

# HOUSE BILL No. 5156

November 8, 2011, Introduced by Rep. Johnson and referred to the Committee on Insurance.

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

1 States in which an insurance producer maintains his or her  
2 principal place of residence or principal place of business and is  
3 licensed to act as an insurance producer.

4 (d) "Insurance" means any of the lines of authority in chapter  
5 6.

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

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

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

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

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

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

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

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

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

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

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

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

8 (viii) Any other miscellaneous insurance described in section  
9 624(1)(i).

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

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

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

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

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

1 (n) "Terminate" means the cancellation of the relationship  
2 between an insurance producer and the insurer or the termination of  
3 a producer's authority to transact insurance.

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

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

14 (1):

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

16 (B) A MARINE AVERAGE ADJUSTER.

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

19 (D) A LICENSED INSURANCE PRODUCER, ATTORNEY-IN-FACT OF A  
20 RECIPROCAL INSURER, OR LICENSED INSURANCE AGENT TO WHOM CLAIM  
21 AUTHORITY HAS BEEN GRANTED BY AN INSURER.

22 (E) AN INDIVIDUAL WHO COLLECTS CLAIM INFORMATION FROM, OR  
23 FURNISHES CLAIM INFORMATION TO, INSURED OR CLAIMANTS, AND WHO  
24 CONDUCTS DATA ENTRY INCLUDING ENTERING DATA INTO AN AUTOMATED  
25 CLAIMS ADJUDICATION SYSTEM, PROVIDED THAT THE INDIVIDUAL IS AN  
26 EMPLOYEE OF A LICENSED INDEPENDENT ADJUSTER OR ITS AFFILIATE AND NO  
27 MORE THAN 25 SUCH PERSONS ARE UNDER THE SUPERVISION OF 1 LICENSED

1 INDEPENDENT ADJUSTER OR AN INDIVIDUAL EXEMPT FROM LICENSURE UNDER  
2 SUBDIVISION (C). FOR PURPOSES OF THIS SUBDIVISION, AN "AUTOMATED  
3 CLAIMS ADJUDICATION SYSTEM" MEANS A PREPROGRAMMED COMPUTER SYSTEM  
4 DESIGNED FOR THE COLLECTION, DATA ENTRY, CALCULATION, AND FINAL  
5 RESOLUTION OF PORTABLE CONSUMER ELECTRONIC INSURANCE CLAIMS THAT  
6 MEETS ALL OF THE FOLLOWING:

7 (i) IS ONLY USED BY A LICENSED INDEPENDENT ADJUSTER, LICENSED  
8 AGENT, OR SUPERVISED INDIVIDUALS OPERATING PURSUANT TO THIS  
9 SUBDIVISION.

10 (ii) COMPLIES WITH ALL CLAIMS PAYMENT REQUIREMENTS OF THIS ACT.

11 (iii) IS CERTIFIED AS COMPLIANT WITH THIS SECTION BY A LICENSED  
12 INDEPENDENT ADJUSTER THAT IS AN OFFICER OF A BUSINESS ENTITY  
13 LICENSED UNDER THIS CHAPTER.

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

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

1 ~~a properly completed application form.~~

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

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

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

27 ~~—— (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.~~

(1) AN INDIVIDUAL APPLYING FOR A RESIDENT ADJUSTER LICENSE  
SHALL FILE WITH THE COMMISSIONER ON A FORM PRESCRIBED BY THE  
COMMISSIONER AND SHALL DECLARE UNDER PENALTY OF REFUSAL,  
SUSPENSION, OR REVOCATION OF THE LICENSE THAT THE STATEMENTS MADE  
IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE TO THE BEST OF  
THE INDIVIDUAL'S KNOWLEDGE AND BELIEF. AN APPLICATION FOR A  
RESIDENT ADJUSTER LICENSE UNDER THIS SUBSECTION SHALL NOT BE  
APPROVED UNLESS THE COMMISSIONER FINDS THAT THE INDIVIDUAL MEETS  
ALL OF THE FOLLOWING:

(A) IS AT LEAST 18 YEARS OF AGE.

(B) IS A RESIDENT OF THIS STATE OR HAS DESIGNATED THIS STATE  
AS HIS OR HER HOME STATE.

(C) IS TRUSTWORTHY, IS RELIABLE, AND POSSESSES A GOOD BUSINESS  
REPUTATION.

(D) HAS NOT COMMITTED ANY ACT THAT IS A GROUND FOR SUSPENSION,  
REVOCATION, OR REFUSAL OF AN ADJUSTER LICENSE UNDER SECTION 1242.

(E) HAS SUCCESSFULLY PASSED THE EXAMINATION FOR EACH  
QUALIFICATION FOR WHICH THE PERSON HAS APPLIED.

(F) HAS PAID THE LICENSE FEES.

(2) A CANADIAN RESIDENT SHALL NOT BE LICENSED PURSUANT TO THIS  
SECTION AND SHALL NOT DESIGNATE MICHIGAN AS HIS OR HER HOME STATE,  
UNLESS HE OR SHE HAS SUCCESSFULLY PASSED THE ADJUSTER EXAMINATION  
AND HAS COMPLIED WITH THE OTHER APPLICABLE PORTIONS OF THIS  
SECTION, OTHER THAN SUBSECTION (1) (B).

1           (3) A BUSINESS ENTITY APPLYING FOR A RESIDENT ADJUSTER LICENSE  
2 SHALL FILE WITH THE COMMISSIONER ON A FORM PRESCRIBED BY THE  
3 COMMISSIONER AND SHALL DECLARE UNDER PENALTY OF REFUSAL,  
4 SUSPENSION, OR REVOCATION OF THE LICENSE THAT THE STATEMENTS MADE  
5 IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE TO THE BEST OF  
6 THE BUSINESS ENTITY'S KNOWLEDGE AND BELIEF. AN APPLICATION FOR A  
7 RESIDENT ADJUSTER LICENSE UNDER THIS SUBSECTION SHALL NOT BE  
8 APPROVED UNLESS THE COMMISSIONER FINDS THAT THE BUSINESS ENTITY  
9 MEETS ALL OF THE FOLLOWING:

10           (A) IS ELIGIBLE TO DESIGNATE THIS STATE AS ITS RESIDENT OR  
11 HOME STATE.

12           (B) HAS DESIGNATED AN INDIVIDUAL LICENSED INDEPENDENT ADJUSTER  
13 AS RESPONSIBLE FOR THE BUSINESS ENTITY'S COMPLIANCE WITH THIS  
14 STATE'S INSURANCE LAWS, RULES, AND REGULATIONS.

15           (C) HAS NOT COMMITTED AN ACT THAT IS A GROUND FOR SUSPENSION,  
16 REVOCATION, OR REFUSAL OF AN INDEPENDENT ADJUSTER LICENSE UNDER  
17 SECTION 1242.

18           (D) HAS PAID THE LICENSE FEES.

19           (E) HAS SUBMITTED THE NAMES, ADDRESSES, SOCIAL SECURITY  
20 NUMBERS, CRIMINAL AND ADMINISTRATIVE HISTORY, BACKGROUND CHECKS,  
21 BIOGRAPHICAL STATEMENTS, AND FINGERPRINTS OF ALL EXECUTIVE OFFICERS  
22 AND DIRECTORS OF THE APPLICANT AND OF ALL EXECUTIVE OFFICERS AND  
23 DIRECTORS OF ENTITIES OWNING AND ANY INDIVIDUALS OWNING, DIRECTLY  
24 OR INDIRECTLY, 51% OR MORE OF THE OUTSTANDING VOTING SECURITIES OF  
25 THE APPLICANT. ANY NONRESIDENT BUSINESS ENTITY APPLICANT WHOSE  
26 STATE OF DOMICILE REQUIRES AN APPLICANT FOR A RESIDENT ADJUSTER  
27 LICENSE TO SUBMIT ALL OF THE INFORMATION REQUIRED BY THIS



1 SUBDIVISION SHALL NOT BE REQUIRED TO SUBMIT A CRIMINAL HISTORY,  
2 BACKGROUND CHECK, AND BIOGRAPHICAL STATEMENT FOR ITS EXECUTIVE  
3 OFFICERS, DIRECTORS, AND OWNERS OF OUTSTANDING VOTING SECURITIES.

4 (4) A NONRESIDENT PERSON APPLYING FOR A NONRESIDENT  
5 INDEPENDENT ADJUSTER LICENSE SHALL FILE WITH THE COMMISSIONER ON A  
6 FORM PRESCRIBED BY THE COMMISSIONER AND SHALL DECLARE UNDER PENALTY  
7 OF REFUSAL, SUSPENSION, OR REVOCATION OF THE LICENSE THAT THE  
8 STATEMENTS MADE IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE  
9 TO THE BEST OF THE NONRESIDENT PERSON'S KNOWLEDGE AND BELIEF.

10 UNLESS REFUSED LICENSURE PURSUANT TO SECTION 1242, A NONRESIDENT  
11 PERSON SHALL RECEIVE A NONRESIDENT INDEPENDENT ADJUSTER LICENSE  
12 UNDER THIS SUBSECTION IF THE COMMISSIONER FINDS THAT THE  
13 NONRESIDENT PERSON MEETS ALL OF THE FOLLOWING:

14 (A) IS CURRENTLY LICENSED IN GOOD STANDING AS AN INDEPENDENT  
15 ADJUSTER IN HIS, HER, OR ITS RESIDENT OR HOME STATE.

16 (B) HAS SUBMITTED THE PROPER REQUEST FOR LICENSURE AND HAS  
17 PAID THE LICENSE FEES.

18 (C) HAS SUBMITTED OR TRANSMITTED TO THE COMMISSIONER THE  
19 APPROPRIATE COMPLETED APPLICATION FOR LICENSURE.

20 (D) THE PERSON'S DESIGNATED HOME STATE AWARDS NONRESIDENT  
21 INDEPENDENT ADJUSTER LICENSES TO PERSONS OF THIS STATE.

22 (E) IF THE APPLICANT'S STATE OF DOMICILE DOES NOT REQUIRE AN  
23 APPLICANT FOR A NONRESIDENT INDEPENDENT ADJUSTER LICENSE TO SUBMIT  
24 THE INFORMATION REQUIRED BY SUBSECTION (3)(E), THE NONRESIDENT  
25 APPLICANT HAS SUBMITTED THE NAMES, ADDRESSES, SOCIAL SECURITY  
26 NUMBERS, CRIMINAL AND ADMINISTRATIVE HISTORY, BACKGROUND CHECKS,  
27 BIOGRAPHICAL STATEMENTS, AND FINGERPRINTS OF ALL EXECUTIVE OFFICERS

1 AND DIRECTORS OF THE APPLICANT AND OF ALL EXECUTIVE OFFICERS AND  
2 DIRECTORS OF ENTITIES OWNING AND ANY INDIVIDUALS OWNING, DIRECTLY  
3 OR INDIRECTLY, 51% OR MORE OF THE OUTSTANDING VOTING SECURITIES OF  
4 THE APPLICANT. ANY NONRESIDENT BUSINESS ENTITY APPLICANT WHOSE  
5 STATE OF DOMICILE REQUIRES AN APPLICANT FOR A NONRESIDENT  
6 INDEPENDENT ADJUSTER LICENSE TO SUBMIT ALL OF THE INFORMATION  
7 REQUIRED BY SUBSECTION (3) (E) SHALL NOT BE REQUIRED TO SUBMIT A  
8 CRIMINAL HISTORY, BACKGROUND CHECK, AND BIOGRAPHICAL STATEMENT FOR  
9 ITS EXECUTIVE OFFICERS, DIRECTORS, AND OWNERS OF OUTSTANDING VOTING  
10 SECURITIES.

11 (5) THE COMMISSIONER MAY REQUIRE ANY DOCUMENTS REASONABLY  
12 NECESSARY TO VERIFY THE INFORMATION CONTAINED IN THE APPLICATION.

13 (6) FOR PURPOSES OF OBTAINING RECIPROCITY WITH OTHER STATES  
14 THAT LICENSE ADJUSTERS, AN INDIVIDUAL WHO HOLDS AN ADJUSTER LICENSE  
15 MAY VOLUNTARILY ELECT TO SATISFACTORILY COMPLETE A MINIMUM OF 24  
16 HOURS OF CONTINUING EDUCATION COURSES, OF WHICH 3 HOURS SHALL BE IN  
17 ETHICS, REPORTED TO THE COMMISSIONER ON A BIENNIAL BASIS IN  
18 CONJUNCTION WITH HIS OR HER LICENSE RENEWAL CYCLE. THIS SECTION  
19 DOES NOT APPLY TO:

20 (A) LICENSEES NOT LICENSED FOR 1 FULL YEAR PRIOR TO THE END OF  
21 THE APPLICABLE CONTINUING EDUCATION BIENNIUM.

22 (B) LICENSEES HOLDING NONRESIDENT ADJUSTER LICENSES WHO HAVE  
23 MET THE CONTINUING EDUCATION REQUIREMENTS OF THEIR DESIGNATED HOME  
24 STATE.

25 (7) AS USED IN THIS SECTION, "HOME STATE" MEANS EITHER OF THE  
26 FOLLOWING:

27 (A) THE DISTRICT OF COLUMBIA OR A STATE OR TERRITORY OF THE

1 UNITED STATES IN WHICH THE ADJUSTER MAINTAINS THE ADJUSTER'S  
2 PRINCIPAL PLACE OF RESIDENCE OR BUSINESS AND IS LICENSED  
3 TO ACT AS A RESIDENT ADJUSTER.

4 (B) IF THE STATE OF THE ADJUSTER'S PRINCIPAL PLACE OF  
5 RESIDENCE OR BUSINESS DOES NOT LICENSE ADJUSTERS FOR THE LINE OF  
6 AUTHORITY SOUGHT, THE DISTRICT OF COLUMBIA OR A STATE OR TERRITORY  
7 OF THE UNITED STATES IN WHICH THE ADJUSTER IS LICENSED AND IN GOOD  
8 STANDING AND THAT IS DESIGNATED BY THE ADJUSTER AS THE ADJUSTER'S  
9 HOME STATE.