

HOUSE BILL No. 4576

April 17, 2013, Introduced by Reps. Crawford and Kelly and referred to the Committee on Health Policy.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 102, 249a, 1201, 1238, and 1242 (MCL 500.102, 500.249a, 500.1201, 500.1238, and 500.1242), section 102 as amended by 2000 PA 252, section 249a as added by 1992 PA 182, section 1201 as amended by 2012 PA 462, section 1238 as amended by 2012 PA 453, and section 1242 as amended by 2002 PA 32, and by adding sections 1229, 1230, 1231, 1231a, and 1231b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 102. (1) "Commissioner" as used in this act means the
2 ~~commissioner of the office of financial and insurance~~
3 ~~services.~~**DIRECTOR.**

4 (2) "Department" as used in this act means the ~~office of~~
5 ~~financial and insurance services.~~**DEPARTMENT OF INSURANCE AND**

1 **FINANCIAL SERVICES.**

2 (3) "DIRECTOR" AS USED IN THIS ACT, UNLESS THE CONTEXT CLEARLY
3 IMPLIES A DIFFERENT MEANING, MEANS THE DIRECTOR OF THE DEPARTMENT
4 OF INSURANCE AND FINANCIAL SERVICES.

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

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

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

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

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

18 **(E) INDIVIDUALS INVOLVED OR PROPOSED TO BE INVOLVED IN THE**
19 **ACTIVITIES OF A NAVIGATOR.**

20 (2) To the extent allowed by federal law, the ~~commissioner~~
21 **DIRECTOR** may request and the department of state police shall
22 provide state, multistate, and federal criminal history records for
23 the ~~commissioner's~~**DIRECTOR'S** use in determining ~~whether~~**1 OR MORE**
24 **OF THE FOLLOWING:**

25 **(A) WHETHER** a certificate of authority to transact insurance
26 in this state should be issued, suspended, or revoked. ~~for~~
27 ~~approving any~~

1 **(B) THE APPROVAL OF A** change of control of an insurer
2 authorized to transact insurance in this state. ~~for~~ ~~for~~
3 ~~determining the~~

4 **(C) THE** fitness of an officer or director of an insurer.

5 **(D) THE FITNESS OF A NAVIGATOR.**

6 **(3) AS USED IN THIS SECTION, "NAVIGATOR" MEANS THAT TERM AS**
7 **DEFINED IN SECTION 1201.**

8 Sec. 1201. As used in this chapter:

9 **(A) "AFFORDABLE CARE ACT" MEANS THE PATIENT PROTECTION AND**
10 **AFFORDABLE CARE ACT, PUBLIC LAW 111-148, AS AMENDED BY THE HEALTH**
11 **CARE AND EDUCATION RECONCILIATION ACT OF 2010, PUBLIC LAW 111-152.**

12 **(B) ~~(a)~~**"Agent" except as provided in section 1243 means an
13 insurance producer.

14 **(C) ~~(b)~~**"Business entity" means a corporation, association,
15 partnership, limited liability company, limited liability
16 partnership, or other legal entity.

17 **(D) "EXCHANGE" MEANS AN AMERICAN HEALTH BENEFITS EXCHANGE**
18 **ESTABLISHED OR OPERATING PURSUANT TO THE AFFORDABLE CARE ACT.**

19 **(E) ~~(e)~~**"Home state", except as provided in section 1224,
20 means the District of Columbia or any state or territory of the
21 United States in which an insurance producer maintains his or her
22 principal place of residence or principal place of business and is
23 licensed to act as an insurance producer.

24 **(F) ~~(d)~~**"Insurance" means any of the lines of authority in
25 chapter 6.

26 **(G) ~~(e)~~**"Insurance producer" means a person required to be
27 licensed under the laws of this state to sell, solicit, or

1 negotiate insurance.

