

Act No. 198
Public Acts of 2015
Approved by the Governor
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015**

Introduced by Reps. Lyons, Runestad, Theis, Hooker, Hughes, Barrett, Webber and Kosowski

ENROLLED HOUSE BILL No. 4836

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 1204f (MCL 500.1204f), as added by 2006 PA 442, and by adding section 3908 and chapter 39A.

The People of the State of Michigan enact:

Sec. 1204f. (1) An individual shall not sell, solicit, or negotiate long-term care insurance unless the individual meets all of the following requirements:

- (a) The individual is licensed as an insurance producer for accident and health or life.
- (b) The individual has completed a 1-time long-term care training course as described in this section.

(c) The individual completes ongoing training as described in this section for every 2-year continuing education compliance period after the completion of the 1-time long-term care training course.

(2) An insurer that delivers or issues for delivery long-term care insurance in this state shall do both of the following:

(a) Obtain verification that an insurance producer has received the training described in this section before permitting the insurance producer to sell, solicit, or negotiate the insurer's long-term care insurance products.

(b) Make the verification obtained under subdivision (a) available to the director on the director's request.

(3) An insurance producer selling, soliciting, or negotiating long-term care insurance on the effective date of the amendatory act that added chapter 39A shall not continue to sell, solicit, or negotiate long-term care insurance unless the insurance producer has completed the 1-time training course described in this section within 1 year after the effective date of the amendatory act that added chapter 39A.

(4) The 1-time long-term care training course and ongoing training required under this section may be provided in conjunction with other insurance producer training or separately. To satisfy subsection (2), an insurance producer may document to an insurer that he or she has obtained training as described in subsections (5) and (6) from a program of study approved under section 1204c.

(5) The 1-time long-term care training course required under this section must not be less than 8 hours, and the ongoing training required under this section must not be less than 4 hours for every 2-year continuing education compliance period after the completion of the 1-time long-term care training course.

(6) The 1-time long-term care training course and ongoing training required under this section must consist of topics related to long-term care insurance, long-term care services, and, if applicable, qualified state long-term care insurance partnership programs, including, but not limited to, all of the following:

(a) State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid.

(b) Available long-term care services and providers.

(c) Changes or improvements in long-term care services or providers.

(d) Alternatives to the purchase of private long-term care insurance.

(e) The effect of inflation in eroding the value of benefits and the importance of inflation protection.

(f) Consumer suitability standards and guidelines.

(7) The 1-time long-term care training course and ongoing training required under this section must not include any training that is solely oriented to the sales or marketing of an insurer-specific long-term care product.

(8) Satisfying the training requirements of this section in any state satisfies the training requirements in this state.

Sec. 3908. (1) Subject to subsection (2), long-term care insurance that is delivered or issued for delivery in this state after December 31, 2007, and before long-term care partnership program policies are approved for sale in this state, may be converted to or replaced with a long-term care partnership program policy.

(2) Before converting the long-term care insurance to, or replacing the long-term care insurance with, a long-term care partnership program policy under this section, the insured and the insurer shall both agree to the conversion or the replacement.

(3) As used in this section, "long-term care partnership program policy" means that term as defined in section 3957.

CHAPTER 39A LONG-TERM CARE PARTNERSHIP PROGRAM INSURANCE

Sec. 3957. As used in this chapter:

(a) "Applicant" means that term as defined in section 3901.

(b) "Long-term care partnership program policy" or "partnership policy" means a policy that meets all of the requirements for the long-term care partnership program under section 112c of the social welfare act, 1939 PA 280, MCL 400.112c, and all of the following requirements:

(i) The policy covers an insured who was a resident of this state when coverage first became effective under the policy.

(ii) The policy is either a qualified long-term care insurance contract as that term is defined in section 7702B(b) of the internal revenue code of 1986, 26 USC 7702B, that is issued no earlier than the effective date of the amendatory act that added this chapter or a policy that has been converted or replaced under section 3908.

(iii) The policy meets all of the applicable requirements of chapter 39.

(iv) The policy meets the requirements of the National Association of Insurance Commissioners' model act and model regulation listed in section 1917(b)(5)(A) of title XIX of the social security act, 42 USC 1396p, as required under section 1917(b)(1)(C)(iii)(III) of title XIX of the social security act, 42 USC 1396p.

(v) The policy provides the following inflation protection features:

(A) If the policy is sold to an individual who has not attained age 61 as of the date of purchase, the policy must provide compound annual inflation protection.

(B) If the policy is sold to an individual who has attained age 61 but has not attained age 76 as of the date of purchase, the policy must provide some level of inflation protection.

(C) If the policy is sold to an individual who has attained age 76 as of the date of purchase, the policy may provide some level of inflation protection.

(c) "Policy" means that term as defined in section 3901.

Sec. 3959. Pursuant to section 6021 of the deficit reduction act of 2005, Public Law 109-171, and section 112c of the social welfare act, 1939 PA 280, MCL 400.112c, this chapter applies to a long-term care partnership program policy. The applicable sections of chapter 39 also apply to a long-term care partnership program policy.

Sec. 3961. (1) If an insurer or its agent solicits or offers to sell a policy that is intended to qualify as a partnership policy, the insurer or its agent shall provide to a prospective applicant the notice described in section 112c of the social welfare act, 1939 PA 280, MCL 400.112c, or, if filed with and approved by the department, a notice similar to the notice described in section 112c of the social welfare act, 1939 PA 280, MCL 400.112c.

(2) An insurer or its agent shall provide the notice required under subsection (1) to a prospective applicant with the summary of coverage described in section 3933.

Sec. 3963. (1) A partnership policy shall not be delivered or issued for delivery in this state unless the partnership policy is filed with the department and approved by the director under section 2236(1).

(2) A policy submitted to the department for approval as a partnership policy under subsection (1) must be submitted with a completed partnership certification form or a similar form. The completed partnership certification form or similar form also must be approved by the director of the department.

(3) As used in this section, "partnership certification form" means a form developed by the department in consultation with the state department of health and human services.

Sec. 3965. An insurer that issues a partnership policy shall provide copies of the regular reports described in 45 CFR 144.200 to 144.214 to the state department of health and human services.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor