

**SUBSTITUTE FOR
HOUSE BILL NO. 5854**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 102, 3101a, 3114, 3171, 3172, 3173, 3173a,
3174, 3175, 3177, and 3178 (MCL 500.102, 500.3101a, 500.3114,
500.3171, 500.3172, 500.3173, 500.3173a, 500.3174, 500.3175,
500.3177, and 500.3178), section 102 as amended by 2000 PA 252,
section 3101a as amended by 2011 PA 91, section 3114 as amended by
2002 PA 38, sections 3171, 3172, 3173a, 3174, and 3175 as amended
and section 3178 as added by 2012 PA 204, and section 3177 as
amended by 1984 PA 426.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 102. ~~(1)~~ **AS USED IN THIS ACT:**
- 2 **(A)** "Commissioner" ~~as used in this act~~ means the ~~commissioner~~
- 3 ~~of the office of financial and insurance services.~~ **DIRECTOR.**
- 4 **(B)** ~~(2)~~ "Department" ~~as used in this act~~ means the ~~office~~

1 DEPARTMENT of ~~financial and insurance~~ **AND FINANCIAL** services.

2 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

3 Sec. 3101a. ~~(1) Except as otherwise provided in this section,~~
4 ~~an insurer, in conjunction with the issuance of an automobile~~
5 ~~insurance policy, as defined in section 3303, shall provide 2~~
6 ~~certificates of insurance for each insured vehicle. The insurer~~
7 ~~shall mark 1 of the certificates as the secretary of state's copy,~~
8 ~~which copy, except as otherwise provided in this section, shall be~~
9 ~~filed with the secretary of state by the policyholder upon~~
10 ~~application for a vehicle registration. The secretary of state~~
11 ~~shall not maintain the certificate of insurance received under this~~
12 ~~subsection on file.~~

13 (1) ~~(2) Beginning December 30, 2011, an~~ **AN** insurer, in
14 conjunction with the issuance of an automobile insurance policy,
15 shall provide to the insured 1 certificate of insurance for each
16 insured vehicle, and for private passenger nonfleet automobiles
17 listed on the policy shall supply to the secretary of state ~~, in~~
18 ~~the format and timeline as required by the secretary of state,~~
19 ~~which shall not be required more frequently than every 14 days, the~~
20 automobile insurer's name, the **NAME OF THE** named insured, the named
21 insured's address, the vehicle identification number for each ~~such~~
22 **PRIVATE PASSENGER NONFLEET** vehicle listed on the policy, and the
23 policy number. **THE INSURER SHALL SUPPLY THE INFORMATION REQUIRED**
24 **UNDER THIS SUBSECTION IN THE FORMAT AND ON A TIMELINE AS REQUIRED**
25 **BY THE SECRETARY OF STATE. THE SECRETARY OF STATE SHALL NOT REQUIRE**
26 **THE SUBMISSION OF INFORMATION UNDER THIS SUBSECTION MORE FREQUENTLY**
27 **THAN EVERY 14 DAYS. IN DETERMINING THE FORMAT UNDER THIS**

1 SUBSECTION, THE SECRETARY OF STATE SHALL CONSULT WITH INSURERS. AS
2 USED IN THIS SUBSECTION, "PRIVATE PASSENGER NONFLEET AUTOMOBILE"
3 MEANS THAT TERM AS DEFINED IN SECTION 3303.

4 (2) THE SECRETARY OF STATE SHALL PROVIDE POLICY INFORMATION
5 RECEIVED UNDER SUBSECTION (1) TO THE MICHIGAN AUTOMOBILE INSURANCE
6 PLACEMENT FACILITY AS REQUIRED FOR THE MICHIGAN AUTOMOBILE
7 INSURANCE PLACEMENT FACILITY TO COMPLY WITH THIS ACT.

8 (3) Until December 31, ~~2014,~~ 2018, the secretary of state
9 shall provide policy information received under ~~this~~ subsection (1)
10 to the department of community health as required for the
11 department of community health to comply with 2006 PA 593, MCL
12 550.281 to 550.289. ~~In determining the format under this~~
13 ~~subsection, the secretary of state shall consult with insurers. As~~
14 ~~used in this subsection, "private passenger nonfleet automobile"~~
15 ~~means that term as defined in section 3303.~~

16 (4) ~~(3)~~ The secretary of state shall accept as proof of
17 vehicle insurance a transmission of the insured vehicle's vehicle
18 identification number. Policy information submitted by an insurer
19 and received by the secretary of state under this section is
20 confidential, is not subject to the freedom of information act,
21 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to
22 any person except the department of community health for purposes
23 of 2006 PA 593, MCL 550.281 to 550.289, or pursuant to an order by
24 a court of competent jurisdiction in connection with a claim or
25 fraud investigation or prosecution. The transmission to the
26 secretary of state of a vehicle identification number is proof of
27 insurance to the secretary of state for motor vehicle registration

1 purposes only and is not evidence that a policy of insurance
2 actually exists between an insurer and an individual.

3 (5) ~~(4)~~—A person who supplies false information to the
4 secretary of state under this section or who issues or uses an
5 altered, fraudulent, or counterfeit certificate of insurance is
6 guilty of a misdemeanor punishable by imprisonment for not more
7 than 1 year or a fine of not more than \$1,000.00, or both.

8 (6) ~~(5)~~—The department of community health shall report to the
9 senate and house of representatives appropriations committees and
10 standing committees concerning insurance issues on the number of
11 claims and total dollar amount recovered from automobile insurers
12 pursuant to 2006 PA 593, MCL 550.281 to 550.289. The reports
13 required by this subsection shall be given to the appropriations
14 committees and standing committees concerning insurance issues by
15 December 30 , ~~2012 and December 30, 2013~~ **OF EACH YEAR THROUGH**
16 **DECEMBER 30, 2018** and shall cover the ~~immediately~~ preceding 12-
17 month period.

18 Sec. 3114. (1) Except as provided in subsections (2), (3), and
19 (5), a personal protection insurance policy described in section
20 3101(1) applies to accidental bodily injury to the person named in
21 the policy, the person's spouse, and a relative of either domiciled
22 in the same household, if the injury arises from a motor vehicle
23 accident. A personal injury insurance policy described in section
24 3103(2) applies to accidental bodily injury to the person named in
25 the policy, the person's spouse, and a relative of either domiciled
26 in the same household, if the injury arises from a motorcycle
27 accident. ~~When~~ **IF** personal protection insurance benefits or

1 personal injury benefits described in section 3103(2) are payable
2 to or for the benefit of an injured person under his or her own
3 policy and would also be payable under the policy of his or her
4 spouse, relative, or relative's spouse, the injured person's
5 insurer shall pay all of the benefits and is not entitled to
6 recoupment from the other insurer.

7 (2) A person suffering accidental bodily injury while an
8 operator or a passenger of a motor vehicle operated in the business
9 of transporting passengers shall receive the personal protection
10 insurance benefits to which the person is entitled from the insurer
11 of the motor vehicle. This subsection does not apply to a passenger
12 in **ANY OF** the following, unless ~~that~~**THE** passenger is not entitled
13 to personal protection insurance benefits under any other policy:

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

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

18 (c) A bus operating under a government sponsored
19 transportation program.

20 (d) A bus operated by or providing service to a nonprofit
21 organization.

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

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

26 **(G) A MOTOR VEHICLE INSURED UNDER SECTION 3101 OR 3102 WHILE**
27 **THE VEHICLE IS BEING OPERATED BY A TRANSPORTATION NETWORK COMPANY**

1 DRIVER IN CONNECTION WITH A TRANSPORTATION NETWORK COMPANY'S
2 DIGITAL NETWORK.

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

9 (4) Except as provided in subsections (1) to (3), a person
10 suffering accidental bodily injury arising from a motor vehicle
11 accident while an occupant of a motor vehicle shall claim personal
12 protection insurance benefits from insurers in the following order
13 of priority:

14 (a) The insurer of the owner or registrant of the vehicle
15 occupied.

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

17 (5) A person suffering accidental bodily injury arising from a
18 motor vehicle accident ~~which~~ **THAT** shows evidence of the involvement
19 of a motor vehicle while an operator or passenger of a motorcycle
20 shall claim personal protection insurance benefits from insurers in
21 the following order of priority:

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

24 (b) The insurer of the operator of the motor vehicle involved
25 in the accident.

26 (c) The motor vehicle insurer of the operator of the
27 motorcycle involved in the accident.

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

3 (6) If 2 or more insurers are in the same order of priority to
4 provide personal protection insurance benefits under subsection
5 (5), an insurer paying benefits due is entitled to partial
6 recoupment from the other insurers in the same order of priority,
7 ~~together with~~ **AND** a reasonable amount of partial recoupment of the
8 expense of processing the claim, in order to accomplish equitable
9 distribution of the loss among all of the insurers.

10 (7) **AS USED IN THIS SECTION:**

11 (A) **"TRANSPORTATION NETWORK COMPANY" MEANS A PERSON OPERATING**
12 **IN THIS STATE THAT USES A DIGITAL NETWORK TO CONNECT RIDERS TO**
13 **TRANSPORTATION NETWORK COMPANY DRIVERS FOR THE PURPOSE OF PROVIDING**
14 **TRANSPORTATION. TRANSPORTATION NETWORK COMPANY DOES NOT INCLUDE**
15 **TAXI SERVICE, TRANSPORTATION SERVICE ARRANGED THROUGH A**
16 **TRANSPORTATION BROKER, A RIDESHARING ARRANGEMENT, OR A**
17 **TRANSPORTATION SERVICE USING FIXED ROUTES AT REGULAR INTERVALS.**

18 (B) **"TRANSPORTATION NETWORK COMPANY DRIVER" MEANS AN**
19 **INDIVIDUAL WHO USES HIS OR HER PERSONAL VEHICLE TO PROVIDE**
20 **TRANSPORTATION SERVICES FOR RIDERS THAT ARE MATCHED TO THE**
21 **INDIVIDUAL THROUGH A TRANSPORTATION NETWORK COMPANY'S DIGITAL**
22 **NETWORK, REGARDLESS OF WHETHER THE INDIVIDUAL IS EMPLOYED BY A**
23 **TRANSPORTATION NETWORK COMPANY.**

24 ~~Sec. 3171. (1) Until an assigned claims plan is approved under~~
25 ~~subsection (3), the secretary of state shall organize and maintain~~
26 ~~an assigned claims facility and plan. A self-insurer and insurer~~
27 ~~writing insurance as provided by this chapter in this state shall~~

1 ~~participate in the assigned claims plan. Costs incurred in the~~
 2 ~~operation of the facility and the plan shall be allocated fairly~~
 3 ~~among insurers and self-insurers. The secretary of state shall~~
 4 ~~promulgate rules to implement the facility and plan in accordance~~
 5 ~~with and subject to the administrative procedures act of 1969, 1969~~
 6 ~~PA 306, MCL 24.201 to 24.328. After an assigned claims plan is~~
 7 ~~approved under subsection (3), the secretary of state shall~~
 8 ~~continue to maintain the assigned claims facility and plan~~
 9 ~~organized under this subsection as required by the plan approved~~
 10 ~~under subsection (3).~~

11 (1) ~~(2)~~ The Michigan automobile insurance placement facility
 12 shall ~~adopt and~~ maintain an assigned claims plan. A self-insurer or
 13 insurer writing insurance as provided by this chapter in this state
 14 shall participate in the assigned claims plan. Costs incurred in
 15 the administration of the assigned claims plan shall be allocated
 16 fairly among insurers and self-insurers. ~~On approval under~~
 17 ~~subsection (3), the Michigan automobile insurance placement~~
 18 ~~facility shall implement the assigned claims plan.~~

19 (2) ~~(3)~~ By August 1, 2012, the **THE** Michigan automobile
 20 insurance placement facility board of governors shall adopt ~~an~~ **ANY**
 21 **NECESSARY AMENDMENT TO THE** assigned claims plan by majority vote
 22 and shall submit it to the ~~commissioner~~ **DIRECTOR** for his or her
 23 approval. The ~~commissioner~~ **DIRECTOR** shall review the ~~plan~~ **AMENDMENT**
 24 within 30 days and respond in writing as provided in this
 25 subsection. If the ~~commissioner~~ **DIRECTOR** finds that the ~~plan~~
 26 **AMENDMENT** meets the requirements of this chapter, he or she shall
 27 approve it. If the ~~commissioner~~ **DIRECTOR** finds that the ~~plan~~

1 **AMENDMENT** fails to meet the requirements of this chapter, he or she
2 shall state in what respects the ~~plan~~**AMENDMENT** is deficient and
3 shall afford the Michigan automobile insurance placement facility
4 board of governors 10 days within which to correct the deficiency.
5 If the ~~commissioner~~**DIRECTOR** and the Michigan automobile insurance
6 placement facility board of governors fail to agree that the ~~plan~~
7 **AMENDMENT** submitted, with any corrections, meets the requirements
8 of this chapter, either party to the controversy may submit the
9 issue to the circuit court for Ingham county for a determination.
10 If the ~~commissioner~~**DIRECTOR** fails to render a written decision on
11 **AN AMENDMENT TO** the assigned claims plan within 30 days after
12 receipt of the ~~plan~~**AMENDMENT**, the ~~plan shall be~~ **AMENDMENT IS**
13 considered approved. The Michigan automobile insurance placement
14 facility shall forward a ~~plan~~**AN AMENDMENT** approved under this
15 subsection to the secretary of state. The ~~plan~~**AMENDMENT** takes
16 effect on approval by the ~~commissioner~~**DIRECTOR**.

17 ~~—— (4) Amendments to the assigned claims plan approved under~~
18 ~~subsection (3) shall be adopted by the board of governors and~~
19 ~~approved by the commissioner as provided in subsection (3). Until~~
20 ~~the date established in the plan under subsection (5) (c), the board~~
21 ~~of governors shall give the secretary of state advance notice of~~
22 ~~any proposed amendments to the plan.~~

23 ~~—— (5) The plan adopted under subsection (3) shall include all of~~
24 ~~the following:~~

25 ~~—— (a) The date on and after which all claims for benefits~~
26 ~~through the assigned claims plan under section 3172 shall be filed~~
27 ~~with the Michigan automobile insurance placement facility.~~

1 ~~—— (b) The date by which existing claims that have been assigned~~
2 ~~under the plan maintained by the secretary of state under~~
3 ~~subsection (1) will be transferred to the Michigan automobile~~
4 ~~insurance placement facility to be included in and administered~~
5 ~~under the adopted plan.~~

6 ~~—— (c) A date by which all functions of the assigned claims plan~~
7 ~~maintained by the secretary of state, with the exception of driver~~
8 ~~license and vehicle sanctions, will be transferred to the Michigan~~
9 ~~automobile insurance placement facility.~~

10 ~~—— (d) Requirements for the transfer of records relating to~~
11 ~~assigned claims from the secretary of state to the Michigan~~
12 ~~automobile insurance placement facility and the disposition by the~~
13 ~~secretary of state of records relating to assigned claims.~~

14 (3) ~~(e) Reimbursement~~ **EXCEPT AS PROVIDED IN SECTION 3177(4),**
15 **THE ASSIGNED CLAIMS PLAN MUST PROVIDE FOR REIMBURSEMENT** of the
16 secretary of state by the Michigan automobile insurance placement
17 facility for all of the following:

18 ~~—— (i) Expenses of developing the plan under subsection (6).~~

19 ~~—— (ii) Expenses of transferring operations from the assigned~~
20 ~~claims facility to the Michigan automobile insurance placement~~
21 ~~facility.~~

22 ~~—— (iii) Expenses~~ **EXPENSES** incurred by the secretary of state after
23 the transfer of operations from the assigned claims facility to the
24 Michigan automobile insurance placement facility for operations
25 performed by the secretary of state on behalf of the Michigan
26 automobile insurance placement facility.

27 ~~—— (6) The secretary of state and the Michigan automobile~~

1 ~~insurance placement facility shall cooperate and mutually develop~~
 2 ~~the aspects of the plan to be adopted under subsection (3) that are~~
 3 ~~required under subsection (5).~~

4 ~~—— (7) The secretary of state shall provide the Michigan~~
 5 ~~automobile insurance placement facility with all information~~
 6 ~~necessary for the operation of the assigned claims fund.~~

7 ~~—— (8) One year after the date established under subsection~~
 8 ~~(5) (c), the commissioner shall report in writing to the senate and~~
 9 ~~house of representatives standing committees on insurance issues on~~
 10 ~~the cost of the transfer of the assigned claims plan to the~~
 11 ~~Michigan automobile insurance placement facility and the~~
 12 ~~effectiveness of operations under the new plan.~~

13 (4) ~~(9)~~ As used in this section **AND SECTIONS 3172 TO 3178:**

14 (a) "Michigan automobile insurance placement facility" means
 15 the Michigan automobile insurance placement facility created under
 16 chapter 33.

17 (b) "Michigan automobile insurance placement facility board of
 18 governors" means the board of governors created under section 3310.

19 Sec. 3172. (1) A person entitled to claim because of
 20 accidental bodily injury arising out of the ownership, operation,
 21 maintenance, or use of a motor vehicle as a motor vehicle in this
 22 state may obtain personal protection insurance benefits through the
 23 assigned claims plan if ~~no~~ **THE PERSON CAN DEMONSTRATE, AFTER**
 24 **EXERCISING DUE DILIGENCE, THAT ANY OF THE FOLLOWING APPLY:**

25 (A) **NO** personal protection insurance ~~is~~ applicable to the
 26 injury, ~~no personal protection insurance applicable to the injury~~
 27 can be identified., ~~the~~

1 **(B) THE** personal protection insurance applicable to the injury
2 cannot be ascertained because of a dispute between 2 or more
3 automobile insurers concerning their obligation to provide coverage
4 or the equitable distribution of the loss., ~~or the~~

5 **(C) THE** only identifiable personal protection insurance
6 applicable to the injury is, because of financial inability of 1 or
7 more insurers to fulfill their obligations, inadequate to provide
8 benefits up to the maximum prescribed. ~~In that case, unpaid~~

9 **(2) UNPAID** benefits due or coming due **AS DESCRIBED IN**
10 **SUBSECTION (1)** may be collected under the assigned claims plan, and
11 **THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY AND** the
12 insurer to which the claim is assigned ~~is~~**ARE** entitled to
13 reimbursement from the ~~defaulting~~**RESPONSIBLE** insurers to the
14 extent of their financial responsibility, ~~—~~**INCLUDING REIMBURSEMENT**
15 **FOR ALL OF THE FOLLOWING:**

16 **(A) BENEFITS PAID.**

17 **(B) INCURRED LOSS ADJUSTMENT COSTS.**

18 **(C) INCURRED ATTORNEY FEES.**

19 **(3) A PERSON ENTITLED TO CLAIM BENEFITS THROUGH THE ASSIGNED**
20 **CLAIMS PLAN AS PROVIDED IN SUBSECTION (1) SHALL FILE A COMPLETED**
21 **APPLICATION ON A CLAIM FORM PROVIDED BY THE MICHIGAN AUTOMOBILE**
22 **INSURANCE PLACEMENT FACILITY AND PROVIDE A SATISFACTORY PROOF OF**
23 **LOSS TO THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY. THE**
24 **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL PROVIDE A**
25 **FORM FOR THE SUBMISSION OF CLAIMS THAT ALLOWS THE MICHIGAN**
26 **AUTOMOBILE INSURANCE PLACEMENT FACILITY TO HANDLE THE SUBMISSION OF**
27 **CLAIMS IN AN EFFICIENT AND REASONABLE MANNER. THE ASSIGNED CLAIMS**

1 **PLAN MUST DEFINE THE REQUIREMENTS FOR A SATISFACTORY PROOF OF LOSS.**

2 (4) ~~(2)~~—Except as otherwise provided in this subsection,
 3 personal protection insurance benefits, including benefits arising
 4 from accidents occurring before March 29, 1985, payable through the
 5 assigned claims plan shall be reduced to the extent that benefits
 6 covering the same loss are available from other sources, regardless
 7 of the nature or number of benefit sources available and regardless
 8 of the nature or form of the benefits, to a person claiming
 9 personal protection insurance benefits through the assigned claims
 10 plan. This subsection only applies if the personal protection
 11 insurance benefits are payable through the assigned claims plan
 12 ~~because no personal protection insurance is applicable to the~~
 13 ~~injury, no personal protection insurance applicable to the injury~~
 14 ~~can be identified, or the only identifiable personal protection~~
 15 ~~insurance applicable to the injury is, because of financial~~
 16 ~~inability of 1 or more insurers to fulfill their obligations,~~
 17 ~~inadequate to provide benefits up to the maximum prescribed. UNDER~~
 18 **SUBSECTION (1) (A) OR (C).** As used in this subsection, "sources" and
 19 "benefit sources" do not include the program for medical assistance
 20 for the medically indigent under the social welfare act, 1939 PA
 21 280, MCL 400.1 to 400.119b, or ~~insurance under the health insurance~~
 22 ~~for the aged act, title~~ **AND DISABLED UNDER SUBCHAPTER XVIII** of the
 23 social security act, 42 USC 1395 to 1395kkk-1.

24 (5) ~~(3)~~—If the obligation to provide personal protection
 25 insurance benefits cannot be ascertained because of a dispute
 26 between 2 or more automobile insurers concerning their obligation
 27 to provide coverage or the equitable distribution of the loss, and

1 if a method of voluntary payment of benefits cannot be agreed upon
2 among or between the disputing insurers, all of the following
3 apply:

4 (a) The insurers who are parties to the dispute shall, or the
5 claimant may, immediately notify the Michigan automobile insurance
6 placement facility of their inability to determine their statutory
7 obligations.

8 (b) ~~The claim shall be assigned by the~~ Michigan automobile
9 insurance placement facility **SHALL ASSIGN THE CLAIM** to an insurer
10 and the insurer shall immediately provide personal protection
11 insurance benefits to the claimant or claimants entitled to
12 benefits.

13 (c) ~~An action~~ **THE INSURER TO WHOM THE CLAIM IS ASSIGNED** shall
14 ~~be immediately commenced~~ **COMMENCE AN ACTION** on behalf of the
15 Michigan automobile insurance placement facility ~~by the insurer to~~
16 ~~whom the claim is assigned~~ in circuit court to declare the rights
17 and duties of any interested party.

18 (d) The insurer to whom the claim is assigned shall join as
19 parties defendant to the action commenced under subdivision (c)
20 each insurer disputing either the obligation to provide personal
21 protection insurance benefits or the equitable distribution of the
22 loss among the insurers.

23 (e) The circuit court shall declare the rights and duties of
24 any interested party whether or not other relief is sought or could
25 be granted.

26 (f) After hearing the action, the circuit court shall
27 determine the insurer or insurers, if any, obligated to provide the

1 applicable personal protection insurance benefits and the equitable
2 distribution, if any, among the insurers obligated, and shall order
3 reimbursement to the Michigan automobile insurance placement
4 facility from the insurer or insurers to the extent of the
5 responsibility as determined by the court. The reimbursement
6 ordered under this subdivision ~~shall~~**MUST** include all benefits and
7 costs paid or incurred by the Michigan automobile insurance
8 placement facility and all benefits and costs paid or incurred by
9 insurers determined not to be obligated to provide applicable
10 personal protection insurance benefits, including ~~reasonable,~~
11 ~~actually~~ incurred attorney fees and interest at the rate prescribed
12 in section 3175 ~~as of~~**APPLICABLE ON** December 31 of the year
13 preceding the determination of the circuit court.

14 Sec. 3173. (1) A person who because of a limitation or
15 exclusion in sections 3105 to 3116 is disqualified from receiving
16 personal protection insurance benefits under a policy otherwise
17 applying to his **OR HER** accidental bodily injury, **OR A PERSON WHO**
18 **BECAUSE OF A LIMITATION OR EXCLUSION UNDER A POLICY OF AUTOMOBILE**
19 **INSURANCE OTHERWISE APPLYING TO HIS OR HER ACCIDENTAL BODILY INJURY**
20 **IS DISQUALIFIED FROM RECEIVING PERSONAL PROTECTION INSURANCE**
21 **BENEFITS**, is also disqualified from receiving benefits under the
22 assigned claims plan.

23 (2) **A PERSON WHO IS ELIGIBLE TO RECEIVE BENEFITS FOR HIS OR**
24 **HER ACCIDENTAL BODILY INJURY THROUGH THE MICHIGAN PROPERTY AND**
25 **CASUALTY GUARANTY ASSOCIATION MAINTAINED UNDER CHAPTER 79 IS**
26 **DISQUALIFIED FROM RECEIVING BENEFITS UNDER THE ASSIGNED CLAIMS**
27 **PLAN.**

1 Sec. 3173a. (1) The Michigan automobile insurance placement
2 facility shall make an initial determination of a claimant's
3 eligibility for benefits under the assigned claims plan **BASED ON**
4 **THE SUBMISSION BY THE CLAIMANT OF A COMPLETED CLAIM FORM AND A**
5 **SATISFACTORY PROOF OF LOSS UNDER SECTION 3172(3)** and shall deny an
6 ~~obviously ineligible~~ claim. **A CLAIMANT SHALL COOPERATE IN THE**
7 **INVESTIGATION OF ELIGIBILITY AND THE SETTLEMENT OR DEFENSE OF ANY**
8 **CLAIM OR LAWSUIT, INCLUDING, BUT NOT LIMITED TO, EXAMINATIONS UNDER**
9 **OATH AND EXAMINATIONS BY PHYSICIANS SELECTED BY THE MICHIGAN**
10 **AUTOMOBILE INSURANCE PLACEMENT FACILITY OR BY THE INSURER ASSIGNED**
11 **THE CLAIM BY THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY.**
12 The **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY SHALL NOTIFY**
13 **THE** claimant ~~shall be notified promptly~~ in writing of ~~the~~ **A** denial
14 and the reasons for the denial.

15 (2) A person who presents or causes to be presented an oral or
16 written statement, including computer-generated information, as
17 part of or in support of a claim to the Michigan automobile
18 insurance placement facility **OR TO THE INSURER ASSIGNED THE CLAIM**
19 **BY THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY** for payment
20 or another benefit knowing that the statement contains false
21 information concerning a fact or thing material to the claim
22 commits a fraudulent insurance act under section 4503 that is
23 subject to the penalties imposed under section 4511. A claim that
24 contains or is supported by a fraudulent insurance act as described
25 in this subsection is ineligible for payment ~~or~~ **OF** benefits under
26 the assigned claims plan.

