

SENATE BILL No. 618

June 21, 2005, Introduced by Senators JACOBS and GEORGE and referred to the Committee on Banking and Financial Institutions.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 the provisions of chapter 24 and chapter 26 ~~shall~~ DO not apply to
2 automobile insurance and home insurance. ~~An~~ UNTIL JANUARY 1,
3 2006, AN insurer may use rates for automobile insurance or home
4 insurance as soon as those rates are filed. BEGINNING JANUARY 1,
5 2006, AUTOMOBILE INSURANCE RATES ARE SUBJECT TO SECTION 2109A. To
6 the extent that other provisions of this ~~code~~ ACT are
7 inconsistent with the provisions of this chapter, this chapter
8 ~~shall govern~~ GOVERNS with respect to automobile insurance and home
9 insurance.

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

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

1 filings made on their behalf, which deviations shall be subject to
2 the provisions of this chapter.

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

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

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

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

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

14 (d) Any other relevant information.

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

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

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

23 (a) Rates shall not be excessive, inadequate, or unfairly
24 discriminatory. A rate shall not be held to be excessive unless the
25 rate is unreasonably high for the insurance coverage provided and a
26 reasonable degree of competition does not exist for the insurance
27 to which the rate is applicable. **EFFECTIVE JANUARY 1, 2006,**

1 **AUTOMOBILE INSURANCE RATES ARE ALSO SUBJECT TO SECTION 2109A.**

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

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

25 (2) A determination concerning the existence of a reasonable
26 degree of competition with respect to subsection (1)(a) shall take
27 into account a reasonable spectrum of relevant economic tests,

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

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

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

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

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

1 SUBDIVISION (A) SHALL BE STATED.

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

5 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.

6 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.

7 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.

8 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.

9 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.

10 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

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

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

21 (i) CLAIMS FOR PERSONAL PROTECTION INSURANCE BENEFITS.

22 (ii) CLAIMS FOR PROPERTY PROTECTION INSURANCE BENEFITS.

23 (iii) CLAIMS FOR RESIDUAL BODILY INJURY DAMAGES.

24 (iv) CLAIMS FOR UNINSURED MOTORIST BENEFITS.

25 (v) CLAIMS FOR UNDERINSURED MOTORIST BENEFITS.

26 (vi) CLAIMS FOR COLLISION AND COMPREHENSIVE INSURANCE BENEFITS.

27 (F) FOR EACH CATEGORY OF CLAIMS UNDER SUBDIVISION (E), THE

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

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

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

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

1 (I) THE TOTAL PREMIUMS COLLECTED BY THE INSURER DURING THE
2 LAST 1-YEAR PERIOD FOR EACH OF THE FOLLOWING COVERAGES:

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

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

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

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

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

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

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

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

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

1 UNLESS THE INSURER FIRST DOES EACH OF THE FOLLOWING:

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

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

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

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

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

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

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

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

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

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

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

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

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

1 becomes ineffective, as indicated in the commissioner's order.

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

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

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

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

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

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

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

25 (2) Each insurer transacting insurance in this state ~~which~~
26 **THAT** affords coverage for a motorcycle as described in subsection
27 (1) also shall offer, to an owner or registrant of a motorcycle,

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

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

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

1 SERVICES AS DESCRIBED IN SECTION 3107C. IF THE INJURED PERSON, OR A
2 PERSON ACTING ON HIS OR HER BEHALF, SUBMITS REASONABLE PROOF THAT
3 PRODUCTS, SERVICES, OR ACCOMMODATIONS ARE REASONABLY NECESSARY FOR
4 THE INJURED PERSON'S CARE, RECOVERY, OR REHABILITATION AND THE
5 INJURED PERSON CONSENTS TO BE PROVIDED WITH THE PRODUCTS, SERVICES,
6 OR ACCOMMODATIONS IN QUESTION, AN INSURER SHALL ISSUE WRITTEN
7 NOTIFICATION TO BOTH THE INJURED PERSON, OR A PERSON ACTING ON HIS
8 OR HER BEHALF, AND TO THE PROVIDER OF THE PRODUCTS, SERVICES, OR
9 ACCOMMODATIONS IN QUESTION, THAT THE INSURER WILL GUARANTEE PAYMENT
10 WHEN THE PRODUCTS, SERVICES, OR ACCOMMODATIONS ARE PROVIDED TO THE
11 INJURED PERSON. CHARGES FOR PRODUCTS, SERVICES, OR ACCOMMODATIONS
12 ARE CONSIDERED INCURRED UNDER THIS SECTION AS FOLLOWS:

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

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

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

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

1 reasonable proof of a lower value of the income tax advantage in
2 his or her case, in which case the lower value shall apply.
3 ~~Beginning March 30, 1973~~ **FOR THE PERIOD BEGINNING OCTOBER 1, 2004**
4 **THROUGH SEPTEMBER 30, 2005**, the benefits payable for work loss
5 sustained in a single 30-day period and the income earned by an
6 injured person for work during the same period together shall not
7 exceed ~~-\$1,000.00~~ **\$4,293.00**, which maximum shall apply pro rata to
8 any lesser period of work loss. Beginning October 1, ~~1974~~ **2005**,
9 the maximum shall be adjusted annually to reflect changes in the
10 cost of living under rules prescribed by the commissioner but any
11 change in the maximum shall apply only to benefits arising out of
12 accidents occurring subsequent to the date of change in the
13 maximum. **NOTWITHSTANDING ANY OTHER PROVISION IN THIS ACT, WORK LOSS**
14 **BENEFITS SHALL NOT BE REDUCED BY AMOUNTS PAID BY THE INJURED**
15 **PERSON'S EMPLOYER OR PAID UNDER A WAGE CONTINUATION PLAN**
16 **ESTABLISHED BY A COLLECTIVE BARGAINING AGREEMENT.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 (K) ANY OTHER RELEVANT FACTOR.

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

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

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

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

1 CLAIM FOR HOME CARE SERVICES.

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

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

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

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

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

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

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

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

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

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

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

8 (ii) There is a factual dispute concerning the nature and
9 extent of the person's injuries, but the dispute is not material to
10 the determination as to whether the person has suffered a serious
11 impairment of body function or permanent serious disfigurement.
12 However, for a closed-head injury, a question of fact for the jury
13 is created if a licensed allopathic or osteopathic physician who
14 regularly diagnoses or treats closed-head injuries testifies under
15 oath that there may be a serious neurological injury.

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

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

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

27 (a) Intentionally caused harm to persons or property. Even

1 though a person knows that harm to persons or property is
2 substantially certain to be caused by his or her act or omission,
3 the person does not cause or suffer that harm intentionally if he
4 or she acts or refrains from acting for the purpose of averting
5 injury to any person, including himself or herself, or for the
6 purpose of averting damage to tangible property.

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

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

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

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

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

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

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

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

12 (6) A decision of a court made pursuant to subsection (3)(e)
13 is not res judicata in any proceeding to determine any other
14 liability arising from the same circumstances as gave rise to the
15 action brought pursuant to subsection (3)(e).

16 (7) As used in this section, "serious impairment of body
17 function" means an objectively manifested **INJURY OR** impairment ~~of~~
18 **INVOLVING** an important body function that affects ~~the person's~~
19 ~~general ability to lead his or her normal life~~ **OR AFFECTED THE**
20 **PERSON'S LIFE IN A MANNER, AND FOR A TIME, THAT WAS NOT CLEARLY**
21 **FRIVOLOUS. THE CHANGES MADE IN THIS SUBSECTION BY THE AMENDATORY**
22 **ACT THAT ADDED THIS SENTENCE APPLY TO ANY CASE PENDING ON, OR FILED**
23 **ON OR AFTER, JULY 22, 2004.**

24 **SEC. 3136. IF AN INJURED PERSON RECOVERS DAMAGES UNDER SECTION**
25 **3135 FOR NONECONOMIC LOSS OR EXCESS ECONOMIC LOSS AND IS REQUIRED**
26 **TO PAY ALL OR A PORTION OF THAT RECOVERY TO ANY PERSON OR ENTITY**
27 **CLAIMING A LIEN OR RIGHT OF REIMBURSEMENT, SUBROGATION, RECOUPMENT,**

1 OR OFFSET AGAINST THE RECOVERY, THE INSURER RESPONSIBLE TO PAY
2 PERSONAL PROTECTION INSURANCE BENEFITS TO THE INJURED PERSON SHALL
3 REIMBURSE THE INJURED PERSON FOR THE AMOUNT HE OR SHE IS REQUIRED
4 TO PAY THE PERSON OR ENTITY TO THE EXTENT THAT THE PAYMENT WOULD
5 HAVE BEEN PAYABLE BY THE INSURER IF THE PERSON OR ENTITY HAD NOT
6 PAID THOSE AMOUNTS. THIS SECTION APPLIES TO ANY CASE FILED ON OR
7 AFTER OCTOBER 1, 1973.

8 Sec. 3141. An insurer may require written notice to be given
9 as soon as practicable after an accident involving a motor vehicle
10 with respect to which the policy affords the security required by
11 this chapter. **HOWEVER, A NOTICE REQUIREMENT SHALL NOT SHORTEN ANY**
12 **LIMITATIONS PERIOD OR NOTICE PERIOD ESTABLISHED UNDER THIS ACT OR**
13 **APPLICABLE TO CLAIMS MADE UNDER THIS ACT.**

14 Sec. 3145. (1) An action for recovery of personal protection
15 insurance benefits payable under this chapter for accidental bodily
16 injury ~~may~~ **SHALL** not be commenced later than 1 year after the
17 date of the accident causing the injury unless written notice of
18 injury as provided ~~herein~~ **IN THIS SECTION** has been given to the
19 insurer within 1 year after the accident or unless the insurer has
20 previously made a payment of personal protection insurance benefits
21 for the injury. If the notice has been given or a payment has been
22 made, the action may be commenced at any time within 1 year after
23 the most recent allowable expense, work loss, or survivor's loss
24 has been incurred. However, the claimant may not recover benefits
25 for any portion of the loss incurred more than 1 year before the
26 date on which the action was commenced. The notice of injury
27 required by this subsection may be given to the insurer or any of

1 its authorized agents by a person claiming to be entitled to
2 benefits, ~~therefor,~~ or by ~~someone in~~ A PERSON ACTING ON his OR
3 HER behalf. The notice shall give the name and address of the
4 claimant and indicate in ordinary language the name of the person
5 injured and the time, place, and nature of his OR HER injury AS THE
6 INJURY IS REASONABLY KNOWN TO THE PERSON GIVING THE NOTICE AT THE
7 TIME THE NOTICE IS GIVEN. NOTWITHSTANDING ANY OTHER PROVISION OF
8 THIS ACT TO THE CONTRARY, THE 1-YEAR PERIOD FOR BRINGING A CLAIM OR
9 FOR RECOVERING BENEFITS ON A CLAIM IS SUSPENDED FROM THE DATE A
10 SPECIFIC CLAIM FOR BENEFITS IS SUBMITTED TO THE INSURER UNTIL THE
11 DATE THE INSURER PROVIDES THE PERSON MAKING THE CLAIM WITH A FORMAL
12 WRITTEN DENIAL OF THAT SPECIFIC CLAIM.

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

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

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

27 (B) IF THE PERSON ENTITLED TO BENEFITS SUFFERED FROM A

1 CONDITION OF MENTAL DERANGEMENT SUCH AS TO PREVENT THE PERSON FROM
2 COMPREHENDING RIGHTS HE OR SHE IS OTHERWISE BOUND TO KNOW AT THE
3 TIME THE CLAIM FOR BENEFITS ACCRUES, THE CLAIM IS TOLLED UNTIL 1
4 YEAR AFTER THE CONDITION OR DISABILITY HAS BEEN UNEQUIVOCALLY AND
5 IRREVOCABLY REMOVED THROUGH DEATH OR OTHERWISE, REGARDLESS OF
6 WHETHER A GUARDIAN OR CONSERVATOR HAS BEEN APPOINTED FOR THE
7 PERSON. A JUDICIAL DECLARATION OF INSANITY, MENTAL COMPETENCY, OR
8 MENTAL DERANGEMENT IS NOT REQUIRED UNDER THIS SUBDIVISION.

9 (C) IF A PERSON DIES BEFORE THE PERIOD OF LIMITATIONS UNDER
10 SUBSECTION (1) HAS RUN OR WITHIN 90 DAYS AFTER THE PERIOD OF
11 LIMITATIONS HAS RUN, AN ACTION SURVIVING BY LAW MAY BE COMMENCED BY
12 THE PERSONAL REPRESENTATIVE OF THE DECEASED PERSON AT ANY TIME
13 WITHIN 2 YEARS AFTER LETTERS OF AUTHORITY ARE ISSUED EVEN IF THE
14 PERIOD OF LIMITATIONS HAS RUN, REGARDLESS OF WHETHER A GUARDIAN OR
15 CONSERVATOR HAD EVER BEEN APPOINTED FOR THE PERSON. HOWEVER, AN
16 ACTION SHALL NOT BE BROUGHT UNDER THIS SUBDIVISION UNLESS THE
17 PERSONAL REPRESENTATIVE COMMENCES IT WITHIN 3 YEARS OF THE TIME
18 WITHIN WHICH THE PERSONAL REPRESENTATIVE WAS AUTHORIZED BY LAW TO
19 COMMENCE ACTION.

20 (4) THIS SECTION APPLIES TO ANY CASE FILED ON OR AFTER OCTOBER
21 1, 1973.

22 SEC. 3149. AN INSURER OBLIGATED TO PAY BENEFITS OR CLAIMS FOR
23 PERSONAL PROTECTION INSURANCE BENEFITS UNDER THIS ACT OR UNDER AN
24 INSURANCE POLICY ISSUED UNDER THIS ACT HAS A DUTY TO DEAL FAIRLY
25 AND IN GOOD FAITH WITH AN INJURED PERSON CLAIMING BENEFITS AND THAT
26 PERSON'S PROVIDERS. AN INSURER THAT BREACHES THIS DUTY TO DEAL
27 FAIRLY AND IN GOOD FAITH IS LIABLE FOR COMPENSATORY, CONSEQUENTIAL,

1 ECONOMIC, NONECONOMIC, AND EXEMPLARY DAMAGES PROXIMATELY CAUSED BY
2 THE BREACH AND THE COSTS OF LITIGATION, INCLUDING ACTUAL ATTORNEY
3 FEES. A BREACH OF THE DUTY TO DEAL FAIRLY AND IN GOOD FAITH
4 INCLUDES, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

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

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

11 (C) A STATEMENT OR REPRESENTATION WITH RESPECT TO THE
12 SUBMISSION OF A CLAIM, THE PAYMENT OF A CLAIM, OR THE RIGHTS OF AN
13 INJURED PERSON OR THE PERSON'S PROVIDER UNDER THIS ACT, WHICH
14 STATEMENT OR REPRESENTATION IS MATERIALLY FALSE WHEN AN INSURER OR
15 ITS AGENTS OR REPRESENTATIVES KNEW, OR SHOULD HAVE KNOWN, OF THE
16 FALSITY OF THE STATEMENT OR REPRESENTATION.

17 SEC. 3160. (1) EACH INSURER AUTHORIZED TO TRANSACT AUTOMOBILE
18 INSURANCE IN THIS STATE SHALL OFFER, AS OPTIONAL COVERAGES,
19 UNINSURED MOTORIST BENEFITS AND UNDERINSURED MOTORIST BENEFITS. ALL
20 OF THE FOLLOWING APPLY TO UNINSURED MOTORIST BENEFITS AND
21 UNDERINSURED MOTORIST BENEFITS:

22 (A) THE INSURER SHALL INFORM ANY PERSON PURCHASING INSURANCE
23 FROM THE INSURER OF THAT PERSON'S RIGHT TO PURCHASE COVERAGE FOR
24 UNINSURED MOTORIST BENEFITS AND UNDERINSURED MOTORIST BENEFITS AND
25 SHALL SUBMIT TO THAT PERSON A WRITTEN EXPLANATION AND SUMMARY OF
26 THESE COVERAGES ON A FORM APPROVED BY THE COMMISSIONER. THE INSURER
27 SHALL ALSO INFORM THAT PERSON OF THE PREMIUMS THAT WILL BE CHARGED

1 FOR UNINSURED MOTORIST BENEFITS AND UNDERINSURED MOTORIST BENEFITS.
2 IF THAT PERSON DECLINES THE OFFER TO PURCHASE UNINSURED MOTORIST
3 BENEFITS OR UNDERINSURED MOTORIST BENEFITS, THE INSURER SHALL
4 PROCURE, FROM THAT PERSON, A WRITTEN WAIVER OF THE OPTION TO
5 PURCHASE UNINSURED MOTORIST BENEFITS OR UNDERINSURED MOTORIST
6 BENEFITS, WHICH WAIVER FORM MUST BE APPROVED BY THE COMMISSIONER.

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

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

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

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

21 (2) ANY INSURANCE POLICY ENDORSEMENT PROVIDING UNINSURED
22 MOTORIST BENEFITS AND UNDERINSURED MOTORIST BENEFITS SHALL COMPLY
23 WITH ALL OF THE FOLLOWING:

24 (A) COVERAGE FOR UNINSURED MOTORIST BENEFITS ENTITLES THE
25 CLAIMANT TO RECOVER DAMAGES ARISING OUT OF THE OWNERSHIP,
26 OPERATION, MAINTENANCE, OR USE OF A MOTOR VEHICLE WITH RESPECT TO
27 WHICH THE SECURITY REQUIRED BY SECTION 3101 OR THE SECURITY

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

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

25 (C) FOR CLAIMS FOR UNDERINSURED MOTORIST BENEFITS, ALL OF THE
26 FOLLOWING APPLY:

27 (i) IN ORDER FOR THE CLAIMANT TO BE ENTITLED TO PURSUE A CLAIM

1 FOR UNDERINSURED MOTORIST BENEFITS, THE CLAIMANT SHALL FIRST
2 EXHAUST, BY WAY OF SETTLEMENT OR JUDGMENT, THE LIMITS OF ALL
3 LIABILITY INSURANCE COVERAGES APPLICABLE TO THE UNDERINSURED
4 TORTFEASOR. UPON PAYMENT OF THOSE INSURANCE LIMITS, THE CLAIMANT IS
5 ENTITLED TO PROCEED WITH THE CLAIM FOR UNDERINSURED MOTORIST
6 BENEFITS.

7 (ii) A CLAIMANT IS NOT REQUIRED TO OBTAIN THE CONSENT OF THE
8 UNDERINSURED MOTORIST INSURER TO SETTLE WITH AND FULLY RELEASE THE
9 UNDERINSURED TORTFEASOR FROM ALL LIABILITY ARISING OUT OF THE
10 CLAIM.

11 (iii) A CLAIM FOR UNDERINSURED MOTORIST BENEFITS SHALL NOT BE
12 REDUCED OR SET OFF BY THE AMOUNT PAID TO THE CLAIMANT BY THE
13 UNDERINSURED MOTORIST TORTFEASOR'S LIABILITY INSURERS. HOWEVER, ANY
14 AMOUNT PAID PERSONALLY BY THE UNDERINSURED TORTFEASOR TO THE
15 CLAIMANT MAY BE SUBTRACTED OR SET OFF FROM THE CLAIMANT'S
16 UNDERINSURED MOTORIST CLAIM.

17 (D) A POLICY SHALL NOT CONTAIN NOTICE PROVISIONS, CLAIM
18 DEADLINES, OR STATUTES OF LIMITATIONS THAT IN ANY WAY SHORTEN THE
19 TIME LIMITATIONS CONTAINED IN THE REVISED JUDICATURE ACT OF 1961,
20 1961 PA 236, MCL 600.101 TO 600.9947, THAT WOULD BE APPLICABLE IF
21 THE CAUSE OF ACTION THAT GIVES RISE TO THE CLAIM FOR UNINSURED
22 MOTORIST BENEFITS OR UNDERINSURED MOTORIST BENEFITS HAD BEEN
23 ASSERTED DIRECTLY AGAINST THE TORTFEASORS WHOSE CONDUCT GIVES RISE
24 TO THE CLAIM.

25 (E) THE CLAIM FOR UNINSURED MOTORIST BENEFITS AND UNDERINSURED
26 MOTORIST BENEFITS SHALL NOT BE REDUCED BY ANY AMOUNTS PAID OR
27 PAYABLE TO THE CLAIMANT BY ANY OTHER SOURCES, INCLUDING, BUT NOT

1 LIMITED TO, PERSONAL PROTECTION INSURANCE BENEFITS UNDER THIS ACT,
2 WORKERS' COMPENSATION BENEFITS, SOCIAL SECURITY DISABILITY
3 BENEFITS, SOCIAL SECURITY SURVIVOR'S BENEFITS, HEALTH INSURANCE,
4 DISABILITY INSURANCE, BENEFITS UNDER PRIVATE CONTRACT,
5 GOVERNMENTALLY PROVIDED BENEFITS, OR DAMAGES RECOVERED FROM ANY
6 TORTFEASOR, UNLESS, IN THE UNINSURED MOTORIST CLAIM OR THE
7 UNDERINSURED MOTORIST CLAIM, THE CLAIMANT SEEKS TO RECOVER DAMAGES
8 THAT DUPLICATE AMOUNTS PAID OR PAYABLE TO THE CLAIMANT FROM ANY OF
9 THESE OTHER SOURCES.

10 (F) A CLAIM FOR UNINSURED MOTORIST BENEFITS OR UNDERINSURED
11 MOTORIST BENEFITS SHALL NOT BE DENIED OR OTHERWISE DISALLOWED ON
12 THE BASIS THAT THERE WAS NO PHYSICAL CONTACT BETWEEN THE CLAIMANT
13 OR THE CLAIMANT'S VEHICLE AND A VEHICLE THAT WAS UNINSURED OR
14 UNDERINSURED WITHIN THE MEANING OF THIS SECTION, AS LONG AS THE
15 CLAIMANT IS OTHERWISE ABLE TO PROVE, BY A PREPONDERANCE OF THE
16 EVIDENCE, THAT THE CLAIMANT'S DAMAGES AROSE OUT OF THE OWNERSHIP,
17 OPERATION, MAINTENANCE, OR USE OF THE UNINSURED OR UNDERINSURED
18 VEHICLE.

19 (G) ALL INSURANCE POLICIES PROVIDING FOR UNINSURED MOTORIST
20 BENEFITS AND UNDERINSURED MOTORIST BENEFITS SHALL GIVE THE CLAIMANT
21 THE OPTION OF BINDING ARBITRATION OF THE CLAIM. IF THE CLAIMANT
22 SELECTS ARBITRATION, THE ARBITRATION SHALL BE CONDUCTED IN
23 ACCORDANCE WITH CHAPTER 50 OF THE REVISED JUDICATURE ACT OF 1961,
24 1961 PA 236, MCL 600.5001 TO 600.5035, AND MCR 3.602.

25 Sec. 3177. (1) An insurer obligated to pay personal protection
26 insurance benefits for accidental bodily injury to a person arising
27 out of the ownership, OPERATION, maintenance, or use of an

1 uninsured motor vehicle as a motor vehicle may recover ~~such~~
2 benefits paid and appropriate loss adjustment costs incurred from
3 the owner or registrant of the uninsured motor vehicle or from his
4 or her estate. Failure of ~~such a~~ **THE** person to make payment
5 within 30 days after judgment is a ground for suspension or
6 revocation of his or her motor vehicle registration and license as
7 defined in section 25 of the Michigan vehicle code, ~~Act No. 300 of~~
8 ~~the Public Acts of 1949, being section 257.25 of the Michigan~~
9 ~~Compiled Laws 1949 PA 300, MCL 257.25.~~ An uninsured motor vehicle
10 for the purpose of this section is a motor vehicle with respect to
11 which **THE** security ~~is~~ required by sections 3101 and 3102 is not
12 in effect at the time of the accident.

13 (2) The motor vehicle registration and license shall not be
14 suspended or revoked and the motor vehicle registration and license
15 shall be restored if the debtor enters into a written agreement
16 with the secretary of state permitting the payment of the judgment
17 in installments, if the payment of any installments is not in
18 default.

19 (3) The secretary of state upon receipt of a certified
20 abstract of court record of a judgment or notice from the insurer
21 of an acknowledgment of debt shall notify the owner or registrant
22 of an uninsured vehicle of the provisions of subsection (1) at that
23 person's last recorded address with the secretary of state and
24 **SHALL** inform that person of the right to enter into a written
25 agreement with the secretary of state for the payment of the
26 judgment or debt in installments.

27 Enacting section 1. (1) The changes made in section 3135(7) of

1 the insurance code of 1956, 1956 PA 218, MCL 500.3135, by this
2 amendatory act are curative and intended to correct the
3 misinterpretation of existing law and legislative intent that
4 occurred in the Michigan supreme court decision in Kreiner v
5 Fischer and Straub v Collette and Heil-Wyllie, 471 Mich 109; 683
6 NW2d 611 (2004).

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

12 (3) Section 3145(3) of the insurance code of 1956, 1956 PA
13 218, MCL 500.3145, as added by this amendatory act, is curative and
14 intended to correct the misinterpretation of existing law and
15 legislative intent that occurred in the Michigan court of appeals
16 decision in Cameron v Auto Club Insurance Association, 263 Mich App
17 95; 687 NW2d 354 (2004).

18 Enacting section 2. Section 3009 of the insurance code of
19 1956, 1956 PA 218, MCL 500.3009, as amended by this amendatory act,
20 takes effect January 1, 2006 and applies to policies issued or
21 renewed on or after January 1, 2006.