

# HOUSE BILL No. 4999

June 28, 2007, Introduced by Rep. Virgil Smith and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2106, 2108, 2109, 2110, 2114, 2127, 3009, 3103, 3107, 3109a, 3135, 3141, 3145, and 3177 (MCL 500.2106, 500.2108, 500.2109, 500.2110, 500.2114, 500.2127, 500.3009, 500.3103, 500.3107, 500.3109a, 500.3135, 500.3141, 500.3145, and 500.3177), section 3009 as amended by 1988 PA 43, section 3103 as amended by 1986 PA 173, section 3107 as amended by 1991 PA 191, section 3135 as amended by 2002 PA 697, and section 3177 as amended by 1984 PA 426, and by adding sections 2109a, 3107c, 3136, 3149, and 3160.

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

1 Sec. 2106. Except as specifically provided in this chapter,

1 the provisions of chapter 24 and chapter 26 ~~shall~~**DO** not apply to  
2 automobile insurance and home insurance. ~~An~~**UNTIL JANUARY 1, 2008,**  
3 **AN** insurer may use rates for automobile insurance or home insurance  
4 as soon as those rates are filed. **BEGINNING JANUARY 1, 2008,**  
5 **AUTOMOBILE INSURANCE RATES ARE SUBJECT TO SECTION 2109A.** To the  
6 extent that other provisions of this ~~code~~**ACT** are inconsistent with  
7 the provisions of this chapter, this chapter ~~shall govern~~**GOVERNS**  
8 with respect to automobile insurance and home insurance.

9       Sec. 2108. (1) ~~On the effective date thereof, each~~**EACH**  
10 insurer shall file with the commissioner every manual of  
11 classification, every manual of rules and rates, every rating plan,  
12 and every modification of a manual of classification, manual of  
13 rules and rates, or a rating plan ~~which~~**THAT** it proposes to use for  
14 automobile insurance and home insurance. Each filing shall state  
15 the character and extent of the coverage contemplated. Each insurer  
16 subject to this chapter who maintains rates in any part of this  
17 state shall at all times maintain rates in effect for all eligible  
18 persons meeting the underwriting criteria of the insurer.

19       (2) An insurer may satisfy its obligation to make filings  
20 under subsection (1) by becoming a member of, or a subscriber to, a  
21 rating organization licensed under chapter 24 or chapter 26 which  
22 makes those filings, and by filing with the commissioner a copy of  
23 its authorization of the rating organization to make those filings  
24 on its behalf. Nothing contained in this chapter shall be construed  
25 as requiring any insurer to become a member of or a subscriber to  
26 any rating organization. Insurers may file and use deviations from  
27 filings made on their behalf, which deviations shall be subject to

1 the provisions of this chapter.

2 (3) Each filing shall be accompanied by a certification by or  
3 on behalf of the insurer that, to the best of its information and  
4 belief, the filing conforms to the requirements of this chapter.

5 (4) Each filing shall include information that supports the  
6 filing with respect to the requirements of ~~section~~**SECTIONS** 2109  
7 **AND 2109A**. The information may include 1 or more of the following:

8 (a) The experience or judgment of the insurer or rating  
9 organization making the filing.

10 (b) The interpretation of the insurer or rating organization  
11 of any statistical data it relies upon.

12 (c) The experience of other insurers or rating organizations.

13 (d) Any other relevant information.

14 (5) A filing and any accompanying information shall be open to  
15 public inspection upon filing.

16 (6) An insurer shall not make, issue, or renew a contract or  
17 policy except in accordance with filings ~~which~~**THAT** are in effect  
18 for the insurer pursuant to this chapter.

19 Sec. 2109. (1) All rates for automobile insurance and home  
20 insurance shall be made in accordance with the following  
21 provisions:

22 (a) Rates shall not be excessive, inadequate, or unfairly  
23 discriminatory. A rate shall not be held to be excessive unless the  
24 rate is unreasonably high for the insurance coverage provided and a  
25 reasonable degree of competition does not exist for the insurance  
26 to which the rate is applicable. **EFFECTIVE JANUARY 1, 2008,**  
27 **AUTOMOBILE INSURANCE RATES ARE ALSO SUBJECT TO SECTION 2109A.**

1 (b) A rate shall not be held to be inadequate unless the rate  
2 is unreasonably low for the insurance coverage provided and the  
3 continued use of the rate endangers the solvency of the insurer; or  
4 unless the rate is unreasonably low for the insurance provided and  
5 the use of the rate has or will have the effect of destroying  
6 competition among insurers, creating a monopoly, or causing a kind  
7 of insurance to be unavailable to a significant number of  
8 applicants who are in good faith entitled to procure that insurance  
9 through ordinary methods.

10 (c) A rate for a coverage is unfairly discriminatory in  
11 relation to another rate for the same coverage if the differential  
12 between the rates is not reasonably justified by differences in  
13 losses, expenses, or both, or by differences in the uncertainty of  
14 loss, for the individuals or risks to which the rates apply. A  
15 reasonable justification shall be supported by a reasonable  
16 classification system; by sound actuarial principles when  
17 applicable; and by actual and credible loss and expense statistics  
18 or, in the case of new coverages and classifications, by reasonably  
19 anticipated loss and expense experience. A rate is not unfairly  
20 discriminatory because it reflects differences in expenses for  
21 individuals or risks with similar anticipated losses, or because it  
22 reflects differences in losses for individuals or risks with  
23 similar expenses.

24 (2) A determination concerning the existence of a reasonable  
25 degree of competition with respect to subsection (1)(a) shall take  
26 into account a reasonable spectrum of relevant economic tests,  
27 including the number of insurers actively engaged in writing the

1 insurance in question, the present availability of such insurance  
2 compared to its availability in comparable past periods, the  
3 underwriting return of that insurance over a period of time  
4 sufficient to assure reliability in relation to the risk associated  
5 with that insurance, and the difficulty encountered by new insurers  
6 in entering the market in order to compete for the writing of that  
7 insurance.

8           SEC. 2109A. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMOBILE  
9 INSURANCE IN THIS STATE SHALL FILE WITH THE COMMISSIONER ANNUALLY  
10 ON A DATE TO BE DETERMINED BY THE COMMISSIONER ALL OF THE FOLLOWING  
11 INFORMATION:

12           (A) THE TOTAL NUMBER OF NEW CLAIMS THAT WERE SUBMITTED TO THE  
13 INSURER WITHIN THE LAST 1-YEAR PERIOD IN EACH OF THE FOLLOWING  
14 CATEGORIES:

- 15           (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.  
16           (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.  
17           (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.  
18           (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.  
19           (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.  
20           (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

21           (B) FOR EACH CATEGORY OF CLAIMS UNDER SUBDIVISION (A), THE  
22 INSURER SHALL ALSO DISCLOSE THE TOTAL AMOUNT PAID BY THE INSURER.  
23 IF ANY PORTION OF THE AMOUNT PAID BY THE INSURER WAS REIMBURSED BY  
24 THE CATASTROPHIC CLAIMS ASSOCIATION OR OTHER SOURCES, THOSE  
25 REIMBURSEMENTS SHALL BE REPORTED BY THE INSURER AND THEN THE TOTAL  
26 NET PAYMENTS MADE BY THE INSURER FOR EACH CATEGORY UNDER  
27 SUBDIVISION (A) SHALL BE STATED.

1 (C) THE TOTAL AMOUNT PAID BY THE INSURER DURING THE LAST 1-  
2 YEAR PERIOD ON CLAIMS THAT WERE SUBMITTED TO THE INSURER PRIOR TO  
3 THE LAST 1-YEAR PERIOD IN EACH OF THE FOLLOWING CATEGORIES:

- 4 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.
- 5 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.
- 6 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.
- 7 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.
- 8 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.
- 9 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

10 (D) FOR EACH CATEGORY OF CLAIMS UNDER SUBDIVISION (C), THE  
11 INSURER SHALL DISCLOSE THE TOTAL NUMBER OF CLAIMS AND THE TOTAL  
12 AMOUNT PAID BY THE INSURER. IF ANY PORTION OF THE AMOUNT PAID BY  
13 THE INSURER WAS REIMBURSED BY THE CATASTROPHIC CLAIMS ASSOCIATION  
14 OR OTHER SOURCES, THOSE REIMBURSEMENTS SHALL BE REPORTED BY THE  
15 INSURER AND THEN THE TOTAL NET PAYMENTS MADE BY THE INSURER FOR  
16 EACH CATEGORY UNDER SUBDIVISION (C) SHALL BE STATED.

17 (E) THE TOTAL NUMBER OF NEW LAWSUITS THAT WERE FILED AGAINST  
18 THE INSURER OR THE INSURED WITHIN THE LAST 1-YEAR PERIOD IN EACH OF  
19 THE FOLLOWING CATEGORIES:

- 20 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.
- 21 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.
- 22 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.
- 23 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.
- 24 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.
- 25 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

26 (F) FOR EACH CATEGORY OF CLAIMS UNDER SUBDIVISION (E), THE  
27 INSURER SHALL ALSO DISCLOSE THE TOTAL AMOUNT PAID BY THE INSURER TO

1 SETTLE OR OTHERWISE RESOLVE THOSE LAWSUITS AS WELL AS THE TOTAL  
2 AMOUNT PAID BY THE INSURER TO DEFEND THOSE LAWSUITS. IF ANY PORTION  
3 OF THE AMOUNT PAID BY THE INSURER WAS REIMBURSED BY THE  
4 CATASTROPHIC CLAIMS ASSOCIATION OR OTHER SOURCES, THOSE  
5 REIMBURSEMENTS SHALL BE REPORTED BY THE INSURER AND THEN THE TOTAL  
6 NET PAYMENTS MADE BY THE INSURER FOR EACH CATEGORY UNDER  
7 SUBDIVISION (E) SHALL BE STATED.

8 (G) THE TOTAL AMOUNT PAID BY THE INSURER DURING THE LAST 1-  
9 YEAR PERIOD TO SETTLE OR OTHERWISE RESOLVE LAWSUITS THAT WERE FILED  
10 AGAINST THE INSURER OR THE INSURED PRIOR TO THE LAST 1-YEAR PERIOD  
11 IN EACH OF THE FOLLOWING CATEGORIES:

- 12 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.  
13 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.  
14 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.  
15 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.  
16 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.  
17 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

18 (H) FOR EACH CATEGORY OF CLAIMS UNDER SUBDIVISION (G), THE  
19 INSURER SHALL ALSO DISCLOSE THE TOTAL NUMBER OF CLAIMS AND THE  
20 TOTAL AMOUNT PAID BY THE INSURER TO SETTLE OR OTHERWISE RESOLVE  
21 THOSE LAWSUITS, AS WELL AS THE TOTAL AMOUNT PAID BY THE INSURER TO  
22 DEFEND THOSE LAWSUITS. IF ANY PORTION OF THE AMOUNT PAID BY THE  
23 INSURER WAS REIMBURSED BY THE CATASTROPHIC CLAIMS ASSOCIATION OR  
24 OTHER SOURCES, THOSE REIMBURSEMENTS SHALL BE REPORTED BY THE  
25 INSURER AND THEN THE TOTAL NET PAYMENTS MADE BY THE INSURER FOR  
26 EACH CATEGORY UNDER SUBDIVISION (G) SHALL BE STATED.

27 (I) THE TOTAL PREMIUMS COLLECTED BY THE INSURER DURING THE

1 LAST 1-YEAR PERIOD FOR EACH OF THE FOLLOWING COVERAGES:

2 (i) THE TOTAL PREMIUMS COLLECTED FOR PERSONAL PROTECTION  
3 INSURANCE BENEFITS.

4 (ii) THE TOTAL PREMIUMS COLLECTED FOR PROPERTY PROTECTION  
5 INSURANCE BENEFITS.

6 (iii) THE TOTAL PREMIUMS COLLECTED FOR RESIDUAL LIABILITY  
7 INSURANCE COVERAGE.

8 (iv) THE TOTAL PREMIUMS COLLECTED FOR COLLISION AND  
9 COMPREHENSIVE COVERAGE.

10 (v) THE TOTAL PREMIUMS COLLECTED FOR UNINSURED MOTORIST  
11 COVERAGE.

12 (vi) THE TOTAL PREMIUMS COLLECTED FOR UNDERINSURED MOTORIST  
13 COVERAGE.

14 (J) THE INSURER'S TOTAL NET PROFIT FOR ITS MOST RECENT FISCAL  
15 YEAR.

16 (2) ALL INFORMATION DISCLOSED AND FILED WITH THE COMMISSIONER  
17 OR REQUIRED BY SUBSECTION (1) SHALL BE CONSIDERED PUBLIC  
18 INFORMATION AND SHALL BE MADE AVAILABLE BY THE COMMISSIONER FOR  
19 INSPECTION OR PHOTOCOPYING BY ANY PERSON REQUESTING THE  
20 INFORMATION, SUBJECT TO REASONABLE CHARGES AND REASONABLE  
21 CONDITIONS ESTABLISHED BY THE COMMISSIONER FOR THE RELEASE OF THIS  
22 INFORMATION.

23 (3) AN INSURER AUTHORIZED TO TRANSACT AUTOMOBILE INSURANCE IN  
24 THIS STATE SHALL NOT INCREASE THE BASE RATES THE INSURER CHARGES  
25 FOR PERSONAL PROTECTION INSURANCE BENEFITS, PROPERTY PROTECTION  
26 INSURANCE BENEFITS, OR RESIDUAL LIABILITY INSURANCE COVERAGES,  
27 UNLESS THE INSURER FIRST DOES EACH OF THE FOLLOWING:



1 (A) THE INSURER FILES ALL DISCLOSURES REQUIRED BY SUBSECTION  
2 (1) AND GIVES NOTICE TO THE PUBLIC OF ITS PROPOSED BASE RATE  
3 INCREASES PURSUANT TO PROCEDURES ESTABLISHED BY THE COMMISSIONER.

4 (B) THE INSURER JUSTIFIES THE RATE INCREASE BY SUBMITTING A  
5 REPORT ENTITLED "RATE INCREASE ANALYSIS" WHICH SETS FORTH, IN PLAIN  
6 LANGUAGE, ALL REASONS FOR THE RATE INCREASE, RELIABLE ACTUARIAL  
7 SUPPORT FOR THE RATE INCREASE, AND ANY OTHER DOCUMENTATION  
8 JUSTIFYING THE RATE INCREASE.

9 (4) AN INSURER MAY, 90 DAYS AFTER SUBMITTING THE FILINGS,  
10 DISCLOSURES, AND OTHER INFORMATION REQUIRED BY SUBSECTIONS (1) AND  
11 (3), INCREASE ITS RATES FOR PERSONAL PROTECTION INSURANCE BENEFITS,  
12 PROPERTY PROTECTION INSURANCE BENEFITS, AND RESIDUAL LIABILITY  
13 INSURANCE, UNLESS, DURING THAT 90-DAY PERIOD, 1 OR MORE OF THE  
14 FOLLOWING EVENTS OCCUR:

15 (A) THE COMMISSIONER CHALLENGES THE PROPOSED RATE INCREASE.

16 (B) A CHALLENGE TO THE PROPOSED RATE INCREASE HAS BEEN FILED  
17 BY AN INTERESTED PERSON WITH THE COMMISSIONER, PURSUANT TO RATE  
18 CHALLENGE PROCEDURES ESTABLISHED BY THE COMMISSIONER.

19 (5) IF THE COMMISSIONER OR AN INTERESTED PERSON FILES A  
20 CHALLENGE TO AN INSURER'S PROPOSED RATE INCREASE, THE COMMISSIONER  
21 SHALL CONVENE A PUBLIC, CONTESTED HEARING, PURSUANT TO RULES AND  
22 PROCEDURES PROMULGATED BY THE COMMISSIONER PURSUANT TO THE  
23 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO  
24 24.328, AND SHALL, AFTER THE HEARING, APPROVE THE PROPOSED RATE  
25 INCREASE IF THE COMMISSIONER FINDS THAT THE PROPOSED RATE INCREASE  
26 IS FAIR AND EQUITABLE IN LIGHT OF THE COMPULSORY INSURANCE SYSTEM  
27 ESTABLISHED BY THIS ACT AND THE CONSTITUTIONAL DUE PROCESS

1 PROTECTIONS THAT ARE INHERENT IN AND APPLICABLE TO THE COMPULSORY  
2 INSURANCE SYSTEM ESTABLISHED BY THIS ACT.

3 Sec. 2110. (1) In developing and evaluating rates pursuant to  
4 the standards prescribed in ~~section~~ **SECTIONS 2109 AND 2109A**, due  
5 consideration shall be given to past and prospective loss  
6 experience within and outside this state, to catastrophe hazards,  
7 if any; to a reasonable margin for underwriting profit and  
8 contingencies; to dividends, savings, or unabsorbed premium  
9 deposits allowed or returned by insurers to their policyholders,  
10 members, or subscribers; to past and prospective expenses, both  
11 countrywide and those specially applicable to this state exclusive  
12 of assessments under this ~~code~~ **ACT**; to assessments under this ~~code~~  
13 **ACT**; to underwriting practice and judgment; and to all other  
14 relevant factors within and outside this state.

15 (2) The systems of expense provisions included in the rates  
16 for use by any insurer or group of insurers may differ from those  
17 of other insurers or groups of insurers to reflect the requirements  
18 of the operating methods of the insurer or group with respect to  
19 any kind of insurance, or with respect to any subdivision or  
20 combination thereof for which subdivision or combination separate  
21 expense provisions are applicable.

22 (3) Risks may be grouped by classifications for the  
23 establishment of rates and minimum premiums. The classifications  
24 may measure differences in losses, expenses, or both.

25 Sec. 2114. (1) A person or organization aggrieved with respect  
26 to any filing ~~which~~ **THAT** is in effect and ~~which~~ **THAT** affects the  
27 person or organization may make written application to the

1 commissioner for a hearing on the filing. However, the insurer or  
2 rating organization ~~which~~ **THAT** made the filing shall not be  
3 authorized to proceed under this subsection. The application shall  
4 specify the grounds to be relied upon by the applicant. If the  
5 commissioner finds that the application is made in good faith, that  
6 the applicant would be so aggrieved if the grounds specified are  
7 established, or that the grounds specified otherwise justify  
8 holding a hearing, the commissioner, not more than 30 days after  
9 receipt of the application, shall hold a hearing in accordance with  
10 ~~Act No. 306 of the Public Acts of 1969, as amended~~ **THE**  
11 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**  
12 **24.328**, upon not less than 10 days' written notice to the  
13 applicant, the insurer, and the rating organization which made the  
14 filing.

15 (2) If after hearing initiated under subsection (1) or upon  
16 the commissioner's own motion pursuant to ~~Act No. 306 of the Public~~  
17 ~~Acts of 1969, as amended~~ **THE ADMINISTRATIVE PROCEDURES ACT OF 1969,**  
18 **1969 PA 306, MCL 24.201 TO 24.328**, the commissioner finds that a  
19 filing does not meet the requirements of sections 2109, **2109A**, and  
20 2111, the commissioner shall issue an order stating the specific  
21 reasons for that finding. The order shall state when, within a  
22 reasonable time after issuance of the order, the filing shall be  
23 considered no longer effective. A copy of the order shall be sent  
24 to the applicant, if any, and to each insurer and rating  
25 organization subject to the order. The order shall not affect a  
26 contract or policy made or issued before the date the filing  
27 becomes ineffective, as indicated in the commissioner's order.

1           Sec. 2127. The commissioner may by rule prospectively require  
2 insurers, rating organizations, and advisory organizations to  
3 collect and report data ~~only~~ to the extent necessary to monitor and  
4 evaluate the automobile and home insurance markets in this state.  
5 The commissioner shall authorize the use of sampling techniques in  
6 each instance where sampling is practicable and consistent with the  
7 purposes for which the data, by county, are to be collected and  
8 reported. **RULES PROMULGATED PURSUANT TO THIS SECTION ARE IN  
9 ADDITION TO, AND DO NOT REPLACE, THE RULE AND REPORTING  
10 REQUIREMENTS IN SECTION 2109A.**

11           Sec. 3009. (1) An automobile liability or motor vehicle  
12 liability policy insuring against loss resulting from liability  
13 imposed by law for property damage, bodily injury, or death  
14 suffered by any person arising out of the ownership, **OPERATION,**  
15 maintenance, or use of a motor vehicle shall not be delivered or  
16 issued for delivery in this state with respect to any motor vehicle  
17 registered or principally garaged in this state unless the  
18 liability coverage is subject to a limit, exclusive of interest and  
19 costs, of not less than ~~\$20,000.00~~ **\$100,000.00** because of bodily  
20 injury to or death of 1 person in any 1 accident, and subject to  
21 that limit for 1 person, to a limit of not less than ~~\$40,000.00~~  
22 **\$200,000.00** because of bodily injury to or death of 2 or more  
23 persons in any 1 accident, and to a limit of not less than  
24 \$10,000.00 because of injury to or destruction of property of  
25 others in any accident. **BEGINNING OCTOBER 1, 2010, THE \$100,000.00  
26 AND \$200,000.00 MINIMUM AMOUNTS SHALL BE ADJUSTED EVERY 5 YEARS TO  
27 REFLECT CHANGES IN THE COST OF LIVING UNDER THE SAME RULES**

1 PRESCRIBED BY THE COMMISSIONER WITH REGARD TO WORK LOSS BENEFITS  
2 UNDER SECTION 3107(1)(B). ANY CHANGE IN THE MINIMUM AMOUNTS SHALL  
3 APPLY ONLY TO BODILY INJURY ACCIDENTS OCCURRING AFTER THE DATE OF  
4 THE CHANGE IN THE MINIMUM AMOUNTS.

