

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

CHAPTER 2
THE INSURANCE COMMISSIONER

500.200 Insurance department; establishment.

Sec. 200. There is hereby established a separate and distinct state department which shall be especially charged with the execution of the laws in relation to insurance and surety business and to perform such other duties as may be required by law: Provided, however, That the said department so established shall be deemed and considered as in continuation of and the successor to the insurance bureau established by Act No. 108 of the Session Laws of 1871, and other acts amending and supplementing the same, and as in continuation of and the successor to the state department established by Act No. 256 of the Public Acts of 1917 and other acts amending or supplementing the same.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Compiler's note: Act 108 of 1871, referred to in this section, was superseded by Act 256 of 1917. Act 256 of 1917, also referred to in this section, was repealed by Act 218 of 1956.

For transfer of the Department of Insurance and Office of the Commissioner on Insurance from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

For transfer of authority, powers, duties, functions, and responsibilities of the commissioner of insurance to the commissioner of the office of financial and insurance services by type III transfer, see E.R.O. No. 2000-2, compiled at MCL 445.2003 of the Michigan compiled laws.

Transfer of powers: See MCL 16.329 and 16.732.

Popular name: Act 218

500.202 Insurance commissioner; qualifications, office, term, appointment, approval, vacancy.

Sec. 202. (1) The chief officer of the department shall be known as the commissioner of insurance. He shall be a citizen of this state, shall have his office at the seat of government, shall personally superintend the duties of his office, and shall not be a stockholder or directly or indirectly connected with the management of affairs of any insurer. He shall be appointed by the governor for a term of 4 years by and with the consent of the senate.

(2) Whenever a vacancy occurs in the office of commissioner by reason of death, removal, or otherwise, the governor shall fill such vacancy by appointment, by and with the advice and consent of the senate, if in session.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Compiler's note: For transfer of the Department of Insurance and Office of the Commissioner on Insurance from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Transfer of powers: See MCL 16.732.

Popular name: Act 218

500.204 Insurance commissioner; salary; oath; bond.

Sec. 204. The commissioner shall receive an annual salary as the legislature shall appropriate, payable as other state officers are paid under the accounting laws of the state. Within 15 days from the time of notice of his or her appointment, the commissioner shall take and subscribe the constitutional oath of office and file the oath in the office of the secretary of state, and shall also within the same period give to the people of the state of Michigan a bond in the penal sum of \$50,000.00, with sureties to be approved by the state treasurer, conditioned for the faithful discharge of the duties of his or her office.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 2002, Act 105, Imd. Eff. Mar. 27, 2002.

Popular name: Act 218

500.205 Commissioner; powers.

Sec. 205. Orders, decisions, findings, rulings, determinations, opinions, actions, and inactions of the commissioner in this act shall be made or reached in the reasonable exercise of discretion.

History: Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

Popular name: Act 218

500.206 Insurance commissioner; seal, approval, renewal.

Sec. 206. The commissioner, with the approval of the governor, shall devise a seal, with suitable
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inscriptions, for his office, a description of which, with certificate of the approval of the governor, shall be filed in the office of the secretary of state, with an impression thereof, which seal shall thereupon be and become the seal of office of the commissioner of insurance and the same may be renewed whenever necessary.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.208 Office of financial and insurance services; offices; expense; audit.

Sec. 208. The department of management and budget shall assign to the office of financial and insurance services at Lansing suitable rooms for conducting the business of the division, the necessary expense of which shall be audited by the department of management and budget.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 2002, Act 105, Imd. Eff. Mar. 27, 2002.

Popular name: Act 218

500.210 Insurance commissioner; regulatory powers.

Sec. 210. The commissioner shall promulgate rules and regulations in addition to those now specifically provided for by statute as he may deem necessary to effectuate the purposes and to execute and enforce the provisions of the insurance laws of this state in accordance with the provisions of Act No. 88 of the Public Acts of 1943, as amended, being sections 24.71 to 24.80 of the Compiled Laws of 1948, and subject to Act No. 197 of the Public Acts of 1952, as amended, being sections 24.101 to 24.110 of the Compiled Laws of 1948.

History: Add. 1966, Act 73, Imd. Eff. June 10, 1966.

Popular name: Act 218

Administrative rules: R 500.301 et seq.; R 500.351; R 500.402 et seq.; R 500.701 et seq.; R 500.801 et seq.; R 500.831; R 500.841 et seq.; R 500.901 et seq.; R 500.1051 et seq.; R 500.1201 et seq.; R 500.1301 et seq.; R 500.1351 et seq.; R 500.1371 et seq.; R 500.2031, R 500.2032; R 500.2101 et seq.; R 501.3 et seq.; R 501.152 et seq.; R 501.201; and R 550.1 et seq. of the Michigan Administrative Code.

500.212 Deputies, chief clerk and accountant, examiners, clerks, actuaries, and other assistants; oath; powers and duties; hearings; rights of parties; revocation of appointments, designations, and delegations of authority; compensation.

Sec. 212. (1) The commissioner may appoint a first deputy and second deputy who shall subscribe and file the constitutional oath of office. Either of these deputies may perform any duty or act of the commissioner during the commissioner's absence from the bureau. The commissioner may assign either of the deputies to take charge of the bureau during the commissioner's absence.

(2) The commissioner may appoint and employ a chief clerk and accountant, examiners, clerks, actuaries, and other necessary assistants, and may designate a chief examiner. The commissioner may designate special deputies from the commissioner's staff to perform specified duties, including supervision of the bureau during the absence of the commissioner and the first and second deputies.

(3) The commissioner may designate 1 or more persons to conduct hearings provided for under this code, hearings required by Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, and hearings which the commissioner considers necessary and appropriate for fact-finding or information gathering before making decisions, policies, and determinations allowable or required by law in the course of carrying out the duties of the commissioner. Before a person may conduct hearings, the person shall subscribe the constitutional oath of office and file the oath with the commissioner. Limitations imposed by the commissioner upon the authority of a deputy or a person designated by the commissioner to conduct hearings shall not be binding upon or limit the rights of the parties heard.

