

HOUSE BILL No. 5146

November 13, 2013, Introduced by Reps. Segal, Leonard, Glardon, Goike, Cochran and Hovey-Wright and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 4404, 4420, 4424, 4426, 4434, 4438, 4442, and
4446 (MCL 500.4404, 500.4420, 500.4424, 500.4426, 500.4434,
500.4438, 500.4442, and 500.4446), section 4404 as amended by 2006
PA 511 and section 4424 as amended by 2008 PA 497.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4404. (1) Group life insurance may be issued covering not
2 less than 2 employees with or without medical examination, written
3 under a policy issued to the employer or to the trustees of a fund
4 established by the employer, the premium on which is to be paid by
5 the employer, the employees, or by the employer and the employees
6 jointly, and insuring only all of his or her employees, or all of

any class or classes of employees determined by conditions pertaining to the employment, for amounts of insurance based upon some plan that will preclude individual selection, for the benefit of persons other than the employer. This section does not require an employee to purchase group life insurance. Group life insurance may be written as part of a combined group life and disability insurance policy.

(2) A POLICY ISSUED UNDER SUBSECTION (1) MAY DEFINE "EMPLOYEES" TO INCLUDE 1 OR MORE OF THE FOLLOWING:

(A) THE EMPLOYEES OF 1 OR MORE SUBSIDIARY CORPORATIONS.

(B) THE EMPLOYEES, INDIVIDUAL PROPRIETORS, AND PARTNERS OF 1 OR MORE AFFILIATED CORPORATIONS, PROPRIETORSHIPS, OR PARTNERSHIPS IF THE BUSINESS OF THE EMPLOYER AND THE AFFILIATED CORPORATIONS, PROPRIETORSHIPS, OR PARTNERSHIPS IS UNDER COMMON CONTROL.

(C) THE RETIRED EMPLOYEES, FORMER EMPLOYEES, AND DIRECTORS OF A CORPORATE EMPLOYER.

(D) FOR A POLICY ISSUED TO INSURE THE EMPLOYEES OF A PUBLIC BODY, ELECTED OR APPOINTED OFFICIALS.

Sec. 4420. (1) Group life insurance may be issued covering the executives of employer members of any nonprofit incorporated industrial association, ~~which~~ **THAT** is now and has been actively functioning as ~~such~~ **A NONPROFIT INCORPORATED INDUSTRIAL ASSOCIATION** under its articles of incorporation for a period of not less than 10 years, written under a policy issued to ~~such~~ **THE** association ~~which shall be deemed to be~~ **THAT IS** the employer for the purposes of this chapter, or to the association and the executives of ~~such~~ **THE** employer members jointly, and insuring only all of ~~such~~ **THE**

1 executives for amounts of insurance based upon ~~some~~ A plan which
2 THAT will preclude individual selection, for the benefit of persons
3 other than ~~such~~ THE association, and the premium on which shall be
4 paid by the employer members or the employer members and the
5 executives of ~~such~~ THE employer members jointly.

6 (2) IN ADDITION TO A POLICY ISSUED UNDER SUBSECTION (1), GROUP
7 LIFE INSURANCE MAY BE ISSUED TO AN ASSOCIATION, OTHER THAN AN
8 ASSOCIATION DESCRIBED UNDER SUBSECTION (1), OR TO A TRUST OR TO THE
9 TRUSTEES OF A FUND ESTABLISHED OR MAINTAINED FOR THE BENEFIT OF
10 MEMBERS OF 1 OR MORE ASSOCIATIONS. GROUP LIFE INSURANCE SHALL NOT
11 BE ISSUED TO AN ASSOCIATION UNDER THIS SUBSECTION UNLESS ALL OF THE
12 FOLLOWING CRITERIA ARE MET:

13 (A) THE ASSOCIATION AT THE OUTSET HAS NOT FEWER THAN 100
14 MEMBERS.

