

HOUSE BILL NO. 6101

November 13, 2024, Introduced by Reps. Young, Brenda Carter, Pohutsky, McFall, O'Neal, Tyrone Carter, Neeley, Morgan, Dievendorf, McKinney, Fitzgerald, Brabec and Scott and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 4731 (MCL 500.4731), as added by 2008 PA 29.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4731. (1) An SPFC may make the following material changes
2 to its plan of operation ~~pursuant to~~**under** section 4705(6)(b),
3 whether or not through an SPFC protected cell:

4 (a) If included in the initial plan of operation, securities
5 subsequently issued to continue the securitization activities of
6 the SPFC either during or after expiration, redemption, or

1 satisfaction, of part or all of the securities issued ~~pursuant to~~
2 **under** initial insurance securitization transactions, ~~shall is~~ not
3 ~~be~~ considered a material change.

4 (b) A change and substitution in a counterparty to a swap
5 transaction for an existing insurance securitization as allowed
6 ~~pursuant to under~~ this chapter ~~shall is~~ not ~~be~~ considered a
7 material change if the replacement swap counterparty carries a
8 similar or higher rating to its predecessor with 2 or more
9 nationally recognized rating agencies.

10 (2) ~~Ne~~ **Not** later than 5 months after the fiscal year end of
11 the SPFC, the SPFC shall file with the ~~commissioner~~ **director**
12 audited financial statements of the SPFC and the trust accounts
13 prepared by an independent public accountant. The independent
14 public accountant ~~shall~~ **must** be an independent certified public
15 accountant or accounting firm in good standing with the American
16 ~~institute of certified public accountants~~ **Institute of Certified**
17 **Public Accountants** and in good standing in ~~all states~~ **each state** in
18 which the independent public accountant is licensed to practice.

19 (3) The ~~commissioner~~ **director** may address inquiries to any
20 captive insurer concerning the insurer's activities or conditions
21 or any matter connected with the insurer's transactions. An insurer
22 ~~so~~ **addressed by the director** shall reply in writing to each inquiry
23 from the ~~commissioner~~ **director not later than** 30 days of
24 receipt of the inquiry.

25 (4) Each SPFC shall file, ~~by March 1 of each year~~ **not later**
26 **than 60 days after the SPFC's fiscal year ends**, a statement of
27 operations. An SPFC with a counterparty that is authorized as an
28 insurance company shall report using statutory accounting
29 principles and shall value its assets and liabilities ~~pursuant to~~

1 **under** this act and in a manner consistent with the counterparty. An
 2 SPFC with a counterparty that uses GAAP may report using either
 3 GAAP or, with the approval of the ~~commissioner, director~~, statutory
 4 accounting principles, with useful or necessary modifications or
 5 adaptations required or approved or accepted by the ~~commissioner~~
 6 **director** for the type of insurance and kinds of insurers to be
 7 reported ~~upon, on~~, and as supplemented by additional information
 8 required by the ~~commissioner. director~~. The statement of operations
 9 ~~shall must~~ include a statement of income and a balance sheet and
 10 may include a detailed listing of invested assets, including
 11 identification of assets held in trust to secure the obligations of
 12 the SPFC under the SPFC contract and additional descriptions and
 13 accounting of the reserves required or maintained by the SPFC. The
 14 SPFC also may include with the filing risk based capital
 15 calculations and other adjusted capital calculations to assist the
 16 ~~commissioner director~~ with evaluating the levels of the surplus of
 17 the SPFC for the ~~year ending on December 31 of the previous year.~~
 18 **previous fiscal year**. The statements ~~shall must~~ be prepared on
 19 forms required by the ~~commissioner. director~~. In addition, the
 20 ~~commissioner director~~ may require the filing of performance
 21 assessments of the SPFC contract.

22 (5) An SPFC that is authorized as an insurer other than solely
 23 ~~pursuant to under~~ this chapter and chapter 46 or that is reinsuring
 24 risk of a counterparty that is authorized as an insurer under this
 25 act shall file annual reports ~~pursuant to under~~ sections 438 and
 26 438a and chapter 10. An SPFC shall maintain its records in this
 27 state, or in 1 or more locations outside ~~the this~~ state with the
 28 approval of the ~~commissioner, director~~, and shall make its records
 29 available for examination by the ~~commissioner director~~ at any time.

1 The SPFC shall keep its books and records in such manner that its
2 financial condition, affairs, and operations can be ascertained and
3 so that the ~~commissioner~~**director** may readily verify its financial
4 statements and determine its compliance with this chapter.

5 (6) The ~~commissioner~~**director** may require interim reporting on
6 any ~~or all~~ of the SPFC's business, including any matter, condition,
7 or requirement regulated by this chapter. The ~~commissioner~~**director**
8 shall prescribe the format and content of the interim report.

9 (7) Each SPFC that fails to file a report required by this
10 section, or fails to reply within 30 days to an inquiry of the
11 ~~commissioner~~**director**, is subject to a civil penalty of not less
12 than \$1,000.00 or more than \$5,000.00 per occurrence, and an
13 additional \$50.00 for every day that the SPFC fails to file a
14 report or reply to the inquiry. In addition, each SPFC that fails
15 to file a report, or fails to make a satisfactory reply to an
16 inquiry of the ~~commissioner~~**director** concerning the SPFC's affairs,
17 is subject to proceedings under section 4735(2).

18 (8) All original books, records, documents, accounts, and
19 vouchers ~~shall~~**must** be preserved and kept available in this state
20 for the purpose of examination. The original records, however, may
21 be kept and maintained outside this state if, according to a plan
22 adopted by the management of the SPFC and approved by the
23 ~~commissioner~~**director**, it maintains suitable records. The books or
24 records may be photographed, reproduced on film, or stored and
25 reproduced electronically.

26 (9) ~~Nothing contained in this~~**This** section **does not**, with
27 respect to an SPFC, ~~shall~~ abrogate, limit, or rescind ~~in any way~~
28 the authority of the securities commissioner ~~pursuant to~~**under** 1935
29 PA 13, MCL 451.1 to 451.4.