THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

CHAPTER 20

UNFAIR AND PROHIBITED TRADE PRACTICES AND FRAUDS

500.2001 Short title.

Sec. 2001. Sections 2001 to 2050 shall be known and may be cited as "the uniform trade practices act".

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

500.2002 Purpose of act.

Sec. 2002. The purpose of this uniform trade practices act is to regulate trade practices in the business of insurance in accordance with the intent of congress as expressed in the act of congress of March 9, 1945 (Public Law 15, 79th Congress as amended), by defining, or by providing for the determination of (under standards or procedures herein prescribed), all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices, and by prohibiting the trade practices so defined or determined.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2003 Prohibited trade practices; "person" defined.

Sec. 2003. (1) A person shall not engage in a trade practice that is defined or described in this chapter or is determined under this chapter to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

(2) Except as otherwise provided in this subsection, "person" means that term as defined in section 114 and includes an insurance producer, solicitor, counselor, adjuster, or nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373. Person does not include the property and casualty guaranty association.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

Popular name: Act 218

500.2005 Misrepresentations.

Sec. 2005. An unfair method of competition and an unfair or deceptive act or practice in the business of insurance means the making, issuing, circulating, or causing to be made, issued, or circulated, an estimate, illustration, circular, statement, sales presentation, or comparison which by omission of a material fact or incorrect statement of a material fact does any of the following:

(a) Misrepresents the terms, benefits, advantages, or conditions of an insurance policy.

(b) Misrepresents the dividends or share of the surplus to be received on an insurance policy.

(c) Makes a false or misleading statement as to the dividends or share of surplus previously paid on an insurance policy.

(d) Makes a misleading statement or misrepresentation as to the financial condition of a person engaged in the business of insurance, or as to the legal reserve system upon which a life insurer operates.

(e) Uses a name or title of an insurance policy or class of insurance policies misrepresenting the true nature of that insurance policy or class of insurance policies. A policy approved by the commissioner shall be conclusively presumed not to misrepresent the true nature of that policy.

(f) Makes a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy.

(g) Makes a misrepresentation for the purpose of effecting a pledge or assignment of or a loan against an insurance policy.

(h) Misrepresents an insurance policy as being a security. This subdivision shall not apply to an insurance policy which must be registered as a security pursuant to the law of this state or of the United States.

(i) Misrepresents the nature or extent of coverage afforded an insurance policy or annuity contract by the Michigan life and health insurance guaranty association or the property and casualty guaranty association.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977;—Am. 1989, Act 302, Imd. Eff. Jan. 3, 1990.

Popular name: Act 218

500.2005a Unfair method of competition; unfair or deceptive act or practice.

Sec. 2005a. An unfair method of competition and an unfair or deceptive act or practice in the business of insurance includes all of the following:

(a) Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies, certificates, or contracts of insurers, health care corporations, or health maintenance organizations for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy, certificate, or contract or to take out a policy, certificate, or contract with another insurer, health care corporation, or health maintenance organization.

(b) Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, or threat, whether explicit or implied, or undue pressure.

(c) Making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.

History: Add. 1992, Act 84, Imd. Eff. June 2, 1992.

Popular name: Act 218

500.2006 Payment of benefits on timely basis; payment of interest in alternative; failure to pay claims or interest as unfair trade practice; liability for claim pursuant to judgment; proof of loss; inability to pay claim; interest requirements; failure of reinsurer to pay benefits on timely basis; effect of inconsistency with certain acts; exceptions; processing and payment procedures; notices; payment of 1 or more services listed on claim; violations; fines; definitions; section applicable to nonprofit dental care corporation.

Sec. 2006. (1) A person must pay on a timely basis to its insured, a person directly entitled to benefits under its insured's insurance contract, or a third party tort claimant the benefits provided under the terms of its policy, or, in the alternative, the person must pay to its insured, a person directly entitled to benefits under its insured's insurance contract, or a third party tort claimant 12% interest, as provided in subsection (4), on claims not paid on a timely basis. Failure to pay claims on a timely basis or to pay interest on claims as provided in subsection (4) is an unfair trade practice unless the claim is reasonably in dispute.

(2) A person shall not be found to have committed an unfair trade practice under this section if the person is found liable for a claim pursuant to a judgment rendered by a court of law, and the person pays to its insured, the person directly entitled to benefits under its insured's insurance contract, or the third party tort claimant interest as provided in subsection (4).

(3) An insurer shall specify in writing the materials that constitute a satisfactory proof of loss not later than 30 days after receipt of a claim unless the claim is settled within the 30 days. If proof of loss is not supplied as to the entire claim, the amount supported by proof of loss is considered paid on a timely basis if paid within 60 days after receipt of proof of loss by the insurer. Any part of the remainder of the claim that is later supported by proof of loss is considered paid on a timely basis if paid within 60 days after receipt of the proof of loss by the insurer. If the proof of loss provided by the claimant contains facts that clearly indicate the need for additional medical information by the insurer in order to determine its liability under a policy of life insurance, the claim is considered paid on a timely basis if paid within 60 days after receipt of necessary medical information by the insurer. Payment of a claim is not untimely during any period in which the insurer is unable to pay the claim if there is no recipient who is legally able to give a valid release for the payment, or if the insurer is unable to determine who is entitled to receive the payment, if the insurer has promptly notified the claimant of that inability and has offered in good faith to promptly pay the claim on determination of who is entitled to receive the payment.

(4) If benefits are not paid on a timely basis, the benefits paid bear simple interest from a date 60 days after satisfactory proof of loss was received by the insurer at the rate of 12% per annum, if the claimant is the insured or a person directly entitled to benefits under the insured's insurance contract. If the claimant is a third party tort claimant, the benefits paid bear interest from a date 60 days after satisfactory proof of loss was received by the insurer at the rate of 12% per annum if the liability of the insurer for the claim is not reasonably in dispute, the insurer has refused payment in bad faith, and the bad faith was determined by a court of law. The interest must be paid in addition to and at the time of payment of the loss. If the loss exceeds the limits of insurance coverage available, interest is payable based on the limits of insurance coverage rather than the amount of the loss. If payment is offered by the insurer but is rejected by the claimant, and the claimant does not subsequently recover an amount in excess of the amount offered, interest is not due. Interest paid as provided in this section must be offset by any award of interest that is payable by the insurer as provided in the award.

(5) If a person contracts to provide benefits and reinsures all or a portion of the risk, the person contracting to provide benefits is liable for interest due to an insured, a person directly entitled to benefits under its insured's insurance contract, or a third party tort claimant under this section if a reinsurer fails to pay benefits on a timely basis.

(6) If there is any specific inconsistency between this section and chapter 31 or the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, the provisions of this section do not apply. Subsections (7) to (14) do not apply to a person regulated under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941. Subsections (7) to (14) do not apply to the processing and paying of Medicaid claims that are covered under section 111i of the social welfare act, 1939 PA 280, MCL 400.111i.

(7) Subsections (1) to (6) do not apply and subsections (8) to (14) do apply to health plans when paying claims to health professionals, health facilities, home health care providers, and durable medical equipment providers, that are not pharmacies and that do not involve claims arising out of chapter 31 or the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941. This section does not affect a health plan's ability to prescribe the terms and conditions of its contracts, other than as provided in this section for timely payment.

(8) Each health professional, health facility, home health care provider, and durable medical equipment provider in billing for services rendered and each health plan in processing and paying claims for services rendered shall use the following timely processing and payment procedures:

(a) A clean claim must be paid within 45 days after receipt of the claim by the health plan. A clean claim that is not paid within 45 days bears simple interest at a rate of 12% per annum.

(b) A health plan shall notify the health professional, health facility, home health care provider, or durable medical equipment provider within 30 days after receipt of the claim by the health plan of all known reasons that prevent the claim from being a clean claim.

(c) A health professional, health facility, home health care provider, or durable medical equipment provider has 45 days, and any additional time the health plan permits, after receipt of a notice under subdivision (b) to correct all known defects. The 45-day time period in subdivision (a) is tolled from the date of receipt of a notice to a health professional, health facility, home health care provider, or durable medical equipment provider under subdivision (b) to the date of the health plan's receipt of a response from the health professional, health facility, home health care provider, or durable medical equipment provider.

(d) If a health professional's, health facility's, home health care provider's, or durable medical equipment provider's response under subdivision (c) makes the claim a clean claim, the health plan shall pay the health professional, health facility, home health care provider, or durable medical equipment provider within the 45-day time period under subdivision (a), excluding any time period tolled under subdivision (c).

(e) If a health professional's, health facility's, home health care provider's, or durable medical equipment provider's response under subdivision (c) does not make the claim a clean claim, the health plan shall notify the health professional, health facility, home health care provider, or durable medical equipment provider of an adverse claim determination and of the reasons for the adverse claim determination within the 45-day time period under subdivision (a), excluding any time period tolled under subdivision (c).

(f) A health professional, health facility, home health care provider, or durable medical equipment provider must bill a health plan within 1 year after the date of service or the date of discharge from the health facility in order for a claim to be a clean claim.

(g) A health professional, health facility, home health care provider, or durable medical equipment provider shall not resubmit the same claim to the health plan unless the time period under subdivision (a) has passed or as provided in subdivision (c).

(h) A health plan that is a qualified health plan for the purposes of 45 CFR 156.270 and that, as required in 45 CFR 156.270(d), provides a 3-month grace period to an enrollee who is receiving advance payments of the premium tax credit and who has paid 1 full month's premium may pend claims for services rendered to the enrollee in the second and third months of the grace period. A claim during the second and third months of the grace period is not a clean claim under this section, and interest is not payable under subdivision (a) on that claim if the health plan has complied with the notice requirements of 45 CFR 155.430 and 45 CFR 156.270.

(9) Notices required under subsection (8) must be made in writing or electronically.

(10) If a health plan determines that 1 or more services listed on a claim are payable, the health plan shall pay for those services and shall not deny the entire claim because 1 or more other services listed on the claim are defective. This subsection does not apply if a health plan and health professional, health facility, home health care provider, or durable medical equipment provider have an overriding contractual reimbursement arrangement.

(11) A health plan shall not terminate the affiliation status or the participation of a health professional,

health facility, home health care provider, or durable medical equipment provider with a health maintenance organization provider panel or otherwise discriminate against a health professional, health facility, home health care provider, or durable medical equipment provider because the health professional, health facility, home health care provider, or durable medical equipment provider claims that a health plan has violated subsections (7) to (10).

(12) A health professional, health facility, home health care provider, durable medical equipment provider, or health plan alleging that a timely processing or payment procedure under subsections (7) to (11) has been violated may file a complaint with the director on a form approved by the director and has a right to a determination of the matter by the director or his or her designee. This subsection does not prohibit a health professional, health facility, home health care provider, durable medical equipment provider, or health plan from seeking court action.

(13) In addition to any other penalty provided for by law, the director may impose a civil fine of not more than $1,000.00 for each violation of subsections (7) to (11) not to exceed $10,000.00 in the aggregate for multiple violations.

(14) As used in subsections (7) to (13):

(a) "Clean claim" means a claim that does all of the following:

(*i*) Identifies the health professional, health facility, home health care provider, or durable medical equipment provider that provided service sufficiently to verify, if necessary, affiliation status and includes any identifying numbers.

(*ii*) Sufficiently identifies the patient and health plan subscriber.

(*iii*) Lists the date and place of service.

(*iv*) Is a claim for covered services for an eligible individual.

(*v*) If necessary, substantiates the medical necessity and appropriateness of the service provided.

(*vi*) If prior authorization is required for certain patient services, contains information sufficient to establish that prior authorization was obtained.

(*vii*) Identifies the service rendered using a generally accepted system of procedure or service coding.

(*viii*) Includes additional documentation based on services rendered as reasonably required by the health plan.

(b) "Health facility" means a health facility or agency licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) "Health plan" means all of the following:

(*i*) An insurer providing benefits under a health insurance policy, including a policy, certificate, or contract that provides coverage for specific diseases or accidents only, an expense-incurred vision or dental policy, or a hospital indemnity, Medicare supplement, long-term care, or 1-time limited duration policy or certificate, but not to payments made to an administrative services only or cost-plus arrangement.

(*ii*) A MEWA regulated under chapter 70 that provides hospital, medical, surgical, vision, dental, and sick care benefits.

(d) "Health professional" means an individual licensed, registered, or otherwise authorized to engage in a health profession under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(15) After December 31, 2017, this section applies to a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373.

History: Add. 1976, Act 273, Eff. Apr. 1, 1977;—Am. 2002, Act 316, Eff. Oct. 1, 2002;—Am. 2004, Act 28, Eff. Sept. 16, 2004;—Am. 2016, Act 276, Imd. Eff. July 1, 2016;—Am. 2017, Act 223, Imd. Eff. Dec. 20, 2017.

Compiler's note: Enacting section 1 of Act 316 of 2002 provides:

"Enacting section 1. This amendatory act takes effect on October 1, 2002 and applies to all health care claims with dates of service on and after October 1, 2002."

Popular name: Act 218

500.2007 Unfair methods of competition or deception; false, deceptive or misleading advertising.

Sec. 2007. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2008 Audit of insured's payroll expenditures; purpose; request; failure to complete payroll audit or final audit as unfair or deceptive act or practice; failure to pay premium adjustment or dividend on timely basis as unfair or deceptive act or practice; "timely basis" defined; interest; applicability of section.

Sec. 2008. (1) Upon the written request of an insured, an insurer shall audit or cause to be audited an insured's payroll expenditures for the purpose of determining the proper worker's compensation insurance premiums. The written request of the insured shall include a statement that the insured has reason to believe that there has been not less than a 20% change in payroll expenditures and the reasons for that belief. The audit shall be completed within 120 days of the receipt of the written request, if all required information to complete the audit has been made available. Only 1 audit per calendar year conducted at the request of the insured is required under this subsection.

(2) Except for a final audit, it is an unfair or deceptive act or practice in the business of insurance for an insurer to fail to complete a payroll audit which is required pursuant to the terms of a policy within 120 days after the date specified in the policy for the commencement of an audit, if all required information to complete the audit has been made available. It is an unfair or deceptive act or practice in the business of insurance if a final audit is not completed by an insurer within 120 days after the date of termination of the policy, if all required information to complete the audit has been made available.

(3) An insurer shall pay on a timely basis to its insured any adjustment in a premium, any dividend, a retrospective premium adjustment, or any similar amount which is due. It is an unfair or deceptive act or practice in the business of insurance for an insurer to not pay these amounts on a timely basis. As used in this section, "timely basis" means the following, as applicable:

(a) If the amount is due pursuant to a payroll audit, within 60 days after the completion of that audit.

(b) If the policy specifies a date on which an amount is due, on or before that date.

(c) If the date the amount is due is not specified in the policy, within 60 days after the expiration of the policy.

(d) In the case of a retrospective premium adjustment, as specified in the policy, or 9 months after expiration of the policy.

(e) In the case of a dividend, within 60 days after determination of the specific amount due.

(4) When an adjustment in a premium, a dividend, a retrospective premium adjustment, or a similar amount due an insured is not paid on a timely basis, the amount due shall bear simple interest from the applicable date specified in subsection (3) at the rate of 12% per annum. This interest shall be paid in addition to and at the time of payment of the amount due.

(5) This section only applies to worker's compensation insurance.

History: Add. 1982, Act 7, Eff. Jan. 1, 1983.

Popular name: Act 218

500.2009 False, maliciously critical, or derogatory statement as to financial condition.

Sec. 2009. Unfair methods of competition and unfair or deceptive acts or practices in the business of insurance include the making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of an oral or written statement or a pamphlet, circular, article, or literature which is false, or maliciously critical of, or derogatory to the financial condition of a person engaged in the business of insurance, and which is calculated to injure a person engaged in the business of insurance.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

500.2010 Unfair method of competition; unfair or deceptive act or practice.

Sec. 2010. It is an unfair method of competition and an unfair or deceptive act or practice in the business of insurance for a malpractice insurer to refuse to offer insurance to a health care provider or hospital on the grounds that the health care provider or hospital has entered or intends to enter into valid written agreements with patients or prospective patients for the arbitration of cases or controversies arising out of the professional or business relationships between a patient and the health care provider or hospital.

History: Add. 1993, Act 349, Eff. Oct. 1, 1994.

Popular name: Act 218

500.2011 Unfair methods of competition; unfair or deceptive acts or practices.

Sec. 2011. (1) An unfair method of competition and an unfair or deceptive act or practice in the business of insurance includes an insurer providing a commission or other compensation to the insurer's representative or agent for the sale or service of a disability policy or rider issued to an individual eligible for medicare, unless the amount of the commission or compensation paid in the first year of the policy is not more than the amount of the commission or compensation that the insurer's representative or agent receives for the policy in each of the 2 subsequent, consecutive annual renewal periods.

(2) An unfair method of competition and an unfair or deceptive act or practice in the business of insurance includes an insurer issuing a disability policy or rider to an individual eligible for medicare that provides for a new preexisting condition limitation waiting period if coverage is converted to or replaced by a new or other form of similar coverage with the same insurer or any of the insurer's affiliates. If the preexisting condition limitation waiting period in the original or replaced policy has not expired, the replacing policy may include the remaining term of the preexisting condition limitation waiting period of the replaced policy. This subsection does not apply to an increase in benefits voluntarily selected by the individual.

History: Add. 1989, Act 131, Eff. Nov. 1, 1989.

Popular name: Act 218

500.2012 Unfair methods of competition or deception; combinations in restraint of trade.

Sec. 2012. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2013 Violation of chapter or rule; effect.

Sec. 2013. A violation of chapter 5 or a rule promulgated under chapter 5 is an unfair method of competition and an unfair or deceptive act or practice in the business of insurance.

History: Add. 2001, Act 24, Imd. Eff. June 18, 2001.

Popular name: Act 218

500.2013a Failure to comply with MCL 500.3107e; unfair practice; applicability to other rights.

Sec. 2013a. (1) The failure of an insurer to materially comply with section 3107e is an unfair method of competition and an unfair or deceptive act or practice in the business of insurance.

(2) This section does not affect any other right of a person under this chapter.

History: Add. 2019, Act 21, Imd. Eff. June 11, 2019.

Popular name: Act 218

500.2014 False material statement of financial condition; false entry or omission of true entry in book, report, or statement.

Sec. 2014. Unfair methods of competition and unfair or deceptive acts or practices in the business of insurance include:

(a) Filing with a supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to a person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, or delivered to a person, or placed before the public, a false material statement of financial condition of a person engaged in the business of insurance.

(b) Making a false entry of a material fact in a book, report, or statement of a person engaged in the business of insurance or omitting to make a true entry of a material fact pertaining to the business of the person in a book, report, or statement of the person.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

500.2015 Repealed. 1976, Act 273, Eff. Apr. 1, 1977.

Compiler's note: The repealed section pertained to false or incomplete records and reports.

Popular name: Act 218

500.2016 Unfair methods of competition and unfair and deceptive acts or practices in business of insurance; applicability of section.

Sec. 2016. (1) In addition to other provisions of law, the following practices as applied to worker's compensation insurance including worker's compensation coverage provided through a self-insurer's group are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(a) As a condition of receiving a dividend for the current or a previous year, requiring an insured to renew or maintain worker's compensation insurance with the insurer beyond the current policy's expiration date or requiring a member to continue participation with a worker's compensation self-insurer group.

(b) As a condition of obtaining worker's compensation insurance, requiring a premium deposit greater than 25% of the total projected annual premium or $2,500.00, whichever is greater.

(c) As a condition of obtaining worker's compensation insurance, requiring the purchase of any other form of insurance from the same insurer.

(d) As the result of a payroll audit or examination, requiring the payment of an increased premium increment within 30 days of written notification of the increase in premium.

(2) This section does not apply if the insured was guilty of misrepresentation, fraud, or other acts of bad faith.

(3) This section also applies to worker's compensation self-insurers' groups.

History: Add. 1982, Act 7, Eff. Jan. 1, 1983;—Am. 1998, Act 457, Imd. Eff. Jan. 4, 1999.

Popular name: Act 218

500.2017 Unfair methods of competition or deception; illegal inducements.

Sec. 2017. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2018 False or fraudulent statements or representations as to application for insurance policy.

Sec. 2018. An unfair method of competition and an unfair or deceptive act or practice in the business of insurance include making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money, or other benefit from an insurer, agent, broker, or individual.

History: Add. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

500.2019 Unfair methods of competition or deception; unfair discrimination in life insurance.

Sec. 2019. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2020 Unfair methods of competition or deception; unfair discrimination in accident or health insurance.