27 Sec. 3174. A person claiming through the assigned claims plan

1 shall notify the Michigan automobile insurance placement facility
2 of his or her claim within ~~the time that would have been allowed~~
3 ~~for filing an action for personal protection insurance benefits if~~
4 ~~identifiable coverage applicable to the claim had been in effect.~~
5 ~~The~~ **1 YEAR AFTER THE DATE OF THE ACCIDENT. ON AN INITIAL**
6 **DETERMINATION OF A CLAIMANT'S ELIGIBILITY FOR BENEFITS THROUGH THE**
7 **ASSIGNED CLAIMS PLAN, THE** Michigan automobile insurance placement
8 facility shall promptly assign the claim in accordance with the
9 plan and notify the claimant of the identity and address of the
10 insurer to which the claim is assigned. An action by ~~the~~ **A** claimant
11 ~~shall not be commenced more than 30 days after receipt of notice of~~
12 ~~the assignment or the last date on which the action could have been~~
13 ~~commenced against an insurer of identifiable coverage applicable to~~
14 ~~the claim, whichever is later.~~ **MUST BE COMMENCED AS PROVIDED IN**
15 **SECTION 3145.**

16 Sec. 3175. (1) The assignment of claims under the assigned
17 claims plan shall be made according to procedures established in
18 the assigned claims plan that assure fair allocation of the burden
19 of assigned claims among insurers doing business in this state on a
20 basis reasonably related to the volume of automobile liability and
21 personal protection insurance they write on motor vehicles or the
22 number of self-insured motor vehicles. An insurer to whom claims
23 have been assigned shall make prompt payment of loss in accordance
24 with this act. An insurer is entitled to reimbursement by the
25 Michigan automobile insurance placement facility for the payments,
26 the established loss adjustment cost, and an amount determined by
27 use of the average annual 90-day United States treasury bill yield

1 rate, as reported by the council of economic advisers as of
2 December 31 of the year for which reimbursement is sought, as
3 follows:

4 (a) For the calendar year in which claims are paid by the
5 insurer, the amount shall be determined by applying the specified
6 annual yield rate specified in this subsection to 1/2 of the total
7 claims payments and loss adjustment costs.

8 (b) For the period from the end of the calendar year in which
9 claims are paid by the insurer to the date payments for the
10 operation of the assigned claims plan are due, the amount shall be
11 determined by applying the annual yield rate specified in this
12 subsection to the total claims payments and loss adjustment costs
13 multiplied by a fraction, the denominator of which is 365 and the
14 numerator of which is equal to the number of days that have elapsed
15 between the end of the calendar year and the date payments for the
16 operation of the assigned claims plan are due.

17 (2) ~~The~~ **AN INSURER ASSIGNED A CLAIM BY THE MICHIGAN AUTOMOBILE**
18 **INSURANCE PLACEMENT FACILITY UNDER THE ASSIGNED CLAIMS PLAN MAY**
19 **BRING AN ACTION FOR REIMBURSEMENT AND INDEMNIFICATION OF THE CLAIM**
20 **ON BEHALF OF THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY.**
21 ~~THE~~ insurer to whom ~~claims have~~ **THE CLAIM HAS** been assigned shall
22 preserve and enforce rights to indemnity or reimbursement against
23 third parties and account to the Michigan automobile insurance
24 placement facility for the rights and shall assign the rights to
25 the Michigan automobile insurance placement facility on
26 reimbursement by the Michigan automobile insurance placement
27 facility. This section does not preclude an insurer from entering

1 into reasonable compromises and settlements with third parties
2 against whom rights to indemnity or reimbursement exist. The
3 insurer shall account to the Michigan automobile insurance
4 placement facility for any compromises and settlements. The
5 procedures established under the assigned claims plan ~~shall~~**MUST**
6 establish reasonable standards for enforcing rights to indemnity or
7 reimbursement against third parties, including a standard
8 establishing an amount below which actions to preserve and enforce
9 the rights need not be pursued.

10 (3) An action to enforce rights to indemnity or reimbursement
11 against a third party ~~shall~~**MAY** not be commenced after the later of
12 2 years after the assignment of the claim to the insurer or 1 year
13 after the date of the last payment ~~to the claimant.~~**MADE.**

14 (4) Payments for the operation of the assigned claims plan not
15 paid by the due date ~~shall~~ bear interest at the rate of 20% per
16 annum.

17 (5) The Michigan automobile insurance placement facility may
18 enter into a written agreement with the debtor permitting the
19 payment of the judgment or acknowledgment of debt in installments
20 payable to the Michigan automobile insurance placement facility. A
21 default in payment of installments under a judgment as agreed
22 subjects the debtor to suspension or revocation of his or her motor
23 vehicle license or registration in the same manner as for the
24 failure by an uninsured motorist to pay a judgment by installments
25 under section 3177, **INCLUDING RESPONSIBILITY FOR EXPENSES AS**
26 **PROVIDED IN SECTION 3177(4).**

27 Sec. 3177. (1) ~~An~~**THE** insurer obligated to pay personal

1 protection insurance benefits for accidental bodily injury to a
2 person arising out of the ownership, maintenance, or use of an
3 uninsured motor vehicle as a motor vehicle may recover ~~such~~ **ALL**
4 benefits paid, ~~and appropriate~~ **INCURRED** loss adjustment costs, **AND**
5 incurred **ATTORNEY FEES** from the owner or registrant of the
6 uninsured motor vehicle or from his or her estate. Failure of ~~such~~
7 ~~a person~~ **THE OWNER OR REGISTRANT** to make payment within 30 days
8 after **A judgment IS ENTERED IN AN ACTION FOR RECOVERY UNDER THIS**
9 **SUBSECTION** is a ground for suspension or revocation of his or her
10 motor vehicle registration and license as defined in section 25 of
11 the Michigan vehicle code, ~~Act No. 300 of the Public Acts of 1949,~~
12 ~~being section 257.25 of the Michigan Compiled Laws. An 1949 PA 300,~~
13 **MCL 257.25. FOR PURPOSES OF THIS SECTION, AN** uninsured motor
14 vehicle ~~for the purpose of this section~~ is a motor vehicle with
15 respect to which security ~~is~~ **AS** required by sections 3101 and 3102
16 is not in effect at the time of the accident.

17 (2) **THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY MAY**
18 **MAKE A WRITTEN AGREEMENT WITH THE OWNER OR REGISTRANT OF AN**
19 **UNINSURED VEHICLE OR HIS OR HER ESTATE PERMITTING THE PAYMENT OF A**
20 **JUDGMENT DESCRIBED IN SUBSECTION (1) IN INSTALLMENTS PAYABLE TO THE**
21 **MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY.** The motor vehicle
22 registration and license **OF AN OWNER OR REGISTRANT WHO MAKES A**
23 **WRITTEN AGREEMENT UNDER THIS SUBSECTION** shall not be suspended or
24 revoked and, ~~the motor vehicle registration and license~~ **IF ALREADY**
25 **SUSPENDED OR REVOKED UNDER SUBSECTION (1),** shall be restored ~~if the~~
26 ~~debtor enters into a written agreement with the secretary of state~~
27 ~~permitting the payment of the judgment in installments,~~ if the

1 payment of any installments is not in default.

2 (3) The secretary of state upon receipt of a certified
3 abstract of court record of a judgment **DESCRIBED IN SUBSECTION (1)**
4 or notice from ~~the~~**AN insurer OR THE MICHIGAN AUTOMOBILE INSURANCE**
5 **PLACEMENT FACILITY OR ITS DESIGNEE** of an acknowledgment of **A** debt
6 **DESCRIBED IN SUBSECTION (1)** shall notify the owner or registrant ~~of~~
7 ~~an uninsured vehicle~~ of the provisions of subsection (1) at ~~that~~
8 ~~person's~~**THE OWNER OR REGISTRANT'S** last ~~recorded~~ address **RECORDED**
9 with the secretary of state and inform ~~that person~~**THE OWNER OR**
10 **REGISTRANT** of the right to enter into a written agreement with the
11 ~~secretary of state~~**MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY**
12 **OR ITS DESIGNEE** for the payment of the judgment or debt in
13 installments.

14 (4) **EXPENSES FOR THE SUSPENSION, REVOCATION, OR REINSTATEMENT**
15 **OF A MOTOR VEHICLE REGISTRATION OR LICENSE UNDER THIS SECTION ARE**
16 **THE RESPONSIBILITY OF THE OWNER OR REGISTRANT OR OF HIS OR HER**
17 **ESTATE. AN OWNER OR REGISTRANT WHOSE LICENSE IS SUSPENDED UNDER**
18 **THIS SECTION SHALL PAY ANY REINSTATEMENT FEE AS REQUIRED UNDER**
19 **SECTION 320E OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL**
20 **257.320E.**

21 Sec. 3178. ~~After an assigned claims plan is approved under~~
22 ~~section 3171(3), the~~**THE** Michigan automobile insurance placement
23 facility board of governors shall report annually to the
24 ~~commissioner~~**DIRECTOR** and the ~~commissioner~~**DIRECTOR** shall report to
25 the standing committees of the senate and house of representatives
26 with primary jurisdiction over insurance matters on the
27 effectiveness of the assigned claims plan, including detailed

1 demographic information on the individuals who are submitting
2 claims and whose claims are being assigned.

3 Enacting section 1. This amendatory act does not take effect
4 unless Senate Bill No. 970 of the 97th Legislature is enacted into
5 law.