

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 I

1  
2       Sec. 1. As used in this act:

3       (a) "Authority" means the Michigan insurance authority created in

1 chapter 3.

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

6 (c) "Bond resolution" or "resolution" when used in relation to the issu-  
7 ance of bonds means either the resolution or trust agreement securing the  
8 bonds.

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

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

13 (f) "Person" means an individual, firm, partnership, corporation, asso-  
14 ciation, or the state or a political subdivision thereof.

15 Sec. 2. As used in this act:

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

27 (b) "Disability insurance" means insurance of a person against bodily

1 injury or death by accident, or against disability on account of sickness or  
2 accident including the granting of specific hospital benefits and medical,  
3 surgical, and sick care benefits to a person, family, or group, subject to  
4 such limitations as may be prescribed with respect thereto. The insured under  
5 this section may be an employee of a person not subject to the workmen's com-  
6 pensation law, and in such case the liability may be limited to that as may  
7 arise out of and in the course of employee's employment and the premium may  
8 be paid by the employer under an agreement with the employee.

9 (c) "Life insurance" means insurance upon the lives and health of per-  
10 sons and every insurance pertaining thereto, and to grant, purchase, or dis-  
11 pose of annuities. Life insurance includes the issuance of policies of life  
12 and endowment insurance and contracts for the payment of annuities and pure  
13 endowments, and contracts supplemental thereto which contain only such pro-  
14 visions relating to accident and sickness insurance as (a) provide additional  
15 benefits in case of death or dismemberment or loss of sight by accident, or  
16 as (b) operate to safeguard such policies or contracts against lapse or to  
17 give a special surrender value or special benefit or an annuity in the event  
18 that the insured or annuitant shall become totally and permanently disabled,  
19 as defined by the contract or supplemental contract.

20 (d) "Property insurance" means insurance on dwelling houses, stores,  
21 and all kinds of buildings, and upon household furniture, goods, wares, and  
22 merchandise, and any other property, against loss or damage by fire, earth-  
23 quake, lightning, wind, and water; and also against bombardment or explosion  
24 whether fire ensues or not, but not to include steam boiler or flywheel ex-  
25 plosion; and includes insurance against any other loss or damage to property  
26 or any interest therein not prohibited by the laws of this state nor exclu-  
27 sively delegated to any other class or kind of insurer, including loss or

1 damage of any character, whether by reason of burglary and theft of personal  
2 property or otherwise, and whether situated at any given time at a place of  
3 residence, or in storage, transit, or upon the person of the insured or  
4 otherwise.

5 CHAPTER 2

6 Sec. 21. (1) The following state funds are created to be held in trust  
7 and administered by the authority:

8 (a) The state property insurance fund.

9 (b) The state automobile insurance fund.

10 (c) The state life insurance fund.

11 (d) The state disability insurance fund.

12 (2) The state treasurer is the ex officio treasurer and custodian of the  
13 moneys in each fund. Each fund shall be separately maintained and accounted  
14 for. Amounts in a fund shall not be commingled with amounts in another fund or  
15 with other state funds. Each fund shall consist of premium payments, earnings  
16 from investments, amounts recovered from reinsurers or under contribution or  
17 subrogation claims, the proceeds of any bonds issued by the authority and pay-  
18 able from the fund, and any other income or other amounts deposited to the  
19 credit of the fund, less losses paid and expenses or interest properly charged  
20 to the fund.

21 (3) The authority shall hold and administer each fund in trust for the  
22 benefit of the insureds under the fund, their beneficiaries, and other proper  
23 claimants. Amounts in a fund shall not be loaned, expended, or paid for other  
24 purposes of the state, and may be borrowed by the state only pursuant to action  
25 of the authority taken pursuant to the normal and usual investment practices  
26 of the authority in accordance with the usual and prudent practices in the  
27 business of insurance.

1 (4) The authority or any other person shall not be liable for any obliga-  
2 tions of a fund, and the rights of creditors and insureds shall be solely  
3 against the assets of a fund, except as otherwise provided in this act.

4 (5) The funds shall be subject to examination by the insurance commis-  
5 sioner in the same manner as other insurers under the insurance code. The audi-  
6 tor general shall annually cause an audit to be made of each fund and shall  
7 report the results of that audit to the governor, the legislature, and to the  
8 insurance commissioner.

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

14 CHAPTER 3

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

24 (2) The members of the authority shall receive a per diem compensation  
25 and shall be reimbursed for the actual and necessary expenses incurred in the  
26 performance of their duties. The per diem compensation of the members and the  
27 schedule for reimbursement of expenses shall be established annually by the

1 legislature.

2 (3) The members of the authority shall elect a chairperson from among  
3 their number and may create and appoint such other officers as they deem  
4 necessary. The authority shall establish bylaws for the conduct of business.  
5 A majority of the members of the authority shall be a quorum for the trans-  
6 action of business. Action may be taken by the authority upon a majority vote  
7 of the members present at a quorum, unless the bylaws of the authority shall  
8 require a larger number.

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

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

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

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

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

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

26 (f) To borrow money and to issue its bonds and provide for the rights of  
27 the holders thereof and to secure the bonds by assignment, pledge, or granting

1 a security interest in its property. The state shall not be liable for the  
2 repayment of bonds issued by the authority, the bonds issued by the authority  
3 shall not be a debt of the state, and each bond shall contain on its face a  
4 statement to this effect.

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

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

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

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

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

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

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

25 (n) As trustee and administrator of the funds created by this act, to  
26 transact insurance in this state, to act as an insurer, and to issue insurance,  
27 consistent with the provisions of this act and on behalf of the funds created

1 under this act.

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

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

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

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

26 (3) The state pledges and agrees with the holders of bonds issued  
27 under this act that the state shall not limit or alter the rights vested in



1 the authority to fulfill the terms of an agreement made with the holders of  
2 the bonds, and shall not impair the rights and remedies of the holders until  
3 the bonds, together with the interest on the bonds and interest on any unpaid  
4 installments of interest, and all costs and expenses in connection with an  
5 action or proceeding by or on behalf of those holders, are fully met and dis-  
6 charged. The authority is authorized to include this pledge and agreement of  
7 the state in an agreement with the holders of the bonds.

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

16 Sec. 35. (1) The amounts received as proceeds from the issuance of  
17 bonds under this act, except as otherwise provided in this section, shall be  
18 paid to the state treasurer, who shall deposit the moneys in the fund created  
19 under this act for which the bonds were issued. The moneys shall be deposited  
20 in a separate bank account or accounts. The moneys in the accounts shall be  
21 paid out on warrants signed by the state treasurer on requisition of the chair-  
22 person of the authority or of another officer or employee authorized by the  
23 authority to make the requisition. The deposits of moneys, if required by  
24 the state treasurer or the authority, shall be secured by obligations of the  
25 United States or of the state having a market value equal at all times to the  
26 amount of the deposit, and banks and trust companies are authorized to give  
27 such security for the deposits.

1 (2) The authority, subject to the approval of the state treasurer, may  
2 contract with the holders of its bonds as to the custody, collection, securing,  
3 investment, and payment of moneys held in trust for the payment of bonds.  
4 Moneys held in trust for the payment of bonds or to secure bonds and deposits  
5 of the moneys may be secured in the same manner as moneys of the authority,  
6 and banks and trust companies are authorized to give such security for the  
7 deposits.

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

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

17 (2) Bonds issued under this act shall be fully negotiable under Act No.  
18 174 of the Public Acts of 1962, as amended, being sections 440.1101 to  
19 440.9994 of the Michigan Compiled Laws.

20 Sec. 37. A pledge made by the authority shall be valid and binding from  
21 the time the pledge is made. The moneys or property pledged and thereafter  
22 received by the authority shall immediately be subject to the lien of the  
23 pledge without physical delivery or further act. The lien of the pledge shall  
24 be valid and binding against all parties having a claim in tort, contract, or  
25 otherwise against the authority, irrespective of whether the parties have  
26 notice of the claim. Neither the resolution nor another instrument by which  
27 a pledge is created need be recorded.

1       Sec. 38. (1) If a fund defaults in the payment of principal of or in-  
2       terest on an issue of bonds after the issue becomes due, whether at maturity  
3       or upon call for redemption, and the default continues for 30 days, or if the  
4       authority fails or refuses to comply with this act, or defaults in an agree-  
5       ment made with the holders of an issue of bonds, the holders of 25% in aggre-  
6       gate principal amount of the bonds of the issue then outstanding, by instru-  
7       ment or instruments filed in the office of the clerk of the county of Ingham  
8       and approved or acknowledged in the same manner as a deed to be recorded,  
9       may appoint a trustee to represent the holders of the bonds for the purposes  
10      provided in this section.

11       (2) The trustee may, and upon written request of the holders of 25%  
12      in principal amount of the bonds then outstanding shall, in his own name, by  
13      action or proceeding, enforce all rights of the bondholders, including the  
14      right to require the authority to collect fees, charges, interest, and amor-  
15      tization payments of loans made by it adequate to carry out the agreement as  
16      to, or pledge of, the fees, charges, interest, and amortization payment on the  
17      loans and other properties and to require the authority to carry out other  
18      agreements with the holders of the bonds and to perform its duties under  
19      this act; bring an action upon the bonds; bring an action to require the au-  
20      thority to account as if it were the trustee of an express trust for the  
21      holders of the bonds due and payable, and if all defaults are made good, then,  
22      with the consent of the holders of 25% of the principal amount of the bonds  
23      then outstanding, to annul the declaration and its consequences.

24       (3) The holders of bonds and the trustee authorized by this section  
25      shall have all the rights to which they are entitled by virtue of provisions  
26      included in the bonds or otherwise available to them under law.

27       Sec. 39. A member of the authority or a person executing the notes,

1 bonds, or other obligations of the authority is not personally liable for the  
2 repayment of the note, bond, or other obligation or subject to personal lia-  
3 bility or accountability by reason of the issuance or nonissuance thereof.

4 CHAPTER 4

5 Sec. 41. (1) As trustee and administrator of the automobile insurance  
6 fund, the authority may act on behalf of the fund as an automobile insurance  
7 insurer, issue automobile insurance policies, and engage in the transaction of  
8 automobile insurance in this state. The authority shall have the same obli-  
9 gations, powers, and duties as a private insurer transacting automobile insur-  
10 ance under the insurance code, and shall manage the state automobile insurance  
11 fund and the transaction of automobile insurance in accordance with the usual  
12 and prudent practices in the automobile business.

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

16 Sec. 43. (1) As trustee and administrator of the disability insurance  
17 fund, the authority may act on behalf of the fund as a disability insurance  
18 insurer, issue disability insurance policies, and engage in the transaction  
19 of disability insurance in this state. The authority shall have the same ob-  
20 ligations, powers, and duties as a private insurer transacting disability  
21 insurance under the insurance code, and shall manage the state disability in-  
22 surance fund and the transaction of disability insurance in accordance with  
23 the usual and prudent practices in the disability insurance business.

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

27 Sec. 45. (1) As trustee and administrator of the life insurance fund,

1 the authority may act on behalf of the fund as a life insurance insurer, issue  
2 life insurance policies, and engage in the transaction of life insurance in  
3 this state. The authority shall have the same obligations, powers, and duties  
4 as a private insurer transacting life insurance under the insurance code, and  
5 shall manage the state life insurance fund and the transaction of life insur-  
6 ance in accordance with the usual and prudent practices in the life insurance  
7 business.

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

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

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

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

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

27 (a) A specific statute provides for private insurance.

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

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

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