

**STATE OF MICHIGAN
100TH LEGISLATURE
REGULAR SESSION OF 2019**

Introduced by Rep. Hoitenga

ENROLLED HOUSE BILL No. 4044

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 1205 and 1239 (MCL 500.1205 and 500.1239), section 1205 as amended by 2008 PA 422 and section 1239 as amended by 2008 PA 423.

The People of the State of Michigan enact:

Sec. 1205. (1) A person applying for a resident insurance producer license shall file with the director the uniform application required by the director and shall declare under penalty of refusal, suspension, or revocation

of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. The director shall not approve an application for a resident insurer producer license unless the director finds that the individual meets all of the following conditions:

- (a) Is at least 18 years of age.
 - (b) Has not committed any act listed in section 1239(1).
 - (c) As required under section 1204(2), has completed a preclicensing course of study for the qualifications for which the person has applied.
 - (d) Has paid the fees applicable to the individual under section 240.
 - (e) Has successfully passed the examination required for each qualification for which the person has applied.
- (2) A business entity acting as an insurance producer shall obtain an insurance producer license. A business entity applying for an insurance producer license shall file with the director the uniform business entity application required by the director. The director shall not approve an application for an insurance producer license under this subsection unless the director finds all of the following:
- (a) The business entity has paid the fees under section 240(1)(d).
 - (b) The business entity has designated an individual licensed producer responsible for the business entity's compliance with this state's insurance laws, rules, and regulations.
 - (c) The business entity has not committed any act listed in section 1239(1).
 - (3) The director may require the production of any documents reasonably necessary to verify the information contained in an application.
 - (4) An insurer that sells, solicits, or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting, or negotiating limited line credit insurance a program of instruction that may be approved by the director.

Sec. 1239. (1) In addition to any other powers under this act, the director may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions, and the director shall not issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

- (a) Obtaining or attempting to obtain a license through misrepresentation or fraud.
 - (b) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
 - (c) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
 - (d) Having been convicted of a felony within 10 years before the uniform application was filed.
 - (e) Regardless of the date of conviction, having been convicted of a felony involving any of the following:
 - (i) Violence or threat of violence against an individual, including, but not limited to, domestic violence.
 - (ii) Criminal sexual conduct.
 - (iii) A felony of a fiduciary nature or financial nature such as fraud, embezzlement, bribery, or extortion.
 - (f) Having admitted or been found to have committed any insurance unfair trade practice or fraud.
 - (g) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
 - (h) Forging another's name to an application for insurance or to any document related to an insurance transaction.
 - (i) Knowingly accepting insurance business from an individual who is not licensed.
- (2) In addition to any other powers under this act, the director may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions, and the director may refuse to issue a license under section 1205 or 1206a, for any 1 or more of the following causes:
- (a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application.
 - (b) Having been convicted of a felony other than a felony described in subsection (1)(e).
 - (c) Having an insurance producer license or its equivalent denied, suspended, or revoked in any other state, province, district, or territory.
 - (d) Improperly using notes or any other reference material to complete an examination for an insurance license.
 - (e) Violating any insurance laws or violating any regulation, subpoena, or order of the director or of another state's insurance commissioner.
 - (f) Failing to comply with an administrative or court order imposing a child support obligation.

(g) Failing to pay the single business tax or the Michigan business tax or comply with any administrative or court order directing payment of the single business tax or the Michigan business tax.

(3) Subject to subsection (2), after examination, investigation, and interrogatories, the director shall issue a license under section 1205 or 1206a to an applicant if the director determines the applicant possesses good moral character to act as an insurance producer.

(4) Before the director denies an application for a license under section 1205 or 1206a, the director shall notify in writing the applicant or licensee of the denial and of the reason for the denial. Not later than 30 days after this written denial, the applicant or licensee may make written demand on the director for a hearing before the director to determine the reasonableness of the director's action. A hearing under this subsection must be held under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) The license of a business entity may be suspended, revoked, or refused if the director finds, after hearing, that an individual licensee's violation was known or should have been known by 1 or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was not reported to the director and corrective action was not taken.

(6) In addition to or instead of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a civil fine under section 1244.

(7) In addition to the penalties under this section, the director may enforce the provisions of and impose any penalty or remedy authorized by this act against a person that is under investigation for or charged with a violation of this act even if the person's license or registration has been surrendered or has lapsed by operation of law.

Enacting section 1. This amendatory act takes effect 6 months after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor