

HOUSE BILL No. 4624

May 17, 2017, Introduced by Rep. Vaupel and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 3172 (MCL 500.3172), as amended by 2012 PA 204.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3172. (1) A person entitled to claim because of
2 accidental bodily injury arising out of the ownership, operation,
3 maintenance, or use of a motor vehicle as a motor vehicle in this
4 state may ~~obtain~~ **CLAIM** personal protection insurance benefits
5 through the assigned claims plan if ~~no~~ **ANY OF THE FOLLOWING APPLY:**

6 **(A) NO** personal protection insurance is applicable to the
7 injury. ~~no~~

8 **(B) NO** personal protection insurance applicable to the injury
9 can be identified. ~~the~~

10 **(C) NO** personal protection insurance applicable to the injury
11 cannot ~~CAN~~ be ascertained because of a dispute between 2 or more

1 automobile insurers concerning their obligation to provide coverage
2 or the equitable distribution of the loss. ~~or the~~

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

7 (2) UNPAID benefits due or coming due AS DESCRIBED IN
8 SUBSECTION (1) may be collected under the assigned claims plan, and
9 the insurer to which the claim is assigned is entitled to
10 reimbursement from the defaulting insurers to the extent of their
11 financial responsibility.

12 (3) A PERSON ENTITLED TO CLAIM PERSONAL PROTECTION INSURANCE
13 BENEFITS THROUGH THE ASSIGNED CLAIMS PLAN UNDER SUBSECTION (1)
14 SHALL FILE A COMPLETED APPLICATION ON A CLAIM FORM PROVIDED BY THE
15 MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY AND PROVIDE
16 SATISFACTORY PROOF OF LOSS TO THE MICHIGAN AUTOMOBILE INSURANCE
17 PLACEMENT FACILITY. THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT
18 FACILITY OR AN INSURER ASSIGNED TO ADMINISTER A CLAIM ON BEHALF OF
19 THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY UNDER THE
20 ASSIGNED CLAIMS PLAN SHALL SPECIFY IN WRITING THE MATERIALS THAT
21 CONSTITUTE A SATISFACTORY PROOF OF LOSS WITHIN 60 DAYS AFTER
22 RECEIPT BY THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY OF
23 AN APPLICATION THAT COMPLIES WITH THIS SUBSECTION.

24 (4) THE MICHIGAN AUTOMOBILE INSURANCE PLACEMENT FACILITY OR AN
25 INSURER ASSIGNED TO ADMINISTER A CLAIM ON BEHALF OF THE MICHIGAN
26 AUTOMOBILE INSURANCE PLACEMENT FACILITY UNDER THE ASSIGNED CLAIMS
27 PLAN IS NOT REQUIRED TO PAY AN INTEREST PENALTY IN CONNECTION WITH

1 **A CLAIM FOR ANY PERIOD OF TIME DURING WHICH THE CLAIM IS REASONABLY**
 2 **IN DISPUTE.**

3 (5) ~~(2)~~—Except as otherwise provided in this subsection,
 4 personal protection insurance benefits, including benefits arising
 5 from accidents occurring before March 29, 1985, payable through the
 6 assigned claims plan shall **MUST** be reduced to the extent that
 7 benefits covering the same loss are available from other sources,
 8 regardless of the nature or number of benefit sources available and
 9 regardless of the nature or form of the benefits, to a person
 10 claiming personal protection insurance benefits through the
 11 assigned claims plan. This subsection only applies if the personal
 12 protection insurance benefits are payable through the assigned
 13 claims plan ~~because no personal protection insurance is applicable~~
 14 ~~to the injury, no personal protection insurance applicable to the~~
 15 ~~injury can be identified, or the only identifiable personal~~
 16 ~~protection insurance applicable to the injury is, because of~~
 17 ~~financial inability of 1 or more insurers to fulfill their~~
 18 ~~obligations, inadequate to provide benefits up to the maximum~~
 19 ~~prescribed. UNDER SUBSECTION (1) (A), (B), OR (D).~~ As used in this
 20 subsection, "sources" and "benefit sources" do not include the
 21 program for medical assistance for the medically indigent under the
 22 social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, or
 23 ~~insurance under the health insurance for the aged act, title AND~~
 24 **DISABLED UNDER SUBCHAPTER XVIII** of the social security act, 42 USC
 25 1395 to ~~1395kkk-1.1395lll~~.

26 (6) ~~(3)~~—If the obligation to provide personal protection
 27 insurance benefits cannot be ascertained because of a dispute

1 between 2 or more automobile insurers concerning their obligation
2 to provide coverage or the equitable distribution of the loss, and
3 if a method of voluntary payment of benefits cannot be agreed upon
4 among or between the disputing insurers, all of the following
5 apply:

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

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

15 (c) ~~An action~~ **THE INSURER ASSIGNED THE CLAIM BY THE MICHIGAN**
16 **AUTOMOBILE INSURANCE PLACEMENT FACILITY** shall ~~be~~ immediately
17 ~~commenced~~ **COMMENCE AN ACTION** on behalf of the Michigan automobile
18 insurance placement facility ~~by the insurer to whom the claim is~~
19 ~~assigned~~ in circuit court to declare the rights and duties of any
20 interested party.

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

26 (e) The circuit court shall declare the rights and duties of
27 any interested party whether or not other relief is sought or could

1 be granted.

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

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.