

HOUSE BILL No. 5134

December 9, 2015, Introduced by Reps. Banks, Gay-Dagnogo, Callton, Hovey-Wright, Byrd, Robinson, Cochran, Talabi, Geiss, Lane, Liberati, Rutledge, Chang, Garrett, Guerra, Durhal, Kosowski, Schor, Moss, Phelps, Love, Neeley, Greimel and Derek Miller and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending the title and sections 3109, 3142, 3157, 3301, 3330, and 4501 (MCL 500.3109, 500.3142, 500.3157, 500.3301, 500.3330, and 500.4501), the title as amended by 2002 PA 304, section 3109 as amended by 2012 PA 454, section 3330 as amended by 2012 PA 204, and section 4501 as amended by 2012 PA 39, and by adding section 3181 and chapter 63.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and

1 to prescribe the conditions on which companies and associations
2 organized, existing, or authorized under this act may exercise
3 their powers; to provide the rights, powers, and immunities and to
4 prescribe the conditions on which other persons, firms,
5 corporations, associations, risk retention groups, and purchasing
6 groups engaged in an insurance or surety business may exercise
7 their powers; to provide for the imposition of a privilege fee on
8 domestic insurance companies and associations; ~~and the state~~
9 ~~accident fund;~~ to provide for the imposition of a tax on the
10 business of foreign and alien companies and associations; to
11 provide for the imposition of a tax on risk retention groups and
12 purchasing groups; to provide for the imposition of a tax on the
13 business of surplus line agents; to provide for the imposition of
14 regulatory fees on certain insurers; to provide for assessment fees
15 on certain health maintenance organizations; to modify tort
16 liability arising out of certain accidents; to provide for limited
17 actions with respect to that modified tort liability and to
18 prescribe certain procedures for maintaining those actions; to
19 require security for losses arising out of certain accidents; to
20 provide for the continued availability and affordability of
21 automobile insurance and homeowners insurance in this state and to
22 facilitate the purchase of that insurance by all residents of this
23 state at fair and reasonable rates; to provide for certain
24 reporting with respect to insurance and with respect to certain
25 claims against uninsured or self-insured persons; to prescribe
26 duties for certain state departments and officers with respect to
27 that reporting; to provide for certain assessments; to establish

1 and continue certain state insurance funds; ~~to modify and clarify~~
 2 ~~the status, rights, powers, duties, and operations of the nonprofit~~
 3 ~~malpractice insurance fund;~~ to provide for the departmental
 4 supervision and regulation of the insurance and surety business
 5 within this state; to provide for regulation ~~over~~**OF** worker's
 6 compensation self-insurers; to provide for the conservation,
 7 rehabilitation, or liquidation of unsound or insolvent insurers; to
 8 provide for the protection of policyholders, claimants, and
 9 creditors of unsound or insolvent insurers; to provide for
 10 associations of insurers to protect policyholders and claimants in
 11 the event of insurer insolvencies; to prescribe educational
 12 requirements for insurance agents and solicitors; to provide for
 13 the regulation of multiple employer welfare arrangements; to create
 14 ~~an automobile theft prevention authority~~**1 OR MORE AUTHORITIES** to
 15 reduce **INSURANCE FRAUD AND** the number of automobile thefts in this
 16 state ~~;~~**AND** to prescribe the powers and duties of the ~~automobile~~
 17 ~~theft prevention authority;~~**AUTHORITIES;** to provide ~~certain~~**FOR THE**
 18 powers and duties ~~upon~~**OF** certain officials, departments, and
 19 authorities of this state; to provide for an appropriation; to
 20 repeal acts and parts of acts; and to provide penalties for the
 21 violation of this act.

22 Sec. 3109. (1) Benefits provided or required to be provided
 23 under the laws of any state or the federal government shall be
 24 subtracted from the personal protection insurance benefits
 25 otherwise payable for the injury under this chapter.

26 (2) An injured person is a natural person suffering accidental
 27 bodily injury.

1 (3) An insurer providing personal protection insurance
2 benefits under this chapter may offer, at appropriately reduced
3 premium rates, a deductible of a specified dollar amount. ~~This~~
4 ~~deductible~~

5 (4) AN INSURER PROVIDING PERSONAL PROTECTION BENEFITS UNDER
6 THIS CHAPTER MAY OFFER, AT APPROPRIATELY REDUCED PREMIUM RATES, A
7 REQUIREMENT FOR COPAYMENTS IN SPECIFIED DOLLAR AMOUNTS.

8 (5) A DEDUCTIBLE UNDER SUBSECTION (3) OR A COPAYMENT
9 REQUIREMENT UNDER SUBSECTION (4) may be applicable to all or any
10 specified types of personal protection insurance benefits, but
11 ~~shall~~ apply only to benefits payable to the person named in the
12 policy, his or her spouse, and any relative of either domiciled in
13 the same household.

14 Sec. 3142. (1) Personal protection insurance benefits are
15 payable as loss accrues.

16 (2) Personal protection insurance benefits are overdue if not
17 paid within 30 days after an insurer receives reasonable proof of
18 the fact and of the amount of loss sustained. If reasonable proof
19 is not supplied as to the entire claim, the amount supported by
20 reasonable proof is overdue if not paid within 30 days after the
21 proof is received by the insurer. Any part of the remainder of the
22 claim that is later supported by reasonable proof is overdue if not
23 paid within 30 days after the proof is received by the insurer. For
24 the purpose of calculating the extent to which benefits are
25 overdue, payment ~~shall be~~ IS treated as made on the date a draft or
26 other valid instrument was placed in the United States mail in a
27 properly addressed, postpaid envelope, or, if not so posted, on the

1 date of delivery.

2 (3) An overdue payment bears simple interest at the rate of
3 12% per annum.

4 (4) A REASONABLE SHOWING THAT THE CLAIMED BENEFIT IS WITHIN
5 THE GENERAL CATEGORY OF BENEFITS NOT PAYABLE UNDER APPLICABLE OTHER
6 HEALTH AND ACCIDENT COVERAGE IS SUFFICIENT REASONABLE PROOF THAT NO
7 OTHER HEALTH AND ACCIDENT COVERAGE IS APPLICABLE. AS USED IN THIS
8 SUBSECTION, "REASONABLE SHOWING" SHALL NOT BE CONSTRUED TO REQUIRE
9 ANY 1 PARTICULAR FORM OF DOCUMENTATION, INCLUDING, BUT NOT LIMITED
10 TO, REQUIRING AN EXPLANATION OF BENEFIT OR EXPLANATION OF REVIEW.

