

Act No. 1
Public Acts of 1992
Approved by the Governor
January 31, 1992
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January 31, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Hoekman, Brown, Saunders, Palamara, Rocca, Owen, Fitzgerald, Law, Martin, Sikkema, Varga, Pitoniak, Stallworth, London, Bartnik, Dobronski, Middaugh and Hillegonds

ENROLLED HOUSE BILL No. 4108

AN ACT to amend sections 1204b and 1206 of Act No. 218 of the Public Acts of 1956, entitled as amended "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 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 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 repeal certain acts and parts of acts; to repeal certain acts and parts of acts on specific dates; to repeal certain parts of this act on specific dates; and to provide penalties for the violation of this act," section 1204b as added by Act No. 173 of the Public Acts of 1986 and section 1206 as amended by Act No. 68 of the Public Acts of 1989, being sections 500.1204b and 500.1206 of the Michigan Compiled Laws; and to add sections 1204c and 1204d.

The People of the State of Michigan enact:

Section 1. Sections 1204b and 1206 of Act No. 218 of the Public Acts of 1956, section 1204b as added by Act No. 173 of the Public Acts of 1986 and section 1206 as amended by Act No. 68 of the Public Acts of 1989, being sections 500.1204b and 500.1206 of the Michigan Compiled Laws, are amended and sections 1204c and 1204d are added to read as follows:

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

(a) One representative of each of the following insurance industry associations:

(i) Michigan association of life underwriters.

(ii) Independent insurance agents of Michigan.

(iii) Professional insurance agents of Michigan.

(b) Three insurer representatives.

(c) At least 1 licensed property and casualty insurance agent.

(d) At least 1 licensed life insurance agent.

(e) One representative of the insurance education field.

(f) One representative of the general public.

(g) 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 4 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(4) and make recommendations to the commissioner on whether those programs meet the requirements in section 1204c(5).

(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) "Agent" means a life-health agent or property-casualty agent licensed under this chapter.

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

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

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

(2) Unless the agent has renewed his or her license pursuant to subsection (4), an agent's hours of study accrued under this section shall be reviewed for license continuance as follows:

(a) If the agent's license number ends in "1" as follows:

(i) If the agent's last name starts with A to L, on January 1, 1994 and on January 1 every 2 years thereafter.

(ii) If the agent's last name starts with M to Z, on January 1, 1996 and on January 1 every 2 years thereafter.

(b) If the agent's license number ends in "2" as follows:

(i) If the agent's last name starts with A to L, on February 1, 1994 and on February 1 every 2 years thereafter.

(ii) If the agent's last name starts with M to Z, on February 1, 1996 and on February 1 every 2 years thereafter.

(c) If the agent's license number ends in "3" as follows:

(i) If the agent's last name starts with A to L, on March 1, 1994 and on March 1 every 2 years thereafter.

- (ii) If the agent's last name starts with M to Z, on March 1, 1996 and on March 1 every 2 years thereafter.
- (d) If the agent's license number ends in "4" as follows:
 - (i) If the agent's last name starts with A to L, on June 1, 1994 and on June 1 every 2 years thereafter.
 - (ii) If the agent's last name starts with M to Z, on June 1, 1996 and on June 1 every 2 years thereafter.
- (e) If the agent's license number ends in "5" as follows:
 - (i) If the agent's last name starts with A to L, on July 1, 1994 and on July 1 every 2 years thereafter.
 - (ii) If the agent's last name starts with M to Z, on July 1, 1996 and on July 1 every 2 years thereafter.
- (f) If the agent's license number ends in "6" as follows:
 - (i) If the agent's last name starts with A to L, on August 1, 1994 and on August 1 every 2 years thereafter.
 - (ii) If the agent's last name starts with M to Z, on August 1, 1996 and on August 1 every 2 years thereafter.
- (g) If the agent's license number ends in "7" as follows:
 - (i) If the agent's last name starts with A to L, on September 1, 1994 and on September 1 every 2 years thereafter.
 - (ii) If the agent's last name starts with M to Z, on September 1, 1996 and on September 1 every 2 years thereafter.
- (h) If the agent's license number ends in "8" as follows:
 - (i) If the agent's last name starts with A to L, on October 1, 1994 and on October 1 every 2 years thereafter.
 - (ii) If the agent's last name starts with M to Z, on October 1, 1996 and on October 1 every 2 years thereafter.
- (i) If the agent's license number ends in "9" as follows:
 - (i) If the agent's last name starts with A to L, on November 1, 1994 and on November 1 every 2 years thereafter.
 - (ii) If the agent's last name starts with M to Z, on November 1, 1996 and on November 1 every 2 years thereafter.
- (j) If the agent's license number ends in "0" as follows:
 - (i) If the agent's last name starts with A to L, on December 1, 1994 and on December 1 every 2 years thereafter.
 - (ii) If the agent's last name starts with M to Z, on December 1, 1996 and on December 1 every 2 years thereafter.
- (3) If the agent's hours of study would be reviewed according to the schedule under subsection (2) within 23 months after issuance of the initial license, the hours shall not be reviewed on the first scheduled date following the issuance of the initial license and shall be reviewed on the next scheduled review date following the first review date according to the schedule under subsection (2), unless the agent has renewed his or her license pursuant to subsection (4).
- (4) Except as provided in subsections (11) to (14), before the review date of each applicable 2-year period provided for under subsection (2) or (3), an agent wishing to renew his or her license shall renew his or her license by attending or instructing not less than 30 hours of continuing education classes approved by the commissioner or 30 hours of home study if evidenced by successful completion of course work approved by the commissioner. Of the 30 hours of continuing education required, a life-health agent shall attend or instruct not less than 15 hours in a program of study approved for life-health agents and a property-casualty agent shall attend or instruct not less than 15 hours in a program of study approved for property-casualty agents.
- (5) 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.

(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.

(6) A provider of a program of study for agents 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 (5), 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.

(7) 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.

(8) 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 (5), 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, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws, 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 Act No. 306 of the Public Acts of 1969, upon not less than 10 days' written notice to the provider of the program of study.

(9) If after a hearing under subsection (8) the commissioner finds that the program of study does not satisfy the requirements under subsection (5), 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.

(10) 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 agent 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 agent license renewal as directed by the commissioner within 30 days after the agent completes the program. A copy of the form shall also be mailed first class to the agent 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.

(11) The commissioner may waive the continuing education requirements of this section for an agent if the commissioner determines that enforcement of the requirements would cause a severe hardship.

(12) The commissioner may enter into reciprocal continuing education agreements with insurance commissioners from other states. A person who is licensed pursuant to section 1204(5) shall not be subject to the continuing education requirements under this section if there is a reciprocal insurance continuing education agreement with the insurance commissioner of the state of the applicant's principal residence and there are continuing education requirements in the state of the applicant's residence.

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

(14) An agent 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 agent except that the agent 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 agent. An agent 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 agent except that the agent 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 agent, for a period not to exceed 12 months after the selling agent's license review date under subsection (2). An agent whose license has been canceled and who wishes to resume soliciting or selling new policies of insurance, bind coverage, or otherwise act as an agent and who has not met the continuing education requirements within the immediately preceding 2-year period may reapply for license to act as an agent under section 1204, except that the program of study requirements under section 1204 shall not be waived.

Sec. 1204d. (1) The continuing education fund is created as a separate, self-supporting fund and shall be administered by the commissioner. Money in the continuing education fund shall be used for the administration of the continuing education requirements in section 1204c.

(2) Money received pursuant to section 1204c shall be deposited in the continuing education fund.

(3) Money in the continuing education fund shall not revert to the general fund at the close of the fiscal year but shall remain in the continuing education fund.

(4) Notwithstanding section 240(3), if money in the continuing education fund is not sufficient to provide for the administration of the continuing education requirements in section 1204c, the shortfall shall be funded from the agent's appointment fees required by section 240(1)(c).

Sec. 1206. (1) A license document issued by the commissioner shall set forth the name of the agent and the lines of insurance permitted by the license. A person who is licensed to act as an agent for life or disability insurance or for casualty insurance is permitted to act as an agent for legal expense insurance without obtaining additional authorization or licensure from the commissioner. The agent shall display the license document in his or her principal place of business.

(2) The license shall continue in effect unless suspended or revoked by the commissioner, is voluntarily surrendered by the licensee, or terminates because of lack of authority or appointment to act as an agent in this state from an admitted insurer. If the commissioner's records indicate that an agent has no valid or active appointment from an admitted insurer, the commissioner shall notify the agent that the agent has no valid or active appointment. The agent shall have 60 days from the date notice is sent by the commissioner to secure a valid appointment and have notice of the appointment filed with the commissioner. If notice of appointment is not received by the commissioner within the 60-day period, the agent's licensing authority shall be considered terminated for failure to comply with the licensing requirements of this act.

(3) The commissioner may reexamine a licensed agent at any time upon written notice with stated reasons.

(4) The commissioner, without examination, may issue a temporary license to a natural person who demonstrates to the satisfaction of the commissioner that the death or physical or mental incapacity of an agent makes the action reasonably necessary to assure continued operation of the agent's business. The temporary license shall be effective for 90 days, and may be extended for additional periods of 90 days in the discretion of the commissioner.

(5) The commissioner may issue a temporary license permitting collection of premiums on industrial insurance contracts to an applicant for a license to act as an insurance agent whom he or she determines to be honest and trustworthy. The temporary license shall be effective for 90 days, renewable for 1 additional period of 90 days, or until disposition of the application to act as an insurance agent, whichever occurs first. If the commissioner does not notify the applicant of action on the request for a temporary license within 15 days after mailing of the application, the request for a temporary license shall be considered granted. For purposes of this

subsection, an "industrial insurance contract" means a contract for which premiums are payable at monthly or more frequent intervals directly to a representative of the insurer by the person insured or by a person representing the person insured.

Section 2. This amendatory act shall take effect January 1, 1993.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.