

Act No. 574
Public Acts of 2008
Approved by the Governor
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**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Sanborn, Thomas, Barcia and Gilbert

ENROLLED SENATE BILL No. 1475

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending sections 1204b and 1204c (MCL 500.1204b and 500.1204c), section 1204b as amended by 1992 PA 84 and section 1204c as amended by 2006 PA 442.

The People of the State of Michigan enact:

Sec. 1204b. (1) An insurance agent education advisory council is created within the department of labor and economic growth. The commissioner shall appoint the members of the council. The council shall be composed of the following:

- (a) Two representatives of the national association of insurance and financial advisors - Michigan.

- (b) Two representatives of the Michigan association of insurance agents.
- (c) Three insurer representatives.
- (d) At least 1 licensed property and casualty insurance agent.
- (e) At least 1 licensed life insurance agent.
- (f) One representative of the insurance education field.
- (g) One representative of the general public.
- (h) The commissioner as an ex officio member.

(2) Initially, 3 members shall be appointed for a term of 1 year, 3 members for a term of 2 years, and the remaining members for a term of 3 years. Thereafter, members of the council shall serve for a term of 3 years and for not more than 2 consecutive terms. The council shall meet on at least a semiannual basis. Members shall serve without compensation but shall be reimbursed for their actual and necessary expenses.

(3) The council shall do all of the following:

(a) Review and make recommendations to the commissioner with respect to course materials, curriculum, and the credentials of the instructors of each program of study registered with the commissioner pursuant to section 1204a.

(b) Review continuing education programs of study under section 1204c(3) and make recommendations to the commissioner on whether those programs meet the requirements in section 1204c(4).

(c) Make recommendations to the commissioner with respect to educational requirements of insurance agents.

(4) A member of the council or designee of the commissioner shall be permitted access to any classroom while instruction is in progress to monitor the classroom instruction.

Sec. 1204c. (1) As used in this section:

(a) "Hour" means a period of time of not less than 50 minutes.

(b) "Insurance producer" means a life-health agent or property-casualty agent.

(c) "Life-health agent" means a resident or nonresident individual insurance producer licensed for life, limited life, mortgage redemption, accident and health, or any combination thereof.

(d) "Property-casualty agent" means a resident or nonresident individual insurance producer or solicitor licensed for automobile, fire, multiple lines, any limited or minor property and casualty line, or any combination thereof.

(2) An insurance producer's hours of study accrued under this section shall be reviewed for license continuance every 2 years under a schedule established by the commissioner. The commissioner may establish a schedule for license continuation that staggers license continuation dates to apportion the continuation dates throughout the calendar year. If the system of staggered continuation is adopted, the commissioner may extend the licensure period for some licensees.

(3) Except as provided in subsections (10) to (13), before the review date of each applicable 2-year period provided for under subsection (2), an insurance producer wishing to renew his or her license shall renew his or her license by attending or instructing not less than 24 hours of continuing education classes approved by the commissioner or 24 hours of home study or online training if evidenced by successful completion of course work approved by the commissioner. Of the 24 hours of continuing education required, not less than 3 hours shall be in ethics in insurance classes or course work.

(4) After reviewing recommendations made by the council under section 1204b, the commissioner shall approve a program of study if the commissioner determines that the program increases knowledge of insurance and related subjects as follows:

(a) For a life-health agent program of study, the program offers instruction in 1 or more of the following:

(i) The fundamental considerations and major principles of life insurance.

(ii) The fundamental considerations and major principles of health insurance.

(iii) Estate planning and taxation as related to insurance.

(iv) Industry and legal standards concerning ethics in insurance.

(v) Legal, legislative, and regulatory matters concerning insurance, the insurance code, and the insurance industry.

(vi) Principal provisions used in life insurance contracts, health insurance contracts, or annuity contracts and differences in types of coverages.

(vii) Accounting and actuarial considerations in insurance.

(viii) Principles of agency management, excluding telemarketing or other marketing instruction.

(ix) The fundamental considerations, major principles, and statutory requirements of long-term care insurance.

- (b) For a property-casualty agent program of study, the program offers instructions in 1 or more of the following:
- (i) The fundamental considerations and major principles of property insurance.
 - (ii) The fundamental considerations and major principles of casualty insurance.
 - (iii) Basic principles of risk management.
 - (iv) Industry and legal standards concerning ethics in insurance.
 - (v) Legal, legislative, and regulatory matters concerning insurance, the insurance code, and the insurance industry.
 - (vi) Principal provisions used in casualty insurance contracts, no-fault insurance contracts, or property insurance contracts and differences in types of coverages.
 - (vii) Accounting and actuarial considerations in insurance.
 - (viii) Principles of agency management, excluding telemarketing or other marketing instruction.