11 (5) AN INSURER WHO REFUSES TO PAY A CLAIM OR UNREASONABLY
12 DELAYS IN MAKING PROPER PAYMENT OF A CLAIM IS PRESUMED TO HAVE
13 ACTED UNREASONABLY UNDER SECTION 3148. THIS PRESUMPTION MAY BE
14 REBUTTED ONLY BY CLEAR AND CONVINCING EVIDENCE JUSTIFYING THE
15 DENIAL OR DELAY IN PAYMENT.

16 (6) BY JANUARY 1, 2017, AN AUTOMOBILE INSURER AND AN
17 ASSOCIATION FORMED UNDER SECTION 3104 SHALL ACCEPT ELECTRONIC
18 DOCUMENTATION OF PROOF OF THE PERSONAL PROTECTION INSURANCE CLAIM
19 AND THE AMOUNT OF THE LOSS SUSTAINED.

20 Sec. 3157. (1) ~~A~~ EXCEPT AS PROVIDED IN SUBSECTIONS (2) AND
21 (3), A physician, hospital, clinic, or other person or institution
22 lawfully rendering treatment to an injured person for an accidental
23 bodily injury covered by personal protection insurance, and a
24 person or institution providing rehabilitative occupational
25 training following the injury, may charge a reasonable amount for
26 the products, services and accommodations rendered. The charge
27 shall not exceed the amount the person or institution customarily

1 charges for like products, services and accommodations in cases not
2 involving insurance.

3 (2) ON JANUARY 1, 2016, EACH HOSPITAL IN THIS STATE SHALL FILE
4 WITH THE DIRECTOR IN A STANDARD ELECTRONIC FORMAT THE HOSPITAL'S
5 CHARGEMASTER FOR ALL CHARGES THAT WERE IN EFFECT ON JANUARY 1,
6 2015. A HOSPITAL SHALL DEMONSTRATE COMPLIANCE WITH THIS SUBSECTION
7 BY PROVIDING EVIDENCE THAT THE CHARGEMASTER SUBMITTED WAS IN EFFECT
8 ON JANUARY 1, 2015. BEGINNING JANUARY 1, 2016, A HOSPITAL SHALL NOT
9 REQUIRE PAYMENT FROM AN INSURER UNDER SUBSECTION (1) OF MORE THAN
10 80% OF THE HOSPITAL'S CHARGE FOR INPATIENT, OUTPATIENT,
11 REHABILITATION, AND SKILLED NURSING FACILITY SERVICES. THIS LIMIT
12 ON PAYMENT DOES NOT APPLY TO PROFESSIONAL SERVICES RENDERED BY AN
13 INDEPENDENT PRACTITIONER OR TO POST-ACUTE SERVICES PROVIDED OUTSIDE
14 OF A LICENSED HOSPITAL FACILITY.

15 (3) A HOSPITAL SHALL NOT BILL AN INSURER MORE THAN THE
16 HOSPITAL'S JANUARY 1, 2015 CHARGEMASTER RATES AS ESTABLISHED UNDER
17 SUBSECTION (2) UNTIL JANUARY 1, 2018. BEGINNING JANUARY 1, 2018,
18 THE HOSPITAL CHARGES MAY BE INCREASED, BUT ONLY BY THE RATE OF
19 INCREASE IN THE MEDICAL CARE SERVICES COMPONENT OF THE CONSUMER
20 PRICE INDEX AS DETERMINED BY THE FEDERAL BUREAU OF LABOR
21 STATISTICS.

22 (4) THE DIRECTOR MAY REQUIRE EACH HOSPITAL IN THIS STATE TO
23 SUBMIT A LIST OF UP TO 100 MOST FREQUENTLY BILLED DIAGNOSTIC
24 RELATED GROUPING CHARGES IN A SEPARATE DOCUMENT TO INCREASE THE
25 USABILITY OF THE CHARGEMASTER INFORMATION.

26 SEC. 3181. (1) NOTWITHSTANDING ANY PROVISION OF THIS ACT TO
27 THE CONTRARY, BY DECEMBER 31 OF THE YEAR IN WHICH THE AMENDATORY

1 ACT THAT ADDED THIS SECTION TAKES EFFECT, AN INSURER THAT ISSUES
2 AUTOMOBILE INSURANCE POLICIES SHALL FILE RATES FOR AUTOMOBILE
3 INSURANCE POLICIES ISSUED OR RENEWED AFTER DECEMBER 31 OF THE YEAR
4 IN WHICH THE AMENDATORY ACT THAT ADDED THIS SECTION TAKES EFFECT
5 THAT WILL RESULT IN THE REDUCTION IN PREMIUMS REQUIRED UNDER
6 SUBSECTION (2).

7 (2) THE RATES FOR AN INSURER FILED UNDER SUBSECTION (1) MUST
8 RESULT IN A PER-POLICY REDUCTION IN THE ANNUAL PREMIUM FROM THE
9 ANNUAL PREMIUM FOR THE YEAR IN WHICH THE AMENDATORY ACT THAT ADDED
10 THIS SECTION TAKES EFFECT EQUAL TO 12% OR MORE OF THE AVERAGE
11 ANNUAL PREMIUM.

12 (3) AS USED IN THIS SECTION ONLY:

13 (A) "AUTOMOBILE INSURANCE POLICY" MEANS AN INSURANCE POLICY
14 THAT PROVIDES THE SECURITY REQUIRED BY SECTION 3101(1) FOR 1 OR
15 MORE MOTOR VEHICLES OWNED BY 1 OR MORE INDIVIDUALS WHO RESIDE IN A
16 CITY, TOWNSHIP, OR VILLAGE IN THIS STATE TO WHICH EITHER OF THE
17 FOLLOWING APPLIES:

18 (i) THE CITY, TOWNSHIP, OR VILLAGE HAS A POPULATION OF 500,000
19 OR MORE.

20 (ii) THIRTY-FIVE PERCENT OR MORE OF THE MOTOR VEHICLES OWNED
21 BY DRIVERS WHO RESIDE IN THE CITY, TOWNSHIP, OR VILLAGE DO NOT HAVE
22 THE SECURITY REQUIRED BY SECTION 3101(1).

23 (B) "AVERAGE ANNUAL PREMIUM" MEANS THE AVERAGE ANNUAL PREMIUM
24 FOR INSURANCE POLICIES ISSUED IN THE YEAR BEFORE THE YEAR IN WHICH
25 THE AMENDATORY ACT THAT ADDED THIS SECTION TAKES EFFECT THAT
26 PROVIDED THE SECURITY REQUIRED BY SECTION 3101(1) FOR MOTOR
27 VEHICLES OWNED BY INDIVIDUALS WHO RESIDED IN THE CITY, TOWNSHIP, OR

1 VILLAGE.

2 (C) "MOTOR VEHICLE" MEANS A PRIVATE PASSENGER NONFLEET
3 AUTOMOBILE AS THAT TERM IS DEFINED IN SECTION 3303.

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

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

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

12 (C) PROVIDING FUNDING FOR THE MICHIGAN AUTOMOBILE INSURANCE
13 FRAUD AUTHORITY.

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

16 Sec. 3330. (1) The board of governors has the power to direct
17 the operation of the facility, including, at a minimum, the power
18 to do all of the following:

19 (a) To sue and be sued in the name of the facility. A judgment
20 against the facility shall not create any liabilities in the
21 individual participating members of the facility.

22 (b) To delegate ministerial duties, to hire a manager, to hire
23 legal counsel, and to contract for goods and services from others.

24 (c) To assess participating members on the basis of
25 participation ratios ~~pursuant to section 3303~~ to cover anticipated
26 costs of operation and administration of the facility, to provide
27 for equitable servicing fees, and to share losses, profits, and

1 expenses pursuant to the plan of operation.

2 (d) To impose limitations on cancellation or nonrenewal by
3 participating members of facility-placed business, in addition to
4 the limitations imposed by chapters 21 and 32.

5 (e) To provide for a limited number of participating members
6 to receive equitable distribution of applicants; or to provide for
7 a limited number of participating members to service applicants in
8 a plan of sharing of losses in accordance with section 3320(1)(c)
9 and the plan of operation.

10 (f) To provide for standards of performance of service for the
11 participating members designated under subdivision (e).

12 (g) To adopt a plan of operation and any amendments to the
13 plan, consistent with this chapter, necessary to assure the fair,
14 reasonable, equitable, and nondiscriminatory manner of
15 administering the facility, including compliance with chapter 21,
16 and to provide for any other matters necessary or advisable to
17 implement this chapter, including matters necessary to comply with
18 the requirements of chapter 21.

19 (h) To assess self-insurers and insurers consistent with
20 chapter 31 and the assigned claims plan approved under section
21 3171.

22 **(I) UNTIL DECEMBER 31, 2020, TO ANNUALLY ASSESS PARTICIPATING**
23 **MEMBERS AND SELF-INSURERS AN AGGREGATE AMOUNT NOT TO EXCEED**
24 **\$21,000,000.00 TO COVER ANTICIPATED COSTS OF OPERATION AND**
25 **ADMINISTRATION OF THE MICHIGAN AUTOMOBILE INSURANCE FRAUD**
26 **AUTHORITY. A MEMBER OR SELF-INSURER THAT PAYS MONEY FOR THE COSTS**
27 **AND ADMINISTRATION OF THE MICHIGAN AUTOMOBILE INSURANCE FRAUD**

1 AUTHORITY SHALL NOT PAY THE MONEY FROM PREMIUM REVENUE, BUT SHALL
2 PAY THE MONEY FROM OTHER EARNINGS OR INVESTMENTS. NOTWITHSTANDING
3 ANY OTHER PROVISION OF THIS ACT TO THE CONTRARY, AN INSURER, THE
4 DIRECTOR OR DEPARTMENT, OR ANY OTHER PERSON SHALL NOT INCLUDE OR
5 CONSIDER THE PAYMENT OF MONEY AS DESCRIBED IN THIS SUBSECTION WITH
6 RESPECT TO ESTABLISHING A RATE.

7 (2) The board of governors shall institute or cause to be
8 instituted by the facility or on its behalf an automatic data
9 processing system for recording and compiling data relative to
10 individuals insured through the facility. An automatic data
11 processing system established under this subsection shall, to the
12 greatest extent possible, be made compatible with the automatic
13 data processing system maintained by the secretary of state, to
14 provide for the identification and review of individuals insured
15 through the facility.

16 (3) BEFORE MARCH 1, 2016, THE BOARD OF GOVERNORS SHALL AMEND
17 THE PLAN OF OPERATION TO ESTABLISH APPROPRIATE PROCEDURES NECESSARY
18 TO MAKE ASSESSMENTS FOR AND CARRY OUT THE ADMINISTRATIVE DUTIES AND
19 FUNCTIONS OF THE MICHIGAN AUTOMOBILE INSURANCE FRAUD AUTHORITY.

20 Sec. 4501. As used in this chapter:

21 (a) "Authorized agency" means the department of state police;
22 a city, village, or township police department; a county sheriff's
23 department; a United States criminal investigative department or
24 agency; the prosecuting authority of a city, village, township,
25 county, or state or of the United States; the ~~office of financial~~
26 ~~and insurance regulation;~~ **DEPARTMENT; THE MICHIGAN AUTOMOBILE**
27 **INSURANCE FRAUD AUTHORITY;** or the department of state.

1 (b) "Financial loss" includes, but is not limited to, loss of
2 earnings, out-of-pocket and other expenses, repair and replacement
3 costs, investigative costs, and claims payments.

4 (c) "Insurance policy" or "policy" means an insurance policy,
5 benefit contract of a self-funded plan, health maintenance
6 organization contract, nonprofit dental care corporation
7 certificate, or health care corporation certificate.

8 (d) "Insurer" means a property-casualty insurer, life insurer,
9 third party administrator, self-funded plan, health insurer, health
10 maintenance organization, nonprofit dental care corporation, health
11 care corporation, reinsurer, or any other entity regulated by the
12 insurance laws of this state and providing any form of insurance.

13 (E) **"MICHIGAN AUTOMOBILE INSURANCE FRAUD AUTHORITY" MEANS THE**
14 **MICHIGAN AUTOMOBILE INSURANCE FRAUD AUTHORITY CREATED UNDER SECTION**
15 **6302.**

16 (F) ~~(e)~~—"Organization" means an organization or internal
17 department of an insurer established to detect and prevent
18 insurance fraud.

19 (G) ~~(f)~~—"Person" includes an individual, insurer, company,
20 association, organization, Lloyds, society, reciprocal or inter-
21 insurance exchange, partnership, syndicate, business trust,
22 corporation, and any other legal entity.

23 (H) ~~(g)~~—"Practitioner" means a licensee of this state
24 authorized to practice medicine and surgery, psychology,
25 chiropractic, or law, any other licensee of ~~the~~ **THIS** state, or an
26 unlicensed health care provider whose services are compensated,
27 directly or indirectly, by insurance proceeds, or a licensee

1 similarly licensed in other states and nations, or the practitioner
2 of any nonmedical treatment rendered in accordance with a
3 recognized religious method of healing.

4 (I) ~~(h)~~—"Runner", "capper", or "steerer" means a person who
5 receives a pecuniary or other benefit from a practitioner, whether
6 directly or indirectly, for procuring or attempting to procure a
7 client, patient, or customer at the direction or request of, or in
8 cooperation with, a practitioner whose intent is to obtain benefits
9 under a contract of insurance or to assert a claim against an
10 insured or an insurer for providing services to the client,
11 patient, or customer. Runner, capper, or steerer does not include a
12 practitioner who procures clients, patients, or customers through
13 the use of public media.

14 (J) ~~(i)~~—"Statement" includes, but is not limited to, any
15 notice statement, proof of loss, bill of lading, receipt for
16 payment, invoice, account, estimate of property damages, bill for
17 services, claim form, diagnosis, prescription, hospital or doctor
18 record, X-rays, test result, or other evidence of loss, injury, or
19 expense.

20 CHAPTER 63

21 MICHIGAN AUTOMOBILE INSURANCE FRAUD AUTHORITY

22 SEC. 6301. AS USED IN THIS CHAPTER:

23 (A) "AUTHORITY" MEANS THE MICHIGAN AUTOMOBILE INSURANCE FRAUD
24 AUTHORITY CREATED IN SECTION 6302.

25 (B) "AUTOMOBILE INSURANCE FRAUD" MEANS A FRAUDULENT INSURANCE
26 ACT AS DESCRIBED IN SECTION 4503 THAT IS COMMITTED IN CONNECTION
27 WITH AUTOMOBILE INSURANCE, INCLUDING AN APPLICATION FOR AUTOMOBILE

1 INSURANCE.

2 (C) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE AUTHORITY.

3 (D) "CAR YEARS" MEANS NET DIRECT PRIVATE PASSENGER AND
4 COMMERCIAL NONFLEET VEHICLE YEARS OF INSURANCE PROVIDING THE
5 SECURITY REQUIRED BY SECTION 3101(1) WRITTEN IN THIS STATE FOR THE
6 SECOND PREVIOUS CALENDAR YEAR AS REPORTED TO THE STATISTICAL AGENT
7 OF EACH INSURER.

8 (E) "FACILITY" MEANS THE MICHIGAN AUTOMOBILE INSURANCE
9 PLACEMENT FACILITY CREATED UNDER CHAPTER 33.

10 SEC. 6302. (1) THE MICHIGAN AUTOMOBILE INSURANCE FRAUD
11 AUTHORITY IS CREATED WITHIN THE FACILITY. THE FACILITY SHALL
12 PROVIDE STAFF FOR THE AUTHORITY AND SHALL CARRY OUT THE
13 ADMINISTRATIVE DUTIES AND FUNCTIONS AS DIRECTED BY THE BOARD.

14 (2) THE AUTHORITY IS NOT A STATE AGENCY, AND THE MONEY OF THE
15 AUTHORITY IS NOT STATE MONEY. HOWEVER, THE AUTHORITY SHALL COMPLY
16 WITH THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
17 15.246, AS IF THE AUTHORITY WERE A PUBLIC BODY. A RECORD OR PORTION
18 OF A RECORD, MATERIAL, DATA, OR OTHER INFORMATION RECEIVED,
19 PREPARED, USED, OR RETAINED BY THE AUTHORITY IN CONNECTION WITH THE
20 INVESTMENT OF ASSETS OR OF AN INSURER THAT RELATES TO FINANCIAL OR
21 PROPRIETARY INFORMATION AND IS CONSIDERED BY THE PERSON OR INSURER
22 PROVIDING THE AUTHORITY WITH THE RECORD, MATERIAL, DATA, OR
23 INFORMATION AS CONFIDENTIAL AND ACKNOWLEDGED BY THE AUTHORITY AS
24 CONFIDENTIAL IS NOT SUBJECT TO DISCLOSURE BY THE AUTHORITY. AS USED
25 IN THIS SUBSECTION:

26 (A) "FINANCIAL OR PROPRIETARY INFORMATION" MEANS INFORMATION
27 THAT HAS NOT BEEN PUBLICLY DISSEMINATED OR THAT IS UNAVAILABLE FROM

1 OTHER SOURCES, THE RELEASE OF WHICH MIGHT CAUSE THE PERSON
2 PROVIDING THE INFORMATION TO THE AUTHORITY SIGNIFICANT COMPETITIVE
3 HARM. FINANCIAL OR PROPRIETARY INFORMATION INCLUDES, BUT IS NOT
4 LIMITED TO, FINANCIAL PERFORMANCE DATA AND PROJECTIONS, FINANCIAL
5 STATEMENTS, AND PRODUCT AND MARKET DATA.

6 (B) "PUBLIC BODY" MEANS THAT TERM AS DEFINED IN SECTION 2 OF
7 THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.232.

8 (3) THE AUTHORITY SHALL DO ALL OF THE FOLLOWING:

9 (A) PROVIDE FINANCIAL SUPPORT TO STATE OR LOCAL LAW
10 ENFORCEMENT AGENCIES FOR PROGRAMS DESIGNED TO REDUCE THE INCIDENCE
11 OF AUTOMOBILE INSURANCE FRAUD.

12 (B) PROVIDE FINANCIAL SUPPORT TO STATE OR LOCAL PROSECUTORIAL
13 AGENCIES FOR PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF
14 AUTOMOBILE INSURANCE FRAUD.

15 (C) PROVIDE FINANCIAL SUPPORT TO AN INDEPENDENT ENTITY THAT
16 THE DIRECTOR SHALL ESTABLISH TO INVESTIGATE THE CLAIMS PRACTICES OF
17 INSURERS AND TO EVALUATE IF THOSE CLAIMS PRACTICES CREATE
18 UNNECESSARY DISPUTES, TREAT CLAIMANTS OR MEDICAL PROVIDERS
19 UNFAIRLY, INCREASE LITIGATION, OR CAUSE UNNECESSARY DELAYS IN THE
20 PAYMENT OF CLAIMS.

21 (4) THE AUTHORITY MAY PROVIDE FINANCIAL SUPPORT TO LAW
22 ENFORCEMENT, PROSECUTORIAL, INSURANCE, EDUCATION, OR TRAINING
23 ASSOCIATIONS FOR PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF
24 AUTOMOBILE INSURANCE FRAUD.

25 (5) THE PURPOSES, POWERS, AND DUTIES OF THE AUTHORITY ARE
26 VESTED IN AND SHALL BE EXERCISED BY A BOARD OF DIRECTORS. THE BOARD
27 OF DIRECTORS CONSISTS OF 25 MEMBERS AS FOLLOWS:

1 (A) EIGHT MEMBERS WHO REPRESENT AUTOMOBILE INSURERS IN THIS
2 STATE, INCLUDING THE FOLLOWING:

3 (i) AT LEAST 2 MEMBERS WHO REPRESENT INSURER GROUPS WITH
4 350,000 OR MORE CAR YEARS.

5 (ii) AT LEAST 2 MEMBERS WHO REPRESENT INSURER GROUPS WITH
6 FEWER THAN 350,000 BUT 100,000 OR MORE CAR YEARS.

7 (iii) AT LEAST 1 MEMBER WHO REPRESENTS INSURER GROUPS WITH
8 FEWER THAN 100,000 CAR YEARS.

9 (B) THE DIRECTOR OR HIS OR HER DESIGNEE.

10 (C) THE ATTORNEY GENERAL OR HIS OR HER DESIGNEE.

11 (D) THE DIRECTOR OF THE DEPARTMENT OF STATE POLICE OR HIS OR
12 HER DESIGNEE.

13 (E) TWO MEMBERS WHO REPRESENT OTHER LAW ENFORCEMENT AGENCIES
14 IN THIS STATE.

15 (F) ONE MEMBER WHO REPRESENTS PROSECUTING ATTORNEYS IN THIS
16 STATE.

17 (G) TWO MEMBERS WHO REPRESENT THE GENERAL PUBLIC.

18 (H) THREE MEMBERS WHO REPRESENT CONSUMER RIGHTS AND PATIENT
19 ADVOCACY GROUPS.

20 (I) ONE MEMBER OF THE MEDICAL COMMUNITY WHO CARES PRIMARILY
21 FOR PATIENTS WITH ACUTE MEDICAL NEEDS.

22 (J) THREE MEMBERS OF THE MEDICAL COMMUNITY WHO CARE PRIMARILY
23 FOR PATIENTS WITH SUBACUTE MEDICAL NEEDS.

24 (K) TWO LICENSED ATTORNEYS KNOWLEDGEABLE ABOUT THE NO-FAULT
25 LAW OF THIS STATE.

26 (6) THE MEMBERS OF THE BOARD REPRESENTING INSURERS SHALL BE
27 ELECTED BY AUTHORIZED INSURERS THAT PROVIDE AUTOMOBILE INSURANCE IN

1 THIS STATE FROM A LIST OF NOMINEES PROPOSED BY THE BOARD OF
2 GOVERNORS OF THE FACILITY. IN PREPARING THE LIST OF NOMINEES FOR
3 THE MEMBERS, THE BOARD OF GOVERNORS OF THE FACILITY SHALL SOLICIT
4 NOMINATIONS FROM AUTHORIZED INSURERS THAT PROVIDE AUTOMOBILE
5 INSURANCE IN THIS STATE.

6 (7) THE GOVERNOR SHALL APPOINT THE MEMBERS OF THE BOARD
7 REPRESENTING LAW ENFORCEMENT AGENCIES OTHER THAN THE DEPARTMENT OF
8 STATE POLICE. IN APPOINTING THE MEMBERS, THE GOVERNOR SHALL SOLICIT
9 INPUT FROM VARIOUS LAW ENFORCEMENT ASSOCIATIONS IN THIS STATE.

10 (8) THE GOVERNOR SHALL APPOINT THE MEMBER OF THE BOARD
11 REPRESENTING PROSECUTING ATTORNEYS. IN APPOINTING THE MEMBER, THE
12 GOVERNOR SHALL SOLICIT INPUT FROM THE PROSECUTING ATTORNEYS
13 ASSOCIATION OF MICHIGAN.

14 (9) THE GOVERNOR SHALL APPOINT THE MEMBERS OF THE BOARD WHO
15 REPRESENT THE GENERAL PUBLIC. THE GOVERNOR SHALL APPOINT
16 INDIVIDUALS WHO ARE RESIDENTS OF THIS STATE AND ARE NOT EMPLOYED BY
17 OR UNDER CONTRACT WITH A STATE OR LOCAL UNIT OF GOVERNMENT OR AN
18 INSURER.

19 (10) THE GOVERNOR SHALL APPOINT THE 4 MEDICAL COMMUNITY
20 MEMBERS OF THE BOARD. IN APPOINTING THESE MEMBERS, THE GOVERNOR
21 SHALL SOLICIT INPUT FROM THE MEDICAL COMMUNITY IN THIS STATE. THE
22 GOVERNOR SHALL APPOINT INDIVIDUALS WHO ARE RESIDENTS OF THIS STATE
23 AND ARE NOT EMPLOYED BY OR UNDER CONTRACT WITH A STATE OR LOCAL
24 UNIT OF GOVERNMENT OR AN INSURER.

25 (11) THE GOVERNOR SHALL APPOINT THE 3 CONSUMER RIGHTS AND
26 PATIENT ADVOCACY MEMBERS OF THE BOARD. IN APPOINTING THESE MEMBERS,
27 THE GOVERNOR SHALL SOLICIT INPUT FROM CONSUMER RIGHTS AND PATIENT

1 ADVOCACY GROUPS IN THIS STATE. THE GOVERNOR SHALL APPOINT
2 INDIVIDUALS WHO ARE RESIDENTS OF THIS STATE AND ARE NOT EMPLOYED BY
3 OR UNDER CONTRACT WITH A STATE OR LOCAL UNIT OF GOVERNMENT OR AN
4 INSURER.

5 (12) THE STATE BAR OF MICHIGAN SHALL ELECT THE 2 ATTORNEY
6 MEMBERS OF THE BOARD.

7 (13) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A MEMBER
8 OF THE BOARD SHALL SERVE FOR A TERM OF 4 YEARS OR UNTIL HIS OR HER
9 SUCCESSOR IS ELECTED, DESIGNATED, OR APPOINTED, WHICHEVER OCCURS
10 LATER. OF THE MEMBERS FIRST ELECTED OR APPOINTED UNDER THIS
11 SECTION, 2 MEMBERS REPRESENTING INSURERS, 1 MEMBER REPRESENTING LAW
12 ENFORCEMENT AGENCIES, AND 1 MEMBER WHO REPRESENTS THE GENERAL
13 PUBLIC SHALL SERVE FOR A TERM OF 2 YEARS, 3 MEMBERS REPRESENTING
14 INSURERS, THE MEMBER REPRESENTING PROSECUTING ATTORNEYS, 1 MEMBER
15 WHO REPRESENTS THE GENERAL PUBLIC, 2 MEMBERS WHO REPRESENT CONSUMER
16 RIGHTS AND PATIENT ADVOCACY GROUPS, 2 MEMBERS OF THE MEDICAL
17 COMMUNITY, AND 1 OF THE ATTORNEYS ELECTED BY THE STATE BAR OF
18 MICHIGAN SHALL SERVE FOR A TERM OF 3 YEARS, AND 3 MEMBERS
19 REPRESENTING INSURERS, 1 MEMBER REPRESENTING LAW ENFORCEMENT
20 AGENCIES, 1 MEMBER WHO REPRESENTS CONSUMER RIGHTS AND PATIENT
21 ADVOCACY GROUPS, 2 MEMBERS OF THE MEDICAL COMMUNITY, AND 1 OF THE
22 ATTORNEYS ELECTED BY THE STATE BAR SHALL SERVE FOR A TERM OF 4
23 YEARS.

24 (14) THE BOARD IS DISSOLVED ON JANUARY 1, 2021.

25 SEC. 6303. (1) A MEMBER OF THE BOARD SHALL SERVE WITHOUT
26 COMPENSATION, EXCEPT THAT THE BOARD SHALL REIMBURSE A MEMBER IN A
27 REASONABLE AMOUNT FOR NECESSARY TRAVEL AND EXPENSES.

1 (2) A MAJORITY OF THE MEMBERS OF THE BOARD CONSTITUTE A QUORUM
2 FOR THE TRANSACTION OF BUSINESS AT A MEETING OR THE EXERCISE OF A
3 POWER OR FUNCTION OF THE AUTHORITY, NOTWITHSTANDING THE EXISTENCE
4 OF 1 OR MORE VACANCIES. NOTWITHSTANDING ANY OTHER PROVISION OF LAW
5 TO THE CONTRARY, ACTION MAY BE TAKEN BY THE AUTHORITY AT A MEETING
6 ON A VOTE OF THE MAJORITY OF ITS MEMBERS PRESENT IN PERSON OR
7 THROUGH THE USE OF AMPLIFIED TELEPHONIC EQUIPMENT, IF AUTHORIZED BY
8 THE BYLAWS OR PLAN OF OPERATION OF THE BOARD. THE AUTHORITY SHALL
9 MEET AT THE CALL OF THE CHAIR OR AS MAY BE PROVIDED IN THE BYLAWS
10 OF THE AUTHORITY. MEETINGS OF THE AUTHORITY MAY BE HELD ANYWHERE IN
11 THIS STATE.

12 (3) THE BOARD SHALL ADOPT A PLAN OF OPERATION BY A MAJORITY
13 VOTE OF THE BOARD. VACANCIES ON THE BOARD SHALL BE FILLED IN
14 ACCORDANCE WITH THE PLAN OF OPERATION.

15 (4) THE BOARD SHALL CONDUCT ITS BUSINESS AT MEETINGS THAT ARE
16 HELD IN THIS STATE, OPEN TO THE PUBLIC, AND HELD IN A PLACE THAT IS
17 AVAILABLE TO THE GENERAL PUBLIC. HOWEVER, THE BOARD MAY ESTABLISH
18 REASONABLE RULES TO MINIMIZE DISRUPTION OF A MEETING OF THE BOARD.
19 AT LEAST 10 DAYS BUT NOT MORE THAN 60 DAYS BEFORE A MEETING, THE
20 BOARD SHALL PROVIDE PUBLIC NOTICE OF THE MEETING AT THE BOARD'S
21 PRINCIPAL OFFICE AND ON A PUBLICLY ACCESSIBLE INTERNET WEBSITE. THE
22 BOARD SHALL INCLUDE IN THE PUBLIC NOTICE OF ITS MEETING THE ADDRESS
23 WHERE MINUTES OF THE BOARD MAY BE INSPECTED BY THE PUBLIC. THE
24 BOARD MAY MEET IN A CLOSED SESSION FOR ANY OF THE FOLLOWING
25 PURPOSES:

26 (A) TO CONSIDER THE HIRING, DISMISSAL, SUSPENSION,
27 DISCIPLINING, OR EVALUATION OF OFFICERS OR EMPLOYEES OF THE

1 AUTHORITY.

2 (B) TO CONSULT WITH ITS ATTORNEY.

3 (C) TO COMPLY WITH STATE OR FEDERAL LAW, RULES, OR REGULATIONS
4 REGARDING PRIVACY OR CONFIDENTIALITY.

5 (5) THE BOARD SHALL DISPLAY INFORMATION CONCERNING THE
6 AUTHORITY'S OPERATIONS AND ACTIVITIES, INCLUDING, BUT NOT LIMITED
7 TO, THE ANNUAL FINANCIAL REPORT REQUIRED UNDER SECTION 6310, ON A
8 PUBLICLY ACCESSIBLE INTERNET WEBSITE.

9 (6) THE BOARD SHALL KEEP MINUTES OF EACH BOARD MEETING. THE
10 BOARD SHALL MAKE THE MINUTES OPEN TO PUBLIC INSPECTION AND
11 AVAILABLE AT THE ADDRESS DESIGNATED ON THE PUBLIC NOTICE OF ITS
12 MEETINGS. THE BOARD SHALL MAKE COPIES OF THE MINUTES AVAILABLE TO
13 THE PUBLIC AT THE REASONABLE ESTIMATED COST FOR PRINTING AND
14 COPYING. THE BOARD SHALL INCLUDE ALL OF THE FOLLOWING IN THE
15 MINUTES:

16 (A) THE DATE, TIME, AND PLACE OF THE MEETING.

17 (B) THE NAMES OF BOARD MEMBERS WHO ARE PRESENT AND BOARD
18 MEMBERS WHO ARE ABSENT.

19 (C) BOARD DECISIONS MADE DURING ANY PORTION OF THE MEETING
20 THAT WAS OPEN TO THE PUBLIC.

21 (D) ALL ROLL CALL VOTES TAKEN AT THE MEETING.

22 SEC. 6304. ON JANUARY 1, 2021, THE AUTHORITY IS DISSOLVED.

23 SEC. 6305. THE BOARD HAS THE POWERS NECESSARY TO CARRY OUT ITS
24 DUTIES UNDER THIS ACT, INCLUDING, BUT NOT LIMITED TO, THE POWER TO
25 DO THE FOLLOWING:

26 (A) SUE AND BE SUED IN THE NAME OF THE AUTHORITY.

27 (B) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS, AND OTHER AID

1 FROM ANY PERSON, THE FEDERAL GOVERNMENT, THIS STATE, A LOCAL UNIT
2 OF GOVERNMENT, OR AN AGENCY OF THE FEDERAL GOVERNMENT, THIS STATE,
3 OR A LOCAL UNIT OF GOVERNMENT.

4 (C) MAKE GRANTS AND INVESTMENTS.

5 (D) PROCURE INSURANCE AGAINST ANY LOSS IN CONNECTION WITH ITS
6 PROPERTY, ASSETS, OR ACTIVITIES.

7 (E) INVEST AT ITS DISCRETION ANY MONEY HELD IN RESERVE OR
8 SINKING FUNDS OR ANY MONEY NOT REQUIRED FOR IMMEDIATE USE OR
9 DISBURSEMENT AND TO SELECT AND USE DEPOSITORIES FOR ITS MONEY.

10 (F) CONTRACT FOR GOODS AND SERVICES AND ENGAGE PERSONNEL AS
11 NECESSARY.

12 (G) INDEMNIFY AND PROCURE INSURANCE INDEMNIFYING ANY MEMBER OF
13 THE BOARD FOR PERSONAL LOSS OR ACCOUNTABILITY RESULTING FROM THE
14 MEMBER'S ACTION OR INACTION AS A MEMBER OF THE BOARD.

15 (H) PERFORM OTHER ACTS NOT SPECIFICALLY ENUMERATED IN THIS
16 SECTION THAT ARE NECESSARY OR PROPER TO ACCOMPLISH THE PURPOSES OF
17 THE AUTHORITY AND THAT ARE NOT INCONSISTENT WITH THIS SECTION OR
18 THE PLAN OF OPERATION.

19 SEC. 6307. (1) BEFORE APRIL 1 OF EACH YEAR FROM 2016 TO 2020,
20 AN INSURER OR SELF-INSURER ENGAGED IN WRITING INSURANCE COVERAGES
21 THAT PROVIDE THE SECURITY REQUIRED BY SECTION 3101(1) IN THIS
22 STATE, AS A CONDITION OF ITS AUTHORITY TO TRANSACT INSURANCE IN
23 THIS STATE, SHALL PAY TO THE FACILITY, FOR DEPOSIT INTO THE ACCOUNT
24 OF THE AUTHORITY, AN ASSESSMENT DETERMINED BY THE FACILITY AS
25 PROVIDED IN THE PLAN OF OPERATION. THE ASSESSMENT SHALL BE BASED ON
26 THE RATIO OF THE CAR YEARS WRITTEN BY THE INSURER OR SELF-INSURER
27 TO THE TOTAL CAR YEARS WRITTEN IN THIS STATE BY ALL INSURERS AND

1 SELF-INSURERS.

2 (2) THE FACILITY SHALL SEGREGATE ALL MONEY RECEIVED UNDER
3 SUBSECTION (1) FROM OTHER MONEY OF THE FACILITY, IF APPLICABLE. THE
4 FACILITY SHALL ONLY EXPEND THE MONEY RECEIVED UNDER SUBSECTION (1)
5 AS DIRECTED BY THE BOARD.

6 SEC. 6308. (1) AN INSURER AUTHORIZED TO TRANSACT AUTOMOBILE
7 INSURANCE IN THIS STATE, AS A CONDITION OF ITS AUTHORITY TO
8 TRANSACT INSURANCE IN THIS STATE, SHALL REPORT AUTOMOBILE INSURANCE
9 FRAUD DATA AND CLAIMS PRACTICES TO THE AUTHORITY USING THE FORMAT
10 AND PROCEDURES ADOPTED BY THE BOARD.

11 (2) THE DEPARTMENT OF STATE POLICE SHALL COOPERATE WITH THE
12 AUTHORITY AND SHALL PROVIDE AVAILABLE MOTOR VEHICLE FRAUD AND THEFT
13 STATISTICS TO THE AUTHORITY ON REQUEST.

14 (3) THE BOARD SHALL DEVELOP PERFORMANCE METRICS THAT ARE
15 CONSISTENT, CONTROLLABLE, MEASURABLE, AND ATTAINABLE. THE BOARD
16 SHALL USE THE METRICS EACH YEAR TO EVALUATE NEW APPLICATIONS
17 SUBMITTED FOR FUNDING CONSIDERATION AND TO RENEW FUNDING FOR
18 EXISTING PROGRAMS.

19 SEC. 6310. (1) BEGINNING JANUARY 1 OF THE YEAR AFTER THE
20 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, THE
21 AUTHORITY SHALL PREPARE AND PUBLISH AN ANNUAL FINANCIAL REPORT, AND
22 BEGINNING JULY 1 OF THE YEAR AFTER THE EFFECTIVE DATE OF THE
23 AMENDATORY ACT THAT ADDED THIS SECTION, THE AUTHORITY SHALL PREPARE
24 AND PUBLISH AN ANNUAL REPORT TO THE LEGISLATURE ON THE AUTHORITY'S
25 EFFORTS TO PREVENT AUTOMOBILE INSURANCE FRAUD AND UNFAIR CLAIMS
26 PRACTICES OF INSURERS AND COST SAVINGS THAT HAVE RESULTED FROM
27 THOSE EFFORTS.

1 (2) THE ANNUAL REPORT TO THE LEGISLATURE REQUIRED UNDER
2 SUBSECTION (1) MUST DETAIL THE AUTOMOBILE INSURANCE FRAUD AND
3 UNFAIR CLAIMS PRACTICES OF INSURERS OCCURRING IN THIS STATE FOR THE
4 PREVIOUS YEAR, ASSESS THE IMPACT OF THE FRAUD AND UNFAIR CLAIMS
5 PRACTICES OF INSURERS ON RATES CHARGED FOR AUTOMOBILE INSURANCE,
6 SUMMARIZE PREVENTION PROGRAMS, AND OUTLINE ALLOCATIONS MADE BY THE
7 AUTHORITY. THE MEMBERS OF THE BOARD, INSURERS, AND THE DIRECTOR
8 SHALL COOPERATE IN DEVELOPING THE REPORT AS REQUESTED BY THE
9 AUTHORITY AND SHALL MAKE AVAILABLE TO THE AUTHORITY RECORDS AND
10 STATISTICS CONCERNING AUTOMOBILE INSURANCE FRAUD AND UNFAIR CLAIMS
11 PRACTICES OF INSURERS, INCLUDING THE NUMBER OF INSTANCES OF
12 SUSPECTED AND CONFIRMED INSURANCE FRAUD, THE NUMBER OF PROSECUTIONS
13 AND CONVICTIONS INVOLVING AUTOMOBILE INSURANCE FRAUD, AUTOMOBILE
14 INSURANCE FRAUD RECIDIVISM, UNFAIR SETTLEMENT PRACTICES AND CLAIMS
15 PRACTICES, INCLUDING THE CLAIMS PRACTICES OF THE ASSOCIATION UNDER
16 SECTION 3104, REIMBURSEMENT RATE PRACTICES, TIMELINESS OF CLAIMS
17 PRACTICES, AND THE USE OF INDEPENDENT MEDICAL EXAMINERS AND SPECIAL
18 INVESTIGATION UNITS. THE AUTHORITY SHALL EVALUATE THE IMPACT
19 AUTOMOBILE INSURANCE FRAUD HAS ON THE CITIZENS OF THIS STATE AND
20 THE COSTS INCURRED BY THE CITIZENS THROUGH INSURANCE, POLICE
21 ENFORCEMENT, PROSECUTION, AND INCARCERATION BECAUSE OF AUTOMOBILE
22 INSURANCE FRAUD. THE AUTHORITY SHALL EVALUATE THE IMPACT UNFAIR
23 CLAIMS PRACTICES BY INSURERS HAVE ON THE CITIZENS OF THIS STATE AND
24 SHALL DETERMINE THE COSTS INCURRED BY THE CITIZENS THROUGH
25 UNNECESSARY LITIGATION AND BAD-FAITH PRACTICES THAT DELAY,
26 WITHHOLD, OR DENY POLICYHOLDER BENEFITS THAT ARE BASED ON
27 LEGITIMATE CLAIMS, INCLUDING SPECIAL INVESTIGATION UNITS THAT

1 REPORT SUSPECTED FRAUD AND ABUSE CASES THAT ARE NOT BASED ON
2 INDEPENDENT, APPROPRIATE, AND GOOD-FAITH INVESTIGATION. THE
3 AUTHORITY SHALL ALSO REPORT ON ALL OF THE FOLLOWING:

4 (A) PROCESSING, SUBMISSION, AND BILLING PRACTICES, AND SHALL
5 RECOMMEND APPROPRIATE STANDARDIZATION PRACTICES.

6 (B) THE COSTS OF UNNECESSARY LITIGATION AND BAD FAITH
7 PRACTICES THAT DELAY, WITHHOLD, OR DENY POLICYHOLDER BENEFITS, AND
8 SHALL RECOMMEND ANY CHANGES TO EXISTING LAWS TO REDUCE THESE COSTS.

9 (3) THE AUTHORITY SHALL SUBMIT THE REPORT TO THE LEGISLATURE
10 REQUIRED BY THIS SECTION TO THE SENATE AND HOUSE OF REPRESENTATIVES
11 STANDING COMMITTEES WITH PRIMARY JURISDICTION OVER INSURANCE ISSUES
12 AND THE DIRECTOR.

13 Enacting section 1. The title and sections 3301, 3330, and
14 4501 of the insurance code of 1956, 1956 PA 218, MCL 500.3301,
15 500.3330, and 500.4501, as amended by this amendatory act, and
16 chapter 63 of the insurance code of 1956, 1956 PA 218, as added by
17 this amendatory act, take effect January 1, 2016.