

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

Introduced by Rep. Johnson

ENROLLED HOUSE BILL No. 5156

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 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:

Sec. 1201. As used in this chapter:

(a) “Agent” except as provided in section 1243 means an insurance producer.

(b) “Business entity” means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(c) “Home state”, except as provided in section 1224, means the District of Columbia or any state or territory of the United States in which an insurance producer maintains his or her principal place of residence or principal place of business and is licensed to act as an insurance producer.

(d) “Insurance” means any of the lines of authority in chapter 6.

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

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

(g) “Limited line credit insurance” includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

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

(i) “Limited lines insurance” means any of the following:

(i) Marine insurance as defined in section 614.

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

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

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

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

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

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

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

(ix) Any other line of insurance that the commissioner considers necessary to recognize to comply with section 1206a(5).

(j) “Limited lines producer” means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

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

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

(m) “Solicit” means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(n) “Terminate” means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer’s authority to transact insurance.

Sec. 1222. (1) A person shall not adjust loss or damage under a policy of insurance or advertise, solicit business, or hold himself or herself out to the public as an adjuster unless he or she is licensed as an adjuster.

(2) The following are exempt from licensure under subsection (1):

(a) A person admitted to the practice of law in this state.

(b) A marine average adjuster.

(c) An employee or manager of an authorized insurer adjusting loss or damage under a policy issued by the insurer.

(d) A licensed insurance producer to whom claim authority has been granted by an insurer.

(e) An individual who collects claim information from, or furnishes claim information to, insureds or claimants, and who conducts data entry including entering data into an automated claims adjudication system, if the individual is under the supervision of 1 or more licensed independent adjusters or an individual who is exempt from licensure under subdivision (c). As used in this subdivision, “automated claims adjudication system” means a preprogrammed computer system designed for the collection, data entry, calculation, and final resolution of portable consumer electronic insurance claims.

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

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

(3) After examination, investigation, and interrogatories, the commissioner shall issue a license to act as an adjuster to an applicant if the commissioner determines that the applicant possesses reasonable understanding of the provisions, terms, and conditions of the insurance with which the applicant will deal, possesses reasonable understanding of the insurance laws of this state, intends in good faith to act as an adjuster, possesses a good business reputation, and possesses good moral character to act as an adjuster. Persons currently licensed and new licenses issued are subject to any additional restrictions under which a resident of this state would be licensed in the jurisdiction in which the applicant resides. Any such restriction shall be imposed by the commissioner upon the date set for payment of the license fee. The commissioner shall not issue a new license or accept an annual license fee continuing a current license to either of the following:

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

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

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

(5) The commissioner shall not issue a nonresident license to act as an adjuster to an individual who is a resident of Canada unless the individual has received a resident license to act as an adjuster from another state or declared another state his or her home state.

(6) As used in this section:

(a) "Home state" means either of the following:

(i) The state in which the adjuster maintains his or her principal place of residence or business and is licensed to act as a resident adjuster.

(ii) If the state of the adjuster's principal place of residence or business does not license adjusters, the state in which the adjuster is licensed and in good standing and that is designated by the adjuster as the adjuster's home state.

(b) "State" means that term as defined in section 3o of 1846 RS 1, MCL 8.3o.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

.....
Governor