(5) A provider of a program of study for insurance producers applying for approval or reapproval from the commissioner under this section shall file, on a form provided by the commissioner, a description of the course of study including a description of the subject matter and course materials, hours of instruction, location of classroom, qualifications of instructors, and maximum student-instructor ratio and shall pay a nonrefundable \$25.00 filing fee. Any material change in a program of study shall require reapproval by the commissioner. If the information in an application for approval or reapproval is insufficient for the commissioner to determine whether the program of study meets the requirements under subsection (4), the commissioner shall give written notice to the provider, within 15 days after the provider's filing of the application for approval or reapproval, of the additional information needed by the commissioner. An application for approval or reapproval shall be considered approved unless disapproved by the commissioner within 90 days after the application for approval or reapproval is filed, or within 90 days after the receipt of additional information if the information was requested by the commissioner, whichever is later.

(6) A provider of a program of study approved by the commissioner under this section shall pay a provider authorization fee of \$500.00 for the first year the provider's program of study was approved under this section and a \$100.00 provider renewal fee for each year thereafter that the provider offers the approved program of study.

(7) A person dissatisfied with an approved program of study may petition the commissioner for a hearing on the program or the commissioner on his or her own initiative may request a hearing on a program of study. If the commissioner finds the petition to have been submitted in good faith, that the petition if true shows the program of study does not satisfy the criteria in subsection (4), or that the petition otherwise justifies holding a hearing, the commissioner shall hold a hearing pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, within 30 days after receipt of the petition and upon not less than 10 days' written notice to the petitioner and the provider of the program of study. If the commissioner requests a hearing on a program of study on his or her own initiative, the commissioner shall hold a hearing pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, upon not less than 10 days' written notice to the provider of the program of study.

(8) If after a hearing under subsection (7) the commissioner finds that the program of study does not satisfy the requirements under subsection (4), the commissioner shall state, in a written order mailed first-class to the petitioner and provider of the program of study, his or her findings and the date upon which the commissioner will revoke approval of the program of study which date shall be within a reasonable time of the issuance of the order.

(9) A certificate of attendance or instruction of an approved program of study or a certificate of successful completion of course work shall be filed as directed by the commissioner on a form prescribed by the commissioner and shall indicate the name and number of the course of study, the number of hours, dates of completion, and the name and number of schools attended or taught by the insurance producer or the evidence of successful completion of course work. A representative of the approved program of study shall file the form and a fee of \$1.00 per hour for course credit for each insurance producer license renewal as directed by the commissioner within 30 days after the insurance producer completes the program. A copy of the form shall also be mailed first-class to the insurance producer who attended, taught, or successfully completed the program of study. The commissioner may enter into contracts to provide for the administrative functions of this subsection.

(10) The commissioner shall waive the continuing education requirements of this section for an insurance producer if the producer is unable to comply with the continuing education requirements of this section due to military service or if the commissioner determines that enforcement of the requirements would cause a severe hardship. The commissioner shall waive the continuing education requirements of this section for the following insurance producers:

- (a) An insurance producer who is licensed to write only travel or baggage insurance policies and whose employment is for a purpose other than the sale of those policies.
- (b) An insurance producer who is licensed to write only limited line credit insurance.

(11) The commissioner may enter into reciprocal continuing education agreements with insurance commissioners from other states.

(12) If an insurance producer has not met his or her continuing education requirements by the expiration date of his or her license, the insurance producer shall have a 90-day grace period in which to meet the continuing education requirements of this section. During the 90-day grace period, the insurance producer shall not solicit or sell new policies of insurance, bind coverage, or otherwise act as an insurance producer except that the insurance producer may continue to service policies previously sold and may receive commissions on policies previously sold. If the insurance producer has not met his or her continuing education requirements by the expiration of the 90-day grace period, the insurance producer's license shall be canceled. An insurance producer whose license has been canceled under this section may reapply for license to act as an insurance producer under section 1204, except that the program of study requirements under section 1204 shall not be waived.

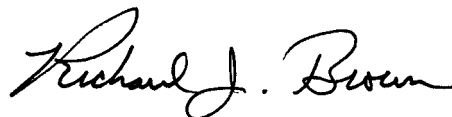
(13) An insurance producer who has sold his or her insurance business and who has not met the continuing education requirements of this section shall not solicit or sell new policies of insurance, bind coverage, or otherwise act as an insurance producer except that the insurance producer may continue to service policies previously sold and may receive commissions on policies previously sold as well as receive partial commissions on policies of insurance sold by a purchasing insurance producer. An insurance producer who is in the process of selling his or her insurance business and who has not met the continuing education requirements of this section shall not solicit or sell new policies of insurance, bind coverage, or otherwise act as an insurance producer except that the insurance producer may continue to service policies previously sold and may receive commissions on policies previously sold as well as receive partial commissions on policies of insurance sold by a purchasing insurance producer, for a period not to exceed 12 months after the selling insurance producer's license review date under subsection (2). An insurance producer whose license has been canceled and who wishes to resume soliciting or selling new policies of insurance, bind coverage, or otherwise act as an insurance producer and who has not met the continuing education requirements within the immediately preceding 2-year period may reapply for license to act as an insurance producer under section 1204.

Enacting section 1. This amendatory act takes effect January 1, 2010.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor