

HOUSE BILL No. 5608

February 25, 1998, Introduced by Reps. Gubow and Llewellyn and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 224, 476a, and 5256 (MCL 500.224, 500.476a, and 500.5256), section 224 as amended by 1994 PA 228 and sections 476a and 5256 as amended by 1990 PA 256.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 224. (1) All actual and necessary expenses incurred in
2 connection with the examination or other investigation of an
3 insurer or other person regulated under the commissioner's
4 authority shall be certified by the commissioner, together with a
5 statement of the work performed including the number of days
6 spent by the commissioner and each of the commissioner's depu-
7 ties, assistants, employees, and others acting under the
8 commissioner's authority. ~~, upon the examination or~~
9 ~~investigation, to the department of commerce's budget/finance~~

1 ~~division.~~ If correct, ~~the department of commerce's~~
2 ~~budget/finance division shall approve the expenses and~~ the
3 expenses shall be paid to the persons by whom they were incurred,
4 upon the warrant of the state treasurer payable from appropria-
5 tions made by the legislature for this purpose.

6 (2) Except as otherwise provided in subsection (4), the com-
7 missioner shall prepare and present to the insurer or other
8 person examined or investigated a statement of the expenses and
9 reasonable cost incurred for each person engaged upon the exami-
10 nation or investigation, including amounts necessary to cover the
11 pay and allowances granted to the persons by the Michigan civil
12 service commission, and the administration and supervisory
13 expense including an amount necessary to cover fringe benefits in
14 conjunction with the examination or investigation. Except as
15 otherwise provided in subsection (4), the insurer or other
16 person, upon receiving the statement, shall pay to the commis-
17 sioner the stated amount. The commissioner shall deposit the
18 funds with the state treasurer as provided in section 225.

19 (3) The commissioner may employ attorneys, actuaries,
20 accountants, investment advisers, and other expert personnel not
21 otherwise employees of this state reasonably necessary to assist
22 in the conduct of the examination or investigation or proceeding
23 with respect to an insurer or other person regulated under the
24 commissioner's authority at the insurer's or other person's
25 expense except as otherwise provided in subsection (4). Except
26 as otherwise provided in subsection (4), upon certification by
27 the commissioner of the reasonable expenses incurred under this

1 section, the insurer or other person examined or investigated
2 shall pay those expenses directly to the person or firm rendering
3 assistance to the commissioner. Expenses paid directly to such
4 person or firm and the regulatory fees imposed by this section
5 shall be examination expenses under section 22e of the single
6 business tax act, ~~Act No. 228 of the Public Acts of 1975, being~~
7 ~~section 208.22e of the Michigan Compiled Laws~~ 1975 PA 228, MCL
8 208.22E.

9 (4) An insurer is subject to a regulatory fee instead of the
10 costs and expenses provided for in subsections (2) and (3). ~~An~~
11 ~~alien insurer is subject to a regulatory fee and a valuation fee~~
12 ~~under section 830 through December 31, 1994. On and after~~
13 ~~January 1, 1995, an alien insurer is subject to a regulatory fee~~
14 ~~instead of the valuation fee provided for in section 830. By~~
15 June 30 of each year or within 30 days after the enactment into
16 law of any appropriation for the insurance bureau's operation,
17 the commissioner shall impose upon all insurers authorized to do
18 business in this state a regulatory fee calculated as follows:

19 (a) As used in this subsection:

20 (i) "A" means total annuity considerations written in this
21 state in the immediately preceding year.

22 (ii) "B" means base assessment rate. The base assessment
23 rate shall not exceed .00038 and shall be a fraction the numera-
24 tor of which is the total regulatory fee and the denominator of
25 which is the total amount of direct underwritten premiums written
26 in this state by all insurers for the immediately preceding

1 calendar year as reported to the commissioner on the insurer's
2 annual statements filed with the commissioner.

3 (iii) "I" means all direct underwritten premiums other than
4 life insurance premiums and annuity considerations written in
5 this state in the immediately preceding year by all insurers.

6 (iv) "L" means all direct underwritten life insurance premi-
7 ums written in this state in the immediately preceding year by
8 all life insurers.

9 (v) Total regulatory fee shall not exceed 80% of the gross
10 appropriations for the insurance bureau's operation for a fiscal
11 year and shall be the difference between the gross appropriations
12 for the insurance bureau's operation for that current fiscal year
13 and any restricted revenues, other than the regulatory fee
14 itself, as identified in the gross appropriation for the insur-
15 ance bureau's operation. ~~For fiscal year 1993-94, the gross~~
16 ~~appropriation for the insurance bureau's operation shall be con-~~
17 ~~sidered to be \$15,000,000.00.~~

18 (vi) Direct premiums written in this state do not include
19 any amounts that represent claims payments that are made on
20 behalf of, or administrative fees that are paid in connection
21 with, any administrative service contract, cost-plus arrangement,
22 or any other noninsured or self-insured business.

23 (b) Two actual assessment rates shall be calculated so as to
24 distribute 75% of the burden of the regulatory fee shortfall cre-
25 ated by the exclusion of annuity considerations from the assess-
26 ment base to life insurance and 25% to all other insurance. The
27 2 actual assessment rates shall be determined as follows:

1 (i) $\frac{L \times B + .75 \times B \times A}{L}$ = assessment rate for life
 2 insurance.

3 (ii) $\frac{I \times B + .25 \times B \times A}{I}$ = assessment rate for insurance
 4 other than life insurance.

5 (c) Except as otherwise provided in subdivision (d), each
 6 insurer's regulatory fee shall be a minimum fee of \$250.00 and
 7 shall be determined by multiplying the actual assessment rate by
 8 the assessment base of that insurer as determined by the commis-
 9 sioner from the insurer's annual statement for the immediately
 10 preceding calendar year filed with the commissioner.

11 (d) The total regulatory fee for all health maintenance
 12 organizations in this state shall be determined by multiplying
 13 the actual assessment rate by 70% of direct underwritten premiums
 14 written by all health maintenance organizations in this state for
 15 the immediately preceding calendar year as reported to the com-
 16 missioner in the health maintenance organization's annual state-
 17 ments filed with the commissioner. Each health maintenance
 18 organization's regulatory fee shall be a minimum fee of \$250.00
 19 and shall be determined by taking the total regulatory fee for
 20 all health maintenance organizations divided by the total number
 21 of members of all health maintenance organizations and multiply-
 22 ing this quotient by the number of members in the individual
 23 health maintenance organization.

24 (5) Not less than 67% of the revenue derived from the regu-
 25 latory fee under subsection (4) shall be used for the regulation
 26 of financial conduct of persons regulated under the
 27 commissioner's authority and for the regulation of persons

1 regulated under the commissioner's authority engaged in the
2 business of health care and health insurance in this state.

3 (6) The amount, if any, by which amounts credited to the
4 commissioner pursuant to section 225 exceed actual expenditures
5 pursuant to appropriations for the insurance bureau's operation
6 for a fiscal year shall be credited toward the appropriation for
7 the insurance bureau in the next fiscal year.

8 (7) All money paid into the state treasury by an insurer
9 under this section shall be credited as provided under section
10 225.

11 (8) A regulatory fee under this section shall not be treated
12 by an insurer as a levy or excise upon premium but as a regula-
13 tory burden that is apportioned in relation to insurance activity
14 in this state and reflects the insurance regulatory burden on
15 this state as a result of this insurance activity. A foreign or
16 alien insurer authorized to do business in this state may con-
17 sider the liability required under this section as a burden
18 imposed by the state of Michigan in the calculation of the
19 insurer's liability required under section 476a.

20 (9) An insurer may file with the commissioner a protest to
21 the regulatory fee imposed not later than 15 days after receipt
22 of the regulatory fee. The commissioner shall review the grounds
23 for the protest and shall hold a conference with the insurer at
24 the insurer's request. The commissioner shall transmit his or
25 her findings to the insurer with a restatement of the regulatory
26 fee based upon the findings. Statements of regulatory fees to
27 which protests have not been made and restatements of regulatory

1 fees are due and shall be paid not later than 30 days after their
2 receipt. Regulatory fees that are not paid when due bear inter-
3 est on the unpaid fee which shall be calculated at 6-month inter-
4 vals from the date the fee was due at a rate of interest equal to
5 1% plus the average interest rate paid at auctions of 5-year
6 United States treasury notes during the 6 months immediately pre-
7 ceding July 1 and January 1, as certified by the state treasurer,
8 and compounded annually, until the assessment is paid in full.
9 An insurer who fails to pay its regulatory fee within the pre-
10 scribed time limits may have its certificate of authority or
11 license suspended, limited, or revoked as the commissioner con-
12 siders warranted until the regulatory fee is paid. If the com-
13 missioner determines that a regulatory fee or a part of a regula-
14 tory fee paid by an insurer is in excess of the amount legally
15 due and payable, the amount of the excess shall be refunded or,
16 at the insurer's option, be applied as a credit against the regu-
17 latory fee for the next fiscal year. An overpayment of \$100.00
18 or less shall be applied as a credit against the insurer's regu-
19 latory fee for the next fiscal year unless the insurer had a
20 \$100.00 or less overpayment in the immediately preceding fiscal
21 year. If the insurer had a \$100.00 or less overpayment in the
22 immediately preceding fiscal year, at the insurer's option, the
23 current fiscal year overpayment of \$100.00 or less shall be
24 refunded.

25 (10) Any amounts stated and presented to or certified,
26 assessed, or imposed upon an insurer as provided in
27 subsections (2), (3), and (4) that are unpaid as of the date that

1 the insurer is subjected to a delinquency proceeding pursuant to
2 chapter 81 shall be regarded as an expense of administering the
3 delinquency proceeding and shall be payable as such from the gen-
4 eral assets of the insurer.

5 (11) Any statements presented to insurers pursuant to sub-
6 sections (2) and (3) ~~in respect of~~ FOR examinations or investi-
7 gations conducted since October 1, 1993 shall be cancelled as of
8 ~~the effective date of the amendatory act that added this~~
9 ~~subsection~~ JUNE 30, 1994. Amounts actually paid by an insurer
10 because of those statements shall be credited against the regula-
11 tory fee levied for the 1993-94 fiscal year and any excess
12 amounts shall be refunded.

13 (12) IN ADDITION TO THE REGULATORY FEE PROVIDED IN SUBSEC-
14 TION (4), EACH INSURER THAT LOCATES RECORDS OR PERSONNEL KNOWL-
15 EDGEABLE ABOUT THOSE RECORDS OUTSIDE THIS STATE PURSUANT TO SEC-
16 TION 5256 SHALL REIMBURSE THE INSURANCE BUREAU FOR EXPENSES AND
17 REASONABLE COSTS INCURRED BY THE INSURANCE BUREAU AS A RESULT OF
18 TRAVEL AND OTHER COSTS RELATED TO EXAMINATIONS OR INVESTIGATIONS
19 OF THOSE RECORDS OR PERSONNEL. THE REIMBURSEMENT SHALL NOT
20 INCLUDE ANY COSTS THAT THE INSURANCE BUREAU WOULD HAVE INCURRED
21 IF THE EXAMINATION HAD TAKEN PLACE IN THIS STATE.

22 (13) ~~(12)~~ As used in this section:

23 (a) "Annuity considerations" means receipts on the sale of
24 annuities as used in section 22a of the single business tax act,
25 ~~being section 208.22a of the Michigan Compiled Laws~~ 1975 PA
26 228, MCL 208.22A.

1 (b) "Insurer" means an insurer authorized to do business in
2 this state and includes nonprofit health care corporations,
3 dental care corporations, health maintenance organizations, and
4 the state accident fund.

5 (14) ~~(13)~~ All fees added by the amendatory act that added
6 this subsection shall not apply on and after January 1, 1996,
7 unless ~~all of the following conditions are met:~~ ~~(a)~~ By
8 ~~September 1, 1994, the commissioner submits a report to the~~
9 ~~senate and house of representatives standing committees on insur-~~
10 ~~ance issues and to the senate and house of representatives appro-~~
11 ~~priations regulatory subcommittees on all receivership activities~~
12 ~~of the commissioner and the insurance bureau pertaining to the~~
13 ~~liquidation of insolvent insurers for the 1992 and 1993 calendar~~
14 ~~years.~~ By BY September 1, 1995, and annually thereafter, the
15 commissioner submits a report to the senate and house of repre-
16 sentatives standing committees on insurance issues and to the
17 senate and house of representatives appropriations regulatory
18 subcommittees on all receivership activities of the commissioner
19 and the insurance bureau pertaining to the liquidation of insol-
20 vent insurers for the immediately preceding calendar year. ~~(b)~~
21 ~~Reports under subdivision (a)~~ THE REPORT SHALL include all of
22 the following:

23 (A) ~~(i)~~ A summary schedule of all insurance bureau expen-
24 ditures for legal, accounting, and administrative expenditures
25 made or incurred for the liquidation of ALL insurers in
26 receivership, INCLUDING BUT NOT LIMITED TO ALIEN INSURERS

1 DESCRIBED IN SECTION 431A, and paid for out of the insurer's
2 assets during the calendar year being reported on.

3 (B) ~~(ii)~~ A detailed schedule of all insurance bureau con-
4 tractual expenditures for legal, accounting, and administrative
5 expenditures made or incurred for the liquidation of ALL insurers
6 in receivership, INCLUDING BUT NOT LIMITED TO ALIEN INSURERS
7 DESCRIBED IN SECTION 431A, and paid for out of the insurer's
8 assets during the calendar year being reported on including, but
9 not limited to, itemization of legal billings, criminal investi-
10 gation expenses, travel, meals, and general office expenses.

11 (C) ~~(iii)~~ A statement of the net changes in assets and
12 liabilities of each insurer in receivership, INCLUDING BUT NOT
13 LIMITED TO AN ALIEN INSURER DESCRIBED IN SECTION 431A. This
14 statement shall include changes due to interest rate changes,
15 real estate values, and other investment activities, including a
16 detailed statement of the sale of assets and the net loss or gain
17 on those assets and a statement of the amount of assets pre-
18 served, gained, or recovered by the receiver.

19 Sec. 476a. (1) Beginning August 3, 1987, whenever, by a law
20 in force outside of this state or country, a domestic insurer or
21 agent of a domestic insurer is required to make a deposit of
22 securities for the protection of policyholders or otherwise, or
23 to make payment for taxes, fines, penalties, certificates of
24 authority, valuation of policies, or otherwise, or a special
25 burden or other burden is imposed, greater in the aggregate than
26 is required by the laws of this state for a similar alien or
27 foreign insurer or agent of an alien or foreign insurer, the

1 alien or foreign insurer of that state or country is required, as
2 a condition precedent to its transacting business in this state,
3 to make a like deposit for like purposes with the state treasurer
4 of this state, and to pay to the revenue commissioner for taxes,
5 fines, penalties, certificates of authority, valuation of poli-
6 cies, and otherwise an amount equal in the aggregate to the
7 charges and payments imposed by the laws of the other state or
8 country upon a similar domestic insurer and the agents of a
9 domestic insurer, regardless of whether a domestic insurer or
10 agent of a domestic insurer is actually transacting business in
11 that state or country. ~~In the case of~~ FOR fire department or
12 salvage corps taxes or other local taxes the amount shall be com-
13 puted by the revenue commissioner by dividing the total of the
14 payments made by domestic insurers in that state or country by
15 the gross premium received by domestic insurers in that state or
16 country less return premiums. The commissioner shall revoke the
17 certificate of authority of an alien or foreign insurer refusing
18 for 30 days to make payment of fees or taxes as required by this
19 chapter. Except as provided in subsections (3) and (4), for pur-
20 poses of this section, an insurer organized under the laws of a
21 state or country other than these United States shall be consid-
22 ered an insurer of the state in which its general deposit for the
23 benefit of its policyholders is made.

24 (2) The purpose of this section is to promote the interstate
25 business of domestic insurers by deterring other states from
26 enacting discriminatory or excessive taxes.

1 (3) Before January 1, 1991, for purposes of this section, a
2 domestic insurer that is owned or controlled, directly or
3 indirectly, by an alien or foreign insurer and that was not
4 granted a certificate of authority before December 28, 1987 shall
5 be considered domiciled in the same state or country as the con-
6 trolling alien or foreign insurer.

7 (4) THE COMMISSIONER SHALL INFORM THE STATE TREASURER WHEN A
8 DOMESTIC INSURER IS NOT IN COMPLIANCE WITH SECTION 5256.

9 Beginning January 1, 1991, for purposes of this section, the
10 ~~revenue commissioner~~ STATE TREASURER, after consultation with
11 the commissioner, shall determine that a domestic insurer is an
12 alien or foreign insurer ~~domiciled in a state or country deter-~~
13 ~~mined by the revenue commissioner~~ if the insurer does not comply
14 with SECTION 5256. ~~all of the following:~~

15 (a) ~~Maintain its principal place of business in this state.~~

16 (b) ~~Maintain in this state officers and personnel responsi-~~
17 ~~ble for and knowledgeable of the company's operation, books,~~
18 ~~records, administration, and annual statement.~~

19 (c) ~~Conduct in this state a substantial portion of its~~
20 ~~underwriting, sales, claims, legal, and, if applicable, medical~~
21 ~~operations relating to Michigan policyholders and certificate~~
22 ~~holders.~~

23 (d) ~~Comply with section 5256.~~

24 (5) Taxes collected pursuant to this section are subject to
25 section 22d of the single business tax act, ~~Act No. 228 of the~~
26 ~~Public Acts of 1975, being section 208.22d of the Michigan~~
27 ~~Compiled Laws~~ 1975 PA 228, MCL 208.22D.

1 (6) The ~~revenue commissioner~~ STATE TREASURER shall
2 administer the tax prescribed by this section in the manner pro-
3 vided in ~~Act No. 122 of the Public Acts of 1941, being sections~~
4 ~~205.1 to 205.31 of the Michigan Compiled Laws~~ 1941 PA 122, MCL
5 205.1 TO 205.31.

6 (7) The requirements of section 28 of ~~Act No. 122 of the~~
7 ~~Public Acts of 1941, being section 205.28 of the Michigan~~
8 ~~Compiled Laws~~ 1941 PA 122, MCL 205.28, that prohibit an employee
9 or an authorized representative or former employee or authorized
10 representative or anyone connected with the department of trea-
11 sury from divulging any facts or information obtained in connec-
12 tion with the administration of taxes, do not apply to disclosure
13 of the tax return prescribed in this act.

14 Sec. 5256. (1) ~~Except as provided in subsection (5), each~~
15 EACH domestic insurer shall keep ~~all of its original books,~~
16 ~~records, and files, or true copies thereof, at its home office~~
17 ~~or~~ UNDER ITS CONTROL ALL RECORDS RELATING TO THE INSURER'S BUSI-
18 NESS OR AFFAIRS AT 1 OR MORE OF THE FOLLOWING LOCATIONS:

19 (A) THE principal place of doing business in this state. ~~—~~
20 ~~and shall keep all of its securities, notes, mortgages, or other~~
21 ~~evidences of indebtedness, representing investment of funds at~~
22 ~~its home office or principal place of doing business in this~~
23 ~~state. If a domestic insurer was processing and maintaining its~~
24 ~~books, records, and files in other states on December 17, 1982,~~
25 ~~it shall be deemed in compliance with this subsection as long as~~
26 ~~the books, records, and files, or true copies thereof, and~~

1 ~~personnel knowledgeable about the books, records, and files are~~
2 ~~made readily available at the~~

3 (B) ONE OR MORE LOCATIONS OUTSIDE THE STATE APPROVED FOR
4 THAT PURPOSE, IN WRITING, BY THE COMMISSIONER.

5 (2) A DOMESTIC INSURER SHALL PRODUCE THOSE RECORDS RELATING
6 TO THE INSURER'S BUSINESS OR AFFAIRS AND PERSONNEL KNOWLEDGEABLE
7 ABOUT THE RECORDS AT A principal place of doing business in OR
8 OUTSIDE this state for examination WITHIN A REASONABLE TIME
9 PERIOD SPECIFIED by ~~and at the request of~~ the commissioner.

10 (3) ~~(2)~~ A domestic insurer may place for safekeeping all
11 or any part of its securities, notes, mortgages, or other evi-
12 dences of indebtedness, with any national bank, state bank, trust
13 company, or any other UNITED STATES corporation authorized AS A
14 CUSTODIAN to accept and hold personal property for safekeeping.
15 ~~and located in the United States.~~ A NATIONAL BANK, STATE BANK,
16 TRUST COMPANY, OR UNITED STATES CORPORATION AUTHORIZED TO ACCEPT
17 AND HOLD PERSONAL PROPERTY FOR SAFEKEEPING MAY EMPLOY A SUBCUSTO-
18 DIAN OUTSIDE OF THE UNITED STATES TO HOLD ASSETS THAT ARE NOT IN
19 PHYSICAL FORM OR THAT ARE CUSTOMARILY TRADED OUTSIDE THE UNITED
20 STATES. A statutory deposit required by any state or foreign
21 country shall be excepted and any delivery and pledge or assign-
22 ment of its notes, mortgages, or other securities by any such
23 insurer, as security for money borrowed by it or as required in
24 the regular course of its business by the laws of any state or
25 foreign country, shall also be excepted. The insurer may hold
26 certificates evidencing shares of stock or other registrable
27 securities in the name of a nominee or nominees employed by the

1 insurer and responsible to the insurer. The nominee or nominees,
2 on the request of the insurer, shall indorse the certificate rep-
3 resenting shares of stock or other registrable securities in
4 blank or by assignment separate from the certificates. The
5 insurer at all times shall maintain control or possession of the
6 certificate representing the share of stock or other registrable
7 securities, but, if necessary, the nominee or nominees may have
8 access thereto for the purpose of examination under the supervi-
9 sion of the corporation.

10 (4) THE RECORDS REQUIRED TO BE RETAINED BY THIS SECTION MAY
11 BE MAINTAINED IN PAPER, PHOTOGRAPH, MICRO PROCESS, MAGNETIC,
12 MECHANICAL OR ELECTRONIC MEDIA, OR BY ANY PROCESS THAT ACCURATELY
13 REPRODUCES OR FORMS A DURABLE MEDIUM FOR THE REPRODUCTION OF A
14 RECORD. IF THE ORIGINAL DOCUMENT IS UNAVAILABLE, THE DOMESTIC
15 INSURER MAY PRODUCE IN AN ALTERNATIVE FORMAT THE SAME DATA THAT
16 WAS CONTAINED ON THE ORIGINAL DOCUMENT.

17 (5) ~~(3)~~ Removal of all or a material part of the records
18 of a domestic insurer from this state, except pursuant to a plan
19 or merger or consolidation approved by the commissioner under
20 this ~~code~~ ACT or ~~for such reasonable purposes and periods of~~
21 ~~time~~ as may be approved in writing by the commissioner, is
22 prohibited. ~~Removal of the records or material part thereof~~
23 ~~from the home office or other place of business or of safekeeping~~
24 ~~of the insurer in this state with the intent to remove the~~
25 ~~records from this state, or concealing or attempting to conceal~~
26 ~~the records from the commissioner is a violation of this~~
27 ~~section.~~ If after a hearing is held pursuant to the

1 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
2 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
3 ~~Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328, the commis-
4 sioner determines that the insurer has violated this section, the
5 commissioner shall reduce his or her findings and decision to
6 writing and shall issue and cause to be served upon the insurer
7 charged with the violation a copy of the findings and order
8 requiring the insurer to return the office, records, and assets
9 to this state. An insurer that violates this section shall be
10 treated as a foreign insurer for the period of time the records
11 were removed from this state, and the insurer shall be liable for
12 both of the following:

13 (a) The amount of tax prescribed in section 476a and inter-
14 est in the amount of 3% of the amount due and unpaid for each
15 month or part of a month that the insurer was in violation of
16 this section.

17 (b) A penalty of \$5,000.00 plus an additional \$50.00 for
18 each day that the insurer was not in compliance with this
19 section. A DOMESTIC INSURER THAT FAILS TO COMPLY WITH AN ORDER
20 OF THE COMMISSIONER ISSUED UNDER THIS SECTION IS PRESUMED TO BE
21 NO LONGER SAFE, RELIABLE, AND ENTITLED TO PUBLIC CONFIDENCE UNDER
22 SECTION 436.

23 (6) ~~(4)~~ If an insurer fails to comply with an order issued
24 under this section, as modified or extended, the commissioner
25 shall suspend or revoke the insurer's certificate of authority.

26 ~~(5) A domestic insurer that is a subsidiary of an alien~~
27 ~~insurer formed within the boundaries of Canada and that uses~~

~~1 Michigan as its port of entry into the United States through a
2 branch operation satisfies the requirements of subsection (1) by
3 maintaining a deposit of not less than the amount of liabilities
4 with respect to the domestic insurer's business in the United
5 States and adequate capital and surplus to support its writings
6 but not less than the amount of capital and surplus required by
7 statute with the state treasurer, or with trustees resident in
8 the United States, or with any combination of such persons, under
9 a trust indenture approved by the commissioner. The deposit
10 shall be in cash or in securities of the kinds permitted by
11 chapter 9. The domestic insurer and the persons holding the
12 deposit shall submit to the commissioner a report, under oath, on
13 or before March 1 of each year, of the domestic insurer's depos-
14 its as of December 31 of the preceding year. The domestic
15 insurer shall pay to the commissioner, as compensation for regu-
16 lating the domestic insurer under this subsection, 3/4 of 1% upon
17 the domestic insurer's gross premiums written in this state
18 excluding considerations for original annuities. This subsection
19 does not apply in any of the following cases:~~

~~20 (a) To a domestic insurer that is a subsidiary of an alien
21 insurer formed within the boundaries of Canada if all of the
22 domestic insurer's books, records, files, securities, notes,
23 mortgages, or other evidences of indebtedness representing
24 investment of funds are not kept at the Canadian parent
25 corporation's home office or at an administrative office located
26 within this state.~~

1 ~~(b) To a domestic insurer that is a subsidiary of an alien~~
2 ~~insurer formed within the boundaries of Canada if the alien~~
3 ~~insurer terminates its branch operation in the United States.~~

4 ~~(c) To a domestic insurer that is a subsidiary of an alien~~
5 ~~insurer formed within the boundaries of Canada if the domestic~~
6 ~~insurer's aggregate policyholder reserves exceed those of its~~
7 ~~parent's United States operation.~~

8 (7) THE COMMISSIONER MAY REQUIRE A DOMESTIC INSURER TO
9 TRANSFER ITS DOMICILE TO ANOTHER STATE IF THE COMMISSIONER IS NOT
10 SATISFIED WITH THE PRODUCTION OF THE RECORDS AND PERSONNEL KNOWL-
11 EDGEABLE ABOUT THE RECORDS BECAUSE ALL OR PART OF THE RECORDS OR
12 PERSONNEL ARE LOCATED OUTSIDE THIS STATE.