

HOUSE BILL No. 4024

January 10, 2019, Introduced by Reps. LaFave and Rendon and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3104, 3107, 3109a, 3135, and 3157 (MCL 500.3104, 500.3107, 500.3109a, 500.3135, and 500.3157), section 3104 as amended by 2002 PA 662, section 3107 as amended by 2012 PA 542, section 3109a as amended by 2012 PA 454, and section 3135 as amended by 2012 PA 158, and by adding section 3180.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3104. (1) ~~An~~ **THE CATASTROPHIC CLAIMS ASSOCIATION IS**
2 **CREATED AS AN** unincorporated, nonprofit association. ~~to be known as~~
3 ~~the catastrophic claims association, hereinafter referred to as the~~
4 ~~association, is created.~~ Each insurer engaged in writing insurance
5 coverages that provide the security required by section 3101(1)
6 ~~within~~ **IN** this state, as a condition of its authority to transact
7 insurance in this state, ~~shall be~~ **IS** a member of the association

1 and ~~shall be~~ **IS** bound by the plan of operation of the association.
2 ~~Each~~ **AN** insurer engaged in writing insurance coverages that provide
3 the security required by section 3103(1) ~~within~~ **IN** this state, as a
4 condition of its authority to transact insurance in this state,
5 ~~shall be considered~~ **IS** a member of the association, but only for
6 purposes of premiums under subsection (7) (d). Except as expressly
7 provided in this section, the association is not subject to any
8 laws of this state with respect to insurers, but in all other
9 respects the association is subject to the laws of this state to
10 the extent that the association would be if it were an insurer
11 organized and subsisting under chapter 50.

12 (2) ~~The~~ **FOR A MOTOR VEHICLE ACCIDENT POLICY ISSUED OR RENEWED**
13 **BEFORE 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
14 **ADDED SECTION 3180 AND FOR A MOTOR VEHICLE ACCIDENT POLICY ISSUED**
15 **OR RENEWED AFTER 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY**
16 **ACT THAT ADDED SECTION 3180 FOR WHICH THE COVERAGE LEVEL UNDER**
17 **SECTION 3109A(2) (C) APPLIES, THE** association shall provide and each
18 member shall accept indemnification for 100% of the amount of
19 ultimate loss sustained under personal protection insurance
20 coverages in excess of the following amounts in each loss
21 occurrence:

22 (a) For a motor vehicle accident policy issued or renewed
23 before July 1, 2002, \$250,000.00.

24 (b) For a motor vehicle accident policy issued or renewed
25 during the period July 1, 2002 to June 30, 2003, \$300,000.00.

26 (c) For a motor vehicle accident policy issued or renewed
27 during the period July 1, 2003 to June 30, 2004, \$325,000.00.

1 (d) For a motor vehicle accident policy issued or renewed
2 during the period July 1, 2004 to June 30, 2005, \$350,000.00.

3 (e) For a motor vehicle accident policy issued or renewed
4 during the period July 1, 2005 to June 30, 2006, \$375,000.00.

5 (f) For a motor vehicle accident policy issued or renewed
6 during the period July 1, 2006 to June 30, 2007, \$400,000.00.

7 (g) For a motor vehicle accident policy issued or renewed
8 during the period July 1, 2007 to June 30, 2008, \$420,000.00.

9 (h) For a motor vehicle accident policy issued or renewed
10 during the period July 1, 2008 to June 30, 2009, \$440,000.00.

11 (i) For a motor vehicle accident policy issued or renewed
12 during the period July 1, 2009 to June 30, 2010, \$460,000.00.

13 (j) For a motor vehicle accident policy issued or renewed
14 during the period July 1, 2010 to June 30, 2011, \$480,000.00.

15 (k) For a motor vehicle accident policy issued or renewed
16 during the period July 1, 2011 to June 30, 2013, \$500,000.00.

17 **(l) FOR A MOTOR VEHICLE ACCIDENT POLICY ISSUED OR RENEWED**
18 **DURING THE PERIOD JULY 1, 2013 TO JUNE 30, 2015, \$530,000.00.**

19 **(M) FOR A MOTOR VEHICLE ACCIDENT POLICY ISSUED OR RENEWED**
20 **DURING THE PERIOD JULY 1, 2015 TO JUNE 30, 2017, \$545,000.00.**

21 **(N) FOR A MOTOR VEHICLE ACCIDENT POLICY ISSUED OR RENEWED**
22 **DURING THE PERIOD JULY 1, 2017 TO JUNE 30, 2019, \$555,000.00.**

23 Beginning July 1, ~~2013, 2019~~, this ~~\$500,000.00~~ **\$555,000.00** amount
24 ~~shall~~ **MUST** be increased biennially on July 1 of each odd-numbered
25 year, for policies issued or renewed before July 1 of the following
26 odd-numbered year, by the lesser of 6% or the ~~consumer price index,~~
27 **CONSUMER PRICE INDEX**, and rounded to the nearest \$5,000.00. ~~This~~

1 **THE ASSOCIATION SHALL CALCULATE THE** biennial adjustment ~~shall be~~
2 ~~calculated by the association by~~ January 1 of the year of its July
3 1 effective date.

4 (3) An insurer may withdraw from the association only ~~upon~~**ON**
5 ceasing to write insurance that provides the security required by
6 section 3101(1) in this state.

7 (4) An insurer whose membership in the association has been
8 terminated by withdrawal ~~shall continue~~**CONTINUES** to be bound by
9 the plan of operation, and ~~upon~~**ON** withdrawal, all unpaid premiums
10 that have been charged to the withdrawing member are payable as of
11 the effective date of the withdrawal.

12 (5) An unsatisfied net liability to the association of an
13 insolvent member ~~shall~~**MUST** be assumed by and apportioned among the
14 remaining members of the association as provided in the plan of
15 operation. The association has all rights allowed by law on behalf
16 of the remaining members against the estate or funds of the
17 insolvent member for ~~sums~~**MONEY** due the association.

18 (6) If a member has been merged or consolidated into another
19 insurer or another insurer has reinsured a member's entire business
20 that provides the security required by section 3101(1) in this
21 state, the member and successors in interest of the member remain
22 liable for the member's obligations.

