

The People of the State of Michigan enact:

500.2103 Definitions; E to I.

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

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

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

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

(c) A person who has been convicted within the immediately preceding 5-year period of fraud or intent to defraud involving an insurance claim or an application for insurance; or an individual who has been successfully denied, within the immediately preceding 5-year period, payment by an insurer of a claim in excess of $1,000.00 under an automobile insurance policy, if there is evidence of fraud or intent to defraud involving an insurance claim or application.

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

(*i*) Section 324 or 325 of the Michigan penal code, 1931 PA 328, MCL 750.324 and 750.325; section 1 of former 1931 PA 214 or section 626c of the Michigan vehicle code, 1949 PA 300, MCL 257.626c; or under any other law of this state the violation of which constitutes a felony resulting from the operation of a motor vehicle.

(*ii*) Section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(*iii*) Section 617, 617a, 618, or 619 of the Michigan vehicle code, 1949 PA 300, MCL 257.617, 257.617a, 257.618, and 257.619.

(*iv*) Section 626 of the Michigan vehicle code, 1949 PA 300, MCL 257.626; or for a similar violation under the laws of any other state or a municipality within or without this state.

(e) A person whose vehicle insured or to be insured under the policy fails to meet the motor vehicle safety requirements of sections 683 to 711 of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.711.

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

(g) A person who fails to obtain or maintain membership in a club, group, or organization, if membership is a uniform requirement of the insurer as a condition of providing insurance, and if the dues, charges, or other conditions for membership are applied uniformly throughout this state, are not expressed as a percentage of premium, and do not vary with respect to the rating classification of the member except for the purpose of offering a membership fee to family units. Membership fees may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees.

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

(2) "Eligible person", for home insurance, means a person who is the owner-occupant or tenant of a dwelling of any of the following types: a house, a condominium unit, a cooperative unit, a room, or an apartment; or a person who is the owner-occupant of a

multiple unit dwelling of not more than 4 residential units. Eligible person does not include any of the following:

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

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

(*ii*) A crime under sections 72 to 77, 112, 211a, 377a, 377b, or 380 of the Michigan penal code, 1931 PA 328, MCL 750.72 to 750.77, 750.112, 750.211a, 750.377a, 750.377b, and 750.380.

(*iii*) A crime under section 92, 151, 157b, or 218 of the Michigan penal code, 1931 PA 328, MCL 750.92, 750.151, 750.157b, and 750.218, based upon a crime described in subparagraph (*ii*) committed by or on behalf of the person.

(b) A person who has been successfully denied, within the immediately preceding 5-year period, payment by an insurer of a claim under a home insurance policy based on evidence of arson, conspiracy to commit arson, fraud, or conspiracy to commit fraud, committed by or on behalf of the person.

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

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

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

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

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

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

(*i*) For a repair cost policy, at least $15,000.00.

(*ii*) For a replacement policy, at least $35,000.00 or another amount which the commissioner may establish biennially on and after January 1, 1983, pursuant to rules promulgated by the commissioner under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, based upon changes in applicable construction cost indices.

(i) A person who insures or seeks to insure a dwelling that has physical conditions that clearly present an extreme likelihood of a significant loss under a home insurance policy.

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

(k) A person who has failed to procure or maintain membership in a club, group, or organization, if membership is a uniform requirement of the insurer, and if the dues, charges, or other conditions for membership are applied uniformly throughout this state, are not expressed as a percentage of premium, and do not vary with respect to the rating classification of the member except for the purpose of offering a membership fee to family units. Membership fees may vary in accordance with the amount or type of coverage if the purchase of additional coverage, either as to type or amount, is not a condition for reduction of dues or fees.

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

(a) Fire insurance for an insured's dwelling of a type described in subsection (2).

(b) If contained in or indorsed to a fire insurance policy providing insurance for the insured's residence, other insurance intended primarily to insure nonbusiness property, obligations, and liabilities.

(c) Other insurance coverages for an insured's residence as prescribed by rule promulgated by the commissioner pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A rule proposed for promulgation by the commissioner pursuant to this section shall be transmitted in advance to each member of the standing committee in the house and in the senate that has jurisdiction over insurance.

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

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

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

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

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

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

(*v*) For all other moving violations pertaining to the operation of motor vehicles, 2 points.

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

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

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

(5) "Insurer" means an insurer authorized to transact in this state the kind or combination of kinds of insurance constituting automobile insurance or home insurance, as defined in this chapter.

500.2111 Classifications and territorial base rates for automobile insurance or home insurance; conformity with applicable requirements.

Sec. 2111. (1) Notwithstanding any provision of this act and this chapter to the contrary, classifications and territorial base rates used by any insurer in this state with respect to automobile insurance or home insurance shall conform to the applicable requirements of this section.

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

(a) With respect to all automobile insurance coverages:

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

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

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

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

(*v*) Vehicle characteristics, features, and options, such as engine displacement, ability of vehicle and its equipment to protect passengers from injury and other similar items, including vehicle make and model.

(*vi*) Daily or weekly commuting mileage.

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

(*viii*) Amount of insurance.

(b) In addition to the factors prescribed in subdivision (a), with respect to personal protection insurance coverage:

(*i*) Earned income.

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

(*iii*) Coordination of benefits.

(*iv*) Use of a safety belt.

(c) In addition to the factors prescribed in subdivision (a), with respect to collision and comprehensive coverages:

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

(*ii*) Vehicle make and model.

(*iii*) Vehicle design characteristics related to vehicle damageability.

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

(d) With respect to all automobile insurance coverage other than comprehensive, successful completion by the individual driver or drivers insured under the policy of an accident prevention education course that meets the following criteria:

(*i*) The course shall include a minimum of 8 hours of classroom instruction.

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

(A) The effects of aging on driving behavior.

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

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

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

(E) Accident prevention measures.

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

(G) Major driving hazards.

(H) Interaction with other highway users such as motorcyclists, bicyclists, and pedestrians.

(3) Each insurer shall establish a secondary or merit rating plan for automobile insurance, other than comprehensive coverage. A secondary or merit rating plan required under this subsection shall provide for premium surcharges for any or all coverages for

automobile insurance, other than comprehensive coverage, based upon any or all of the following, when that information becomes available to the insurer:

(a) Substantially at-fault accidents.

(b) Convictions for, determinations of responsibility for civil infractions for, or findings of responsibility in probate court for civil infractions for, violations under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750. However, beginning 90 days after the effective date of this sentence, an insured shall not be merit rated for a civil infraction under chapter VI of the Michigan vehicle code, 1949 PA 300, MCL 257.601 to 257.750, for a period of time longer than that which the secretary of state's office carries points for that infraction on the insured's motor vehicle record.

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

(5) Notwithstanding other provisions of this chapter, automobile insurance risks may be grouped by territory.

(6) This section shall not be construed as limiting insurers or rating organizations from establishing and maintaining statistical reporting territories. This section shall not be construed to prohibit an insurer from establishing or maintaining, for automobile insurance, a premium discount plan for senior citizens in this state who are 65 years of age or older, if the plan is uniformly applied by the insurer throughout this state. If an insurer has not established and maintained a premium discount plan for senior citizens, the insurer shall offer reduced premium rates to senior citizens in this state who are 65 years of age or older and who drive less than 3,000 miles per year, regardless of statistical data.

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

(a) Amount and types of coverage.

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

(c) Repairable structural defects reasonably related to risk.

(d) Fire protection class.

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

(f) Loss experience of the insured, based upon prior claims attributable to factors under the control of the insured that have been paid by an insurer. An insured's failure, after written notice from the insurer, to correct a physical condition that presents a risk of repeated loss shall be considered a factor under the control of the insured for purposes of this subdivision.

(g) Use of smoking materials within the structure.

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

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

(8) Notwithstanding other provisions of this chapter, home insurance risks may be grouped by territory.

(9) An insurer may utilize factors in addition to those specified in this section, if the commissioner finds, after a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that the factors would encourage innovation,

would encourage insureds to minimize the risks of loss from hazards insured against, and would be consistent with the purposes of this chapter.

500.2117 Home insurance; condition of maintaining insurer's certificate of authority; basis of underwriting rules; provisions applicable to repair cost policy; rates; aggregation of claims; adjustment of minimum dollar amounts.

Sec. 2117. (1) As a condition of maintaining its certificate of authority, an insurer shall not refuse to insure, refuse to continue to insure, or limit the coverage available to an eligible person for home insurance, except in accordance with underwriting rules established pursuant to this section and section 2119. An insurer shall not establish underwriting rules for home insurance for contracts providing identical coverages that differ from those of any affiliate of the insurer.

(2) The underwriting rules that an insurer may establish for home insurance shall be based only on the following:

(a) Criteria identical to the standards set forth in section 2103(2).

(b) The physical condition of the property insured or to be insured, provided the underwriting rules are objective, are directly related to the perils insured against, and, without regard to the age of the structure, are based upon the specific provisions of a national, state, or local housing and safety code, a manufacturer's specification, or standards of similar specificity. If an applicant or insured obtains a certificate of compliance or habitation issued by an appropriate governmental unit or agency, certifying that a building is in substantial compliance with local housing and safety codes, the certificate creates a rebuttable presumption that the dwelling meets the insurer's underwriting rules relating to physical condition.

(c) For the renewal of a home insurance policy, the claim history of the person insured or to be insured during the 3-year period immediately preceding renewal of the policy, if that history is based on 1 or both of the following:

(*i*) Claim experience arising out of an insured's negligence.

(*ii*) Failure by the insured, after written notice from the insurer, to correct a physical condition that is directly related to a paid claim or that presents a clear risk of a significant loss under the property or liability portions of a homeowners policy.

(d) The relationship between market value and replacement cost of a dwelling insured or to be insured for a replacement cost policy, if a repair cost policy is offered by that insurer pursuant to subsection (3).

(e) For nonrenewal of home insurance policies, the claim history under the policy, excluding liability claims, as follows:

(*i*) If there has been 1 or more of the following:

(A) Three paid claims within the immediately preceding 3-year period totaling $3,000.00 or more, exclusive of weather-related claims.

(B) Three paid claims within the immediately preceding 3-year period totaling $4,000.00 or more, including weather-related claims.

(*ii*) A history of 3 or more paid claims within an immediately preceding 3-year period if the insurer meets all of the following:

(A) Has an underwriting rule under subparagraph (*i*) in effect.