2 (H) ~~(f)~~—"License" means a document issued by ~~this state's~~
3 ~~commissioner~~**THE DIRECTOR** authorizing a person to act as an
4 insurance producer **OR NAVIGATOR** for the qualifications specified in
5 the document. The license itself does not create any actual,
6 apparent, or inherent authority in the holder to represent or
7 commit an insurer.

8 (I) ~~(g)~~—"Limited line credit insurance" includes credit life,
9 credit disability, credit property, credit unemployment,
10 involuntary unemployment, mortgage life, mortgage guaranty,
11 mortgage disability, guaranteed automobile protection insurance,
12 and any other form of insurance offered in connection with an
13 extension of credit that is limited to partially or wholly
14 extinguishing that credit obligation that the ~~commissioner~~**DIRECTOR**
15 determines should be designated a form of limited line credit
16 insurance.

17 (J) ~~(h)~~—"Limited line credit insurance producer" means a
18 person who sells, solicits, or negotiates 1 or more forms of
19 limited line credit insurance coverage to individuals through a
20 master, corporate, group, or individual policy.

21 (K) ~~(i)~~—"Limited lines insurance" means any of the following:

- 22 (i) Marine insurance as defined in section 614.
23 (ii) Credit insurance as described in section 624(1)(e).
24 (iii) Surety and fidelity insurance as defined in section 628.
25 (iv) Legal expense insurance as defined in section 618.
26 (v) Livestock insurance as described in section 624(1)(g).
27 (vi) Malpractice insurance as described in section 624(1)(h).

1 (vii) Plate glass insurance as described in section 624(1)(c).

2 (viii) Any other miscellaneous insurance described in section
3 624(1)(i).

4 (ix) Any other line of insurance that the ~~commissioner~~**DIRECTOR**
5 considers necessary to recognize to comply with section 1206a(5).

6 (I) ~~(j)~~—"Limited lines producer" means a person authorized by
7 the ~~commissioner~~**DIRECTOR** to sell, solicit, or negotiate limited
8 lines insurance.

9 (M) **"NAVIGATOR" MEANS A PERSON REQUIRED TO BE LICENSED UNDER**
10 **THE LAWS OF THIS STATE TO PERFORM ANY OF THE ACTIVITIES DESCRIBED**
11 **IN 42 USC 18031(I).**

12 (N) ~~(k)~~—"Negotiate" means the act of conferring directly with
13 or offering advice directly to a purchaser or prospective purchaser
14 of a particular contract of insurance concerning any of the
15 substantive benefits, terms, or conditions of the contract,
16 provided that the person engaged in that act either sells insurance
17 or obtains insurance from insurers for purchasers.

18 (O) ~~(l)~~—"Sell" means to exchange a contract of insurance by any
19 means, for money or its equivalent, on behalf of an insurance
20 company.

21 (P) ~~(m)~~—"Solicit" means attempting to sell insurance or asking
22 or urging a person to apply for a particular kind of insurance from
23 a particular company.

24 (Q) ~~(n)~~—"Terminate" means the cancellation of the relationship
25 between an insurance producer and the insurer or the termination of
26 a producer's authority to transact insurance.

27 **SEC. 1229. (1) AN INDIVIDUAL SHALL NOT ACT AS A NAVIGATOR OR**

1 HOLD HIMSELF OR HERSELF OUT TO THE PUBLIC AS A NAVIGATOR UNLESS HE
2 OR SHE IS LICENSED AS A NAVIGATOR.

3 (2) UNLESS LICENSED AS A NAVIGATOR, AN INDIVIDUAL SHALL NOT
4 RECEIVE FUNDING FROM AN EXCHANGE.

5 (3) A NAVIGATOR MAY DO ALL OF THE FOLLOWING:

6 (A) CONDUCT PUBLIC EDUCATION ACTIVITIES TO RAISE AWARENESS OF
7 THE AVAILABILITY OF QUALIFIED HEALTH PLANS.

8 (B) DISTRIBUTE FAIR AND IMPARTIAL GENERAL INFORMATION
9 CONCERNING ENROLLMENT IN ALL QUALIFIED HEALTH PLANS OFFERED WITHIN
10 THE EXCHANGE AND THE AVAILABILITY OF THE PREMIUM TAX CREDITS UNDER
11 SECTION 36B OF THE INTERNAL REVENUE CODE OF 1986, 26 USC 36B, AND
12 COST-SHARING REDUCTION UNDER SECTION 1402 OF THE AFFORDABLE CARE
13 ACT.

14 (C) FACILITATE ENROLLMENT IN QUALIFIED HEALTH PLANS, WITHOUT
15 SUGGESTING THAT AN INDIVIDUAL SELECT A PARTICULAR PLAN.

16 (D) PROVIDE REFERRALS TO APPROPRIATE STATE AGENCIES FOR AN
17 ENROLLEE WITH A GRIEVANCE, COMPLAINT, OR QUESTION REGARDING THE
18 ENROLLEE'S HEALTH PLAN, COVERAGE, OR A DETERMINATION UNDER SUCH
19 PLAN COVERAGE.

20 (E) PROVIDE INFORMATION IN A MANNER THAT IS CULTURALLY AND
21 LINGUISTICALLY APPROPRIATE TO THE NEEDS OF THE POPULATION SERVED BY
22 THE EXCHANGE.

23 (4) A NAVIGATOR SHALL NOT DO ANY OF THE FOLLOWING:

24 (A) SELL, SOLICIT, OR NEGOTIATE HEALTH INSURANCE.

25 (B) PROVIDE ADVICE CONCERNING THE BENEFITS, TERMS, AND
26 FEATURES OF A PARTICULAR HEALTH PLAN OR OFFER ADVICE ABOUT WHICH
27 HEALTH PLAN IS BETTER OR WORSE FOR A PARTICULAR INDIVIDUAL OR

1 ENTITY.

2 (C) RECOMMEND A PARTICULAR HEALTH PLAN OR ADVISE CONSUMERS
3 ABOUT WHICH HEALTH PLAN TO CHOOSE.

4 (D) PROVIDE ANY INFORMATION OR SERVICES RELATED TO HEALTH
5 BENEFIT PLANS OR OTHER PRODUCTS NOT OFFERED IN THE EXCHANGE.

6 (5) BEFORE AN EXCHANGE IS OPERATIONAL IN THIS STATE, THE
7 DIRECTOR SHALL DO ALL OF THE FOLLOWING:

8 (A) ESTABLISH A LICENSING AND TRAINING PROGRAM FOR A
9 PROSPECTIVE NAVIGATOR. THE LICENSING AND TRAINING PROGRAM SHALL
10 INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING:

11 (i) A CRIMINAL RECORDS CHECK PERFORMED IN ACCORDANCE WITH
12 SECTION 249A.

13 (ii) TRAINING ON COMPLIANCE WITH THE HEALTH INSURANCE
14 PORTABILITY AND ACCOUNTABILITY ACT OF 1996, PUBLIC LAW 104-191, OR
15 REGULATIONS PROMULGATED UNDER THAT ACT, TRAINING ON ETHICS, AND
16 TRAINING ON PROVISIONS OF THE AFFORDABLE CARE ACT RELATING TO
17 NAVIGATORS.

18 (B) DEVELOP AN APPLICATION AND DISCLOSURE FORM BY WHICH A
19 NAVIGATOR MAY DISCLOSE ANY POTENTIAL CONFLICTS OF INTEREST, AS WELL
20 AS ANY OTHER INFORMATION REQUIRED BY THE DIRECTOR.

21 SEC. 1230. (1) AN INDIVIDUAL APPLYING FOR A NAVIGATOR LICENSE
22 SHALL FILE WITH THE DIRECTOR THE UNIFORM APPLICATION REQUIRED BY
23 THE DIRECTOR AND SHALL DECLARE UNDER PENALTY OF REFUSAL,
24 SUSPENSION, OR REVOCATION OF THE LICENSE THAT THE STATEMENTS MADE
25 IN THE APPLICATION ARE TRUE, CORRECT, AND COMPLETE TO THE BEST OF
26 THE INDIVIDUAL'S KNOWLEDGE AND BELIEF. AN APPLICANT SHALL CONSENT
27 TO A CRIMINAL RECORDS CHECK IN ACCORDANCE WITH SECTION 249A. AN

1 APPLICATION FOR A NAVIGATOR'S LICENSE SHALL NOT BE APPROVED UNLESS
2 THE DIRECTOR FINDS THAT THE INDIVIDUAL MEETS ALL OF THE FOLLOWING:

3 (A) IS AT LEAST 18 YEARS OF AGE.

4 (B) HAS NOT COMMITTED ANY ACT LISTED THAT WOULD BE A GROUND
5 FOR DENIAL, SUSPENSION, OR REVOCATION OF AN INSURANCE PRODUCER'S
6 LICENSE IN SECTION 1239(1).

7 (C) AS REQUIRED UNDER SECTION 1229, HAS COMPLETED A
8 PRELICENSING COURSE OF STUDY FOR THE QUALIFICATIONS FOR WHICH THE
9 PERSON HAS APPLIED.

10 (D) HAS PAID THE FEES REQUIRED BY THE DIRECTOR.

11 (E) HAS SUCCESSFULLY PASSED THE EXAMINATION REQUIRED FOR EACH
12 QUALIFICATION FOR WHICH THE PERSON HAS APPLIED.

13 (F) HAS SUCCESSFULLY COMPLETED A CRIMINAL RECORDS CHECK UNDER
14 SECTION 249A.

15 (2) A BUSINESS ENTITY ACTING AS A NAVIGATOR SHALL OBTAIN A
16 NAVIGATOR LICENSE. A BUSINESS ENTITY APPLYING FOR A NAVIGATOR
17 LICENSE SHALL FILE WITH THE DIRECTOR THE UNIFORM BUSINESS ENTITY
18 APPLICATION REQUIRED BY THE DIRECTOR. AN APPLICATION FOR A
19 NAVIGATOR LICENSE UNDER THIS SUBSECTION SHALL NOT BE APPROVED
20 UNLESS THE DIRECTOR FINDS ALL OF THE FOLLOWING:

21 (A) THE BUSINESS ENTITY HAS PAID THE FEES REQUIRED BY THE
22 DIRECTOR.

23 (B) THE BUSINESS ENTITY HAS DESIGNATED AN INDIVIDUAL LICENSED
24 NAVIGATOR RESPONSIBLE FOR THE BUSINESS ENTITY'S COMPLIANCE WITH
25 THIS STATE'S INSURANCE LAWS, RULES, AND REGULATIONS.

26 (C) THE BUSINESS ENTITY HAS NOT COMMITTED ANY ACT LISTED IN
27 SECTION 1239(1).

1 (3) THE DIRECTOR MAY REQUIRE THE PRODUCTION OF ANY DOCUMENTS
2 REASONABLY NECESSARY TO VERIFY THE INFORMATION CONTAINED IN AN
3 APPLICATION.

4 SEC. 1231. (1) IN ADDITION TO ANY OTHER POWERS UNDER THIS ACT,
5 THE DIRECTOR MAY PLACE ON PROBATION, SUSPEND, OR REVOKE A
6 NAVIGATOR'S LICENSE OR MAY LEVY A CIVIL FINE UNDER SECTION 1244 OR
7 ANY COMBINATION OF ACTIONS, AND THE DIRECTOR SHALL REFUSE TO ISSUE
8 A NAVIGATOR LICENSE UNDER SECTION 1230, FOR ANY 1 OR MORE CAUSES
9 THAT WOULD BE A GROUND FOR REFUSAL, SUSPENSION, OR REVOCATION OF AN
10 INSURANCE PRODUCER'S LICENSE UNDER SECTION 1239. BEGINNING OCTOBER
11 1, 2013, THE DIRECTOR SHALL REVOKE A NAVIGATOR LICENSE OF ANY
12 PERSON OR REFUSE TO ISSUE A NAVIGATOR LICENSE FOR A PERSON THAT
13 RECEIVES FINANCIAL COMPENSATION, INCLUDING MONETARY AND IN-KIND
14 COMPENSATION, GIFTS, OR GRANTS FROM AN INSURER OFFERING QUALIFIED
15 HEALTH BENEFITS THROUGH AN EXCHANGE OPERATING IN THIS STATE. THE
16 DIRECTOR MAY DENY, SUSPEND, APPROVE, RENEW, OR REVOKE THE LICENSE
17 OF A NAVIGATOR IF THE DIRECTOR CONSIDERS IT NECESSARY TO PROTECT
18 INSUREDS AND THE PUBLIC.

19 (2) THE NAVIGATOR LICENSE OF A BUSINESS ENTITY MAY BE
20 SUSPENDED, REVOKED, OR REFUSED IF THE DIRECTOR FINDS, AFTER
21 HEARING, THAT AN INDIVIDUAL NAVIGATOR'S VIOLATION WAS KNOWN OR
22 SHOULD HAVE BEEN KNOWN BY 1 OR MORE OF THE PARTNERS, OFFICERS, OR
23 MANAGERS ACTING ON BEHALF OF THE BUSINESS ENTITY AND THE VIOLATION
24 WAS NEITHER REPORTED TO THE DIRECTOR NOR CORRECTIVE ACTION TAKEN.

25 (3) THE DIRECTOR MAY EXAMINE THE BOOKS AND RECORDS OF A
26 NAVIGATOR TO DETERMINE WHETHER THE NAVIGATOR IS CONDUCTING ITS
27 BUSINESS IN ACCORDANCE WITH THIS CHAPTER. FOR THE PURPOSE OF

1 FACILITATING THE EXAMINATION, THE NAVIGATOR SHALL ALLOW THE
2 DIRECTOR FREE ACCESS, AT REASONABLE TIMES, TO ALL OF THE
3 NAVIGATOR'S BOOKS AND RECORDS RELATING TO TRANSACTIONS TO WHICH
4 THIS CHAPTER APPLIES.

5 SEC. 1231A. A BUSINESS ENTITY LICENSED AS A NAVIGATOR SHALL,
6 IN A MANNER PRESCRIBED BY THE DIRECTOR, MAKE AVAILABLE A LIST OF
7 ALL INDIVIDUAL NAVIGATORS THAT THE BUSINESS ENTITY EMPLOYS OR
8 SUPERVISES OR WITH WHICH THE BUSINESS ENTITY IS OTHERWISE
9 AFFILIATED.

10 SEC. 1231B. A BUSINESS ENTITY THAT TERMINATES THE EMPLOYMENT,
11 ENGAGEMENT, AFFILIATION, OR OTHER RELATIONSHIP WITH AN INDIVIDUAL
12 NAVIGATOR SHALL NOTIFY THE DIRECTOR USING A FORMAT PRESCRIBED BY
13 THE DIRECTOR OF THE TERMINATION WITHIN 30 DAYS FOLLOWING THE
14 EFFECTIVE DATE OF THE TERMINATION IF THE REASON FOR TERMINATION IS
15 1 OF THE REASONS LISTED IN SECTION 1239 OR THE BUSINESS ENTITY HAS
16 KNOWLEDGE THE INDIVIDUAL NAVIGATOR WAS FOUND BY A COURT OR
17 GOVERNMENT BODY TO HAVE ENGAGED IN ANY OF THE ACTIVITIES LISTED IN
18 SECTION 1239.

19 Sec. 1238. (1) When applying for a license to act as an agent,
20 solicitor, counselor, ~~ex~~-adjuster, OR NAVIGATOR, the applicant
21 shall report his or her mailing and electronic mail address to the
22 ~~commissioner~~-DIRECTOR. An agent, solicitor, counselor, ~~ex~~
23 adjuster, OR NAVIGATOR shall notify the ~~commissioner~~-DIRECTOR of
24 any change in his or her mailing or electronic mail address within
25 30 days after the change. The ~~commissioner~~-DIRECTOR shall maintain
26 the mailing and electronic mail address of each agent, solicitor,
27 counselor, ~~ex~~-adjuster, OR NAVIGATOR on file.

1 (2) A notice of hearing or service of process may be served
2 upon an agent, solicitor, counselor, ~~ex~~-adjuster, **OR NAVIGATOR** in
3 any action or proceeding for a violation of this act by mailing the
4 notice or process by first class mail to the agent's, solicitor's,
5 counselor's, ~~ex~~-adjuster's, **OR NAVIGATOR'S** mailing address reported
6 to the ~~commissioner~~-**DIRECTOR** under subsection (1).

7 Sec. 1242. (1) The ~~commissioner~~-**DIRECTOR** shall refuse to grant
8 a license to act as a solicitor, an insurance counselor, ~~ex~~-an
9 adjuster, **OR A NAVIGATOR** to an applicant who fails to meet the
10 requirements of this chapter. Notice of the refusal shall be in
11 writing and shall set forth the basis for the refusal. If the
12 applicant submits a written request within 30 days after mailing of
13 the notice of refusal, the ~~commissioner~~-**DIRECTOR** shall promptly
14 conduct a hearing in which the applicant shall be given an
15 opportunity to show compliance with the requirements of this
16 chapter.

17 (2) The ~~commissioner~~-**DIRECTOR**, after notice and opportunity
18 for a hearing, may suspend or revoke the license of a solicitor,
19 insurance counselor, ~~ex~~-adjuster, **OR NAVIGATOR** who fails to
20 maintain the standards required for initial licensing or who
21 violates any provision of this act.

22 (3) After notice and opportunity for a hearing, the
23 ~~commissioner~~-**DIRECTOR** may refuse to grant or renew a license to act
24 as a solicitor, adjuster, or insurance counselor if he or she
25 determines by a preponderance of the evidence, that it is probable
26 that the business or primary occupation of the applicant will give
27 rise to coercion, indirect rebating of commissions, or other

1 practices in the sale of insurance that are prohibited by law.

2 (4) Without prior hearing, the ~~commissioner~~**DIRECTOR** may order
3 summary suspension of a license if he or she finds that protection
4 of the public requires emergency action and incorporates this
5 finding in his or her order. The suspension shall be effective on
6 the date specified in the order or upon service of a certified copy
7 of the order on the licensee, whichever is later. If requested, the
8 ~~commissioner~~**DIRECTOR** shall conduct a hearing on the suspension
9 within a reasonable time but not later than 20 days after the
10 effective date of the summary suspension unless the person whose
11 license is suspended requests a later date. At the hearing, the
12 ~~commissioner~~**DIRECTOR** shall determine if the suspension should be
13 continued or if the suspension should be withdrawn, and, if proper
14 notice is given, may determine if the license should be revoked.
15 The ~~commissioner~~**DIRECTOR** shall announce his or her decision within
16 30 days after conclusion of the hearing. The suspension shall
17 continue until the decision is announced.

18 (5) The ~~commissioner~~**DIRECTOR**, or his or her designated
19 deputy, may issue subpoenas to require the attendance and testimony
20 of witnesses and the production of documents necessary to the
21 conduct of the hearing and may designate ~~an office of financial and~~
22 ~~insurance services~~**A DEPARTMENT** employee to make service. The
23 subpoenas issued by the ~~commissioner~~**DIRECTOR**, or his or her
24 designated deputy, may be enforced upon petition to the circuit
25 court of Ingham county to show cause why a contempt order should
26 not be issued, as provided by law.