15 (B) THE ASSOCIATION HAS BEEN ORGANIZED AND MAINTAINED FOR A
16 PURPOSE OTHER THAN OBTAINING INSURANCE.

17 (C) THE ASSOCIATION HAS BEEN IN ACTIVE EXISTENCE FOR NOT LESS
18 THAN 2 YEARS.

19 (D) THE ASSOCIATION'S BYLAWS PROVIDE FOR ALL OF THE FOLLOWING:

20 (i) ASSOCIATION MEMBERS SHALL MEET NOT LESS FREQUENTLY THAN
21 ANNUALLY.

22 (ii) EXCEPT FOR AN ASSOCIATION THAT IS A CREDIT UNION, THE
23 ASSOCIATION SHALL COLLECT DUES AND SOLICIT CONTRIBUTIONS FROM ITS
24 MEMBERS.

25 (iii) THE MEMBERS SHALL HAVE VOTING RIGHTS AND REPRESENTATION ON
26 THE GOVERNING BOARD.

27 (3) A POLICY ISSUED UNDER SUBSECTION (2) IS SUBJECT TO ALL OF

1 THE FOLLOWING:

2 (A) THE POLICY MAY INSURE MEMBERS OF THE ASSOCIATION,
3 EMPLOYEES OF THE ASSOCIATION, OR EMPLOYEES OF MEMBERS FOR THE
4 BENEFIT OF PERSONS OTHER THAN THE EMPLOYEE'S EMPLOYER.

5 (B) THE PREMIUM FOR THE POLICY SHALL BE PAID FROM MONEY
6 CONTRIBUTED BY 1 OR MORE OF THE FOLLOWING:

7 (i) THE ASSOCIATION.

8 (ii) EMPLOYER MEMBERS.

9 (iii) COVERED PERSONS.

10 (C) EXCEPT AS PROVIDED IN SUBDIVISION (D), A POLICY ON WHICH
11 NO PART OF THE PREMIUM SHALL COME FROM MONEY CONTRIBUTED BY THE
12 COVERED PERSONS SPECIFICALLY FOR THEIR INSURANCE MUST INSURE ALL
13 ELIGIBLE PERSONS, EXCEPT THOSE ELIGIBLE PERSONS WHO REJECT COVERAGE
14 IN WRITING.

15 (D) AN INSURER MAY EXCLUDE OR LIMIT COVERAGE ON AN INDIVIDUAL
16 AS TO WHOM EVIDENCE OF INDIVIDUAL INSURABILITY IS NOT SATISFACTORY
17 TO THE INSURER.

18 Sec. 4424. ~~(1) The commissioner may authorize the insuring on~~
19 ~~a group insurance basis of groups other than those specifically~~
20 ~~defined in sections 4404 to 4420 if conditions or circumstances~~
21 ~~indicate that granting permission for discretionary group life~~
22 ~~insurance coverages is in the interest of public policy. This~~
23 ~~section does not limit the commissioner to only authorize those~~
24 ~~groups that are logically analagous in character and composition to~~
25 ~~the groups specifically defined in sections 4404 to 4420.~~

26 ~~—— (2) The commissioner may refuse to grant permission in any~~
27 ~~instance on the basis of a finding that the requested group plan:~~

1 ~~—— (a) Would not result in economies of acquisition and~~
2 ~~administration that justify a group rate.~~

3 ~~—— (b) Would present hazards of voluntary adverse selection to a~~
4 ~~degree not usually present in group insurance.~~

5 ~~—— (c) Would be actuarially unsound.~~

6 ~~—— (d) Would fail to preclude individual selection among persons~~
7 ~~to be insured under the proposed group plan.~~

8 ~~—— (3) The discretionary group shall consist of not less than 250~~
9 ~~persons. The discretionary group may consist of only a portion of~~
10 ~~the employees of an employer or of the members of an organization,~~
11 ~~if segregation arises out of reasonable grounds, geographical or~~
12 ~~otherwise, that make it presently impossible or undesirable to~~
13 ~~include in a single group all of the employees or members. The~~
14 ~~discretionary group may consist of employees of more than 1~~
15 ~~employer, or the members of more than 1 organization or~~
16 ~~association, if evidence submitted clearly indicates the~~
17 ~~desirability of embracing the proposed assemblage of individuals~~
18 ~~under a single group. By way of particular, but not in limitation,~~
19 ~~the group may consist of the employees of 1 or more governmental or~~
20 ~~quasigovernmental units, federal, state, municipal, or local.~~

21 ~~—— (4) If, for reasons that the commissioner determines to be~~
22 ~~adequate, it appears to be impossible or infeasible for the~~
23 ~~employer to be the policyholder in any group authorized under this~~
24 ~~section, the commissioner may authorize the designation of a~~
25 ~~trustee or trustees to be the policyholder, subject to rules the~~
26 ~~commissioner approves.~~

27 ~~—— (5) The commissioner may authorize discretionary groups and~~

~~plans of group insurance that qualify in all other respects under this section although there be no contribution to the premium payment from the employer or organization if the commissioner finds that circumstances render the contribution inequitable, impossible, or impracticable.~~

~~—— (6) The percentage of employees or members required to participate in any group authorized under this section, the types of insurance coverage to be offered to the members of the group, and the amounts of insurance to be provided, shall be as the commissioner determines.~~

~~—— (7) Before any application for permission to qualify under this section is considered, the applicant shall deposit with the commissioner a specific fee of \$100.00 to defray the costs of examining into the circumstances and conditions appertaining to the proposed group and group insurance and shall covenant to compensate the office of financial and insurance regulation for any additional unusual expenses that it may incur. The applicant shall furnish such information, documents, and data pertaining to the proposed group plan as the commissioner requires to arrive at his or her determination. The commissioner shall, from time to time, promulgate rules for the enforcement of this section.~~

~~—— (8) The applicant may appeal from the commissioner's refusal to authorize the discretionary group to the circuit court for the county of Ingham on the grounds that the refusal is arbitrary or capricious and devoid of sound underwriting or actuarial grounds, but any fees or costs paid to or incurred by the office of financial and insurance regulation under subsection (7) is not~~

1 ~~subject to recovery.~~ GROUP LIFE INSURANCE OFFERED TO A RESIDENT OF
2 THIS STATE UNDER A GROUP LIFE INSURANCE POLICY ISSUED TO A GROUP
3 OTHER THAN A GROUP DESCRIBED IN SECTIONS 4404 TO 4420 IS SUBJECT TO
4 ALL OF THE FOLLOWING:

5 (A) A GROUP LIFE INSURANCE POLICY SHALL NOT BE ISSUED IN THIS
6 STATE UNLESS THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND
7 FINANCIAL SERVICES FINDS ALL OF THE FOLLOWING:

8 (i) THE ISSUANCE OF THE GROUP POLICY IS NOT CONTRARY TO THE
9 BEST INTEREST OF THE PUBLIC.

10 (ii) THE ISSUANCE OF THE GROUP POLICY WOULD RESULT IN ECONOMIES
11 OF ACQUISITION AND ADMINISTRATION.

12 (iii) THE BENEFITS OF THE GROUP POLICY ARE REASONABLE IN
13 RELATION TO THE PREMIUMS CHARGED.

14 (B) THE PREMIUM FOR THE POLICY IS PAID FROM THE POLICY
15 HOLDER'S FUNDS, THE FUNDS CONTRIBUTED BY THE COVERED PERSONS, OR
16 BOTH.

17 (C) AN INSURER MAY EXCLUDE OR LIMIT THE COVERAGE ON AN
18 INDIVIDUAL AS TO WHOM EVIDENCE OF INDIVIDUAL INSURABILITY IS NOT
19 SATISFACTORY TO THE INSURER

20 Sec. 4426. (1) Insurance under any group life insurance policy
21 issued ~~pursuant to~~ UNDER sections 4400, 4404, 4408, 4412, 4420, and
22 4424 may be extended to insure the eligible dependents of each
23 insured employee or member who so elects.