23 (7) The association shall do all of the following on behalf of
24 the members of the association:

25 (a) Assume 100% of all liability as provided in subsection

26 (2).

27 (b) Establish procedures by which members ~~shall~~**MUST** promptly

1 report to the association each claim that, on the basis of the
2 injuries or damages sustained, may reasonably be anticipated to
3 involve the association if the member is ultimately held legally
4 liable for the injuries or damages. Solely for the purpose of
5 reporting claims, the member shall in all instances consider itself
6 legally liable for the injuries or damages. The member shall also
7 advise the association of subsequent developments likely to
8 materially affect the interest of the association in the claim.

9 (c) Maintain relevant loss and expense data ~~relative~~**RELATING**
10 to all liabilities of the association and require each member to
11 furnish statistics, in connection with liabilities of the
12 association, at the times and in the form and detail as ~~may be~~
13 required by the plan of operation.

14 (d) In a manner provided for in the plan of operation,
15 calculate and charge to members of the association a total premium
16 sufficient to cover the expected losses and expenses of the
17 association that the association will likely incur during the
18 period for which the premium is applicable. The **TOTAL** premium ~~shall~~
19 **MUST** include an amount to cover incurred but not reported losses
20 for the period and ~~may~~**MUST** be adjusted for any excess or deficient
21 premiums from previous periods. Excesses or deficiencies from
22 previous periods ~~may~~**MUST EITHER** be fully adjusted in a single
23 period or ~~may~~ be adjusted over several periods in a manner provided
24 for in the plan of operation. Each member ~~shall~~**MUST** be charged an
25 amount equal to that member's total written car years of insurance
26 providing the security required by section 3101(1) or 3103(1), or
27 both, written in this state during the period to which the premium

1 applies, **WITH THE TOTAL WRITTEN CAR YEARS OF INSURANCE** multiplied
 2 by the **APPLICABLE** average premium per car. The average premium per
 3 car shall be ~~IS~~ the total premium, ~~calculated~~ **AS ADJUSTED FOR ANY**
 4 **EXCESSES OR DEFICIENCIES**, divided by the total written car years of
 5 insurance providing the security required by section 3101(1) or
 6 3103(1), **OR BOTH**, written in this state of all members during the
 7 period to which the premium applies, **EXCLUDING CARS INSURED UNDER A**
 8 **POLICY WITH A COVERAGE LIMIT UNDER SECTION 3109A(2) (A) OR (B)**
 9 **EXCEPT FOR ANY PORTION OF TOTAL PREMIUM THAT IS AN ADJUSTMENT FOR A**
 10 **DEFICIENCY IN A PREVIOUS PERIOD. A MEMBER MAY NOT BE CHARGED A**
 11 **PREMIUM FOR A CAR INSURED UNDER A POLICY WITH A COVERAGE LIMIT**
 12 **UNDER SECTION 3109A(2) (A) OR (B) OTHER THAN FOR THE PORTION OF THE**
 13 **TOTAL PREMIUM ATTRIBUTABLE TO AN ADJUSTMENT FOR A DEFICIENCY IN A**
 14 **PREVIOUS PERIOD.** A member shall ~~shall~~ **MUST** be charged a premium for a
 15 historic vehicle that is insured with the member of 20% of the
 16 premium charged for a car insured with the member. ~~As used in this~~
 17 ~~subdivision:~~

18 ~~—— (i) "Car" includes a motorcycle but does not include a~~
 19 ~~historic vehicle.~~

20 ~~—— (ii) "Historic vehicle" means a vehicle that is a registered~~
 21 ~~historic vehicle under section 803a or 803p of the Michigan vehicle~~
 22 ~~code, 1949 PA 300, MCL 257.803a and 257.803p.~~

23 (e) Require and accept the payment of premiums from members of
 24 the association as provided for in the plan of operation. The
 25 association shall do either of the following:

26 (i) Require payment of the premium in full within 45 days
 27 after the premium charge.

1 (ii) Require payment of the premiums to be made periodically
2 to cover the actual cash obligations of the association.

3 (f) Receive and distribute all ~~sums~~**MONEY** required by the
4 operation of the association.

5 (g) Establish procedures for reviewing claims procedures and
6 practices of members of the association. If the claims procedures
7 or practices of a member are considered inadequate to properly
8 service the liabilities of the association, the association may
9 undertake or may contract with another person, including another
10 member, to adjust or assist in the adjustment of claims for the
11 member on claims that create a potential liability to the
12 association and may charge the cost of the adjustment to the
13 member.

14 (8) In addition to other powers granted to it by this section,
15 the association may do all of the following:

16 (a) Sue and be sued in the name of the association. A judgment
17 against the association ~~shall~~**DOES** not create any direct liability
18 against the individual members of the association. The association
19 may provide for the indemnification of its members, members of the
20 board of directors of the association, and officers, employees, and
21 other persons lawfully acting on behalf of the association.

22 (b) Reinsure all or any portion of its potential liability
23 with reinsurers licensed to transact insurance in this state or
24 approved by the ~~commissioner~~**DIRECTOR OF THE DEPARTMENT**.

25 (c) Provide for appropriate housing, equipment, and personnel
26 as ~~may be~~ necessary to assure the efficient operation of the
27 association.

1 (d) Pursuant to the plan of operation, adopt reasonable rules
2 for the administration of the association, enforce those rules, and
3 delegate authority, as the board considers necessary to assure the
4 proper administration and operation of the association consistent
5 with the plan of operation.

6 (e) Contract for goods and services, including independent
7 claims management, actuarial, investment, and legal services, from
8 others ~~within~~**IN** or ~~without~~**OUTSIDE OF** this state to assure the
9 efficient operation of the association.

10 (f) Hear and determine complaints of a company or other
11 interested party concerning the operation of the association.

12 (g) Perform other acts not specifically enumerated in this
13 section that are necessary or proper to accomplish the purposes of
14 the association and that are not inconsistent with this section or
15 the plan of operation.

16 (9) A board of directors is created ~~, hereinafter referred to~~
17 ~~as the board, which shall be responsible for the operation of~~**AND**
18 **SHALL OPERATE** the association consistent with the plan of operation
19 and this section.

20 (10) The plan of operation ~~shall~~**MUST** provide for all of the
21 following:

22 (a) The establishment of necessary facilities.

23 (b) The management and operation of the association.

24 (c) Procedures to be utilized in charging premiums, including
25 adjustments from excess or deficient premiums from prior periods.

26 (d) Procedures governing the actual payment of premiums to the
27 association.

1 (e) Reimbursement of each member of the board by the
2 association for actual and necessary expenses incurred on
3 association business.

4 (f) The investment policy of the association.

5 (g) Any other matters required by or necessary to effectively
6 implement this section.

7 (11) ~~Each~~ **THE** board ~~shall~~ **MUST** include members that would
8 contribute a total of not less than 40% of the total premium
9 calculated pursuant to ~~UNDER~~ subsection (7) (d). Each ~~director shall~~
10 ~~be~~ **BOARD MEMBER IS** entitled to 1 vote. The initial term of office
11 of a ~~director shall be~~ **BOARD MEMBER IS** 2 years.

12 (12) As part of the plan of operation, the board shall adopt
13 rules providing for the composition and ~~term of successor boards to~~
14 the ~~initial board~~ **AND THE TERMS OF BOARD MEMBERS**, consistent with
15 the membership composition requirements in subsections (11) and
16 (13). Terms of the ~~directors shall~~ **BOARD MEMBERS MUST** be staggered
17 so that the terms of all the ~~directors~~ **BOARD MEMBERS** do not expire
18 at the same time and so that a ~~director~~ **BOARD MEMBER** does not serve
19 a term of more than 4 years.

20 (13) The board ~~shall~~ **MUST** consist of 5 ~~directors,~~ **BOARD**
21 **MEMBERS** and the ~~commissioner shall be~~ **DIRECTOR OF THE DEPARTMENT,**
22 **WHO IS** an ex officio member of the board without vote.

23 (14) ~~Each director~~ **THE DIRECTOR OF THE DEPARTMENT** shall be
24 ~~appointed by the commissioner and~~ **APPOINT THE BOARD MEMBERS. A**
25 **BOARD MEMBER** shall serve until ~~that member's~~ **HIS OR HER** successor
26 is selected and qualified. The **BOARD SHALL ELECT THE** chairperson of
27 the board. ~~shall be elected by the board. A~~ **THE DIRECTOR OF THE**

1 **DEPARTMENT SHALL FILL ANY** vacancy on the board ~~shall be filled by~~
2 ~~the commissioner consistent with~~ **AS PROVIDED IN** the plan of
3 operation.

4 (15) ~~After the board is appointed, the~~ **THE** board shall meet as
5 often as the chairperson, the ~~commissioner,~~ **DIRECTOR OF THE**
6 **DEPARTMENT**, or the plan of operation ~~shall require,~~ **REQUIRES**, or at
7 the request of any 3 ~~members of the board.~~ **BOARD MEMBERS**. The
8 chairperson ~~shall retain the right to~~ **MAY** vote on all issues. Four
9 ~~members of the board~~ **BOARD MEMBERS** constitute a quorum.

10 (16) ~~An~~ **THE BOARD SHALL FURNISH TO EACH MEMBER AN** annual
11 report of the operations of the association in a form and detail as
12 may be determined by the board. ~~shall be furnished to each member.~~

13 ~~—— (17) Not more than 60 days after the initial organizational~~
14 ~~meeting of the board, the board shall submit to the commissioner~~
15 ~~for approval a proposed plan of operation consistent with the~~
16 ~~objectives and provisions of this section, which shall provide for~~
17 ~~the economical, fair, and nondiscriminatory administration of the~~
18 ~~association and for the prompt and efficient provision of~~
19 ~~indemnity. If a plan is not submitted within this 60-day period,~~
20 ~~then the commissioner, after consultation with the board, shall~~
21 ~~formulate and place into effect a plan consistent with this~~
22 ~~section.~~

23 ~~—— (18) The plan of operation, unless approved sooner in writing,~~
24 ~~shall be considered to meet the requirements of this section if it~~
25 ~~is not disapproved by written order of the commissioner within 30~~
26 ~~days after the date of its submission. Before disapproval of all or~~
27 ~~any part of the proposed plan of operation, the commissioner shall~~

1 ~~notify the board in what respect the plan of operation fails to~~
 2 ~~meet the requirements and objectives of this section. If the board~~
 3 ~~fails to submit a revised plan of operation that meets the~~
 4 ~~requirements and objectives of this section within the 30-day~~
 5 ~~period, the commissioner shall enter an order accordingly and shall~~
 6 ~~immediately formulate and place into effect a plan consistent with~~
 7 ~~the requirements and objectives of this section.~~

8 (17) ~~(19) The proposed plan of operation or ANY~~ amendments to
 9 the plan of operation **OF THE ASSOCIATION** are subject to majority
 10 approval by the board, ~~ratified~~ **RATIFICATION** by a majority of the
 11 membership **OF THE ASSOCIATION** having a vote, with voting rights
 12 being apportioned according to the premiums charged in subsection
 13 (7) (d), and are ~~subject to approval by the commissioner.~~ **DIRECTOR OF**
 14 **THE DEPARTMENT.**

15 (18) ~~(20) Upon approval by the commissioner and ratification~~
 16 ~~by the members of the plan submitted, or upon the promulgation of a~~
 17 ~~plan by the commissioner, each AN~~ insurer authorized to write
 18 insurance providing the security required by section 3101(1) in
 19 this state, as provided in this section, is bound by and shall
 20 formally subscribe to and participate in the plan ~~approved~~ **OF**
 21 **OPERATION** as a condition of maintaining its authority to transact
 22 insurance in this state.

23 (19) ~~(21) The association is subject to all the reporting,~~
 24 ~~loss reserve, and investment requirements of the commissioner~~
 25 **DIRECTOR OF THE DEPARTMENT** to the same extent as ~~would~~ **IS** a member
 26 of the association.

