

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4397**

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 3009, 3109a, 3111, 3116, 3135, and 3151 (MCL
500.3009, 500.3109a, 500.3111, 500.3116, 500.3135, and 500.3151),
section 3009 as amended by 2016 PA 346, section 3109a as amended by
2012 PA 454, and section 3135 as amended by 2012 PA 158, and by
adding sections 2111f, 3107c, and 3107d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 2111F. (1) BEFORE JULY 1, 2020, AN INSURER THAT OFFERS**
2 **AUTOMOBILE INSURANCE IN THIS STATE SHALL FILE PREMIUM RATES FOR**
3 **PERSONAL PROTECTION INSURANCE COVERAGE FOR AUTOMOBILE INSURANCE**
4 **POLICIES EFFECTIVE AFTER JULY 1, 2020.**

5 **(2) SUBJECT TO SUBSECTIONS (6) AND (7), THE PREMIUM RATES**

1 FILED AS REQUIRED BY SUBSECTION (1), AND ANY SUBSEQUENT PREMIUM
2 RATES FILED BY THE INSURER FOR PERSONAL PROTECTION INSURANCE
3 COVERAGE UNDER AUTOMOBILE INSURANCE POLICIES EFFECTIVE BEFORE JULY
4 2, 2028, MUST RESULT, AS NEARLY AS PRACTICABLE, IN AN AVERAGE
5 REDUCTION PER VEHICLE FROM THE PREMIUM RATES FOR PERSONAL
6 PROTECTION INSURANCE COVERAGE THAT WERE IN EFFECT FOR THE INSURER
7 ON MAY 1, 2019 AS FOLLOWS:

8 (A) FOR POLICIES SUBJECT TO THE COVERAGE LIMITS UNDER SECTION
9 3107C(1) (A), AN AVERAGE 45% OR GREATER REDUCTION PER VEHICLE.

10 (B) FOR POLICIES SUBJECT TO THE COVERAGE LIMITS UNDER SECTION
11 3107C(1) (B), AN AVERAGE 35% OR GREATER REDUCTION PER VEHICLE.

12 (C) FOR POLICIES SUBJECT TO THE COVERAGE LIMITS UNDER SECTION
13 3107C(1) (C), AN AVERAGE 20% OR GREATER REDUCTION PER VEHICLE.

14 (D) FOR POLICIES NOT SUBJECT TO ANY COVERAGE LIMIT UNDER
15 SECTION 3107C(1) (D), AN AVERAGE 10% OR GREATER REDUCTION PER
16 VEHICLE.

17 (3) FOR A POLICY UNDER WHICH AN ELECTION UNDER SECTION 3107D
18 HAS BEEN MADE TO NOT MAINTAIN COVERAGE FOR PERSONAL PROTECTION
19 INSURANCE BENEFITS PAYABLE UNDER SECTION 3107(1) (A), OR FOR A
20 POLICY TO WHICH AN EXCLUSION UNDER SECTION 3109A(2) APPLIES, THE
21 PREMIUM RATES FILED UNDER SUBSECTION (1), AND ANY SUBSEQUENT
22 PREMIUM RATES FILED BY THE INSURER FOR PERSONAL PROTECTION
23 INSURANCE COVERAGE, MUST RESULT IN NO PREMIUM CHARGE FOR COVERAGE
24 FOR PERSONAL PROTECTION INSURANCE BENEFITS PAYABLE UNDER SECTION
25 3107(1) (A).

26 (4) THE DIRECTOR SHALL REVIEW A FILING SUBMITTED BY AN INSURER
27 UNDER SUBSECTIONS (1) TO (3) FOR COMPLIANCE WITH THIS SECTION.

1 SUBJECT TO SUBSECTION (7), THE DIRECTOR SHALL DISAPPROVE A FILING
2 IF AFTER REVIEW THE DIRECTOR DETERMINES THAT THE FILING DOES NOT
3 RESULT IN THE PREMIUM REDUCTIONS REQUIRED BY SUBSECTIONS (2) AND
4 (3).

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

10 (6) FOR POLICIES ISSUED OR RENEWED IN THE YEAR BEGINNING JULY
11 1, 2024 AND IN THE YEAR BEGINNING JULY 1, 2026, AN AUTOMOBILE
12 INSURER THAT OFFERS AUTOMOBILE INSURANCE IN THIS STATE SHALL MAKE
13 FILINGS DEMONSTRATING ITS COMPLIANCE WITH THIS SECTION.

14 (7) AT ANY TIME, AN INSURER MAY APPLY TO THE DIRECTOR FOR
15 APPROVAL TO FILE RATES THAT RESULT IN A LOWER PREMIUM REDUCTION
16 LEVEL OR AN EXEMPTION FROM THE REQUIREMENTS OF SUBSECTION (2) AND
17 THE DIRECTOR SHALL APPROVE THE APPLICATION IF THE RATES OTHERWISE
18 COMPLY WITH THIS ACT AND COMPLIANCE WITH THE PREMIUM REDUCTIONS
19 REQUIRED BY SUBSECTION (2) WILL RESULT IN ANY OF THE FOLLOWING:

20 (A) THE INSURER REACHING THE COMPANY ACTION LEVEL RISK-BASED
21 CAPITAL.

22 (B) A VIOLATION OF THE FOURTEENTH AMENDMENT OF THE UNITED
23 STATES CONSTITUTION AS TO THE INSURER. THIS SUBDIVISION DOES NOT
24 APPLY AFTER JULY 1, 2023.

25 (C) A VIOLATION OF SECTION 17 OF ARTICLE I OF THE STATE
26 CONSTITUTION OF 1963, AS TO DEPRIVATION OF PROPERTY WITHOUT DUE
27 PROCESS. THIS SUBDIVISION DOES NOT APPLY AFTER JULY 1, 2023.

1 (8) AN INSURER SHALL PASS ON, IN FILINGS TO WHICH THIS SECTION
2 APPLIES, SAVINGS REALIZED FROM THE APPLICATION OF SECTION 3157(2)
3 TO (12) TO TREATMENT, PRODUCTS, SERVICES, ACCOMMODATIONS, OR
4 TRAINING RENDERED TO INDIVIDUALS WHO SUFFERED ACCIDENTAL BODILY
5 INJURY FROM MOTOR VEHICLE ACCIDENTS THAT OCCURRED BEFORE JULY 2,
6 2021. AN INSURER SHALL PROVIDE THE DIRECTOR WITH ALL DOCUMENTS AND
7 INFORMATION REQUESTED BY THE DIRECTOR THAT THE DIRECTOR DETERMINES
8 ARE NECESSARY TO ALLOW THE DIRECTOR TO EVALUATE THE INSURER'S
9 COMPLIANCE WITH THIS SUBSECTION. AFTER JULY 1, 2022, THE DIRECTOR
10 SHALL REVIEW ALL RATE FILINGS TO WHICH THIS SECTION APPLIES FOR
11 COMPLIANCE WITH THIS SUBSECTION.

12 (9) THIS SECTION DOES NOT PROHIBIT AN INCREASE FOR ANY
13 INDIVIDUAL INSURANCE POLICY PREMIUM IF THE INCREASE RESULTS FROM
14 APPLYING RATING FACTORS AS APPROVED UNDER THIS CHAPTER, INCLUDING
15 THE REQUIREMENTS OF THIS SECTION.

16 (10) AFTER JULY 1, 2020 AND BEFORE JULY 2, 2028, AN INSURER
17 SHALL NOT ISSUE OR RENEW AN AUTOMOBILE INSURANCE POLICY IN THIS
18 STATE UNLESS THE PREMIUM RATES FILED BY THE INSURER FOR PERSONAL
19 PROTECTION INSURANCE COVERAGE ARE APPROVED UNDER THIS SECTION.

20 (11) FOR PURPOSES OF CALCULATING A PERSONAL PROTECTION
21 INSURANCE PREMIUM OR PREMIUM RATE UNDER THIS SECTION, THE PREMIUM
22 MUST INCLUDE THE CATASTROPHIC CLAIMS ASSESSMENT IMPOSED UNDER
23 SECTION 3104.

24 (12) IF SUBSECTION (2) OR THE APPLICATION OF SUBSECTION (2) TO
25 ANY INSURER IS FOUND TO BE INVALID BY A COURT, THE REMAINING
26 PORTIONS OF THE AMENDATORY ACT THAT ADDED THIS SECTION ARE NOT
27 SEVERABLE AND SHALL BE DEEMED INVALID AND INOPERABLE.

1 (13) AS USED IN THIS SECTION:

2 (A) "AUTHORIZED CONTROL LEVEL RBC" MEANS THE NUMBER DETERMINED
3 UNDER THE RISK-BASED CAPITAL FORMULA IN ACCORDANCE WITH THE RBC
4 REPORT, INCLUDING RISK-BASED CAPITAL INSTRUCTIONS ADOPTED BY THE
5 NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS AND THE DIRECTOR.

6 (B) "COMPANY ACTION LEVEL RISK-BASED CAPITAL" MEANS 2 TIMES
7 THE INSURER'S AUTHORIZED CONTROL LEVEL RBC.

8 (C) "RBC REPORT" MEANS THE REPORT OF THE INSURER'S RBC LEVELS
9 AS REQUIRED BY THE ANNUAL STATEMENT INSTRUCTIONS.

10 Sec. 3009. (1) ~~An~~ SUBJECT TO SUBSECTIONS (5) TO (8), AN
11 automobile liability or motor vehicle liability policy ~~insuring~~
12 **THAT INSURES** against loss resulting from liability imposed by law
13 for property damage, bodily injury, or death suffered by any person
14 arising out of the ownership, maintenance, or use of a motor
15 vehicle ~~shall~~ **MUST** not be delivered or issued for delivery in this
16 state with respect to any motor vehicle registered or principally
17 garaged in this state unless the liability coverage is subject to
18 all of the following limits:

19 (a) ~~A~~ **BEFORE JULY 2, 2020, A** limit, exclusive of interest and
20 costs, of not less than \$20,000.00 because of bodily injury to or
21 death of 1 person in any 1 accident, **AND AFTER JULY 1, 2020, A**
22 **LIMIT, EXCLUSIVE OF INTEREST AND COSTS, OF NOT LESS THAN**
23 **\$250,000.00 BECAUSE OF BODILY INJURY TO OR DEATH OF 1 PERSON IN ANY**
24 **1 ACCIDENT.**

25 (b) ~~Subject~~ **BEFORE JULY 2, 2020 AND SUBJECT** to the limit for 1
26 person in subdivision (a), a limit of not less than \$40,000.00
27 because of bodily injury to or death of 2 or more persons in any 1

1 accident, AND AFTER JULY 1, 2020, AND SUBJECT TO THE LIMIT FOR 1
2 PERSON IN SUBDIVISION (A), A LIMIT OF NOT LESS THAN \$500,000.00
3 BECAUSE OF BODILY INJURY TO OR DEATH OF 2 OR MORE PERSONS IN ANY 1
4 ACCIDENT.

5 (c) A limit of not less than \$10,000.00 because of injury to
6 or destruction of property of others in any accident.

7 (2) If authorized by the insured, automobile liability or
8 motor vehicle liability coverage may be excluded when a vehicle is
9 operated by a named person. An exclusion under this subsection is
10 not valid unless the following notice is on the face of the policy
11 or the declaration page or certificate of the policy and on the
12 certificate of insurance:

13 Warning—when a named excluded person operates a vehicle all
14 liability coverage is void—no one is insured. Owners of the vehicle
15 and others legally responsible for the acts of the named excluded
16 person remain fully personally liable.

17 (3) A liability policy described in subsection (1) may exclude
18 coverage for liability as provided in section 3017.

19 (4) If an insurer deletes coverages from an automobile
20 insurance policy pursuant to ~~UNDER~~ section 3101, the insurer shall
21 send documentary evidence of the deletion to the insured.

22 (5) AFTER JULY 1, 2020, AN APPLICANT FOR OR NAMED INSURED IN
23 THE AUTOMOBILE LIABILITY OR MOTOR VEHICLE LIABILITY POLICY
24 DESCRIBED IN SUBSECTION (1) MAY CHOOSE TO PURCHASE LOWER LIMITS
25 THAN REQUIRED UNDER SUBSECTION (1) (A) AND (B), BUT NOT LOWER THAN
26 \$50,000.00 UNDER SUBSECTION (1) (A) AND \$100,000.00 UNDER SUBSECTION
27 (1) (B). TO EXERCISE AN OPTION UNDER THIS SUBSECTION, THE PERSON

1 SHALL COMPLETE A FORM ISSUED BY THE DIRECTOR AND PROVIDED AS
2 REQUIRED BY SECTION 3107E, THAT MEETS THE REQUIREMENTS OF
3 SUBSECTION (7).

4 (6) AFTER JULY 1, 2020, ON APPLICATION FOR THE ISSUANCE OF A
5 NEW POLICY OR RENEWAL OF AN EXISTING POLICY, AN INSURER SHALL DO
6 ALL OF THE FOLLOWING:

7 (A) PROVIDE THE APPLICANT OR NAMED INSURED THE LIABILITY
8 OPTIONS AVAILABLE UNDER THIS SECTION.

9 (B) PROVIDE THE APPLICANT OR NAMED INSURED A PRICE FOR EACH
10 OPTION AVAILABLE UNDER THIS SECTION.

11 (C) OFFER THE APPLICANT OR NAMED INSURED THE OPTION AND FORM
12 UNDER THIS SUBSECTION.

13 (7) THE FORM REQUIRED UNDER SUBSECTION (5) MUST DO ALL OF THE
14 FOLLOWING:

15 (A) STATE, IN A CONSPICUOUS MANNER, THE RISKS OF CHOOSING
16 LIABILITY LIMITS LOWER THAN THOSE REQUIRED BY SUBSECTION (1) (A) AND
17 (B).

18 (B) PROVIDE A WAY FOR THE PERSON TO MARK THE FORM TO
19 ACKNOWLEDGE THAT HE OR SHE HAS RECEIVED A LIST OF THE LIABILITY
20 OPTIONS AVAILABLE UNDER THIS SECTION AND THE PRICE FOR EACH OPTION.

21 (C) PROVIDE A WAY FOR THE PERSON TO MARK THE FORM TO
22 ACKNOWLEDGE THAT HE OR SHE HAS READ THE FORM AND UNDERSTANDS THE
23 RISKS OF CHOOSING THE LOWER LIABILITY LIMITS.

24 (D) ALLOW THE PERSON TO SIGN THE FORM.

25 (8) AFTER JULY 1, 2020, IF AN INSURANCE POLICY IS ISSUED OR
26 RENEWED AS DESCRIBED IN SUBSECTION (1) AND THE PERSON NAMED IN THE
27 POLICY HAS NOT MADE AN EFFECTIVE CHOICE UNDER SUBSECTION (5), THE

1 LIMITS UNDER SUBSECTION (1) (A) AND (B) APPLY TO THE POLICY.

2 SEC. 3107C. (1) EXCEPT AS PROVIDED IN SECTIONS 3107D AND
3 3109A, AND SUBJECT TO SUBSECTION (5), FOR AN INSURANCE POLICY THAT
4 PROVIDES THE SECURITY REQUIRED UNDER SECTION 3101(1) AND IS ISSUED
5 OR RENEWED AFTER JULY 1, 2020, THE APPLICANT OR NAMED INSURED
6 SHALL, IN A WAY REQUIRED UNDER SECTION 3107E AND ON A FORM APPROVED
7 BY THE DIRECTOR, SELECT 1 OF THE FOLLOWING COVERAGE LEVELS FOR
8 PERSONAL PROTECTION INSURANCE BENEFITS UNDER SECTION 3107(1) (A) :

9 (A) A LIMIT OF \$50,000.00 PER INDIVIDUAL PER LOSS OCCURRENCE
10 FOR ANY PERSONAL PROTECTION INSURANCE BENEFITS UNDER SECTION
11 3107(1) (A) . THE SELECTION OF A LIMIT UNDER THIS SUBDIVISION IS ONLY
12 AVAILABLE TO AN APPLICANT OR NAMED INSURED IF BOTH OF THE FOLLOWING
13 APPLY:

14 (i) THE APPLICANT OR NAMED INSURED IS ENROLLED IN MEDICAID, AS
15 THAT TERM IS DEFINED IN SECTION 3157.

16 (ii) THE APPLICANT'S OR NAMED INSURED'S SPOUSE AND ANY
17 RELATIVE OF EITHER WHO RESIDES IN THE SAME HOUSEHOLD HAS QUALIFIED
18 HEALTH COVERAGE, AS THAT TERM IS DEFINED IN SECTION 3107D, IS
19 ENROLLED IN MEDICAID, OR HAS COVERAGE FOR THE PAYMENT OF BENEFITS
20 UNDER SECTION 3107(1) (A) FROM AN INSURER THAT PROVIDES THE SECURITY
21 REQUIRED BY SECTION 3101(1) .

22 (B) A LIMIT OF \$250,000.00 PER INDIVIDUAL PER LOSS OCCURRENCE
23 FOR ANY PERSONAL PROTECTION INSURANCE BENEFITS UNDER SECTION
24 3107(1) (A) .

25 (C) A LIMIT OF \$500,000.00 PER INDIVIDUAL PER LOSS OCCURRENCE
26 FOR ANY PERSONAL PROTECTION INSURANCE BENEFITS UNDER SECTION
27 3107(1) (A) .

1 (D) NO LIMIT FOR PERSONAL PROTECTION INSURANCE BENEFITS UNDER
2 SECTION 3107(1) (A) .

3 (2) THE FORM REQUIRED UNDER SUBSECTION (1) MUST DO ALL OF THE
4 FOLLOWING:

5 (A) STATE, IN A CONSPICUOUS MANNER, THE BENEFITS AND RISKS
6 ASSOCIATED WITH EACH COVERAGE OPTION.

7 (B) PROVIDE A WAY FOR THE APPLICANT OR NAMED INSURED TO MARK
8 THE FORM TO ACKNOWLEDGE THAT HE OR SHE HAS READ THE FORM AND
9 UNDERSTANDS THE OPTIONS AVAILABLE.

10 (C) ALLOW THE APPLICANT OR NAMED INSURED TO MARK THE FORM TO
11 MAKE THE SELECTION OF COVERAGE LEVEL UNDER SUBSECTION (1) .

12 (D) REQUIRE THE APPLICANT OR NAMED INSURED TO SIGN THE FORM.

13 (3) IF AN INSURANCE POLICY IS ISSUED OR RENEWED AS DESCRIBED
14 IN SUBSECTION (1) AND THE APPLICANT OR NAMED INSURED HAS NOT MADE
15 AN EFFECTIVE SELECTION UNDER SUBSECTION (1) BUT A PREMIUM OR
16 PREMIUM INSTALLMENT HAS BEEN PAID, THERE IS A REBUTTABLE
17 PRESUMPTION THAT THE AMOUNT OF THE PREMIUM OR INSTALLMENT PAID
18 ACCURATELY REFLECTS THE LEVEL OF COVERAGE APPLICABLE TO THE POLICY
19 UNDER SUBSECTION (1) .

20 (4) IF AN INSURANCE POLICY IS ISSUED OR RENEWED AS DESCRIBED
21 IN SUBSECTION (1) , THE APPLICANT OR NAMED INSURED HAS NOT MADE AN
22 EFFECTIVE SELECTION UNDER SUBSECTION (1) , AND A PRESUMPTION UNDER
23 SUBSECTION (3) DOES NOT APPLY, SUBSECTION (1) (D) APPLIES TO THE
24 POLICY.

25 (5) THE COVERAGE LEVEL SELECTED UNDER SUBSECTION (1) APPLIES
26 TO THE NAMED INSURED, THE NAMED INSURED'S SPOUSE, AND A RELATIVE OF
27 EITHER DOMICILED IN THE SAME HOUSEHOLD, AND ANY OTHER PERSON WITH A

1 RIGHT TO CLAIM PERSONAL PROTECTION INSURANCE BENEFITS UNDER THE
2 POLICY.

3 (6) IF BENEFITS ARE PAYABLE UNDER SECTION 3107(1)(A) UNDER 2
4 OR MORE INSURANCE POLICIES, THE BENEFITS ARE ONLY PAYABLE UP TO AN
5 AGGREGATE COVERAGE LIMIT THAT EQUALS THE HIGHEST AVAILABLE COVERAGE
6 LIMIT UNDER ANY 1 OF THE POLICIES.

7 (7) THIS SECTION APPLIES FOR A TRANSPORTATION NETWORK COMPANY
8 VEHICLE, BUT AN APPLICANT OR NAMED INSURED THAT IS A TRANSPORTATION
9 NETWORK COMPANY SHALL ONLY SELECT LIMITS UNDER EITHER SUBSECTION
10 (1)(B), (C), OR (D). AS USED IN THIS SUBSECTION:

11 (A) "TRANSPORTATION NETWORK COMPANY" MEANS THAT TERM AS
12 DEFINED IN SECTION 2 OF THE LIMOUSINE, TAXICAB, AND TRANSPORTATION
13 NETWORK COMPANY ACT, 2016 PA 345, MCL 257.2102.

14 (B) "TRANSPORTATION NETWORK COMPANY VEHICLE" MEANS THAT TERM
15 AS DEFINED IN SECTION 3114.

16 (8) AN INSURER SHALL OFFER, FOR A POLICY THAT PROVIDES THE
17 SECURITY REQUIRED UNDER SECTION 3101(1) TO WHICH A LIMIT UNDER
18 SUBSECTION (1)(A) TO (C) APPLIES, A RIDER THAT WILL PROVIDE
19 COVERAGE FOR ATTENDANT CARE IN EXCESS OF THE APPLICABLE LIMIT.

20 SEC. 3107D. (1) FOR AN INSURANCE POLICY THAT PROVIDES THE
21 SECURITY REQUIRED UNDER SECTION 3101(1) AND IS ISSUED OR RENEWED
22 AFTER JULY 1, 2020, THE APPLICANT OR NAMED INSURED MAY, IN A WAY
23 REQUIRED UNDER SECTION 3107E AND ON A FORM APPROVED BY THE
24 DIRECTOR, ELECT TO NOT MAINTAIN COVERAGE FOR PERSONAL PROTECTION
25 INSURANCE BENEFITS PAYABLE UNDER SECTION 3107(1)(A) IF THE
26 APPLICANT OR NAMED INSURED IS A QUALIFIED PERSON, AND IF THE
27 APPLICANT'S OR NAMED INSURED'S SPOUSE AND ANY RELATIVE OF EITHER

1 THAT RESIDES IN THE SAME HOUSEHOLD HAVE QUALIFIED HEALTH COVERAGE
2 OR HAVE COVERAGE FOR BENEFITS PAYABLE UNDER SECTION 3107(1)(A) FROM
3 AN INSURER THAT PROVIDES THE SECURITY REQUIRED BY SECTION 3101(1).

4 (2) AN APPLICANT OR NAMED INSURED SHALL, WHEN REQUESTING
5 ISSUANCE OR RENEWAL OF A POLICY UNDER SUBSECTION (1), PROVIDE TO
6 THE INSURER A DOCUMENT FROM THE PERSON THAT PROVIDES THE QUALIFIED
7 HEALTH COVERAGE STATING THE NAMES OF ALL PERSONS COVERED UNDER THE
8 QUALIFIED HEALTH COVERAGE.

9 (3) THE FORM REQUIRED UNDER SUBSECTION (1) MUST DO ALL OF THE
10 FOLLOWING:

11 (A) REQUIRE THE APPLICANT OR NAMED INSURED TO MARK THE FORM TO
12 CERTIFY WHETHER ALL PERSONS REQUIRED TO BE QUALIFIED PERSONS UNDER
13 SUBSECTION (1) ARE QUALIFIED PERSONS.

14 (B) DISCLOSE IN A CONSPICUOUS MANNER THAT QUALIFIED PERSONS
15 ARE NOT OBLIGATED TO BUT MAY PURCHASE COVERAGE FOR PERSONAL
16 PROTECTION INSURANCE COVERAGE BENEFITS PAYABLE UNDER SECTION
17 3107(1)(A).

18 (C) STATE, IN A CONSPICUOUS MANNER, THE COVERAGE LEVELS
19 AVAILABLE UNDER SECTION 3107C.

20 (D) STATE, IN A CONSPICUOUS MANNER, THE BENEFITS AND RISKS
21 ASSOCIATED WITH NOT MAINTAINING THE COVERAGE.

22 (E) STATE, IN A CONSPICUOUS MANNER, THAT IF DURING THE TERM OF
23 THE POLICY THE QUALIFIED HEALTH COVERAGE CEASES, THE PERSON HAS 30
24 DAYS AFTER THE EFFECTIVE DATE OF THE TERMINATION OF QUALIFIED
25 HEALTH COVERAGE TO OBTAIN INSURANCE THAT PROVIDES COVERAGE UNDER
26 SECTION 3107(1)(A) OR THE PERSON WILL BE EXCLUDED FROM ALL PERSONAL
27 PROTECTION INSURANCE COVERAGE BENEFITS UNDER SECTION 3107(1)(A)

1 DURING THE PERIOD IN WHICH COVERAGE UNDER THIS SECTION WAS NOT
2 MAINTAINED.

3 (F) PROVIDE A WAY FOR THE APPLICANT OR NAMED INSURED TO MARK
4 THE FORM TO ACKNOWLEDGE THAT HE OR SHE HAS READ THE FORM AND
5 UNDERSTANDS IT AND THAT HE OR SHE UNDERSTANDS THE OPTIONS AVAILABLE
6 TO HIM OR HER.

7 (G) IF ALL PERSONS REQUIRED TO BE QUALIFIED PERSONS UNDER
8 SUBSECTION (1) ARE QUALIFIED PERSONS, PROVIDE THE PERSON A WAY TO
9 MARK THE FORM TO ELECT TO NOT MAINTAIN THE COVERAGE.

10 (H) REQUIRE THE APPLICANT OR NAMED INSURED TO SIGN THE FORM.

11 (4) IF AN INSURANCE POLICY IS ISSUED OR RENEWED AS DESCRIBED
12 IN SUBSECTION (1) AND THE APPLICANT OR NAMED INSURED HAS NOT MADE
13 AN EFFECTIVE ELECTION UNDER SUBSECTION (1), THE POLICY IS
14 CONSIDERED TO PROVIDE PERSONAL PROTECTION BENEFITS UNDER SECTION
15 3107C(1) (D) .

16 (5) AN ELECTION UNDER THIS SECTION APPLIES TO THE APPLICANT OR
17 NAMED INSURED, THE APPLICANT OR NAMED INSURED'S SPOUSE, A RELATIVE
18 OF EITHER DOMICILED IN THE SAME HOUSEHOLD, AND ANY OTHER PERSON WHO
19 WOULD HAVE HAD A RIGHT TO CLAIM PERSONAL PROTECTION INSURANCE
20 BENEFITS UNDER THE POLICY BUT FOR THE ELECTION.

21 (6) IF, DURING THE TERM OF AN INSURANCE POLICY UNDER WHICH
22 COVERAGE FOR PERSONAL PROTECTION INSURANCE BENEFITS PAYABLE UNDER
23 SECTION 3107(1) (A) ARE NOT MAINTAINED UNDER THIS SECTION, THE
24 PERSONS REQUIRED TO HAVE QUALIFIED HEALTH COVERAGE UNDER SUBSECTION
25 (1) CEASE TO HAVE QUALIFIED HEALTH COVERAGE, ALL OF THE FOLLOWING
26 APPLY UNDER THIS SUBSECTION:

27 (A) WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE TERMINATION

1 OF QUALIFIED HEALTH COVERAGE, THE NAMED INSURED SHALL OBTAIN
2 INSURANCE THAT INCLUDES COVERAGE UNDER SECTION 3107(1)(A).

3 (B) AN INSURER THAT ISSUES POLICIES THAT PROVIDE THE SECURITY
4 REQUIRED BY SECTION 3101(1) SHALL NOT REFUSE TO PROSPECTIVELY
5 INSURE, LIMIT COVERAGE AVAILABLE TO, CHARGE A REINSTATEMENT FEE TO,
6 OR INCREASE THE INSURANCE PREMIUMS FOR A PERSON WHO IS AN ELIGIBLE
7 PERSON, AS THAT TERM IS DEFINED IN SECTION 2103, SOLELY BECAUSE THE
8 PERSON PREVIOUSLY FAILED TO OBTAIN INSURANCE THAT PROVIDES COVERAGE
9 FOR BENEFITS UNDER SECTION 3107(1)(A) IN THE TIME REQUIRED UNDER
10 SUBDIVISION (A).

11 (C) IF THE APPLICANT OR NAMED INSURED DOES NOT OBTAIN
12 INSURANCE AS REQUIRED UNDER SUBDIVISION (A) AND A PERSON TO WHOM
13 THE ELECTION UNDER THIS SECTION APPLIES AS DESCRIBED IN SUBSECTION
14 (5) SUFFERS ACCIDENTAL BODILY INJURY ARISING FROM A MOTOR VEHICLE
15 ACCIDENT WITHIN THE 30-DAY PERIOD, UNLESS THE INJURED PERSON IS
16 ENTITLED TO COVERAGE UNDER SOME OTHER POLICY, THE INJURED PERSON IS
17 NOT ENTITLED TO BE PAID PERSONAL PROTECTION INSURANCE BENEFITS
18 UNDER SECTION 3107(1)(A) FOR THE INJURY BUT IS ENTITLED TO CLAIM
19 BENEFITS UNDER THE ASSIGNED CLAIMS PLAN.

20 (7) AS USED IN THIS SECTION:

21 (A) "CONSUMER PRICE INDEX" MEANS THE MOST COMPREHENSIVE INDEX
22 OF CONSUMER PRICES AVAILABLE FOR THIS STATE FROM THE UNITED STATES
23 DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

24 (B) "QUALIFIED HEALTH COVERAGE" MEANS EITHER OF THE FOLLOWING:

25 (i) OTHER HEALTH OR ACCIDENT COVERAGE TO WHICH BOTH OF THE
26 FOLLOWING APPLY:

27 (A) THE COVERAGE DOES NOT EXCLUDE OR LIMIT COVERAGE FOR

1 INJURIES RELATED TO MOTOR VEHICLE ACCIDENTS.

2 (B) ANY ANNUAL DEDUCTIBLE FOR THE COVERAGE IS \$6,000.00 OR
3 LESS PER INDIVIDUAL. THE DIRECTOR SHALL ADJUST THE AMOUNT IN THIS
4 SUB-SUBPARAGRAPH ON JULY 1 OF EACH YEAR BY THE PERCENTAGE CHANGE IN
5 THE MEDICAL COMPONENT OF THE CONSUMER PRICE INDEX FOR THE PRECEDING
6 CALENDAR YEAR. HOWEVER, THE DIRECTOR SHALL NOT MAKE THE ADJUSTMENT
7 UNLESS THE ADJUSTMENT, OR THE TOTAL OF THE ADJUSTMENT AND PREVIOUS
8 UNADDED ADJUSTMENTS, IS \$500.00 OR MORE.

9 (ii) COVERAGE UNDER PARTS A AND B OF THE FEDERAL MEDICARE
10 PROGRAM ESTABLISHED UNDER SUBCHAPTER XVIII OF THE SOCIAL SECURITY
11 ACT, 42 USC 1395 TO 1395III.

12 (C) "QUALIFIED PERSON" MEANS A PERSON WHO HAS QUALIFIED HEALTH
13 COVERAGE UNDER SUBDIVISION (B) (ii).

14 Sec. 3109a. (1) An insurer ~~providing~~ THAT PROVIDES personal
15 protection insurance benefits under this chapter may offer ~~at~~
16 ~~appropriately reduced premium rates,~~ deductibles and exclusions
17 reasonably related to other health and accident coverage on the
18 insured. Any deductibles and exclusions offered under this section
19 MUST BE OFFERED AT A REDUCED PREMIUM THAT REFLECTS REASONABLY
20 ANTICIPATED REDUCTIONS IN LOSSES, EXPENSES, OR BOTH, are subject to
21 prior approval by the ~~commissioner~~ DIRECTOR, and shall ~~shall~~ MUST apply
22 only to benefits payable to the person named in the policy, the
23 spouse of the insured, and any relative of either domiciled in the
24 same household.

25 (2) FOR AN INSURANCE POLICY ISSUED OR RENEWED AFTER JULY 1,
26 2020, THE INSURER SHALL OFFER TO AN APPLICANT OR NAMED INSURED THAT
27 SELECTS A PERSONAL PROTECTION BENEFIT LIMIT UNDER SECTION

1 3107C(1) (B) AN EXCLUSION RELATED TO QUALIFIED HEALTH COVERAGE. ALL
2 OF THE FOLLOWING APPLY TO THAT EXCLUSION:

3 (A) IF THE NAMED INSURED HAS QUALIFIED HEALTH COVERAGE AS
4 DEFINED IN SECTION 3107D(7) (B) (i) THAT WILL COVER INJURIES THAT
5 OCCUR AS THE RESULT OF A MOTOR VEHICLE ACCIDENT AND IF THE NAMED
6 INSURED'S SPOUSE AND ANY RELATIVES OF EITHER THE NAMED INSURED OR
7 THE SPOUSE DOMICILED IN THE SAME HOUSEHOLD HAVE QUALIFIED HEALTH
8 COVERAGE THAT WILL COVER INJURIES THAT OCCUR AS THE RESULT OF A
9 MOTOR VEHICLE ACCIDENT, THE PREMIUM FOR THE PERSONAL PROTECTION
10 INSURANCE BENEFITS PAYABLE UNDER SECTION 3107(1) (A) UNDER THE
11 POLICY MUST BE REDUCED BY 100%.

12 (B) IF A MEMBER, BUT NOT ALL MEMBERS, OF THE HOUSEHOLD COVERED
13 BY THE INSURANCE POLICY HAS QUALIFIED HEALTH COVERAGE THAT WILL
14 COVER INJURIES THAT OCCUR AS THE RESULT OF A MOTOR VEHICLE
15 ACCIDENT, THE INSURER SHALL OFFER A REDUCED PREMIUM THAT REFLECTS
16 REASONABLY ANTICIPATED REDUCTIONS IN LOSSES, EXPENSES, OR BOTH. THE
17 REDUCTION MUST BE IN ADDITION TO THE RATE ROLLBACK REQUIRED BY
18 SECTION 2111F AND THE SHARE OF THE PREMIUM REDUCTION FOR THE POLICY
19 ATTRIBUTABLE TO ANY PERSON WITH QUALIFIED HEALTH COVERAGE MUST BE
20 100%.

21 (C) SUBJECT TO SUBDIVISION (D), A PERSON SUBJECT TO AN
22 EXCLUSION UNDER THIS SUBSECTION IS NOT ELIGIBLE FOR PERSONAL
23 PROTECTION BENEFITS UNDER THE INSURANCE POLICY.

24 (D) IF A PERSON SUBJECT TO AN EXCLUSION UNDER THIS SUBSECTION
25 IS NO LONGER COVERED BY THE QUALIFIED HEALTH COVERAGE, THE NAMED
26 INSURED SHALL NOTIFY THE INSURER THAT THE NAMED INSURED OR RESIDENT
27 RELATIVE IS NO LONGER ELIGIBLE FOR AN EXCLUSION. ALL OF THE

1 FOLLOWING APPLY UNDER THIS SUBDIVISION:

2 (i) THE NAMED INSURED SHALL, WITHIN 30 DAYS AFTER THE
3 EFFECTIVE DATE OF THE TERMINATION OF THE QUALIFIED HEALTH COVERAGE,
4 OBTAIN INSURANCE THAT PROVIDES THE SECURITY REQUIRED UNDER SECTION
5 3101(1) THAT INCLUDES COVERAGE THAT WAS EXCLUDED UNDER THIS
6 SUBSECTION.

7 (ii) DURING THE PERIOD DESCRIBED IN SUBPARAGRAPH (i), IF ANY
8 PERSON EXCLUDED SUFFERS ACCIDENTAL BODILY INJURY ARISING FROM A
9 MOTOR VEHICLE ACCIDENT, THE PERSON IS ENTITLED TO CLAIM BENEFITS
10 UNDER THE ASSIGNED CLAIMS PLAN.

11 (E) IF THE NAMED INSURED DOES NOT OBTAIN INSURANCE THAT
12 PROVIDES THE SECURITY REQUIRED UNDER SECTION 3101(1) THAT INCLUDES
13 THE COVERAGE EXCLUDED UNDER THIS SUBSECTION DURING THE PERIOD
14 DESCRIBED IN SUBDIVISION (D) (i) AND THE NAMED INSURED OR ANY PERSON
15 EXCLUDED UNDER THE POLICY SUFFERS ACCIDENTAL BODILY INJURY ARISING
16 FROM A MOTOR VEHICLE ACCIDENT, UNLESS THE INJURED PERSON IS
17 ENTITLED TO COVERAGE UNDER SOME OTHER POLICY, THE INJURED PERSON IS
18 NOT ENTITLED TO BE PAID PERSONAL PROTECTION INSURANCE BENEFITS
19 UNDER SECTION 3107(1) (A) FOR THE INJURY THAT OCCURRED DURING THE
20 PERIOD IN WHICH COVERAGE UNDER THIS SECTION WAS EXCLUDED.

21 (3) AN AUTOMOBILE INSURER SHALL NOT REFUSE TO PROSPECTIVELY
22 INSURE, LIMIT COVERAGE AVAILABLE TO, CHARGE A REINSTATEMENT FEE
23 FOR, OR INCREASE THE PREMIUMS FOR AUTOMOBILE INSURANCE FOR AN
24 ELIGIBLE PERSON, AS THAT TERM IS DEFINED IN SECTION 2103, SOLELY
25 BECAUSE THE PERSON PREVIOUSLY FAILED TO OBTAIN INSURANCE THAT
26 PROVIDES THE SECURITY REQUIRED UNDER SECTION 3101(1) IN THE TIME
27 PERIOD PROVIDED UNDER SUBSECTION (2) (D) (i) .

1 (4) THE AMOUNT OF A PREMIUM REDUCTION UNDER SUBSECTION (1)
2 MUST APPEAR IN A CONSPICUOUS MANNER IN THE DECLARATIONS FOR THE
3 POLICY, AND BE EXPRESSED AS A DOLLAR AMOUNT OR A PERCENTAGE.

4 (5) AS USED IN THIS SECTION, "QUALIFIED HEALTH COVERAGE" MEANS
5 THAT TERM AS DEFINED IN SECTION 3107D.

6 Sec. 3111. Personal protection insurance benefits are payable
7 for accidental bodily injury suffered in an accident occurring out
8 of this state, if the accident occurs within the United States, its
9 territories and possessions, or ~~in~~Canada, and the person whose
10 injury is the basis of the claim was at the time of the accident a
11 named insured under a personal protection insurance policy, ~~his~~**THE**
12 spouse **OF A NAMED INSURED**, a relative of either domiciled in the
13 same household, or an occupant of a vehicle involved in the
14 accident, ~~whose~~**IF THE OCCUPANT WAS A RESIDENT OF THIS STATE OR IF**
15 **THE** owner or registrant **OF THE VEHICLE** was insured under a personal
16 protection insurance policy or ~~has~~provided security approved by
17 the secretary of state under ~~subsection (4) of section~~
18 ~~3101.3101(5)~~.

19 Sec. 3116. (1) A subtraction from personal protection
20 insurance benefits ~~shall~~**MUST** not be made because of the value of a
21 claim in tort based on the same accidental bodily injury.

22 (2) A subtraction from or reimbursement for personal
23 protection insurance benefits paid or payable under this chapter
24 ~~shall~~**MAY** be made only if recovery is realized ~~upon~~**ON** a tort claim
25 arising from an accident ~~occurring~~**THAT OCCURRED** outside this
26 state, a tort claim brought ~~within~~**IN** this state against the owner
27 or operator of a motor vehicle with respect to which the security

1 required by section 3101 ~~(3) and (4)~~ was not in effect, or a tort
2 claim brought ~~within~~ **IN** this state based on intentionally caused
3 harm to persons or property, and ~~shall~~ **MAY** be made only to the
4 extent that the recovery realized by the claimant is for damages
5 for which the claimant has received or would otherwise be entitled
6 to receive personal protection insurance benefits. A subtraction
7 ~~shall~~ **MAY** be made only to the extent of the recovery, exclusive of
8 reasonable ~~attorneys'~~ **ATTORNEY** fees and other reasonable expenses
9 incurred in effecting the recovery. If personal protection
10 insurance benefits have already been received, the claimant shall
11 repay to the insurers out of the recovery a ~~sum~~ **AN AMOUNT** equal to
12 the benefits received, but not more than the recovery exclusive of
13 reasonable ~~attorneys'~~ **ATTORNEY** fees and other reasonable expenses
14 incurred in effecting the recovery. The insurer ~~shall have~~ **HAS** a
15 lien on the recovery to this extent. A recovery by an injured
16 person or his or her estate for loss suffered by the person ~~shall~~
17 **MAY** not be subtracted in calculating benefits due a dependent after
18 the death and a recovery by a dependent for loss suffered by the
19 dependent after the death ~~shall~~ **MAY** not be subtracted in
20 calculating benefits due the injured person.

21 (3) A personal protection insurer with a right of
22 reimbursement under subsection (1), if suffering loss from
23 inability to collect reimbursement out of a payment received by a
24 claimant ~~upon~~ **ON** a tort claim, is entitled to indemnity from a
25 person who, with notice of the insurer's interest, made the payment
26 to the claimant without making the claimant and the insurer joint
27 payees as their interests may appear or without obtaining the

1 insurer's consent to a different method of payment.

2 (4) A subtraction or reimbursement ~~shall~~**IS** not ~~be~~ due the
3 claimant's insurer from that portion of any recovery to the extent
4 that recovery is realized for noneconomic loss as provided in
5 section 3135(1) and (2)(b) or for allowable expenses, work loss,
6 and survivor's loss as defined in sections 3107 to 3110 in excess
7 of the amount recovered by the claimant from his or her insurer.

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

13 (2) For a cause of action for damages ~~pursuant to~~**UNDER**
14 subsection (1) ~~filed on or after July 26, 1996,~~**OR (3)(D)**, all of
15 the following apply:

16 (a) The issues of whether the injured person has suffered
17 serious impairment of body function or permanent serious
18 disfigurement are questions of law for the court if the court finds
19 either of the following:

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

22 (ii) There is a factual dispute concerning the nature and
23 extent of the person's injuries, but the dispute is not material to
24 the determination whether the person has suffered a serious
25 impairment of body function or permanent serious disfigurement.
26 However, for a closed-head injury, a question of fact for the jury
27 is created if a licensed allopathic or osteopathic physician who

1 regularly diagnoses or treats closed-head injuries testifies under
2 oath that there may be a serious neurological injury.

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

6 (c) Damages ~~shall~~**MUST** not be assessed in favor of a party who
7 was operating his or her own vehicle at the time the injury
8 occurred and did not have in effect for that motor vehicle the
9 security required by section ~~3101~~**3101(1)** at the time the injury
10 occurred.

11 (3) Notwithstanding any other provision of law, tort liability
12 arising from the ownership, maintenance, or use within this state
13 of a motor vehicle with respect to which the security required by
14 section ~~3101~~**3101(1)** was in effect is abolished except as to:

15 (a) Intentionally caused harm to persons or property. Even
16 though a person knows that harm to persons or property is
17 substantially certain to be caused by his or her act or omission,
18 the person does not cause or suffer that harm intentionally if he
19 or she acts or refrains from acting for the purpose of averting
20 injury to any person, including himself or herself, or for the
21 purpose of averting damage to tangible property.

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

24 (c) Damages for allowable expenses, work loss, and survivor's
25 loss as defined in sections 3107 to 3110, **INCLUDING ALL FUTURE**
26 **ALLOWABLE EXPENSES AND WORK LOSS**, in excess of **ANY APPLICABLE LIMIT**
27 **UNDER SECTION 3107C OR** the daily, monthly, and 3-year limitations

1 contained in those sections, **OR WITHOUT LIMIT FOR ALLOWABLE**
2 **EXPENSES IF AN ELECTION TO NOT MAINTAIN THAT COVERAGE WAS MADE**
3 **UNDER SECTION 3107D OR IF AN EXCLUSION UNDER SECTION 3109A(2)**
4 **APPLIES.** The party liable for damages is entitled to an exemption
5 reducing his or her liability by the amount of taxes that would
6 have been payable on account of income the injured person would
7 have received if he or she had not been injured.

8 (d) Damages for economic loss by a nonresident. ~~in excess of~~
9 ~~the personal protection insurance benefits provided under section~~
10 ~~3163(4). Damages under this subdivision are not recoverable to the~~
11 ~~extent that benefits covering the same loss are available from~~
12 ~~other sources, regardless of the nature or number of benefit~~
13 ~~sources available and regardless of the nature or form of the~~
14 ~~benefits.~~ **HOWEVER, TO RECOVER UNDER THIS SUBDIVISION, THE**
15 **NONRESIDENT MUST HAVE SUFFERED DEATH, SERIOUS IMPAIRMENT OF BODY**
16 **FUNCTION, OR PERMANENT SERIOUS DISFIGUREMENT.**

17 (e) Damages up to \$1,000.00 to a motor vehicle **OR, FOR MOTOR**
18 **VEHICLE ACCIDENTS THAT OCCUR AFTER JULY 1, 2020, UP TO \$3,000.00 TO**
19 **A MOTOR VEHICLE,** to the extent that the damages are not covered by
20 insurance. An action for damages under this subdivision ~~shall~~ **MUST**
21 be conducted as provided in subsection (4).

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

24 (a) 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 (b) Liability is not a component of residual liability, as

1 prescribed in section 3131, for which maintenance of security is
2 required by this act.

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

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

10 (e) Damages ~~shall~~**MUST** not be assessed if the damaged motor
11 vehicle was being operated at the time of the damage without the
12 security required by section ~~3101~~**3101(1)**.

13 (5) As used in this section, "serious impairment of body
14 function" means an **IMPAIRMENT THAT SATISFIES ALL OF THE FOLLOWING**
15 **REQUIREMENTS:**

16 (A) **IT IS** objectively manifested, **MEANING IT IS OBSERVABLE OR**
17 **PERCEIVABLE FROM ACTUAL SYMPTOMS OR CONDITIONS BY SOMEONE OTHER**
18 **THAN THE INJURED PERSON.**

19 (B) **IT IS AN** impairment of an important body function, ~~that~~
20 **WHICH IS A BODY FUNCTION OF GREAT VALUE, SIGNIFICANCE, OR**
21 **CONSEQUENCE TO THE INJURED PERSON.**

22 (C) **IT** affects the **INJURED** person's general ability to lead
23 his or her normal life, **MEANING IT HAS HAD AN INFLUENCE ON SOME OF**
24 **THE PERSON'S CAPACITY TO LIVE IN HIS OR HER NORMAL MANNER OF**
25 **LIVING. ALTHOUGH TEMPORAL CONSIDERATIONS MAY BE RELEVANT, THERE IS**
26 **NO TEMPORAL REQUIREMENT FOR HOW LONG AN IMPAIRMENT MUST LAST. THIS**
27 **EXAMINATION IS INHERENTLY FACT AND CIRCUMSTANCE SPECIFIC TO EACH**

1 INJURED PERSON, MUST BE CONDUCTED ON A CASE-BY-CASE BASIS, AND
2 REQUIRES COMPARISON OF THE INJURED PERSON'S LIFE BEFORE AND AFTER
3 THE INCIDENT.

4 Sec. 3151. (1) ~~When~~ IF the mental or physical condition of a
5 person is material to a claim that has been or may be made for past
6 or future personal protection insurance benefits, **AT THE REQUEST OF**
7 **AN INSURER** the person shall submit to mental or physical
8 examination by physicians. A personal protection insurer may
9 include reasonable provisions **THAT ARE IN ACCORD WITH THIS SECTION**
10 in a personal protection insurance policy for mental and physical
11 examination of persons claiming personal protection insurance
12 benefits.

13 (2) A PHYSICIAN WHO CONDUCTS A MENTAL OR PHYSICAL EXAMINATION
14 UNDER THIS SECTION MUST BE LICENSED AS A PHYSICIAN IN THIS STATE OR
15 ANOTHER STATE AND MEET THE FOLLOWING CRITERIA, AS APPLICABLE:

16 (A) IF CARE IS BEING PROVIDED TO THE PERSON TO BE EXAMINED BY
17 A SPECIALIST, THE EXAMINING PHYSICIAN MUST SPECIALIZE IN THE SAME
18 SPECIALTY AS THE PHYSICIAN PROVIDING THE CARE, AND IF THE PHYSICIAN
19 PROVIDING THE CARE IS BOARD CERTIFIED IN THE SPECIALTY, THE
20 EXAMINING PHYSICIAN MUST BE BOARD CERTIFIED IN THAT SPECIALTY.

21 (B) DURING THE YEAR IMMEDIATELY PRECEDING THE EXAMINATION, THE
22 EXAMINING PHYSICIAN MUST HAVE DEVOTED A MAJORITY OF HIS OR HER
23 PROFESSIONAL TIME TO EITHER OR BOTH OF THE FOLLOWING:

24 (i) THE ACTIVE CLINICAL PRACTICE OF MEDICINE AND, IF
25 SUBDIVISION (A) APPLIES, THE ACTIVE CLINICAL PRACTICE RELEVANT TO
26 THE SPECIALTY.

27 (ii) THE INSTRUCTION OF STUDENTS IN AN ACCREDITED MEDICAL

1 SCHOOL OR IN AN ACCREDITED RESIDENCY OR CLINICAL RESEARCH PROGRAM
2 FOR PHYSICIANS AND, IF SUBDIVISION (A) APPLIES, THE INSTRUCTION OF
3 STUDENTS IS IN THE SPECIALTY.

4 Enacting section 1. Section 3135 of the insurance code of
5 1956, 1956 PA 218, MCL 500.3135, as amended by this amendatory act,
6 is intended to codify and give full effect to the opinion of the
7 Michigan supreme court in *McCormick v Carrier*, 487 Mich 180 (2010).