5 (2) If authorized by the insured, automobile liability or  
6 motor vehicle liability coverage may be excluded when a vehicle is  
7 operated by a named person. ~~Such~~ **THIS** exclusion ~~shall~~ **IS** not be  
8 valid unless the following notice is on the face of the policy or  
9 the declaration page or certificate of the policy and on the  
10 certificate of insurance:

11 Warning--when a named excluded person operates a vehicle all  
12 liability coverage is void--no one is insured. Owners of the  
13 vehicle and others legally responsible for the acts of the named  
14 excluded person remain fully personally liable.

15 (3) If an insurer deletes coverages from an automobile  
16 insurance policy pursuant to section 3101, the insurer shall send  
17 documentary evidence of the deletion to the insured.

18 Sec. 3103. (1) An owner or registrant of a motorcycle shall  
19 provide security against loss resulting from liability imposed by  
20 law for property damage, bodily injury, or death suffered by a  
21 person arising out of the ownership, **OPERATION**, maintenance, or use  
22 of that motorcycle. The security shall conform with the  
23 requirements of section 3009(1).

24 (2) Each insurer transacting insurance in this state ~~which~~  
25 **THAT** affords coverage for a motorcycle as described in subsection  
26 (1) also shall offer, to an owner or registrant of a motorcycle,  
27 security for the payment of first-party medical benefits only, in

1 increments of \$5,000.00, payable in the event the owner or  
2 registrant is involved in a motorcycle accident. An insurer  
3 providing first-party medical benefits may offer, at appropriate  
4 premium rates, deductibles, provisions for the coordination of  
5 these benefits, and provisions for the subtraction of other  
6 benefits provided or required to be provided under the laws of any  
7 state or the federal government, subject to the prior approval of  
8 the commissioner. These deductibles and provisions shall apply only  
9 to benefits payable to the person named in the policy, the spouse  
10 of the insured, and any relative of either domiciled in the same  
11 household.

12 Sec. 3107. (1) Except as provided in subsection (2), personal  
13 protection insurance benefits are payable for the following:

14 (a) Allowable expenses consisting of all reasonable charges  
15 incurred for reasonably necessary products, services and  
16 accommodations for an injured person's care, recovery, or  
17 rehabilitation. Allowable expenses within personal protection  
18 insurance coverage shall not include charges for a hospital room in  
19 excess of a reasonable and customary charge for semiprivate  
20 accommodations except if the injured person requires special or  
21 intensive care, or for funeral and burial expenses in **EXCESS OF** the  
22 amount set forth in the policy which shall not be less than  
23 \$1,750.00 or more than \$5,000.00. **ALLOWABLE EXPENSES INCLUDE, BUT**  
24 **ARE NOT LIMITED TO, CHARGES FOR CASE MANAGEMENT SERVICES BY A CASE**  
25 **MANAGER SELECTED OR APPROVED BY THE INJURED PERSON OR A PERSON**  
26 **AUTHORIZED TO ACT ON THE INJURED PERSON'S BEHALF AND CHARGES FOR**  
27 **HOME CARE SERVICES AS DESCRIBED IN SECTION 3107C. IF THE INJURED**

1 PERSON, OR A PERSON ACTING ON HIS OR HER BEHALF, SUBMITS REASONABLE  
2 PROOF THAT PRODUCTS, SERVICES, OR ACCOMMODATIONS ARE REASONABLY  
3 NECESSARY FOR THE INJURED PERSON'S CARE, RECOVERY, OR  
4 REHABILITATION AND THE INJURED PERSON CONSENTS TO BE PROVIDED WITH  
5 THE PRODUCTS, SERVICES, OR ACCOMMODATIONS IN QUESTION, AN INSURER  
6 SHALL ISSUE WRITTEN NOTIFICATION TO BOTH THE INJURED PERSON, OR A  
7 PERSON ACTING ON HIS OR HER BEHALF, AND TO THE PROVIDER OF THE  
8 PRODUCTS, SERVICES, OR ACCOMMODATIONS IN QUESTION, THAT THE INSURER  
9 WILL GUARANTEE PAYMENT WHEN THE PRODUCTS, SERVICES, OR  
10 ACCOMMODATIONS ARE PROVIDED TO THE INJURED PERSON. CHARGES FOR  
11 PRODUCTS, SERVICES, OR ACCOMMODATIONS ARE CONSIDERED INCURRED UNDER  
12 THIS SECTION AS FOLLOWS:

13 (i) WHEN THE PRODUCTS, SERVICES, OR ACCOMMODATIONS ARE PROVIDED  
14 TO THE INJURED PERSON.

15 (ii) WHEN THE INJURED PERSON PAYS OR BECOMES LIABLE OR IN SOME  
16 WAY OBLIGATED OR CONDITIONALLY OBLIGATED TO PAY FOR THE PRODUCTS,  
17 SERVICES, OR ACCOMMODATIONS.

18 (iii) WHEN AN INSURER GAVE OR SHOULD HAVE GIVEN A GUARANTEE OF  
19 PAYMENT UNDER THIS SUBDIVISION.

20 (b) Work loss consisting of loss of income from work an  
21 injured person would have performed during the first 3 years after  
22 the date of the accident if he or she had not been injured. Work  
23 loss does not include any loss after the date on which the injured  
24 person dies. Because the benefits received from personal protection  
25 insurance for loss of income are not taxable income, the benefits  
26 payable for such loss of income shall be reduced 15% unless the  
27 claimant presents to the insurer in support of his or her claim

1 reasonable proof of a lower value of the income tax advantage in  
2 his or her case, in which case the lower value shall apply.  
3 ~~Beginning March 30, 1973~~ **FOR THE PERIOD BEGINNING OCTOBER 1, 2006**  
4 **THROUGH SEPTEMBER 30, 2007**, the benefits payable for work loss  
5 sustained in a single 30-day period and the income earned by an  
6 injured person for work during the same period together shall not  
7 exceed ~~\$1,000.00~~ **\$4,589.00**, which maximum shall apply pro rata to  
8 any lesser period of work loss. Beginning October 1, ~~1974~~ **2007**, the  
9 maximum shall be adjusted annually to reflect changes in the cost  
10 of living under rules prescribed by the commissioner but any change  
11 in the maximum shall apply only to benefits arising out of  
12 accidents occurring subsequent to the date of change in the  
13 maximum. **NOTWITHSTANDING ANY OTHER PROVISION IN THIS ACT, WORK LOSS**  
14 **BENEFITS SHALL NOT BE REDUCED BY AMOUNTS PAID BY THE INJURED**  
15 **PERSON'S EMPLOYER OR PAID UNDER A WAGE CONTINUATION PLAN**  
16 **ESTABLISHED BY A COLLECTIVE BARGAINING AGREEMENT.**

17 (c) Expenses not exceeding \$20.00 per day, reasonably incurred  
18 in obtaining ordinary and necessary services in lieu of those that,  
19 if he or she had not been injured, an injured person would have  
20 performed during the first 3 years after the date of the accident,  
21 not for income but for the benefit of himself or herself or of his  
22 or her dependent.

23 (2) A person who is 60 years of age or older and in the event  
24 of an accidental bodily injury would not be eligible to receive  
25 work loss benefits under subsection (1)(b) may waive coverage for  
26 work loss benefits by signing a waiver on a form provided by the  
27 insurer. An insurer shall offer a reduced premium rate to a person



1 who waives coverage under this subsection for work loss benefits.  
2 Waiver of coverage for work loss benefits applies only to work loss  
3 benefits payable to the person or persons who have signed the  
4 waiver form.

5 (3) SUBJECT TO SUBSECTION (1) (A), AN INSURER SHALL NOT ISSUE A  
6 POLICY OR IMPOSE ANY CONDITIONS UPON THE PAYMENT OF CLAIMS THAT IN  
7 ANY WAY LIMITS OR RESTRICTS A PERSON'S SELECTION OF A PROVIDER OR  
8 THE NATURE AND EXTENT OF THE TREATMENT OR SERVICES RENDERED BY A  
9 PROVIDER. THIS PROHIBITION APPLIES REGARDLESS OF WHETHER AN INSURED  
10 HAS RECEIVED A REDUCED PREMIUM RATE FOR DEDUCTIBLES AND EXCLUSIONS  
11 REASONABLY RELATED TO OTHER HEALTH AND ACCIDENT COVERAGE ON THE  
12 INSURED UNDER SECTION 3109A AND REGARDLESS OF WHAT OTHER HEALTH AND  
13 ACCIDENT COVERAGE OR BENEFITS COVER, OR ARE AVAILABLE TO, THE  
14 INSURED.

15 (4) A PROVIDER RENDERING SERVICES TO AN INJURED PERSON THAT  
16 ARE COMPENSABLE UNDER SUBSECTION (1) IS ENTITLED TO COLLECT, FROM  
17 THE PERSON'S INSURER, ANY BALANCE OF THE PROVIDER'S CHARGES THAT  
18 WAS NOT PAID BY OTHER HEALTH AND ACCIDENT COVERAGE OR BENEFITS,  
19 EVEN WHEN A PORTION OF THE PROVIDER'S CHARGES WERE PAID TO THE  
20 PROVIDER UNDER A PARTICIPATING AGREEMENT OR OTHER SIMILAR  
21 RELATIONSHIP.

22 (5) AN INSURER MAY REVIEW A PERSONAL PROTECTION INSURANCE  
23 CLAIM TO DETERMINE THE REASONABLENESS OF A CHARGE AND THE  
24 REASONABLE NECESSITY OF A PRODUCT, SERVICE, OR ACCOMMODATION. IN  
25 PERFORMING A REVIEW, AN INSURER MAY REQUEST OR CONDUCT EXPENSE  
26 AUDITS PROVIDED, HOWEVER, THAT AN INSURER SHALL NOT CONSIDER OR  
27 IMPLEMENT ANY FEE SCHEDULES OR OTHER REIMBURSEMENT METHODOLOGIES

1 USED UNDER ANY GOVERNMENTAL PROGRAM, PRIVATE CONTRACT, OR THIRD  
2 PARTY PAYOR RELATIONSHIP. IF AN INSURER REVIEWS A CLAIM TO  
3 DETERMINE THE REASONABLENESS OF A CHARGE OR THE REASONABLE  
4 NECESSITY OF A PRODUCT, SERVICE, OR ACCOMMODATION, THE INSURER  
5 SHALL TAKE INTO CONSIDERATION ALL FACTORS RELEVANT TO THE  
6 DETERMINATION, INCLUDING, BUT NOT LIMITED TO, ALL OF THE FOLLOWING:

7 (A) THE NATURE, SEVERITY, AND COMPLEXITY OF THE INJURY AND THE  
8 TREATMENT OR SERVICE RENDERED WITH RESPECT TO THE INJURY.

9 (B) THE SKILL, TRAINING, EXPERTISE, AND REPUTATION OF THE  
10 PROVIDER RENDERING THE TREATMENT OR SERVICE.

11 (C) THE CHARGES OF OTHER PROVIDERS RENDERING SIMILAR TREATMENT  
12 OR SERVICES IN THE SAME OR SIMILAR GEOGRAPHIC LOCALITY WITHIN WHICH  
13 THE CLAIMED TREATMENT OR SERVICE HAS BEEN RENDERED.

14 (D) THE FACTS AND CIRCUMSTANCES SURROUNDING THE TREATMENT OR  
15 SERVICES RENDERED.

16 (6) IF AN INSURER DENIES ALL OR PART OF A PERSONAL PROTECTION  
17 INSURANCE CLAIM BASED UPON THE REASONABLENESS OF THE CHARGE OR THE  
18 REASONABLE NECESSITY OF THE PRODUCT, SERVICE, OR ACCOMMODATION, THE  
19 INSURER SHALL FULLY DISCLOSE TO THE CLAIMANT AND THE CLAIMANT'S  
20 PROVIDER THE BASIS FOR THE DENIAL AND ALL FACTS, EVIDENCE, AND DATA  
21 SUPPORTING THE INSURER'S POSITION WITH RESPECT TO THE DENIAL AND  
22 SHALL SUBMIT THIS INFORMATION WITHIN 30 DAYS OF RECEIVING PROOF OF  
23 THE FACT AND AMOUNT OF THE CLAIM. FAILURE TO PROVIDE THE DISCLOSURE  
24 CREATES A PRESUMPTION OF AN UNREASONABLE DELAY OR REFUSAL OF A  
25 CLAIM UNDER SECTION 3148.

26 (7) IF AN INSURER ENTERS INTO AN AGREEMENT WITH AN INJURED  
27 PERSON OR A PERSON AUTHORIZED TO ACT ON HIS OR HER BEHALF

1 CONCERNING THE PAYMENT OF A PERSONAL PROTECTION INSURANCE CLAIM,  
2 ALL OF THE FOLLOWING APPLY:

3 (A) THE INSURER, PRIOR TO PAYING ANY AGREED UPON AMOUNT OR  
4 UNDERTAKING TO PERFORM ANY AGREED UPON OBLIGATION, MAY SEEK A FULL  
5 AND FINAL DISCHARGE OF THE INSURER'S LEGAL OBLIGATION TO PAY THE  
6 SPECIFIC CLAIM THAT IS THE SUBJECT OF THE AGREEMENT FOR THE PERIOD  
7 OF TIME SPECIFIED IN THE AGREEMENT BY OBTAINING AN ORDER FROM A  
8 COURT OF APPROPRIATE JURISDICTION FINDING THAT THE AGREEMENT IS  
9 FAIR, REASONABLE, AND APPROPRIATE UNDER ALL THE CIRCUMSTANCES.

10 (B) IF THE CLAIM IS ONE FOR WHICH THE INSURER IS ELIGIBLE TO  
11 RECEIVE INDEMNIFICATION FROM THE CATASTROPHIC CLAIMS ASSOCIATION  
12 BECAUSE THE THRESHOLD UNDER SECTION 3104(2) HAS BEEN EXCEEDED, THE  
13 INSURER PAYING THE CLAIM OR PERFORMING AN AGREED UPON OBLIGATION  
14 AFTER RECEIVING A COURT ORDER UNDER SUBDIVISION (A) SHALL RECEIVE  
15 FULL INDEMNIFICATION FROM THE CATASTROPHIC CLAIMS ASSOCIATION FOR  
16 THE TOTAL AMOUNT PAID BY THE INSURER IN ACCORDANCE WITH THE COURT  
17 ORDER THAT IS IN EXCESS OF THE THRESHOLD AMOUNTS LISTED IN SECTION  
18 3104(2).

19 (C) IF THE AGREEMENT INVOLVES, IN ANY WAY, PAYMENT FOR PAST  
20 SERVICES RENDERED TO THE INJURED PERSON BY PROVIDERS WHOSE SERVICES  
21 HAVE NOT YET BEEN FULLY PAID BY THE INJURED PERSON OR BY A PERSON  
22 OR ENTITY ACTING ON HIS OR HER BEHALF, THEN ALL SUCH PROVIDERS  
23 SHALL BE GIVEN WRITTEN NOTICE OF THE AGREEMENT BEFORE A COURT ORDER  
24 UNDER SUBDIVISION (A) CAN BE ENTERED AND SHALL BE GIVEN A  
25 REASONABLE OPPORTUNITY TO APPEAR AND PROTECT THEIR RESPECTIVE  
26 INTERESTS REGARDING THE AGREEMENT.

27 (D) IF THE AGREEMENT INVOLVES, IN ANY WAY, PAYMENT FOR FUTURE

1 SERVICES THAT MAY BE RENDERED TO THE INJURED PERSON, THE INSURER  
2 SHALL SEND A COPY OF THE COURT ORDER APPROVING THE AGREEMENT TO ALL  
3 PROVIDERS KNOWN TO THE INSURER WHO HAVE RENDERED SERVICES OR WHO  
4 ARE CURRENTLY RENDERING SERVICES TO THE INJURED PERSON.

5 (8) ALL COSTS OF OBTAINING ANY ORDER UNDER SUBSECTION (7) ARE  
6 THE SOLE RESPONSIBILITY OF THE INSURER. AN INSURER'S REQUEST FOR AN  
7 ORDER UNDER SUBSECTION (7) DOES NOT LIMIT, QUALIFY, DIMINISH, OR  
8 ALTER THE INSURER'S DUTY TO PAY CLAIMS UNDER THIS ACT, INCLUDING,  
9 BUT NOT LIMITED TO, SECTIONS 3142 AND 3148 CONCERNING THE TIMELY  
10 PAYMENT OF CLAIMS. IN ADDITION, REGARDLESS OF WHETHER AN INSURER  
11 HAS OBTAINED A COURT ORDER WITH RESPECT TO AN AGREEMENT TO PAY A  
12 CLAIM FOR ALLOWABLE EXPENSES UNDER SUBSECTION (7), ANY AGREEMENT  
13 NEGOTIATED BETWEEN AN INSURER AND AN INJURED PERSON OR HIS OR HER  
14 AUTHORIZED REPRESENTATIVE CONCERNING THE PAYMENT OF ALLOWABLE  
15 EXPENSES INCURRED IN THE FUTURE MAY PERIODICALLY BE JUDICIALLY  
16 REVIEWED IN ORDER TO ENSURE THAT THE AGREEMENT IS FAIR, REASONABLE,  
17 AND APPROPRIATE UNDER ALL OF THE CIRCUMSTANCES EXISTING AT THE TIME  
18 OF THE REVIEW.

19 SEC. 3107C. (1) AS USED IN SECTION 3107 AND THIS SECTION,  
20 "HOME CARE SERVICES" INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING  
21 ENUMERATED SERVICES OR TREATMENT WHEN RENDERED IN A HOME SETTING TO  
22 AN INJURED PERSON BY NONCOMMERCIAL PROVIDERS FOR THE INJURED  
23 PERSON'S CARE, RECOVERY, OR REHABILITATION, REGARDLESS OF WHETHER  
24 THE PROVIDER IS LICENSED, CERTIFIED, OR REGISTERED OR IS A RELATIVE  
25 OR NONRELATIVE OF THE INJURED PERSON, EXCEPT WHEN THE SERVICES ARE  
26 OTHERWISE PROHIBITED BY LAW IF RENDERED BY PERSONS WHO ARE NOT  
27 LICENSED, CERTIFIED, OR REGISTERED BY THIS STATE:

- 1 (A) ATTENDANT OR PERSONAL CARE.
- 2 (B) MEDICAL CARE.
- 3 (C) NURSING CARE.
- 4 (D) ASSISTANCE WITH ACTIVITIES OF DAILY LIVING.
- 5 (E) CASE MANAGEMENT.
- 6 (F) PHYSICAL, OCCUPATIONAL, SPEECH, OR OTHER THERAPY.
- 7 (G) MONITORING OR CUING OF THE INJURED PERSON.
- 8 (H) ON-CALL ASSISTANCE.
- 9 (I) NUTRITIONAL AND MEAL SERVICES.
- 10 (J) PERSONAL HYGIENE.
- 11 (K) PSYCHOLOGICAL COUNSELING.
- 12 (L) BEHAVIORAL MANAGEMENT.
- 13 (M) ROOM AND BOARD AND ACCOMMODATIONS IF THE INJURED PERSON
- 14 WOULD OTHERWISE REQUIRE INSTITUTIONALIZATION.
- 15 (N) SUPERVISION OF OTHERS PROVIDING SERVICES OR TREATMENT
- 16 DESCRIBED IN THIS SUBSECTION.
- 17 (2) IN DETERMINING THE REASONABLENESS OF CHARGES FOR HOME CARE
- 18 SERVICES, THE FOLLOWING FACTORS MAY BE CONSIDERED:
- 19 (A) THE NATURE AND SEVERITY OF THE INJURY.
- 20 (B) THE NATURE AND LEVEL OF DISABILITY OF THE INJURED PERSON.
- 21 (C) THE NATURE AND COMPLEXITY OF THE SERVICE OR TREATMENT AND
- 22 THE QUALIFICATIONS AND EXPERIENCE OF THE PERSON RENDERING THE
- 23 SERVICE OR TREATMENT.
- 24 (D) THE INJURED PERSON'S NEEDS AND DESIRES FOR THE SERVICE OR
- 25 TREATMENT.
- 26 (E) THE BENEFIT AND VALUE OF THE SERVICE OR TREATMENT TO THE
- 27 INJURED PERSON.

1 (F) THE COMMERCIAL RATES CHARGED BY COMMERCIAL AGENCIES OR  
2 PROFESSIONAL PROVIDERS TO RENDER A SIMILAR SERVICE OR TREATMENT.

3 (G) THE WAGES AND FRINGE BENEFITS PAID BY COMMERCIAL AGENCIES  
4 OR PROFESSIONAL PROVIDERS TO THEIR EMPLOYEES TO RENDER A SIMILAR  
5 SERVICE OR TREATMENT.

6 (H) THE ACTUAL COST INCURRED BY THE PROVIDER IN RENDERING THE  
7 SERVICE OR TREATMENT.

8 (I) THE MARKET VALUE OF THE SERVICE OR TREATMENT.

9 (J) THE VALUE OF THE ECONOMIC OPPORTUNITY LOST BY THE PROVIDER  
10 IN RENDERING THE SERVICE OR TREATMENT, INCLUDING, BUT NOT LIMITED  
11 TO, LOST BUSINESS OPPORTUNITIES, LOST EMPLOYMENT OPPORTUNITIES, AND  
12 LOST EDUCATIONAL OPPORTUNITIES.

13 (K) ANY OTHER RELEVANT FACTOR.

14 (3) AN INSURER MAY REQUIRE 1 OR MORE OF THE FOLLOWING IN  
15 PROCESSING A CLAIM FOR HOME CARE SERVICES:

16 (A) A NOTARIZED STATEMENT ON A FORM APPROVED BY THE  
17 COMMISSIONER IN WHICH THE INJURED PERSON OR A PERSON AUTHORIZED TO  
18 ACT ON HIS OR HER BEHALF DESCRIBES THE SERVICE FOR WHICH PAYMENT IS  
19 SOUGHT AND AFFIRMS, UNDER OATH, THAT THE SERVICE WAS PROVIDED AS  
20 DESCRIBED.

21 (B) WRITTEN VERIFICATION FROM A PROVIDER KNOWLEDGEABLE ABOUT  
22 THE CLAIM THAT THE CARE RENDERED TO THE INJURED PERSON WAS  
23 REASONABLY NECESSARY FOR THE INJURED PERSON'S CARE, RECOVERY, OR  
24 REHABILITATION.

25 (C) A WRITTEN AUTHORIZATION SIGNED BY THE INJURED PERSON OR A  
26 PERSON AUTHORIZED TO ACT ON HIS OR HER BEHALF PERMITTING THE  
27 RELEASE, TO THE INSURER, OF ANY MEDICAL RECORDS RELEVANT TO THE

1 CLAIM FOR HOME CARE SERVICES.

2 (4) NEITHER THE MAKING OF A REQUEST FOR 1 OR MORE OF THE  
3 DOCUMENTS DESCRIBED IN SUBSECTION (3) NOR THE FAILURE TO MAKE A  
4 REQUEST FOR 1 OR MORE OF THE DOCUMENTS DESCRIBED IN SUBSECTION (3)  
5 PRECLUDES AN INJURED PERSON FROM SEEKING JUDICIAL ENFORCEMENT OF A  
6 CLAIM FOR HOME CARE SERVICES UNDER THIS ACT OR ALTERS AN INSURER'S  
7 RESPONSIBILITY TO PAY A CLAIM FOR HOME CARE SERVICES UNDER THIS  
8 ACT.

9 Sec. 3109a. (1) An insurer providing personal protection  
10 insurance benefits shall offer, at appropriately reduced premium  
11 rates, deductibles and exclusions reasonably related to other  
12 health and accident coverage on the insured. The deductibles and  
13 exclusions required to be offered by this section shall be subject  
14 to prior approval by the commissioner and shall apply only to  
15 benefits payable to the person named in the policy, the spouse of  
16 the insured, and any relative of either domiciled in the same  
17 household.

18 (2) AN INSURER SHALL NOT SELL A POLICY OFFERING DEDUCTIBLES  
19 AND EXCLUSIONS APPROVED BY THE COMMISSIONER UNDER SUBSECTION (1)  
20 UNLESS THE INSURER PROVIDES TO THE PURCHASER OF THE POLICY A  
21 DISCLOSURE FORM APPROVED BY THE COMMISSIONER AND THE PURCHASER OF  
22 THE POLICY ACKNOWLEDGES, IN WRITING, HIS OR HER RECEIPT OF THE  
23 DISCLOSURE FORM. THE DISCLOSURE FORM SHALL DETAIL THE BENEFITS AND  
24 RISKS OF COORDINATING THE COVERAGE OFFERED BY THE POLICY WITH THE  
25 OTHER HEALTH AND ACCIDENT COVERAGE INCLUDING, BUT NOT LIMITED TO,  
26 ANY PREMIUM SAVINGS REALIZED AS THE RESULT OF THAT COORDINATION.

27 (3) THE COVERAGE PROVIDED BY A POLICY OFFERING DEDUCTIBLES AND

1 EXCLUSIONS APPROVED BY THE COMMISSIONER UNDER SUBSECTION (1) IS  
2 SECONDARY TO OTHER HEALTH AND ACCIDENT COVERAGE ON THE INSURED  
3 UNLESS THE POLICY OR PLAN PROVIDING THE OTHER HEALTH AND ACCIDENT  
4 COVERAGE SPECIFICALLY PROVIDES THAT ITS COVERAGE IS SECONDARY.

5 (4) THE COVERAGE PROVIDED BY A POLICY OFFERING DEDUCTIBLES AND  
6 EXCLUSIONS APPROVED BY THE COMMISSIONER UNDER SUBSECTION (1) SHALL  
7 PAY ALL EXPENSES OTHERWISE COMPENSABLE UNDER SECTION 3107(1)(A) AS  
8 IF THE INSURER WERE THE PRIMARY INSURER, AND AFTER PAYMENT, THE  
9 INSURER MAY SEEK REIMBURSEMENT FROM THE ENTITY THAT PROVIDES THE  
10 SECONDARY OTHER HEALTH AND ACCIDENT COVERAGE ON THE INSURED FOR ANY  
11 AMOUNTS THAT WOULD HAVE BEEN PAYABLE UNDER THAT SECONDARY OTHER  
12 HEALTH AND ACCIDENT COVERAGE HAD THE INSURER NOT PAID THE EXPENSES.  
13 NOTWITHSTANDING SECTION 3145, AN INSURER PAYING BENEFITS UNDER THIS  
14 SUBSECTION MAY FILE AN ACTION AGAINST THE ENTITY THAT PROVIDES THE  
15 SECONDARY OTHER HEALTH AND ACCIDENT COVERAGE AT ANY TIME WITHIN 6  
16 YEARS AFTER THE INSURER MAKES PAYMENT. IF AN ENTITY THAT PROVIDES  
17 THE SECONDARY OTHER HEALTH AND ACCIDENT COVERAGE IS REQUIRED TO  
18 REIMBURSE AN INSURER UNDER THIS SUBSECTION, THAT ENTITY SHALL NOT  
19 SEEK RECOUPMENT OF THAT AMOUNT FROM ANY OTHER PERSON OR ENTITY  
20 UNLESS AN INSURER WOULD HAVE BEEN ENTITLED TO RECOUPMENT UNDER  
21 SECTION 3116.

22 Sec. 3135. (1) A person remains subject to tort liability for  
23 noneconomic loss caused by his or her ownership, maintenance, or  
24 use of a motor vehicle only if the injured person has suffered  
25 death, serious impairment of body function, or permanent serious  
26 disfigurement.

27 (2) For a cause of action for damages pursuant to subsection



1 (1) filed on or after July 26, 1996, all of the following apply:

2 (a) The issues of whether an injured person has suffered  
3 serious impairment of body function or permanent serious  
4 disfigurement are questions of law for the court if the court finds  
5 ~~either of the following:~~

6 ~~—— (i) There is no factual dispute concerning the nature and  
7 extent of the person's injuries.~~

8 ~~—— (ii) There is a factual dispute concerning the nature and  
9 extent of the person's injuries, but the dispute is not material to  
10 the determination as to whether the person has suffered a serious  
11 impairment of body function or permanent serious disfigurement.~~

12 **THAT THERE IS NO GENUINE ISSUE AS TO ANY MATERIAL FACT, AND THE**  
13 **MOVING PARTY IS ENTITLED TO JUDGMENT OR PARTIAL JUDGMENT AS A**  
14 **MATTER OF LAW.** However, for a closed-head injury, a question of  
15 fact for the jury is created if a licensed allopathic or  
16 osteopathic physician who regularly diagnoses or treats closed-head  
17 injuries testifies under oath that there may be a serious  
18 neurological injury.

19 ~~—— (b) Damages shall be assessed on the basis of comparative  
20 fault, except that damages shall not be assessed in favor of a  
21 party who is more than 50% at fault.~~

22 ~~—— (c) Damages shall not be assessed in favor of a party who was  
23 operating his or her own vehicle at the time the injury occurred  
24 and did not have in effect for that motor vehicle the security  
25 required by section 3101 at the time the injury occurred.~~

26 **(B) ECONOMIC AND NONECONOMIC DAMAGES SHALL BE ASSESSED ON THE**  
27 **BASIS OF COMPARATIVE FAULT, EXCEPT THAT NONECONOMIC DAMAGES SHALL**

1 NOT BE ASSESSED IN FAVOR OF A PLAINTIFF WHO IS MORE THAN 50% AT  
2 FAULT OR REDUCED IN FAVOR OF A DEFENDANT WHO IS MORE THAN 50% AT  
3 FAULT.

4 (C) NONECONOMIC DAMAGES SHALL NOT BE ASSESSED IN FAVOR OF A  
5 PARTY WHO WAS OPERATING A MOTOR VEHICLE TITLED OR REGISTERED IN THE  
6 NAME OF THAT PARTY AT THE TIME THE INJURY OCCURRED IF THERE WAS NOT  
7 IN EFFECT FOR THAT MOTOR VEHICLE THE SECURITY REQUIRED BY SECTION  
8 3101 AT THE TIME THE INJURY OCCURRED.

9 (3) Notwithstanding any other provision of law, tort liability  
10 arising from the ownership, **OPERATION**, maintenance, or use within  
11 this state of a motor vehicle with respect to which the security  
12 required by section 3101 was in effect is abolished except as to:

13 (a) Intentionally caused ~~harm~~ **ECONOMIC OR NONECONOMIC DAMAGES**  
14 **OF ANY NATURE OR EXTENT** to persons or property. Even though a  
15 person knows that harm to persons or property is substantially  
16 certain to be caused by his or her act or omission, the person does  
17 not cause or suffer that harm intentionally if he or she acts or  
18 refrains from acting for the purpose of averting injury to any  
19 person, including himself or herself, or for the purpose of  
20 averting damage to tangible property.

21 (b) Damages for noneconomic loss as provided and limited in  
22 subsections (1) and (2).

23 (c) Damages for allowable expenses, work loss, and survivor's  
24 loss as defined in sections 3107 to 3110 in excess of the daily,  
25 monthly, and 3-year limitations contained in those sections **AND**  
26 **DAMAGES FOR LOSS OF EARNING CAPACITY**. The party liable for damages  
27 is entitled to an exemption reducing his or her liability by the

1 amount of taxes that would have been payable on account of income  
2 the injured person would have received if he or she had not been  
3 injured.

4 (d) Damages for economic loss by a nonresident in excess of  
5 the personal protection insurance benefits provided under section  
6 3163(4). Damages under this subdivision are not recoverable to the  
7 extent that benefits covering the same loss are available from  
8 other sources, regardless of the nature or number of benefit  
9 sources available and regardless of the nature or form of the  
10 benefits.

11 (e) Damages up to \$500.00 to motor vehicles, to the extent  
12 that the damages are not covered by insurance. An action for  
13 damages pursuant to this subdivision shall be conducted in  
14 compliance with subsection (4).

15 (4) In an action for damages pursuant to subsection (3)(e):

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

19 (b) Liability shall not be a component of residual liability,  
20 as prescribed in section 3131, for which maintenance of security is  
21 required by this act.

22 (5) Actions under subsection (3)(e) shall be commenced,  
23 whenever legally possible, in the small claims division of the  
24 district court or the municipal court. If the defendant or  
25 plaintiff removes the action to a higher court and does not  
26 prevail, the judge may assess costs.

27 (6) A decision of a court made pursuant to subsection (3)(e)

1 is not res judicata in any proceeding to determine any other  
2 liability arising from the same circumstances as gave rise to the  
3 action brought pursuant to subsection (3)(e).

4 (7) As used in this section, "serious impairment of body  
5 function" means an objectively manifested **INJURY OR** impairment of  
6 **INVOLVING** an important body function that **HAS AFFECTED**, affects, **OR**  
7 **MAY AFFECT IN THE FUTURE** the person's ~~general~~ ability to lead his  
8 or her normal life. **IN MAKING THIS DETERMINATION, ALL OF THE**  
9 **FOLLOWING APPLY:**

10 (A) **NOTWITHSTANDING ANYTHING TO THE CONTRARY, SERIOUS**  
11 **IMPAIRMENT OF BODY FUNCTION DOES NOT REQUIRE A SHOWING, AT ANY**  
12 **POINT IN TIME, OF ANY OF THE FOLLOWING:**

13 (i) **THAT THE INJURY OR IMPAIRMENT, OR ITS EFFECT, ALTERED THE**  
14 **COURSE OR TRAJECTORY OF THE PERSON'S LIFE, CAUSED THE PERSON TO BE**  
15 **GENERALLY UNABLE OR FOR THE MOST PART UNABLE TO LIVE HIS OR HER**  
16 **NORMAL LIFE, OR CAUSED THE PERSON'S LIFE AFTER THE INJURY TO BE**  
17 **SUBSTANTIALLY DIFFERENT FROM THE PERSON'S LIFE BEFORE THE INJURY.**

18 (ii) **THAT THE INJURY OR IMPAIRMENT, OR ITS EFFECT, WAS**  
19 **PERMANENT, SEVERE, SUBSTANTIAL, EXTENSIVE, OR PERVASIVE OR LASTED**  
20 **FOR A SIGNIFICANT PERIOD OF TIME.**

21 (iii) **THAT THERE WERE PHYSICIAN-IMPOSED RESTRICTIONS.**

22 (B) **IN DETERMINING WHETHER THE PERSON'S ABILITY TO LEAD HIS OR**  
23 **HER NORMAL LIFE HAS BEEN AFFECTED AT ANY POINT IN TIME, THE TRIER**  
24 **OF FACT OR A COURT DECIDING THIS ISSUE AS A MATTER OF LAW UNDER**  
25 **SUBSECTION (2) (A) SHALL CONSIDER ALL OF THE FOLLOWING FACTORS,**  
26 **WHICH FACTORS SHALL NOT BE EXCLUSIVE AND NO INDIVIDUAL FACTOR SHALL**  
27 **BE DISPOSITIVE:**

1 (i) THE NATURE OF THE INJURY OR IMPAIRMENT.

2 (ii) THE TYPE OF TREATMENT REQUIRED.

3 (iii) THE DURATION OF THE INJURY, IMPAIRMENT, OR TREATMENT.

4 (iv) THE EXISTENCE OF, OR THE PROGNOSIS FOR, ANY RESIDUAL  
5 INJURY OR IMPAIRMENT.

6 (v) THE IMPACT OF THE INJURY OR IMPAIRMENT ON THE INJURED  
7 PERSON'S QUALITY OF LIFE.

8 (vi) ANY OTHER RELEVANT FACTORS.

9 (8) AN INJURED PERSON WHO HAS SUSTAINED SERIOUS IMPAIRMENT OF  
10 BODY FUNCTION AND WHO IS OTHERWISE ENTITLED TO RECOVER DAMAGES FOR  
11 NONECONOMIC LOSS IN A TORT LIABILITY CLAIM AS A RESULT IS ENTITLED  
12 TO ALL DAMAGES FOR NONECONOMIC LOSS SUFFERED BY THAT PERSON AS A  
13 PROXIMATE RESULT OF THE INCIDENT GIVING RISE TO THE TORT LIABILITY  
14 CLAIM, REGARDLESS OF WHETHER THE INJURED PERSON HAS CEASED TO  
15 SUFFER, OR IN THE FUTURE WILL CEASE TO SUFFER, SERIOUS IMPAIRMENT  
16 OF BODY FUNCTION.

17 (9) IF AN INJURED PERSON RECOVERS DAMAGES UNDER THIS SECTION  
18 FOR NONECONOMIC LOSS OR EXCESS ECONOMIC LOSS AND IS REQUIRED TO PAY  
19 ALL OR A PORTION OF THAT RECOVERY TO ANY PERSON OR ENTITY CLAIMING  
20 A LIEN OR RIGHT OF REIMBURSEMENT, SUBROGATION, RECOUPMENT, OR  
21 OFFSET AGAINST THE RECOVERY, THE INSURER RESPONSIBLE TO PAY  
22 PERSONAL PROTECTION INSURANCE BENEFITS TO THE INJURED PERSON SHALL  
23 REIMBURSE THE INJURED PERSON FOR THE AMOUNT HE OR SHE IS REQUIRED  
24 TO PAY THE PERSON OR ENTITY TO THE EXTENT THAT THE PAYMENT WOULD  
25 HAVE BEEN PAYABLE BY THE INSURER IF THE PERSON OR ENTITY HAD NOT  
26 PAID THOSE AMOUNTS. THIS SUBSECTION APPLIES TO ANY CASE FILED ON OR  
27 AFTER OCTOBER 1, 1973.

1           (10) THE CHANGES MADE IN SUBSECTION (7) BY THE AMENDATORY ACT  
2 THAT ADDED THIS SUBSECTION ARE CURATIVE AND INTENDED TO CORRECT THE  
3 MISINTERPRETATION OF LAW AND LEGISLATIVE INTENT THAT OCCURRED IN  
4 THE MICHIGAN SUPREME COURT DECISION IN KREINER V FISCHER AND STRAUB  
5 V COLLETTE AND HEIL-WYLIE, 471 MICH 109; 683 NW2D 611 (2004), AND  
6 SUBSEQUENT APPELLATE CASES IMPLEMENTING THAT DECISION. THE CHANGES  
7 MADE IN SUBSECTION (7) BY THE AMENDATORY ACT THAT ADDED THIS  
8 SUBSECTION APPLY TO CASES PENDING IN THE TRIAL OR APPELLATE COURT  
9 ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
10 SUBSECTION AND CASES FILED ON OR AFTER THE EFFECTIVE DATE OF THE  
11 AMENDATORY ACT THAT ADDED THIS SUBSECTION.

12           SEC. 3136. IF AN INJURED PERSON RECOVERS DAMAGES UNDER SECTION  
13 3135 FOR NONECONOMIC LOSS OR EXCESS ECONOMIC LOSS AND IS REQUIRED  
14 TO PAY ALL OR A PORTION OF THAT RECOVERY TO ANY PERSON OR ENTITY  
15 CLAIMING A LIEN OR RIGHT OF REIMBURSEMENT, SUBROGATION, RECOUPMENT,  
16 OR OFFSET AGAINST THE RECOVERY, THE INSURER RESPONSIBLE TO PAY  
17 PERSONAL PROTECTION INSURANCE BENEFITS TO THE INJURED PERSON SHALL  
18 REIMBURSE THE INJURED PERSON FOR THE AMOUNT HE OR SHE IS REQUIRED  
19 TO PAY THE PERSON OR ENTITY TO THE EXTENT THAT THE PAYMENT WOULD  
20 HAVE BEEN PAYABLE BY THE INSURER IF THE PERSON OR ENTITY HAD NOT  
21 PAID THOSE AMOUNTS. THIS SECTION APPLIES TO ANY CASE FILED ON OR  
22 AFTER OCTOBER 1, 1973.

23           Sec. 3141. An insurer may require written notice to be given  
24 as soon as practicable after an accident involving a motor vehicle  
25 with respect to which the policy affords the security required by  
26 this chapter. HOWEVER, A NOTICE REQUIREMENT SHALL NOT SHORTEN ANY  
27 LIMITATIONS PERIOD OR NOTICE PERIOD ESTABLISHED UNDER THIS ACT OR

1 **APPLICABLE TO CLAIMS MADE UNDER THIS ACT.**

2           Sec. 3145. (1) An action for recovery of personal protection  
3 insurance benefits payable under this chapter for accidental bodily  
4 injury ~~may~~**SHALL** not be commenced later than 1 year after the date  
5 of the accident causing the injury unless written notice of injury  
6 as provided ~~herein~~**IN THIS SECTION** has been given to the insurer  
7 within 1 year after the accident or unless the insurer has  
8 previously made a payment of personal protection insurance benefits  
9 for the injury. If the notice has been given or a payment has been  
10 made, the action may be commenced at any time within 1 year after  
11 the most recent allowable expense, work loss, or survivor's loss  
12 has been incurred. However, the claimant may not recover benefits  
13 for any portion of the loss incurred more than 1 year before the  
14 date on which the action was commenced. The notice of injury  
15 required by this subsection may be given to the insurer or any of  
16 its authorized agents by a person claiming to be entitled to  
17 benefits, ~~therefor,~~ or by ~~someone in~~**A PERSON ACTING ON** his **OR HER**  
18 behalf. The notice shall give the name and address of the claimant  
19 and indicate in ordinary language the name of the person injured  
20 and the time, place, and nature of his **OR HER** injury **AS THE INJURY**  
21 **IS REASONABLY KNOWN TO THE PERSON GIVING THE NOTICE AT THE TIME THE**  
22 **NOTICE IS GIVEN. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO**  
23 **THE CONTRARY, THE 1-YEAR PERIOD FOR BRINGING A CLAIM OR FOR**  
24 **RECOVERING BENEFITS ON A CLAIM IS SUSPENDED FROM THE DATE A**  
25 **SPECIFIC CLAIM FOR BENEFITS IS SUBMITTED TO THE INSURER UNTIL THE**  
26 **DATE THE INSURER PROVIDES THE PERSON MAKING THE CLAIM WITH A FORMAL**  
27 **WRITTEN DENIAL OF THAT SPECIFIC CLAIM.**

1           (2) An action for recovery of property protection insurance  
2 benefits shall not be commenced later than 1 year after the  
3 accident.

4           (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL TIME  
5 LIMITATIONS CONTAINED IN THIS SECTION WITH RESPECT TO GIVING NOTICE  
6 OF INJURY, COMMENCING AN ACTION FOR BENEFITS, OR RECOVERING  
7 BENEFITS ON A CLAIM ARE TOLLED OR OTHERWISE SUSPENDED AS TO THE  
8 PERSON CLAIMING BENEFITS OR OTHERS CLAIMING UNDER THAT PERSON,  
9 INCLUDING, BUT NOT LIMITED TO, THAT PERSON'S PROVIDERS, AS FOLLOWS:

10           (A) IF THE PERSON ENTITLED TO BENEFITS WAS UNDER 18 YEARS OF  
11 AGE AT THE TIME THE CLAIM FOR BENEFITS ACCRUES, THE CLAIM IS TOLLED  
12 UNTIL THE PERSON REACHES 19 YEARS OF AGE, EXCEPT AS OTHERWISE  
13 PROVIDED IN SUBDIVISION (B), REGARDLESS OF WHETHER A GUARDIAN OR A  
14 CONSERVATOR HAS BEEN APPOINTED FOR THE PERSON.

15           (B) IF THE PERSON ENTITLED TO BENEFITS SUFFERED FROM A  
16 CONDITION OF MENTAL DERANGEMENT SUCH AS TO PREVENT THE PERSON FROM  
17 COMPREHENDING RIGHTS HE OR SHE IS OTHERWISE BOUND TO KNOW AT THE  
18 TIME THE CLAIM FOR BENEFITS ACCRUES, THE CLAIM IS TOLLED UNTIL 1  
19 YEAR AFTER THE CONDITION OR DISABILITY HAS BEEN UNEQUIVOCALLY AND  
20 IRREVOCABLY REMOVED THROUGH DEATH OR OTHERWISE, REGARDLESS OF  
21 WHETHER A GUARDIAN OR CONSERVATOR HAS BEEN APPOINTED FOR THE  
22 PERSON. A JUDICIAL DECLARATION OF INSANITY, MENTAL COMPETENCY, OR  
23 MENTAL DERANGEMENT IS NOT REQUIRED UNDER THIS SUBDIVISION.

24           (C) IF A PERSON DIES BEFORE THE PERIOD OF LIMITATIONS UNDER  
25 SUBSECTION (1) HAS RUN OR WITHIN 90 DAYS AFTER THE PERIOD OF  
26 LIMITATIONS HAS RUN, AN ACTION SURVIVING BY LAW MAY BE COMMENCED BY  
27 THE PERSONAL REPRESENTATIVE OF THE DECEASED PERSON AT ANY TIME



1 WITHIN 2 YEARS AFTER LETTERS OF AUTHORITY ARE ISSUED EVEN IF THE  
2 PERIOD OF LIMITATIONS HAS RUN, REGARDLESS OF WHETHER A GUARDIAN OR  
3 CONSERVATOR HAD EVER BEEN APPOINTED FOR THE PERSON. HOWEVER, AN  
4 ACTION SHALL NOT BE BROUGHT UNDER THIS SUBDIVISION UNLESS THE  
5 PERSONAL REPRESENTATIVE COMMENCES IT WITHIN 3 YEARS OF THE TIME  
6 WITHIN WHICH THE PERSONAL REPRESENTATIVE WAS AUTHORIZED BY LAW TO  
7 COMMENCE ACTION.

8 (4) THIS SECTION APPLIES TO ANY CASE FILED ON OR AFTER OCTOBER  
9 1, 1973.

10 SEC. 3149. AN INSURER OBLIGATED TO PAY BENEFITS OR CLAIMS FOR  
11 PERSONAL PROTECTION INSURANCE BENEFITS UNDER THIS ACT OR UNDER AN  
12 INSURANCE POLICY ISSUED UNDER THIS ACT HAS A DUTY TO DEAL FAIRLY  
13 AND IN GOOD FAITH WITH AN INJURED PERSON CLAIMING BENEFITS AND THAT  
14 PERSON'S PROVIDERS. AN INSURER THAT BREACHES THIS DUTY TO DEAL  
15 FAIRLY AND IN GOOD FAITH IS LIABLE FOR COMPENSATORY, CONSEQUENTIAL,  
16 ECONOMIC, NONECONOMIC, AND EXEMPLARY DAMAGES PROXIMATELY CAUSED BY  
17 THE BREACH AND THE COSTS OF LITIGATION, INCLUDING ACTUAL ATTORNEY  
18 FEES. A BREACH OF THE DUTY TO DEAL FAIRLY AND IN GOOD FAITH  
19 INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

20 (A) A THREAT OR ACT OF INTIMIDATION AGAINST AN INJURED PERSON  
21 OR THE PERSON'S PROVIDER WITH RESPECT TO THE SUBMISSION OR PAYMENT  
22 OF A CLAIM UNDER THIS ACT.

23 (B) AN ACT OF RETALIATION AGAINST AN INJURED PERSON OR THE  
24 PERSON'S PROVIDER FOR HAVING ASSERTED A RIGHT TO MAKE A CLAIM UNDER  
25 THIS ACT.

26 (C) A STATEMENT OR REPRESENTATION WITH RESPECT TO THE  
27 SUBMISSION OF A CLAIM, THE PAYMENT OF A CLAIM, OR THE RIGHTS OF AN

1 INJURED PERSON OR THE PERSON'S PROVIDER UNDER THIS ACT, WHICH  
2 STATEMENT OR REPRESENTATION IS MATERIALLY FALSE WHEN AN INSURER OR  
3 ITS AGENTS OR REPRESENTATIVES KNEW, OR SHOULD HAVE KNOWN, OF THE  
4 FALSITY OF THE STATEMENT OR REPRESENTATION.

5 SEC. 3160. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMOBILE  
6 INSURANCE IN THIS STATE SHALL OFFER, AS OPTIONAL COVERAGES,  
7 UNINSURED MOTORIST BENEFITS AND UNDERINSURED MOTORIST BENEFITS. ALL  
8 OF THE FOLLOWING APPLY TO UNINSURED MOTORIST BENEFITS AND  
9 UNDERINSURED MOTORIST BENEFITS:

10 (A) THE INSURER SHALL INFORM ANY PERSON PURCHASING INSURANCE  
11 FROM THE INSURER OF THAT PERSON'S RIGHT TO PURCHASE COVERAGE FOR  
12 UNINSURED MOTORIST BENEFITS AND UNDERINSURED MOTORIST BENEFITS AND  
13 SHALL SUBMIT TO THAT PERSON A WRITTEN EXPLANATION AND SUMMARY OF  
14 THESE COVERAGES ON A FORM APPROVED BY THE COMMISSIONER. THE INSURER  
15 SHALL ALSO INFORM THAT PERSON OF THE PREMIUMS THAT WILL BE CHARGED  
16 FOR UNINSURED MOTORIST BENEFITS AND UNDERINSURED MOTORIST BENEFITS.  
17 IF THAT PERSON DECLINES THE OFFER TO PURCHASE UNINSURED MOTORIST  
18 BENEFITS OR UNDERINSURED MOTORIST BENEFITS, THE INSURER SHALL  
19 PROCURE, FROM THAT PERSON, A WRITTEN WAIVER OF THE OPTION TO  
20 PURCHASE UNINSURED MOTORIST BENEFITS OR UNDERINSURED MOTORIST  
21 BENEFITS, WHICH WAIVER FORM MUST BE APPROVED BY THE COMMISSIONER.

22 (B) THE MINIMUM LIMITS OF COVERAGE FOR UNINSURED MOTORIST  
23 BENEFITS SHALL BE \$100,000.00 PER PERSON AND \$200,000.00 PER  
24 OCCURRENCE.

25 (C) THE MINIMUM LIMITS OF COVERAGE FOR UNDERINSURED MOTORIST  
26 BENEFITS SHALL BE \$100,000.00 PER PERSON AND \$200,000.00 PER  
27 OCCURRENCE.

1 (D) THE COVERAGES FOR UNINSURED MOTORIST BENEFITS AND  
2 UNDERINSURED MOTORIST BENEFITS SHALL BE OFFERED AT RATES THAT ARE  
3 PRICED IN ACCORDANCE WITH STANDARD INSURANCE INDUSTRY PRACTICES AND  
4 ARE OTHERWISE REASONABLE AND APPROPRIATE FOR THE RISK UNDERTAKEN.

5 (E) THE COVERAGE REQUIRED FOR UNINSURED MOTORIST BENEFITS AND  
6 UNDERINSURED MOTORIST BENEFITS SHALL BE PROVIDED IN AN INSURANCE  
7 POLICY ENDORSEMENT THAT IS APPROVED BY THE COMMISSIONER AND IS NOT  
8 INCONSISTENT OR IN CONFLICT WITH THIS SECTION.

9 (2) ANY INSURANCE POLICY ENDORSEMENT PROVIDING UNINSURED  
10 MOTORIST BENEFITS AND UNDERINSURED MOTORIST BENEFITS SHALL COMPLY  
11 WITH ALL OF THE FOLLOWING:

12 (A) COVERAGE FOR UNINSURED MOTORIST BENEFITS ENTITLES THE  
13 CLAIMANT TO RECOVER DAMAGES ARISING OUT OF THE OWNERSHIP,  
14 OPERATION, MAINTENANCE, OR USE OF A MOTOR VEHICLE WITH RESPECT TO  
15 WHICH THE SECURITY REQUIRED BY SECTION 3101 OR THE SECURITY  
16 REQUIRED UNDER THE LAWS OF ANOTHER STATE WITH RESPECT TO THAT  
17 VEHICLE, WAS NOT IN EFFECT AT THE TIME THE DAMAGES OCCURRED. THE  
18 DAMAGES RECOVERABLE BY THE CLAIMANT IN THE UNINSURED MOTORIST CLAIM  
19 INCLUDE THE SAME ELEMENTS OF LOSS THE CLAIMANT COULD HAVE RECOVERED  
20 HAD HE OR SHE FILED AN ACTION DIRECTLY AGAINST THE UNINSURED  
21 TORTFEASOR. THE CLAIMANT IS ENTITLED TO PURSUE A CLAIM FOR  
22 UNINSURED MOTORIST BENEFITS EVEN THOUGH A PORTION OF THE CLAIMANT'S  
23 DAMAGES OR LOSS WAS CAUSED BY THE CONDUCT OF OTHER PERSONS OR  
24 ENTITIES WHO WERE NOT UNINSURED TORTFEASORS.

25 (B) COVERAGE FOR UNDERINSURED MOTORIST BENEFITS ENTITLES THE  
26 CLAIMANT TO RECOVER DAMAGES ARISING OUT OF THE OWNERSHIP,  
27 OPERATION, MAINTENANCE, OR USE OF A MOTOR VEHICLE WITH RESPECT TO

1 WHICH THE SECURITY REQUIRED BY SECTION 3101 OR THE SECURITY  
2 REQUIRED UNDER THE LAWS OF ANOTHER STATE WITH RESPECT TO THAT  
3 VEHICLE, WAS IN EFFECT AT THE TIME THE DAMAGES OCCURRED BUT WAS IN  
4 AN AMOUNT LESS THAN THE TOTAL DAMAGES SOUGHT BY THE CLAIMANT IN THE  
5 UNDERINSURED MOTORIST CLAIM. THE DAMAGES RECOVERABLE BY THE  
6 CLAIMANT IN THE UNDERINSURED MOTORIST CLAIM INCLUDE THE SAME  
7 ELEMENTS OF LOSS THE CLAIMANT COULD HAVE RECOVERED HAD HE OR SHE  
8 FILED AN ACTION DIRECTLY AGAINST THE UNDERINSURED TORTFEASOR. THE  
9 CLAIMANT IS ENTITLED TO PURSUE A CLAIM FOR UNDERINSURED MOTORIST  
10 BENEFITS EVEN THOUGH A PORTION OF THE CLAIMANT'S DAMAGES OR LOSS  
11 WAS CAUSED BY THE CONDUCT OF OTHER PERSONS OR ENTITIES WHO WERE NOT  
12 UNDERINSURED TORTFEASORS.

13 (C) FOR CLAIMS FOR UNDERINSURED MOTORIST BENEFITS, ALL OF THE  
14 FOLLOWING APPLY:

15 (i) IN ORDER FOR THE CLAIMANT TO BE ENTITLED TO PURSUE A CLAIM  
16 FOR UNDERINSURED MOTORIST BENEFITS, THE CLAIMANT SHALL FIRST  
17 EXHAUST, BY WAY OF SETTLEMENT OR JUDGMENT, THE LIMITS OF ALL  
18 LIABILITY INSURANCE COVERAGES APPLICABLE TO THE UNDERINSURED  
19 TORTFEASOR. UPON PAYMENT OF THOSE INSURANCE LIMITS, THE CLAIMANT IS  
20 ENTITLED TO PROCEED WITH THE CLAIM FOR UNDERINSURED MOTORIST  
21 BENEFITS.

22 (ii) A CLAIMANT IS NOT REQUIRED TO OBTAIN THE CONSENT OF THE  
23 UNDERINSURED MOTORIST INSURER TO SETTLE WITH AND FULLY RELEASE THE  
24 UNDERINSURED TORTFEASOR FROM ALL LIABILITY ARISING OUT OF THE  
25 CLAIM.

26 (iii) A CLAIM FOR UNDERINSURED MOTORIST BENEFITS SHALL NOT BE  
27 REDUCED OR SET OFF BY THE AMOUNT PAID TO THE CLAIMANT BY THE

1 UNDERINSURED MOTORIST TORTFEASOR'S LIABILITY INSURERS. HOWEVER, ANY  
2 AMOUNT PAID PERSONALLY BY THE UNDERINSURED TORTFEASOR TO THE  
3 CLAIMANT MAY BE SUBTRACTED OR SET OFF FROM THE CLAIMANT'S  
4 UNDERINSURED MOTORIST CLAIM.

5 (D) A POLICY SHALL NOT CONTAIN NOTICE PROVISIONS, CLAIM  
6 DEADLINES, OR STATUTES OF LIMITATIONS THAT IN ANY WAY SHORTEN THE  
7 TIME LIMITATIONS CONTAINED IN THE REVISED JUDICATURE ACT OF 1961,  
8 1961 PA 236, MCL 600.101 TO 600.9947, THAT WOULD BE APPLICABLE IF  
9 THE CAUSE OF ACTION THAT GIVES RISE TO THE CLAIM FOR UNINSURED  
10 MOTORIST BENEFITS OR UNDERINSURED MOTORIST BENEFITS HAD BEEN  
11 ASSERTED DIRECTLY AGAINST THE TORTFEASORS WHOSE CONDUCT GIVES RISE  
12 TO THE CLAIM.

13 (E) THE CLAIM FOR UNINSURED MOTORIST BENEFITS AND UNDERINSURED  
14 MOTORIST BENEFITS SHALL NOT BE REDUCED BY ANY AMOUNTS PAID OR  
15 PAYABLE TO THE CLAIMANT BY ANY OTHER SOURCES, INCLUDING, BUT NOT  
16 LIMITED TO, PERSONAL PROTECTION INSURANCE BENEFITS UNDER THIS ACT,  
17 WORKERS' COMPENSATION BENEFITS, SOCIAL SECURITY DISABILITY  
18 BENEFITS, SOCIAL SECURITY SURVIVOR'S BENEFITS, HEALTH INSURANCE,  
19 DISABILITY INSURANCE, BENEFITS UNDER PRIVATE CONTRACT,  
20 GOVERNMENTALLY PROVIDED BENEFITS, OR DAMAGES RECOVERED FROM ANY  
21 TORTFEASOR, UNLESS, IN THE UNINSURED MOTORIST CLAIM OR THE  
22 UNDERINSURED MOTORIST CLAIM, THE CLAIMANT SEEKS TO RECOVER DAMAGES  
23 THAT DUPLICATE AMOUNTS PAID OR PAYABLE TO THE CLAIMANT FROM ANY OF  
24 THESE OTHER SOURCES.

25 (F) A CLAIM FOR UNINSURED MOTORIST BENEFITS OR UNDERINSURED  
26 MOTORIST BENEFITS SHALL NOT BE DENIED OR OTHERWISE DISALLOWED ON  
27 THE BASIS THAT THERE WAS NO PHYSICAL CONTACT BETWEEN THE CLAIMANT

1 OR THE CLAIMANT'S VEHICLE AND A VEHICLE THAT WAS UNINSURED OR  
2 UNDERINSURED WITHIN THE MEANING OF THIS SECTION, AS LONG AS THE  
3 CLAIMANT IS OTHERWISE ABLE TO PROVE, BY A PREPONDERANCE OF THE  
4 EVIDENCE, THAT THE CLAIMANT'S DAMAGES AROSE OUT OF THE OWNERSHIP,  
5 OPERATION, MAINTENANCE, OR USE OF THE UNINSURED OR UNDERINSURED  
6 VEHICLE.

7 (G) ALL INSURANCE POLICIES PROVIDING FOR UNINSURED MOTORIST  
8 BENEFITS AND UNDERINSURED MOTORIST BENEFITS SHALL GIVE THE CLAIMANT  
9 THE OPTION OF BINDING ARBITRATION OF THE CLAIM. IF THE CLAIMANT  
10 SELECTS ARBITRATION, THE ARBITRATION SHALL BE CONDUCTED IN  
11 ACCORDANCE WITH CHAPTER 50 OF THE REVISED JUDICATURE ACT OF 1961,  
12 1961 PA 236, MCL 600.5001 TO 600.5035, AND MCR 3.602.

13 Sec. 3177. (1) An insurer obligated to pay personal protection  
14 insurance benefits for accidental bodily injury to a person arising  
15 out of the ownership, **OPERATION**, maintenance, or use of an  
16 uninsured motor vehicle as a motor vehicle may recover ~~such~~  
17 benefits paid and appropriate loss adjustment costs incurred from  
18 the owner or registrant of the uninsured motor vehicle or from his  
19 or her estate. Failure of ~~such a~~ **THE** person to make payment within  
20 30 days after judgment is a ground for suspension or revocation of  
21 his or her motor vehicle registration and license as defined in  
22 section 25 of the Michigan vehicle code, ~~Act No. 300 of the Public~~  
23 ~~Acts of 1949, being section 257.25 of the Michigan Compiled Laws~~  
24 **1949 PA 300, MCL 257.25**. An uninsured motor vehicle for the purpose  
25 of this section is a motor vehicle with respect to which **THE**  
26 security ~~is~~ required by sections 3101 and 3102 is not in effect at  
27 the time of the accident.

1           (2) The motor vehicle registration and license shall not be  
2 suspended or revoked and the motor vehicle registration and license  
3 shall be restored if the debtor enters into a written agreement  
4 with the secretary of state permitting the payment of the judgment  
5 in installments, if the payment of any installments is not in  
6 default.

7           (3) The secretary of state upon receipt of a certified  
8 abstract of court record of a judgment or notice from the insurer  
9 of an acknowledgment of debt shall notify the owner or registrant  
10 of an uninsured vehicle of the provisions of subsection (1) at that  
11 person's last recorded address with the secretary of state and  
12 **SHALL** inform that person of the right to enter into a written  
13 agreement with the secretary of state for the payment of the  
14 judgment or debt in installments.

15           Enacting section 1. (1) The changes made in section 3135(7) of  
16 the insurance code of 1956, 1956 PA 218, MCL 500.3135, by this  
17 amendatory act are curative and intended to correct the  
18 misinterpretation of existing law and legislative intent that  
19 occurred in the Michigan supreme court decision in Kreiner v  
20 Fischer and Straub v Collette and Heil-Wyllie, 471 Mich 109; 683  
21 NW2d 611 (2004).

22           (2) Section 3136 of the insurance code of 1956, 1956 PA 218,  
23 MCL 500.3136, as added by this amendatory act, is curative and  
24 intended to correct the misinterpretation of existing law and  
25 legislative intent that occurred in the Michigan court of appeals  
26 decision in Dunn v DAIIE, 254 Mich App 256; 657 NW2d 153 (2002).

27           (3) Section 3145(3) of the insurance code of 1956, 1956 PA

1 218, MCL 500.3145, as added by this amendatory act, is curative and  
2 intended to correct the misinterpretation of existing law and  
3 legislative intent that occurred in the Michigan court of appeals  
4 decision in Cameron v Auto Club Insurance Association, 263 Mich App  
5 95; 687 NW2d 354 (2004).

6 Enacting section 2. Section 3009 of the insurance code of  
7 1956, 1956 PA 218, MCL 500.3009, as amended by this amendatory act,  
8 takes effect January 1, 2008 and applies to policies issued or  
9 renewed on or after January 1, 2008.