

**SUBSTITUTE FOR  
HOUSE BILL NO. 5275**

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending section 438 (MCL 500.438), as amended by 2016 PA 558.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 438. (1) An insurer, foreign, alien, U.S. branch, or  
2 domestic, transacting business within this state, shall annually,  
3 on or before March 1, prepare under oath and deposit with the  
4 director a statement concerning its affairs in a form and manner as  
5 prescribed by the director. The annual statement must be filed on  
6 or before March 1 of the year following that covered by the  
7 statement. On request and for good cause shown, the director may  
8 grant to a company reasonable extensions of the March 1 filing date  
9 for periods not to exceed 30 days.

10       (2) The director shall prescribe the format and content of

1 statements that are suitable and adaptable to each kind of insurer  
2 authorized by this act. The director shall include requests for  
3 information on important elements of an insurer's business,  
4 including any matter, condition, or requirement regulated by this  
5 act. An annual statement filed by an insurer under this section  
6 must be prepared in accordance with instructions provided by, and  
7 accounting practices and procedures designated by, the director.

8 (3) The director may address inquiries to an insurer, in  
9 relation to the insurer's activities or conditions, or any matter  
10 connected with the insurer's transactions. The insurer shall  
11 promptly reply in writing to each inquiry described in this  
12 subsection.

13 (4) A report filed with the director under this section must  
14 be made available to the public in compliance with the freedom of  
15 information act, 1976 PA 442, MCL 15.231 to 15.246.

16 (5) An authorized insurer that does not make or deposit the  
17 annual statement required by this section, or does not reply within  
18 30 days to an inquiry of the director, is subject to a civil  
19 penalty of not less than \$1,000.00 or more than \$5,000.00, and an  
20 additional \$50.00 for every day that the insurer does not make and  
21 deposit the annual statement or reply to the inquiry. In addition,  
22 an insurer that does not make and deposit an annual statement, or  
23 does not make a satisfactory reply to an inquiry of the director,  
24 concerning the insurer's affairs is subject to proceedings under  
25 section 436.

26 (6) The annual statement of an alien insurer must relate only  
27 to the insurer's assets, transactions, and affairs in the United

1 States unless the director requires otherwise.

2 (7) IN ADDITION TO THE ANNUAL STATEMENT REQUIRED UNDER  
3 SUBSECTION (1), IF AN INSURER, FOREIGN, ALIEN, U.S. BRANCH, OR  
4 DOMESTIC, TRANSACTING BUSINESS WITHIN THIS STATE, IS REQUIRED TO  
5 PROVIDE A NOTICE OF A SECURITY BREACH UNDER SECTION 12 OF THE  
6 IDENTITY THEFT PROTECTION ACT, 2004 PA 452, MCL 445.72, THE INSURER  
7 SHALL SUBMIT A REPORT TO THE DIRECTOR THAT DISCLOSES THE SECURITY  
8 BREACH. A REPORT UNDER THIS SUBSECTION MUST BE SUBMITTED ON OR  
9 BEFORE MARCH 1 OF THE YEAR FOLLOWING THE SECURITY BREACH. A REPORT  
10 UNDER THIS SUBSECTION MUST BE IN A FORM PRESCRIBED BY THE DIRECTOR.  
11 AS USED IN THIS SUBSECTION, "SECURITY BREACH" MEANS THAT TERM AS  
12 DEFINED IN SECTION 3 OF THE IDENTITY THEFT PROTECTION ACT, 2004 PA  
13 452, MCL 445.63.

14 (8) ~~(7)~~As used in this section, "U.S. branch" means that term  
15 as defined in section 431.