Introduced by Representative Perry Bullard, Michigan

DRAFT

A bill to create certain state funds for the purpose of insuring certain risks in this state; to create the Michigan insurance authority for the purpose of administering the insurance funds created by this act and to transact insurance on behalf of those funds; to prescribe the powers and duties of the authority including the borrowing of money and the issuance of bonds and the disposition of the amounts thus derived; to exempt the bonds, the authority, and the funds created by this act from taxation; to provide exemptions from liability; to require that the state and its political subdivisions purchase insurance from the funds created by this act; and to prescribe the powers and duties of certain state officers.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 1

Sec. 1. As used in this act:

(a) "Authority" means the Michigan insurance authority created in 4153 '75
chapter 3.

(b) "Bonds" means the bonds authorized to be issued by the authority under this act, which may consist of bonds, notes, or debt obligations evidencing an obligation to repay borrowed money and payable solely from revenues and other moneys of the authority pledged therefor.

(c) "Bond resolution" or "resolution" when used in relation to the issuance of bonds means either the resolution or trust agreement securing the bonds.

(d) "Insurance code" means Act No. 218 of the Public Acts of 1956, as amended, being sections 500.100 to 500.8302 of the Michigan Compiled Laws.

(e) "Insurance commissioner" means the commissioner of insurance created under section 202 of the insurance code.

(f) "Person" means an individual, firm, partnership, corporation, association, or the state or a political subdivision thereof.

Sec. 2. As used in this act:

(a) "Automobile insurance" means insurance upon motor vehicles whether stationary or being operated under their own power, which shall include all or any of the hazards of fire, explosion, transportation, collision, loss by legal liability for damage to property resulting from the maintenance and use of motor vehicles, and loss by burglary or theft or both, and includes automobile bodily injury liability insurance to insure a person or in behalf of a person for expense or disability including death growing out of any accidental injury incurred while driving, riding in, entering, alighting from, or through being struck by, any motor vehicle. Automobile insurance shall include personal protection insurance, property protection insurance, and residual liability insurance as those terms are used in chapter 31 of the insurance code.

(b) "Disability insurance" means insurance of a person against bodily
injury or death by accident, or against disability on account of sickness or accident including the granting of specific hospital benefits and medical, surgical, and sick care benefits to a person, family, or group, subject to such limitations as may be prescribed with respect thereto. The insured under this section may be an employee of a person not subject to the workmen's compensation law, and in such case the liability may be limited to that as may arise out of and in the course of employee's employment and the premium may be paid by the employer under an agreement with the employee.

(c) "Life insurance" means insurance upon the lives and health of persons and every insurance pertaining thereto, and to grant, purchase, or dispose of annuities. Life insurance includes the issuance of policies of life and endowment insurance and contracts for the payment of annuities and pure endowments, and contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such policies or contracts against lapse or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

(d) "Property insurance" means insurance on dwelling houses, stores, and all kinds of buildings, and upon household furniture, goods, wares, and merchandise, and any other property, against loss or damage by fire, earthquake, lightning, wind, and water; and also against bombardment or explosion whether fire ensues or not, but not to include steam boiler or flywheel explosion; and includes insurance against any other loss or damage to property or any interest therein not prohibited by the laws of this state nor exclusively delegated to any other class or kind of insurer, including loss or
damage of any character, whether by reason of burglary and theft of personal
property or otherwise, and whether situated at any given time at a place of
residence, or in storage, transit, or upon the person of the insured or
otherwise.

CHAPTER 2

Sec. 21. (1) The following state funds are created to be held in trust
and administered by the authority:
(a) The state property insurance fund.
(b) The state automobile insurance fund.
(c) The state life insurance fund.
(d) The state disability insurance fund.
(2) The state treasurer is the ex officio treasurer and custodian of the
moneys in each fund. Each fund shall be separately maintained and accounted
for. Amounts in a fund shall not be commingled with amounts in another fund or
with other state funds. Each fund shall consist of premium payments, earnings
from investments, amounts recovered from reinsurers or under contribution or
subrogation claims, the proceeds of any bonds issued by the authority and pay-
able from the fund, and any other income or other amounts deposited to the
credit of the fund, less losses paid and expenses or interest properly charged
to the fund.
(3) The authority shall hold and administer each fund in trust for the
benefit of the insureds under the fund, their beneficiaries, and other proper
claimants. Amounts in a fund shall not be loaned, expended, or paid for other
purposes of the state, and may be borrowed by the state only pursuant to action
of the authority taken pursuant to the normal and usual investment practices
of the authority in accordance with the usual and prudent practices in the
business of insurance.
(4) The authority or any other person shall not be liable for any obligations of a fund, and the rights of creditors and insureds shall be solely against the assets of a fund, except as otherwise provided in this act.

(5) The funds shall be subject to examination by the insurance commissioner in the same manner as other insurers under the insurance code. The auditor general shall annually cause an audit to be made of each fund and shall report the results of that audit to the governor, the legislature, and to the insurance commissioner.

(6) The fund shall not be administered for the purpose of making a profit, and net profits, if any, of each fund created by this section shall be distributed annually among the policyholders, subject to agreements with bondholders and paid-in capital requirements, surplus or assets requirements, and other requirements for like insurers under the insurance code.

CHAPTER 3

Sec. 31. (1) The Michigan insurance authority is created as a public body corporate and politic within the department of commerce. The authority shall consist of 5 members appointed by the governor with the advice and consent of the senate, not more than 3 of whom shall be affiliated with the same political party. The members shall be appointed for terms of 3 years, except that of those first appointed, 1 shall be appointed for a term of 1 year, 2 for 2 years, and 2 for 3 years. A vacancy on the authority shall be filled in the same manner as original appointments for the remainder of the unexpired term.

(2) The members of the authority shall receive a per diem compensation and shall be reimbursed for the actual and necessary expenses incurred in the performance of their duties. The per diem compensation of the members and the schedule for reimbursement of expenses shall be established annually by the
(3) The members of the authority shall elect a chairperson from among their number and may create and appoint such other officers as they deem necessary. The authority shall establish bylaws for the conduct of business. A majority of the members of the authority shall be a quorum for the trans- action of business. Action may be taken by the authority upon a majority vote of the members present at a quorum, unless the bylaws of the authority shall require a larger number.

Sec. 33. The authority shall have the powers necessary to carry out and effectuate its duties and purposes under this act, including the following powers:

(a) To sue and be sued; to have a seal and alter the same at pleasure; to have perpetual succession; to make, execute, and deliver contracts, conveyances, bonds, and other instruments necessary in the exercise of its powers; and to make and amend bylaws.

(b) To accept gifts, grants, loans, and other aids or amounts from a person, corporation, or governmental agency.

(c) To enforce its rights including subrogation rights, under a contract or agreement, or under the laws of this state or the United States, including the commencement of a court action.

(d) To acquire, hold, and dispose of real and personal property necessary for the accomplishment of the purposes of this act.

(e) To procure insurance or reinsurance against losses which may be in- curred in connection with its property, assets, activities, or the exercise of the powers granted under this act.

(f) To borrow money and to issue its bonds and provide for the rights of the holders thereof and to secure the bonds by assignment, pledge, or granting
a security interest in its property. The state shall not be liable for the
repayment of bonds issued by the authority, the bonds issued by the authority
shall not be a debt of the state, and each bond shall contain on its face a
statement to this effect.

(g) To invest funds not required for immediate use or disbursement in
obligations of the state or the United States, in obligations the principal
and interest of which are guaranteed by the state or the United States, or in
certificates of deposit of a bank whose deposits are insured by the federal
deposit insurance corporation.

(h) To engage the services of private consultants to render professional
and technical assistance and advice in carrying out the purposes of this act
and to join or subscribe to rate service organizations or other advisory organ-
izations useful for the effective operation of its business.

(i) To appoint officers, agents, and employees, describe their duties,
and fix their compensation subject to civil service rules.

(j) To promulgate rules consistent with this act, necessary to carry out
the purpose of this act pursuant to Act No. 306 of the Public Acts of 1969, as
amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(k) To collect fees, premiums, and charges in connection with its bus-
ness under this act.

(l) To obtain such inspections and reports as sound insurance practice
requires on risks insured by a fund created under this act.

(m) To employ and engage the services of independent contractors as are
necessary to exercise its powers and conduct its business under this act.

(n) As trustee and administrator of the funds created by this act, to
transact insurance in this state, to act as an insurer, and to issue insurance,
consistent with the provisions of this act and on behalf of the funds created
4153 '75
under this act.

(o) To charge and be paid from a fund created under this act the expenses and costs incurred by the authority in the administration of the fund, which payments shall be sufficient to cover all amounts needed by the authority in the implementation and administration of this act.

(p) To exercise any other powers granted to the authority under this act.

Sec. 34. (1) The authority may issue bonds in principal amounts necessary to provide amounts sufficient to achieve its purposes and conduct its business under this act. The authority may issue refunding bonds when it deems refunding expedient, whether the bonds to be refunded have or have not matured. The proceeds of refunding bonds shall be applied to the purchase, redemption, or payment of the bonds refunded. The issue of bonds or refunding bonds shall be a general obligation of the fund created by this act in which the proceeds of the bonds are deposited and are to be satisfied solely out of revenues, moneys, property or other assets of the fund, subject to an agreement with the holders of particular receipts, revenues, or other property or assets of the fund which have been pledged or mortgaged. This limitation shall be stated in the bond resolution and on the face of the bonds.

(2) The authority shall authorize its bonds by resolution. The bonds shall bear a date and shall mature at a time, not exceeding 40 years after the date of issue, as provided in the resolution. The resolution shall specify the interest rate, denomination and form, either coupon or registered, registration privileges, manner of execution, the medium of payment, and the place and terms for the redemption of the bonds. The bonds shall be sold by the authority at public sale at a price determined by the authority.

(3) The state pledges and agrees with the holders of bonds issued under this act that the state shall not limit or alter the rights vested in
the authority to fulfill the terms of an agreement made with the holders of
the bonds, and shall not impair the rights and remedies of the holders until
the bonds, together with the interest on the bonds and interest on any unpaid
installments of interest, and all costs and expenses in connection with an
action or proceeding by or on behalf of those holders, are fully met and dis-
charged. The authority is authorized to include this pledge and agreement of
the state in an agreement with the holders of the bonds.

(4) The bonds of the authority are securities, in which public offi-
cers and bodies of this state, municipalities and municipal subdivisions, insur-
ance companies and associations, persons carrying on an insurance business,
banks, trust companies, savings banks and savings associations, savings and
loan associations, investment companies, administrators, guardians, executors,
trustees, other fiduciaries, and all other persons who are authorized to in-
vest in bonds or other obligations of the state, may properly and legally in-
vest funds, including capital, in their control or belonging to them.

Sec. 35. (1) The amounts received as proceeds from the issuance of
bonds under this act, except as otherwise provided in this section, shall be
paid to the state treasurer, who shall deposit the moneys in the fund created
under this act for which the bonds were issued. The moneys shall be deposited
in a separate bank account or accounts. The moneys in the accounts shall be
paid out on warrants signed by the state treasurer on requisition of the chair-
person of the authority or of another officer or employee authorized by the
authority to make the requisition. The deposits of moneys, if required by
the state treasurer or the authority, shall be secured by obligations of the
United States or of the state having a market value equal at all times to the
amount of the deposit, and banks and trust companies are authorized to give
such security for the deposits.
(2) The authority, subject to the approval of the state treasurer, may contract with the holders of its bonds as to the custody, collection, securing, investment, and payment of moneys held in trust for the payment of bonds. Moneys held in trust for the payment of bonds or to secure bonds and deposits of the moneys may be secured in the same manner as moneys of the authority, and banks and trust companies are authorized to give such security for the deposits.

(3) The financial records of each fund shall be audited annually by the auditor general and also in the manner prescribed in the insurance code for other insurers.

Sec. 36. (1) The authority shall not be required to pay taxes on property owned by the authority or held in trust under this act or upon the income therefrom. The bonds issued under this act, their transfer and the income therefrom, including a profit made on the sale thereof, shall be exempt from taxation by the state or a local unit or political subdivision or other instrumentality of the state.

(2) Bonds issued under this act shall be fully negotiable under Act No. 174 of the Public Acts of 1962, as amended, being sections 440.1101 to 440.9994 of the Michigan Compiled Laws.

Sec. 37. A pledge made by the authority shall be valid and binding from the time the pledge is made. The moneys or property pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of the pledge shall be valid and binding against all parties having a claim in tort, contract, or otherwise against the authority, irrespective of whether the parties have notice of the claim. Neither the resolution nor another instrument by which a pledge is created need be recorded.
Sec. 38. (1) If a fund defaults in the payment of principal of or inter-

rir on an issue of bonds after the issue becomes due, whether at maturity

or upon call for redemption, and the default continues for 30 days, or if the

authority fails or refuses to comply with this act, or defaults in an agree-

ment made with the holders of an issue of bonds, the holders of 25% in aggre-

gate principal amount of the bonds of the issue then outstanding, by instru-

ment or instruments filed in the office of the clerk of the county of Ingham

and approved or acknowledged in the same manner as a deed to be recorded,

may appoint a trustee to represent the holders of the bonds for the purposes

provided in this section.

(2) The trustee may, and upon written request of the holders of 25% in principal amount of the bonds then outstanding shall, in his own name, by

action or proceeding, enforce all rights of the bondholders, including the

right to require the authority to collect fees, charges, interest, and amor-

tization payments of loans made by it adequate to carry out the agreement as
to, or pledge of, the fees, charges, interest, and amortization payment on the

loans and other properties and to require the authority to carry out other

agreements with the holders of the bonds and to perform its duties under

this act; bring an action upon the bonds; bring an action to require the au-

thority to account as if it were the trustee of an express trust for the

holders of the bonds due and payable, and if all defaults are made good, then,

with the consent of the holders of 25% of the principal amount of the bonds

then outstanding, to annul the declaration and its consequences.

(3) The holders of bonds and the trustee authorized by this section

shall have all the rights to which they are entitled by virtue of provisions

included in the bonds or otherwise available to them under law.

Sec. 39. A member of the authority or a person executing the notes,
bonds, or other obligations of the authority is not personally liable for the repayment of the note, bond, or other obligation or subject to personal liability or accountability by reason of the issuance or nonissuance thereof.

CHAPTER 4

Sec. 41. (1) As trustee and administrator of the automobile insurance fund, the authority may act on behalf of the fund as an automobile insurance insurer, issue automobile insurance policies, and engage in the transaction of automobile insurance in this state. The authority shall have the same obligations, powers, and duties as a private insurer transacting automobile insurance under the insurance code, and shall manage the state automobile insurance fund and the transaction of automobile insurance in accordance with the usual and prudent practices in the automobile business.

(2) The authority shall not employ or engage insurance solicitors and shall not pay a commission for the procuring of an insurance application under this section.

Sec. 43. (1) As trustee and administrator of the disability insurance fund, the authority may act on behalf of the fund as a disability insurance insurer, issue disability insurance policies, and engage in the transaction of disability insurance in this state. The authority shall have the same obligations, powers, and duties as a private insurer transacting disability insurance under the insurance code, and shall manage the state disability insurance fund and the transaction of disability insurance in accordance with the usual and prudent practices in the disability insurance business.

(2) The authority shall not employ or engage insurance solicitors and shall not pay a commission for the procuring of an insurance application under this section.

Sec. 45. (1) As trustee and administrator of the life insurance fund,
the authority may act on behalf of the fund as a life insurance insurer, issue life insurance policies, and engage in the transaction of life insurance in this state. The authority shall have the same obligations, powers, and duties as a private insurer transacting life insurance under the insurance code, and shall manage the state life insurance fund and the transaction of life insurance in accordance with the usual and prudent practices in the life insurance business.

(2) The authority shall not employ or engage insurance solicitors and shall not pay a commission for the procuring of an insurance application under this section.

Sec. 47. (1) As trustee and administrator of the property insurance fund, the authority may act on behalf of the fund as a property insurance insurer, issue property insurance policies, and engage in the transaction of property insurance in this state. The authority shall have the same obligations, powers, and duties as a private insurer transacting property insurance under the insurance code, and shall manage the state property insurance fund and the transaction of property insurance in accordance with the usual and prudent practices in the property insurance business.

(2) The property insurance fund shall not employ or engage insurance solicitors and shall not pay a commission for the procuring of an insurance application under this section.

Sec. 49. (1) Except as otherwise provided in this section, the state or a county, village, township, city, school district or intermediate school district shall not pay any money nor incur any indebtedness to a private insurer for any insurance which is otherwise available under this act.

(2) Subsection (1) shall not apply if:

(a) A specific statute provides for private insurance.
(b) The authority approves the use of self-insurance or the purchase of insurance from private insurers after a determination that the public interest will be better protected than by insurance under this act.

(c) The authority terminates a policy of insurance from a fund created under this act for failure of the insured to pay its premiums or otherwise comply with the provisions of a policy issued by the fund.
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