27 (20) ~~(22) Premiums charged members by the association shall~~

1 **MUST** be recognized in the rate-making procedures for insurance
 2 rates in the same manner that expenses and premium taxes are
 3 recognized. **IF A MEMBER OF THE ASSOCIATION PASSES ON ANY PORTION OF**
 4 **THE PREMIUM PAYABLE UNDER THIS SECTION TO AN INSURED, THE AMOUNT**
 5 **PASSED ON MUST EQUAL THE PORTION OF THE PREMIUM PAYABLE BY THE**
 6 **MEMBER UNDER THIS SECTION ATTRIBUTABLE TO THE CAR OR HISTORIC**
 7 **VEHICLE INSURED, INCLUDING ANY ADJUSTMENTS FOR EXCESSES OR**
 8 **DEFICIENCIES FROM A PREVIOUS PERIOD.**

9 (21) ~~(23)~~—The ~~commissioner~~**DIRECTOR OF THE DEPARTMENT** or an
 10 authorized representative of the ~~commissioner~~**DIRECTOR OF THE**
 11 **DEPARTMENT** may visit the association at any time and examine any
 12 and all **OF** the association's affairs.

13 (22) ~~(24)~~—The association does not have liability for losses
 14 occurring before July 1, 1978. **AFTER 90 DAYS AFTER THE EFFECTIVE**
 15 **DATE OF THE AMENDATORY ACT THAT ADDED SECTION 3180, THE ASSOCIATION**
 16 **DOES NOT HAVE LIABILITY FOR A LOSS UNDER A MOTOR VEHICLE ACCIDENT**
 17 **POLICY FOR WHICH A COVERAGE LIMIT UNDER SECTION 3109A(2) (A) OR (B)**
 18 **APPLIES.**

19 (23) ~~(25)~~—As used in this section:

20 (A) "ASSOCIATION" MEANS THE CATASTROPHIC CLAIMS ASSOCIATION
 21 CREATED IN SUBSECTION (1).

22 (B) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE ASSOCIATION
 23 CREATED IN SUBSECTION (9).

24 (C) "CAR" INCLUDES A MOTORCYCLE BUT DOES NOT INCLUDE A
 25 HISTORIC VEHICLE.

26 (D) ~~(a)~~—"Consumer price index"—**PRICE INDEX**" means the
 27 percentage of change in the ~~consumer price index~~**CONSUMER PRICE**

1 **INDEX** for all urban consumers in the United States city average for
 2 all items for the 24 months ~~prior to~~ **BEFORE** October 1 of the year
 3 ~~prior to~~ **BEFORE** the July 1 effective date of the biennial
 4 adjustment under subsection ~~(2) (k)~~ **(2) (N)** as reported by the United
 5 States ~~department of labor, bureau of labor statistics,~~ **DEPARTMENT**
 6 **OF LABOR, BUREAU OF LABOR STATISTICS**, and as certified by the
 7 ~~commissioner.~~ **DIRECTOR OF THE DEPARTMENT.**

8 **(E) "HISTORIC VEHICLE" MEANS A VEHICLE THAT IS A REGISTERED**
 9 **HISTORIC VEHICLE UNDER SECTION 803A OR 803P OF THE MICHIGAN VEHICLE**
 10 **CODE, 1949 PA 300, MCL 257.803A AND 257.803P.**

11 **(F)** ~~(b)~~ "Motor vehicle accident policy" means a policy
 12 providing the coverages required under section 3101(1).

13 **(G)** ~~(e)~~ "Ultimate loss" means the actual loss amounts that a
 14 member is obligated to pay and that are paid or payable by the
 15 member, and do not include claim expenses. An ultimate loss is
 16 incurred by the association on the date that the loss occurs.

17 Sec. 3107. (1) Except as **OTHERWISE** provided in ~~subsection (2),~~
 18 **THIS CHAPTER**, personal protection insurance benefits are payable
 19 for the following:

20 (a) Allowable expenses consisting of all reasonable charges
 21 incurred, **UP TO ANY APPLICABLE COVERAGE LIMIT UNDER SECTION 3109A**,
 22 for reasonably necessary products, services and accommodations for
 23 an injured person's care, recovery, or rehabilitation. Allowable
 24 expenses within personal protection insurance coverage ~~shall~~ **DO** not
 25 include ~~either~~ **ANY** of the following:

26 (i) Charges for a hospital room in excess of a reasonable and
 27 customary charge for semiprivate accommodations, ~~except if~~ **UNLESS**

1 the injured person requires special or intensive care.

2 (ii) Funeral and burial expenses in excess of the amount set
3 forth in the policy which ~~shall~~**MUST** not be less than \$1,750.00 or
4 more than \$5,000.00.

5 (b) Work loss consisting of loss of income from work an
6 injured person would have performed during the first 3 years after
7 the date of the accident if he or she had not been injured. Work
8 loss does not include any loss after the date on which the injured
9 person dies. Because the benefits received from personal protection
10 insurance for loss of income are not taxable income, the benefits
11 payable for ~~such~~ loss of income ~~shall~~**MUST** be reduced 15% unless
12 the claimant presents to the insurer in support of his or her claim
13 reasonable proof of a lower value of the income tax advantage in
14 his or her case, in which case the lower value ~~shall apply~~**MUST BE**
15 **APPLIED**. For the period beginning October 1, 2012 through September
16 30, 2013, the benefits payable for work loss sustained in a single
17 30-day period and the income earned by an injured person for work
18 during the same period together ~~shall~~**MUST** not exceed \$5,189.00,
19 which maximum ~~shall apply~~**MUST BE APPLIED** pro rata to any lesser
20 period of work loss. Beginning October 1, 2013, the maximum ~~shall~~
21 **MUST** be adjusted annually to reflect changes in the cost of living
22 under rules prescribed by the ~~commissioner~~**DIRECTOR**, but any change
23 in the maximum ~~shall apply~~**APPLIES** only to benefits arising out of
24 ~~accidents occurring subsequent to~~**AN ACCIDENT THAT OCCURS AFTER** the
25 date of change in the maximum.

26 (c) Expenses not exceeding \$20.00 per day, reasonably incurred
27 in obtaining ordinary and necessary services in lieu of those that,

1 if he or she had not been injured, an injured person would have
2 performed during the first 3 years after the date of the accident,
3 not for income but for the benefit of himself or herself or of his
4 or her dependent.

5 (2) Both of the following apply to personal protection
6 insurance benefits payable under subsection (1):

7 (a) A person who is 60 years of age or older and in the event
8 of an accidental bodily injury would not be eligible to receive
9 work loss benefits under subsection (1)(b) may waive coverage for
10 work loss benefits by signing a waiver on a form provided by the
11 insurer. An insurer shall offer a reduced premium rate to a person
12 who waives coverage under this ~~subsection~~**SUBDIVISION** for work loss
13 benefits. Waiver of coverage for work loss benefits applies only to
14 work loss benefits payable to the person or persons who have signed
15 the waiver form.

16 (b) An insurer ~~shall~~**IS** not be required to provide coverage
17 for the medical use of marihuana or for expenses related to the
18 medical use of marihuana.

19 Sec. 3109a. **(1)** An insurer providing personal protection
20 insurance benefits under this chapter may offer, at appropriately
21 reduced premium rates, deductibles and exclusions reasonably
22 related to other health and accident coverage on the insured. Any
23 deductibles and exclusions offered under this section are subject
24 to prior approval by the ~~commissioner~~**DIRECTOR** and ~~shall~~**MUST** apply
25 only to benefits payable to the **INSURED** person named in the policy,
26 the spouse of the insured **PERSON**, and any relative of either
27 domiciled in the same household.

1 (2) FOR AN INSURANCE POLICY THAT PROVIDES PERSONAL PROTECTION
2 INSURANCE BENEFITS AND IS ISSUED OR RENEWED AFTER 90 DAYS AFTER THE
3 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 3180, THE
4 INSURED PERSON NAMED IN THE POLICY SHALL, ON A FORM APPROVED BY THE
5 DIRECTOR, SELECT 1 OF THE FOLLOWING COVERAGE LEVELS FOR THE
6 PERSONAL PROTECTION INSURANCE BENEFITS:

7 (A) A LIMIT OF \$250,000.00 PER INDIVIDUAL PER LOSS OCCURRENCE
8 ON PERSONAL PROTECTION INSURANCE BENEFITS UNDER THIS CHAPTER.

9 (B) A LIMIT OF \$500,000.00 PER INDIVIDUAL PER LOSS OCCURRENCE
10 ON PERSONAL PROTECTION INSURANCE BENEFITS UNDER THIS CHAPTER.

11 (C) NO MAXIMUM LIMIT PER INDIVIDUAL PER LOSS OCCURRENCE ON
12 PERSONAL PROTECTION INSURANCE BENEFITS UNDER THIS CHAPTER.

13 (3) ALL OF THE FOLLOWING APPLY TO SUBSECTION (2) :

14 (A) IF AN INSURED PERSON NAMED IN THE POLICY DOES NOT SELECT 1
15 OF THE COVERAGE LEVELS ON A FORM APPROVED BY THE DIRECTOR UNDER
16 SUBSECTION (2), NO MAXIMUM LIMIT ON PERSONAL PROTECTION INSURANCE
17 BENEFITS UNDER THIS CHAPTER APPLIES UNDER THE POLICY. HOWEVER, IF
18 AN INSURED PERSON NAMED IN THE POLICY HAS PREVIOUSLY SELECTED AS
19 PROVIDED IN THIS SUBDIVISION 1 OF THE COVERAGE LEVELS UNDER
20 SUBSECTION (2) AND DOES NOT, BEFORE RENEWAL OF THE POLICY, SELECT A
21 DIFFERENT COVERAGE LEVEL IN WRITING ON A FORM APPROVED BY THE
22 DIRECTOR, THE COVERAGE LEVEL APPLICABLE BEFORE THE RENEWAL APPLIES
23 UNDER THE POLICY.

24 (B) IF THE INSURED PERSON NAMED IN THE POLICY SELECTS A
25 COVERAGE LIMIT UNDER SUBSECTION (2) (A) OR (B), THE COVERAGE LIMIT
26 UNDER SUBSECTION (2) (A) OR (B) APPLIES TO PERSONAL PROTECTION
27 INSURANCE BENEFITS PAYABLE UNDER THE POLICY TO THE INSURED PERSON,

1 THE INSURED PERSON'S SPOUSE, A RELATIVE OF EITHER DOMICILED IN THE
2 SAME HOUSEHOLD, AND ANY OTHER PERSON WITH A RIGHT TO CLAIM PERSONAL
3 PROTECTION INSURANCE BENEFITS UNDER THE POLICY.

4 (C) IF THE INSURED PERSON NAMED IN THE POLICY DOES NOT SELECT
5 A COVERAGE LIMIT UNDER SUBSECTION (2) (A) OR (B) FOR A POLICY, NO
6 MAXIMUM LIMIT APPLIES TO PERSONAL PROTECTION INSURANCE BENEFITS
7 PAYABLE UNDER THE POLICY TO THE INSURED PERSON, THE INSURED
8 PERSON'S SPOUSE, A RELATIVE OF EITHER DOMICILED IN THE SAME
9 HOUSEHOLD, OR ANY OTHER RESIDENT OF THIS STATE WITH A RIGHT TO
10 CLAIM PERSONAL PROTECTION BENEFITS UNDER THE POLICY.

11 (D) IF THE COVERAGE LIMIT UNDER SUBSECTION (2) (A) OR (B)
12 APPLIES TO A PERSON CLAIMING PERSONAL PROTECTION INSURANCE
13 BENEFITS, THE COVERAGE LIMIT APPLIES ON A PER OCCURRENCE PER LOSS
14 BASIS NOTWITHSTANDING THE NUMBER OF POLICIES APPLICABLE TO THE
15 OCCURRENCE OR THE LOSS.

16 (4) THE FORM REQUIRED UNDER SUBSECTION (2) MUST DO ALL OF THE
17 FOLLOWING:

18 (A) STATE, IN A CONSPICUOUS MANNER, THE BENEFITS AND RISKS
19 ASSOCIATED WITH EACH COVERAGE OPTION AVAILABLE UNDER SUBSECTION
20 (2).

21 (B) PROVIDE A LINE FOR THE INSURED PERSON TO SIGN,
22 ACKNOWLEDGING THAT HE OR SHE HAS READ THE FORM AND UNDERSTANDS THE
23 OPTIONS AVAILABLE TO HIM OR HER.

24 (C) ALLOW THE INSURED PERSON TO MAKE THE SELECTION OF COVERAGE
25 LEVEL UNDER SUBSECTION (2).

26 (5) FOR PURPOSES OF THIS SECTION, THE DATE THAT A POLICY IS
27 ISSUED OR RENEWED IS THE EFFECTIVE DATE OF BOTH THE PERSONAL

1 **PROTECTION INSURANCE COVERAGE UNDER THE POLICY AND THE COVERAGE**
2 **LEVEL APPLICABLE UNDER THIS SECTION.**

3 Sec. 3135. (1) A person remains subject to tort liability for
4 noneconomic loss caused by his or her ownership, maintenance, or
5 use of a motor vehicle only if the injured person has suffered
6 death, serious impairment of body function, or permanent serious
7 disfigurement.

8 (2) For a cause of action for damages pursuant to subsection
9 (1), ~~filed on or after July 26, 1996,~~ all of the following apply:

10 (a) The issues of whether the injured person has suffered
11 serious impairment of body function or permanent serious
12 disfigurement are questions of law for the court if the court finds
13 either of the following:

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

16 (ii) There is a factual dispute concerning the nature and
17 extent of the person's injuries, but the dispute is not material to
18 the determination whether the person has suffered a serious
19 impairment of body function or permanent serious disfigurement.
20 However, for a closed-head injury, a question of fact for the jury
21 is created if a licensed allopathic or osteopathic physician who
22 regularly diagnoses or treats closed-head injuries testifies under
23 oath that there may be a serious neurological injury.

24 (b) Damages ~~shall~~**MUST** be assessed on the basis of comparative
25 fault, except that damages ~~shall~~**MUST** not be assessed in favor of a
26 party who is more than 50% at fault.

27 (c) Damages ~~shall~~**MUST** not be assessed in favor of a party who

1 was operating his or her own vehicle at the time the injury
2 occurred and did not have in effect for that motor vehicle the
3 security required by section 3101 at the time the injury occurred.

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

8 (a) Intentionally caused harm to persons or property. Even
9 though a person knows that harm to persons or property is
10 substantially certain to be caused by his or her act or omission,
11 the person does not cause or suffer that harm intentionally if he
12 or she acts or refrains from acting for the purpose of averting
13 injury to any person, including himself or herself, or for the
14 purpose of averting damage to tangible property.

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

17 (c) Damages for allowable expenses, work loss, and survivor's
18 ~~loss as defined in~~ **UNDER** sections 3107 to 3110 in excess of the
19 daily, monthly, and 3-year limitations contained in those sections
20 **OR IN EXCESS OF ANY APPLICABLE LIMIT UNDER SECTION 3109A(2)**. The
21 party liable for damages is entitled to an exemption reducing his
22 or her liability by the amount of taxes that would have been
23 payable on account of income the injured person would have received
24 if he or she had not been injured.

25 (d) Damages for economic loss by a nonresident in excess of
26 the personal protection insurance benefits provided under section
27 3163(4). Damages under this subdivision are not recoverable to the

1 extent that benefits covering the same loss are available from
2 other sources, regardless of the nature or number of benefit
3 sources available and regardless of the nature or form of the
4 benefits.

5 (e) Damages up to \$1,000.00 to a motor vehicle, to the extent
6 that the damages are not covered by insurance. An action for
7 damages under this subdivision ~~shall~~**MUST** be conducted as provided
8 in subsection (4).

9 (4) All of the following apply to an action for damages under
10 subsection (3)(e):

11 (a) Damages ~~shall~~**MUST** be assessed on the basis of comparative
12 fault, except that damages ~~shall~~**MUST** not be assessed in favor of a
13 party who is more than 50% at fault.

14 (b) Liability is not a component of residual liability, as
15 prescribed in section 3131, for which maintenance of security is
16 required by this act.

17 (c) The action ~~shall~~**MUST** be commenced, whenever legally
18 possible, in the small claims division of the district court or the
19 municipal court. If the defendant or plaintiff removes the action
20 to a higher court and does not prevail, the judge may assess costs.

21 (d) A decision of the court is not res judicata in any
22 proceeding to determine any other liability arising from the same
23 circumstances that gave rise to the action.

24 (e) Damages ~~shall~~**MUST** not be assessed if the damaged motor
25 vehicle was being operated at the time of the damage without the
26 security required by section 3101.

27 (5) As used in this section, "serious impairment of body

1 function" means an objectively manifested impairment of an
2 important body function that affects the person's general ability
3 to lead his or her normal life.

4 Sec. 3157. (1) ~~A~~**SUBJECT TO SUBSECTIONS (2) AND (3), A**
5 physician, hospital, clinic, or other person or institution
6 lawfully rendering treatment, **PRODUCTS, SERVICES, OR ACCOMMODATIONS**
7 to an injured person for an accidental bodily injury covered by
8 personal protection insurance, and a person or institution
9 providing rehabilitative occupational training **TO THE INJURED**
10 **PERSON** following the injury, may charge a reasonable amount for the
11 **TREATMENT, TRAINING,** products, services, and accommodations
12 rendered. The charge ~~shall~~**MUST** not exceed the amount the person or
13 institution customarily charges for like **TREATMENT, TRAINING,**
14 products, services, and accommodations in cases ~~not involving~~**THAT**
15 **DO NOT INVOLVE PERSONAL PROTECTION** insurance.

16 (2) **A PHYSICIAN, HOSPITAL, CLINIC, OR OTHER PERSON OR**
17 **INSTITUTION THAT RENDERS A TREATMENT, TRAINING, PRODUCT, SERVICE,**
18 **OR ACCOMMODATION TO AN INJURED PERSON FOR AN ACCIDENTAL BODILY**
19 **INJURY IS NOT ELIGIBLE FOR PAYMENT OR REIMBURSEMENT UNDER THIS**
20 **CHAPTER OF MORE THAN 100% OF THE AMOUNT PAYABLE FOR THE TREATMENT,**
21 **TRAINING, PRODUCT, SERVICE, OR ACCOMMODATION UNDER R 418.10101 TO R**
22 **418.101503 OF THE MICHIGAN ADMINISTRATIVE CODE OR SCHEDULES OF**
23 **MAXIMUM FEES FOR WORKER'S COMPENSATION DEVELOPED UNDER THOSE RULES,**
24 **IN EFFECT ON DECEMBER 31, 2018. THE DIRECTOR SHALL REVIEW ANY**
25 **CHANGES TO R 418.10101 TO R 418.101503 OF THE MICHIGAN**
26 **ADMINISTRATIVE CODE OR SCHEDULES OF MAXIMUM FEES FOR WORKER'S**
27 **COMPENSATION DEVELOPED UNDER THOSE RULES, IN EFFECT ON DECEMBER 31,**

1 2018. IF THE DIRECTOR DETERMINES THAT THE CHANGES ARE REASONABLE
2 AND APPROPRIATE FOR PURPOSES OF ASSURING AFFORDABLE AUTOMOBILE
3 INSURANCE IN THIS STATE, THE CHANGES APPLY FOR PURPOSES OF THIS
4 SUBSECTION AND THE DIRECTOR SHALL ISSUE AN ORDER TO THAT EFFECT.

5 (3) IF R 418.10101 TO R 418.101503 OF THE MICHIGAN
6 ADMINISTRATIVE CODE OR SCHEDULES OF MAXIMUM FEES FOR WORKER'S
7 COMPENSATION DEVELOPED UNDER THOSE RULES, IN EFFECT ON DECEMBER 31,
8 2018, INCLUDING ANY CHANGES APPLICABLE UNDER SUBSECTION (2), DO NOT
9 PROVIDE AN AMOUNT PAYABLE FOR TREATMENT, TRAINING, PRODUCT,
10 SERVICE, OR ACCOMMODATION RENDERED TO AN INJURED PERSON FOR
11 ACCIDENTAL BODILY INJURY COVERED BY PERSONAL PROTECTION INSURANCE
12 OR REHABILITATIVE OCCUPATIONAL TRAINING TO THE INJURED PERSON
13 FOLLOWING THE INJURY, THE PHYSICIAN, HOSPITAL, CLINIC, OR OTHER
14 PERSON OR INSTITUTION THAT RENDERS THE TREATMENT, PRODUCT, SERVICE,
15 OR ACCOMMODATION IS NOT ELIGIBLE FOR PAYMENT OR REIMBURSEMENT UNDER
16 THIS CHAPTER OF MORE THAN THE AVERAGE AMOUNT ACCEPTED BY THE
17 PHYSICIAN, HOSPITAL, CLINIC, OR OTHER PERSON OR INSTITUTION AS
18 PAYMENT OR REIMBURSEMENT IN FULL FOR THE TREATMENT, TRAINING,
19 PRODUCT, SERVICE, OR ACCOMMODATION DURING THE PRECEDING CALENDAR
20 YEAR IN CASES THAT DO NOT INVOLVE PERSONAL PROTECTION INSURANCE.

21 SEC. 3180. (1) BY 90 DAYS AFTER THE EFFECTIVE DATE OF THE
22 AMENDATORY ACT THAT ADDED THIS SECTION, AN INSURER THAT OFFERS
23 AUTOMOBILE INSURANCE IN THIS STATE SHALL FILE PREMIUM RATES FOR
24 PERSONAL PROTECTION INSURANCE COVERAGE FOR AUTOMOBILE INSURANCE
25 POLICIES EFFECTIVE AFTER 90 DAYS AFTER THE EFFECTIVE DATE OF THE
26 AMENDATORY ACT THAT ADDED THIS SECTION AND BEFORE 1 YEAR AFTER 90
27 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS

1 SECTION. THE PREMIUM RATES FILED, AND ANY SUBSEQUENT PREMIUM RATES
2 FILED BY THE INSURER FOR PERSONAL PROTECTION INSURANCE COVERAGE FOR
3 AUTOMOBILE INSURANCE POLICIES EFFECTIVE BEFORE 5 YEARS AFTER 90
4 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
5 SECTION, MUST REFLECT SAVINGS EXPECTED FROM THE AMENDMENTS TO THIS
6 CHAPTER MADE BY THE AMENDATORY ACT THAT ADDED THIS SECTION,
7 CONSISTENT WITH THE REQUIREMENTS OF SECTIONS 2109 TO 2111A FOR
8 POLICIES TO WHICH CHAPTER 21 APPLIES, SECTION 2403 FOR POLICIES TO
9 WHICH CHAPTER 24 APPLIES, AND SECTION 2603 FOR POLICIES TO WHICH
10 CHAPTER 26 APPLIES.

11 (2) IF PREMIUM RATES FILED BY AN INSURER UNDER SUBSECTION (1)
12 FOR PERSONAL PROTECTION INSURANCE COVERAGE DO NOT RESULT IN AN
13 AVERAGE 40% OR GREATER REDUCTION PER VEHICLE FOR POLICIES SUBJECT
14 TO THE COVERAGE LIMITS UNDER SECTION 3109A(2) (A), AN AVERAGE 20% OR
15 GREATER REDUCTION PER VEHICLE FOR POLICIES SUBJECT TO THE COVERAGE
16 LIMITS UNDER SECTION 3109A(2) (B), AND AN AVERAGE 10% OR GREATER
17 REDUCTION PER VEHICLE FOR POLICIES SUBJECT TO THE COVERAGE LEVEL
18 UNDER SECTION 3109A(2) (C) FROM THE PREMIUM RATES FOR PERSONAL
19 PROTECTION INSURANCE COVERAGE THAT WERE IN EFFECT FOR THE INSURER
20 ON OCTOBER 1 OF THE YEAR PRECEDING THE YEAR IN WHICH THE AMENDATORY
21 ACT THAT ADDED THIS SECTION TAKES EFFECT, THE INSURER SHALL INCLUDE
22 WITH THE FILING BOTH OF THE FOLLOWING:

23 (A) PREMIUM RATES FOR PERSONAL PROTECTION INSURANCE COVERAGE
24 AS NEAR AS PRACTICABLE TO THOSE REDUCTIONS RECOGNIZING THE
25 JUSTIFICATIONS DESCRIBED IN THIS SUBSECTION.

26 (B) A DETAILED EXPLANATION OF THE REASONS FOR THE INSURER'S
27 FAILURE TO ACHIEVE THE REQUIRED REDUCTIONS AND A DEMONSTRATION

1 USING GENERALLY ACCEPTED AND REASONABLE ACTUARIAL TECHNIQUES THAT
2 THE REQUIRED REDUCTIONS ARE NOT JUSTIFIED BECAUSE OF REQUIREMENTS
3 UNDER SUBSECTION (1) OR 1 OR MORE OF THE FOLLOWING:

4 (i) EXPECTED LOSSES OF THE INSURER FROM THE PROVISION OF
5 AUTOMOBILE INSURANCE.

6 (ii) INFLATION, AS SHOWN BY THE CONSUMER PRICE INDEX
7 CALCULATED AND PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR,
8 BUREAU OF LABOR STATISTICS.

9 (iii) A CHANGE IN AN ASSESSMENT IMPOSED ON AN INSURER UNDER
10 SECTION 3104 OR 3330.

11 (3) THE DIRECTOR SHALL REVIEW PREMIUM RATES FILED BY AN
12 INSURER UNDER SUBSECTION (1) FOR COMPLIANCE WITH SUBSECTIONS (1)
13 AND (2). THE DIRECTOR SHALL DISAPPROVE A FILING THAT CONTAINS A
14 PREMIUM RATE IF AFTER REVIEW THE DIRECTOR DETERMINES BOTH OF THE
15 FOLLOWING:

16 (A) THAT THE PREMIUM RATE DOES NOT RESULT IN THE REDUCTIONS
17 REQUIRED BY SUBSECTIONS (1) AND (2).

18 (B) THAT THE FAILURE TO ACHIEVE THE REDUCTIONS IS NOT
19 JUSTIFIED USING GENERALLY ACCEPTED AND REASONABLE ACTUARIAL
20 TECHNIQUES BECAUSE OF 1 OR MORE OF THE FACTORS LISTED IN SUBSECTION
21 (2) (B).

22 (4) IF THE DIRECTOR DISAPPROVES A PREMIUM RATE FILING UNDER
23 SUBSECTION (3), THE DIRECTOR SHALL DO BOTH OF THE FOLLOWING:

24 (A) DETERMINE WHAT PREMIUM RATE REDUCTIONS THE INSURER COULD
25 ACHIEVE THAT ARE AS NEAR AS PRACTICABLE TO THE AVERAGE PER VEHICLE
26 REDUCTIONS REQUIRED UNDER SUBSECTIONS (1) AND (2) RECOGNIZING THE
27 FACTORS LISTED IN SUBSECTION (2) (B).

1 (B) PROVIDE THE INSURER WITH A WRITTEN EXPLANATION OF THE
2 REASONS FOR THE DISAPPROVAL AND THE DIRECTOR'S DETERMINATION UNDER
3 SUBDIVISION (A) .

4 (5) IF THE DIRECTOR DISAPPROVES A PREMIUM RATE FILING UNDER
5 SUBSECTION (3) , THE INSURER SHALL SUBMIT A REVISED PREMIUM RATE
6 FILING TO THE DIRECTOR WITHIN 15 DAYS OF THE DISAPPROVAL THAT
7 COMPLIES WITH THE DIRECTOR'S DETERMINATION UNDER SUBSECTION (4) (A) .
8 THE PREMIUM RATE FILING IS SUBJECT TO REVIEW IN THE SAME MANNER AS
9 AN ORIGINAL PREMIUM RATE FILING UNDER SUBSECTION (3) .

10 (6) A PREMIUM RATE FILING UNDER THIS SECTION THAT IS NOT
11 DISAPPROVED BY THE DIRECTOR WITHIN 30 DAYS OF ITS SUBMISSION IS
12 CONSIDERED APPROVED. HOWEVER, THE DIRECTOR MAY EXTEND THE TIME
13 UNDER THIS SUBSECTION BY AN ADDITIONAL 30 DAYS BY GIVING THE
14 INSURER WRITTEN NOTICE BEFORE THE INITIAL 30-DAY PERIOD EXPIRES OF
15 THE EXTENDED TIME PERIOD AND THE REASONS FOR THE EXTENSION.

16 (7) AFTER 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
17 ACT THAT ADDED THIS SECTION AND BEFORE 5 YEARS AFTER 90 DAYS AFTER
18 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION,
19 AN INSURER SHALL NOT ISSUE OR RENEW AN AUTOMOBILE INSURANCE POLICY
20 IN THIS STATE UNLESS THE PREMIUM RATES FILED BY THE INSURER FOR
21 PERSONAL PROTECTION INSURANCE COVERAGE ARE APPROVED UNDER THIS
22 SECTION.

23 (8) FOR PURPOSES OF CALCULATING A PERSONAL PROTECTION
24 INSURANCE PREMIUM OR PREMIUM RATE UNDER THIS SECTION, THE PREMIUM
25 INCLUDES THE CATASTROPHIC CLAIMS ASSESSMENT IMPOSED UNDER SECTION
26 3104.

27 Enacting section 1. This amendatory act does not take effect

1 unless, as provided in section 34 of article IV of the state
2 constitution of 1963, it is approved by a majority of the electors
3 of this state voting at the November 2020 regular election, held
4 under section 641(1)(a) of the Michigan election law, 1954 PA 116,
5 MCL 168.641.