

SUBSTITUTE FOR
HOUSE BILL NO. 5156

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 1201, 1222, and 1224 (MCL 500.1201, 500.1222,
and 500.1224), sections 1201 and 1224 as amended by 2001 PA 228.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1201. As used in this chapter:

2 (a) "Agent" except as provided in section 1243 means an
3 insurance producer.

4 (b) "Business entity" means a corporation, association,
5 partnership, limited liability company, limited liability
6 partnership, or other legal entity.

7 (c) "Home state", **EXCEPT AS PROVIDED IN SECTION 1224**, means
8 the District of Columbia or any state or territory of the United
9 States in which an insurance producer maintains his or her

1 principal place of residence or principal place of business and is
2 licensed to act as an insurance producer.

3 (d) "Insurance" means any of the lines of authority in chapter
4 6.

5 (e) "Insurance producer" means a person required to be
6 licensed under the laws of this state to sell, solicit, or
7 negotiate insurance.

8 (f) "License" means a document issued by this state's
9 commissioner authorizing a person to act as an insurance producer
10 for the qualifications specified in the document. The license
11 itself does not create any actual, apparent, or inherent authority
12 in the holder to represent or commit an insurer.

13 (g) "Limited line credit insurance" includes credit life,
14 credit disability, credit property, credit unemployment,
15 involuntary unemployment, mortgage life, mortgage guaranty,
16 mortgage disability, guaranteed automobile protection insurance,
17 and any other form of insurance offered in connection with an
18 extension of credit that is limited to partially or wholly
19 extinguishing that credit obligation that the commissioner
20 determines should be designated a form of limited line credit
21 insurance.

22 (h) "Limited line credit insurance producer" means a person
23 who sells, solicits, or negotiates 1 or more forms of limited line
24 credit insurance coverage to individuals through a master,
25 corporate, group, or individual policy.

26 (i) "Limited lines insurance" means any of the following:

27 (i) Marine insurance as defined in section 614.

1 (ii) Credit insurance as described in section 624(1)(e).

2 (iii) Surety and fidelity insurance as defined in section 628.

3 (iv) Legal expense insurance as defined in section 618.

4 (v) Livestock insurance as described in section 624(1)(g).

5 (vi) Malpractice insurance as described in section 624(1)(h).

6 (vii) Plate glass insurance as described in section 624(1)(c).

7 (viii) Any other miscellaneous insurance described in section
8 624(1)(i).

9 (ix) Any other line of insurance that the commissioner
10 considers necessary to recognize ~~for the purposes of complying TO~~
11 **COMPLY** with section 1206a(5).

12 (j) "Limited lines producer" means a person authorized by the
13 commissioner to sell, solicit, or negotiate limited lines
14 insurance.

15 (k) "Negotiate" means the act of conferring directly with or
16 offering advice directly to a purchaser or prospective purchaser of
17 a particular contract of insurance concerning any of the
18 substantive benefits, terms, or conditions of the contract,
19 provided that the person engaged in that act either sells insurance
20 or obtains insurance from insurers for purchasers.

21 (l) "Sell" means to exchange a contract of insurance by any
22 means, for money or its equivalent, on behalf of an insurance
23 company.

24 (m) "Solicit" means attempting to sell insurance or asking or
25 urging a person to apply for a particular kind of insurance from a
26 particular company.

27 (n) "Terminate" means the cancellation of the relationship

1 between an insurance producer and the insurer or the termination of
2 a producer's authority to transact insurance.

3 Sec. 1222. (1) A person shall not adjust loss or damage under
4 a policy of insurance ~~nor~~ OR advertise, solicit business, or hold
5 himself OR HERSELF out to the public as an adjuster unless he OR
6 SHE is licensed as an adjuster. ~~This section does not apply to a~~
7 ~~person admitted to the practice of law in this state, to a licensed~~
8 ~~agent adjusting loss or damage under a policy within his control,~~
9 ~~to an employee of an insurer or a manager of an insurer authorized~~
10 ~~to transact insurance in this state adjusting loss or damage under~~
11 ~~a policy written by the insurer or to a marine average adjuster.~~

12 (2) THE FOLLOWING ARE EXEMPT FROM LICENSURE UNDER SUBSECTION

13 (1):

14 (A) A PERSON ADMITTED TO THE PRACTICE OF LAW IN THIS STATE.

15 (B) A MARINE AVERAGE ADJUSTER.

16 (C) AN EMPLOYEE OR MANAGER OF AN AUTHORIZED INSURER ADJUSTING
17 LOSS OR DAMAGE UNDER A POLICY ISSUED BY THE INSURER.

18 (D) A LICENSED INSURANCE PRODUCER TO WHOM CLAIM AUTHORITY HAS
19 BEEN GRANTED BY AN INSURER.

20 (E) AN INDIVIDUAL WHO COLLECTS CLAIM INFORMATION FROM, OR
21 FURNISHES CLAIM INFORMATION TO, INSUREDS OR CLAIMANTS, AND WHO
22 CONDUCTS DATA ENTRY INCLUDING ENTERING DATA INTO AN AUTOMATED
23 CLAIMS ADJUDICATION SYSTEM, IF THE INDIVIDUAL IS UNDER THE
24 SUPERVISION OF 1 OR MORE LICENSED INDEPENDENT ADJUSTERS OR AN
25 INDIVIDUAL WHO IS EXEMPT FROM LICENSURE UNDER SUBDIVISION (C). AS
26 USED IN THIS SUBDIVISION, "AUTOMATED CLAIMS ADJUDICATION SYSTEM"
27 MEANS A PREPROGRAMMED COMPUTER SYSTEM DESIGNED FOR THE COLLECTION,

1 **DATA ENTRY, CALCULATION, AND FINAL RESOLUTION OF PORTABLE CONSUMER**
2 **ELECTRONIC INSURANCE CLAIMS.**

3 Sec. 1224. (1) An application for a license to act as an
4 adjuster shall be made to the commissioner on forms prescribed by
5 the commissioner.

6 (2) Within a reasonable time after receipt of a properly
7 completed application form **UNDER SUBSECTION (1)**, the commissioner
8 may subject the applicant to a written examination, and may conduct
9 investigations and propound interrogatories concerning the
10 applicant's qualifications, residence, business affiliations, and
11 any other matter that the commissioner considers necessary or
12 advisable to determine compliance with this chapter, or for the
13 protection of the public. The commissioner may waive the
14 examination requirements of this subsection for a person who has
15 been licensed as an adjuster within the preceding 12 months. The
16 commissioner shall make a decision on the application within 60
17 days after receipt of a properly completed application form.

18 (3) After examination, investigation, and interrogatories, the
19 commissioner shall issue a license **TO ACT AS AN ADJUSTER** to an
20 applicant if the commissioner determines that the applicant
21 possesses reasonable understanding of the provisions, terms, and
22 conditions of the insurance with which the applicant will deal,
23 possesses reasonable understanding of the insurance laws of this
24 state, intends in good faith to act as an adjuster, possesses a
25 good business reputation, and possesses good moral character to act
26 as an adjuster. Persons currently licensed and new licenses issued
27 are subject to any additional restrictions under which a resident

1 of this state would be licensed in the jurisdiction in which the
2 applicant resides. Any such restriction shall be imposed by the
3 commissioner upon the date set for payment of the license fee. The
4 commissioner shall not issue a new license or accept an annual
5 license fee continuing a current license to either of the
6 following:

7 (a) A person residing in a state that denies a comparable
8 license to a resident of this state solely because of residency.

9 (b) A person who is employed either directly or indirectly by
10 an adjuster that is a resident of a state, or by an adjuster's
11 business that has a majority of shareholders, members, officers,
12 directors, or owners that are residents of a state, that denies a
13 comparable license to a resident of this state solely because of
14 residency. An affidavit from an applicant establishing compliance
15 with this subdivision may be relied on by the commissioner to show
16 compliance with this subdivision.

17 (4) The commissioner shall not issue a license to act as an
18 adjuster to a person who is employed by, owns stock in, is an
19 officer or director of, or in any other manner is connected with, a
20 fire repair contractor.

21 (5) THE COMMISSIONER SHALL NOT ISSUE A NONRESIDENT LICENSE TO
22 ACT AS AN ADJUSTER TO AN INDIVIDUAL WHO IS A RESIDENT OF CANADA
23 UNLESS THE INDIVIDUAL HAS RECEIVED A RESIDENT LICENSE TO ACT AS AN
24 ADJUSTER FROM ANOTHER STATE OR DECLARED ANOTHER STATE HIS OR HER
25 HOME STATE.

26 (6) AS USED IN THIS SECTION:

27 (A) "HOME STATE" MEANS EITHER OF THE FOLLOWING:

1 (i) THE STATE IN WHICH THE ADJUSTER MAINTAINS HIS OR HER
2 PRINCIPAL PLACE OF RESIDENCE OR BUSINESS AND IS LICENSED
3 TO ACT AS A RESIDENT ADJUSTER.

4 (ii) IF THE STATE OF THE ADJUSTER'S PRINCIPAL PLACE OF
5 RESIDENCE OR BUSINESS DOES NOT LICENSE ADJUSTERS, THE STATE IN
6 WHICH THE ADJUSTER IS LICENSED AND IN GOOD STANDING AND THAT IS
7 DESIGNATED BY THE ADJUSTER AS THE ADJUSTER'S HOME STATE.

8 (B) "STATE" MEANS THAT TERM AS DEFINED IN SECTION 30 OF 1846
9 RS 1, MCL 8.30.