

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Rep. Brenda Carter

ENROLLED HOUSE BILL No. 4376

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 1207 (MCL 500.1207), as amended by 2018 PA 449.

The People of the State of Michigan enact:

Sec. 1207. (1) An agent is a fiduciary for all money received or held by the agent in the agent’s capacity as an agent.

(2) An agent shall treat all premiums and return premiums as fiduciary money and segregate the premiums from the agent’s own money. Except as otherwise provided in this subsection, an agent shall not commingle premiums or return premiums with any other money of the agent. An agent may make an initial deposit from the agent’s own money to establish the separate account. An agent may make additional deposits from the agent’s own money into the separate account solely for the purpose of paying or avoiding financial institution charges or fees, or both, required to maintain the separate account. Any of the agent’s own money deposited into the separate account under this subsection must be separately accounted for and identifiable in the agent’s books and records.

(3) The separate account under subsection (2) must be established and maintained in any state or federally chartered financial institution that is federally insured. The separate account may be interest-bearing.

(4) An agent may hold returned premiums in the separate account for the purpose of paying future premiums on behalf of an insured with the insured’s written authorization.

(5) An agent shall use reasonable accounting methods to record money received in the agent’s fiduciary capacity, including the receipt and distribution of premiums due each of the agent’s insurers.

(6) An agent who receives fiduciary money must document the receipt of the fiduciary money in sufficient detail to determine, at a minimum, the date received, the name of the payee, the amount received, and a description of the money.

(7) An agent shall record return premiums received by or credited to the agent that are due an insured on policies reduced or canceled or that are due a prospective purchaser of insurance as a result of a rejected or declined application.

(8) Failure by an agent in a timely manner to turn over the money that the agent holds in a fiduciary capacity to the persons to whom it is owed is prima facie evidence of violation of the agent’s fiduciary responsibility.

(9) An agent shall not accept payment of a premium for a Medicare supplemental policy or certificate in the form of a check or money order made payable to the agent instead of the insurer. On receiving payment of a premium for a Medicare supplemental policy or certificate, an agent shall immediately provide a written receipt to the insured.

(10) Records required by this section must be open to examination by the director.

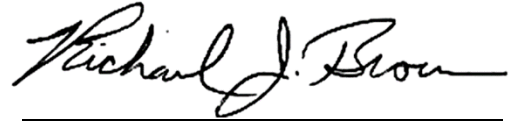
(11) Except as provided in sections 1211 and 1212 and subsection (12), an agent shall not reward or remunerate any person for procuring or inducing business in this state, furnishing leads or prospects, or acting in any other manner as an agent.

(12) If an agent is unable to immediately provide, through the agent’s insurers that are authorized to underwrite the coverage, all or a part of the coverage requested on a risk, the agent may obtain the part of the coverage refused by the agent’s insurers through another licensed agent or through a risk sharing plan permitted by state law. An agent who attempts to place the refused part of the coverage through another licensed agent shall advise the buyer in writing that the refused part of the coverage is not in effect until the buyer receives written evidence of insurance.

(13) A person shall not sell or attempt to sell insurance by means of intimidation or threats, whether express or implied. Except as provided in section 2077(4), a person may not induce the purchase of insurance through a particular agent or from a particular insurer by means of a promise to sell goods, lend money, or provide services, or by a threat to refuse to sell goods, lend money, or provide services.

(14) After January 1, 1973, an insurer or an agent may not be a party to a contract under which the agent assumes any responsibility or obligation for payment, from the agent’s commission or any allocation of premium to the agent by the insurer, of any losses on insurance policies sold by the agent unless the claim adjusting is done by insurance company adjusters or licensed independent adjusters.

Enacting section 1. This amendatory act takes effect 180 days after the date it is enacted into law.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor