

Act No. 198  
Public Acts of 2009  
Approved by the Governor  
December 29, 2009  
Filed with the Secretary of State  
December 29, 2009  
EFFECTIVE DATE: January 1, 2010

**STATE OF MICHIGAN  
95TH LEGISLATURE  
REGULAR SESSION OF 2009**

Introduced by Senator Sanborn

# **ENROLLED SENATE BILL No. 901**

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding section 814a.

*The People of the State of Michigan enact:*

Sec. 814a. (1) Every property and casualty insurer doing business in this state, unless exempted by the commissioner, shall annually file with the commissioner the opinion of an appointed actuary which shall be entitled statement of actuarial opinion. This statement shall be filed pursuant to the same instructions issued by the commissioner for the filing of annual statements.

(2) Every property and casualty insurer domiciled in this state that is required to file a statement of actuarial opinion under subsection (1) shall annually file with the commissioner an actuarial opinion summary, written by the insurer's appointed actuary. This actuarial opinion summary shall be filed pursuant to the same instructions issued by

the commissioner for the filing of annual statements and shall be considered as a document supporting the statement of actuarial opinion required in subsection (1).

(3) A property and casualty insurer not domiciled in this state that is required to file a statement of actuarial opinion under subsection (1) shall provide an actuarial opinion summary described in subsection (2) upon the commissioner's request.

(4) An actuarial report and underlying workpapers shall be prepared to support each statement of actuarial opinion. If the property and casualty insurer fails to provide this actuarial report or workpapers at the commissioner's request, the commissioner may engage a qualified actuary at the expense of the insurer to review the statement of actuarial opinion and the basis for the opinion and prepare the actuarial report or workpapers.

(5) The statement of actuarial opinion shall be filed with the annual statement in accordance with section 438 and shall be treated as a public document.

(6) Documents, materials, or other information in the possession or control of the office of financial and insurance regulation that are considered an actuarial report, workpapers, or actuarial opinion summary provided in support of the statement of actuarial opinion, and any other material provided by the insurer to the commissioner in connection with the actuarial report, workpapers, or actuarial opinion summary, is confidential and privileged and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, subpoena, or to discovery and is not admissible in evidence in any private civil action. This subsection does not do either of the following:

(a) Limit the commissioner's authority to release the documents for the purpose of professional disciplinary proceedings if the commissioner is satisfied that the confidentiality of the documents will be preserved.

(b) Limit the commissioner's authority to use the documents, materials, or other information in furtherance of any regulatory or legal action brought as part of the commissioner's official duties.

(7) Neither the commissioner nor any person who received documents, materials, or other information while acting under the commissioner's authority shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (6).

(8) In order to assist in the performance of the commissioner's duties, the commissioner may do any of the following:

(a) Share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (6) with any other state, federal, or international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information and has the legal authority to maintain confidentiality.

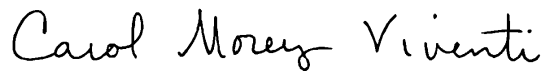
(b) Receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the national association of insurance commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

(9) Any applicable privilege or claim of confidentiality is not waived by the disclosing or sharing of documents, materials, or information as permitted by this section.

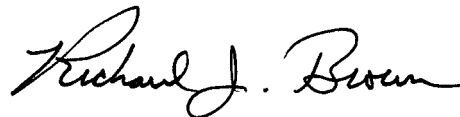
(10) For purposes of this section, the Michigan automobile insurance placement facility created under chapter 33 is not a property and casualty insurer.

Enacting section 1. This amendatory act takes effect January 1, 2010.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved .....

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Governor