

SENATE BILL No. 1504

September 22, 2010, Introduced by Senator SWITALSKI and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2236, 2242, 3606, and 4430 (MCL 500.2236, 500.2242, 500.3606, and 500.4430), section 2236 as amended by 2002 PA 664, sections 2242 and 3606 as amended by 1990 PA 305, and section 4430 as amended by 1993 PA 349.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2236. (1) A basic insurance policy form or annuity
2 contract form shall not be issued or delivered to any person in
3 this state, and an insurance or annuity application form if a
4 written application is required and is to be made a part of the
5 policy or contract, a printed rider or indorsement form or form of
6 renewal certificate, and a group certificate in connection with the
7 policy or contract, shall not be issued or delivered to a person in

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

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

23 (3) Beginning January 1, 1992, the commissioner shall not
24 approve a form filed pursuant to this section providing for or
25 relating to an insurance policy or an annuity contract for
26 personal, family, or household purposes if the form fails to obtain
27 the readability score or meet the other requirements of this

1 subsection, as applicable:

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

5 (b) The readability score for a form shall be determined as
6 follows:

7 (i) For a form containing not more than 10,000 words, the
8 entire form shall be analyzed. For a form containing more than
9 10,000 words, not less than two 200-word samples per page shall be
10 analyzed instead of the entire form. The samples shall be separated
11 by at least 20 printed lines.

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

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

23 (iv) Add the figures obtained in subparagraphs (ii) and (iii) and
24 subtract this sum from 206.835. The figure obtained equals the
25 readability score for the form.

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

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

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

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

8 (i) Shall be applied to an insurance policy form or an annuity
9 contract, together with a rider or indorsement form usually
10 associated with such an insurance policy form or annuity contract.

11 (ii) Shall not be applied to words or phrases that are defined
12 in an insurance policy form, an annuity contract, or riders,
13 indorsements, or group certificates pursuant to an insurance policy
14 form or annuity contract.

15 (iii) Shall not be applied to language specifically agreed upon
16 through collective bargaining or required by a collective
17 bargaining agreement.

18 (iv) Shall not be applied to language that is prescribed by
19 state or federal statute or by rules or regulations promulgated
20 pursuant to a state or federal statute.

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

23 (i) Topical captions.

24 (ii) An identification of exclusions.

25 (f) Each insurance policy and annuity contract that has more
26 than 3,000 words printed on not more than 3 pages of text or that
27 has more than 3 pages of text regardless of the number of words

1 shall contain a table of contents. This subdivision does not apply
2 to indorsements.

3 (g) Each rider or indorsement form that changes coverage shall
4 do all of the following:

5 (i) Contain a properly descriptive title.

6 (ii) Reproduce either the entire paragraph or the provision as
7 changed.

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

9 (h) If a computer system approved by the commissioner
10 calculates the readability score of a form as being in compliance
11 with this subsection, the form is considered in compliance with the
12 readability score requirements of this subsection.

13 (4) After January 1, 1992, any change or addition to a policy
14 or annuity contract form for personal, family, or household
15 purposes, whether by indorsement, rider, or otherwise, or a change
16 or addition to a rider or indorsement form to such policy or
17 annuity contract form, which policy or annuity contract form has
18 not been previously approved under subsection (3), shall be
19 submitted for approval pursuant to subsection (3).

20 (5) Upon written notice to the insurer, the commissioner may
21 disapprove, withdraw approval, or prohibit the issuance,
22 advertising, or delivery of any form to any person in this state if
23 it violates any provisions of this act, or contains inconsistent,
24 ambiguous, or misleading clauses, or contains exceptions and
25 conditions that unreasonably or deceptively affect the risk
26 purported to be assumed in the general coverage of the policy. The
27 notice shall specify the objectionable provisions or conditions and

1 state the reasons for the commissioner's decision. If the form is
2 legally in use by the insurer in this state, the notice shall give
3 the effective date of the commissioner's disapproval, which shall
4 not be less than 30 days ~~subsequent to~~ **AFTER** the mailing or
5 delivery of the notice to the insurer. If the form is not legally
6 in use, then disapproval shall be effective immediately.

7 (6) If a form is disapproved or approval is withdrawn under
8 the provisions of this act, the insurer is entitled upon demand to
9 a hearing before the commissioner or a deputy commissioner within
10 30 days after the notice of disapproval or of withdrawal of
11 approval. After the hearing, the commissioner shall make findings
12 of fact and law, and either affirm, modify, or withdraw his or her
13 original order or decision.

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

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

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

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

27 (ii) Bridges, tunnels, or other instrumentalities of

1 transportation and communication.

2 (iii) Aircraft and attached equipment.

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

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

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

10 (ii) Aircraft and attached equipment.

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

14 ~~—— (c) Surety bonds other than fidelity bonds.~~

15 (C) ~~(d)~~ Policies, riders, indorsements, or forms of unique
16 character designed for and used with relation to insurance upon a
17 particular subject, or that relate to the manner of distribution of
18 benefits or to the reservation of rights and benefits under life or
19 disability insurance policies and are used at the request of the
20 individual policyholder, contract holder, or certificate holder.
21 Beginning September 1, 1968, the commissioner by order may exempt
22 from the filing requirements of this section and sections 2242,
23 3606, and 4430 for so long as he or she considers proper any
24 insurance document or form, except that portion of the document or
25 form that establishes a relationship between group disability
26 insurance and personal protection insurance benefits subject to
27 exclusions or deductibles pursuant to section 3109a, as specified

1 in the order to which this section practicably may not be applied,
2 or the filing and approval of which are considered unnecessary for
3 the protection of the public. Insurance documents or forms
4 providing medical payments or income replacement benefits, except
5 that portion of the document or form that establishes a
6 relationship between group disability insurance and personal
7 protection insurance benefits subject to exclusions or deductibles
8 pursuant to section 3109a, exempt by order of the commissioner from
9 the filing requirements of this section and sections 2242 and 3606
10 are considered approved by the commissioner for purposes of section
11 3430.

12 (D) ~~(e)~~—Insurance that meets both of the following:

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

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

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

22 (10) Every order made by the commissioner under the
23 provisions of this section is subject to court review as provided
24 in section 244.

25 Sec. 2242. (1) Except as otherwise provided in section
26 ~~2236(8)(d)~~, **2236(8)(C)**, a group disability policy shall not be
27 issued or delivered in this state unless a copy of the form has

1 been filed with the commissioner and approved by him or her.

2 (2) The commissioner may within 30 days after the filing of a
3 disability insurance policy form applicable to individual or family
4 expense coverage, disapprove the form for any of the following,
5 subject to the requirements as to notice, hearing, and appeal set
6 forth in sections 244 and 2236:

7 (a) The benefits provided therein are unreasonable in relation
8 to the premium charged.

9 (b) It contains a provision or provisions ~~which~~**THAT** are
10 unjust, unfair, inequitable, misleading, deceptive, or encourage
11 misrepresentation of the policy.

12 (c) It does not comply with other provisions of law.

13 (3) The commissioner may at any time withdraw his or her
14 approval of an individual or family expense policy form on any of
15 the grounds stated in subsection (2), subject to the requirements
16 as to notice, hearing, and appeal set forth in sections 244 and
17 2236. An insurer shall not issue the form after the effective date
18 of the withdrawal of approval.

19 Sec. 3606. (1) An insurer authorized to write disability
20 insurance in this state shall have the power to issue group
21 disability insurance policies.

22 (2) Except as otherwise provided in section ~~2236(8)(d)~~,
23 **2236(8)(C)**, a group disability insurance policy shall not be issued
24 or delivered in this state unless a copy of the form shall have
25 been filed with the commissioner and approved by him or her.

26 Sec. 4430. (1) Except as otherwise provided in section
27 ~~2236(8)(d)~~, **2236(8)(C)**, a policy of group life insurance shall not

1 be issued or delivered in this state unless and until a copy of the
2 form of the group life insurance has been filed with and approved
3 by the commissioner.

4 (2) A policy of group life insurance shall not be issued or
5 delivered unless it contains in substance the provisions of
6 sections 4432 through 4442. A group universal life policy as
7 defined in section 4001(g) shall not be issued or delivered unless
8 it complies with the provisions of chapter 40.