

**THE INSURANCE CODE OF 1956 (EXCERPT)**  
**Act 218 of 1956**

**500.3438 Insurance with other insurers; optional provision; expense incurred benefits.**

Sec. 3438.

(1) An insurer may include in an individual disability insurance policy a provision as follows:

INSURANCE WITH OTHER INSURERS: If this insurer has not been given written notice before the occurrence or commencement of loss that the insured under this policy has other valid coverage, not with this insurer, and that other valid coverage provides benefits for the same loss on a provision of service basis or on an expense incurred basis, the only liability under any expense incurred coverage of this policy is for the proportion of the loss as the amount that would otherwise have been payable under this policy plus the total of the like amounts under all other valid coverages for the loss of which this insurer had notice bears to the total like amounts under all valid coverages for the loss, and for the return of the portion of the premium paid that exceeds the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the term "like amount" means with respect to the other coverage the amount that the services rendered would have cost in the absence of the coverage.

(2) If the policy provision described in subsection (1) is included in an individual policy of disability insurance that also contains the policy provision described in section 3440, the insurer shall add to the caption of the policy provision the phrase "EXPENSE INCURRED BENEFITS". The insurer may, at its option, include in this provision a definition of "other valid coverage", approved as to form by the director, which definition must be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, to coverage provided by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the director. In the absence of a definition, the term must not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations, by union welfare plans, or by employer or employee benefit organizations.

(3) For the purpose of applying the policy provision under this section to any insured, any amount of benefit provided for the insured under a compulsory benefit statute, including a worker's disability compensation or employer's liability statute, whether provided by a governmental agency or other entity, must in all cases be considered to be other valid coverage of which the insurer has had notice. In applying the policy provision under this section, an insurer shall not include third party liability coverage as other valid coverage.

**History:** 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 2016, Act 276, Imd. Eff. July 1, 2016

**Popular Name:** Act 218