Sec. 2020. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, membership, or policy fees, or rates charged for any policy or contract of accident or health insurance applicable to individual or family expense coverage or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2021 Failure to furnish insured rate information upon request; unfair method of competition and unfair or deceptive act or practice in business of insurance; exception.

Sec. 2021. An unfair method of competition and an unfair or deceptive act or practice in the business of insurance includes failure by a rating organization and an insurer that makes its own rates, within a reasonable time after receiving written request for the information and on payment of a reasonable charge, to furnish to an insured affected by a rate made by it, or to the insured authorized representative, all pertinent information to the rate. Pertinent information under this section does not include information that is a trade secret as determined by the director under section 2108(5) or 2406(6).

History: Add. 1982, Act 7, Eff. Jan. 1, 1983;—Am. 2015, Act 141, Eff. Jan. 11, 2016.

Popular name: Act 218

500.2022 Repealed. 1976, Act 273, Eff. Apr. 1, 1977.

Compiler's note: The repealed section pertained to refusal to pay claims and to compelling acceptance of less than amount due.

Popular name: Act 218

500.2023 Automatic insurance on debtor contracting credit.

Sec. 2023. It is an unfair method of competition and an unfair or deceptive act or practice in the business of insurance for an insurer, unless required by law or statutory administrative rule or unless provided for by contract, to automatically write insurance on a debtor who has contracted credit based on the principle that the insurance is applicable unless specifically rejected by the debtor, unless the premium or such other identifiable charge as may be applicable is paid in full by the creditor.

History: Add. 1968, Act 240, Imd. Eff. June 26, 1968;—Am. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

500.2024 Unfair methods of competition or deception; rebates and special inducements.

Sec. 2024. The following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2024a Giving merchandise to applicants for life insurance.

Sec. 2024a. Beginning January 1, 1986, sections 2024, 2066, and 2070 shall not be construed to prohibit a life insurer or life insurance agent from giving to each applicant for a life insurance policy an article of merchandise having an invoice value of $5.00 or less.

History: Add. 1989, Act 68, Imd. Eff. June 16, 1989.

Popular name: Act 218

500.2024b Construction of MCL 500.2024, 500.2066, and 500.2070.

Sec. 2024b. Sections 2024, 2066, and 2070 do not prohibit a property-casualty insurer or property-casualty insurance producer from giving an applicant for or an insured under a property-casualty insurance policy an article of merchandise with a cost to the insurer of $50.00 or less per calendar year.

History: Add. 2005, Act 260, Imd. Eff. Dec. 16, 2005;—Am. 2018, Act 542, Imd. Eff. Dec. 28, 2018.

Popular name: Act 218

500.2025 Unfair methods of competition or deception; exclusions from discrimination, rebates.

Sec. 2025. Nothing in sections 2017 through 2024 shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from non-participating insurance: Provided, That any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interest of the company and its policyholders;

(2) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense;

(3) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2026 Course of conduct indicating persistent tendency to engage in that type of conduct.

Sec. 2026. (1) Unfair methods of competition and unfair or deceptive acts or practices in the business of insurance, other than isolated incidents, are a course of conduct indicating a persistent tendency to engage in that type of conduct and include:

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue.

(b) Failing to acknowledge promptly or to act reasonably and promptly upon communications with respect to claims arising under insurance policies.

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.

(d) Refusing to pay claims without conducting a reasonable investigation based upon the available information.

(e) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.

(f) Failing to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(g) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts due the insureds.

(h) Attempting to settle a claim for less than the amount to which a reasonable person would believe the claimant was entitled, by reference to written or printed advertising material accompanying or made part of an application.

(i) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured.

(j) Making a claims payment to a policyholder or beneficiary omitting the coverage under which each payment is being made.

(k) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(*l*) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring subsequent submission of formal proof of loss forms, seeking solely the duplication of a verification.

(m) Failing to promptly settle claims where liability has become reasonably clear under 1 portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy.

(n) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(2) The failure of a person to maintain a complete record of all the complaints of its insureds which it has received since the date of the last examination is an unfair method of competition and unfair or deceptive act or practice in the business of insurance. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition thereof, and the time it took to process each complaint. For purposes of this subsection, "complaint" means a written communication primarily expressing an allegation of acts which would constitute violation of this chapter. If a complaint relating to an insurer is received by an agent of the insurer, the agent shall promptly forward the complaint to the insurer unless the agent resolves the complaint to the satisfaction of the insured within a reasonable time.

An insurer shall not be deemed to have engaged in an unfair method of competition or an unfair or deceptive act or practice in the business of insurance in violation of this chapter because of the failure of an agent who is not also an employee to forward a written complaint as required by this subsection.

History: Add. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

500.2027 Unfair methods of competition and unfair or deceptive acts or practices; prohibited conduct.

Sec. 2027. Unfair methods of competition and unfair or deceptive acts or practices in the business of insurance include:

(a) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual or risk because of any of the following:

(*i*) Race, color, creed, marital status, sex, national origin, gender, gender identity or expression, or sexual orientation, except that marital status may be used to classify individuals or risks for the purpose of insuring family units.

(*ii*) The residence, age, disability, or lawful occupation of the individual or the location of the risk, unless there is a reasonable relationship between the residence, age, disability, or lawful occupation of the individual or the location of the risk and the extent of the risk or the coverage issued or to be issued, but subject to subparagraph (*iii*). This section does not prohibit an insurer from specializing in or limiting its transactions of insurance to certain occupational groups, types, or risks as approved by the director. The director shall approve the specialization for an insurer licensed to do business in this state and whose articles of incorporation contained a provision on July 1, 1976, requiring that specialization.

(*iii*) For property insurance, the location of the risk, unless there is a statistically significant relationship between the location of the risk and a risk of loss due to fire within the area in which the insured property is located. As used in this subparagraph, "area" means a single zip code number under the zoning improvement plan of the United States Postal Service.

(b) Refusing to insure or refusing to continue to insure an individual or risk solely because the insured or applicant was previously denied insurance coverage by an insurer.

(c) Charging a different rate for the same coverage based on race, color, creed, marital status, sex, national origin, gender, gender identity or expression, sexual orientation, age, residence, location of risk, disability, or lawful occupation of the risk unless the rate differential is based on sound actuarial principles and a reasonable classification system, and is related to the actual and credible loss statistics or, for new coverages, reasonably anticipated experience. This subdivision does not apply if the rate has previously been approved by the director.

History: Add. 1976, Act 273, Eff. Apr. 1, 1977;—Am. 1998, Act 26, Imd. Eff. Mar. 12, 1998;—Am. 2023, Act 156, Eff. Feb. 13, 2024.

Popular name: Act 218

500.2028 Examination; investigation.

Sec. 2028. Upon probable cause, the commissioner shall have power to examine and investigate into the affairs of a person engaged in the business of insurance in this state to determine whether the person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by sections 2001 to 2050.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

500.2029 Notice of hearing; opportunity to confer; summary disposition.

Sec. 2029. When the commissioner has probable cause to believe that a person engaged in the business of insurance has been engaged or is engaging in this state in an unfair method of competition, or an unfair or deceptive act or practice in the conduct of his business, as prohibited by sections 2001 to 2050, and that a hearing by the commissioner in respect thereto would be in the interest of the public, he shall first give notice in writing, pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to the person involved, setting forth the general nature of the complaint against him and the proceedings contemplated pursuant to sections 2001 to 2050. Before the issuance of a notice of hearing, the staff of the bureau of insurance responsible for the matters which would be at issue in the hearing shall give the person an opportunity to confer and discuss the possible complaint and proceedings in person with the commissioner or his representative and the matter may be disposed of summarily upon agreement of the parties.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

500.2030 Hearing; procedure; intervention; burden of proof; commissioner or designate to preside; independent hearing officer; peremptory dismissal.

Sec. 2030. (1) At the time and place fixed for the hearing referred to in section 2029, the person shall have an opportunity to be heard, to be represented by counsel and to show cause why an order should not be made by the commissioner requiring the person to cease and desist from the acts, methods, or practices complained of. Upon showing by any person that he has an interest likely to be affected adversely, the commissioner shall permit that person to intervene, appear and be heard at the hearing by counsel or in person.

(2) The burden of proof at the hearing shall be upon the agency or upon an intervenor who intervened in opposition to the person who is the subject of the proceeding.

(3) The commissioner or his designate shall preside over the hearing, except that an independent hearing officer shall be designated by the commissioner if requested by the person who is the subject of the proceedings. The independent hearing officer shall be selected by the commissioner from a list of individuals submitted by the American arbitration association qualified to conduct hearings on behalf of the commissioner. A list of the individuals shall be maintained by the commissioner and shall be compiled pursuant to rules promulgated by the commissioner. The rules shall set forth the qualifications, criteria, and procedures to be utilized in the compilation of the list of independent hearing officers. The person subject to the proceedings may exercise 1 peremptory dismissal of the hearing officer selected, if exercised within 20 days after notification.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

Administrative rules: R 500.1051 et seq. of the Michigan Administrative Code.

500.2032 Unfair methods of competition or deception; hearing; oaths; witnesses; evidence; subpoenas; contempt of court; stenographic record; statement of evidence.

Sec. 2032. (1) The commissioner, upon the hearing referred to in section 2030, may administer oaths, examine and cross examine witnesses, and receive oral and documentary evidence. Any party to the cause shall have the power to compel the subpoena of witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the inquiry. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the circuit court of Ingham county or the county where such party resides, on application of any party to the cause, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof.

(2) The commissioner, upon such hearing, may, and upon the request of any party to the cause shall, cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the commissioner shall prepare a statement of the evidence and proceeding for use on review.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2033 Hearing; directing witness to give testimony or produce evidence; immunity; perjury; waiver of immunity or privilege.

Sec. 2033. If any natural person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required of him or her may tend to incriminate him or her or subject him or her to a penalty or forfeiture, and shall notwithstanding be directed to give testimony or produce evidence, he or she must nonetheless comply with the directions, but he or she shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he or she may testify or produce evidence pursuant to this section, and no testimony given or evidence produced shall be received against him or her upon any criminal action, investigation or proceeding. No individual testifying shall be exempt under this section from prosecution or punishment for any perjury committed by him or her while so testifying and the testimony or evidence given or produced shall be admissible against him or her upon any criminal action, investigation or proceeding concerning the perjury, nor shall he or she be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the insurance code. Any individual may execute, acknowledge and file in the office of the

commissioner a statement expressly waiving immunity or privilege in respect to any transaction, matter or thing specified in the statement and the testimony of the person or evidence in relation to the transaction, matter or thing may be received or produced before any judge, court, tribunal, grand jury or otherwise, and if so received or produced the individual shall not be entitled to any immunity or privilege on account of any testimony he or she may give or evidence produced.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1991, Act 141, Imd. Eff. Nov. 25, 1991.

Popular name: Act 218

500.2034 Unfair methods of competition or deception; service of notices, process and other papers, return.

Sec. 2034. Statements of charges, notices, orders, subpoenas and other processes of the commissioner under this uniform trade practices act may be served by anyone duly authorized by the commissioner, either in the manner provided by law for service of process in civil actions, or by registering and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order, or other process, registered and mailed as aforesaid, shall be proof of the service of the same.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2038 Findings and decision to be in writing; cease and desist order; other orders; stay; modification or setting aside of order.

Sec. 2038. (1) If, after opportunity for a hearing held under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the director determines that the person complained of has engaged in methods of competition or unfair or deceptive acts or practices prohibited by sections 2001 to 2050, the director shall reduce his or her findings and decision to writing and shall issue and cause to be served on the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from engaging in that method of competition, act, or practice. The director may also order any of the following:

(a) Payment of a monetary penalty of not more than $1,000.00 for each violation but not to exceed an aggregate penalty of $10,000.00, unless the person knew or reasonably should have known he was in violation of this chapter, in which case the penalty must not be more than $5,000.00 for each violation and must not exceed an aggregate penalty of $50,000.00 for all violations committed in a 6-month period.

(b) Suspension or revocation of the person's license or certificate of authority if the person knowingly and persistently violated a provision of this chapter.

(c) Refund of any overcharges.

(2) The filing of a petition for review does not stay enforcement of action under this section, but the director may grant, or the appropriate court may order, a stay on appropriate terms.

(3) If a petition for review has not been filed within the time allowed under section 244, until the time for filing the petition expires or, if a petition for review has been filed within that time, until the transcript of the record in the proceeding has been filed in the circuit court, as provided in this chapter, the director, on notice and in a manner as he or she considers proper, may modify or set aside in whole or in part an order issued under this section.

(4) After the expiration of the time allowed for filing a petition for review, if a petition has not been filed within that time, the director may at any time, by order, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, an order issued under this section, if in the director's opinion conditions of fact or of law have so changed as to require that action or if required by the public interest.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977;—Am. 2019, Act 21, Imd. Eff. June 11, 2019.

Popular name: Act 218

500.2039 Finality of order.

Sec. 2039. An order issued by the commissioner pursuant to this chapter shall become final:

(a) Upon the expiration of the time allowed for filing a petition for review if a petition has not been duly filed within that time, except that the commissioner may thereafter modify or set aside his order to the extent provided in section 2038(2).

(b) Upon the final decision of the court if the court directs that the order of the commissioner be affirmed or the petition for review dismissed.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977.

Popular name: Act 218

500.2040 Violation of cease and desist order; penalty; stay; contents of cease and desist order.

Sec. 2040. (1) A person who violates a cease and desist order of the director under this chapter while the order is in effect, after notice and an opportunity for a hearing and on order of the director, may be subject to any of the following:

(a) A monetary penalty of not more than $20,000.00 for each violation.

(b) Suspension or revocation of the person's license or certificate of authority.

(2) The filing of a petition for review does not stay enforcement under this section, but the director may grant, or the appropriate court may order, a stay on appropriate terms.

(3) A cease and desist order issued by the director under section 2043 must not contain fines or other penalties applicable to acts or omissions that occur before the date of the cease and desist order.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1976, Act 273, Eff. Apr. 1, 1977;—Am. 2019, Act 21, Imd. Eff. June 11, 2019.

Popular name: Act 218

500.2041 Unfair methods of competition or deception; court review of orders, findings of fact conclusive, modification; additional evidence.

Sec. 2041. (1) Any order or decision of the commissioner under this uniform trade practices act shall be subject to review as provided in section 244. The findings of fact of the commissioner, and any modification thereof as provided for in subsection (2) of this section, if supported by the preponderance of the evidence, shall be conclusive.

(2) To the extent that the order of the commissioner is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the commissioner. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner, the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact, or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings, which, if supported by the preponderance of the evidence, shall be conclusive, and his recommendation, if any, for the modification or setting aside of his original order, with the return of such additional evidence.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2043 Unfair methods of competition or deception; procedure to enjoin, jurisdiction of circuit court; filing petition; additional evidence; modification of findings; issuance of injunction; preliminary notice; application for trade conference.

Sec. 2043. (1) Whenever the commissioner has probable cause to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in sections 2005 through 2025, that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be in the interest of the public, the commissioner may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 15 days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in section 2029. The commissioner shall, after such hearing, state in writing his findings of fact, his decision, and his order if any; and he shall serve a copy thereof upon all parties of record to the proceeding.

(2) If such finding and decision charges a violation of this uniform trade practices act and if such method of competition, act or practice has not been discontinued, the commissioner may, through the attorney general of this state, at any time after 15 days after the service of such finding and decision cause a petition to be filed in the circuit court of Ingham county to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

(3) A transcript of the proceedings before the commissioner including all evidence taken and the findings and decision shall be filed with such petition. If any party of record shall apply to the court for leave to

adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact and decision or make new findings and decision by reason of the additional evidence so taken, and he shall file such modified or new findings and decision with the return of such additional evidence.

(4) If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, that the proceeding by the commissioner with respect thereto is in the interest of the public and that the findings of the commissioner are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

(5) The commissioner shall not proceed with any formal statement of charges or notice of hearing under subsection (1) of this section until he shall first have provided such person sought to be charged, within 10 days' preliminary notice of the commissioner's proposed statement of charges or intention to call a hearing. Such preliminary proceedings shall be deemed to be privileged and shall not be subject to public inspection or announcement. Such person sought to be charged, may within 10 days after receipt of such notice make application for a trade conference as provided for in section 2047 unless the practice complained of has been previously defined as an unfair trade practice by published rule, regulation or standard as provided in section 2047. If such application is made by such person, it shall be the duty of the commissioner to call such a trade conference as provided in section 2047 to discuss the method of competition, act or practice which is the subject matter of the proposed charge; and the commissioner shall not proceed to any action under subsection (1) of this section until after such trade conference shall have been held.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2045 Unfair methods of competition or deception; court review on petition of intervenor.

Sec. 2045. If the finding and decision of the commissioner referred to in section 2043 does not charge a violation of this uniform trade practices act, then any intervenor in the proceedings, as defined in section 2030, may within 15 days after the service of such report, cause a petition to be filed in the circuit court of Ingham county for a review of such finding and decision. Upon such review, the court shall have authority to issue appropriate orders and decrees in connection therewith, including, if the court finds that it is in the interest of the public, orders enjoining and restraining the continuance of any method of competition, act or practice which it finds, notwithstanding such finding and decision of the commissioner, constitutes a violation of this chapter.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2047 Trade practice conferences; authorization by insurance commissioner; purpose; notice; scope; recommendation; rules, regulations, or standards; construction of section.

Sec. 2047. (1) Trade practice conferences for the purpose of dealing with such trade practices as are within the purview of this uniform trade practices act and not defined in sections 2005 through 2025, or for the purpose of establishing supplementary regulations and rules relating to trade practices defined in sections 2005 through 2025, may be authorized by the commissioner upon his own motion, or upon written application therefor by any insurer or person to whom rulings arising therefrom may be directly applicable, whenever such a conference may appear to the commissioner to be in the interest of the public.

(2) The commissioner shall give reasonable notice to such persons as he shall deem directly affected, or to their representatives, of the time and place of any such conference. Such notice shall set forth briefly the subject matter for consideration. Each such conference shall be presided over by the commissioner or a member of his staff designated by him. Any such trade practice conference may submit to the commissioner its recommendations as to rules, regulations or standards defining certain methods of competition, acts or practices as being fair or unfair, deceptive or not deceptive within the meaning of this act. The scope of such trade conference shall be limited to the phase of the insurance business directly represented by those persons or insurers notified by the commissioner or attending such conference upon notice from the commissioner.

(3) The commissioner shall give due consideration to the recommendations, or conclusions of any such trade practice conference which has acted under the authority of this section; and if he shall find that the same is in the public interest and does not, in his opinion, sanction, aid or abet a practice contrary to law, he may accept such recommendations, or conclusions and promulgate them in the form of a rule, regulation or standard, enforceable under the provisions of this act, applicable thereto, until modified or rescinded as herein

provided. Before any such rule, regulation or standard shall be promulgated, the commissioner shall advise all persons or insurers who would be directly affected thereby and shall give 30 days' notice in writing to such persons or insurers to file their objections, if any. Any rule, regulation or standard so arrived at shall be filed and shall become effective in accordance with the statutes of Michigan governing rules of administrative agencies.

(4) Trade practice rules, regulations or standards promulgated under this section may be amended or rescinded by the commissioner upon his own motion, or upon motion of any directly affected person or insurer, after the commissioner shall have given reasonable notice to the persons or insurers directly affected thereby, and after there has been a hearing, if requested by such affected persons or insurers, concerning such amendment or rescission: Provided, That such request is made in writing within 30 days after notice is given.

(5) This section shall not be construed as limiting any other provision of the insurance code.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

Administrative rules: R 500.402 et seq. of the Michigan Administrative Code.

500.2049 Unfair methods of competition or deception; liability under other state laws.

Sec. 2049. No order of the commissioner under this uniform trade practices act or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2050 Construction of chapter.

Sec. 2050. The enumeration in this uniform trade practices act of powers vested in the commissioner or of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or any court of review but the provisions of such act are in all respects cumulative of and supplemental to the insurance code and all other applicable Michigan statutes or common law.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2055 Misrepresentation of insurer's financial condition as misdemeanor; penalty; civil liability of officers and agents; forfeiture of chartered privileges; publication of true statement; other violations as misdemeanor; penalty.

Sec. 2055. (1) If any insurance corporation organized or operating within this state shall, by means of any advertisement, circular, notice or statement, printed or written, published, posted or circulated through and by the agency of any officer, agent or other person, or by any other means, falsely represent or hold out to the public that the capital stock of such company is greater than its actual amount, or that the accumulation of such insurer is greater than its actual cash or market value, or shall represent the financial condition to be other than it actually is or was at the time of making such statement, every director or officer of such insurer guilty of any participation therein shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding $100.00, or by imprisonment in the county jail not exceeding 3 months, or by both such fine and imprisonment, in the discretion of the court.

(2) If any such insurer, after such false advertisement, circular, notice or statement shall have been published, posted or circulated, shall receive any money, note or obligation for the payment of money, from any person, as a consideration for any insurance made or policy issued or to be issued by such insurer, such money, note or obligation shall be deemed and taken to have been received without consideration; and the directors of such insurer, and any officer or agent receiving the same, shall be jointly and severally liable in an action of assumpsit for the repayment thereof, and shall also, in like manner, be liable to the person insured for the amount of the insurance.

(3) Any such false advertisement, circular, notice or statement shall be sufficient ground for proceedings in any court of competent jurisdiction to forfeit the chartered privileges of such insurer, or for an order prohibiting the further transaction of business by it within this state: Provided, That no such forfeiture shall be declared on that ground solely, if it shall appear either that the publication was by mistake, or that the directors, officers or agents making the same have been dismissed from the service of such insurer, and that the insurer has published such true statement of its affairs as may have been directed by the commissioner, or such court.

(4) Any officer or agent guilty of any intentional violation of this section, or who aids or abets others in

any such violation, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000.00, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment, in the discretion of the court.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2057 Misrepresentation of insurer's identity prohibited; advertising by fire insurer not limited; violation as misdemeanor; penalty.

Sec. 2057. (1) No insurer or department or general agency of an insurer, doing business in this state, or its officers or agents, shall issue any false or misleading advertisement through newspapers or other periodicals, or any false or misleading representations by signs, cards, letterheads, or other stationery, tending to conceal or misrepresent the true identity of the issuer or insurer which is carrying the liability under any policy issued in this state. Nor shall any insurer or department or general agency of an insurer, doing business in this state, issue any advertisement or representation of any character, giving the appearance of a separate or independent insuring organization on the part of any department or general agency, and the type or lettering used in any advertisement or representation shall set forth the name of the company or organization assuming the risk more conspicuously than that of any department or general agency.

(2) Nothing herein contained shall be construed as limiting the right of any representative of a fire insurance company to advertise his own individual business.

(3) Any violation of this section shall be punished by a fine not exceeding $500.00, as a misdemeanor.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2059 Maintaining or operating office for transaction of insurance business; using name of insurer in conducting or advertising business not related to business of insurance.

Sec. 2059. (1) Except as otherwise provided in this act, a person shall not maintain or operate an office in this state for the transaction of the business of insurance or use the name of an insurer, fictitious or otherwise, in conducting or advertising a business that is not related or connected with the business of insurance as regulated in this act.

(2) Subsection (1) does not prohibit an insurance producer from marketing or transacting any of the following:

(a) Subject to the health benefit agent act, 1986 PA 252, MCL 550.1001 to 550.1020, health care coverage provided by a health maintenance organization.

(b) Subject to the health benefit agent act, 1986 PA 252, MCL 550.1001 to 550.1020, dental care coverage provided by a dental care corporation regulated under 1963 PA 125, MCL 550.351 to 550.373.

(c) Administrative services of a third party administrator regulated under the third party administrator act, 1984 PA 218, MCL 550.901 to 550.960.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1986, Act 253, Eff. Mar. 31, 1987;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

Popular name: Act 218

500.2060 Repealed. 1986, Act 253, Eff. Dec. 31, 1987.

Compiler's note: The repealed section pertained to marketing or transacting health care coverage.

Popular name: Act 218

500.2062 False reports; forfeiture of franchise or right to do business; violation by officers or agents as misdemeanor; penalty.

Sec. 2062. (1) It shall be unlawful for any person in any report required by law to be made by any insurance corporation, organized or authorized to do business in this state, to make any such statement or report as to fraudulently conceal the real facts, and if intentionally so made shall, if the insurer is organized under the laws of this state, be cause of forfeiture of the corporate franchise, and if the insurer is organized under the laws of any other state or government, be cause for revocation of such insurer's authority to do business in this state by the commissioner, after hearing granted.

(2) Any officer or agent guilty of any such fraudulent statement or of any intentional violation of this section, or who aids or abets others in any such violation, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $1,000.00, or by imprisonment not exceeding 6 months, or by both such fine and imprisonment, in the discretion of the court.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2064 Misrepresentation of terms of policy; future benefits or dividends prohibited; illegal inducements; violation; revocation of certificate or license; penalties.

Sec. 2064. (1) No insurer, or any officer, director, agent or solicitor thereof shall issue, circulate or use or cause or permit to be issued, circulated or used, any written or oral statement or circular misrepresenting the terms of any policy issued or to be issued by such insurer, or misrepresenting the benefits or privileges promised under any such policy, or estimating the future dividends payable under any such policy.

(2) No insurer, officer, director, agent or solicitor, or any person, firm, association or corporation, shall make any misrepresentation or incomplete comparison of policies, oral, written or otherwise, to any person insured in any insurer for the purpose of inducing or tending to induce such person to take out a policy of insurance or for the purpose of inducing or tending to induce a policyholder in any insurer to lapse, forfeit or surrender his insurance therein, and to take out a policy of insurance in another like insurer.

(3) Upon satisfactory evidence of any violation of the provisions of this section by any insurer, its officers, solicitors or agents, or any insurance broker, the commissioner shall forthwith revoke the certificate of authority or license of such insurer, its officers, solicitors or agents, after following the procedures provided for in section 2068, and no certificate of authority or license shall be issued to such insurer, officers, agents or solicitors, within 1 year from the date of such revocation.

(4) Violations of this section shall also be subject to the penalties provided for in section 2069.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2066 Rebates and illegal inducements prohibited; violation; revocation of license or certificate; penalties.

Sec. 2066. (1) No insurer, by itself or any other party, and no insurance agent or solicitor, personally or by any other party, transacting any kind of insurance business shall offer, promise, allow, give, set off or pay, directly or indirectly, any rebate of, or part of, the premium payable on the policy or on any policy, or agent's commission thereon, or earnings, profit, dividends or other benefit founded, arising, accruing or to accrue thereon, or therefrom, or any other valuable consideration or inducement to or for insurance, on any risk in this state now or hereafter to be written, which is not specified in the contract of insurance; nor shall any such insurer, agent or solicitor, personally or otherwise, offer, promise, give, sell, or purchase any stocks, bonds, securities or any dividend or profits accruing or to accrue thereon, or other thing of value whatsoever as inducement to insurance or in connection therewith which is not specified in the policy contract.

(2) Upon satisfactory evidence of the violation of this section by any insurer, its officers, solicitors or agents, or any insurance broker, the commissioner shall revoke the license or certificate of authority of such offending insurer, its officers, solicitors or agents, after following the procedures provided for in section 2068; and no license or certificate of authority shall be issued to such insurer, officers, agents, solicitors or brokers, within 1 year from the date of such revocation.

(3) Violations of this section shall also be subject to the penalties provided for in section 2069.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2068 Revocation of license or certificate; notice; hearing; order; review by supreme court.

Sec. 2068. (1) Before any such license or certificate is revoked, as provided in sections 2064 and 2066 hereof, the commissioner shall notify the holder thereof in writing of the complaint against him, and require such person on a date named, not less than 15 days after service of said notice, to appear for a hearing before him at the insurance department, and such certificate shall not be revoked until after a full hearing or an opportunity therefor has been granted as herein provided; and no such revocation shall take effect until 10 days after such order has been made by the commissioner and the holder thereof notified in writing of such action.

(2) Any such order may be reviewed by the supreme court if the appeal for such review is taken within the 10 days immediately following the giving of the notice of the making of said order, and pending such appeal for review, such license or certificate of authority shall be deemed to be in full force and effect and until the final determination of such appeal, but in case the order of revocation by the commissioner is sustained the period of such revocation shall date from the time such appeal is determined.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2069 Violation of MCL 500.2064 or 500.2066 as misdemeanor; penalty.

Sec. 2069. An insurer, agent, solicitor, or other person that violates section 2064 or 2066 is guilty of a misdemeanor. On conviction of violating section 2066, the offender must be sentenced to pay a fine of not more than $100.00 for each violation, or in the discretion of the court, to imprisonment in the county jail of the county in which the offense is committed. On conviction of violating section 2064, the offender must be sentenced to pay a fine of not more than $2,000.00 for each violation, or in the discretion of the court, to imprisonment in the county jail of the county in which the offense is committed.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1989, Act 306, Imd. Eff. Jan. 3, 1990;—Am. 2019, Act 21, Imd. Eff. June 11, 2019.

Popular name: Act 218

500.2070 Acceptance of rebate or illegal inducement prohibited; reduction of insurance; penalty.

Sec. 2070. (1) No insured person or party shall receive or accept, directly or indirectly, any rebate of premium or part thereof, or agent's, solicitor's or broker's commission thereon, payable on the policy, or on any policy of insurance, or any favor or advantage or share in the dividend or other benefit to accrue thereon, or any valuable consideration or inducement, not specified in the policy contract of insurance.

(2) The amount of the insurance whereon the insured has knowingly received or accepted, either directly or indirectly any rebate of the premium or agent's, solicitor's or broker's commission thereon, shall be reduced in such proportion as the amount or value of such rebate, commission, dividend, or other consideration so received by the insured bears to the total premium on such policy, and any person insured, in addition to having the insurance reduced, shall be guilty of a misdemeanor, and upon conviction thereof shall be sentenced to pay a fine of not more than $100.00.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2074 Repealed. 2000, Act 486, Imd. Eff. Jan. 11, 2001.

Compiler's note: The repealed section pertained to political contributions by insurers.

Popular name: Act 218

500.2075 Fire, marine or inland insurer's contract in restraint of competition prohibited; acts by agent prohibited; other prohibitions.

Sec. 2075. (1) No fire, fire and marine, or marine and inland insurance insurer not organized under the laws of this state, but doing business therein, shall either directly or indirectly enter into any contract, agreement, arrangement, or undertaking of any nature or kind whatever with any other insurer, the object or effect of which is to prevent open and free competition between it and said insurer, or between the agents of their respective insurers in the business transacted in this state, or in any part thereof.

