

SENATE BILL No. 1003

January 24, 2006, Introduced by Senators CLARKE, SCOTT, BRATER, PRUSI, JACOBS, BASHAM, SCHAUER, CLARK-COLEMAN, THOMAS, OLSHOVE, CHERRY, EMERSON and LELAND and referred to the Committee on Banking and Financial Institutions.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 150, 436, 438, 1239, 1243, 1246, 1371, 1952, 2006, 2039, 2055, 2057, 2062, 2069, 2077, 2080, 2082, 2086, 2236, 2912, 3861, 5208a, 5252, 5256, and 6842 (MCL 500.150, 500.436, 500.438, 500.1239, 500.1243, 500.1246, 500.1371, 500.1952, 500.2006, 500.2039, 500.2055, 500.2057, 500.2062, 500.2069, 500.2077, 500.2080, 500.2082, 500.2086, 500.2236, 500.2912, 500.3861, 500.5208a, 500.5252, 500.5256, and 500.6842), sections 150, 436, and 1371 as amended by 1992 PA 182, section 438 as amended by 1994 PA 227, sections 1239 and 1246 as added and section 1243 as amended by 2001 PA 228, section 1952 as added by 1980 PA 341, section 2006 as amended by 2004 PA 28, section 2069 as amended by 1989 PA 306, section 2080 as amended by 1986 PA 318, section

2236 as amended by 2002 PA 664, section 3861 as added by 1992 PA 84, section 5208a as amended by 1998 PA 26, section 5252 as amended by 1984 PA 263, and section 5256 as amended by 1998 PA 121; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 150. (1) Any person who violates any provision of this
2 act for which a specific **CIVIL** penalty is not provided under any
3 other provision of this act or of other laws applicable to the
4 violation shall be afforded an opportunity for a hearing before the
5 commissioner pursuant to the administrative procedures act of 1969,
6 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~
7 ~~24.328 of the Michigan Compiled Laws—~~ **1969 PA 306, MCL 24.201 TO**
8 **24.328**. If the commissioner finds that a violation has occurred,
9 the commissioner shall reduce the findings and decision to writing
10 and shall issue and ~~cause to be served~~ **SERVE** upon the person
11 charged with the violation a copy of the findings and an order
12 requiring the person to cease and desist from the violation. In
13 addition, the commissioner may order any of the following:

14 (a) Payment of a civil fine of not more than ~~\$500.00~~
15 **\$1,000.00** for each violation. However, if the person knew or
16 reasonably should have known that he or she was in violation of
17 this act, the commissioner may order the payment of a civil fine of
18 not more than ~~\$2,500.00~~ **\$25,000.00** for each violation. With
19 respect to filings made under chapters 21, 22, 23, 24, and 26,
20 "violation" means a filing not in compliance with the provisions of
21 those chapters and does not include an action with respect to an
22 individual policy based upon a noncomplying filing. An order of the

1 commissioner under this subdivision shall not require the payment
2 of civil fines exceeding ~~-\$25,000.00-~~ \$100,000.00, UNLESS THE
3 PERSON KNEW OR REASONABLY SHOULD HAVE KNOWN THAT HE OR SHE WAS IN
4 VIOLATION OF THIS ACT, IN WHICH CASE AN ORDER OF THE COMMISSIONER
5 UNDER THIS SUBDIVISION SHALL NOT REQUIRE THE PAYMENT OF CIVIL FINES
6 EXCEEDING \$250,000.00. A fine collected under this subdivision
7 shall be ~~turned over to~~ DEPOSITED WITH the state treasurer and
8 credited to the general fund.

9 (b) The suspension, limitation, or revocation of the person's
10 license or certificate of authority.

11 (C) A REFUND OF ANY OVERCHARGES TO AFFECTED POLICYHOLDERS.

12 (D) RESTITUTION TO THE INSURED OR OTHER CLAIMANT TO COVER
13 INCURRED LOSSES, DAMAGES, OR OTHER HARM ATTRIBUTABLE TO THE ACTS OF
14 THE PERSON FOUND TO BE IN VIOLATION OF THIS CHAPTER, INCLUDING, BUT
15 NOT LIMITED TO, COSTS AND ATTORNEY FEES INCURRED BY AN INSURED OR
16 OTHER CLAIMANT IN ANY HEARING UNDER THE ADMINISTRATIVE PROCEDURES
17 ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, THAT ESTABLISHES A
18 VIOLATION OF THIS CHAPTER.

19 (2) After notice and opportunity for hearing, the commissioner
20 may by order reopen and alter, modify, or set aside, in whole or in
21 part, an order issued under this section if, in the commissioner's
22 opinion, conditions of fact or law have changed to require that
23 action or the public interest requires that action.

24 (3) If a person knowingly violates a cease and desist order
25 under this section and has been given notice and an opportunity for
26 a hearing held pursuant to ~~Act No. 306 of the Public Acts of 1969~~
27 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201

1 TO 24.328, the commissioner may order a civil fine of ~~-\$10,000.00~~
2 \$25,000.00 for each violation, or a suspension, limitation, or
3 revocation of a person's license, or both. A fine collected under
4 this subsection shall be turned over to the state treasurer and
5 credited to the general fund.

6 (4) WITHOUT PRIOR HEARING, THE COMMISSIONER MAY ORDER SUMMARY
7 SUSPENSION OF A LICENSE IF HE OR SHE FINDS THAT PROTECTION OF THE
8 PUBLIC REQUIRES EMERGENCY ACTION AND INCORPORATES THIS FINDING IN
9 HIS OR HER ORDER. THE SUSPENSION SHALL BE EFFECTIVE ON THE DATE
10 SPECIFIED IN THE ORDER OR UPON SERVICE OF A CERTIFIED COPY OF THE
11 ORDER ON THE LICENSEE, WHICHEVER IS LATER. IF REQUESTED, THE
12 COMMISSIONER SHALL CONDUCT A HEARING ON THE SUSPENSION WITHIN A
13 REASONABLE TIME BUT NOT LATER THAN 20 DAYS AFTER THE EFFECTIVE DATE
14 OF THE SUMMARY SUSPENSION UNLESS THE PERSON WHOSE LICENSE IS
15 SUSPENDED REQUESTS A LATER DATE. AT THE HEARING, THE COMMISSIONER
16 SHALL DETERMINE IF THE SUSPENSION SHOULD BE CONTINUED OR IF THE
17 SUSPENSION SHOULD BE WITHDRAWN, AND, IF PROPER NOTICE IS GIVEN, MAY
18 DETERMINE IF THE LICENSE SHOULD BE REVOKED. THE COMMISSIONER SHALL
19 ANNOUNCE HIS OR HER DECISION WITHIN 30 DAYS AFTER CONCLUSION OF THE
20 HEARING. THE SUSPENSION SHALL CONTINUE UNTIL THE DECISION IS
21 ANNOUNCED.

22 (5) THE COMMISSIONER, OR HIS OR HER DESIGNATED DEPUTY, MAY
23 ISSUE SUBPOENAS TO REQUIRE THE ATTENDANCE AND TESTIMONY OF
24 WITNESSES AND THE PRODUCTION OF DOCUMENTS NECESSARY TO THE CONDUCT
25 OF THE HEARING AND MAY DESIGNATE AN OFFICE OF FINANCIAL AND
26 INSURANCE SERVICES EMPLOYEE TO MAKE SERVICE. THE SUBPOENAS ISSUED
27 BY THE COMMISSIONER, OR HIS OR HER DESIGNATED DEPUTY, MAY BE

1 ENFORCED UPON PETITION TO THE CIRCUIT COURT OF INGHAM COUNTY TO
2 SHOW CAUSE WHY A CONTEMPT ORDER SHOULD NOT BE ISSUED, AS PROVIDED
3 BY LAW.

4 (6) ~~—(4)—~~ The commissioner may apply to the Ingham county
5 circuit court for an order of the court enjoining a violation of
6 this act.

7 (7) BEGINNING MARCH 1, 2007, AND BY MARCH 1 OF EVERY YEAR
8 AFTER 2007, THE FINES IN THIS SECTION SHALL BE ADJUSTED TO REFLECT
9 THE CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX OVER
10 THE PRECEDING CALENDAR YEAR. AS USED IN THIS SUBSECTION, "CONSUMER
11 PRICE INDEX" MEANS THE ANNUAL PERCENTAGE CHANGE IN THE DETROIT
12 CONSUMER PRICE INDEX FOR ALL ITEMS FOR THE PRIOR 12-MONTH PERIOD AS
13 REPORTED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR
14 STATISTICS, AND AS CERTIFIED BY THE COMMISSIONER.

15 Sec. 436. The commissioner may suspend, revoke, or limit the
16 certificate of authority of an insurer if he or she determines that
17 any of the following conditions exist:

18 (a) The insurer no longer meets the requirements of this act
19 respecting capital, surplus, deposits, or assets.

20 (b) The insurer's condition is such that it is no longer safe,
21 reliable, or entitled to public confidence or is unsound, or the
22 insurer is using financial methods and practices in the conduct of
23 its business that render further transaction of insurance by the
24 insurer in this state hazardous to policyholders, creditors, or the
25 public.

26 (c) The insurer's certificate of authority to transact
27 business in its state of domicile, or in the case of an alien

1 insurer, in its state of entry, has been suspended or revoked.

2 (d) The insurer has failed, after written request by the
3 commissioner, to remove or discharge an officer or director whose
4 record of business conduct does not satisfy the requirements of
5 section 436a(1)(k) or 1315(1)(f) or who has been convicted of any
6 crime involving fraud, dishonesty, or like moral turpitude.

7 ~~—(e) The insurer fails to promptly comply with sections 222 or~~
8 ~~438.~~

9 (E) ~~—(f)~~ The insurer has failed for an unreasonable period to
10 pay any final judgment rendered against it in this state on any
11 policy, bond, recognizance, or undertaking issued or guaranteed by
12 it.

13 (F) ~~—(g)~~ The insurer has failed, within 30 days after notice
14 of delinquency from the commissioner, to cure its failure to pay
15 the taxes, fees, assessments, or expenses required by this act.

16 (G) ~~—(h)~~ The insurer has violated any other provision of this
17 act that provides for suspension or revocation of its certificate
18 of authority.

19 Sec. 438. (1) Each insurer, foreign, alien, U.S. branch, or
20 domestic, transacting business within this state, shall annually,
21 on or before March 1, prepare under oath and deposit with the
22 commissioner a statement concerning its affairs in a form and
23 manner as prescribed by the commissioner. The annual statement
24 shall be filed on or before March 1 of the year following that
25 covered by the statement. Upon request and for good cause shown,
26 the commissioner may grant to any company reasonable extensions of
27 the March 1 filing date for periods not to exceed 30 days. The

1 insurer shall pay the filing fee prescribed in section 240(1)(b).

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

11 (3) The commissioner may address inquiries to any insurer, in
12 relation to the insurer's activities or conditions, or any matter
13 connected with the insurer's transactions. An insurer so addressed
14 shall promptly reply in writing to each inquiry by the
15 commissioner.

16 (4) Each report filed with the commissioner pursuant to this
17 section shall be made available to the public in compliance with
18 the freedom of information act, ~~Act No. 442 of the Public Acts of~~
19 ~~1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws~~
20 **1976 PA 442, MCL 15.231 TO 15.246.**

21 ~~— (5) Each authorized insurer that fails to make or deposit the~~
22 ~~annual statement required by this section, or fails to reply within~~
23 ~~30 days to an inquiry of the commissioner, is subject to a civil~~
24 ~~penalty of not less than \$1,000.00 or more than \$5,000.00, and an~~
25 ~~additional \$50.00 for every day that the insurer fails to make and~~
26 ~~deposit the annual statement or reply to the inquiry. In addition,~~
27 ~~each insurer that fails to make and deposit an annual statement, or~~

1 ~~fails to make a satisfactory reply to an inquiry of the~~
2 ~~commissioner, concerning the insurer's affairs shall be subject to~~
3 ~~proceedings under section 436.~~

4 (5) ~~—(6)—~~ The annual statement of an alien insurer shall
5 relate only to the insurer's assets, transactions, and affairs in
6 the United States unless the commissioner requires otherwise.

7 (6) ~~—(7)—~~ As used in this section, "U.S. branch" means that
8 term as defined in section 431.

9 Sec. 1239. (1) In addition to any other powers under this act,
10 the commissioner may place on probation, suspend, revoke, or refuse
11 to issue an insurance producer's license ~~or may levy a civil fine~~
12 ~~under section 1244~~ or any combination of actions for any 1 or more
13 of the following causes:

14 (a) Providing incorrect, misleading, incomplete, or materially
15 untrue information in the license application.

16 (b) Violating any insurance laws or violating any regulation,
17 subpoena, or order of the commissioner or of another state's
18 insurance commissioner.

19 (c) Obtaining or attempting to obtain a license through
20 misrepresentation or fraud.

21 (d) Improperly withholding, misappropriating, or converting
22 any money or property received in the course of doing insurance
23 business.

24 (e) Intentionally misrepresenting the terms of an actual or
25 proposed insurance contract or application for insurance.

26 (f) Having been convicted of a felony.

27 (g) Having admitted or been found to have committed any

1 insurance unfair trade practice or fraud.

2 (h) Using fraudulent, coercive, or dishonest practices or
3 demonstrating incompetence, untrustworthiness, or financial
4 irresponsibility in the conduct of business in this state or
5 elsewhere.

6 (i) Having an insurance producer license or its equivalent
7 denied, suspended, or revoked in any other state, province,
8 district, or territory.

9 (j) Forging another's name to an application for insurance or
10 to any document related to an insurance transaction.

11 (k) Improperly using notes or any other reference material to
12 complete an examination for an insurance license.

13 (l) Knowingly accepting insurance business from an individual
14 who is not licensed.

15 (m) Failing to comply with an administrative or court order
16 imposing a child support obligation.

17 (n) Failing to pay single business tax or comply with any
18 administrative or court order directing payment of single business
19 tax.

20 (2) Before the commissioner denies an application for a
21 license, the commissioner shall notify in writing the applicant or
22 licensee of the denial and of the reason for the denial. Not later
23 than 30 days after this written denial, the applicant or licensee
24 may make written demand upon the commissioner for a hearing before
25 the commissioner to determine the reasonableness of the
26 commissioner's action. A hearing under this subsection shall be
27 held pursuant to the administrative procedures act of 1969, 1969 PA

1 306, MCL 24.201 to 24.328.

2 (3) The license of a business entity may be suspended,
3 revoked, or refused if the commissioner finds, after hearing, that
4 an individual licensee's violation was known or should have been
5 known by 1 or more of the partners, officers, or managers acting on
6 behalf of the partnership or corporation and the violation was
7 neither reported to the commissioner nor corrective action taken.

8 ~~—— (4) In addition to or in lieu of any applicable denial,~~
9 ~~suspension, or revocation of a license, a person may, after~~
10 ~~hearing, be subject to a civil fine under section 1244.~~

11 (4) ~~—(5)—~~ In addition to the penalties under this section, the
12 commissioner may enforce the provisions of and impose any penalty
13 or remedy authorized by this act against any person who is under
14 investigation for or charged with a violation of this act even if
15 the person's license or registration has been surrendered or has
16 lapsed by operation of law.

17 Sec. 1243. (1) As used in this section:

18 (a) "Act" means the insurance code of 1956, 1956 PA 218, MCL
19 500.100 to 500.8302.

20 (b) "Affiliate" means a person that directly or indirectly or
21 through 1 or more intermediaries, controls or is controlled by
22 another or is under common control with another. An affiliate
23 includes a person who for any 12-month period makes a monthly
24 average of 10 or more referrals to lenders for the purpose of
25 procuring a loan and the person receives consideration for making
26 those referrals.

27 (c) "Agent" means an individual licensed as an insurance

1 producer, broker, solicitor, or insurance counselor under this act.

2 (d) "Agency" means an insurance agency licensed under this
3 act.

4 (e) "Control" means control as defined in section 115.

5 (f) "Insurance product" means any product or service
6 regulated, in whole or in part, by the commissioner.

7 (g) "Lender" means a person or entity who directly or
8 indirectly, in the ordinary course of business regularly makes,
9 arranges, offers to make, or purchases and services a loan as
10 defined by subdivision (h). A lender includes a mortgage broker. If
11 a person purchases an interest in but does not service a loan, that
12 person is not a lender under this section for the purposes of that
13 loan.

14 (h) "Loan" means an agreement to lend money or to finance
15 goods or services. Loan does not include any of the following:

16 (i) The financing of insurance premiums.

17 (ii) A loan from the cash value of an insurance policy.

18 (iii) A home improvement charge agreement or a home improvement
19 installment contract made under the home improvement finance act,
20 1965 PA 332, MCL 445.1101 to 445.1431.

21 (iv) A retail installment contract of \$10,000.00 or less or a
22 retail charge agreement made under the retail installment sales
23 act, 1966 PA 224, MCL 445.851 to 445.873.

24 (i) "Loan representative" means an employee or representative
25 of a lender that deals directly with loan applicants in accepting
26 loan applications or approving or closing a loan.

27 (j) "Person" means an individual, corporation, partnership,

1 association, or any other legal entity.

2 (k) "Required insurance" means any insurance product that a
3 borrower is required to obtain as a condition of closing a loan.

4 (2) The commissioner shall issue an insurance agency license
5 to an affiliate of a lender or an agent license to an individual
6 who is an employee of the affiliate if the commissioner determines
7 that the affiliate or employee has met the prerequisites for
8 licensure under this act and that the affiliate and the lender will
9 conduct the sale of insurance in compliance with this section. If a
10 lender acquires ownership in or becomes affiliated with an agency
11 with an existing license under this act, an application for a new
12 license is not required. The commissioner may issue an insurance
13 agency or agent license directly to a lender or an employee of the
14 lender who is not an employee of an affiliated agency if the
15 commissioner determines that the lender or employee has met the
16 prerequisites for licensure and will conduct the sale of insurance
17 in substantial compliance with this section.

18 (3) This section applies to all of the following:

19 (a) A lender that has been affiliated with a licensed agency
20 or has employed a licensed agent before March 30, 1995 and that
21 affiliation or employment continues or is renewed on and after
22 March 30, 1995.

23 (b) A lender, affiliate, or employee of a lender that has been
24 licensed as an agency or agent before March 30, 1995 and maintains
25 that licensure on and after March 30, 1995, to the extent that the
26 provisions of this section apply.

27 (c) A person affiliated with a lender that receives an agency

1 license or an individual employed by the lender who receives an
2 agent license.

3 (d) A lender that is licensed as an agency, to the extent that
4 the provisions of this section apply.

5 (e) A lender that acquires ownership in an agency or otherwise
6 becomes affiliated with a licensed insurance agency.

7 (f) A lender that employs a licensed insurance agent.

8 (4) A lender, an agency affiliated with a lender, or an agent
9 employed by a lender may be licensed to sell any insurance product.

10 (5) A lender may own an insurance agency in whole or in part
11 and shall provide notice to the commissioner ~~and the commissioner~~
12 ~~of the financial institutions bureau~~ of any acquisition, in whole
13 or in part, of an insurance agency.

14 (6) Applications for insurance agency or agent licenses under
15 this act shall be promptly reviewed by the commissioner. An
16 application shall be considered approved by the commissioner if the
17 commissioner has not denied the application for good cause within
18 60 days after the date the application is filed. The commissioner
19 shall issue the insurance agency or agent license within 10 days of
20 approval.

21 (7) Interrogatories propounded by the commissioner regarding
22 the proposed business conduct between a lender and an affiliated
23 insurance agency shall be limited to questions pertaining to
24 compliance with this section.

25 (8) There is no limit on the percentage of insurance business
26 sold to customers of a lender through an insurance agency
27 affiliated with the lender or agent employed by the lender if sold

1 in compliance with this act.

2 (9) A lender shall not do either of the following:

3 (a) Require a borrower to purchase any policy or contract of
4 insurance through a particular agency or agent or with a particular
5 insurer or fix or vary the terms or conditions of a loan as an
6 inducement to purchase insurance. This subdivision does not
7 prohibit a lender from requiring a borrower to purchase a required
8 insurance policy that conforms to the requirements, if any, of the
9 loan.

10 (b) Except as otherwise provided by law, require a person to
11 purchase any insurance product from the lender or an affiliate as a
12 condition of making a loan.

13 (10) The board of directors of an insurance agency affiliated
14 with a lender shall act separately from the board of directors of
15 the lender. A director of a lender may also serve as a director of
16 an affiliated agency, except that a majority of directors of the
17 affiliated agency shall not be directors of the lender. This
18 subsection does not apply to a lender that is also the licensed
19 agency.

20 (11) An officer or employee of a lender may be an officer or
21 employee of an affiliated agency. However, except as otherwise
22 provided by this section, for purposes of soliciting or selling
23 insurance products, such officer or employee shall not use or
24 disclose information that the lender may not disclose to the
25 affiliated agency.

26 (12) An officer or employee of a lender shall not directly or
27 indirectly delay or impede the completion of a loan transaction for

1 the purpose of influencing a consumer's selection or purchase of
2 insurance products from an agent, solicitor, agency, or insurer
3 that is not affiliated with the lender.

4 (13) A loan representative may not act as an agent or
5 solicitor for the sale or provision of required insurance related
6 to an application, approval, commitment, or closing of a loan if
7 the loan representative participated in the application, approval,
8 commitment, or closing of that loan.

9 (14) A lender or its employees shall not knowingly initiate a
10 discussion concerning the availability of insurance products from
11 the lender or an affiliated agency to or with a person in response
12 to an inquiry about credit made by the person or to a loan
13 applicant prior to the loan applicant being notified of the
14 disposition of a loan application. This subsection does not
15 prohibit a lender or its employees from discussing with the person
16 making the inquiry or loan applicant that certain required
17 insurance must be maintained as a condition of obtaining a loan.

18 (15) If asked about the availability of insurance products by
19 a person inquiring about a loan or a loan applicant, the lender may
20 indicate that insurance products are available from the lender or
21 an affiliated agency and may provide instruction about how to
22 obtain further information concerning the agency or agent and
23 available insurance products.

24 (16) If insurance is required as a condition of obtaining a
25 loan, and if the required insurance is available through the lender
26 or an affiliate of the lender, the lender shall disclose to the
27 applicant all of the following:

1 (a) That the lender will not require the borrower to purchase
2 any policy or contract of insurance through a particular agent,
3 agency, or with a particular insurer.

4 (b) Except as otherwise provided by law, that the lender will
5 not require the borrower to purchase any insurance product from the
6 lender or an affiliate as a condition of the loan.

7 (c) That the purchase of any insurance product from the lender
8 or its affiliated agency is optional and will not in any way affect
9 current or future credit decisions.

10 (17) The disclosure required by subsection (16) shall be made
11 to a loan applicant at the time the loan applicant inquires about
12 the availability of required insurance or at such time as the
13 lender advises the loan applicant that the required insurance is
14 available through the lender or an affiliate of the lender,
15 whichever is earlier. The disclosure shall be confirmed in writing,
16 dated, and signed by the applicant no later than the closing of the
17 loan.

18 (18) If insurance is required as a condition of obtaining a
19 loan, the credit and insurance transactions shall be completed
20 independently and through separate documents. A loan for premiums
21 on required insurance shall not be included in the primary credit
22 without the written consent of the customer.

23 (19) The offering of a loan by a lender and the sale or
24 provision of insurance products by the lender or an affiliated
25 agency shall be made in different areas that are clearly and
26 conspicuously signed and separated so as to preclude confusion on
27 the part of customers. However, in the limited situation where

1 physical or employee considerations prevent lending and the sale of
2 insurance products from being conducted in different areas, the
3 lender shall take appropriate measures to minimize customer
4 confusion. In unique circumstances to accommodate the needs of or
5 for the convenience of particular customers, this subsection does
6 not prohibit on an irregular basis, taking applications for loans,
7 extensions of loans, and the sale of insurance products at the same
8 location.

9 (20) Signs and other informational material concerning the
10 availability of insurance products from the lender or an affiliated
11 agency shall not be displayed in an area when loan applications are
12 being taken and when loans are being closed in that area.

13 (21) A lender, its employees, or its representatives may
14 advise the general public and its customers, through mailings or
15 otherwise, that insurance products are available from the lender or
16 affiliated agency and may advise the general public and its
17 customers how to obtain more information about those insurance
18 products, so long as:

19 (a) The information is not provided because of a submission of
20 any loan application until after the loan applicant has been
21 notified of the disposition of the application, or in response to
22 any inquiry about the availability, terms, and conditions of any
23 loan.

24 (b) The timing of the communications is not based on the
25 maturity or expiration date of a policy of required insurance or an
26 insurance policy in the lender's possession.

27 (c) No information concerning customers that is prohibited for

1 use in the solicitation or sale of insurance products under
2 subsections (23) and (25) is used to determine which customers
3 should receive the information.

4 (22) A lender may provide the names, addresses, telephone
5 numbers, and information related to account relationships with
6 customers to an affiliated agency or an agent employed by the
7 lender so long as the lender does not disclose account balances or
8 maturity dates of certificates of deposit and does not disclose
9 account relationships to an affiliated agency or an agent employed
10 by the lender in a manner that account balances or maturity dates
11 of certificates of deposit may be determined by the agency or
12 agent. This section does not prohibit disclosure of minimum
13 required balances, terms, or conditions of an account.

14 (23) A lender shall not directly or indirectly provide to an
15 affiliated agency or an agent employed by the lender the following
16 information if obtained from an insurance policy or preauthorized
17 payment agreement that is in the possession of the lender:

18 (a) The expiration date of the insurance policy.

19 (b) The name of the insurance company that issued the policy.

20 (c) The amount of the premium.

21 (d) Scheduled coverages and policy limits contained in the
22 policy.

23 (e) Any deductibles contained in the policy.

24 (f) Any information contained on the declaration sheet of the
25 policy.

26 (g) Cash or surrender values.

27 (24) A lender may disclose to an affiliated agency or an agent

1 employed by the lender information obtained from a policy of
2 required insurance that the borrower has failed to keep in force,
3 if the information is necessary to obtain the required insurance
4 through the affiliated agency, employee, or elsewhere. If a
5 customer has failed to keep required insurance in force, this
6 section does not prohibit a lender from obtaining the required
7 insurance in accordance with the terms of the loan or from
8 obtaining insurance limited to repayment of the outstanding balance
9 due in the event of loss or damage to property used as collateral
10 on the loan.

11 (25) A lender shall not directly or indirectly provide to an
12 affiliated agency or agent employed by the lender the following
13 customer documents or information:

14 (a) Loan applications, except that a lender may provide to an
15 affiliated agency or agent employed by the lender the name,
16 address, telephone number, and account relationship concerning a
17 loan applicant after the applicant has been notified of the
18 disposition of the application.

19 (b) Financial statements regarding assets, liabilities, net
20 worth, income, and expenses.

21 (c) Budgets or proposed budgets.

22 (d) Business plans.

23 (e) Contracts.

24 (f) Credit reports.

25 (g) Inventory records.

26 (h) Collateral offered as security for loans.

27 (i) Appraisals.

1 (j) Personal guarantees and related information.

2 (k) Insurance policy, certificate, or binder.

3 (26) This section does not require the lender to remove the
4 name, address, or other information concerning the customer from
5 the customer list if information concerning a customer of a lender
6 is on a customer list by reason of other account relationships with
7 the lender and the lender is otherwise authorized to disclose the
8 list to an affiliate agency or an agent employed by the lender.

9 (27) This section does not prohibit a lender from providing
10 information about the customers of the lender to an affiliated
11 agency or an agent employed by the lender if that information is
12 otherwise available from a public record.

13 (28) This section does not prohibit a lender from releasing
14 customer information in its possession to any person if the
15 customer authorizes the release of that information. The release
16 shall be in writing, dated, and signed by the customer. A lender
17 shall not knowingly ask a loan applicant to release such
18 information prior to the applicant being notified of the
19 disposition of the application unless the applicant has asked about
20 the availability of insurance products as provided under subsection
21 (15). A lender shall not require the release as a condition of
22 applying for the loan.

23 (29) The use or disclosure of information allowed under this
24 section is not a violation of the use or disclosure of information
25 under section 2077.

26 (30) Except as provided in subsection (31), an insurance
27 agency or agent shall not reward or remunerate an affiliated lender

1 for procuring or inducing insurance product business for the agency
2 or agent or for furnishing leads and prospects or acting in any
3 other manner as an agent. This subsection does not preclude an
4 affiliated agency from compensating its employees, who may also be
5 employees of the lender, or reimbursing its affiliated lender at
6 fair market value for any goods, services, or facilities that the
7 lender may provide to the agency or for expense incurred by the
8 lender in advising its customers and the general public of the
9 agency's services.

10 (31) An insurance agency may pay dividends and make other
11 distributions of assets to the agency's shareholders, including an
12 affiliated lender, as a return on the capital invested and risks
13 assumed by the shareholders or in conjunction with a merger,
14 liquidation, or other corporate transaction.

15 (32) This section does not prohibit a lender, or a
16 manufacturer or an affiliate of a manufacturer acting as a lender,
17 from soliciting or selling insurance products to a closed
18 dealership, designated family member, new motor vehicle dealer, or
19 proposed new motor vehicle dealer. This subsection shall not be
20 construed to include customers of motor vehicle dealers.

21 (33) As used in subsection (32):

22 (a) "Closed dealership" means a closed dealership as defined
23 in section 2 of 1981 PA 118, MCL 445.1562.

24 (b) "Designated family member" means a designated family
25 member as defined in section 2 of 1981 PA 118, MCL 445.1562.

26 (c) "Manufacturer" means a manufacturer as defined in section
27 4 of 1981 PA 118, MCL 445.1564.

1 (d) "New motor vehicle dealer" means a new motor vehicle
2 dealer as defined in section 5 of 1981 PA 118, MCL 445.1565.

3 (e) "Proposed new motor vehicle dealer" means a proposed new
4 motor vehicle dealer as defined in section 5 of 1981 PA 118, MCL
5 445.1565.

6 (34) This section does not apply to insurance products offered
7 under the credit insurance act, 1958 PA 173, MCL 550.601 to
8 550.624.

9 (35) This section does not apply to the offering of life
10 insurance by a lender under section 4418.

11 (36) Notwithstanding section 4418, payment by an insurer of
12 consideration to an agency or agent licensed under this act for an
13 individual policy of insurance on the life of the borrower issued
14 in connection with a loan on a dwelling or mobile home made or
15 serviced by an affiliated lender is not considered a monetary or
16 financial benefit to the lender as a result of the insurance.

17 ~~—— (37) If after an opportunity for a hearing pursuant to the~~
18 ~~administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to~~
19 ~~24.328, the commissioner finds that a person has violated this~~
20 ~~section, the commissioner shall reduce the findings and decision to~~
21 ~~writing and serve upon the person charged with the violation a copy~~
22 ~~of the decision and an order requiring the person to cease and~~
23 ~~desist from the violation. In addition, the commissioner may order~~
24 ~~any of the following:~~

25 ~~—— (a) For all violations committed in a 6 month period, the~~
26 ~~payment of a civil fine of not more than \$1,000.00 for each~~
27 ~~violation but not to exceed an aggregate civil penalty of~~

1 ~~\$30,000.00, unless the person knew or reasonably should have known~~
2 ~~the person was in violation of this section, in which case the~~
3 ~~civil fine shall not be more than \$5,000.00 for each violation and~~
4 ~~shall not exceed an aggregate civil fine of \$150,000.00. A fine~~
5 ~~collected under this subdivision shall be turned over to the state~~
6 ~~treasurer and credited to the general fund of the state.~~

7 ~~—— (b) That restitution be made to the insured or any other~~
8 ~~person, including a customer claimant, to cover actual damages~~
9 ~~directly attributable to the acts that are found to be in violation~~
10 ~~of this section by a person that knew or reasonably should have~~
11 ~~known the acts were in violation of this section.~~

12 ~~—— (c) The suspension or revocation of the person's license under~~
13 ~~this act.~~

14 ~~—— (38) If a person knowingly violates a cease and desist order~~
15 ~~under this section and has been given notice and an opportunity for~~
16 ~~a hearing as provided by this section, the commissioner may order a~~
17 ~~civil fine of not more than \$25,000.00 for each violation, or a~~
18 ~~suspension or revocation of the person's license under this act, or~~
19 ~~both. However, an order issued by the commissioner pursuant to this~~
20 ~~subsection shall not require the payment of civil fines exceeding~~
21 ~~\$250,000.00. A fine collected under this subsection shall be turned~~
22 ~~over to the state treasurer and credited to the general fund of the~~
23 ~~state.~~

24 ~~—— (39) The commissioner may apply to the circuit court of Ingham~~
25 ~~county for an order of the court enjoining a violation of this~~
26 ~~section.~~

27 ~~—— (40) An action under this section shall not be brought more~~

1 ~~than 5 years after the occurrence of the violation that is the~~
2 ~~basis of the action.~~

3 Sec. 1246. (1) Any documents, materials, or other information
4 in the control or possession of the office of financial and
5 insurance services that is furnished by an insurer, an insurance
6 producer, or an employee or representative acting on behalf of the
7 insurer or insurance producer, or obtained by the commissioner in
8 an investigation pursuant to this section is confidential by law
9 and privileged, is not subject to the freedom of information act,
10 1976 PA 442, MCL 15.231 to 15.246, is not subject to subpoena, and
11 is not subject to discovery or admissible in evidence in any
12 private civil action. However, the commissioner is authorized to
13 use the documents, materials, or other information in the
14 furtherance of any regulatory or legal action brought as a part of
15 the commissioner's duties.

16 (2) Neither the commissioner nor any person who received
17 documents, materials, or other information while acting under the
18 commissioner's authority is permitted or required to testify in any
19 private civil action concerning any confidential documents,
20 materials, or information under subsection (1).

21 (3) In order to assist in the performance of the
22 commissioner's duties under this chapter, the commissioner may do
23 any of the following:

24 (a) Share documents, materials, or other information,
25 including the confidential and privileged documents, materials, or
26 information subject to subsection (1), with other state, federal,
27 and international regulatory agencies, with the national

1 association of insurance commissioners, its affiliates or
2 subsidiaries, and with state, federal, and international law
3 enforcement authorities, provided that the recipient agrees to
4 maintain the confidentiality and privileged status of the document,
5 material, or other information.

6 (b) Receive documents, materials, or information, including
7 otherwise confidential and privileged documents, materials, or
8 information, from the national association of insurance
9 commissioners, its affiliates or subsidiaries, and from regulatory
10 and law enforcement officials of other foreign or domestic
11 jurisdictions, and shall maintain as confidential or privileged any
12 document, material, or information received with notice or the
13 understanding that it is confidential or privileged under the laws
14 of the jurisdiction that is the source of the document, material,
15 or information.

16 (c) Enter into agreements governing sharing and use of
17 information consistent with this subsection.

18 (4) No waiver of any applicable privilege or claim of
19 confidentiality in the documents, materials, or information shall
20 occur as a result of disclosure to the commissioner under section
21 1208b or this section, or as a result of sharing as authorized
22 under subsection (3).

23 (5) This chapter does not prohibit the commissioner from
24 releasing final, adjudicated actions including for cause
25 terminations that are open to public inspection pursuant to the
26 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, to a
27 database or other clearinghouse service maintained by the national

1 association of insurance commissioners or its affiliates or
2 subsidiaries.

3 (6) An insurer, the authorized representative of the insurer,
4 or an insurance producer that fails to report as required under
5 section 1208b or this section or that is found to have reported
6 with actual malice by a court of competent jurisdiction may, after
7 notice and hearing, have its license or certificate of authority
8 suspended or revoked and may be fined ~~under section 1244~~ **AS**
9 **PROVIDED IN THIS ACT.**

10 Sec. 1371. (1) An insurer failing, without just cause, to file
11 a registration statement as required in this chapter shall be
12 required, after notice and hearing, to pay a penalty of ~~-\$1,000.00~~
13 **\$2,000.00** for each day's delay, up to a maximum of ~~-\$50,000.00~~
14 **\$100,000.00**, to be recovered by the commissioner and paid into the
15 general fund. The commissioner may reduce the penalty if the
16 insurer demonstrates to the commissioner that the imposition of the
17 penalty would constitute a financial hardship to the insurer.

18 (2) Every director or officer of an insurance holding company
19 system who knowingly violates, knowingly participates in or assents
20 to, or with actual knowledge permits any of the officers or agents
21 of the insurer to engage in material acts, omissions, or
22 transactions or make investments that have not been properly
23 reported or submitted pursuant to section 1324, 1341, or 1343,
24 that, with respect to material transactions, violate this chapter,
25 or that result in material false or misleading statements to the
26 commissioner with respect to the financial condition of the insurer
27 or any of its affiliates shall pay, in their individual capacity, a

1 civil forfeiture of not more than ~~-\$10,000.00-~~ **\$20,000.00** per
2 violation, after notice and hearing before the commissioner. In
3 determining the amount of the civil forfeiture, the commissioner
4 shall take into account the appropriateness of the forfeiture with
5 respect to the gravity of the violation, the history of previous
6 violations, and other matters as justice requires. In addition, a
7 violation of this subsection shall constitute grounds for removal
8 of the director or officer from any position of trust or
9 responsibility in any insurer domiciled in this state in accordance
10 with the procedures established in section 250.

11 (3) If it appears to the commissioner that an insurer subject
12 to this chapter or any insurer's director, officer, employee, or
13 agent has engaged in any transaction or entered into a contract
14 that is subject to section 1341 or 1344 and that would not have
15 been approved had approval been requested, the commissioner may
16 order the insurer to cease and desist immediately any further
17 activity under that transaction or contract. After notice and
18 hearing, the commissioner may also order the insurer to void any
19 such contract, transaction, or distribution, and restore the status
20 quo if that action is in the best interest of the policyholders,
21 creditors, or the public.

22 (4) If it appears to the commissioner that an insurer or an
23 insurer's director, officer, employee, or agent has committed a
24 willful violation of this chapter, the commissioner may cause
25 criminal proceedings to be instituted in the circuit court for the
26 county in which the principal office of the insurer is located or
27 if the insurer has no such office in the state, then in the Ingham

1 county circuit court against the insurer or the insurer's
2 responsible director, officer, employee, or agent. An insurer
3 willfully violating this chapter may be fined not more than
4 ~~\$50,000.00~~ **\$100,000.00**. An individual willfully violating this
5 chapter may be fined not more than ~~\$10,000.00~~ **\$20,000.00** or, if
6 the willful violation involves the deliberate perpetration of a
7 fraud upon the commissioner, imprisoned not more than ~~2~~ **4** years,
8 or both.

9 (5) An officer, director, or employee of an insurance holding
10 company system who willfully and knowingly subscribes to or makes
11 or causes to be made any false statement, false report, or false
12 filing with the intent to deceive the commissioner in the
13 performance of his or her duties under this chapter, shall be
14 imprisoned for not more than ~~2~~ **4** years, or fined ~~\$10,000.00~~
15 **\$20,000.00**, or both. Any fines imposed shall be paid by the
16 officer, director, or employee in his or her individual capacity.

17 Sec. 1952. A person who knowingly and ~~wilfully~~ **WILLFULLY**
18 violates or aids or abets directly or indirectly in a violation of
19 this chapter is guilty of a misdemeanor — punishable by
20 imprisonment for not more than 1 year, or a fine of not more than
21 ~~\$1,000.00~~ **\$2,000.00**, or both.

22 Sec. 2006. (1) A person must pay on a timely basis to its
23 insured, an individual or entity directly entitled to benefits
24 under its insured's contract of insurance, or a third party tort
25 claimant the benefits provided under the terms of its policy, or,
26 in the alternative, the person must pay to its insured, an
27 individual or entity directly entitled to benefits under its

1 insured's contract of insurance, or a third party tort claimant 12%
2 interest, as provided in subsection (4), on claims not paid on a
3 timely basis. Failure to pay claims on a timely basis or to pay
4 interest on claims as provided in subsection (4) is an unfair trade
5 practice unless the claim is reasonably in dispute.

6 (2) A person shall not be found to have committed an unfair
7 trade practice under this section if the person is found liable for
8 a claim pursuant to a judgment rendered by a court of law, and the
9 person pays to its insured, individual or entity directly entitled
10 to benefits under its insured's contract of insurance, or third
11 party tort claimant interest as provided in subsection (4).

12 (3) An insurer shall specify in writing the materials that
13 constitute a satisfactory proof of loss not later than 30 days
14 after receipt of a claim unless the claim is settled within the 30
15 days. If proof of loss is not supplied as to the entire claim, the
16 amount supported by proof of loss shall be considered paid on a
17 timely basis if paid within 60 days after receipt of proof of loss
18 by the insurer. Any part of the remainder of the claim that is
19 later supported by proof of loss shall be considered paid on a
20 timely basis if paid within 60 days after receipt of the proof of
21 loss by the insurer. If the proof of loss provided by the claimant
22 contains facts that clearly indicate the need for additional
23 medical information by the insurer in order to determine its
24 liability under a policy of life insurance, the claim shall be
25 considered paid on a timely basis if paid within 60 days after
26 receipt of necessary medical information by the insurer. Payment of
27 a claim shall not be untimely during any period in which the

1 insurer is unable to pay the claim when there is no recipient who
2 is legally able to give a valid release for the payment, or where
3 the insurer is unable to determine who is entitled to receive the
4 payment, if the insurer has promptly notified the claimant of that
5 inability and has offered in good faith to promptly pay the claim
6 upon determination of who is entitled to receive the payment.

7 (4) If benefits are not paid on a timely basis the benefits
8 paid shall bear simple interest from a date 60 days after
9 satisfactory proof of loss was received by the insurer at the rate
10 of 12% per annum, if the claimant is the insured or an individual
11 or entity directly entitled to benefits under the insured's
12 contract of insurance. If the claimant is a third party tort
13 claimant, then the benefits paid shall bear interest from a date 60
14 days after satisfactory proof of loss was received by the insurer
15 at the rate of 12% per annum if the liability of the insurer for
16 the claim is not reasonably in dispute, the insurer has refused
17 payment in bad faith and the bad faith was determined by a court of
18 law. The interest shall be paid in addition to and at the time of
19 payment of the loss. If the loss exceeds the limits of insurance
20 coverage available, interest shall be payable based upon the limits
21 of insurance coverage rather than the amount of the loss. If
22 payment is offered by the insurer but is rejected by the claimant,
23 and the claimant does not subsequently recover an amount in excess
24 of the amount offered, interest is not due. Interest paid pursuant
25 to this section shall be offset by any award of interest that is
26 payable by the insurer pursuant to the award.

27 (5) If a person contracts to provide benefits and reinsures

1 all or a portion of the risk, the person contracting to provide
2 benefits is liable for interest due to an insured, an individual or
3 entity directly entitled to benefits under its insured's contract
4 of insurance, or a third party tort claimant under this section
5 where a reinsurer fails to pay benefits on a timely basis.

6 (6) If there is any specific inconsistency between this
7 section and sections 3101 to 3177 or the worker's disability
8 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, the
9 provisions of this section do not apply. Subsections (7) to (14) do
10 not apply to an entity regulated under the worker's disability
11 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941.
12 Subsections (7) to (14) do not apply to the processing and paying
13 of medicaid claims that are covered under section 111i of the
14 social welfare act, 1939 PA 280, MCL 400.111i.

15 (7) Subsections (1) to (6) do not apply and subsections (8) to
16 ~~(14)~~ (13) do apply to health plans when paying claims to health
17 professionals and health facilities that are not pharmacies and
18 that do not involve claims arising out of sections 3101 to 3177 or
19 the worker's disability compensation act of 1969, 1969 PA 317, MCL
20 418.101 to 418.941.

21 (8) Each health professional and health facility in billing
22 for services rendered and each health plan in processing and paying
23 claims for services rendered shall use the following timely
24 processing and payment procedures:

25 (a) A clean claim shall be paid within 45 days after receipt
26 of the claim by the health plan. A clean claim that is not paid
27 within 45 days shall bear simple interest at a rate of 12% per

1 annum.

2 (b) A health plan shall notify the health professional or
3 health facility within 30 days after receipt of the claim by the
4 health plan of all known reasons that prevent the claim from being
5 a clean claim.

6 (c) A health professional and a health facility have 45 days,
7 and any additional time the health plan permits, after receipt of a
8 notice under subdivision (b) to correct all known defects. The 45-
9 day time period in subdivision (a) is tolled from the date of
10 receipt of a notice to a health professional or health facility
11 under subdivision (b) to the date of the health plan's receipt of a
12 response from the health professional or health facility.

13 (d) If a health professional's or health facility's response
14 under subdivision (c) makes the claim a clean claim, the health
15 plan shall pay the health professional or health facility within
16 the 45-day time period under subdivision (a), excluding any time
17 period tolled under subdivision (c).

18 (e) If a health professional's or health facility's response
19 under subdivision (c) does not make the claim a clean claim, the
20 health plan shall notify the health professional or health facility
21 of an adverse claim determination and of the reasons for the
22 adverse claim determination within the 45-day time period under
23 subdivision (a), excluding any time period tolled under subdivision
24 (c).

25 (f) A health professional or health facility shall bill a
26 health plan within 1 year after the date of service or the date of
27 discharge from the health facility in order for a claim to be a

1 clean claim.

2 (g) A health professional or health facility shall not
3 resubmit the same claim to the health plan unless the time frame in
4 subdivision (a) has passed or as provided in subdivision (c).

5 (9) Notices required under subsection (8) shall be made in
6 writing or electronically.

7 (10) If a health plan determines that 1 or more services
8 listed on a claim are payable, the health plan shall pay for those
9 services and shall not deny the entire claim because 1 or more
10 other services listed on the claim are defective. This subsection
11 does not apply if a health plan and health professional or health
12 facility have an overriding contractual reimbursement arrangement.

13 (11) A health plan shall not terminate the affiliation status
14 or the participation of a health professional or health facility
15 with a health maintenance organization provider panel or otherwise
16 discriminate against a health professional or health facility
17 because the health professional or health facility claims that a
18 health plan has violated subsections (7) to (10).

19 (12) A health professional, health facility, or health plan
20 alleging that a timely processing or payment procedure under
21 subsections (7) to (11) has been violated may file a complaint with
22 the commissioner on a form approved by the commissioner and has a
23 right to a determination of the matter by the commissioner or his
24 or her designee. This subsection does not prohibit a health
25 professional, health facility, or health plan from seeking court
26 action. A health plan described in subsection ~~(14)(c)(iv)~~

27 **(13)(C)(iv)** is subject only to the procedures and penalties provided

1 for in subsection (13) and section 402 of the nonprofit health care
2 corporation reform act, 1980 PA 350, MCL 550.1402, for a violation
3 of a timely processing or payment procedure under subsections (7)
4 to (11).

5 ~~—— (13) In addition to any other penalty provided for by law, the~~
6 ~~commissioner may impose a civil fine of not more than \$1,000.00 for~~
7 ~~each violation of subsections (7) to (11) not to exceed \$10,000.00~~
8 ~~in the aggregate for multiple violations.~~

9 (13) ~~—(14)—~~ As used in subsections (7) to ~~—(13)—~~ (12):

10 (a) "Clean claim" means a claim that does all of the
11 following:

12 (i) Identifies the health professional or health facility that
13 provided service sufficiently to verify, if necessary, affiliation
14 status and includes any identifying numbers.

15 (ii) Sufficiently identifies the patient and health plan
16 subscriber.

17 (iii) Lists the date and place of service.

18 (iv) Is a claim for covered services for an eligible
19 individual.

20 (v) If necessary, substantiates the medical necessity and
21 appropriateness of the service provided.

22 (vi) If prior authorization is required for certain patient
23 services, contains information sufficient to establish that prior
24 authorization was obtained.

25 (vii) Identifies the service rendered using a generally
26 accepted system of procedure or service coding.

27 (viii) Includes additional documentation based upon services

1 rendered as reasonably required by the health plan.

2 (b) "Health facility" means a health facility or agency
3 licensed under article 17 of the public health code, 1978 PA 368,
4 MCL 333.20101 to 333.22260.

5 (c) "Health plan" means all of the following:

6 (i) An insurer providing benefits under an expense-incurred
7 hospital, medical, surgical, vision, or dental policy or
8 certificate, including any policy or certificate that provides
9 coverage for specific diseases or accidents only, or any hospital
10 indemnity, medicare supplement, long-term care, or 1-time limited
11 duration policy or certificate, but not to payments made to an
12 administrative services only or cost-plus arrangement.

13 (ii) A MEWA regulated under chapter 70 that provides hospital,
14 medical, surgical, vision, dental, and sick care benefits.

15 (iii) A health maintenance organization licensed or issued a
16 certificate of authority in this state.

17 (iv) A health care corporation for benefits provided under a
18 certificate issued under the nonprofit health care corporation
19 reform act, 1980 PA 350, MCL 550.1101 to 550.1704, but not to
20 payments made pursuant to an administrative services only or cost-
21 plus arrangement.

22 (d) "Health professional" means a health professional licensed
23 or registered under article 15 of the public health code, 1978 PA
24 368, MCL 333.16101 to 333.18838.

25 Sec. 2039. An order issued by the commissioner pursuant to
26 this chapter shall become final **AS FOLLOWS:**

27 (a) Upon the expiration of the time allowed for filing a

1 petition for review if a petition has not been duly filed within
2 that time, except that the commissioner may thereafter modify or
3 set aside his **OR HER** order. ~~to the extent provided in section~~
4 ~~2038(2).~~

5 (b) Upon the final decision of the court if the court directs
6 that the order of the commissioner be affirmed or the petition for
7 review dismissed.

8 Sec. 2055. (1) If any insurance corporation organized or
9 operating within this state shall, by means of any advertisement,
10 circular, notice, or statement, printed or written, published,
11 posted, or circulated through and by the agency of any officer,
12 agent, or other person, or by any other means, falsely represent or
13 hold out to the public that the capital stock of ~~such~~ **THE** company
14 is greater than its actual amount, or that the accumulation of
15 ~~such~~ **THE** insurer is greater than its actual cash or market value,
16 or shall represent the financial condition to be other than it
17 actually is or was at the time of making ~~such~~ **THE** statement,
18 every director or officer of ~~such~~ **THE** insurer guilty of any
19 participation therein ~~shall be deemed~~ **IS** guilty of a misdemeanor
20 ~~and on conviction thereof shall be punished~~ **PUNISHABLE** by a fine
21 ~~not exceeding \$100.00~~ **OF NOT MORE THAN \$1,000.00**, or by
22 imprisonment ~~in the county jail not exceeding 3~~ **FOR NOT MORE THAN**
23 **6 months**, or ~~by~~ both. ~~such fine and imprisonment, in the~~
24 ~~discretion of the court.~~

25 (2) If any ~~such~~ insurer, after ~~such~~ **A** false advertisement,
26 circular, notice, or statement ~~shall have~~ **UNDER SUBSECTION (1)**
27 **HAS** been published, posted, or circulated, ~~shall receive~~ **RECEIVES**

1 any money, note, or obligation for the payment of money, from any
2 person, as a consideration for any insurance made or policy issued
3 or to be issued by ~~such~~ **THE** insurer, ~~such~~ **THAT** money, note, or
4 obligation shall be ~~deemed and taken~~ **CONSIDERED** to have been
5 received without consideration; and the directors of ~~such~~ **THE**
6 insurer, and any officer or agent receiving the same, shall be
7 jointly and severally liable in an action of assumpsit for the
8 repayment ~~thereof~~ **OF THE MONEY, NOTE, OR OBLIGATION**, and shall
9 also, in like manner, be liable to the person insured for the
10 amount of the insurance.

11 (3) Any ~~such~~ false advertisement, circular, notice, or
12 statement ~~shall be~~ **UNDER SUBSECTION (1) IS** sufficient ground for
13 proceedings in any court of competent jurisdiction to forfeit the
14 chartered privileges of ~~such~~ **THE** insurer, or for an order
15 prohibiting the further transaction of business by it within this
16 state. ~~Provided, That~~ **HOWEVER**, no such forfeiture shall be
17 declared on that ground solely, if it shall appear either that the
18 publication was by mistake, or that the directors, officers, or
19 agents making the same have been dismissed from the service of
20 ~~such~~ **THE** insurer, and that the insurer has published ~~such~~ **A** true
21 statement of its affairs as may have been directed by the
22 commissioner ~~—~~ or ~~such~~ court.

23 (4) Any officer or agent guilty of any intentional violation
24 of this section, or who aids or abets others in any such violation,
25 ~~shall be deemed~~ **IS** guilty of a misdemeanor ~~and upon conviction~~
26 ~~thereof shall be punished~~ **PUNISHABLE** by a fine ~~not exceeding~~
27 ~~\$1,000.00~~ **OF NOT MORE THAN \$7,000.00**, or by imprisonment ~~not~~

1 ~~exceeding 6 months~~ **FOR NOT MORE THAN 1 YEAR**, or ~~by~~ both. ~~such~~
2 ~~fine and imprisonment, in the discretion of the court.~~

3 Sec. 2057. (1) ~~No~~ **AN** insurer ~~or~~ **AND A** department or
4 general agency of an insurer, doing business in this state, ~~or~~
5 **AND** its officers or agents, shall **NOT** issue any false or misleading
6 advertisement through newspapers or other periodicals, or any false
7 or misleading representations by signs, cards, letterheads, or
8 other stationery, tending to conceal or misrepresent the true
9 identity of the issuer or insurer ~~which~~ **THAT** is carrying the
10 liability under any policy issued in this state. ~~Nor shall any~~ **AN**
11 insurer ~~or~~ **AND A** department or general agency of an insurer,
12 doing business in this state, **SHALL NOT** issue any advertisement or
13 representation of any character, giving the appearance of a
14 separate or independent insuring organization on the part of any
15 department or general agency, and the type or lettering used in any
16 advertisement or representation shall set forth the name of the
17 company or organization assuming the risk more conspicuously than
18 that of any department or general agency.

19 (2) ~~Nothing herein contained shall be construed as limiting~~
20 **THIS SECTION DOES NOT LIMIT** the right of any representative of a
21 fire insurance company to advertise his **OR HER** own individual
22 business.

23 (3) ~~Any~~ **A** violation of this section ~~shall be punished~~ **IS**
24 **PUNISHABLE AS A MISDEMEANOR AND** by a fine **OF** not ~~exceeding~~
25 ~~\$500.00, as a misdemeanor~~ **MORE THAN \$3,500.00.**

26 Sec. 2062. (1) It ~~shall be~~ **IS** unlawful for any person in any
27 report required by law to be made by any insurance corporation,

1 organized or authorized to do business in this state, to make any
2 ~~such~~ statement or report as to fraudulently conceal the real
3 facts. ~~, and if intentionally so made shall, if the insurer is~~
4 ~~organized under the laws of this state, be cause of forfeiture of~~
5 ~~the corporate franchise, and if the insurer is organized under the~~
6 ~~laws of any other state or government, be cause for revocation of~~
7 ~~such insurer's authority to do business in this state by the~~
8 ~~commissioner, after hearing granted.~~

9 (2) Any officer or agent guilty of ~~any such~~ **A** fraudulent
10 statement **UNDER SUBSECTION (1)** or of any intentional violation of
11 this section, or who aids or abets others in any such violation,
12 ~~shall be deemed~~ **IS** guilty of a misdemeanor ~~and upon conviction~~
13 ~~thereof shall be punished~~ **PUNISHABLE** by a fine ~~not exceeding~~
14 ~~\$1,000.00~~ **OF NOT MORE THAN \$7,000.00**, or by imprisonment ~~not~~
15 ~~exceeding 6~~ **FOR NOT MORE THAN 12** months, or ~~by~~ both. ~~such fine~~
16 ~~and imprisonment, in the discretion of the court.~~

17 Sec. 2069. Any insurer, agent, solicitor, or any person, firm,
18 association, or corporation, violating any of the provisions of
19 sections 2064 and 2066 ~~shall be~~ **IS** guilty of a misdemeanor. Upon
20 conviction of violating section 2066 the offender shall be
21 sentenced to pay a fine of not more than ~~\$100.00~~ **\$200.00** for each
22 violation ~~, or in the discretion of the court,~~ to imprisonment
23 in the county jail of the county in which the offense is committed.
24 Upon conviction of violating section 2064 the offender shall be
25 sentenced to pay a fine of not more than ~~\$1,000.00~~ **\$2,000.00** for
26 each violation ~~, or in the discretion of the court,~~ to
27 imprisonment in the county jail of the county in which the offense

1 is committed **FOR A TERM NOT TO EXCEED ONE YEAR.**

2 Sec. 2077. (1) ~~No~~ **A** person shall **NOT** require, as a condition
3 precedent to the lending of money or extension of credit, or any
4 renewal ~~thereof~~ **OF THE LOAN OR EXTENSION**, that the person ~~—~~ to
5 whom ~~such~~ **THE** money or credit is extended or whose obligation the
6 creditor is to acquire or finance, negotiate any policy or contract
7 of insurance through a particular insurance agent or with a
8 particular insurer. ~~No~~ **A** person engaged in the business of
9 financing real or personal property, other than motor vehicles, or
10 of lending money or extending credit, shall **NOT**, directly or
11 indirectly, require ~~that~~ the borrower **TO** pay a consideration of
12 any kind to substitute the insurance policy of 1 insurer for that
13 of another.

14 (2) If an instrument requires that a purchaser, mortgagor, or
15 borrower furnish insurance of any kind on real property being
16 conveyed or ~~which~~ **THAT** is collateral security to a loan, the
17 vendor, mortgagee, or lender shall refrain from using or disclosing
18 any ~~such~~ information to his **OR HER** own advantage or to the
19 detriment of the purchaser, mortgagor, borrower, insurance company,
20 or agency complying with ~~such~~ **THE** requirement.

21 (3) This section shall not be construed as forbidding the
22 vendor or creditor from exercising a reasonable right to approve or
23 disapprove the insurance selected by the debtor for protection of
24 the property securing the credit or lien, but the vendor or
25 creditor shall not disapprove a policy ~~which~~ **THAT** contains
26 coverages in excess of the basic coverage required by the vendor or
27 creditor.

1 (4) ~~Nothing in this~~ **THIS** section ~~shall~~ **DOES NOT** forbid any
2 insurer from requiring as a condition precedent for the lending of
3 its own funds that the debtor insure his **OR HER** own life for a
4 reasonable amount with ~~such~~ **THE** insurer.

5 (5) Each violation of this section ~~shall be~~ **IS** a misdemeanor
6 ~~punishable by a fine of not more than \$100.00~~ **\$600.00**.

7 Sec. 2080. (1) It ~~shall be~~ **IS** unlawful for any life or
8 accident insurer authorized to do business in this state to own,
9 manage, supervise, operate, or maintain a mortuary or undertaking
10 establishment, or to permit its officers, agents, or employees to
11 own or maintain any such funeral or undertaking establishment.

12 (2) Except as otherwise provided in subsection (6), it ~~shall~~
13 ~~be~~ **IS** unlawful for any life insurance, sick or funeral benefit
14 company, or any company, corporation, or association engaged in a
15 similar business to contract or agree with any funeral director,
16 undertaker, or mortuary to the effect that such funeral director,
17 undertaker, or mortuary shall conduct the funeral of any person
18 insured by ~~such~~ **THE** company, corporation, or association.

19 (3) A funeral establishment, cemetery, or seller shall not be
20 licensed as an insurance ~~agent~~ **PRODUCER** under chapter 12 other
21 than as a limited licensee pursuant to this subsection and chapter
22 12. A funeral establishment, cemetery, or seller shall not be a
23 limited life insurance agent unless that funeral establishment,
24 cemetery, or seller provides a written assurance to the
25 commissioner at the time of application for the limited licensure
26 and with each renewal thereof that he or she has read and
27 understands the conditions contained in subsection (9) and agrees

1 to comply with those conditions. A person licensed as a limited
2 life insurance ~~agent~~ **PRODUCER** under this subsection and chapter
3 12 shall be authorized and licensed to sell only associated life
4 insurance policies or annuity contracts and shall not be authorized
5 or licensed to sell any other type of insurance policy or annuity
6 contract. A person licensed as a limited life insurance ~~agent~~
7 **PRODUCER** under this subsection and chapter 12 to sell associated
8 life insurance policies or annuity contracts shall not sell
9 cemetery goods or services or funeral goods or services unless all
10 of the conditions provided in subsection (9) are met. A person
11 licensed as a life insurance ~~agent~~ **PRODUCER**, other than a limited
12 life insurance ~~agent~~ **PRODUCER**, shall not sell cemetery goods or
13 services or funeral goods or services or be associated with a
14 funeral establishment, cemetery, or seller. Notwithstanding any
15 other provision in this act, a funeral establishment, cemetery, or
16 seller may advise customers or potential customers of the
17 availability of life insurance, the proceeds of which may be
18 assigned pursuant to subsection (6), and may provide application
19 forms and other information in regard to ~~such~~ **THAT** life
20 insurance. If an application form is provided, the funeral
21 establishment, cemetery, or seller shall also provide to the person
22 a list annually prepared by the commissioner setting forth the life
23 insurance companies offering in Michigan associated life insurance
24 policies or annuity contracts. The list shall include the name,
25 address, and telephone number of ~~an agent~~ **A PRODUCER** for each of
26 the life insurance companies listed. The list also shall include a
27 statement that a person who is insured under any life insurance

1 policy or annuity contract may assign all or a portion of the
2 proceeds, not to exceed the amount provided in subsection (6)(g),
3 of the existing life insurance policy or annuity contract for the
4 payment of funeral services and goods or cemetery services or goods
5 to any funeral establishment, cemetery, or seller ~~which~~ **THAT** has
6 accepted any other assignment of an associated life insurance
7 policy or annuity contract during that calendar year. The funeral
8 establishment, cemetery, or seller shall accept an assignment on
9 the proceeds from any associated or nonassociated life insurance
10 policy or annuity contract pursuant to subsection (6), and this
11 requirement on the funeral establishment, cemetery, or seller shall
12 be set forth in the statement prepared by the insurance
13 commissioner. The assignor or the person or persons legally
14 entitled to make funeral arrangements for the person whose life was
15 insured may contract with the funeral establishment, cemetery, or
16 seller of his or her choice for the rendering of the funeral goods
17 or services or cemetery goods or services. Each associated life
18 insurance policy or annuity contract delivered or issued for
19 delivery in this state shall have a death benefit that is
20 sufficient to cover the initial contract price of the cemetery
21 goods or services or funeral goods or services and that increases
22 at an annual rate of not less than the consumer price index.

23 (4) A person shall not be designated as the beneficiary in any
24 policy of life or accident insurance whereby the beneficiary,
25 directly or indirectly, shall, in return for all or a part of the
26 proceeds of ~~such~~ **THE** policy of insurance, furnish cemetery
27 services or goods or funeral services or goods in connection

1 therewith.

2 (5) Except as otherwise provided in subsection (6), it ~~shall~~
3 ~~be~~ **IS** unlawful for any life or accident, or sick or funeral
4 benefit company, or any person, company, corporation, or
5 association, to offer or furnish goods or services or anything but
6 money to its insureds or to his or her heirs, representatives,
7 attorneys, relatives, associates, or assigns in any connection
8 with, or by way of encumbrance, assignment, payment, settlement,
9 satisfaction, discharge, or release of any insurance policy.
10 However, this subsection ~~shall~~ **DOES** not prohibit any company,
11 corporation, or association from furnishing medical, surgical, or
12 hospital service.

13 (6) Notwithstanding any other provision in this act, a life
14 insurer may write a life insurance policy or annuity contract
15 ~~which~~ **THAT** is subject to an assignment of the proceeds of the
16 insurance policy or annuity contract as payment for cemetery
17 services or goods or funeral services or goods as provided in this
18 subsection regardless of the relationship between the life insurer
19 and the assignee. An assignment of the proceeds of the insurance
20 policy or annuity contract pursuant to this subsection shall be in
21 writing on a form approved by the commissioner. A predeath
22 assignment of the proceeds of a life insurance policy or annuity
23 contract as payment for cemetery or funeral services or goods is
24 void unless all of the following conditions and criteria are met:

25 (a) The assignment is an inseparable part of the contract for
26 the cemetery services or goods or funeral services or goods for
27 which the assigned proceeds serve as payment.

1 (b) The assignment is revocable by the assignor, assignor's
2 successor, or if the assignor is the insured by the representative
3 of the insured's estate prior to the provision of the cemetery
4 services or goods or funeral services or goods.

5 (c) The contract for funeral services or goods or cemetery
6 services or goods and the assignment provide that upon revocation
7 of the assignment, the contract for the cemetery services or goods
8 or funeral services or goods is revoked and cemetery services or
9 goods or funeral services or goods may be obtained from any
10 cemetery, funeral establishment, or seller.

11 (d) The assignment contains the following disclosure in
12 boldfaced type:

13 "This assignment may be revoked by the assignor or assignor's
14 successor or, if the assignor is also the insured and deceased, by
15 the representative of the insured's estate before the rendering of
16 the cemetery services or goods or funeral services or goods. If the
17 assignment is revoked, the death benefit under the life insurance
18 policy or annuity contract shall be paid in accordance with the
19 beneficiary designation under the insurance policy or annuity
20 contract."

21 (e) The assignment provides for all of the following:

22 (i) That the actual price of the cemetery services or goods or
23 funeral services or goods delivered at the time of death may be
24 more than or less than the price set forth in the assignment.

25 (ii) For the assignment of an associated life insurance policy
26 or annuity contract, that any increase in the price of the cemetery
27 services or goods or funeral services or goods shall not exceed the

1 ultimate death benefit under the life insurance policy or annuity
2 contract.

3 (iii) For the assignment of a nonassociated life insurance
4 policy or annuity contract, that any increase in the price of the
5 cemetery services or goods or the funeral services or goods shall
6 not exceed the consumer price index or the retail price list in
7 effect when the death occurs, whichever is less.

8 (iv) That if the ultimate death benefit under a life insurance
9 policy or annuity contract exceeds the price of the cemetery
10 services or goods or funeral services or goods at the time of
11 performance, the excess amount shall be distributed to the
12 beneficiary designated under the life insurance policy or annuity
13 contract or the insured's estate.

14 (v) That any addition to or modification of the contract for
15 cemetery services or goods or funeral services or goods does not
16 revoke the assignment or the contract for the cemetery services or
17 goods or funeral services or goods ~~which~~ **THAT** are not affected by
18 the addition or modification for which the assigned proceeds are
19 payment unless the assignment is revoked.

20 (f) The assignment is limited to that portion of the proceeds
21 of the life insurance policy or annuity contract ~~which~~ **THAT** is
22 needed to pay for the cemetery services or goods or funeral
23 services or goods for which the assignor has contracted.

24 (g) ~~In the case of~~ **FOR** an associated life insurance policy
25 or annuity contract, the death benefit of the life insurance policy
26 or annuity contract ~~which~~ **THAT** is subject to the assignment does
27 not exceed \$5,000.00 when the first premium payment is made on the

1 life insurance policy or annuity contract. ~~In the case of~~ **FOR** a
2 nonassociated life insurance policy or annuity contract, the
3 initial amount of proceeds assigned does not exceed \$5,000.00. The
4 maximum amounts in this subdivision shall be adjusted annually in
5 accordance with the consumer price index.

6 (h) The assignment shall contain the dispute resolution rights
7 set forth in subsection (8). After the death of the insured but
8 before the cemetery services or goods or funeral services or goods
9 are provided, the funeral establishment, cemetery, or seller shall
10 provide to a representative of the insured's estate a separate
11 document entitled, "dispute resolution disclosure statement," which
12 shall clearly set forth the dispute resolution rights set forth in
13 subsection (8). The dispute resolution disclosure statement shall
14 be filed with the commissioner and shall be considered approved
15 unless disapproved within 30 days after the submission. The
16 language used to set forth the dispute resolution rights in
17 subsection (8) shall be written in a manner calculated to be
18 understood by a person of ordinary intelligence.

19 (i) The assignor and not the assignee is responsible for
20 making the premium payments due on the life insurance policy or
21 annuity contract. This subdivision does not apply to an insurance
22 ~~agent~~ **PRODUCER** when acting as a fiduciary pursuant to section
23 1207.

24 (j) After the death of the insured but before the cemetery
25 services or goods or funeral services or goods are provided, the
26 representative of the insured's estate is provided with a current
27 price list for the cemetery services or goods or funeral services

1 or goods provided pursuant to the assignment.

2 (k) At the time the assignment is made, the assignee complies
3 with the price disclosure rules of the federal trade commission
4 prescribed in 16 ~~C.F.R.~~ **CFR**, part 453, whether or not the rules
5 by their own terms apply to the offering.

6 (l) At the time the assignment is made, the assignor certifies
7 that the insured does not have in effect other life insurance
8 policies or annuity contracts that have been assigned as payment
9 for cemetery goods or services or funeral goods or services which
10 together with the additional assignment would have an aggregate
11 face value in excess of the limitation provided in subdivision ~~(h)~~
12 **(G)**.

13 (m) For the assignment of a nonassociated life insurance
14 policy or annuity contract, the assignment complies with both of
15 the following:

16 (i) The assignment is sufficient to cover the initial contract
17 price of the cemetery goods or services or funeral goods or
18 services.

19 (ii) The assignment provides that any increase in the price of
20 the cemetery services or goods or the funeral services or goods
21 shall not exceed the consumer price index or the retail price list
22 in effect when the death occurs, whichever is less.

23 (7) An insurer or an insurance agent shall not make a false or
24 misleading statement, oral or written, regarding an assignment
25 subject to subsection (6) or regarding the rights or obligations of
26 any party or prospective party to such an assignment. An insurer or
27 an insurance agent shall not advertise or promote an assignment

1 subject to subsection (6) in a manner ~~which~~ **THAT** is false,
2 misleading, deceptive, or unfair. The commissioner shall promulgate
3 rules regulating the solicitation of plans promoting assignments
4 subject to subsection (6) to protect against solicitations ~~which~~
5 **THAT** are intimidating, vexatious, fraudulent, or misleading, or
6 which take unfair advantage of a person's ignorance or emotional
7 vulnerability.

8 (8) After the cemetery services or goods or funeral services
9 or goods are provided, the funeral establishment, cemetery, or
10 seller shall provide to a representative of the insured's estate a
11 statement to be signed by the representative of the insured's
12 estate authorizing the release of the assignment proceeds for the
13 payment of the cemetery services or goods or funeral services or
14 goods. The insurer shall release to the funeral establishment,
15 cemetery, or seller the assignment proceeds upon receipt of the
16 authorization statement signed by a representative of the insured's
17 estate. If a representative of the insured's estate fails to sign
18 the authorization statement, the following shall take place:

19 (a) The funeral establishment, cemetery, or seller shall
20 provide the representative of the insured's estate with a dispute
21 resolution notice, a copy of which is to be sent to the insurer and
22 the insurance commissioner that states all of the following:

23 (i) That the funeral establishment, cemetery, or seller has
24 provided the cemetery services or goods or funeral services or
25 goods.

26 (ii) That a representative of the insured's estate has refused
27 to authorize the insurer to release the assignment proceeds for the

1 payment of the cemetery services or goods or funeral services or
2 goods.

3 (iii) That a representative of the insured's estate may seek
4 arbitration to resolve the payment dispute.

5 (b) Upon the receipt of the dispute resolution notice
6 described in subdivision (a), the insurer shall retain the
7 assignment proceeds for 30 days. The insurer shall release the
8 assignment proceeds to the funeral establishment, cemetery, or
9 seller if after the expiration of the 30 days the insurer is not
10 informed that arbitration proceedings have been commenced, or
11 pursuant to the award of the arbitrator.

12 (c) The funeral establishment, cemetery, seller, or a
13 representative of the insured's estate may commence arbitration
14 proceedings to determine the disposition of the assignment
15 proceeds. Arbitration shall be conducted pursuant to the rules and
16 procedures of the American arbitration association. Expenses of the
17 arbitration shall be shared equally by the insured's estate and the
18 assignee unless otherwise ordered by the arbitrator.

19 (d) Nothing in this subsection ~~shall limit~~ **LIMITS** the right
20 of any party involved in the payment dispute to seek other recourse
21 permitted by law.

22 (9) A life insurance ~~agent~~ **PRODUCER** shall not sell or
23 solicit the sale of a life insurance policy or annuity contract
24 with the intention of having the purchaser assign the proceeds of
25 the policy or contract to a funeral establishment, cemetery, or
26 seller with which the ~~agent~~ **PRODUCER** is associated unless all of
27 the following conditions are met:

1 (a) The ~~agent~~ **PRODUCER** shall disclose in writing to the
2 purchaser the nature of his or her association with the funeral
3 establishment, cemetery, or seller and that both the funeral
4 establishment, cemetery, or seller and the agent will or may profit
5 from the transaction, if that is the case.

6 (b) A funeral establishment, cemetery, or seller ~~which~~ **THAT**
7 accepts assignments pursuant to subsection (6) shall also offer to
8 sell or provide cemetery goods or services or funeral goods or
9 funeral services pursuant to prepaid funeral contracts as provided
10 in the prepaid funeral ~~contract funding act~~ **AND CEMETERY SALES**
11 **ACT, 1986 PA 255, MCL 328.211 TO 328.235**, or pursuant to the trust
12 provisions of the cemetery regulation act, ~~Act No. 251 of the~~
13 ~~Public Acts of 1968, being sections 456.521 to 456.543 of the~~
14 ~~Michigan Compiled Laws~~ **1968 PA 251, MCL 456.521 TO 456.543.**

15 (c) If the contemplated assignment is to be made to pay the
16 cost of cemetery goods or services or funeral goods or funeral
17 services, the agent shall disclose in writing to the purchaser that
18 the cemetery goods or services or funeral goods or services may
19 also be purchased prior to death by making payment directly to a
20 funeral establishment, cemetery, or seller who will hold funds in
21 escrow for the benefit of the purchaser pursuant to the prepaid
22 funeral ~~contract funding act~~ **AND CEMETERY SALES ACT, 1986 PA 255,**
23 **MCL 328.211 TO 328.235**, or in trust pursuant to the provisions of
24 the cemetery regulation act, ~~Act No. 251 of the Public Acts of~~
25 ~~1968~~ **1968 PA 251, MCL 456.521 TO 456.543.** The written disclosure
26 shall also state that upon cancellation of the prepaid funeral
27 contract, the purchaser is entitled to a refund of at least 90% of

1 the principal and income earned.

2 (d) The sale of cemetery goods or services or funeral goods or
3 services shall not be conditioned on the purchaser buying or
4 agreeing to buy a life insurance policy or annuity contract or on
5 the assignment of the proceeds of the policy or contract to that
6 funeral establishment, cemetery, or seller.

7 (e) The sale of a life insurance policy or annuity contract
8 shall not be conditioned on the purchaser buying or agreeing to buy
9 cemetery goods or services or funeral goods or services from the
10 funeral establishment, cemetery, or seller with which the agent is
11 associated or on the assignment of the proceeds of the policy or
12 contract to that funeral establishment, cemetery, or seller.

13 (f) A discount from the current price of cemetery goods or
14 services or funeral goods or services shall not be offered as an
15 inducement to purchase or assign a life insurance policy or annuity
16 contract.

17 (g) The life insurance policy or annuity contract sold by the
18 agent may be canceled by the purchaser within 10 days after the
19 receipt of the policy or annuity contract, in which event a full
20 refund of all premiums shall be paid to the purchaser.

21 (h) The agent shall disclose in writing to the purchaser that
22 the funeral establishment, cemetery, or seller with which the agent
23 is associated will accept assignments of life insurance policies or
24 annuity contracts sold by any other licensed agent.

25 (10) The commissioner or any other person, in order to force
26 compliance with subsection (6) or (7), may bring an action in a
27 circuit court in any county in which the assignee or insurance

1 agent **PRODUCER** or any other person has solicited or sold a life
2 insurance policy or annuity contract that is assigned pursuant to
3 subsection (6), whether or not that person has purchased the life
4 insurance policy or annuity contract or is personally aggrieved by
5 a violation of this section. The court may award damages and issue
6 equitable orders in accordance with the Michigan court rules to
7 restrain conduct in violation of this section.

8 (11) ~~Any person violating any of the provisions~~ **A VIOLATION**
9 of this section ~~shall be deemed guilty of~~ **IS** a misdemeanor, and
10 each violation thereof shall be a separate offense and upon
11 conviction ~~shall be punished~~ **IS PUNISHABLE** by a fine not
12 exceeding ~~\$1,000.00~~ **\$2,000.00** or by imprisonment for not more
13 than 6 months, or both such fine and imprisonment within the
14 discretion of the courts.

15 ~~(12) In addition to the penalty provided in subsection (11),~~
16 ~~if, after a hearing conducted pursuant to the administrative~~
17 ~~procedures act of 1969, Act No. 306 of the Public Acts of 1969,~~
18 ~~being sections 24.201 to 24.328 of the Michigan Compiled Laws, the~~
19 ~~commissioner determines a person has violated this section, the~~
20 ~~commissioner may order the person to pay a civil fine of not more~~
21 ~~than \$10,000.00 for each violation and may also impose other~~
22 ~~sanctions provided pursuant to chapter 12. The money collected~~
23 ~~under this subsection shall be deposited in the funeral consumers~~
24 ~~education and advocacy fund. The funeral consumers education and~~
25 ~~advocacy fund is created within the insurance bureau. The fund~~
26 ~~shall be administered by the commissioner. The money in the fund~~
27 ~~shall be used to do both of the following:~~

1 ~~—— (a) To promote the education of consumers with regard to the~~
2 ~~prearrangement and purchase of cemetery or funeral services or~~
3 ~~goods through the purchase and assignment of life insurance or~~
4 ~~annuity contracts.~~

5 ~~—— (b) To provide legal assistance to persons who were injured as~~
6 ~~a result of a violation of this section.~~

7 (13) For purposes of this section, a life insurance ~~agent~~
8 **PRODUCER** is associated with a funeral establishment, cemetery, or
9 seller if any of the following apply:

10 (a) The ~~agent~~ **PRODUCER** is a funeral establishment, cemetery,
11 or seller.

12 (b) The ~~agent~~ **PRODUCER** owns an interest, directly or
13 indirectly, in a corporation or other entity ~~which~~ **THAT** holds an
14 interest in a funeral establishment, cemetery, or seller.

15 (c) The ~~agent~~ **PRODUCER** is an officer, employee, or agent of
16 a funeral establishment, cemetery, or seller.

17 (d) The ~~agent~~ **PRODUCER** is an officer, employee, or agent of
18 a corporation or other entity which holds an interest, either
19 directly or indirectly, in a funeral establishment, cemetery, or
20 seller, or in a corporation or other entity ~~which~~ **THAT** holds an
21 interest, directly or indirectly, in a corporation or other entity
22 ~~which~~ **THAT** holds an interest in a funeral establishment, cemetery,
23 or seller.

24 (14) As used in this section:

25 (a) "Associated life insurance policy or annuity contract" is
26 a life insurance policy or annuity contract that is marketed,
27 designed, and intended to be assigned as payment for cemetery goods

1 or services or funeral goods or services.

2 (b) "Casket" means any box or container consisting of 1 or
3 more parts in which a dead human body is placed prior to interment,
4 entombment, or cremation ~~which~~ **THAT** may or may not be permanently
5 interred, entombed, or cremated with the dead human body. A
6 permanent interment or entombment receptacle ~~which~~ **THAT** is
7 designed or intended for use without a cemetery burial vault or
8 other outside container shall also be considered a casket.

9 (c) "Catafalque" means an ornamental or decorative object or
10 structure ~~which~~ **THAT** is placed beneath, over, or around a casket,
11 vault, or a dead human body prior to final disposition of the dead
12 human body.

13 (d) "Cemetery" means that term as defined in but not
14 necessarily regulated under section 2 of the cemetery regulation
15 act, ~~Act No. 251 of the Public Acts of 1968, being section 456.522~~
16 ~~of the Michigan Compiled Laws 1968 PA 251, MCL 456.522~~, or an
17 officer, agent, or employee thereof.

18 (e) "Cemetery burial vault or other outside container" means a
19 box or container ~~which~~ **THAT** is used solely at the place of
20 interment to permanently surround or enclose a casket and to
21 support the earth above the casket after burial.

22 (f) "Cemetery goods" means land or interests in land, crypts,
23 lawn crypts, mausoleum crypts, or niches that are sold by a
24 cemetery. In addition, cemetery goods ~~shall~~ include cemetery
25 burial vaults or other outside containers, markers, monuments,
26 urns, and merchandise items used for the purpose of memorializing a
27 decedent and placed on or in proximity to a place of interment or

1 entombment of a casket, catafalque, or vault or to a place of
2 inurnment ~~which~~ **THAT** are sold by a cemetery.

3 (g) "Cemetery services" means those services customarily
4 performed by a cemetery.

5 (h) "Combination unit" means any product consisting of a unit
6 or a series of units ~~which are~~ designed or intended to be used
7 together as both a casket and as a permanent burial receptacle.

8 (i) "Consumer price index" means the annual average percentage
9 increase in the Detroit consumer price index for all items for the
10 prior 12-month period as reported by the United States department
11 of labor, **BUREAU OF LABOR STATISTICS**, and as certified by the
12 commissioner.

13 (j) "Funeral establishment" means a funeral establishment or a
14 person who is engaged in the practice of mortuary science as those
15 terms are defined in section 1801 of the occupational code, ~~Act~~
16 ~~No. 299 of the Public Acts of 1980, being section 339.1801 of the~~
17 ~~Michigan Compiled Laws 1980 PA 299, MCL 339.1801~~, or an officer,
18 agent, or employee thereof.

19 (k) "Funeral goods" means items of merchandise ~~which~~ **THAT**
20 will be used in connection with a funeral or an alternative to a
21 funeral or final disposition of human remains including, but not
22 limited to, caskets, other burial containers, combination units,
23 and catafalques. Funeral goods does not include cemetery goods.

24 (l) "Funeral services" means services customarily performed by
25 a person who is licensed pursuant to ~~sections 1801 to 1812~~
26 **ARTICLE 12** of the occupational code, ~~Act No. 299 of the Public~~
27 ~~Acts of 1980, being sections 339.1801 to 339.1812 of the Michigan~~

1 ~~Compiled Laws~~ 1980 PA 299, MCL 339.1801 TO 339.1812. Funeral
2 services ~~includes~~ **INCLUDE**, but ~~is~~ **ARE** not limited to, care of
3 human remains, embalming, preparation of human remains for final
4 disposition, professional services relating to a funeral or an
5 alternative to a funeral or final disposition of human remains,
6 transportation of human remains, limousine services, use of
7 facilities or equipment for viewing human remains, visitation,
8 memorial services, or services which are used in connection with a
9 funeral or alternative to a funeral, coordinating or conducting
10 funeral rites or ceremonies, and other services provided in
11 connection with a funeral, alternative to a funeral, or final
12 disposition of human remains.

13 (m) "Nonassociated life insurance policy or annuity contract"
14 means a life insurance policy or annuity contract that is not
15 marketed to be assigned, designed to be assigned, or intended to be
16 assigned as payment for cemetery goods or services or funeral goods
17 or services.

18 (n) "Representative of insured's estate" means the person or
19 persons legally entitled to make the funeral arrangements for the
20 person whose life was insured.

21 (o) "Seller" means a person who offers to sell cemetery goods
22 or services or funeral goods or services or any agent, officer, or
23 employee thereof.

24 Sec. 2082. (1) ~~No~~ **A** life insurer doing business in this
25 state shall **NOT** make any distinction or discrimination between
26 ~~white persons and colored persons, wholly or partially of African~~
27 ~~descent,~~ **INDIVIDUALS BASED ON RACE OR COLOR** as to the premiums or

1 rates charged for policies upon the lives of ~~such persons~~ **THOSE**
 2 **INDIVIDUALS**, or in any other manner. ~~whatever, nor shall any such~~
 3 **A LIFE** insurer **DOING BUSINESS IN THIS STATE SHALL NOT** demand or
 4 require a greater premium from ~~such colored persons than is at~~
 5 ~~that time required by such insurer from white persons of the same~~
 6 ~~age, sex, general condition of health and prospect of longevity,~~
 7 ~~nor~~ **AN INDIVIDUAL BASED ON THAT INDIVIDUAL'S RACE OR COLOR. A LIFE**
 8 **INSURER DOING BUSINESS IN THIS STATE SHALL NOT** make or require any
 9 rebate, diminution, or discount upon the amount to be paid on ~~such~~
 10 **A LIFE** policy ~~in case of death of such colored person insured, nor~~
 11 **BASED ON AN INDIVIDUAL'S RACE OR COLOR OR** insert in the policy any
 12 condition, ~~nor~~ **OR** make any stipulation whereby ~~such person~~ **THE**
 13 insured ~~shall bind~~ **INDIVIDUAL BINDS** himself **OR HERSELF** or his **OR**
 14 **HER** heirs, executors, administrators, and assigns to accept any sum
 15 less than the full amount or value of ~~such~~ **THE** policy in case of
 16 a claim accruing thereon by reason of the death of ~~such person~~
 17 **THE** insured ~~, other than such as are imposed on white persons in~~
 18 ~~similar cases,~~ **INDIVIDUAL, BASED ON THAT INDIVIDUAL'S RACE OR**
 19 **COLOR**, and any such stipulations or conditions so made or inserted
 20 ~~shall be~~ **ARE** void.

21 (2) Any insurer ~~which~~ **THAT** violates any of the provisions of
 22 this section shall forfeit to the state the sum of ~~-\$500.00~~
 23 **\$3,500.00** for each violation, to be recovered by the attorney
 24 general by appropriate action in any court of competent
 25 jurisdiction, and any judgment ~~therefor~~ may be collected in the
 26 same manner as is ~~herein~~ provided for collecting judgments
 27 rendered in favor of policyholders. ~~And any~~ **ANY** officer or agent

1 who violates ~~any of the provisions of~~ this section ~~shall be~~
 2 ~~deemed~~ **IS** guilty of a misdemeanor ~~, and upon conviction thereof~~
 3 ~~shall be punished~~ **PUNISHABLE** by imprisonment in the county jail
 4 ~~not exceeding~~ **FOR NOT MORE THAN** 1 year, or by a fine of not less
 5 than ~~\$50.00~~ **\$350.00**, and not ~~exceeding \$500.00~~ **MORE THAN**
 6 **\$3,500.00**, or ~~by both. such fine and imprisonment, in the~~
 7 ~~discretion of the court.~~

8 Sec. 2086. Any physician who, as medical examiner for any life
 9 or casualty insurer ~~, or as the reference of, or medical~~
 10 ~~examiner~~ for any person seeking **THAT** insurance ~~therein, shall~~
 11 knowingly ~~make any~~ **MAKES A** false statement or report to the
 12 insurer, or ~~any~~ **INSURER** officer, ~~thereof,~~ concerning the bodily
 13 health or condition of ~~any~~ **AN** applicant for insurance, or
 14 concerning any other matter or thing ~~which~~ **THAT** might affect the
 15 propriety or prudence of granting ~~such~~ **THAT** insurance, ~~shall be~~
 16 ~~deemed~~ **IS** guilty of a misdemeanor ~~, and on conviction thereof,~~
 17 ~~shall be liable to~~ **PUNISHABLE BY** a fine ~~not exceeding \$1,000.00~~
 18 **OF NOT MORE THAN \$7,000.00**, or ~~to~~ **BY** imprisonment ~~in the county~~
 19 ~~jail not exceeding 3~~ **FOR NOT MORE THAN 6** months, ~~in the~~
 20 ~~discretion of the court. And such physician shall~~ **AND IS** also ~~be~~
 21 liable to the insurer in an action on the case for the full amount
 22 of any insurance obtained from ~~such~~ **THE** insurer by means or
 23 through the assistance of ~~such~~ **THE** false statement or report.

24 Sec. 2236. (1) A basic insurance policy form or annuity
 25 contract form shall not be issued or delivered to any person in
 26 this state, and an insurance or annuity application form if a
 27 written application is required and is to be made a part of the

1 policy or contract, a printed rider or ~~indorsement~~ **ENDORSEMENT**
2 form or form of renewal certificate, and a group certificate in
3 connection with the policy or contract, shall not be issued or
4 delivered to a person in this state, until a copy of the form is
5 filed with the ~~insurance bureau~~ **OFFICE OF FINANCIAL AND INSURANCE**
6 **SERVICES** and approved by the commissioner as conforming with the
7 requirements of this act and not inconsistent with the law. Failure
8 of the commissioner to act within 30 days after submittal
9 constitutes approval. All such forms, except policies of disability
10 insurance as defined in section 3400, shall be plainly printed with
11 type size not less than 8-point unless the commissioner determines
12 that portions of such a form printed with type less than 8-point is
13 not deceptive or misleading.

14 (2) An insurer may satisfy its obligations to make form
15 filings by becoming a member of, or a subscriber to, a rating
16 organization, licensed under section 2436 or 2630, which makes such
17 filings and by filing with the commissioner a copy of its
18 authorization of the rating organization to make the filings on its
19 behalf. Every member of or subscriber to a rating organization
20 shall adhere to the form filings made on its behalf by the
21 organization except that an insurer may file with the commissioner
22 a substitute form, and thereafter if a subsequent form filing by
23 the rating organization affects the use of the substitute form, the
24 insurer shall review its use and notify the commissioner whether to
25 withdraw its substitute form.

26 (3) Beginning January 1, 1992, the commissioner shall not
27 approve a form filed pursuant to this section providing for or

1 relating to an insurance policy or an annuity contract for
2 personal, family, or household purposes if the form fails to obtain
3 the readability score or meet the other requirements of this
4 subsection, as applicable:

5 (a) The readability score for a form for which approval is
6 required by this section shall not be less than 45, as determined
7 by the method provided in subdivisions (b) and (c).

8 (b) The readability score for a form shall be determined as
9 follows:

10 (i) For a form containing not more than 10,000 words, the
11 entire form shall be analyzed. For a form containing more than
12 10,000 words, not less than two 200-word samples per page shall be
13 analyzed instead of the entire form. The samples shall be separated
14 by at least 20 printed lines.

15 (ii) Count the number of words and sentences in the form or
16 samples and divide the total number of words by the total number of
17 sentences. Multiply this quotient by a factor of 1.015.

18 (iii) Count the total number of syllables in the form or samples
19 and divide the total number of syllables by the total number of
20 words. Multiply this quotient by a factor of 84.6. As used in this
21 subparagraph, "syllable" means a unit of spoken language consisting
22 of 1 or more letters of a word as indicated by an accepted
23 dictionary. If the dictionary shows 2 or more equally acceptable
24 pronunciations of a word, the pronunciation containing fewer
25 syllables may be used.

26 (iv) Add the figures obtained in subparagraphs (ii) and (iii) and
27 subtract this sum from 206.835. The figure obtained equals the

1 readability score for the form.

2 (c) For the purposes of subdivision (b) (ii) and (iii), the
3 following procedures shall be used:

4 (i) A contraction, hyphenated word, or numbers and letters when
5 separated by spaces shall be counted as 1 word.

6 (ii) A unit of words ending with a period, semicolon, or colon,
7 but excluding headings and captions, shall be counted as 1
8 sentence.

9 (d) In determining the readability score, the method provided
10 in subdivisions (b) and (c):

11 (i) Shall be applied to an insurance policy form or an annuity
12 contract, together with a rider or ~~indorsement~~ **ENDORSEMENT** form
13 usually associated with such an insurance policy form or annuity
14 contract.

15 (ii) Shall not be applied to words or phrases that are defined
16 in an insurance policy form, an annuity contract, or riders,
17 ~~indorsements~~ **ENDORSEMENTS**, or group certificates pursuant to an
18 insurance policy form or annuity contract.

19 (iii) Shall not be applied to language specifically agreed upon
20 through collective bargaining or required by a collective
21 bargaining agreement.

22 (iv) Shall not be applied to language that is prescribed by
23 state or federal statute or by rules or regulations promulgated
24 pursuant to a state or federal statute.

25 (e) Each form for which approval is required by this section
26 shall contain both of the following:

27 (i) Topical captions.

1 (ii) An identification of exclusions.

2 (f) Each insurance policy and annuity contract that has more
3 than 3,000 words printed on not more than 3 pages of text or that
4 has more than 3 pages of text regardless of the number of words
5 shall contain a table of contents. This subdivision does not apply
6 to ~~indorsements~~ **ENDORSEMENTS**.

7 (g) Each rider or ~~indorsement~~ **ENDORSEMENT** form that changes
8 coverage shall do all of the following:

9 (i) Contain a properly descriptive title.

10 (ii) Reproduce either the entire paragraph or the provision as
11 changed.

12 (iii) Be accompanied by an explanation of the change.

13 (h) If a computer system approved by the commissioner
14 calculates the readability score of a form as being in compliance
15 with this subsection, the form is considered in compliance with the
16 readability score requirements of this subsection.

17 (4) After January 1, 1992, any change or addition to a policy
18 or annuity contract form for personal, family, or household
19 purposes, whether by ~~indorsement~~ **ENDORSEMENT**, rider, or
20 otherwise, or a change or addition to a rider or ~~indorsement~~
21 **ENDORSEMENT** form to such policy or annuity contract form, which
22 policy or annuity contract form has not been previously approved
23 under subsection (3), shall be submitted for approval pursuant to
24 subsection (3).

25 (5) Upon written notice to the insurer, the commissioner may
26 disapprove, withdraw approval, or prohibit the issuance,
27 advertising, or delivery of any form to any person in this state if

1 it violates any provisions of this act, or contains inconsistent,
2 ambiguous, or misleading clauses, or contains exceptions and
3 conditions that unreasonably or deceptively affect the risk
4 purported to be assumed in the general coverage of the policy. The
5 notice shall specify the objectionable provisions or conditions and
6 state the reasons for the commissioner's decision. If the form is
7 legally in use by the insurer in this state, the notice shall give
8 the effective date of the commissioner's disapproval, which shall
9 not be less than 30 days subsequent to the mailing or delivery of
10 the notice to the insurer. If the form is not legally in use, then
11 disapproval shall be effective immediately.

12 (6) If a form is disapproved or approval is withdrawn under
13 the provisions of this act, the insurer is entitled upon demand to
14 a hearing before the commissioner or a deputy commissioner within
15 30 days after the notice of disapproval or of withdrawal of
16 approval. After the hearing, the commissioner shall make findings
17 of fact and law, and either affirm, modify, or withdraw his or her
18 original order or decision.

19 (7) Any issuance, use, or delivery by an insurer of any form
20 without the prior approval of the commissioner as required by
21 subsection (1) or after withdrawal of approval as provided by
22 subsection (5) constitutes a separate violation. ~~for which the~~
23 ~~commissioner may order the imposition of a civil penalty of \$25.00~~
24 ~~for each offense, but not to exceed the maximum penalty of \$500.00~~
25 ~~for any 1 series of offenses relating to any 1 basic policy form,~~
26 ~~which penalty may be recovered by the attorney general as provided~~
27 ~~in section 230.~~

1 (8) The filing requirements of this section do not apply to
2 any of the following:

3 (a) Insurance against loss of or damage to:

4 (i) Imports, exports, or domestic shipments.

5 (ii) Bridges, tunnels, or other instrumentalities of
6 transportation and communication.

7 (iii) Aircraft and attached equipment.

8 (iv) Vessels and watercraft under construction or owned by or
9 used in a business or having a straight-line hull length of more
10 than 24 feet.

11 (b) Insurance against loss resulting from liability, other
12 than worker's compensation or employers' liability arising out of
13 the ownership, maintenance, or use of:

14 (i) Imports, exports, or domestic shipments.

15 (ii) Aircraft and attached equipment.

16 (iii) Vessels and watercraft under construction or owned by or
17 used in a business or having a straight-line hull length of more
18 than 24 feet.

19 (c) Surety bonds other than fidelity bonds.

20 (d) Policies, riders, ~~indorsements~~ **ENDORSEMENTS**, or forms of
21 unique character designed for and used with relation to insurance
22 upon a particular subject, or that relate to the manner of
23 distribution of benefits or to the reservation of rights and
24 benefits under life or disability insurance policies and are used
25 at the request of the individual policyholder, contract holder, or
26 certificate holder. Beginning September 1, 1968, the commissioner
27 by order may exempt from the filing requirements of this section

1 and sections 2242, 3606, and 4430 for so long as he or she
2 considers proper any insurance document or form, except that
3 portion of the document or form that establishes a relationship
4 between group disability insurance and personal protection
5 insurance benefits subject to exclusions or deductibles pursuant to
6 section 3109a, as specified in the order to which this section
7 practicably may not be applied, or the filing and approval of which
8 are considered unnecessary for the protection of the public.

9 Insurance documents or forms providing medical payments or income
10 replacement benefits, except that portion of the document or form
11 that establishes a relationship between group disability insurance
12 and personal protection insurance benefits subject to exclusions or
13 deductibles pursuant to section 3109a, exempt by order of the
14 commissioner from the filing requirements of this section and
15 sections 2242 and 3606 are considered approved by the commissioner
16 for purposes of section 3430.

17 (e) Insurance that meets both of the following:

18 (i) Is sold to an exempt commercial policyholder.

19 (ii) Contains a prominent disclaimer that states "This policy
20 is exempt from the filing requirements of section 2236 of the
21 insurance code of 1956, 1956 PA 218, MCL 500.2236." or words that
22 are substantially similar.

23 (9) As used in this section and sections 2401 and 2601,
24 "exempt commercial policyholder" means an insured that purchases
25 the insurance for other than personal, family, or household
26 purposes.

27 (10) Every order made by the commissioner under the provisions

1 of this section is subject to court review as provided in section
2 244.

3 Sec. 2912. (1) A person shall not be issued a policy of home
4 insurance at a rate requiring consent under section 2414 or 2614. A
5 person shall not be issued basic property insurance coverage at a
6 rate requiring consent under section 2414 or 2614 until an
7 inspection has been made by the inspection bureau and the person
8 has filed with the inspection bureau a sworn statement
9 acknowledging his or her rights under this chapter and waiving
10 those rights. The person's agent shall make a sworn statement that
11 the person has been fully advised of his or her rights under this
12 chapter and has been furnished a written description of those
13 rights.

14 (2) A false affidavit by an agent is grounds for refusal,
15 suspension, or revocation of license ~~pursuant to section 1242~~ **AS**
16 **PROVIDED IN THIS ACT.**

17 (3) A person shall not employ the services of a surplus lines
18 agent in obtaining basic property or home insurance until the
19 person has filed with the commissioner a sworn statement
20 acknowledging and waiving his or her rights under this chapter. The
21 person's surplus lines agent shall make a sworn statement that the
22 person has been fully advised of his or her rights under this
23 chapter and has been furnished a written description of those
24 rights.

25 (4) A false affidavit by a surplus lines agent constitutes
26 grounds for refusal, suspension, or revocation of license ~~pursuant~~
27 ~~to section 1242~~ **AS PROVIDED IN THIS ACT.**

1 (5) The commissioner shall prescribe the forms of sworn
2 statements and written descriptions of rights used in connection
3 with this section.

4 Sec. 3861. (1) If the commissioner has probable cause to
5 believe that an insurer or agent has violated or is violating this
6 chapter and that a hearing by the commissioner would be in the
7 public interest, the commissioner shall give notice in writing to
8 the person involved pursuant to the administrative procedures act
9 of 1969, ~~Act No. 306 of the Public Acts of 1969, being sections~~
10 ~~24.201 to 24.328 of the Michigan Compiled Laws~~ **1969 PA 306, MCL**
11 **24.201 TO 24.328**, setting forth the general nature of the complaint
12 against him or her, and the proceedings contemplated. Before the
13 issuance of a notice of hearing, the commissioner shall give the
14 person an opportunity to confer and discuss the possible complaint
15 and proceedings in person with the commissioner or his or her
16 representative, and the matter may be disposed of summarily upon
17 agreement of the parties.

18 (2) The provisions of section 2030 shall apply with respect to
19 a hearing held pursuant to subsection (1), except that the use of
20 an independent hearing officer shall not be allowed.

21 (3) If, after opportunity for a hearing held pursuant to ~~Act~~
22 ~~No. 306 of the Public Acts of 1969~~ **THE ADMINISTRATIVE PROCEDURES**
23 **ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328**, the commissioner
24 determines that the insurer or agent has violated this chapter, the
25 provisions of sections ~~2038~~ **2039** to 2040 shall apply. Each
26 medicare supplement policy issued or delivered in violation of any
27 of the provisions contained in this chapter ~~shall constitute~~

1 **CONSTITUTES** a separate violation for purposes of assessing a civil
2 fine.

3 (4) In addition to any other applicable penalties for
4 violations of this act, the commissioner may require insurers
5 violating this chapter to cease marketing any medicare supplement
6 policy or certificate in this state that is related directly or
7 indirectly to a violation or may require the insurer to take such
8 actions as are necessary to comply with this chapter.

9 Sec. 5208a. (1) As used in this section:

10 (a) "Noninsured benefit plan" means a benefit plan without
11 insurance or the noninsured portion of a benefit plan which has
12 specific or aggregate excess loss insurance.

13 (b) "Process a claim" means the services performed in
14 connection with a claim for benefits including the disbursement of
15 benefit amounts.

16 (2) An insurer providing services under section 5208 in
17 connection with a noninsured benefit plan, with respect to ~~such~~
18 **THOSE** services, shall not do any of the following:

19 (a) Misrepresent pertinent facts relating to coverage.

20 (b) Fail to acknowledge promptly or to act reasonably and
21 promptly upon communications with respect to a claim for benefits.

22 (c) Fail to adopt and implement reasonable standards for the
23 prompt investigation of a claim for benefits.

24 (d) Refuse to process claims without conducting a reasonable
25 investigation based upon the available information.

26 (e) Fail to communicate affirmation or denial of coverage of a
27 claim for benefits within a reasonable time after a claim has been

1 received.

2 (f) Fail to attempt in good faith to promptly, fairly, and
3 equitably process a claim for benefits.

4 (g) Knowingly compel covered individuals to institute
5 litigation to recover amounts due under a benefit plan by offering
6 substantially less than the amounts due.

7 (h) For the purpose of coercing a covered individual to accept
8 a settlement or compromise in a claim, inform the covered
9 individual of a policy of appealing administrative hearing
10 decisions which are in favor of covered individuals.

11 (i) Delay the investigation or processing of a claim by
12 requiring a covered individual, or the provider of services to the
13 covered individual, to submit a preliminary claim and then
14 requiring subsequent submission of a formal claim, seeking solely
15 the duplication of a verification.

16 (j) Fail to promptly provide a reasonable explanation of the
17 basis for denial or partial denial of a claim for benefits.

18 (k) Fail to promptly process a claim where liability has
19 become reasonably clear under 1 portion of a benefit plan in order
20 to influence a settlement under another portion of the benefit
21 plan.

22 (l) Refuse to enter into a service contract nor refuse to
23 provide services under a service contract because of race, color,
24 creed, marital status, sex, national origin, residence, age,
25 disability, or lawful occupation.

26 (3) An insurer providing services under section 5208 in
27 connection with a noninsured benefit plan shall not, in order to

1 induce a person to contract or to continue to contract with the
2 insurer for the provision of services under a service contract
3 offered by the insurer; to induce a person to lapse, forfeit, or
4 surrender a policy or service contract issued by the insurer; or to
5 induce a person to secure or terminate coverage with another
6 insurer, health care corporation, health maintenance organization,
7 or other person, directly or indirectly:

8 (a) Issue or deliver to the person money or any other valuable
9 consideration.

10 (b) Offer to make or make an agreement relating to a service
11 contract other than as plainly expressed in the service contract.

12 (c) Offer to give or pay, or give or pay, directly or
13 indirectly, a rebate or adjustment of the rate payable on the
14 service contract, or an advantage in the services thereunder,
15 except as reflected in the rate and expressly provided in the
16 service contract. Readjustment of the rate for services provided
17 under the service contract may be made at the end of any contract
18 year or contract period and may be made retroactive.

19 (d) Make, issue, or circulate, or cause to be made, issued, or
20 circulated, any estimate, illustration, circular, or statement
21 misrepresenting the terms, **ADVANTAGES, OR TRUE NATURE** of a service
22 contract. ~~— the advantages provided thereunder, or the true nature~~
23 ~~thereof.~~

24 (e) Make a misrepresentation in a comparison, whether oral or
25 written, between service contracts of the insurer or between
26 service contracts of the insurer and another insurer, health care
27 corporation, health maintenance organization, or other person.

1 (4) When the commissioner has probable cause to believe that
2 an insurer is violating, or has violated subsection (2), indicating
3 a persistent tendency to engage in conduct prohibited by that
4 subsection, or has probable cause to believe that an insurer is
5 violating or has violated subsection (3), he or she shall give
6 written notice to the insurer, pursuant to the administrative
7 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, setting
8 forth the general nature of the complaint against the insurer and
9 the proceedings contemplated under this section. Before the
10 issuance of a notice of hearing, the staff of the ~~bureau of~~
11 ~~insurance~~ **OFFICE OF FINANCIAL AND INSURANCE SERVICES** responsible
12 for the matters ~~which~~ **THAT** would be at issue in the hearing shall
13 give the insurer an opportunity to confer and discuss the possible
14 complaint and proceedings in person with the commissioner or a
15 representative of the commissioner, and the matter may be disposed
16 of summarily upon agreement of the parties. This subsection shall
17 not be construed to diminish the right of a person to bring an
18 action for damages under this section.

19 (5) A hearing held pursuant to subsection (4) shall be held
20 pursuant to the administrative procedures act of 1969, 1969 PA 306,
21 MCL 24.201 to 24.328. If, after the hearing, the commissioner
22 determines that the insurer is violating, or has violated
23 subsection (2), indicating a persistent tendency to engage in
24 conduct prohibited by that subsection, or has violated or is
25 violating subsection (3), the commissioner shall reduce his or her
26 findings and decision to writing, and shall issue and cause to be
27 served upon the insurer a copy of the findings and an order

1 requiring the insurer to cease and desist from engaging in the
2 prohibited activity. The commissioner may at any time, by order,
3 and after notice and opportunity for a hearing, reopen and alter,
4 modify, or set aside, in whole or in part, an order issued by him
5 or her under this subsection, when in his or her opinion conditions
6 of fact or law have so changed as to require that action, or if the
7 public interest so requires.

8 (6) An insurer providing services under section 5208 in
9 connection with a noninsured benefit plan shall process claims for
10 benefits on a timely basis. When not paid on a timely basis,
11 benefits payable to a covered individual shall bear simple interest
12 from a date 60 days after a satisfactory claim form was received by
13 the insurer, at a rate of 12% interest per annum. The interest
14 shall be paid by the noninsured benefit plan in addition to, and at
15 the time of payment of, the claim.

16 (7) An insurer providing services under section 5208 in
17 connection with a noninsured benefit plan shall specify in writing
18 the materials ~~which~~ **THAT** constitute a satisfactory claim form not
19 later than 30 days after receipt of a claim, unless the claim is
20 settled within 30 days. If a claim form is not supplied as to the
21 entire claim, the amount supported by the claim form shall be
22 considered to be paid on a timely basis if paid within 60 days
23 after receipt of the claim form by the insurer.

24 (8) An insurer providing the services under section 5208 in
25 connection with a noninsured benefit plan shall provide in its
26 service contract a provision that the person contracting for the
27 services in connection with a noninsured benefit plan shall notify

1 each covered individual what services are being provided; the fact
 2 that individuals are not insured or are only partially insured, as
 3 the case may be; which party is liable for payment of benefits; and
 4 of future changes in benefits.

5 ~~—— (9) An insurer which violates this section shall be subject to~~
 6 ~~the same penalties as provided in section 2038.~~

7 (9) ~~—(10)—~~ The sections and subsections of this act are
 8 declared to be severable and if any court of competent jurisdiction
 9 finds that any section or subsection is invalid, the remaining
 10 sections or subsections shall remain in full force and effect.

11 Sec. 5252. (1) A director or officer of an insurance
 12 corporation doing business in this state shall not knowingly and
 13 intentionally, directly or indirectly, receive any money or
 14 valuable thing for negotiating, procuring, recommending, or aiding
 15 in any purchase by or sale to ~~such~~ **THE** corporation of any
 16 property or any loan from ~~such~~ **THE** corporation, or be pecuniarily
 17 interested, either as principal, co-principal, agent, or
 18 beneficiary in any such purchase, sale, or loan. This section does
 19 not **DO ANY OF THE FOLLOWING:**

20 (a) Prohibit a life insurer from making a loan upon a policy
 21 held by the borrower not in excess of the net value of the policy.

22 (b) Prohibit an insurer, in connection with the relocation of
 23 the place of employment of an officer, from ~~→~~

24 ~~—— (i) Making~~ **MAKING** a loan to the officer for a mortgage on real
 25 estate ~~which~~ **THAT** is to be used as the officer's residence as
 26 long as the loan does not exceed the fair market value of the
 27 property ~~→~~

1 ~~—— (ii) Acquiring~~ **OR ACQUIRING** the officer's residence at not
2 more than its fair market value.

3 (c) Prohibit an officer of an insurer, in connection with the
4 relocation of his or her place of employment, from —:

5 ~~—— (i) Accepting~~ **ACCEPTING** a loan from the insurer for a mortgage
6 on real estate ~~which~~ **THAT** is to be used as the officer's
7 residence as long as the loan does not exceed the fair market value
8 of the property —

9 ~~—— (ii) Selling~~ **OR SELLING** the officer's home to the insurer at
10 not more than its fair market value.

11 (d) Prohibit the conveyance of property between an insurer and
12 an officer or director of an insurer if all of the following occur:

13 (i) Any interest in the conveyance on the part of any officer
14 or director is disclosed or known to its board of directors or
15 committee ~~which~~ **THAT** authorizes, approves, or ratifies the
16 conveyance, and noted in the **BOARD OR COMMITTEE** minutes, ~~thereof,~~
17 and the board or committee authorizes, approves, or ratifies the
18 conveyance by a vote sufficient for the purpose without counting
19 the vote or votes of any interested officer or director, however,
20 an interested officer or director may be counted for purposes of a
21 quorum.

22 (ii) The fact of ~~such~~ **THE** interest is disclosed, before or
23 after the conveyance, to the shareholders in the case of a stock
24 insurance company, or in the case of a mutual insurer, to the
25 policyholders.

26 (iii) The insurer has obtained from the commissioner a
27 certificate of exemption permitting the specific transaction. An

1 insurer seeking to obtain a certificate of exemption shall file
2 with the commissioner a written request for a certificate of
3 exemption, which request shall include all of the following:

4 (A) A full description and disclosure of the transaction for
5 which the certificate is sought.

6 (B) Copies of all contracts or other legal documents involved
7 or to be involved in the transaction.

8 (C) A description of all assets involved in the transaction.

9 (D) The names, titles, capacities, and business relationships
10 of all persons directly involved in the transaction.

11 (E) A description of any and all consideration on either or
12 any side of the transactions.

13 (F) ~~Such other~~ **OTHER** information, opinions, or matters as
14 the commissioner may reasonably require.

15 (2) The commissioner shall issue a certificate of exemption
16 within 30 days after a request for a certificate of exemption has
17 been received by him or her if the commissioner finds that the
18 specific transaction for which the certificate of exemption is
19 requested is fair, just, and equitable, and is not hazardous to the
20 policyholders, stockholders, or creditors of the insurer.

21 (3) If the commissioner does not issue the certificate of
22 exemption within ~~such~~ 30 days, the insurer seeking the
23 certificate of exemption shall be entitled to a hearing before the
24 commissioner pursuant to the administrative procedures act of 1969,
25 ~~Act No. 306 of the Public Acts of 1969, being sections 24.201 to~~
26 ~~24.315 of the Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 TO**
27 **24.328**. The hearing shall be conducted within 60 days after the

1 request for the certificate of exemption has been received by the
 2 commissioner. The commissioner may refuse to issue a certificate of
 3 exemption if he or she finds that the specific transaction for
 4 which the certificate of exemption is requested does not meet the
 5 requirements provided in subsection (2). In the order refusing the
 6 request for a certificate of exemption, the commissioner shall set
 7 forth in what respect the specific transaction fails to meet the
 8 requirements of subsection (2). The decision of the commissioner
 9 shall be subject to judicial review as provided in the
 10 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
 11 ~~Acts of 1969~~ **1969 PA 306, MCL 24.201 TO 24.328.**

12 (4) ~~Any~~ **A** person violating any provision of this section
 13 ~~shall be~~ **IS** guilty of a felony ~~and upon conviction shall be~~
 14 ~~punished~~ **PUNISHABLE** by a fine not exceeding ~~-\$5,000.00~~
 15 **\$10,000.00, RESTITUTION OF THE SUM OR ASSET TRANSFERRED OR**
 16 **DIVERTED**, or by imprisonment for a term not to exceed ~~5~~ **10** years,
 17 or by ~~both such~~ **ANY COMBINATION OF** fine, **RESTITUTION**, and
 18 imprisonment, in the discretion of the court.

19 Sec. 5256. (1) Each domestic insurer shall keep under its
 20 control all records relating to the insurer's business or affairs
 21 at 1 or more of the following locations:

22 (a) The principal place of doing business in this state.

23 (b) One or more locations outside the state approved for that
 24 purpose, in writing, by the commissioner.

25 (2) A domestic insurer shall produce those records relating to
 26 the insurer's business or affairs and personnel knowledgeable about
 27 the records at a principal place of doing business in or outside

1 this state for examination within a reasonable time period
2 specified by the commissioner.

3 (3) A domestic insurer may place for safekeeping all or any
4 part of its securities, notes, mortgages, or other evidences of
5 indebtedness, with any national bank, state bank, trust company, or
6 any other United States corporation authorized as a custodian to
7 accept and hold personal property for safekeeping. A national bank,
8 state bank, trust company, or United States corporation authorized
9 to accept and hold personal property for safekeeping may employ a
10 subcustodian outside of the United States to hold assets that are
11 not in physical form or that are customarily traded outside the
12 United States. A statutory deposit required by any state or foreign
13 country shall be excepted and any delivery and pledge or assignment
14 of its notes, mortgages, or other securities by any such insurer,
15 as security for money borrowed by it or as required in the regular
16 course of its business by the laws of any state or foreign country,
17 shall also be excepted. The insurer may hold certificates
18 evidencing shares of stock or other registrable securities in the
19 name of a nominee or nominees employed by the insurer and
20 responsible to the insurer. The nominee or nominees, on the request
21 of the insurer, shall indorse the certificate representing shares
22 of stock or other registrable securities in blank or by assignment
23 separate from the certificates. The insurer at all times shall
24 maintain control or possession of the certificate representing the
25 share of stock or other registrable securities, but, if necessary,
26 the nominee or nominees may have access thereto for the purpose of
27 examination under the supervision of the corporation.

1 (4) The records required to be retained by this section may be
2 maintained in paper, photograph, micro process, magnetic,
3 mechanical or electronic media, or by any process that accurately
4 reproduces or forms a durable medium for the reproduction of a
5 record. If the original document is unavailable, the domestic
6 insurer may produce in an alternative format the same data that was
7 contained on the original document.

8 (5) Removal of all or a material part of the records of a
9 domestic insurer from this state, except pursuant to a plan or
10 merger or consolidation approved by the commissioner under this act
11 or as may be approved in writing by the commissioner, is
12 prohibited. If after a hearing is held pursuant to the
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
14 24.328, the commissioner determines that the insurer has violated
15 this section, the commissioner shall reduce his or her findings and
16 decision to writing and shall issue and ~~cause to be served upon~~
17 **SERVE** the insurer charged with the violation a copy of the findings
18 and order requiring the insurer to return the office, records, and
19 assets to this state. An insurer that violates this section shall
20 be treated as a foreign insurer for the period of time the records
21 were removed from this state, and the insurer shall be liable for
22 both of the following:

23 (a) The amount of tax prescribed in section 476a and interest
24 in the amount of 3% of the amount due and unpaid for each month or
25 part of a month that the insurer was in violation of this section.

26 (b) A penalty of ~~-\$5,000.00-~~ **\$10,000.00** plus an additional
27 ~~\$50.00-~~ **\$100.00** for each day that the insurer was not in compliance

1 with this section. A domestic insurer that fails to comply with an
2 order of the commissioner issued under this section is presumed to
3 be no longer safe, reliable, and entitled to public confidence
4 under section 436.

5 (6) If an insurer fails to comply with an order issued under
6 this section, as modified or extended, the commissioner shall
7 suspend or revoke the insurer's certificate of authority.

8 (7) The commissioner may require a domestic insurer to
9 transfer its domicile to another state if the commissioner is not
10 satisfied with the production of the records and personnel
11 knowledgeable about the records because all or part of the records
12 or personnel are located outside this state.

13 Sec. 6842. Any person being a resident of this state, acting
14 as president, secretary, or other officer of ~~any such~~ **A** mutual
15 insurance company, doing business in this state under authority of
16 this chapter, who ~~shall wilfully refuse, or neglect~~ **WILLFULLY**
17 **REFUSES OR NEGLECTS** to make assessments as provided in section 6840
18 ~~shall be deemed~~ **IS** guilty of a misdemeanor ~~, and upon conviction~~
19 ~~thereof shall be punished~~ **PUNISHABLE** by a fine ~~not exceeding~~
20 ~~\$1,000.00 nor~~ **OF NOT MORE THAN \$7,000.00 OR** less than ~~\$500.00~~
21 **\$3,500.00**, or by imprisonment in the county jail not less than 6
22 months nor more than 1 year, or **BY** both ~~such~~ fine and
23 imprisonment. ~~in the discretion of the court.~~

24 Enacting section 1. Sections 1242, 1244, and 2038 of the
25 insurance code of 1956, 1956 PA 218, MCL 500.1242, 500.1244, and
26 500.2038, are repealed.