(4) The commissioner may revoke appointments, designations, and delegations of authority made pursuant to this section, in his or her discretion. Appointees and designees provided for in this section shall be paid in the manner prescribed by law.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1978, Act 497, Imd. Eff. Dec. 11, 1978.

Popular name: Act 218

500.214 Commissioner; immunity from civil liability; conditions.

Sec. 214. (1) The commissioner or his or her representatives are immune from civil liability, both personally and professionally, for any of their acts or omissions if all of the following are met:

(a) The commissioner or his or her representatives acted or reasonably believed he or she acted within the scope of his or her authority.

(b) The commissioner's or his or her representatives' conduct did not amount to gross negligence that was proximate cause of the injury or damages suffered.

(2) The commissioner or his or her representatives shall not be personally liable for the acts or omissions of others.

(3) Except as otherwise provided in this section, defense and indemnification of the commissioner or his or her representatives for an act or omission under this act shall be conducted in accordance with Act No. 170 of the Public Acts of 1964, being sections 691.1401 to 691.1415 of the Michigan Compiled Laws.

(4) If a claim is made or a civil action is commenced against the commissioner or his or her representatives, either personally or professionally, for an act or omission done in the course of employment as it pertains to chapter 78, chapter 81, or any successor chapter, legal representation shall be provided by the attorney general or a special assistant attorney general appointed to provide such representation.

(5) If the attorney general appoints a special assistant attorney general to represent the commissioner or his or her representatives, the costs of the defense shall be paid, as incurred, out of the insurer estate that is the subject of a claim arising out of a chapter 78, chapter 81, or any successor chapter proceeding.

(6) As a condition of the acceptance of the defense, the commissioner or his or her representatives shall agree to reimburse the costs of the defense, if it is finally determined by a final adjudication on the merits that the commissioner or his or her representatives acted outside of the scope of his or her authority and had no reasonable basis for believing that he or she acted within the scope of his or her authority and that his or her conduct amounted to gross negligence that was the proximate cause of the injury or damages suffered.

(7) If a judgment is awarded or a settlement is entered into in a civil action against the commissioner or his or her representatives for an act or omission pertaining to a chapter 78, chapter 81, or any successor chapter proceeding, the state shall indemnify the commissioner or his or her representatives out of the involved insurer's estate.

(8) This section does not apply to those persons acting as the commissioner's agents under section 438a.

(9) For purposes of this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate substantial lack of concern for whether injury results.

(b) "Representative" means any employee of the commissioner or the insurance bureau or any person exercising power delegated by the commissioner in accordance with this act, but does not include accountants, actuaries, or lawyers retained as independent contractors and acting in their professional capacity.

History: Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994.

Popular name: Act 218

500.216 Insurance commissioner and employees; traveling and other expenses.

Sec. 216. The necessary traveling and other necessary and actual expenses of the commissioner, his deputies, examiners, actuaries or other employees, in discharging the duties imposed by this code, shall in all cases be allowed and audited by the accounting division of the department of administration, upon the approval of the commissioner, in accordance with the accounting laws of this state.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.220 Insurance commissioner and employees; service fees, prohibited gifts.

Sec. 220. The commissioner shall not retain as perquisites any fees or any moneys received by him directly or indirectly, for the performance of duties connected with his office. No insurance corporation or insurer or any officer, director, or agent thereof shall directly or indirectly, pay by way of gift, credit, loan or any other pretense whatsoever, any sum of money or other valuable thing to the commissioner, his deputies or any clerk or employee of the insurance department for extra service; and it shall be unlawful for the commissioner, his deputies or any clerk or employee of the insurance department to accept any such payment for extra service except such fees as may be specifically authorized by law to be paid to the commissioner to be covered into the state treasury.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.221 Insurance compliance self-evaluative audit document; privilege; disclosure; exceptions; definitions.

Sec. 221. (1) Except as otherwise provided in this section, an insurance compliance self-evaluative audit document is privileged information and is not discoverable or admissible as evidence in a civil, criminal, or

administrative proceeding.

(2) Except as otherwise provided in this section, a person involved in preparing an insurance compliance self-evaluative audit or insurance compliance self-evaluative audit document is not subject to examination concerning the audit or audit document in a civil, criminal, or administrative proceeding. However, if the insurance compliance self-evaluative audit, insurance compliance self-evaluative audit document, or a portion of the audit or audit document is not privileged, the individual involved in the preparation of the audit or audit document may be examined concerning the portion of the audit or audit document that is not privileged. A person involved in preparing an insurance compliance self-evaluative audit or insurance compliance self-evaluative audit document who becomes aware of an alleged criminal violation of this act shall report the act to the insurer. Within 30 days after receiving the report, the insurer shall provide the information to the director.

(3) The director shall not provide an insurance compliance self-evaluative audit document, furnished to the director voluntarily or as a result of a request of the director under a claim of authority to compel disclosure under subsection (7), to any other person. The insurance compliance self-evaluative audit document must be accorded the same confidentiality and other protections as provided in section 222(7) without waiving the privileges in subsections (1) and (2). Any use of an insurance compliance self-evaluative audit document furnished voluntarily or as a result of a request of the director under a claim of authority to compel disclosure under subsection (7) is limited to determining whether or not any disclosed defects in an insurer's policies and procedures or inappropriate treatment of customers has been remedied or that an appropriate plan for remedy is in place.

(4) An insurance compliance self-evaluative audit document submitted to the director remains subject to all applicable statutory or common law privileges including, but not limited to, the work product doctrine, attorney-client privilege, or the subsequent remedial measures exclusion. An insurance compliance self-evaluative audit document submitted to the director remains the property of the insurer and is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(5) Disclosure of an insurance compliance self-evaluative audit document to a governmental agency, whether voluntary or pursuant to compulsion of law, does not constitute a waiver of the privileges under subsections (1) and (2) with respect to any other person or other governmental agency.

(6) The privileges under subsections (1) and (2) do not apply to the extent that they are expressly waived by the insurer that prepared or caused to be prepared the insurance compliance self-evaluative audit document.

(7) The privileges in subsections (1) and (2) do not apply as follows:

(a) If a court, after an in camera review, requires disclosure in a civil or administrative proceeding after determining 1 or more of the following:

(i) The privilege is asserted for a fraudulent purpose.

(ii) The material is not subject to the privilege as provided under subsection (13).

(b) If a court, after an in camera review, requires disclosure in a criminal proceeding after determining 1 or more of the following:

(i) The privilege is asserted for a fraudulent purpose.

(ii) The material is not subject to the privilege as provided under subsection (13).

(iii) The material contains evidence relevant to the commission of a criminal offense under this act.

(8) Within 14 days after the director or the attorney general makes a written request by certified mail for disclosure of an insurance compliance self-evaluative audit document, the insurer that prepared the document or caused the document to be prepared may file with the Ingham County circuit court a petition requesting an in camera hearing on whether the insurance compliance self-evaluative audit document or portions of the audit document are subject to disclosure. Failure by the insurer to file a petition waives the privilege provided by this section for the request. An insurer asserting the insurance compliance self-evaluative privilege in response to a request for disclosure under this subsection shall include in its request for an in camera hearing all of the information listed in subsection (10). Within 30 days after the filing of the petition, the court shall issue an order scheduling an in camera hearing to determine whether the insurance compliance self-evaluative audit document or portions of the audit document are privileged or are subject to disclosure.

(9) If the court requires disclosure under subsections (7) and (8), the court may compel the disclosure of only those portions of an insurance compliance self-evaluative audit document relevant to issues in dispute in the underlying proceeding. Information required to be disclosed shall not be considered a public document and shall not be considered to be a waiver of the privilege for any other civil, criminal, or administrative proceeding.

(10) An insurer asserting the privilege under this section in response to a request for disclosure under subsection (8) shall provide to the director or the attorney general, at the time of filing an objection to the

disclosure, all of the following information:

- (a) The date of the insurance compliance self-evaluative audit document.
- (b) The identity of the entity or individual conducting the audit.
- (c) The general nature of the activities covered by the insurance compliance self-evaluative audit.
- (d) An identification of the portions of the insurance compliance self-evaluative audit document for which the privilege is being asserted.

(11) An insurer asserting the privilege under this section has the burden of demonstrating the applicability of the privilege. Once an insurer has established the applicability of the privilege, a party seeking disclosure under subsection (7)(a)(i) has the burden of proving that the privilege is asserted for a fraudulent purpose. The director or attorney general seeking disclosure under subsection (7)(b)(iii) has the burden of proving the elements listed in subsection (7)(b)(iii).

(12) The parties may at any time stipulate in proceedings under this section to entry of an order directing that specific information contained in an insurance compliance self-evaluative audit document is or is not subject to the privileges provided under subsections (1) and (2). Any such stipulation may be limited to the instant proceeding and, absent specific language to the contrary, is not applicable to any other proceeding.

(13) The privileges provided under subsections (1) and (2) do not extend to any of the following:

- (a) Documents, communications, data, reports, or other information expressly required to be collected, developed, maintained, or reported to a regulatory agency under this act or other federal or state law.
- (b) Information obtained by observation or monitoring by any regulatory agency.
- (c) Information obtained from a source independent of the insurance compliance audit.
- (d) Documents, communication, data, reports, memoranda, drawings, photographs, exhibits, computer records, maps, charts, graphs, and surveys kept or prepared in the ordinary course of business.

(14) This section does not limit, waive, or abrogate the scope or nature of any other statutory or common law privilege.

(15) As used in this section:

(a) "Insurance compliance audit" means a voluntary, internal evaluation, review, assessment, audit, or investigation for the purpose of identifying or preventing noncompliance with or promoting compliance with laws, regulations, orders, or industry or professional standards, conducted by or on behalf of an insurer licensed or regulated under this act or that involves an activity regulated under this act.

(b) "Insurance compliance self-evaluative audit document" means a document prepared as a result of or in connection with an insurance compliance audit. An insurance compliance self-evaluative audit document may include a written response to the findings of an insurance compliance audit. An insurance compliance self-evaluative audit document may include, but is not limited to, field notes and records of observations, findings, opinions, suggestions, conclusions, drafts, memoranda, drawings, photographs, exhibits, computer-generated or electronically recorded information, phone records, maps, charts, graphs, and surveys, if this supporting information is collected or prepared in the course of an insurance compliance audit or attached as an exhibit to the audit. An insurance compliance self-evaluative audit document also includes, but is not limited to, any of the following:

(i) An insurance compliance audit report prepared by an auditor, who may be an employee of the insurer or an independent contractor, that may include the scope of the audit, the information gained in the audit, and conclusions and recommendations, with exhibits and appendices.

(ii) Memoranda and documents analyzing portions or all of the insurance compliance audit report and discussing potential implementation issues.

(iii) An implementation plan that addresses correcting past noncompliance, improving current compliance, and preventing future noncompliance.

(iv) Analytic data generated in the course of conducting the insurance compliance audit.

(c) "Insurer" means that term as defined in section 106 and includes a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373.

History: Add. 2001, Act 275, Eff. Mar. 22, 2002;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

Popular name: Act 218

500.222 Examination of insurers; examination report; hearing; public inspection; disclosure of confidential information; effect of current examination; director's authority to terminate or suspend examination not limited; limitation on foreign insurer examination.

Sec. 222. (1) The director, in person or by any of his or her authorized deputies or examiners, may examine any or all of the books, records, documents, and papers of an insurer at any time after its articles of incorporation have been executed and filed, or after it has been authorized to do business in this state. The

director in his or her discretion may examine the affairs of a domestic insurer and, if he or she considers it expedient to do so, examine the affairs of a foreign or alien insurer doing business in this state.

(2) Instead of an examination under this act of a foreign or alien insurer authorized to do business in this state, the director may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port-of-entry state if that state accepts examination reports prepared by the director. This subsection applies only as follows:

(a) Until this state becomes accredited by the National Association of Insurance Commissioners' financial regulation standards and accreditation program.

(b) If this state loses accreditation by the National Association of Insurance Commissioners' financial regulation standards and accreditation program.

(3) Instead of an examination under this act of a foreign or alien insurer authorized to do business in this state, the director may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port-of-entry state if that state accepts examination reports prepared by the director and if the insurance regulatory agency of the state of domicile or port-of-entry state was accredited by the National Association of Insurance Commissioners' financial regulation standards and accreditation program at the time of the examination or if the examination is performed under the supervision of an accredited insurance regulatory agency or with the participation of 1 or more examiners who are employed by an accredited insurance regulatory agency and who, after a review of the examination work papers and report, state under oath that the examination was prepared in a manner consistent with the standards and procedures required by their accredited regulatory agency. This subsection only applies during the time this state is accredited by the National Association of Insurance Commissioners' financial regulation standards and accreditation program.

(4) The director, in person or by any of his or her authorized deputies or examiners, shall once every 5 years examine the books, records, documents, and papers of each authorized insurer. The director may examine an insurer more frequently and on its request shall examine a domestic insurer that has not been examined for the 3 years preceding the request. This section does not authorize the examination of books, records, documents, or papers if those items involve matters that are a subject of a currently pending administrative or judicial proceeding against the insurer from whom the information is sought, unless the director or judge specifically finds on the record of the proceeding that the examination is reasonably necessary to protect the interests of policyholders, creditors, or the public or to make a determination of whether an insurer is safe, reliable, and entitled to public confidence.

(5) The business affairs, assets, and contingent liabilities of insurers are subject to examination by the director at any time. The director may supervise and make the same examination of the business and affairs of every foreign or alien insurer doing business in this state as of domestic insurers doing the same kind of business and of its assets, books, accounts, and general condition. A foreign or alien insurer and the agents and officers of the insurer are subject to the same obligations, the same examinations, and, if the insurer, agent, or officer defaults in an obligation, the same penalties and liabilities that a domestic insurer doing the same kind of business and the agents and officers of the insurer are subject to under the laws of this state or the rules promulgated by the director. The director may, whenever he or she considers it expedient to do so, either in person or by a person appointed by him or her, go to the general office or other offices of the foreign or alien insurer, wherever located, and make an investigation and examination of the insurer's affairs and condition.

(6) On an examination under this section, the director, his or her deputy, or any examiner authorized by him or her may examine in person, by writing, and, if appropriate, under oath the officers or agents of the insurer or all persons considered to have material information regarding the insurer's property, assets, business, or affairs. The director may compel the attendance and testimony of witnesses and the production of any books, accounts, papers, records, documents, and files relating to the insurer's business or affairs, and may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence for this purpose. The insurer and its officers and agents shall produce its books and records and all papers in its or their possession relating to its business or affairs, and any other person may be required to produce any books, records, or papers considered relevant to the examination for the inspection of the director, or his or her deputy or examiners, whenever required. The insurer's officers or agents shall facilitate the examination and aid in making the examination so far as it is in their power to do so. If the director's order or subpoena is not followed, the director may request the Ingham County circuit court to issue an order requiring compliance with the order or subpoena.

(7) Not later than 60 days after completing an examination under this section, the deputy or examiners shall make a full and true report, and furnish the insurer a copy of the examination report, that shall comprise only facts appearing on the insurer's books, records, or documents or ascertained from examination of its

officers or agents or other persons concerning its affairs and the conclusions and recommendations as may be reasonably warranted from the facts disclosed. On request by an insurer examined under this section, the director shall grant the insurer a hearing before the director or his or her designee before the report is filed. On request of the insurer, the director shall close the hearing to the public. A hearing under this subsection is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Each examination report must be withheld from public inspection until the report is final and filed with the director. In addition, the director may withhold any examination report or any analysis of an insurer's financial condition from public inspection for any time that he or she considers proper. In any event, the department shall withhold from public inspection all information and testimony furnished to the department and the department's work papers, correspondence, memoranda, reports, records, and other written or oral information related to an examination report or an investigation and these items are confidential, are not subject to subpoena, and must not be divulged to any person, except as provided in this section. If assurances are provided that the information will be kept confidential, the director may disclose confidential work papers, correspondence, memoranda, reports, records, or other information as follows:

- (a) To the governor or the attorney general.
- (b) To any relevant regulatory agency or authority, including regulatory agencies or authorities of other states, the federal government, or other countries.
- (c) In connection with an enforcement action brought under this or another applicable act.
- (d) To law enforcement officials.
- (e) To persons authorized by the Ingham County circuit court to receive the information.
- (f) To persons entitled to receive the information in order to discharge duties specifically provided for in this act.

(8) The confidentiality requirements of subsection (7) apply to a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373. The confidentiality requirements of subsection (7) do not apply in any proceeding or action brought against or by the insurer under this act or any other applicable act of this state, any other state, or the United States.

(9) Notwithstanding the other provisions of this section, the director is not required to finalize and file an examination report for an insurer for a year in which an examination report was not finalized and filed, if the insurer is currently undergoing an examination subsequent to the year for which an examination report was not finalized and filed. This section does not limit the director's authority to terminate or suspend any examination to pursue other legal or regulatory action under the insurance laws of this state. Findings of fact and conclusions made in connection with any examination under this section are prima facie evidence in any legal or regulatory action.

(10) The examination of an alien insurer is limited to its United States business, except as otherwise required by the director.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1959, Act 39, Eff. Mar. 19, 1960;—Am. 1986, Act 173, Imd. Eff. July 7, 1986;—Am. 1989, Act 302, Imd. Eff. Jan. 3, 1990;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994;—Am. 1994, Act 443, Imd. Eff. Jan. 10, 1995;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

Popular name: Act 218

500.223 Application for certificate of authority; fee; withdrawal of application; reapplication fee; disposition.

Sec. 223. Any insurer making application for an original certificate of authority to transact insurance, or applying for a reissuance of a certificate of authority after the certificate has been terminated for any reason, shall pay to the commissioner the fee of \$500.00 for examination, investigation, and processing of the application. If the application is withdrawn for any reason, the examination fee shall not be refunded. Any reapplication for an original certificate, after withdrawal, shall be subject to the same fee of \$500.00 as in the case of an original application. The fees shall be deposited in the state treasury to the credit of the general fund.

History: Add. 1962, Act 50, Imd. Eff. Apr. 17, 1962;—Am. 1981, Act 1, Imd. Eff. Mar. 30, 1981.

Popular name: Act 218

500.224 Examinations and investigations of insurers; expenses; statement to insurers; employment of expert personnel; regulatory fees; expense of administering delinquency proceeding; definitions.

Sec. 224. (1) All actual and necessary expenses incurred in connection with the examination or other investigation of an insurer or other person regulated under the commissioner's authority shall be certified by the commissioner, together with a statement of the work performed including the number of days spent by the

commissioner and each of the commissioner's deputies, assistants, employees, and others acting under the commissioner's authority. If correct, the expenses shall be paid to the persons by whom they were incurred, upon the warrant of the state treasurer payable from appropriations made by the legislature for this purpose.

(2) Except as otherwise provided in subsection (4), the commissioner shall prepare and present to the insurer or other person examined or investigated a statement of the expenses and reasonable cost incurred for each person engaged upon the examination or investigation, including amounts necessary to cover the pay and allowances granted to the persons by the Michigan civil service commission, and the administration and supervisory expense including an amount necessary to cover fringe benefits in conjunction with the examination or investigation. Except as otherwise provided in subsection (4), the insurer or other person, upon receiving the statement, shall pay to the commissioner the stated amount. The commissioner shall deposit the funds with the state treasurer as provided in section 225.

(3) The commissioner may employ attorneys, actuaries, accountants, investment advisers, and other expert personnel not otherwise employees of this state reasonably necessary to assist in the conduct of the examination or investigation or proceeding with respect to an insurer or other person regulated under the commissioner's authority at the insurer's or other person's expense except as otherwise provided in subsection (4). Except as otherwise provided in subsection (4), upon certification by the commissioner of the reasonable expenses incurred under this section, the insurer or other person examined or investigated shall pay those expenses directly to the person or firm rendering assistance to the commissioner. Expenses paid directly to such person or firm and the regulatory fees imposed by this section shall be examination expenses under section 22e of the former single business tax act, 1975 PA 228, or under section 239(1) of the Michigan business tax act, 2007 PA 36, MCL 208.1239.

(4) An insurer is subject to a regulatory fee instead of the costs and expenses provided for in subsections (2) and (3). By June 30 of each year or within 30 days after the enactment into law of any appropriation for the insurance bureau's operation, the commissioner shall impose upon all insurers authorized to do business in this state a regulatory fee calculated as follows:

(a) As used in this subsection:

(i) "A" means total annuity considerations written in this state in the immediately preceding year.

(ii) "B" means base assessment rate. The base assessment rate shall not exceed .00038 and shall be a fraction the numerator of which is the total regulatory fee and the denominator of which is the total amount of direct underwritten premiums written in this state by all insurers for the immediately preceding calendar year as reported to the commissioner on the insurer's annual statements filed with the commissioner.

(iii) "I" means all direct underwritten premiums other than life insurance premiums and annuity considerations written in this state in the immediately preceding year by all insurers.

(iv) "L" means all direct underwritten life insurance premiums written in this state in the immediately preceding year by all life insurers.

(v) Total regulatory fee shall not exceed 80% of the gross appropriations for the insurance bureau's operation for a fiscal year and shall be the difference between the gross appropriations for the insurance bureau's operation for that current fiscal year and any restricted revenues, other than the regulatory fee itself, as identified in the gross appropriation for the insurance bureau's operation.

(vi) Direct premiums written in this state do not include any amounts that represent claims payments that are made on behalf of, or administrative fees that are paid in connection with, any administrative service contract, cost-plus arrangement, or any other noninsured or self-insured business.

(b) Two actual assessment rates shall be calculated so as to distribute 75% of the burden of the regulatory fee shortfall created by the exclusion of annuity considerations from the assessment base to life insurance and 25% to all other insurance. The 2 actual assessment rates shall be determined as follows:

$$(i) \quad \frac{L \times B + .75 \times B \times A}{L} = \text{assessment rate for life insurance.}$$

$$(ii) \quad \frac{I \times B + .25 \times B \times A}{I} = \text{assessment rate for insurance other than life insurance.}$$

(c) Each insurer's regulatory fee shall be a minimum fee of \$250.00 and shall be determined by multiplying the actual assessment rate by the assessment base of that insurer as determined by the commissioner from the insurer's annual statement for the immediately preceding calendar year filed with the commissioner.

(5) Not less than 67% of the revenue derived from the regulatory fee under subsection (4) shall be used for the regulation of financial conduct of persons regulated under the commissioner's authority and for the regulation of persons regulated under the commissioner's authority engaged in the business of health care and health insurance in this state.

(6) The amount, if any, by which amounts credited to the commissioner pursuant to section 225 exceed actual expenditures pursuant to appropriations for the insurance bureau's operation for a fiscal year shall be

credited toward the appropriation for the insurance bureau in the next fiscal year.

(7) All money paid into the state treasury by an insurer under this section shall be credited as provided under section 225.

(8) A regulatory fee under this section shall not be treated by an insurer as a levy or excise upon premium but as a regulatory burden that is apportioned in relation to insurance activity in this state and reflects the insurance regulatory burden on this state as a result of this insurance activity. A foreign or alien insurer authorized to do business in this state may consider the liability required under this section as a burden imposed by this state in the calculation of the insurer's liability required under section 476a.

(9) An insurer may file with the commissioner a protest to the regulatory fee imposed not later than 15 days after receipt of the regulatory fee. The commissioner shall review the grounds for the protest and shall hold a conference with the insurer at the insurer's request. The commissioner shall transmit his or her findings to the insurer with a restatement of the regulatory fee based upon the findings. Statements of regulatory fees to which protests have not been made and restatements of regulatory fees are due and shall be paid not later than 30 days after their receipt. Regulatory fees that are not paid when due bear interest on the unpaid fee which shall be calculated at 6-month intervals from the date the fee was due at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months immediately preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, until the assessment is paid in full. An insurer who fails to pay its regulatory fee within the prescribed time limits may have its certificate of authority or license suspended, limited, or revoked as the commissioner considers warranted until the regulatory fee is paid. If the commissioner determines that a regulatory fee or a part of a regulatory fee paid by an insurer is in excess of the amount legally due and payable, the amount of the excess shall be refunded or, at the insurer's option, be applied as a credit against the regulatory fee for the next fiscal year. An overpayment of \$100.00 or less shall be applied as a credit against the insurer's regulatory fee for the next fiscal year unless the insurer had a \$100.00 or less overpayment in the immediately preceding fiscal year. If the insurer had a \$100.00 or less overpayment in the immediately preceding fiscal year, at the insurer's option, the current fiscal year overpayment of \$100.00 or less shall be refunded.

(10) Any amounts stated and presented to or certified, assessed, or imposed upon an insurer as provided in subsections (2), (3), and (4) that are unpaid as of the date that the insurer is subjected to a delinquency proceeding pursuant to chapter 81 shall be regarded as an expense of administering the delinquency proceeding and shall be payable as such from the general assets of the insurer.

(11) In addition to the regulatory fee provided in subsection (4), each insurer that locates records or personnel knowledgeable about those records outside this state pursuant to section 476a(3) or section 5256 shall reimburse the insurance bureau for expenses and reasonable costs incurred by the insurance bureau as a result of travel and other costs related to examinations or investigations of those records or personnel. The reimbursement shall not include any costs that the insurance bureau would have incurred if the examination had taken place in this state.

(12) As used in this section:

(a) "Annuity considerations" means receipts on the sale of annuities as used in section 22a of the former single business tax act, 1975 PA 228, or in section 235 of the Michigan business tax act, 2007 PA 36, MCL 208.1235.

(b) "Insurer" means an insurer authorized to do business in this state and includes nonprofit health care corporations, dental care corporations, and health maintenance organizations.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1957, Act 91, Eff. Sept. 27, 1957;—Am. 1958, Act 196, Imd. Eff. Apr. 21, 1958;—Am. 1968, Act 275, Imd. Eff. July 1, 1968;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 228, Imd. Eff. June 30, 1994;—Am. 1998, Act 121, Imd. Eff. June 10, 1998;—Am. 2000, Act 252, Imd. Eff. June 29, 2000;—Am. 2001, Act 143, Imd. Eff. Oct. 26, 2001;—Am. 2007, Act 187, Imd. Eff. Dec. 21, 2007.

Popular name: Act 218

500.224a Report relating to regulatory fees.

Sec. 224a. Beginning June 1, 1995 and annually thereafter the commissioner shall report to the senate and house of representatives standing committees on insurance issues on revenues raised by the regulatory fees required by the amendatory act that added this section, how the regulatory fees were spread among domestic, foreign, and alien insurers, how the regulatory fees are being expended in regulating the domestic, foreign, and alien insurance industry, and whether new regulatory policy is needed to better protect the citizens of Michigan.

History: Add. 1994, Act 228, Imd. Eff. June 30, 1994.

Popular name: Act 218

500.224b Repealed. 2008, Act 440, Eff. Apr. 1, 2009.

Compiler's note: The repealed section pertained to quality assurance assessment fee.

Popular name: Act 218

500.225 Insurance bureau fund; creation; deposit of fees; reversion to general fund; use of fund.

Sec. 225. The insurance bureau fund is created in the state treasury as a separate fund. Except as otherwise specifically provided, all fees collected pursuant to this act or under the commissioner's authority shall be deposited in the insurance bureau fund. Money in the insurance bureau fund shall not revert to the general fund at the close of the fiscal year but shall remain in the insurance bureau fund. Money in the insurance bureau fund shall be used only for regulatory purposes under the commissioner's authority. However, money in the insurance bureau fund may be appropriated by the legislature to pay for legislators designated by the senate majority leader and speaker of the house of representatives to participate in insurance activities coordinated by insurance and legislative associations including the national association of insurance commissioners and the national council of insurance legislators.

History: Add. 1994, Act 228, Imd. Eff. June 30, 1994;—Am. 1998, Act 279, Imd. Eff. July 27, 1998.

Popular name: Act 218

500.225a Contract for services, supplies, and materials.

Sec. 225a. The commissioner shall contract for services, supplies, and materials pursuant to Act No. 428 of the Public Acts of 1980, being sections 450.771 to 450.776 of the Michigan Compiled Laws, and pursuant to the competitive bid requirements of the management and budget act, Act No. 431 of the Public Acts of 1984, being sections 18.1101 to 18.1594 of the Michigan Compiled Laws.

History: Add. 1994, Act 228, Imd. Eff. June 30, 1994.

Popular name: Act 218

500.226 Disclosure of confidential information; penalty.

Sec. 226. The commissioner or any of the commissioner's employees or agents shall not divulge confidential information acquired in the course of an examination or investigation except as permitted by section 222(7). A person appointed or acting under this act who discloses any fact or information that is confidential under this act is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00, or imprisonment of not more than 1 year, or both. A conviction under this section shall automatically remove the person from his or her position or office.

History: Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994.

Popular name: Act 218

500.228 Examinations and investigations of insurers; report of crimes to attorney general.

Sec. 228. If it appears from an examination or other investigation made by the commissioner or if it appears from a report made to the commissioner pursuant to this act that a crime has been committed under a provision of this act or other law of the state, the commissioner shall immediately report the crime to the attorney general in writing, and the attorney general shall take such action on the report as the facts warrant.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

Popular name: Act 218

500.230 Recovery of penalty; disposition of funds.

Sec. 230. Every penalty provided for by this code, if not otherwise provided for, shall be sued for and recovered in the name of the people by the prosecuting attorney of the county in which the insurer or the agent or agents so violating shall be situated; and shall be paid into the treasury of said county; such penalties may also be sued for and recovered in the name of the people, by the attorney general, and, when sued for and collected by him, shall be paid into the state treasury.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.234 Insurance department; records of office; public inspection, exceptions, destruction, rules and regulations.

Sec. 234. (1) The office of the insurance department is a public office and the records, books, and papers thereof on file therein shall be public records, accessible to the inspection of the public, except as the

commissioner, for good reason, may decide otherwise, or except as may be otherwise provided under this code.

(2) The commissioner is authorized to destroy or otherwise dispose of all records, books, papers, and other data on file with the department which in his opinion and on the advice of the attorney general, are of no further material value to the state of Michigan; but no destruction or other disposal thereof may be ordered or made by him of any records, books, papers, or other data required by law to be filed or kept on file with the department until the expiration of a period of 10 years, nor of any such records, books, papers, or other data filed during his administration or administrations. Such authorization shall be effected through official rules and regulations of the commissioner: Provided, however, That this authorization shall not extend to articles of incorporation, and amendments thereto, copies of bylaws and amendments thereto, copies of certificates or other written evidence of authorization to transact business or of approval of articles of incorporation and bylaws. A copy of the commissioner's rules and regulations herein provided for and any amendments thereto shall be mailed to each insurer authorized to do business in this state 60 days prior to the effective date thereof.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.236 Repealed. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

Compiler's note: The repealed section pertained to a study assessing the condition of the commercial liability insurance market.

Popular name: Act 218

500.238 Insurance commissioner; annual report to governor, contents, publication.

Sec. 238. (1) The commissioner shall compile a report of the conduct of his office annually at such time each year as the information to be contained therein is available, which report shall be printed for public information and use in such number as the commissioner may deem advisable, not to exceed 1,500 copies. Such report shall be addressed to the governor and be for his information primarily.

(2) The commissioner shall publish in such annual report information contained in the annual statements of insurers filed with him pursuant to this code.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.240 Fees and charges; collection, payment, and disposition.

Sec. 240. (1) The commissioner shall collect, and the person affected shall pay to the commissioner, the following fees:

(a) Filing fee for original authorization to transact insurance or health maintenance organization business in this state, for each domestic, foreign, and alien insurer, and each health maintenance organization.....	\$ 25.00.
(b) Filing fee for annual statement of foreign and alien insurers, each year, subject to section 476a.....	\$ 25.00.
(c) Agent's appointment fee, resident or nonresident, payable by insurer or health maintenance organization so represented, for each agent, each year.....	\$ 5.00.
(d) Application fee payable by each initial applicant for license as resident agent, nonresident agent, surplus lines agent, solicitor, counselor, or adjuster, not transferable or refundable.....	\$ 10.00.
(e) Solicitor's license, each year.....	\$ 10.00.
(f) Insurance counselor license, each year.....	\$ 10.00.
(g) Adjuster's license, each year.....	\$ 5.00.
(h) License examination fee, payable by applicant for all subjects covered in any 1 examination, or portion of an examination, for license as resident agent, surplus lines agent, solicitor, counselor, or adjuster, each examination, not transferable or refundable.....	\$ 10.00.
(i) Surplus lines agent license each year.....	\$ 100.00.

(2) Each incorporated domestic insurer shall pay to the attorney general, for the examination of the insurer's articles of incorporation or any amendments to the articles of incorporation, the sum of \$25.00.

(3) The fees and charges for official services performed by the commissioner or the commissioner's deputies or employees, when collected, shall be turned over to the state treasurer and a receipt taken. The fees and charges provided for in this section shall be deposited in the state treasury to the credit of the general fund.

(4) The provisions of subsection (1)(h), insofar as they provide for examination fees, are applicable only if the examinations are administered by the commissioner. If the examinations are administered by some designated authority other than the commissioner, appropriate examination fees shall be payable directly to the designated authority.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1967, Act 221, Imd. Eff. July 10, 1967;—Am. 1979, Act 181, Imd. Eff. Dec. 18, 1979;—Am. 1981, Act 1, Imd. Eff. Mar. 30, 1981;—Am. 1987, Act 261, Imd. Eff. Dec. 28, 1987;—Am. 2000, Act 252, Imd. Eff. June 29, 2000.

Popular name: Act 218

500.244 Judicial review.

Sec. 244. (1) A person aggrieved by a final order, decision, finding, ruling, opinion, rule, action, or inaction provided for under this act may seek judicial review in the manner provided for in chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306.

(2) An insurer may petition for right for a stay of an order issued pursuant to sections 436, 436a, and 437 or any other proceeding for the suspension, revocation, or limitation of a certificate of authority. The petition shall be on an emergency basis to the circuit court for the county in which the insurer has its principal place of business in the state or to the circuit court for Ingham county. The petition shall be disposed of within 14 days. The court shall direct the filing and time of filing of appropriate pleadings. A court shall not issue a stay unless the court finds that the issuance of a stay is not hazardous to policyholders, creditors, or the public. The decision of the court shall be limited to the issue of a stay, and the court shall not decide the merits of the case, which shall be determined pursuant to section 437 or to any other provision of this act under which the proceeding for the suspension, revocation, or limitation of the certificate of authority is being conducted.

(3) An order of a court issuing a stay may be appealed on an emergency basis, and during the pendency of an appeal the stay issued shall be without force or effect, unless the insurer deposits cash or securities pursuant to subsection (4). The appeal shall be disposed of within 14 days. The court shall direct the filing and time of filing of appropriate pleadings. The court may affirm, modify, or set aside the commissioner's order and restrain the enforcement of the order. To the extent that the commissioner's order is affirmed, the court shall issue its own order commanding obedience to the terms of the commissioner's order.

(4) A stay shall not take effect until the insurer has made deposits of cash or securities of the kinds defined by section 901 with the state treasurer under the supervision of the court granting the stay in amounts as follows:

(a) For a domestic insurer, the total liabilities of the insurer as computed in accordance with section 901 less the amounts of special or other deposits already made by the insurer with the Michigan state treasurer and with any other state pursuant to the requirements of that state.

(b) Except as otherwise provided in this subdivision, for a foreign insurer, 125% of the aggregate sum of Michigan direct unpaid losses and unpaid loss adjustment expenses plus 100% of Michigan direct unearned premiums less the amount of any other special deposits already made with the Michigan state treasurer for the exclusive protection of Michigan policyholders and creditors. For a foreign life or health insurer, 125% of Michigan reserves and liabilities for policies and contracts for which coverage is provided by the Michigan life and health insurance guaranty association, without respect to the limitations and exclusions provided under chapter 77.

(c) For an alien insurer entering the United States through this state, the same as those applied to domestic insurers with credit given for amounts already held in trust and the amount shall equal the total liabilities in the United States computed in accordance with section 901.

(5) The deposit and any accrued interest on the deposit shall be returned to the insurer at the conclusion of the entire proceedings under section 437 or at the conclusion of such other proceedings for the suspension, revocation, or limitation of the certificate of authority and any appeal therefrom, unless those proceedings result in a finding that all or a portion shall remain on deposit for the protection of Michigan policyholders and creditors or unless an order of rehabilitation or liquidation is entered, in which case the deposit shall be turned over to the liquidator.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 2001, Act 272, Imd. Eff. Jan. 11, 2002

Popular name: Act 218

500.246 Repealed. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

Compiler's note: The repealed section pertained to actions for violation of the act and immunity of witnesses.

Popular name: Act 218

500.248 Violations of act; actions; perjury.

Sec. 248. Any persons required by the provisions of this code to take any oath, or affirmation, who shall make any false oath or affirmation, shall be deemed guilty of perjury.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218

500.249 Insurance commissioner; investigations of agents, adjusters, counselors, managers, promoters, officers and directors.

Sec. 249. For the purposes of ascertaining compliance with the provisions of the insurance laws of the state or of ascertaining the business condition and practices of an insurer or proposed insurer, the commissioner, as often as he deems advisable, may initiate proceedings to examine the accounts, records, documents and transactions pertaining to:

(a) Any insurance agent, surplus line agent, general agent, adjuster, public adjuster or counselor.

(b) Any person having a contract under which he enjoys in fact the exclusive or dominant right to manage or control an insurer.

(c) Any person holding the shares of voting stock or policyholder proxies of an insurer, for the purpose of controlling the management thereof, as voting trustee or otherwise.

(d) Any person engaged in or proposing to be engaged in or assisting in the promotion or formation of an insurer or insurance holding corporation, or corporation to finance an insurer or the production of its business.

(e) A person or organization owning stock representing 10% or more of the voting shares of an insurer.

(f) Any officer or director of an insurer.

History: Add. 1967, Act 262, Eff. Nov. 2, 1967.

Popular name: Act 218

500.249a Fingerprints required; costs; providing criminal history records.

Sec. 249a. (1) The following persons shall appear, at the commissioner's request, before the sheriff or any police agency for the county in which the person resides and request an impression of his or her fingerprints and shall pay the costs incurred under this section:

(a) Officers and directors or proposed officers and directors of the insurer and its affiliates.

(b) Controlling stockholders or proposed controlling stockholders of the insurer and its affiliates.

(c) Individuals who are or will be the source of direct or indirect funding of the insurer and its affiliates.

(d) Individuals involved or proposed to be involved in the management of the insurer and its affiliates.

(2) To the extent allowed by federal law, the commissioner may request and the department of state police shall provide state, multistate, and federal criminal history records for the commissioner's use in determining whether a certificate of authority to transact insurance in this state should be issued, suspended, or revoked; for approving any change of control of an insurer authorized to transact insurance in this state; or for determining the fitness of an officer or director of an insurer.

History: Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

Popular name: Act 218

500.250 Insurers; stock transfer; officers or directors; appointment; notice to director; grounds for removal; hearing; order; civil immunity; review; "insurer" defined.

Sec. 250. (1) All insurers licensed to do business in this state shall notify the director within 30 days of any transfer of stock that results in any 1 person holding 10% or more of the voting shares of an insurer. In addition, a domestic insurer shall notify the director within 30 days of the appointment or election of any new officers or directors.

(2) If, after proceedings under section 249, the director has reason to believe that an officer or director is untrustworthy or has abused his or her trust and that continuation as an officer or director is hazardous or injurious to the insurer, the policyholders, or the public, the director shall hold a hearing. After the hearing and after written findings that the officer or director is untrustworthy or has abused his or her trust and that continuation as an officer or director is hazardous or injurious to the insurer, the policyholders, or the public, the director may order the removal of the officer or director.

(3) If the insurer does not comply with a removal order under subsection (2) within 30 days, the director may suspend or revoke the insurer's certificate of authority until the insurer complies with the order.

(4) Any action under this section taken by an insurer or its directors or officers pursuant to an order of the director under this act must be considered to be in good faith and not be the basis for subjecting the insurer or its directors or officers to civil liabilities.

(5) An order of the director issued under this section is subject to review as provided in section 244.

(6) As used in this section, "insurer" includes a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373.

History: Add. 1967, Act 262, Eff. Nov. 2, 1967;—Am. 2002, Act 684, Imd. Eff. Dec. 30, 2002;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

Popular name: Act 218

500.251 Cease and desist order.

Sec. 251. (1) In the reasonable exercise of discretion, the commissioner may issue a cease and desist order if the commissioner finds any of the following:

(a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.

(b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.

(c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.

(d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare.

(2) A cease and desist order under this section shall contain a description of the conduct to which the order applies and shall require the person to immediately cease and desist from that conduct.

(3) The commissioner shall serve the cease and desist order directly on the person affected by the order or shall serve the person by registered or certified mail, return receipt requested, to the address last known to the commissioner.

(4) A person who is the subject of a cease and desist order under this section may contest the order by requesting a hearing before the commissioner not later than 30 days after the order is delivered or mailed to the person. Within 10 days after receiving the request, the commissioner shall commence a hearing in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. Pending the hearing, the cease and desist order continues in full force and effect unless the order is stayed by the commissioner.

(5) Within 5 business days after the hearing, the commissioner shall affirm, modify, or set aside in whole or in part the cease and desist order.

(6) A person who violates or otherwise fails to comply with a cease and desist order under this section is subject to 1 or more of the following:

(a) Payment of a civil fine of not more than \$1,000.00 for each violation not to exceed an aggregate civil fine of \$30,000.00. However, if the person knew or reasonably should have known the person was in violation of the order, payment of a civil fine of not more than \$25,000.00 for each violation not to exceed an aggregate civil fine of \$250,000.00.

(b) Suspension or revocation of the person's license or certificate of authority.

(c) Complete restitution, in the form, amount, and within the period determined by the commissioner, to all persons in this state damaged by the violation or failure to comply.

(7) The commissioner may recover reasonable attorney fees if judicial action is necessary for enforcement of a cease and desist order under this section.

History: Add. 1996, Act 314, Eff. Mar. 31, 1997.

Popular name: Act 218