(2) It shall not be lawful for the agent of any fire, fire and marine, or marine and inland insurance insurer not organized under the laws of this state, but doing business therein, to enter into any contract, agreement, arrangement, or undertaking of any nature or kind whatever with the agent of any other such insurer, the object or effect of which is to prevent free and open competition between the insurers represented by said agents in the business transacted in this state, or in any part thereof.

(3) No person or persons as agent, solicitor, broker, surveyor, or in any other capacity, shall transact or aid in any manner, directly or indirectly, in transacting or soliciting within this state, business for any fire, fire and marine or marine and inland insurance company or association not incorporated by the laws of this state, or in any other capacity to procure or assist to procure a fire or inland marine policy or policies of insurance in any company or association which is violating the provisions of this section, or whose agent or agents are violating the provisions of subsection (2) hereof.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2077 Creditors; favoritism of insurer prohibited; construction of section, violation, penalty.

Sec. 2077. (1) No person shall require, as a condition precedent to the lending of money or extension of credit, or any renewal thereof, that the person, to whom such money or credit is extended or whose obligation the creditor is to acquire or finance, negotiate any policy or contract of insurance through a particular insurance agent or with a particular insurer. No person engaged in the business of financing real or personal property other than motor vehicles or of lending money or extending credit, shall directly or indirectly require

that the borrower pay a consideration of any kind to substitute the insurance policy of 1 insurer for that of another.

(2) If an instrument requires that a purchaser, mortgagor or borrower furnish insurance of any kind on real property being conveyed or which is collateral security to a loan, the vendor, mortgagee or lender shall refrain from using or disclosing any such information to his own advantage or to the detriment of the purchaser, mortgagor, borrower, insurance company or agency complying with such requirement.

(3) This section shall not be construed as forbidding the vendor or creditor from exercising a reasonable right to approve or disapprove the insurance selected by the debtor for protection of the property securing the credit or lien, but the vendor or creditor shall not disapprove a policy which contains coverages in excess of the basic coverage required by the vendor or creditor.

(4) Nothing in this section shall forbid any insurer from requiring as a condition precedent for the lending of its own funds that the debtor insure his own life for a reasonable amount with such insurer.

(5) Each violation of this section shall be a misdemeanor, punishable by a fine of not more than $100.00.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1961, Act 153, Eff. Sept. 8, 1961;—Am. 1962, Act 89, Eff. Mar. 28, 1963.

Popular name: Act 218

500.2078 Agreements as to placements of insurance; regulations.

Sec. 2078. Except as contained in the policy and the usual agreement for other insurance, no insurance company, insurer, corporation, partnership, or individual shall make any contract or agreement with any person insured or to be insured that the whole or any part of any insurance which is subject to the provisions of chapter 26 of this code (fire and inland marine rates), shall be placed by any particular corporation, partnership, or individual, or be written by any particular company, insurer, agent or any group of companies, insurers or agents. Any contracts made in contravention of this section, shall be null and void.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2080 Life insurance company, accident insurance company, sick or funeral benefit company; prohibited conduct with regard to funeral establishment, cemetery, or seller as limited life insurance producer; authorization to sell associated life insurance policies or annuity contracts; sale of cemetery goods or services or funeral goods or services; advising customers; application form; list; statement; sufficiency of death benefit; designation of certain beneficiaries prohibited; money payments required; medical, surgical, or hospital service; conditions and criteria regarding predeath assignment of proceeds of life insurance policy or annuity contract; false or misleading statements; false, misleading, deceptive, or unfair advertising; rules; protection against certain solicitations; signed statement authorizing release of assignment proceeds; failure to sign authorization statement; conditions to sale or solicitation of sale of life insurance policy or annuity contract with intention of having purchaser assign proceeds; action to enforce compliance; damages; violation as misdemeanor; separate offenses; penalties; creation, administration, and use of funeral consumers education and advocacy fund; definitions.

Sec. 2080. (1) A life or accident insurer authorized to do business in this state shall not own, manage, supervise, operate, or maintain a funeral establishment or permit its officers, agents, or employees to own or maintain a funeral establishment.

(2) Except as otherwise provided in subsection (6), a life insurance company, a sick or funeral benefit company, or a company, corporation, or association engaged in a similar business shall not contract or agree with a funeral director, undertaker, or mortuary to the effect that the funeral director, undertaker, or mortuary conducts the funeral of a person insured by the company, corporation, or association.

(3) A funeral establishment, cemetery, or seller must not be licensed as an insurance producer under chapter 12 other than as a limited licensee under this subsection and chapter 12. A funeral establishment, cemetery, or seller must not be a limited life insurance producer unless the funeral establishment, cemetery, or seller provides a written assurance to the director at the time of application for the limited licensure and with each license renewal that he or she has read and understands the conditions contained in subsection (9) and agrees to comply with those conditions. A person licensed as a limited life insurance producer under this subsection and chapter 12 is authorized and licensed to sell only an associated life insurance policy or annuity contract and is not authorized or licensed to sell any other type of insurance policy or annuity contract. A person licensed as a limited life insurance producer under this subsection and chapter 12 to sell associated life insurance policies or annuity contracts shall not sell cemetery goods or services or funeral goods or services

unless all of the conditions provided in subsection (9) are met. A person licensed as a life insurance producer, other than a limited life insurance producer, shall not sell cemetery goods or services or funeral goods or services or be associated with a funeral establishment, cemetery, or seller. Notwithstanding any other provision in this act, a funeral establishment, cemetery, or seller may advise customers or potential customers of the availability of life insurance, the proceeds of which may be assigned under subsection (6), and may provide application forms and other information regarding that life insurance. If an application form is provided, the funeral establishment, cemetery, or seller shall also provide to the person a list annually prepared by the director that lists the life insurance companies that offer Michigan associated life insurance policies or annuity contracts. The list must include the name, address, and telephone number of a producer for each of the life insurance companies listed. The list also must include a statement that a person who is insured under any life insurance policy or annuity contract may assign all or a portion of the proceeds, not to exceed the amount provided in subsection (6)(g), of the existing life insurance policy or annuity contract for the payment of funeral services or goods or cemetery services or goods to any funeral establishment, cemetery, or seller that has accepted any other assignment of an associated life insurance policy or annuity contract during that calendar year. The funeral establishment, cemetery, or seller shall accept an assignment of the proceeds from any associated or nonassociated life insurance policy or annuity contract under subsection (6), and this requirement on the funeral establishment, cemetery, or seller must be set forth in the statement prepared by the director. The assignor or the person or persons legally entitled to make funeral arrangements for the person whose life was insured may contract with the funeral establishment, cemetery, or seller of his or her choice for the rendering of the funeral goods or services or cemetery goods or services. Except as otherwise provided in this subsection, each associated life insurance policy or annuity contract delivered or issued for delivery in this state must have a death benefit that is sufficient to cover the initial contract price of the cemetery goods or services or funeral goods or services. However, a life insurer may provide an associated life insurance policy or annuity contract with a limited death benefit to an insured who does not meet insurance requirements for a policy that provides immediate full coverage or who chooses not to answer medical questions required for a policy that provides immediate full coverage. An associated life insurance policy or annuity contract with a limited death benefit must disclose in boldfaced type that the death benefit will not be sufficient to cover the initial contract price for the cemetery goods and services or funeral goods and services for a period of up to 2 years if the premium is not paid in full and that during this period the price for those goods and services may increase at a rate higher than the increase in the Consumer Price Index for this period.

(4) A person must not be designated as the beneficiary in any policy of life or accident insurance under which the beneficiary, directly or indirectly, must, in return for all or a part of the proceeds of the policy of insurance, furnish cemetery services or goods or funeral services or goods in connection with the policy.

(5) Except as otherwise provided in subsection (6), a life or accident or sick or funeral benefit company, or any other person, shall not offer or furnish goods or services or anything but money to its insureds or the insured's heirs, representatives, attorneys, relatives, associates, or assigns in connection with, or by way of encumbrance, assignment, payment, settlement, satisfaction, discharge, or release of, an insurance policy. However, this subsection does not prohibit a company, corporation, or association from furnishing medical, surgical, or hospital service.

(6) Notwithstanding any other provision in this act, a life insurer may write a life insurance policy or annuity contract that is subject to an assignment of the proceeds of the insurance policy or annuity contract as payment for cemetery services or goods or funeral services or goods as provided in this subsection regardless of the relationship between the life insurer and the assignee. An assignment of the proceeds of the insurance policy or annuity contract under this subsection must be in writing on a form approved by the director. A predeath assignment of the proceeds of a life insurance policy or annuity contract as payment for cemetery services or goods or funeral services or goods is void unless all of the following conditions and criteria are met:

(a) The assignment is an inseparable part of the contract for the cemetery services or goods or funeral services or goods for which the assigned proceeds serve as payment.

(b) The assignment is revocable by the assignor, the assignor's successor, or if the assignor is the insured, the representative of the insured's estate before the cemetery services or goods or funeral services or goods are provided.

(c) The contract for funeral services or goods or cemetery services or goods and the assignment provide that on revocation of the assignment, the contract for the cemetery services or goods or funeral services or goods is revoked and cemetery services or goods or funeral services or goods may be obtained from any cemetery, funeral establishment, or seller.

(d) The assignment contains the following disclosure in boldfaced type:

"This assignment may be revoked by the assignor or assignor's successor or, if the assignor is also the insured and deceased, by the representative of the insured's estate before the cemetery services or goods or funeral services or goods are provided. If the assignment is revoked, the death benefit under the life insurance policy or annuity contract will be paid in accordance with the beneficiary designation under the insurance policy or annuity contract."

(e) The assignment provides for all of the following:

(*i*) That the actual price of the cemetery services or goods or funeral services or goods delivered at the time of death may be more than or less than the price set forth in the assignment.

(*ii*) For the assignment of an associated life insurance policy or annuity contract, that any increase in the price of the cemetery services or goods or funeral services or goods will not exceed the ultimate death benefit under the life insurance policy or annuity contract. This requirement does not apply to an insurance policy or annuity contract with a limited death benefit during the period that the limited death benefit is in effect. During this period, the beneficiary and the seller are not obligated to fulfill the terms of the contract for the cemetery services or goods or funeral services or goods for which the assigned proceeds serve as payment and the assignment of the associated life insurance policy or annuity contract may be revoked.

(*iii*) For the assignment of a nonassociated life insurance policy or annuity contract, that any increase in the price of the cemetery services or goods or the funeral services or goods must not exceed the Consumer Price Index or the retail price list in effect when the death occurs, whichever is less.

(*iv*) That if the ultimate death benefit under the life insurance policy or annuity contract exceeds the price of the cemetery services or goods or funeral services or goods at the time of performance, the excess amount must be distributed to the beneficiary designated under the life insurance policy or annuity contract or the insured's estate.

(*v*) That any addition to or modification of the contract for cemetery services or goods or funeral services or goods does not revoke the assignment or the contract for the cemetery services or goods or funeral services or goods that are not affected by the addition or modification for which the assigned proceeds are payment unless the assignment is revoked.

(f) The assignment is limited to that portion of the proceeds of the life insurance policy or annuity contract that is needed to pay for the cemetery services or goods or funeral services or goods for which the assignor has contracted.

(g) For an associated life insurance policy or annuity contract, the death benefit of the life insurance policy or annuity contract subject to the assignment does not exceed $12,720.00 when the first premium payment is made on the life insurance policy or annuity contract. For a nonassociated life insurance policy or annuity contract, the initial amount of proceeds assigned does not exceed $12,720.00. The maximum amounts in this subdivision must be adjusted annually in accordance with the Consumer Price Index.

(h) The assignment must contain the dispute resolution rights in subsection (8). After the death of the insured but before the cemetery services or goods or funeral services or goods are provided, the funeral establishment, cemetery, or seller shall provide to a representative of the insured's estate a separate document entitled, "dispute resolution disclosure statement," that must clearly set forth the dispute resolution rights in subsection (8). The dispute resolution disclosure statement must be filed with the director and is considered approved unless disapproved within 30 days after the submission. The language used to set forth the dispute resolution rights in subsection (8) must be written in a manner that is understood by a person of ordinary intelligence.

(i) The assignor and not the assignee is responsible for making the premium payments due on the life insurance policy or annuity contract. This subdivision does not apply to an insurance producer when acting as a fiduciary under section 1207.

(j) After the death of the insured but before the cemetery services or goods or funeral services or goods are provided, the representative of the insured's estate is provided with a current price list for the cemetery services or goods or funeral services or goods provided under the assignment.

(k) At the time the assignment is made, the assignee complies with the price disclosure rules of the Federal Trade Commission prescribed in 16 CFR part 453 whether or not the rules by their own terms apply to the offering.

(*l*) At the time the assignment is made, the assignor certifies that the insured does not have in effect other life insurance policies or annuity contracts that have been assigned as payment for cemetery goods or services or funeral goods or services that together with the additional assignment would have an aggregate face value in excess of the limitation provided in subdivision (g).

(m) For the assignment of a nonassociated life insurance policy or annuity contract, the assignment complies with both of the following:

(*i*) The assignment is sufficient to cover the initial contract price of the cemetery goods or services or

funeral goods or services.

(*ii*) The assignment provides that any increase in the price of the cemetery services or goods or the funeral services or goods must not exceed the Consumer Price Index or the retail price list in effect when the death occurs, whichever is less.

(7) An insurer or an insurance producer shall not make a false or misleading statement, oral or written, regarding an assignment subject to subsection (6) or regarding the rights or obligations of any party or prospective party to the assignment. An insurer or an insurance producer shall not advertise or promote an assignment subject to subsection (6) in a manner that is false, misleading, deceptive, or unfair. The director shall promulgate rules regulating the solicitation of plans promoting assignments subject to subsection (6) to protect against solicitations that are intimidating, vexatious, fraudulent, or misleading, or which take unfair advantage of a person's ignorance or emotional vulnerability.

(8) After cemetery services or goods or funeral services or goods that are subject to an assignment under this section are provided, the funeral establishment, cemetery, or seller shall provide to a representative of the insured's estate a statement to be signed by the representative of the insured's estate authorizing the release of the assignment proceeds for the payment of the cemetery services or goods or funeral services or goods. The insurer shall release to the funeral establishment, cemetery, or seller the assignment proceeds on receipt of the authorization statement signed by a representative of the insured's estate. If a representative of the insured's estate fails to sign the authorization statement, all of the following apply:

(a) The funeral establishment, cemetery, or seller shall provide the representative of the insured's estate with a dispute resolution notice, a copy of which is to be sent to the insurer and the director that states all of the following:

(*i*) That the funeral establishment, cemetery, or seller has provided the cemetery services or goods or funeral services or goods.

(*ii*) That a representative of the insured's estate has refused to authorize the insurer to release the assignment proceeds for the payment of the cemetery services or goods or funeral services or goods.

(*iii*) That a representative of the insured's estate may seek arbitration to resolve the payment dispute.

(b) On the receipt of the dispute resolution notice described in subdivision (a), the insurer shall retain the assignment proceeds for 30 days. The insurer shall release the assignment proceeds to the funeral establishment, cemetery, or seller if after the expiration of the 30 days the insurer is not informed that arbitration proceedings have been commenced, or pursuant to the award of the arbitrator.

(c) The funeral establishment, cemetery, seller, or a representative of the insured's estate may commence arbitration proceedings to determine the disposition of the assignment proceeds. Arbitration must be conducted under the rules and procedures of the American Arbitration Association. Expenses of the arbitration must be shared equally by the insured's estate and the assignee unless otherwise ordered by the arbitrator.

(d) This subsection does not limit the right of any party involved in the payment dispute to seek other recourse permitted by law.

(9) A life insurance producer shall not sell or solicit the sale of a life insurance policy or annuity contract with the intention of having the purchaser assign the proceeds of the policy or contract to a funeral establishment, cemetery, or seller with which the producer is associated unless all of the following conditions are met:

(a) The producer discloses in writing to the purchaser the nature of his or her association with the funeral establishment, cemetery, or seller and that both the funeral establishment, cemetery, or seller and the producer will or may profit from the transaction, if that is the case.

(b) A funeral establishment, cemetery, or seller that accepts assignments under subsection (6) also offers to sell or provide cemetery goods or services or funeral goods or funeral services under prepaid funeral contracts as provided in the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235, or under the trust provisions of the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543.

(c) If the contemplated assignment is to be made to pay the cost of cemetery goods or services or funeral goods or funeral services, the producer discloses in writing to the purchaser that the cemetery goods or services or funeral goods or services may also be purchased before death by making payment directly to a funeral establishment, cemetery, or seller who will hold funds in escrow for the benefit of the purchaser under the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235, or in trust under the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543. The written disclosure must also state that on cancellation of the prepaid funeral contract, the purchaser is entitled to a refund of at least 90% of the principal and income earned.

(d) The sale of cemetery goods or services or funeral goods or services is not conditioned on the purchaser buying or agreeing to buy a life insurance policy or annuity contract or on the assignment of the proceeds of

the policy or contract to the funeral establishment, cemetery, or seller.

(e) The sale of a life insurance policy or annuity contract is not conditioned on the purchaser buying or agreeing to buy cemetery goods or services or funeral goods or services from the funeral establishment, cemetery, or seller with which the producer is associated or on the assignment of the proceeds of the policy or contract to the funeral establishment, cemetery, or seller.

(f) A discount from the current price of cemetery goods or services or funeral goods or services is not offered as an inducement to purchase or assign a life insurance policy or annuity contract.

(g) If the life insurance policy or annuity contract sold by the producer is canceled by the purchaser within 10 days after the receipt of the policy or annuity contract, a full refund of all premiums is paid to the purchaser.

(h) The producer discloses in writing to the purchaser that the funeral establishment, cemetery, or seller with which the producer is associated will accept assignments of life insurance policies or annuity contracts sold by any other licensed producer.

(10) The director or any other person, in order to force compliance with subsection (6) or (7), may bring an action in a circuit court in any county in which the assignee or insurance producer or any other person has solicited or sold a life insurance policy or annuity contract that is assigned under subsection (6), whether or not that person has purchased the life insurance policy or annuity contract or is personally aggrieved by a violation of this section. The court may award damages and issue equitable orders in accordance with the Michigan court rules to restrain conduct in violation of this section.

(11) A person that violates this section is guilty of a misdemeanor, punishable on conviction by a fine of not more than $1,000.00 or by imprisonment for not more than 6 months, or both, within the discretion of the courts. Each violation is a separate offense.

(12) In addition to the penalty provided in subsection (11), if, after a hearing conducted under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the director determines a person has violated this section, the director may order the person to pay a civil fine of not more than $10,000.00 for each violation and may also impose other sanctions provided under chapter 12. The money collected under this subsection must be deposited in the funeral consumers education and advocacy fund. The funeral consumers education and advocacy fund is created within the department. The director shall administer the fund. The money in the fund must be used to do both of the following:

(a) To promote the education of consumers concerning the prearrangement and purchase of cemetery or funeral services or goods through the purchase and assignment of life insurance or annuity contracts.

(b) To provide legal assistance to persons who were injured as a result of a violation of this section.

(13) For purposes of this section, a life insurance producer is associated with a funeral establishment, cemetery, or seller if any of the following apply:

(a) The producer is a funeral establishment, cemetery, or seller.

(b) The producer owns an interest, directly or indirectly, in a corporation or other entity that holds an interest in a funeral establishment, cemetery, or seller.

(c) The producer is an officer, employee, or agent of a funeral establishment, cemetery, or seller.

(d) The producer is an officer, employee, or agent of a corporation or other entity that holds an interest, either directly or indirectly, in a funeral establishment, cemetery, or seller, or in a corporation or other entity that holds an interest, directly or indirectly, in a corporation or other entity that holds an interest in a funeral establishment, cemetery, or seller.

(14) As used in this section:

(a) "Associated life insurance policy or annuity contract" means a life insurance policy or annuity contract that is marketed, designed, and intended to be assigned as payment for cemetery goods or services or funeral goods or services.

(b) "Casket" means any box or container consisting of 1 or more parts in which a dead human body is placed before interment, entombment, or cremation that may or may not be permanently interred, entombed, or cremated with the dead human body. Casket includes a permanent interment or entombment receptacle designed or intended for use without a cemetery burial vault or other outside container.

(c) "Catafalque" means an ornamental or decorative object or structure placed beneath, over, or around a casket, vault, or a dead human body before final disposition of the dead human body.

(d) "Cemetery" means that term as defined in section 2 of the cemetery regulation act, 1968 PA 251, MCL 456.522, regardless of whether the cemetery is regulated under the cemetery regulation act, 1968 PA 251, MCL 456.521 to 456.543, or an officer, agent, or employee of a cemetery.

(e) "Cemetery burial vault or other outside container" means a box or container used solely at the place of interment to permanently surround or enclose a casket and to support the earth above the casket after burial.

(f) "Cemetery goods" means land or interests in land, crypts, lawn crypts, mausoleum crypts, or niches that

are sold by a cemetery. Cemetery goods also include cemetery burial vaults or other outside containers, markers, monuments, urns, and merchandise items used for the purpose of memorializing a decedent and placed on or in proximity to a place of interment or entombment of a casket, catafalque, or vault or to a place of inurnment that are sold by a cemetery.

(g) "Cemetery services" means those services customarily performed by a cemetery.

(h) "Combination unit" means any product consisting of a unit or a series of units designed or intended to be used together as both a casket and as a permanent burial receptacle.

(i) "Consumer Price Index" means the annual average percentage increase in the Detroit Consumer Price Index for all items for the prior 12-month period as reported by the United States Department of Labor and as certified by the director.

(j) "Funeral establishment" means a funeral establishment or a person that is engaged in the practice of mortuary science as those terms are defined in section 1801 of the occupational code, 1980 PA 299, MCL 339.1801, or an officer, agent, or employee of the funeral establishment or person.

(k) "Funeral goods" means items of merchandise that will be used in connection with a funeral or an alternative to a funeral or final disposition of human remains including, but not limited to, caskets, other burial containers, combination units, and catafalques. Funeral goods does not include cemetery goods.

(*l*) "Funeral services" means services customarily performed by a person who is licensed under article 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812. Funeral services includes, but is not limited to, care of human remains, embalming, preparation of human remains for final disposition, professional services relating to a funeral or an alternative to a funeral or final disposition of human remains, transportation of human remains, limousine services, use of facilities or equipment for viewing human remains, visitation, memorial services, or services used in connection with a funeral or alternative to a funeral, coordinating or conducting funeral rites or ceremonies, and other services provided in connection with a funeral, alternative to a funeral, or final disposition of human remains.

(m) "Limited death benefit" means the sum payable on the insured's death during not more than the first 2 years that an associated life insurance policy or annuity contract is in effect that is less than the amount necessary to cover the initial contract price of cemetery goods and services or funeral goods and services, but that provides for a minimum benefit as follows:

(*i*) During the first year of the contract, not less than 25% of the initial contract price of cemetery goods and services or funeral goods and services.

(*ii*) During the second year of the contract, not less than 50% of the initial contract price of cemetery goods and services or funeral goods and services.

(n) "Nonassociated life insurance policy or annuity contract" means a life insurance policy or annuity contract that is not marketed to be assigned, designed to be assigned, or intended to be assigned as payment for cemetery goods or services or funeral goods or services.

(o) "Representative of the insured's estate" means the person or persons legally entitled to make the funeral arrangements for the person whose life was insured.

(p) "Seller" means a person that offers to sell cemetery goods or services or funeral goods or services or an agent, officer, or employee of the person.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1986, Act 318, Eff. June 1, 1987;—Am. 2008, Act 513, Imd. Eff. Jan. 13, 2009;—Am. 2023, Act 167, Imd. Eff. Oct. 19, 2023.

Popular name: Act 218

500.2082 Racial discrimination by life insurers prohibited; violation; penalty.

Sec. 2082. (1) No life insurer doing business in this state shall make any distinction or discrimination between white persons and colored persons, wholly or partially of African descent, as to the premiums or rates charged for policies upon the lives of such persons, or in any other manner whatever; nor shall any such insurer demand or require a greater premium from such colored persons than is at that time required by such insurer from white persons of the same age, sex, general condition of health and prospect of longevity; nor make or require any rebate, diminution or discount upon the amount to be paid on such policy in case of death of such colored person insured; nor insert in the policy any condition, nor make any stipulation whereby such person insured shall bind himself or his heirs, executors, administrators and assigns to accept any sum less than the full amount or value of such policy in case of a claim accruing thereon by reason of the death of such person insured, other than such as are imposed on white persons in similar cases; and any such stipulations or conditions so made or inserted shall be void.

(2) Any insurer which violates any of the provisions of this section shall forfeit to the state the sum of $500.00 for each violation, to be recovered by the attorney general by appropriate action in any court of competent jurisdiction, and any judgment therefor may be collected in the same manner as is herein provided

for collecting judgments rendered in favor of policyholders. And any officer or agent who violates any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail not exceeding 1 year, or by a fine of not less than $50.00, and not exceeding $500.00, or by both such fine and imprisonment, in the discretion of the court.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2086 False report by physician as to life or casualty insurance applicant; penalty, civil liability to insurer.

Sec. 2086. Any physician who, as medical examiner for any life or casualty insurer, or as the reference of, or medical examiner for any person seeking insurance therein, shall knowingly make any false statement or report to the insurer, or any officer thereof, concerning the bodily health or condition of any applicant for insurance, or concerning any other matter or thing which might affect the propriety or prudence of granting such insurance, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be liable to a fine not exceeding $1,000.00, or to imprisonment in the county jail not exceeding 3 months, in the discretion of the court. And such physician shall also be liable to the insurer in an action on the case for the full amount of any insurance obtained from such insurer by means or through the assistance of such false statement or report.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2088 False report by physician; claim for death, sickness or disability benefits, penalty.

Sec. 2088. Any agent, collector, physician, insured or other person who shall make, present or cause to be presented to any insurer any false, dishonest or fraudulent certificate or report of death, sickness or disability of any kind or nature, or any false, dishonest or fraudulent claim for any death, sickness or disability benefit, or claim for payment to or against any such insurer, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be liable to a fine not exceeding $1,000.00, or to imprisonment in the county jail not exceeding 3 months, in the discretion of the court.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.2091 Unlawful advertising; notice to supervisory official.

Sec. 2091. No unauthorized foreign or alien insurer shall make, issue, circulate or cause to be made, issued or circulated to residents of this state any estimate, illustration, circular, pamphlet or letter, or cause to be made in any newspaper, magazine or other publication, or over any radio or television station, any announcement or statement to such residents misrepresenting its financial condition or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon in violation of sections 2001 to 2050 of this act, and whenever the commissioner has reason to believe that any such insurer is engaging in unlawful advertising, he shall give notice of such fact by certified mail to the insurer and to the insurance supervisory official of the domiciliary state of the insurer. For the purpose of this section, the domiciliary state of an alien insurer is the state of entry or the state of the principal office in the United States.

History: Add. 1961, Act 20, Eff. Sept. 8, 1961.

Popular name: Act 218

500.2092 Unlawful advertising; failure to cease and desist, procedure.

Sec. 2092. If after 30 days following the giving of the notice mentioned in section 2091 the insurer has failed to cease making, issuing or circulating such false misrepresentations or causing the same to be made, issued or circulated in this state, and if the commissioner has reason to believe that a proceeding by him in respect to such matters would be to the interest of the public, and that the insurer is issuing or delivering contracts of insurance to residents of this state or collecting premiums on such contracts or doing any of the acts enumerated in section 2093, he shall take action against the insurer under the provisions of sections 2001 to 2050 of this act.

History: Add. 1961, Act 20, Eff. Sept. 8, 1961.

Popular name: Act 218

500.2093 Enforcement of act against foreign or alien insurer; procedure.

Sec. 2093. (a) Any of the following acts in this state, effected by mail or otherwise, by any unauthorized foreign or alien insurer: (1) the issuance or delivery of contracts or insurance to residents of this state, (2) the

solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments or other considerations for such contracts, or (4) any other transaction of insurance business, is equivalent to and shall constitute an appointment by the insurer of the commissioner to be its true and lawful attorney, upon whom may be served all statements of charges, notices and lawful process in any proceeding instituted in respect to the misrepresentations set forth in section 2091 under the provisions of sections 2001 to 2050, or in any action, suit or proceeding for the recovery of any penalty therein provided, and any such act shall be signification of its agreement that such service of statement of charges, notices or process is of the same legal force and validity as personal service of the statement of charges, notices or process in this state, upon the insurer.

(b) Service of a statement of charges and notices under sections 2001 to 2050 shall be made by any deputy or employee of the department delivering to and leaving with the commissioner, or some person in apparent charge of his office, 2 copies thereof. Service of process issued by any court in any action, suit or proceeding to collect any penalty provided under sections 2001 to 2050, shall be made by delivering and leaving with the commissioner, or some person in apparent charge of his office, 2 copies thereof. The commissioner shall forthwith cause to be mailed by certified mail 1 of the copies of the statement of charges, notices or process to the defendant at its last known principal place of business, and shall keep a record of all statement of charges, notices and process so served. The service of statement of charges, notices or process shall be sufficient if they have been so mailed and the defendant's receipt, or receipt issued by the post office with which the letter is certified, or showing the name of the sender of the letter and the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing the letter showing a compliance herewith are filed with the commissioner in the case of any statement of charges or notices, or with the clerk of the court in which the action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as may be allowed.

(c) Service of statement of charges, notices and process in any such proceeding, action or suit shall in addition to the manner provided in subsection (b) of this section be valid if served upon any person within this state who on behalf of such insurer is:

(1) Soliciting insurance, or

(2) Making, issuing or delivering any contract of insurance, or

(3) Collecting or receiving in this state any premium for insurance; and a copy of such statement of charges, notices or process is sent within 10 days thereafter by certified mail by or on behalf of the commissioner to the defendant at the last known principal place of business of the defendant, and the defendant's receipt, or the receipt issued by the post office with which the letter is certified, showing the name of the sender of the letter, the name and address of the person to whom the letter is addressed, and the affidavit of the person mailing the same showing a compliance herewith, are filed with the commissioner in the case of any statement of charges or notices, or with the clerk of the court in which such action is pending in the case of any process, on or before the date the defendant is required to appear or within such further time as the court may allow.

(d) No cease or desist order or judgment by default or a judgment pro confesso under this section shall be entered until the expiration of 30 days from the date of the filing of the affidavit of compliance.

(e) Service of process and notice under the provisions of this act shall be in addition to all other methods of service provided by law, and nothing in this section shall limit or prohibit the right to serve any statement of charges, notices or process upon any insurer in any other manner now or hereafter permitted by law.

History: Add. 1961, Act 20, Eff. Sept. 8, 1961.

Popular name: Act 218