

HOUSE BILL No. 4783

May 17, 2001, Introduced by Reps. Sanborn, Richner and Bisbee and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 3355 (MCL 500.3355).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3355. (1) Every agent who is authorized to solicit,
2 negotiate, or effect automobile insurance on behalf of any par-
3 ticipating member shall:

4 (a) Offer to place automobile insurance through the facility
5 for any qualified applicant requesting the agent to do so.

6 (b) If the qualified applicant accepts the offer in subdivi-
7 sion (a), forward the application and any deposit premium
8 required in accordance with the plan of operation, rules, and
9 procedures of the facility.

10 (c) Be entitled to receive, and any participating member be
11 entitled to pay, a commission for placing insurance through the

1 facility at the uniform rates of commission as provided in the
2 plan of operation.

3 (2) THE FACILITY MAY DISQUALIFY AN AGENT FROM PLACING AUTO-
4 MOBILE INSURANCE THROUGH THE FACILITY IF THE AGENT PERSISTENTLY
5 VIOLATES THE FACILITY'S RULES CONTAINED IN THE FACILITY'S PLAN OF
6 OPERATION. THE FACILITY SHALL NOTIFY THE AGENT OF HIS OR HER
7 DISQUALIFICATION IN THE MANNER PRESCRIBED IN THE PLAN OF
8 OPERATION. IF AN AGENT IS DISQUALIFIED UNDER THIS SECTION, THE
9 FACILITY SHALL NOTIFY THE COMMISSIONER OF THE DISQUALIFICATION.

10 (3) AN AGENT MAY SUBMIT A WRITTEN REQUEST FOR A HEARING
11 BEFORE THE FACILITY'S BOARD OF GOVERNORS OR ITS DESIGNEE NOT
12 LATER THAN 10 BUSINESS DAYS AFTER THE NOTICE OF DISQUALIFICATION
13 IS ISSUED. IF A WRITTEN REQUEST FOR A HEARING IS RECEIVED, THE
14 AGENT'S DISQUALIFICATION SHALL BE SUSPENDED PENDING A RULING BY
15 THE BOARD OF GOVERNORS. THE BOARD OF GOVERNORS OR ITS DESIGNEE
16 SHALL HOLD A HEARING NOT LATER THAN 10 BUSINESS DAYS AFTER
17 RECEIPT OF THE WRITTEN REQUEST FOR A HEARING. THE BOARD OF GOV-
18 ERNORS OR ITS DESIGNEE SHALL ISSUE A RULING NOT LATER THAN 5
19 BUSINESS DAYS AFTER THE HEARING AND SHALL NOTIFY THE COMMISSIONER
20 OF THE RULING. A RULING OF DISQUALIFICATION BY THE BOARD OF GOV-
21 ERNORS OR ITS DESIGNEE SHALL TAKE EFFECT 5 CALENDAR DAYS AFTER
22 THE DATE OF THE RULING.

23 (4) A RULING OF DISQUALIFICATION BY THE FACILITY'S BOARD OF
24 GOVERNORS OR ITS DESIGNEE MAY BE APPEALED TO THE COMMISSIONER BY
25 FILING A WRITTEN NOTICE OF APPEAL WITH THE FACILITY AND THE COM-
26 MISSIONER WITHIN 30 CALENDAR DAYS AFTER THE DATE OF THE RULING.
27 A DISQUALIFICATION RULING SHALL REMAIN EFFECTIVE DURING THE

HB4783, As Passed House, June 13, 2001

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1 APPEAL PROCESS TO THE COMMISSIONER. UPON RECEIPT OF AN APPEAL,
2 THE COMMISSIONER OR HIS OR HER DESIGNEE SHALL PROVIDE A HEARING
3 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
4 MCL 24.201 TO 24.328, AND SHALL APPROVE, DISAPPROVE, OR DIRECT
5 THE BOARD OF GOVERNORS OR ITS DESIGNEE TO RECONSIDER ITS RULING.

6 (5) ON AND AFTER THE EFFECTIVE DATE OF A DISQUALIFICATION,
7 THE DISQUALIFIED AGENT SHALL NOT DO ANY OF THE FOLLOWING DURING
8 THE PERIOD OF DISQUALIFICATION:

9 (A) SOLICIT, NEGOTIATE, OR EFFECT AUTOMOBILE INSURANCE ON
10 BEHALF OF ANY PARTICIPATING MEMBER THROUGH THE FACILITY.

11 (B) SUBMIT NEW APPLICATIONS TO THE FACILITY.

12 (C) SERVICE ANY EXISTING FACILITY POLICIES EXCEPT AS PERMIT-
13 TED BY THE FACILITY'S USER MANUAL UNDER PROCEDURES FOR DISQUALI-
14 FIED AGENTS.

15 (D) BE ENTITLED TO COMPENSATION FOR EITHER NEW BUSINESS
16 APPLICATIONS OR RENEWALS.

17 (E) OBTAIN ANY BINDERS OR OTHER SUPPLIES FROM THE FACILITY.
18 EXISTING BINDERS OR OTHER SUPPLIES SHALL BE SURRENDERED TO THE
19 FACILITY UPON REQUEST.

20 (6) A DISQUALIFICATION UNDER THIS SECTION DOES NOT AFFECT
21 THE DISQUALIFIED AGENT'S AUTHORITY TO PLACE AUTOMOBILE INSURANCE
22 THROUGH AN AUTHORIZED INSURER IN THE VOLUNTARY MARKET.

23 (7) THE FACILITY SHALL AMEND ITS PLAN OF OPERATION TO ESTAB-
24 LISH STANDARDS AND PROCEDURES FOR DISQUALIFYING AN AGENT FROM
25 PLACING AUTOMOBILE INSURANCE THROUGH THE FACILITY. THESE STAN-
26 DARDS AND PROCEDURES SHALL CONTAIN AT LEAST ALL OF THE
27 FOLLOWING:

1 (A) THE ACTIONS OR INACTIONS THAT MAY LEAD TO AN AGENT'S
2 DISQUALIFICATION.

3 (B) STANDARDS AND PROCEDURES UNDER WHICH AN AGENT MAY PETI-
4 TION THE FACILITY FOR REMOVAL OF THE DISQUALIFICATION.

5 (C) THAT WRITTEN NOTIFICATION MUST BE SENT TO AN AGENT THAT
6 HAS BEEN DISQUALIFIED THAT INCLUDES AT LEAST ALL OF THE
7 FOLLOWING:

8 (i) THE REASONS FOR THE DISQUALIFICATION.

9 (ii) THE PROCEDURE TO BE FOLLOWED TO APPEAL THE DISQUALIFI-
10 CATION TO THE BOARD OF GOVERNORS OR ITS DESIGNEE.

11 (iii) THE CONDITIONS AND PROCEDURES UNDER WHICH THE AGENT
12 CAN PETITION THE FACILITY FOR THE REMOVAL OF THE
13 DISQUALIFICATION.

14 (D) A PROCEDURE UNDER WHICH THE DISQUALIFIED AGENT MAY
15 APPEAL THE DISQUALIFICATION TO THE FACILITY'S BOARD OF GOVERNORS,
16 OR ITS DESIGNEE, THAT PROTECTS THE INTERESTS OF BOTH THE AGENT
17 AND THE FACILITY. THIS PROCEDURE SHALL INCLUDE THE OPPORTUNITY
18 FOR THE AGENT, UPON REQUEST AND PAYMENT OF A REASONABLE COPYING
19 CHARGE, TO RECEIVE ANY INFORMATION PERTINENT TO THE
20 DISQUALIFICATION.

21 (E) A NOTICE TO THE DISQUALIFIED AGENT AFTER THE BOARD OF
22 GOVERNORS' OR DESIGNEE'S RULING AS TO HOW THE AGENT MAY APPEAL
23 THAT RULING TO THE COMMISSIONER OR HIS OR HER DESIGNEE IF THE
24 AGENT DISAGREES WITH THE RULING.