

# SENATE BILL No. 785

February 13, 2014, Introduced by Senator SMITH and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending the title and sections 102, 6101, 6103, 6105, 6107,  
6110, and 6111 (MCL 500.102, 500.6101, 500.6103, 500.6105,  
500.6107, 500.6110, and 500.6111), the title as amended by 2002 PA  
304, section 102 as amended by 2000 PA 252, sections 6101, 6103,  
6105, 6107, and 6110 as added by 1992 PA 174, and section 6111 as  
amended by 2004 PA 316, and by adding section 6108.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

### TITLE

An act to revise, consolidate, and classify the laws relating  
to the insurance and surety business; to regulate the incorporation  
or formation of domestic insurance and surety companies and  
associations and the admission of foreign and alien companies and

1 associations; to provide their rights, powers, and immunities and  
2 to prescribe the conditions on which companies and associations  
3 organized, existing, or authorized under this act may exercise  
4 their powers; to provide the rights, powers, and immunities and to  
5 prescribe the conditions on which other persons, firms,  
6 corporations, associations, risk retention groups, and purchasing  
7 groups engaged in an insurance or surety business may exercise  
8 their powers; to provide for the imposition of a privilege fee on  
9 domestic insurance companies and associations; ~~and the state~~  
10 ~~accident fund;~~ to provide for the imposition of a tax on the  
11 business of foreign and alien companies and associations; to  
12 provide for the imposition of a tax on risk retention groups and  
13 purchasing groups; to provide for the imposition of a tax on the  
14 business of surplus line agents; to provide for the imposition of  
15 regulatory fees on certain insurers; to provide for assessment fees  
16 on certain health maintenance organizations; to modify tort  
17 liability arising out of certain accidents; to provide for limited  
18 actions with respect to that modified tort liability and to  
19 prescribe certain procedures for maintaining those actions; to  
20 require security for losses arising out of certain accidents; to  
21 provide for the continued availability and affordability of  
22 automobile insurance and homeowners insurance in this state and to  
23 facilitate the purchase of that insurance by all residents of this  
24 state at fair and reasonable rates; to provide for certain  
25 reporting with respect to insurance and with respect to certain  
26 claims against uninsured or self-insured persons; to prescribe  
27 duties for certain state departments and officers with respect to

1 that reporting; to provide for certain assessments; to establish  
 2 and continue certain state insurance funds; ~~to modify and clarify~~  
 3 ~~the status, rights, powers, duties, and operations of the nonprofit~~  
 4 ~~malpractice insurance fund;~~ to provide for the departmental  
 5 supervision and regulation of the insurance and surety business  
 6 within this state; to provide for regulation over worker's  
 7 compensation self-insurers; to provide for the conservation,  
 8 rehabilitation, or liquidation of unsound or insolvent insurers; to  
 9 provide for the protection of policyholders, claimants, and  
 10 creditors of unsound or insolvent insurers; to provide for  
 11 associations of insurers to protect policyholders and claimants in  
 12 the event of insurer insolvencies; to prescribe educational  
 13 requirements for insurance agents and solicitors; to provide for  
 14 the regulation of multiple employer welfare arrangements; to create  
 15 an automobile **AND METAL** theft prevention authority to reduce the  
 16 number of automobile thefts **AND THE AMOUNT OF METAL THEFT** in this  
 17 state; to prescribe the powers and duties of the automobile **AND**  
 18 **METAL** theft prevention authority; to provide certain powers and  
 19 duties upon certain officials, departments, and authorities of this  
 20 state; to provide for an appropriation; to repeal acts and parts of  
 21 acts; and to provide penalties for the violation of this act.

22 Sec. 102. **AS USED IN THIS ACT:**

23 (A) ~~(1) "Commissioner" as used in this act means the~~  
 24 ~~commissioner of the office of financial and insurance~~  
 25 ~~services.~~ **DIRECTOR.**

26 (B) ~~(2) "Department" as used in this act means the office~~  
 27 **DEPARTMENT** of ~~financial and insurance~~ **AND FINANCIAL** services.

1 (C) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

2 CHAPTER 61

3 AUTOMOBILE **AND METAL** THEFT PREVENTION AUTHORITY

4 Sec. 6101. As used in this chapter:

5 (a) "Authority" means the automobile **AND METAL** theft  
6 prevention authority **CREATED BY SECTION 6103**.

7 (b) "Board" means the board of directors of the ~~automobile~~  
8 ~~theft prevention authority~~ **CREATED BY SECTION 6103**.

9 (c) "Economic automobile theft" means automobile theft  
10 perpetrated for financial gain.

11 (D) "METAL THEFT" MEANS THE THEFT OF METAL FROM STRUCTURES ON  
12 REAL PROPERTY.

13 Sec. 6103. (1) ~~There~~ **THE AUTOMOBILE AND METAL THEFT PREVENTION**  
14 **AUTHORITY** is ~~hereby~~ created **AS** a public body corporate and politic.  
15 ~~to be known as the automobile theft prevention authority.~~

16 (2) The purposes, powers, and duties of the authority ~~shall be~~  
17 **ARE** vested in and **SHALL BE** exercised by a board of directors.

18 (3) The board of directors shall consist of ~~7~~ **11** members. ~~7~~  
19 ~~appointed by the~~ **THE** governor ~~7~~ **SHALL APPOINT THE MEMBERS** with the  
20 advice and consent of the senate. ~~7~~ **2** ~~TWO~~ of ~~whom shall~~ **THE MEMBERS**  
21 **MUST** be representative of purchasers of automobile insurance in  
22 this state, ~~2 of whom shall~~ **MUST** be representative of automobile  
23 insurers doing business in this state, **2 MUST BE REPRESENTATIVE OF**  
24 **PURCHASERS OF HOME INSURANCE IN THIS STATE, 2 MUST BE**  
25 **REPRESENTATIVE OF HOME INSURERS DOING BUSINESS IN THIS STATE, 2 of**  
26 ~~whom shall~~ **MUST** be representative of law enforcement officials in  
27 this state, and ~~1 of whom shall~~ **MUST** be the director of the

1 department of state police or his or her designee. The governor  
2 shall designate 1 member to serve as the chairperson of the  
3 authority.

4 (4) ~~Members~~ **A MEMBER** of the board shall serve for a term of 4  
5 years.

6 (5) Members of the board shall serve without compensation for  
7 their membership on the board, except that members of the board  
8 ~~shall receive~~ **ARE ENTITLED TO** reasonable reimbursement for  
9 necessary travel and expenses.

10 (6) A majority of the members of the board ~~shall constitute~~ a  
11 quorum for the transaction of business at a meeting, or the  
12 exercise of a power or function of the authority, notwithstanding  
13 the existence of 1 or more vacancies. Notwithstanding any other  
14 provision of law, action may be taken by the authority at a meeting  
15 upon a vote of the majority of its members present in person or  
16 through the use of amplified telephonic equipment, if authorized by  
17 the bylaws of the board. The authority shall meet at the call of  
18 the chair or as ~~may be provided~~ in the bylaws of the authority.  
19 Meetings of the authority may be held anywhere ~~within the~~ **IN THIS**  
20 state. ~~of Michigan.~~

21 (7) The authority ~~shall be within~~ **IS CREATED IN** the department  
22 of state police and shall exercise its prescribed statutory powers,  
23 duties, and functions independently of the ~~head of that~~ **DIRECTOR OF**  
24 **THE** department **OF STATE POLICE**. The budgeting, procurement, and  
25 related functions of the authority, and administrative  
26 responsibilities for employees of the authority, shall be performed  
27 under the direction and supervision of the director of the

1 department of state police.

2       Sec. 6105. The authority ~~shall have~~**HAS** the powers necessary  
3 or convenient to carry out and effectuate the purposes and  
4 provisions of this chapter and the purposes of the authority and  
5 the powers delegated by other laws, including, but not limited to,  
6 the power to:

7       (a) Sue and be sued; ~~to have~~ a seal and alter the ~~same~~**SEAL** at  
8 pleasure; ~~to have~~ perpetual succession; ~~to make~~, execute, and  
9 deliver contracts, conveyances, and other instruments necessary or  
10 convenient to the exercise of its powers; and ~~to make~~ and amend  
11 bylaws.

12       (b) Solicit and accept gifts, grants, loans, ~~funds~~**MONEY**  
13 collected and placed in the automobile theft prevention fund **AND**  
14 **THE METAL THEFT PREVENTION FUND**, and other ~~aids~~**AID** from any  
15 person, ~~or the federal~~, **OR** state, ~~or~~ **GOVERNMENT**, a local  
16 government, or ~~any~~**AN** agency thereof. **OF THE FEDERAL OR STATE**  
17 **GOVERNMENT OR A LOCAL GOVERNMENT.**

18       (c) Make grants and investments.

19       (d) Procure insurance against any loss in connection with its  
20 property, assets, or activities.

21       (e) Invest any money held in reserve or sinking funds, or any  
22 money not required for immediate use or disbursement, at its  
23 discretion and ~~to name~~ and use depositories for its money.

24       (f) Contract for goods and services and engage personnel as is  
25 necessary, including the services of private consultants, managers,  
26 counsel, auditors, and others for rendering professional,  
27 management, and technical assistance and advice, payable out of any

1 money of the fund legally available for this purpose.

2 (g) Indemnify and procure insurance indemnifying any member of  
3 the board from personal loss or accountability from liability  
4 resulting from a member's action or inaction as a member of the  
5 board.

6 (h) Do all other things necessary or convenient to achieve the  
7 objectives and purposes of the authority, this chapter, or other  
8 laws.

9 Sec. 6107. (1) ~~Prior to~~ **BEFORE** April 1 of each year, ~~each~~ **AN**  
10 insurer engaged in writing insurance coverages ~~which~~ **THAT** provide  
11 the security required by section 3101(1) ~~within~~ **IN** this state, as a  
12 condition of its authority to transact insurance in this state,  
13 shall pay to the authority an assessment equal to \$1.00 multiplied  
14 by the insurer's total earned car years of insurance providing the  
15 security required by section 3101(1) written in this state during  
16 the ~~immediately~~-preceding calendar year.

17 (2) Money received ~~pursuant to~~ **UNDER** subsection (1) ~~, and all~~  
18 ~~other money received by the authority,~~ shall be segregated and  
19 placed in a ~~fund to be known as~~ the automobile theft prevention  
20 fund. The automobile theft prevention fund shall be administered by  
21 the authority.

22 (3) Money in the automobile theft prevention fund shall be  
23 expended in the following order of priority:

24 (a) To pay the costs of administration of the authority.

25 (b) To achieve the purposes and objectives of this chapter  
26 **RELATING TO THE PREVENTION OF AUTOMOBILE THEFT**, which may include,  
27 but not be limited to, the following:

1           (i) ~~Provide~~**PROVIDING** financial support to the department of  
2 state police and local law enforcement agencies for economic  
3 automobile theft enforcement teams.

4           (ii) ~~Provide~~**PROVIDING** financial support to state or local law  
5 enforcement agencies for programs designed to reduce the incidence  
6 of economic automobile theft.

7           (iii) ~~Provide~~**PROVIDING** financial support to local prosecutors  
8 for programs designed to reduce the incidence of economic  
9 automobile theft.

10          (iv) ~~Provide~~**PROVIDING** financial support to judicial agencies  
11 for programs designed to reduce the incidence of economic  
12 automobile theft.

13          (v) ~~Provide~~**PROVIDING** financial support for neighborhood or  
14 community organizations or business organizations for programs  
15 designed to reduce the incidence of automobile theft.

16          (vi) ~~Conduct~~**CONDUCTING** educational programs designed to inform  
17 automobile owners of methods of preventing automobile theft and to  
18 provide equipment, for experimental purposes, to enable automobile  
19 owners to prevent automobile theft.

20          (4) Money in the automobile theft prevention fund shall only  
21 be used for automobile theft prevention efforts and shall be  
22 distributed based on need and efficacy as determined by the  
23 authority.

24          (5) Money in the automobile theft prevention fund ~~shall~~**IS** not  
25 ~~be considered~~ state money.

26          **SEC. 6108. (1) BEFORE APRIL 1 OF EACH YEAR, AN INSURER ENGAGED**  
27 **IN WRITING HOME INSURANCE OR INSURANCE OF COMMERCIAL, INDUSTRIAL,**

1 PROFESSIONAL, OR BUSINESS PROPERTY IN THIS STATE, AS A CONDITION OF  
2 ITS AUTHORITY TO TRANSACT INSURANCE IN THIS STATE, SHALL PAY TO THE  
3 AUTHORITY AN ASSESSMENT EQUAL TO \$1.00 MULTIPLIED BY THE TOTAL  
4 NUMBER OF POLICIES WRITTEN IN THIS STATE BY THE INSURER DURING THE  
5 PRECEDING CALENDAR YEAR THAT PROVIDED HOME INSURANCE OR INSURANCE  
6 OF COMMERCIAL, INDUSTRIAL, PROFESSIONAL, OR BUSINESS PROPERTY.

7 (2) THE METAL THEFT PREVENTION FUND IS CREATED. MONEY RECEIVED  
8 UNDER SUBSECTION (1) SHALL BE SEGREGATED AND PLACED IN THE METAL  
9 THEFT PREVENTION FUND. THE METAL THEFT PREVENTION FUND SHALL BE  
10 ADMINISTERED BY THE AUTHORITY.

11 (3) MONEY IN THE METAL THEFT PREVENTION FUND SHALL BE EXPENDED  
12 IN THE FOLLOWING ORDER OF PRIORITY:

13 (A) TO PAY THE COSTS OF ADMINISTRATION OF THE AUTHORITY.

14 (B) TO ACHIEVE THE PURPOSES AND OBJECTIVES OF THIS CHAPTER  
15 RELATING TO THE PREVENTION OF METAL THEFT, WHICH MAY INCLUDE, BUT  
16 NOT BE LIMITED TO, THE FOLLOWING:

17 (i) PROVIDING FINANCIAL SUPPORT TO THE DEPARTMENT OF STATE  
18 POLICE AND LOCAL LAW ENFORCEMENT AGENCIES FOR METAL THEFT  
19 ENFORCEMENT TEAMS.

20 (ii) PROVIDING FINANCIAL SUPPORT TO STATE OR LOCAL LAW  
21 ENFORCEMENT AGENCIES FOR PROGRAMS DESIGNED TO REDUCE THE INCIDENCE  
22 OF METAL THEFT.

23 (iii) PROVIDING FINANCIAL SUPPORT TO LOCAL PROSECUTORS FOR  
24 PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF METAL THEFT.

25 (iv) PROVIDING FINANCIAL SUPPORT TO JUDICIAL AGENCIES FOR  
26 PROGRAMS DESIGNED TO REDUCE THE INCIDENCE OF METAL THEFT.

27 (v) PROVIDING FINANCIAL SUPPORT FOR NEIGHBORHOOD OR COMMUNITY

1 ORGANIZATIONS OR BUSINESS ORGANIZATIONS FOR PROGRAMS DESIGNED TO  
2 REDUCE THE INCIDENCE OF METAL THEFT.

3 (vi) CONDUCTING EDUCATIONAL PROGRAMS DESIGNED TO INFORM  
4 PROPERTY OWNERS OF METHODS OF PREVENTING METAL THEFT AND TO PROVIDE  
5 EQUIPMENT, FOR EXPERIMENTAL PURPOSES, TO ENABLE PROPERTY OWNERS TO  
6 PREVENT METAL THEFT.

7 (4) MONEY IN THE METAL THEFT PREVENTION FUND SHALL ONLY BE  
8 USED FOR METAL THEFT PREVENTION EFFORTS AND SHALL BE DISTRIBUTED  
9 BASED ON NEED AND EFFICACY AS DETERMINED BY THE AUTHORITY.

10 (5) MONEY IN THE METAL THEFT PREVENTION FUND IS NOT STATE  
11 MONEY.

12 Sec. 6110. (1) The authority shall develop and implement a  
13 plan of operation.

14 (2) The plan of operation shall include an assessment of the  
15 scope of the ~~problem~~ **PROBLEMS** of automobile theft **AND METAL THEFT**,  
16 including particular areas of ~~the~~ **THIS** state where the ~~problem is~~  
17 **PROBLEMS ARE** greatest; an analysis of various methods of combating  
18 ~~the problem of~~ automobile theft, ~~and~~ economic automobile theft, **AND**  
19 **METAL THEFT**; a plan for providing financial support to combat  
20 automobile theft, ~~and~~ economic automobile theft, **AND METAL THEFT**;  
21 and an estimate of the ~~funds~~ **AMOUNT OF MONEY** required to implement  
22 the plan.

23 (3) The authority shall report annually ~~on or before~~ **BY**  
24 February 1 to the governor and the legislature on its activities in  
25 the preceding year.

26 Sec. 6111. (1) By July 1 of every odd numbered year, the  
27 ~~automobile theft prevention~~ authority shall prepare a report that

1 details the theft of automobiles ~~occurring~~ in this state ~~for~~ **IN** the  
2 previous 2 years, assesses the impact of the thefts on rates  
3 charged for automobile insurance, summarizes prevention programs,  
4 and outlines allocations made by the authority. The director of the  
5 department of state police, insurers, and the ~~commissioner~~ **DIRECTOR**  
6 shall cooperate in the development of the report as requested by  
7 the ~~automobile theft prevention~~ authority and shall make available  
8 records and statistics concerning automobile thefts, including the  
9 number of automobile thefts, **THE** number of prosecutions and  
10 convictions ~~involving~~ **THAT RESULTED FROM** automobile thefts, and  
11 automobile theft recidivism. The ~~automobile theft prevention~~  
12 authority shall evaluate the impact automobile theft has on the  
13 citizens of this state and the costs incurred by the citizens  
14 through insurance, police enforcement, prosecution, and  
15 incarceration ~~due to~~ **BECAUSE OF** automobile thefts.

16 (2) **BY JULY 1 OF EVERY ODD NUMBERED YEAR, THE AUTHORITY SHALL**  
17 **PREPARE A REPORT THAT DETAILS METAL THEFT IN THIS STATE IN THE**  
18 **PREVIOUS 2 YEARS, ASSESSES THE IMPACT OF METAL THEFT ON RATES**  
19 **CHARGED FOR HOME INSURANCE AND COMMERCIAL, INDUSTRIAL, PROFESSIONAL**  
20 **AND BUSINESS PROPERTY INSURANCE, SUMMARIZES PREVENTION PROGRAMS,**  
21 **AND OUTLINES ALLOCATIONS MADE BY THE AUTHORITY. THE DIRECTOR OF THE**  
22 **DEPARTMENT OF STATE POLICE, INSURERS, AND THE DIRECTOR SHALL**  
23 **COOPERATE IN THE DEVELOPMENT OF THE REPORT AS REQUESTED BY THE**  
24 **AUTHORITY AND SHALL MAKE AVAILABLE RECORDS AND STATISTICS**  
25 **CONCERNING METAL THEFT, INCLUDING THE NUMBER OF METAL THEFTS, THE**  
26 **NUMBER OF PROSECUTIONS AND CONVICTIONS THAT RESULTED FROM METAL**  
27 **THEFTS, AND METAL THEFT RECIDIVISM. THE AUTHORITY SHALL EVALUATE**

1 THE IMPACT METAL THEFT HAS ON THE CITIZENS OF THIS STATE AND THE  
2 COSTS INCURRED BY THE CITIZENS THROUGH INSURANCE, POLICE  
3 ENFORCEMENT, PROSECUTION, AND INCARCERATION BECAUSE OF METAL THEFT.

4 (3) The ~~report~~ **AUTHORITY SHALL SUBMIT THE REPORTS** required by  
5 this section ~~shall be submitted to the senate and house of~~  
6 representatives standing committees on insurance issues and the  
7 ~~commissioner~~ **DIRECTOR**.