

Act No. 140
Public Acts of 2001
Approved by the Governor
October 26, 2001
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Reps. Sanborn, Richner and Bisbee

ENROLLED HOUSE BILL No. 4783

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 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 repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 3355 (MCL 500.3355).

The People of the State of Michigan enact:

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

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

(b) If the qualified applicant accepts the offer in subdivision (a), forward the application and any deposit premium required in accordance with the plan of operation, rules, and procedures of the facility.

(c) Be entitled to receive, and any participating member be entitled to pay, a commission for placing insurance through the facility at the uniform rates of commission as provided in the plan of operation.

(2) The facility may disqualify an agent from placing automobile insurance through the facility if the agent persistently violates the facility's rules contained in the facility's plan of operation. The facility shall notify the agent of his or her disqualification in the manner prescribed in the plan of operation. If an agent is disqualified under this section, the facility shall notify the commissioner of the disqualification.

(3) An agent may submit a written request for a hearing before the facility's board of governors or its designee not later than 10 business days after the notice of disqualification is issued. If a written request for a hearing is received, the agent's disqualification shall be suspended pending a ruling by the board of governors. The board of governors or its designee shall hold a hearing not later than 10 business days after receipt of the written request for a hearing. The board of governors or its designee shall issue a ruling not later than 5 business days after the hearing and shall notify the commissioner of the ruling. A ruling of disqualification by the board of governors or its designee shall take effect 5 calendar days after the date of the ruling.

(4) A ruling of disqualification by the facility's board of governors or its designee may be appealed to the commissioner by filing a written notice of appeal with the facility and the commissioner within 30 calendar days after the date of the ruling. A disqualification ruling shall remain effective during the appeal process to the commissioner. Upon receipt of an appeal, the commissioner or his or her designee shall provide a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, and shall approve, disapprove, or direct the board of governors or its designee to reconsider its ruling.

(5) On and after the effective date of a disqualification, the disqualified agent shall not do any of the following during the period of disqualification:

(a) Solicit, negotiate, or effect automobile insurance on behalf of any participating member through the facility.

(b) Submit new applications to the facility.

(c) Service any existing facility policies except as permitted by the facility's user manual under procedures for disqualified agents.

(d) Be entitled to compensation for either new business applications or renewals.

(e) Obtain any binders or other supplies from the facility. Existing binders or other supplies shall be surrendered to the facility upon request.

(6) A disqualification under this section does not affect the disqualified agent's authority to place automobile insurance through an authorized insurer in the voluntary market.

(7) The facility shall amend its plan of operation to establish standards and procedures for disqualifying an agent from placing automobile insurance through the facility. These standards and procedures shall contain at least all of the following:

(a) The actions or inactions that may lead to an agent's disqualification.

(b) Standards and procedures under which an agent may petition the facility for removal of the disqualification.

(c) That written notification must be sent to an agent that has been disqualified that includes at least all of the following:

(i) The reasons for the disqualification.

(ii) The procedure to be followed to appeal the disqualification to the board of governors or its designee.

(iii) The conditions and procedures under which the agent can petition the facility for the removal of the disqualification.

(d) A procedure under which the disqualified agent may appeal the disqualification to the facility's board of governors, or its designee, that protects the interests of both the agent and the facility. This procedure shall include the opportunity for the agent, upon request and payment of a reasonable copying charge, to receive any information pertinent to the disqualification.

(e) A notice to the disqualified agent after the board of governors' or designee's ruling as to how the agent may appeal that ruling to the commissioner or his or her designee if the agent disagrees with the ruling.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved -----

Governor.