

SENATE BILL No. 288

April 22, 2015, Introduced by Senators SMITH and HUNE and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3101, 3104, 3113, 3114, 3115, 3135, 3301, and 3310 (MCL 500.3101, 500.3104, 500.3113, 500.3114, 500.3115, 500.3135, 500.3301, and 500.3310), section 3101 as amended by 2014 PA 492, section 3104 as amended by 2002 PA 662, section 3113 as amended by 2014 PA 489, section 3114 as amended by 2002 PA 38, section 3135 as amended by 2012 PA 158, and section 3310 as amended by 2001 PA 228, and by adding chapter 32A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3101. (1) ~~The~~**SUBJECT TO CHAPTER 32A, THE** owner or
2 registrant of a motor vehicle required to be registered in this
3 state shall maintain security for payment of benefits under
4 personal protection insurance, property protection insurance, and

1 residual liability insurance. Security is only required to be in
2 effect during the period the motor vehicle is driven or moved on
3 a highway. Notwithstanding any other provision in this act, an
4 insurer that has issued an automobile insurance policy on a motor
5 vehicle that is not driven or moved on a highway may allow the
6 insured owner or registrant of the motor vehicle to delete a
7 portion of the coverages under the policy and maintain the
8 comprehensive coverage portion of the policy in effect.

9 (2) As used in this chapter:

10 (a) "Automobile insurance" means that term as defined in
11 section 2102.

12 (b) "Commercial quadricycle" means a vehicle to which all of
13 the following apply:

14 (i) The vehicle has fully operative pedals for propulsion
15 entirely by human power.

16 (ii) The vehicle has at least 4 wheels and is operated in a
17 manner similar to a bicycle.

18 (iii) The vehicle has at least 6 seats for passengers.

19 (iv) The vehicle is designed to be occupied by a driver and
20 powered either by passengers providing pedal power to the drive
21 train of the vehicle or by a motor capable of propelling the
22 vehicle in the absence of human power.

23 (v) The vehicle is used for commercial purposes.

24 (vi) The vehicle is operated by the owner of the vehicle or
25 an employee of the owner of the vehicle.

26 (c) "Golf cart" means a vehicle designed for transportation
27 while playing the game of golf.

1 (d) "Highway" means highway or street as that term is
2 defined in section 20 of the Michigan vehicle code, 1949 PA 300,
3 MCL 257.20.

4 (e) "Moped" means that term as defined in section 32b of the
5 Michigan vehicle code, 1949 PA 300, MCL 257.32b.

6 (f) "Motorcycle" means a vehicle that has a saddle or seat
7 for the use of the rider, is designed to travel on not more than
8 3 wheels in contact with the ground, and is equipped with a motor
9 that exceeds 50 cubic centimeters piston displacement. For
10 purposes of this subdivision, the wheels on any attachment to the
11 vehicle are not considered as wheels in contact with the ground.
12 Motorcycle does not include a moped or an ORV.

13 (g) "Motorcycle accident" means a loss that involves the
14 ownership, operation, maintenance, or use of a motorcycle as a
15 motorcycle, but does not involve the ownership, operation,
16 maintenance, or use of a motor vehicle as a motor vehicle.

17 (h) "Motor vehicle" means a vehicle, including a trailer,
18 that is operated or designed for operation on a public highway by
19 power other than muscular power and has more than 2 wheels. Motor
20 vehicle does not include any of the following:

21 (i) A motorcycle.

22 (ii) A moped.

23 (iii) A farm tractor or other implement of husbandry that is
24 not subject to the registration requirements of the Michigan
25 vehicle code under section 216 of the Michigan vehicle code, 1949
26 PA 300, MCL 257.216.

27 (iv) An ORV.

1 (v) A golf cart.

2 (vi) A power-driven mobility device.

3 (vii) A commercial quadricycle.

4 (i) "Motor vehicle accident" means a loss that involves the
5 ownership, operation, maintenance, or use of a motor vehicle as a
6 motor vehicle regardless of whether the accident also involves
7 the ownership, operation, maintenance, or use of a motorcycle as
8 a motorcycle.

9 (j) "ORV" means a motor-driven recreation vehicle designed
10 for off-road use and capable of cross-country travel without
11 benefit of road or trail, on or immediately over land, snow, ice,
12 marsh, swampland, or other natural terrain. ORV includes, but is
13 not limited to, a multitrack or multiwheel drive vehicle, a
14 motorcycle or related 2-wheel, 3-wheel, or 4-wheel vehicle, an
15 amphibious machine, a ground effect air cushion vehicle, an ATV
16 as defined in section 81101 of the natural resources and
17 environmental protection act, 1994 PA 451, MCL 324.81101, or
18 other means of transportation deriving motive power from a source
19 other than muscle or wind. ORV does not include a vehicle
20 described in this subdivision that is registered for use upon a
21 public highway and has the security described in **THIS** section,
22 ~~3101 or~~ **SECTION 3103, OR CHAPTER 32A** in effect.

23 (k) "Owner" means any of the following:

24 (i) A person renting a motor vehicle or having the use of a
25 motor vehicle, under a lease or otherwise, for a period that is
26 greater than 30 days.

27 (ii) A person renting a motorcycle or having the use of a

1 motorcycle under a lease for a period that is greater than 30
2 days, or otherwise for a period that is greater than 30
3 consecutive days. A person who borrows a motorcycle for a period
4 that is less than 30 consecutive days with the consent of the
5 owner is not an owner under this subparagraph.

6 (iii) A person that holds the legal title to a motor vehicle
7 or motorcycle, other than a person engaged in the business of
8 leasing motor vehicles or motorcycles that is the lessor of a
9 motor vehicle or motorcycle under a lease that provides for the
10 use of the motor vehicle or motorcycle by the lessee for a period
11 that is greater than 30 days.

12 (iv) A person that has the immediate right of possession of a
13 motor vehicle or motorcycle under an installment sale contract.

14 (l) "Power-driven mobility device" means a wheelchair or
15 other mobility device powered by a battery, fuel, or other engine
16 and designed to be used by an individual with a mobility
17 disability for the purpose of locomotion.

18 (m) "Registrant" does not include a person engaged in the
19 business of leasing motor vehicles or motorcycles that is the
20 lessor of a motor vehicle or motorcycle under a lease that
21 provides for the use of the motor vehicle or motorcycle by the
22 lessee for a period that is longer than 30 days.

23 (3) Security required by subsection (1) may be provided
24 under a policy issued by an authorized insurer that affords
25 insurance for the payment of benefits described in subsection
26 (1). A policy of insurance represented or sold as providing
27 security is considered to provide insurance for the payment of

1 the benefits.

2 (4) Security required by subsection (1) may be provided by
 3 any other method approved by the secretary of state as affording
 4 security equivalent to that afforded by a policy of insurance, if
 5 proof of the security is filed and continuously maintained with
 6 the secretary of state throughout the period the motor vehicle is
 7 driven or moved on a highway. The person filing the security has
 8 all the obligations and rights of an insurer under this chapter.
 9 When the context permits, "insurer" as used in this chapter,
 10 includes a person that files the security as provided in this
 11 section. **THIS SUBSECTION DOES NOT APPLY TO A POLICY UNDER CHAPTER**
 12 **32A.**

13 Sec. 3104. (1) ~~An~~ **THE CATASTROPHIC CLAIMS ASSOCIATION IS**
 14 **CREATED AS AN** unincorporated, nonprofit association. ~~to be known~~
 15 ~~as the catastrophic claims association, hereinafter referred to~~
 16 ~~as the association, is created.~~ Each insurer engaged in writing
 17 insurance coverages that provide the security required by section
 18 3101(1) within this state, as a condition of its authority to
 19 transact insurance in this state, shall be a member of the
 20 association and ~~shall be~~ **IS** bound by the plan of operation of the
 21 association. Each insurer engaged in writing insurance coverages
 22 that provide the security required by section 3103(1) within this
 23 state, as a condition of its authority to transact insurance in
 24 this state, ~~shall be~~ **IS** considered **TO BE** a member of the
 25 association, but only for purposes of premiums under subsection
 26 (7) (d). Except as expressly provided in this section, the
 27 association is not subject to any laws of this state with respect

1 to insurers, but in all other respects the association is subject
2 to the laws of this state to the extent that the association
3 would be if it were an insurer organized and subsisting under
4 chapter 50.

5 (2) The association shall provide and each member shall
6 accept indemnification for 100% of the amount of ultimate loss
7 sustained under personal protection insurance coverages **UNDER**
8 **THIS CHAPTER** in excess of the following amounts in each loss
9 occurrence:

10 (a) For a motor vehicle accident policy issued or renewed
11 before July 1, 2002, \$250,000.00.

12 (b) For a motor vehicle accident policy issued or renewed
13 during the period July 1, 2002 to June 30, 2003, \$300,000.00.

14 (c) For a motor vehicle accident policy issued or renewed
15 during the period July 1, 2003 to June 30, 2004, \$325,000.00.

16 (d) For a motor vehicle accident policy issued or renewed
17 during the period July 1, 2004 to June 30, 2005, \$350,000.00.

18 (e) For a motor vehicle accident policy issued or renewed
19 during the period July 1, 2005 to June 30, 2006, \$375,000.00.

20 (f) For a motor vehicle accident policy issued or renewed
21 during the period July 1, 2006 to June 30, 2007, \$400,000.00.

22 (g) For a motor vehicle accident policy issued or renewed
23 during the period July 1, 2007 to June 30, 2008, \$420,000.00.

24 (h) For a motor vehicle accident policy issued or renewed
25 during the period July 1, 2008 to June 30, 2009, \$440,000.00.

26 (i) For a motor vehicle accident policy issued or renewed
27 during the period July 1, 2009 to June 30, 2010, \$460,000.00.

1 (j) For a motor vehicle accident policy issued or renewed
2 during the period July 1, 2010 to June 30, 2011, \$480,000.00.

3 (k) For a motor vehicle accident policy issued or renewed
4 during the period July 1, 2011 to June 30, 2013, \$500,000.00.
5 Beginning July 1, 2013, this \$500,000.00 amount shall be
6 increased biennially on July 1 of each odd-numbered year, for
7 policies issued or renewed before July 1 of the following odd-
8 numbered year, by the lesser of 6% or the consumer price index,
9 and rounded to the nearest \$5,000.00. This biennial adjustment
10 shall be calculated by the association by January 1 of the year
11 of its July 1 effective date.

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

15 (4) An insurer whose membership in the association has been
16 terminated by withdrawal shall continue to be bound by the plan
17 of operation, and upon withdrawal, all unpaid premiums that have
18 been charged to the withdrawing member are payable as of the
19 effective date of the withdrawal.

20 (5) An unsatisfied net liability to the association of an
21 insolvent member shall be assumed by and apportioned among the
22 remaining members of the association as provided in the plan of
23 operation. The association has all rights allowed by law on
24 behalf of the remaining members against the estate or funds of
25 the insolvent member for ~~sums~~ **MONEY** due the association.

26 (6) If a member has been merged or consolidated into another
27 insurer or another insurer has reinsured a member's entire

1 business that provides the security required by section 3101(1)
2 in this state, the member and successors in interest of the
3 member remain liable for the member's obligations.

4 (7) The association shall do all of the following on behalf
5 of the members of the association:

6 (a) Assume 100% of all liability as provided in subsection
7 (2).

8 (b) Establish procedures by which members shall promptly
9 report to the association each claim that, on the basis of the
10 injuries or damages sustained, may reasonably be anticipated to
11 involve the association if the member is ultimately held legally
12 liable for the injuries or damages. Solely for the purpose of
13 reporting claims, the member shall in all instances consider
14 itself legally liable for the injuries or damages. The member
15 shall also advise the association of subsequent developments
16 likely to materially affect the interest of the association in
17 the claim.

18 (c) Maintain relevant loss and expense data relative to all
19 liabilities of the association and require each member to furnish
20 statistics, in connection with liabilities of the association, at
21 the times and in the form and detail as may be required by the
22 plan of operation.

23 (d) In a manner provided for in the plan of operation,
24 calculate and charge to members of the association a total
25 premium sufficient to cover the expected losses and expenses of
26 the association that the association will likely incur during the
27 period for which the premium is applicable. The premium shall

1 include an amount to cover incurred but not reported losses for
2 the period and may be adjusted for any excess or deficient
3 premiums from previous periods. Excesses or deficiencies from
4 previous periods may be fully adjusted in a single period or may
5 be adjusted over several periods in a manner provided for in the
6 plan of operation. Each member shall be charged an amount equal
7 to that member's total written car years of insurance providing
8 the security required by section 3101(1) or 3103(1), or both,
9 written in this state during the period to which the premium
10 applies, multiplied by the average premium per car. The average
11 premium per car shall be the total premium calculated divided by
12 the total written car years of insurance providing the security
13 required by section 3101(1) or 3103(1) written in this state of
14 all members during the period to which the premium applies. A
15 member shall be charged a premium for a historic vehicle that is
16 insured with the member of 20% of the premium charged for a car
17 insured with the member. **THE ASSOCIATION SHALL NOT CHARGE A**
18 **MEMBER A PREMIUM FOR A CAR INSURED WITH THE MEMBER UNDER A POLICY**
19 **ISSUED UNDER CHAPTER 32A.** As used in this subdivision:

20 (i) "Car" includes a motorcycle but does not include a
21 historic vehicle.

22 (ii) "Historic vehicle" means a vehicle that is a registered
23 historic vehicle under section 803a or 803p of the Michigan
24 vehicle code, 1949 PA 300, MCL 257.803a and 257.803p.

25 (e) Require and accept the payment of premiums from members
26 of the association as provided for in the plan of operation. The
27 association shall do either of the following:

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

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

5 (f) Receive and distribute all ~~sums~~-**MONEY** required by the
6 operation of the association.

7 (g) Establish procedures for reviewing claims procedures and
8 practices of members of the association. If the claims procedures
9 or practices of a member are considered inadequate to properly
10 service the liabilities of the association, the association may
11 undertake or may contract with another person, including another
12 member, to adjust or assist in the adjustment of claims for the
13 member on claims that create a potential liability to the
14 association and may charge the cost of the adjustment to the
15 member.

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

18 (a) Sue and be sued in the name of the association. A
19 judgment against the association shall not create any direct
20 liability against the individual members of the association. The
21 association may provide for the indemnification of its members,
22 members of the board of directors of the association, and
23 officers, employees, and other persons lawfully acting on behalf
24 of the association.

25 (b) Reinsure all or any portion of its potential liability
26 with reinsurers licensed to transact insurance in this state or
27 approved by the ~~commissioner~~-**DIRECTOR OF THE DEPARTMENT**.

1 (c) Provide for appropriate housing, equipment, and
2 personnel as may be necessary to assure the efficient operation
3 of the association.

4 (d) Pursuant to the plan of operation, adopt reasonable
5 rules for the administration of the association, enforce those
6 rules, and delegate authority, as the board considers necessary
7 to assure the proper administration and operation of the
8 association consistent with the plan of operation.

9 (e) Contract for goods and services, including independent
10 claims management, actuarial, investment, and legal services,
11 from others within or without this state to assure the efficient
12 operation of the association.

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

15 (g) Perform other acts not specifically enumerated in this
16 section that are necessary or proper to accomplish the purposes
17 of the association and that are not inconsistent with this
18 section or the plan of operation.

19 (9) A board of directors is created ~~, hereinafter referred~~
20 ~~to as the board, which shall be responsible for the operation of~~
21 **AND SHALL OPERATE** the association consistent with the plan of
22 operation and this section.

23 (10) The plan of operation shall provide for all of the
24 following:

25 (a) The establishment of necessary facilities.

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

27 (c) Procedures to be utilized in charging premiums,

1 including adjustments from excess or deficient premiums from
2 prior periods.

3 (d) Procedures governing the actual payment of premiums to
4 the association.

5 (e) Reimbursement of each member of the board by the
6 association for actual and necessary expenses incurred on
7 association business.

8 (f) The investment policy of the association.

9 (g) Any other matters required by or necessary to
10 effectively implement this section.

11 (11) Each board ~~shall~~**MUST** include members that would
12 contribute a total of not less than 40% of the total premium
13 calculated pursuant to subsection (7)(d). Each director ~~shall be~~
14 **IS** entitled to 1 vote. The initial term of office of a director
15 ~~shall be~~**IS** 2 years.

16 (12) As part of the plan of operation, the board shall adopt
17 rules providing for the composition and term of successor boards
18 to the initial board, consistent with the membership composition
19 requirements in subsections (11) and (13). Terms of the directors
20 ~~shall~~**MUST** be staggered so that the terms of all the directors do
21 not expire at the same time and so that a director does not serve
22 a term of more than 4 years.

23 (13) The board ~~shall consist~~**CONSISTS** of 5 directors ~~and~~
24 the ~~commissioner shall be~~**DIRECTOR OF THE DEPARTMENT, WHO IS** an
25 ex officio member of the board without vote.

26 (14) Each director shall be appointed by the ~~commissioner~~
27 **DIRECTOR OF THE DEPARTMENT** and shall serve until that member's

1 successor is selected and qualified. The chairperson of the board
2 shall be elected by the board. A vacancy on the board shall be
3 filled by the ~~commissioner~~**DIRECTOR OF THE DEPARTMENT** consistent
4 with the plan of operation.

5 (15) ~~After the board is appointed, the~~**THE** board shall meet
6 as often as the chairperson, the ~~commissioner~~**DIRECTOR OF THE**
7 **DEPARTMENT**, or the plan of operation ~~shall require~~**REQUIRES**, or
8 at the request of any 3 members of the board. The chairperson
9 ~~shall retain the right to~~**MAY** vote on all issues. Four members of
10 the board constitute a quorum.

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

14 ~~—— (17) Not more than 60 days after the initial organizational~~
15 ~~meeting of the board, the board shall submit to the commissioner~~
16 ~~for approval a proposed plan of operation consistent with the~~
17 ~~objectives and provisions of this section, which shall provide~~
18 ~~for the economical, fair, and nondiscriminatory administration of~~
19 ~~the association and for the prompt and efficient provision of~~
20 ~~indemnity. If a plan is not submitted within this 60 day period,~~
21 ~~then the commissioner, after consultation with the board, shall~~
22 ~~formulate and place into effect a plan consistent with this~~
23 ~~section.~~

24 ~~—— (18) The plan of operation, unless approved sooner in~~
25 ~~writing, shall be considered to meet the requirements of this~~
26 ~~section if it is not disapproved by written order of the~~
27 ~~commissioner within 30 days after the date of its submission.~~

1 ~~Before disapproval of all or any part of the proposed plan of~~
 2 ~~operation, the commissioner shall notify the board in what~~
 3 ~~respect the plan of operation fails to meet the requirements and~~
 4 ~~objectives of this section. If the board fails to submit a~~
 5 ~~revised plan of operation that meets the requirements and~~
 6 ~~objectives of this section within the 30 day period, the~~
 7 ~~commissioner shall enter an order accordingly and shall~~
 8 ~~immediately formulate and place into effect a plan consistent~~
 9 ~~with the requirements and objectives of this section.~~

10 (17) ~~(19) The proposed plan of operation or ANY~~ amendments
 11 to the plan of operation **OF THE ASSOCIATION** are subject to
 12 majority approval by the board, ~~ratified~~ **AND RATIFICATION** by a
 13 majority of the membership having a vote, with voting rights
 14 being apportioned according to the premiums charged in subsection
 15 (7) (d) and are subject to approval by the ~~commissioner~~ **DIRECTOR**
 16 **OF THE DEPARTMENT.**

17 (18) ~~(20) Upon approval by the commissioner and ratification~~
 18 ~~by the members of the plan submitted, or upon the promulgation of~~
 19 ~~a plan by the commissioner, each AN~~ insurer authorized to write
 20 insurance providing the security required by section 3101(1) in
 21 this state, as provided in this section, is bound by and shall
 22 formally subscribe to and participate in the plan ~~approved~~ **OF**
 23 **OPERATION** as a condition of maintaining its authority to transact
 24 insurance in this state.

25 (19) ~~(21) The association is subject to all the reporting,~~
 26 ~~loss reserve, and investment requirements of the commissioner~~
 27 **DIRECTOR OF THE DEPARTMENT** to the same extent as ~~would a member~~

1 **ARE THE MEMBERS** of the association.

2 (20) ~~(22)~~—Premiums charged members by the association shall
3 be recognized in the rate-making procedures for insurance rates
4 in the same manner that expenses and premium taxes are
5 recognized.

6 (21) ~~(23)~~—The ~~commissioner~~**DIRECTOR OF THE DEPARTMENT** or an
7 authorized representative of the ~~commissioner~~**DIRECTOR** may visit
8 the association at any time and examine any and all **OF** the
9 association's affairs.

10 (22) ~~(24)~~—The association does not have liability for losses
11 occurring before July 1, 1978.

12 (23) ~~(25)~~—As used in this section:

13 (A) **"ASSOCIATION" MEANS THE CATASTROPHIC CLAIMS ASSOCIATION**
14 **CREATED IN SUBSECTION (1).**

15 (B) **"BOARD" MEANS THE BOARD OF DIRECTORS OF THE ASSOCIATION**
16 **CREATED IN SUBSECTION (9).**

17 (C) ~~(a)~~—"Consumer price index" means the percentage of
18 change in the consumer price index for all urban consumers in the
19 United States city average for all items for the 24 months ~~prior~~
20 ~~to~~**BEFORE** October 1 of the year ~~prior to~~**BEFORE** the July 1
21 effective date of the biennial adjustment under subsection (2)(k)
22 as reported by the United States department of labor, bureau of
23 labor statistics, and as certified by the ~~commissioner~~**DIRECTOR**
24 **OF THE DEPARTMENT.**

25 (D) ~~(b)~~—"Motor vehicle accident policy" means a policy
26 providing the coverages required under section 3101(1).

27 (E) ~~(c)~~—"Ultimate loss" means the actual loss amounts that a

1 member is obligated to pay and that are paid or payable by the
2 member, and do not include claim expenses. An ultimate loss is
3 incurred by the association on the date that the loss occurs.

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

8 (a) The person was willingly operating or willingly using a
9 motor vehicle or motorcycle that was taken unlawfully, and the
10 person knew or should have known that the motor vehicle or
11 motorcycle was taken unlawfully.

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

16 (c) The person was not a resident of this state, was an
17 occupant of a motor vehicle or motorcycle not registered in this
18 state, and the motor vehicle or motorcycle was not insured by an
19 insurer that has filed a certification in compliance with section
20 3163.

21 (d) The person was operating a motor vehicle or motorcycle
22 as to which he or she was named as an excluded operator as
23 allowed under section 3009(2).

24 **(E) THE PERSON WAS THE OWNER OR REGISTRANT OF A MOTOR**
25 **VEHICLE INSURED UNDER A POLICY ISSUED UNDER CHAPTER 32A.**

26 Sec. 3114. (1) Except as provided in subsections (2), (3),
27 ~~and~~ (5), (7), **AND (8)**, a personal protection insurance policy

1 described in section 3101(1) applies to accidental bodily injury
2 to the person named in the policy, the person's spouse, and a
3 relative of either domiciled in the same household, if the injury
4 arises from a motor vehicle accident. A personal injury insurance
5 policy described in section 3103(2) applies to accidental bodily
6 injury to the person named in the policy, the person's spouse,
7 and a relative of either domiciled in the same household, if the
8 injury arises from a motorcycle accident. ~~When~~ **IF** personal
9 protection insurance benefits **DESCRIBED IN SECTION 3107(1)** or
10 personal injury benefits described in section 3103(2) are payable
11 to or for the benefit of an injured person under his or her own
12 policy and would also be payable under the policy of his or her
13 spouse, relative, or relative's spouse, the injured person's
14 insurer shall pay all of the benefits and is not entitled to
15 recoupment from the other insurer.

16 (2) A person suffering accidental bodily injury while an
17 operator or a passenger of a motor vehicle operated in the
18 business of transporting passengers shall receive the personal
19 protection insurance benefits to which the person is entitled
20 from the insurer of the motor vehicle. This subsection does not
21 apply to a passenger in the following, unless that passenger is
22 not entitled to personal protection insurance benefits under any
23 other policy:

24 (a) A school bus, as defined by the department of education,
25 providing transportation not prohibited by law.

26 (b) A bus operated by a common carrier of passengers
27 certified by the department of transportation.

1 (c) A bus operating under a government sponsored
2 transportation program.

3 (d) A bus operated by or providing service to a nonprofit
4 organization.

5 (e) A taxicab insured as prescribed in section 3101 or 3102.

6 (f) A bus operated by a canoe or other watercraft, bicycle,
7 or horse livery used only to transport passengers to or from a
8 destination point.

9 (3) An employee, his or her spouse, or a relative of either
10 domiciled in the same household, who suffers accidental bodily
11 injury while an occupant of a motor vehicle owned or registered
12 by the employer, shall receive personal protection insurance
13 benefits to which the employee is entitled from the insurer of
14 the furnished vehicle.

15 (4) Except as provided in subsections (1) to (3), **(7), AND**
16 **(8)**, a person suffering accidental bodily injury arising from a
17 motor vehicle accident while an occupant of a motor vehicle shall
18 claim personal protection insurance benefits from insurers in the
19 following order of priority:

20 (a) The insurer of the owner or registrant of the vehicle
21 occupied.

22 (b) The insurer of the operator of the vehicle occupied.

23 (5) ~~A~~**EXCEPT AS PROVIDED IN SUBSECTIONS (7) AND (8), A**
24 person suffering accidental bodily injury arising from a motor
25 vehicle accident ~~which~~**THAT** shows evidence of the involvement of
26 a motor vehicle while an operator or passenger of a motorcycle
27 shall claim personal protection insurance benefits from insurers

1 in the following order of priority:

2 (a) The insurer of the owner or registrant of the motor
3 vehicle involved in the accident.

4 (b) The insurer of the operator of the motor vehicle
5 involved in the accident.

6 (c) The motor vehicle insurer of the operator of the
7 motorcycle involved in the accident.

8 (d) The motor vehicle insurer of the owner or registrant of
9 the motorcycle involved in the accident.

10 (6) If 2 or more insurers are in the same order of priority
11 to provide personal protection insurance benefits under
12 subsection (5), an insurer paying benefits due is entitled to
13 partial recoupment from the other insurers in the same order of
14 priority, together with a reasonable amount of partial recoupment
15 of the expense of processing the claim, in order to accomplish
16 equitable distribution of the loss among all of the insurers.

17 **(7) AN AUTOMOBILE INSURANCE POLICY ISSUED UNDER CHAPTER 32A**
18 **APPLIES ONLY TO THE OWNER OR REGISTRANT OF THE MOTOR VEHICLE**
19 **INSURED UNDER THE POLICY, NOT TO THE OWNER'S OR REGISTRANT'S**
20 **SPOUSE OR A RELATIVE OF EITHER DOMICILED IN THE SAME HOUSEHOLD.**
21 **AN OWNER OR REGISTRANT OF A MOTOR VEHICLE INSURED UNDER AN**
22 **AUTOMOBILE INSURANCE POLICY ISSUED UNDER CHAPTER 32A IS NOT**
23 **ENTITLED TO BENEFITS DESCRIBED IN THIS SECTION UNDER AN**
24 **AUTOMOBILE INSURANCE POLICY ISSUED TO ANY OF THE FOLLOWING:**

25 **(A) THE OWNER'S OR REGISTRANT'S SPOUSE, RELATIVE, OR**
26 **RELATIVE'S SPOUSE.**

27 **(B) THE OWNER, REGISTRANT, OR OPERATOR OF ANOTHER VEHICLE**

1 OCCUPIED BY THE OWNER OR REGISTRANT OF THE MOTOR VEHICLE INSURED
2 UNDER THE POLICY ISSUED UNDER CHAPTER 32A.

3 (8) OTHER THAN RESIDUAL LIABILITY BENEFITS DESCRIBED IN
4 SECTION 3009, AN INDIVIDUAL OTHER THAN THE OWNER OR REGISTRANT OF
5 A MOTOR VEHICLE INSURED UNDER AN AUTOMOBILE INSURANCE POLICY
6 ISSUED UNDER CHAPTER 32A IS NOT ENTITLED TO BENEFITS UNDER THE
7 POLICY. THE INDIVIDUAL, IF INJURED WHILE AN OCCUPANT OF THE MOTOR
8 VEHICLE OR IN A MOTOR VEHICLE ACCIDENT THAT SHOWS EVIDENCE OF THE
9 INVOLVEMENT OF THE MOTOR VEHICLE, IS ONLY ENTITLED TO PERSONAL
10 PROTECTION BENEFITS THAT ARE OTHERWISE AVAILABLE TO THE
11 INDIVIDUAL UNDER THIS CHAPTER.

12 Sec. 3115. (1) Except as provided in ~~subsection (1) of~~
13 ~~section 3114-3114(1)~~, a person suffering accidental bodily injury
14 while not an occupant of a motor vehicle shall claim personal
15 protection insurance benefits from insurers in the following
16 order of priority:

17 (a) Insurers of owners or registrants of motor vehicles
18 involved in the accident.

19 (b) Insurers of operators of motor vehicles involved in the
20 accident.

21 (2) When 2 or more insurers are in the same order of
22 priority to provide personal protection insurance benefits an
23 insurer paying benefits due is entitled to partial recoupment
24 from the other insurers in the same order of priority, together
25 with a reasonable amount of partial recoupment of the expense of
26 processing the claim, in order to accomplish equitable
27 distribution of the loss among such insurers.

1 (3) A limit upon the amount of personal protection insurance
2 benefits available because of accidental bodily injury to 1
3 person arising from 1 motor vehicle accident shall be determined
4 without regard to the number of policies applicable to the
5 accident.

6 **(4) THE LIMIT OF LIABILITY FOR 2 OR MORE MOTOR VEHICLES**
7 **UNDER 1 POLICY OR FOR 2 OR MORE POLICIES SHALL NOT BE ADDED**
8 **TOGETHER, COMBINED, OR STACKED TO DETERMINE THE LIMIT OF**
9 **INSURANCE COVERAGE AVAILABLE FOR EACH INJURED PERSON COVERED**
10 **UNDER THE POLICY.**

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

16 (2) For a cause of action for damages pursuant to subsection
17 (1) filed on or after July 26, 1996, all of the following apply:

18 (a) The issues of whether the injured person has suffered
19 serious impairment of body function or permanent serious
20 disfigurement are questions of law for the court if the court
21 finds either of the following:

22 (i) There is no factual dispute concerning the nature and
23 extent of the person's injuries.

24 (ii) There is a factual dispute concerning the nature and
25 extent of the person's injuries, but the dispute is not material
26 to the determination whether the person has suffered a serious
27 impairment of body function or permanent serious disfigurement.

1 However, for a closed-head injury, a question of fact for the
2 jury is created if a licensed allopathic or osteopathic physician
3 who regularly diagnoses or treats closed-head injuries testifies
4 under oath that there may be a serious neurological injury.

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

8 (c) Damages shall not be assessed in favor of a party who
9 was operating his or her own vehicle at the time the injury
10 occurred and did not have in effect for that motor vehicle the
11 security required by section 3101 at the time the injury
12 occurred.

13 **(D) IF THE INJURED PERSON WAS THE OWNER OR REGISTRANT OF A**
14 **MOTOR VEHICLE INSURED UNDER A POLICY ISSUED UNDER CHAPTER 32A,**
15 **THE INJURED PERSON IS LIMITED TO A RECOVERY OF \$20,000.00 IN THE**
16 **AGGREGATE FROM ALL PERSONS WHO ARE LIABLE UNDER SUBSECTION (1).**

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

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

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

3 (c) Damages for allowable expenses, work loss, and
4 survivor's loss as defined in sections 3107 to 3110 in excess of
5 the daily, monthly, and 3-year limitations contained in those
6 sections. The party liable for damages is entitled to an
7 exemption reducing his or her liability by the amount of taxes
8 that would have been payable on account of income the injured
9 person would have received if he or she had not been injured.

10 **THIS SUBDIVISION DOES NOT APPLY TO AN OWNER OR REGISTRANT OF A**
11 **MOTOR VEHICLE INSURED UNDER A POLICY ISSUED UNDER CHAPTER 32A.**

12 (d) Damages for economic loss by a nonresident in excess of
13 the personal protection insurance benefits provided under section
14 3163(4). Damages under this subdivision are not recoverable to
15 the extent that benefits covering the same loss are available
16 from other sources, regardless of the nature or number of benefit
17 sources available and regardless of the nature or form of the
18 benefits.

19 (e) Damages up to \$1,000.00 to a motor vehicle, to the
20 extent that the damages are not covered by insurance. An action
21 for damages under this subdivision shall be conducted as provided
22 in subsection (4).

23 (4) All of the following apply to an action for damages
24 under subsection (3)(e):

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

1 (b) Liability is not a component of residual liability, as
2 prescribed in section 3131, for which maintenance of security is
3 required by this act.

4 (c) The action shall be commenced, whenever legally
5 possible, in the small claims division of the district court or
6 the municipal court. If the defendant or plaintiff removes the
7 action to a higher court and does not prevail, the judge may
8 assess costs.

9 (d) A decision of the court is not res judicata in any
10 proceeding to determine any other liability arising from the same
11 circumstances that gave rise to the action.

12 (e) Damages shall not be assessed if the damaged motor
13 vehicle was being operated at the time of the damage without the
14 security required by section 3101.

15 (5) As used in this section, "serious impairment of body
16 function" means an objectively manifested impairment of an
17 important body function that affects the person's general ability
18 to lead his or her normal life.

19 CHAPTER 32A

20 LOW-COST AUTOMOBILE INSURANCE PILOT PROGRAM

21 SEC. 3275. AS USED IN THIS CHAPTER:

22 (A) "AUTOMOBILE INSURANCE" MEANS THAT TERM AS DEFINED IN
23 SECTION 2102.

24 (B) "FACILITY" MEANS THE MICHIGAN AUTOMOBILE INSURANCE
25 PLACEMENT FACILITY CREATED UNDER CHAPTER 33.

26 (C) "FEDERAL POVERTY GUIDELINES" MEANS THE POVERTY
27 GUIDELINES PUBLISHED ANNUALLY IN THE FEDERAL REGISTER BY THE

1 UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER ITS
2 AUTHORITY TO REVISE THE POVERTY LINE UNDER 42 USC 9902.

3 (D) "INSURANCE AGENCY" MEANS AN AGENCY AS THAT TERM IS
4 DEFINED IN SECTION 1243.

5 (E) "INSURANCE PRODUCER" MEANS THAT TERM AS DEFINED IN
6 SECTION 1201.

7 (F) "LCAP APPLICANT" MEANS AN INDIVIDUAL WHO MEETS ALL OF
8 THE QUALIFICATIONS OF SECTION 3277.

9 (G) "LOW-COST AUTOMOBILE INSURANCE POLICY" MEANS AN
10 AUTOMOBILE INSURANCE POLICY THAT SATISFIES THE REQUIREMENTS OF
11 SECTION 3278.

12 SEC. 3276. AN OWNER OR REGISTRANT OF A MOTOR VEHICLE
13 REQUIRED TO BE REGISTERED IN THIS STATE WHO IS AN LCAP APPLICANT
14 MAY COMPLY WITH SECTION 3101 BY MAINTAINING A LOW-COST AUTOMOBILE
15 INSURANCE POLICY.

16 SEC. 3277. (1) TO QUALIFY FOR A LOW-COST AUTOMOBILE
17 INSURANCE POLICY, AN INDIVIDUAL MUST MEET ALL OF THE FOLLOWING
18 QUALIFICATIONS:

19 (A) RESIDE IN A HOUSEHOLD WITH A GROSS ANNUAL HOUSEHOLD
20 INCOME THAT IS EQUAL TO 300% OF THE FEDERAL POVERTY GUIDELINES OR
21 LESS.

22 (B) HAVE BEEN CONTINUOUSLY LICENSED TO DRIVE AN AUTOMOBILE
23 FOR A PERIOD OF 3 YEARS.

24 (C) NOT HAVE HAD IN THE PRECEDING 3 YEARS MORE THAN 1 OF
25 EITHER, BUT NOT BOTH, OF THE FOLLOWING:

26 (i) A PROPERTY-DAMAGE-ONLY ACCIDENT IN WHICH HE OR SHE WAS
27 SUBSTANTIALLY AT FAULT.

1 (ii) AN INSURANCE ELIGIBILITY POINT FOR A MOVING VIOLATION,
2 AS DESCRIBED IN SECTION 2103.

3 (D) NOT HAVE HAD IN THE PRECEDING 3 YEARS A SUBSTANTIALLY
4 AT-FAULT ACCIDENT INVOLVING BODILY INJURY OR DEATH.

5 (E) NOT HAVE HAD A CONVICTION FOR 1 OR MORE OF THE
6 FOLLOWING:

7 (i) A VIOLATION OF SECTION 625 OF THE MICHIGAN VEHICLE CODE,
8 1949 PA 300, MCL 257.625.

9 (ii) A VIOLATION DESCRIBED IN SECTION 601B OF THE MICHIGAN
10 VEHICLE CODE, 1949 PA 300, MCL 257.601B.

11 (iii) A FELONY OR MISDEMEANOR CONVICTION RELATING TO THE
12 OPERATION OF A MOTOR VEHICLE.

13 (2) AN INSURED UNDER A LOW-COST AUTOMOBILE INSURANCE POLICY
14 SHALL NOT PURCHASE OR MAINTAIN ANY AUTOMOBILE PERSONAL PROTECTION
15 INSURANCE COVERAGE OTHER THAN UNDER A LOW-COST AUTOMOBILE
16 INSURANCE POLICY FOR ANY ADDITIONAL VEHICLES IN THE INSURED'S
17 HOUSEHOLD.

18 SEC. 3278. (1) AN INSURER THAT ISSUES A LOW-COST AUTOMOBILE
19 INSURANCE POLICY SHALL PROVIDE ALL OF THE FOLLOWING COVERAGE
20 UNDER THE POLICY:

21 (A) SECURITY AGAINST LOSS RESULTING FROM LIABILITY IMPOSED
22 BY LAW FOR PROPERTY DAMAGE, BODILY INJURY, OR DEATH SUFFERED BY A
23 PERSON ARISING OUT OF THE OWNERSHIP, MAINTENANCE, OR USE OF THE
24 MOTOR VEHICLE THAT MEETS THE REQUIREMENTS OF SECTION 3009.

25 (B) SECURITY FOR THE PAYMENT OF FIRST-PARTY MEDICAL
26 BENEFITS, PAYABLE IF THE OWNER OR REGISTRANT OF THE AUTOMOBILE IS
27 INVOLVED IN A MOTOR VEHICLE ACCIDENT, AS THAT TERM IS DEFINED IN

1 SECTION 3101. ALL OF THE FOLLOWING APPLY TO BENEFITS UNDER THIS
2 SUBDIVISION:

3 (i) THE BENEFITS ARE PAYABLE ONLY FOR MEDICAL EXPENSES
4 INCURRED BECAUSE OF INJURY TO THE OWNER OR REGISTRANT.

5 (ii) THE BENEFITS ARE PAYABLE ONLY IF THERE IS NO OTHER
6 HEALTH AND ACCIDENT COVERAGE AVAILABLE TO THE OWNER OR REGISTRANT
7 FOR THE MEDICAL EXPENSES INCURRED.

8 (iii) THE LIMIT FOR BENEFITS IS \$50,000.00.

9 (iv) THE BENEFITS ARE PAYABLE ONLY FOR MEDICALLY APPROPRIATE
10 TREATMENT BY INDIVIDUALS LICENSED OR AUTHORIZED TO RENDER THE
11 TREATMENT UNDER ARTICLE 15 OF THE PUBLIC HEALTH CODE, 1978 PA
12 368, MCL 333.16101 TO 333.18838.

13 (2) AN INSURER ISSUING A LOW-COST AUTOMOBILE INSURANCE
14 POLICY SHALL NOT PROVIDE COVERAGE IN THE POLICY FOR THE PAYMENT
15 OF BENEFITS DESCRIBED IN CHAPTER 31 UNLESS THE BENEFITS ARE
16 REQUIRED UNDER THIS SECTION.

17 SEC. 3280. (1) THE FACILITY SHALL PROVIDE FOR ALL OF THE
18 FOLLOWING:

19 (A) THE EQUITABLE DISTRIBUTION OF LCAP APPLICANTS TO
20 DESIGNATED PARTICIPATING MEMBERS IN ACCORDANCE WITH THE PLAN OF
21 OPERATION AS AMENDED UNDER SECTION 3310(3).

22 (B) THE ISSUANCE OF LOW-COST AUTOMOBILE INSURANCE POLICIES
23 TO LCAP APPLICANTS AS PROVIDED IN THE AMENDED PLAN OF OPERATION.

24 (C) THE APPOINTMENT OF A NUMBER OF PARTICIPATING MEMBERS TO
25 ACT ON BEHALF OF THE FACILITY FOR THE DISTRIBUTION OF RISKS OR
26 FOR THE SERVICING OF INDIVIDUALS INSURED UNDER LOW-COST
27 AUTOMOBILE POLICIES, AS PROVIDED IN THE AMENDED PLAN OF OPERATION

1 AND CONSISTENT WITH THIS SECTION. THE FACILITY SHALL DO ALL OF
2 THE FOLLOWING:

3 (i) APPOINT THOSE MEMBERS HAVING THE 5 HIGHEST PARTICIPATION
4 RATIOS, AS DEFINED IN SECTION 3303 (E) (i), TO ACT ON BEHALF OF THE
5 FACILITY.

6 (ii) APPOINT UP TO 5 ADDITIONAL MEMBERS TO ACT ON BEHALF OF
7 THE FACILITY FROM AMONG OTHER MEMBERS WHO VOLUNTEER TO SO ACT AND
8 WHO MEET REASONABLE SERVICING STANDARDS ESTABLISHED IN THE
9 AMENDED PLAN OF OPERATION.

10 (iii) APPOINT ADDITIONAL MEMBERS TO ACT ON BEHALF OF THE
11 FACILITY AS NECESSARY TO DO ALL OF THE FOLLOWING:

12 (A) ASSURE CONVENIENT ACCESS TO THE LOW-COST AUTOMOBILE
13 POLICIES FOR ALL LCAP APPLICANTS IN THIS STATE.

14 (B) ASSURE A REASONABLE QUALITY OF SERVICE FOR INDIVIDUALS
15 INSURED UNDER LOW-COST AUTOMOBILE INSURANCE POLICIES.

16 (C) ASSURE A REASONABLE REPRESENTATION OF THE VARIOUS
17 INSURANCE MARKETING SYSTEMS.

18 (D) ASSURE REASONABLE CLAIMS HANDLING.

19 (E) ASSURE A REASONABLE RANGE OF CHOICE OF INSURERS FOR
20 INDIVIDUALS INSURED UNDER LOW-COST AUTOMOBILE INSURANCE POLICIES.

21 (D) STANDARDS AND MONITORING PROCEDURES TO ASSURE THAT
22 PARTICIPATING MEMBERS ACTING ON BEHALF OF THE FACILITY WITH
23 RESPECT TO LOW-COST AUTOMOBILE INSURANCE POLICIES DO ALL OF THE
24 FOLLOWING:

25 (i) PROVIDE SERVICE TO INDIVIDUALS INSURED THAT IS EQUIVALENT
26 TO THE SERVICE PROVIDED TO PERSONS INSURED BY THE INSURER
27 VOLUNTARILY.

1 (ii) HANDLE CLAIMS IN AN EFFICIENT AND REASONABLE MANNER.

2 (iii) PROVIDE INTERNAL REVIEW PROCEDURES FOR INDIVIDUALS
3 INSURED IDENTICAL TO THOSE ESTABLISHED UNDER CHAPTER 21 FOR
4 PERSONS INSURED VOLUNTARILY.

5 (E) THE ESTABLISHMENT OF PROCEDURES AND GUIDELINES FOR THE
6 ISSUANCE OF BINDERS BY INSURANCE PRODUCERS ON RECEIPT OF THE
7 APPLICATION FOR COVERAGE.

8 (2) SECTIONS 3330, 3340(1) TO (3), 3355, 3360, AND 3380
9 APPLY TO THE OFFERING OF LOW-COST AUTOMOBILE INSURANCE POLICIES
10 THROUGH THE FACILITY.

11 (3) A LOW-COST AUTOMOBILE INSURANCE POLICY SHALL BE ISSUED
12 FOR AN INITIAL TERM OF 6 MONTHS, RENEWABLE FOR SUBSEQUENT 6-MONTH
13 TERMS.

14 SEC. 3281. THE OTHER CHAPTERS OF THIS ACT APPLY TO THIS
15 CHAPTER UNLESS THE APPLICATION OF A PROVISION IN ANOTHER CHAPTER
16 WOULD BE INCONSISTENT WITH THIS CHAPTER.

17 SEC. 3282. (1) AN INSURANCE PRODUCER THAT OFFERS AUTOMOBILE
18 INSURANCE UNDER CHAPTER 33 SHALL OFFER LOW-COST AUTOMOBILE
19 INSURANCE POLICIES TO LCAP APPLICANTS.

20 (2) AN INSURANCE PRODUCER THAT OFFERS A LOW-COST AUTOMOBILE
21 INSURANCE POLICY SHALL PROVIDE TO AN LCAP APPLICANT A NOTICE
22 RELATING TO COVERAGE UNDER THE POLICY. THE INSURANCE PRODUCER
23 SHALL PROVIDE THE NOTICE IN A SEPARATE DOCUMENT AT THE TIME OF
24 APPLICATION AND INCLUDE THE FOLLOWING STATEMENT IN 14-POINT
25 BOLD FACED TYPE OR FONT:

26 WARNING

1 INSURANCE COVERAGE UNDER THE POLICY YOU ARE BUYING PROVIDES
2 ONLY LIMITED MEDICAL COVERAGE UP TO A MAXIMUM OF \$50,000.00. THE
3 MEDICAL INSURANCE COVERS ONLY YOU AS THE OWNER OF THE VEHICLE.

4 THIS INSURANCE DOES NOT PROVIDE BENEFITS THAT ARE PROVIDED
5 UNDER A POLICY OF NO-FAULT INSURANCE IN THIS STATE, INCLUDING,
6 BUT NOT LIMITED TO, ANY OF THE FOLLOWING:

7 WAGE-LOSS BENEFITS.

8 SURVIVOR'S BENEFITS.

9 FUNERAL EXPENSES.

10 REPLACEMENT SERVICES.

11 PERSONAL PROTECTION BENEFITS FOR PASSENGERS IN THE VEHICLE,
12 PEDESTRIANS, OR ANY OTHER INDIVIDUAL.

13 (3) IN APPLYING FOR A LOW-COST AUTOMOBILE INSURANCE POLICY,
14 AN LCAP APPLICANT SHALL CERTIFY, TO THE BEST OF THE APPLICANT'S
15 KNOWLEDGE AND BELIEF, WHETHER REPRESENTATIONS MADE IN THE
16 APPLICATION AND IN DOCUMENTS SUBMITTED TO DEMONSTRATE ELIGIBILITY
17 FOR THE LOW-COST AUTOMOBILE INSURANCE POLICY ARE TRUE AND CORRECT
18 AND WHETHER THEY CONTAIN ANY MATERIAL MISREPRESENTATIONS OR
19 OMISSIONS OF FACT.

20 (4) A CERTIFICATION OF THE APPLICANT UNDER SUBSECTION (3)
21 THAT THE REPRESENTATIONS IN THE APPLICATION ARE TRUE AND CORRECT
22 IS PROOF THAT THE APPLICANT MEETS THE QUALIFICATIONS.

23 (5) AN INSURANCE PRODUCER OR AGENCY OR AN AUTHORIZED
24 REPRESENTATIVE OR EMPLOYEE OF AN INSURANCE PRODUCER OR AGENCY
25 INVOLVED IN THE SALE OF AUTOMOBILE INSURANCE UNDER THIS CHAPTER
26 IS NOT LIABLE TO ANY PERSON FOR DAMAGES ARISING FROM THE
27 REDUCTION OR INADEQUACY OF AUTOMOBILE INSURANCE BENEFITS AND DOES

1 NOT HAVE ANY OTHER LIABILITY FOR DAMAGES CAUSED BY, ARISING OUT
2 OF, OR RELATED TO ANY ACTUAL OR ALLEGED ACT, ERROR, OR OMISSION
3 CONCERNING THE CHOICE OF AUTOMOBILE INSURANCE BENEFITS UNDER THIS
4 CHAPTER.

5 SEC. 3283. AN INSURER MAY OFFER AN INSURED UNDER A LOW-COST
6 AUTOMOBILE INSURANCE POLICY A PREMIUM INSTALLMENT OPTION UNDER
7 WHICH THE INSURED MAY PAY A SPECIFIED PORTION OR PORTIONS OF THE
8 PREMIUM FOR THE LOW-COST AUTOMOBILE INSURANCE POLICY ON A
9 PERIODIC BASIS. A PREMIUM FOR A LOW-COST AUTOMOBILE INSURANCE
10 POLICY SHALL NOT BE FINANCED IN ANY OTHER MANNER.

11 SEC. 3284. (1) AN INSURER THAT ISSUES A LOW-COST AUTOMOBILE
12 INSURANCE POLICY UNDER THE PILOT PROGRAM MAY OFFER THE INSURED
13 ANY OTHER ADDITIONAL TYPE OF AUTOMOBILE INSURANCE COVERAGE SUCH
14 AS UNINSURED MOTORISTS COVERAGE OR COLLISION COVERAGE THAT IS NOT
15 AVAILABLE UNDER THE LOW-COST AUTOMOBILE INSURANCE POLICY.

16 (2) AN INSURER SHALL NOT CONDITION THE SALE OF A LOW-COST
17 AUTOMOBILE INSURANCE POLICY ON THE PURCHASE OF ANY OTHER PRODUCT
18 OR SERVICE.

19 SEC. 3285. (1) A PERSON WHO LAWFULLY RENDERS TREATMENT TO AN
20 INJURED INDIVIDUAL FOR AN ACCIDENTAL BODILY INJURY COVERED BY A
21 LOW-COST AUTOMOBILE INSURANCE POLICY MAY CHARGE A REASONABLE
22 AMOUNT FOR THE PRODUCTS, SERVICES, AND ACCOMMODATIONS RENDERED.
23 THE CHARGE SHALL NOT EXCEED THE AMOUNT THE PERSON CUSTOMARILY
24 RECEIVES FOR LIKE PRODUCTS, SERVICES, AND ACCOMMODATIONS IN CASES
25 THAT DO NOT INVOLVE AUTOMOBILE INSURANCE, THE PROGRAM FOR MEDICAL
26 ASSISTANCE FOR THE MEDICALLY INDIGENT UNDER THE SOCIAL WELFARE
27 ACT, 1939 PA 280, MCL 400.1 TO 400.119B, OR THE FEDERAL MEDICARE

1 PROGRAM ESTABLISHED UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT,
2 42 USC 1395 TO 1395III.

3 (2) ANY INFORMATION NEEDED BY AN INSURER TO DETERMINE THE
4 APPROPRIATE REIMBURSEMENT UNDER THIS SECTION SHALL BE PROVIDED BY
5 THE PERSON PROVIDING THE TREATMENT OR REHABILITATIVE OR
6 OCCUPATIONAL TRAINING.

7 (3) IF AN INSURER NEEDS INFORMATION TO DETERMINE THE
8 APPROPRIATE REIMBURSEMENT UNDER THIS SECTION AND THE INFORMATION
9 IS UNAVAILABLE OR NOT PROVIDED OR THE INFORMATION PROVIDED IS NOT
10 SUFFICIENT TO DETERMINE THE APPROPRIATE REIMBURSEMENT, THE
11 INSURER SHALL PAY THE AMOUNT THAT WOULD BE PAID UNDER R 418.10101
12 TO R 418.101503 OF THE MICHIGAN ADMINISTRATIVE CODE OR SCHEDULES
13 OF MAXIMUM FEES FOR WORKER'S DISABILITY COMPENSATION DEVELOPED
14 UNDER THOSE RULES.

15 (4) WHETHER A CHARGE IS REASONABLE OR WHETHER A PRODUCT,
16 SERVICE, OR ACCOMMODATION IS MEDICALLY APPROPRIATE AND MEDICALLY
17 NECESSARY IS A QUESTION OF LAW TO BE DECIDED BY THE COURT.

18 SEC. 3287. BY APRIL 1, 2016 AND BY APRIL 1 OF EACH
19 SUBSEQUENT YEAR, THE AUTOMOBILE INSURERS WHO ARE PARTICIPATING IN
20 THE LOW-COST AUTOMOBILE INSURANCE PROGRAM SHALL SUBMIT THE LOSS
21 AND EXPENSE DATA FROM LOW-COST AUTOMOBILE INSURANCE POLICIES AND
22 A PROPOSED RATE FOR THE LOW-COST AUTOMOBILE INSURANCE POLICY TO
23 THE DIRECTOR.

24 SEC. 3288. BY AUGUST 1, 2018 AND BY AUGUST 1 OF EACH
25 SUBSEQUENT YEAR, THE DIRECTOR SHALL REPORT TO THE LEGISLATURE ON
26 SALES OF LOW-COST AUTOMOBILE INSURANCE POLICIES AND THE RESULTS
27 OF THOSE SALES.

1 **SEC. 3289. THE DIRECTOR MAY ISSUE AN ORDER OR PROMULGATE**
2 **RULES UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA**
3 **306, MCL 24.201 TO 24.328, TO IMPLEMENT THIS CHAPTER.**

4 **SEC. 3290. THIS CHAPTER DOES NOT APPLY AFTER JULY 31, 2021.**

5 Sec. 3301. (1) Every insurer authorized to write automobile
6 insurance in this state shall participate in an organization for
7 the purpose of doing all of the following:

8 (a) Providing the guarantee that automobile insurance
9 coverage will be available to any person who is unable to procure
10 that insurance through ordinary methods.

11 (b) Preserving to the public the benefits of price
12 competition by encouraging maximum use of the normal private
13 insurance system.

14 **(C) ASSURING THAT LOW-COST AUTOMOBILE INSURANCE POLICIES ARE**
15 **OFFERED AND ISSUED IN THIS STATE UNDER CHAPTER 32A.**

16 (2) The organization created under this chapter shall be
17 called the "Michigan automobile insurance placement facility".

18 Sec. 3310. (1) The board of governors of the facility shall
19 consist of 11 governors. Seven of the governors shall be elected
20 as provided in the plan of operation. Four governors shall be
21 appointed by the ~~commissioner~~, **DIRECTOR**, of which 2 shall
22 represent insurance agents subject to section 1209(1) and 2 shall
23 represent the general public. Each governor appointed by the
24 ~~commissioner pursuant to~~ **DIRECTOR UNDER** this subsection shall
25 serve an annual term. The 7 elected members of the board of
26 governors of the facility shall be elected to serve annual terms
27 commencing within 45 days after the annual determination of

1 participation ratios. Vacancies shall be filled as provided for
2 in the plan of operation.

3 (2) **AMENDMENTS TO THE PLAN OF OPERATION FOR THE FACILITY ARE**
4 **SUBJECT TO MAJORITY APPROVAL BY THE BOARD OF GOVERNORS AND**
5 **RATIFICATION BY A MAJORITY OF THE MEMBERSHIP. THE MEMBERSHIP VOTE**
6 **SHALL BE DETERMINED BY PARTICIPATION RATIO AS DEFINED IN SECTION**
7 **3303 (E) (iii)**. ~~The facility committee shall adopt a plan of~~
8 ~~operation by majority vote of the committee and~~ **APPROVED AND**
9 **RATIFIED AMENDMENTS** shall ~~submit it~~ **BE SUBMITTED** to the
10 ~~commissioner~~ **DIRECTOR** for his or her approval. If the
11 ~~commissioner~~ **DIRECTOR** finds that the **AMENDMENTS TO THE** plan meets
12 **MEET** the requirements of this chapter **AND CHAPTER 32A, AS**
13 **APPLICABLE**, he or she shall approve it. ~~THEM~~. If the ~~commissioner~~
14 **DIRECTOR** finds that the **AMENDMENTS TO THE** plan fails ~~FAIL~~ to meet
15 the requirements of this chapter **OR CHAPTER 32A, AS APPLICABLE**,
16 he or she shall state in what respects the ~~plan is~~ **AMENDMENTS ARE**
17 deficient and shall afford the ~~facility committee~~ **BOARD OF**
18 **GOVERNORS** 10 days within which to correct the deficiency. If the
19 ~~commissioner~~ **DIRECTOR** and the ~~facility committee~~ **BOARD OF**
20 **GOVERNORS** fail to agree that the ~~provisions of~~ **CORRECTED**
21 **AMENDMENTS TO** the plan so submitted meet the requirements of this
22 chapter **OR CHAPTER 32A, AS APPLICABLE**, either party to the
23 controversy may submit the issue to the circuit court for Ingham
24 county for a determination. If the ~~commissioner~~ **DIRECTOR** fails to
25 render a written decision on the **AMENDMENTS TO THE** plan of
26 operation within 30 days after receipt of the ~~plan,~~ **AMENDMENTS**,
27 the ~~plan~~ **AMENDMENTS** shall be considered approved.

1 ~~—— (3) Amendments to the plan of operation shall be subject to~~
2 ~~majority approval by the board of governors and ratified by~~
3 ~~majority of the membership vote. The membership vote shall be~~
4 ~~determined as defined in section 3303(e) (iii). Amendments to the~~
5 ~~plan of operation shall be subject to the approval of the~~
6 ~~commissioner, as provided in subsection (2).~~

7 (3) BY SEPTEMBER 1, 2015, THE BOARD OF GOVERNORS SHALL
8 APPROVE AMENDMENTS TO THE PLAN OF OPERATION TO ASSURE THAT LOW-
9 COST AUTOMOBILE INSURANCE POLICIES UNDER CHAPTER 32A ARE OFFERED
10 TO RESIDENTS OF THIS STATE. THE AMENDMENTS SHALL BE SUBMITTED TO
11 THE MEMBERS FOR RATIFICATION AND TO THE DIRECTOR FOR APPROVAL, AS
12 REQUIRED BY SUBSECTION (2), SO THAT THE AMENDMENTS WILL BE IN
13 PLACE AND LOW-COST AUTOMOBILE INSURANCE POLICIES OFFERED IN THIS
14 STATE BY JANUARY 1, 2016.

15 (4) Every insurer authorized to write automobile insurance
16 in this state shall adhere to the plan of operation.