24 (2) The amounts of dependent insurance shall be in accordance
25 with a plan ~~which~~ THAT precludes individual selection.

26 (3) The premiums for the insurance on dependents may be paid
27 by the employer or policyholder, or the employee or member, or the

1 employer or policyholder and the employee or member, jointly.

2 (4) AS USED IN THIS SECTION:

3 (A) "CHILD" INCLUDES A BIOLOGICAL, LEGALLY ADOPTED, AND STEP
4 OR FOSTER CHILD OF AN EMPLOYEE OR MEMBER WHO IS DEPENDENT ON THE
5 EMPLOYEE OR MEMBER.

6 (B) "ELIGIBLE DEPENDENT" INCLUDES THE LEGAL SPOUSE AND A CHILD
7 OF AN EMPLOYEE OR MEMBER.

8 Sec. 4434. ~~There shall be~~ EACH GROUP LIFE INSURANCE POLICY
9 SHALL CONTAIN a provision that the policy ~~, AND the application~~
10 APPLICATIONS of the employer and, IF APPLICABLE, OF the individual
11 applicants, ~~if any, of the employees insured, shall constitute~~ ARE
12 the entire contract between the parties, and that all statements
13 made by the employer or by the individual employees shall, in the
14 absence of fraud, be deemed CONSIDERED representations and not
15 warranties. ~~, and that no~~ ANY such statement shall NOT be used in
16 defense to a claim under the policy, unless ~~it~~ THE STATEMENT is
17 contained in a written application. FOR PURPOSES OF THIS SECTION,
18 AN ENROLLMENT FORM IS NOT AN APPLICATION DESCRIBED IN THIS SECTION.

19 Sec. 4438. (1) ~~There shall be a~~ EACH GROUP LIFE INSURANCE
20 POLICY SHALL CONTAIN A provision that the company will issue to the
21 employer for delivery to the employee, whose life is insured under
22 such ~~THE~~ policy, an individual certificate ~~setting forth a~~
23 ~~statement as to the insurance protection to which he is entitled,~~
24 ~~to whom payable, together with provision to the effect that in case~~
25 ~~of the termination of the~~ THAT CONTAINS ALL OF THE FOLLOWING:

26 (A) A DESCRIPTION OF THE EMPLOYEE'S INSURANCE COVERAGE AND TO
27 WHOM THE INSURANCE IS PAYABLE.

1 **(B) A STATEMENT THAT IF THE EMPLOYEE IS TERMINATED FROM**
 2 employment for any reason, ~~whatsoever the employee shall be~~ **IS**
 3 entitled to have issued to him ~~THE EMPLOYEE~~ by the company, without
 4 further evidence of insurability, ~~and upon application made to the~~
 5 company within 31 days after ~~such~~ **THE** termination, and upon the
 6 payment of the premium applicable to the class of risk to which he
 7 **THE EMPLOYEE** belongs and to the form and amount of the policy at
 8 ~~his~~ **THE EMPLOYEE'S** then attained age, a policy of life insurance in
 9 any 1 of the forms customarily issued by the company, except term
 10 insurance, in an amount equal to the amount of ~~his protection~~ **THE**
 11 **EMPLOYEE'S COVERAGE** under ~~such~~ **THE** group insurance policy at the
 12 time of ~~such~~ **THE EMPLOYEE'S** termination **OF EMPLOYMENT.**

13 **(2) AN INDIVIDUAL CERTIFICATE UNDER SUBSECTION (1) IS NOTICE**
 14 **TO THE EMPLOYEE OF HIS OR HER CONVERSION RIGHTS UNDER A GROUP**
 15 **POLICY. A SEPARATE NOTICE AT THE TIME OF THE EMPLOYEE'S TERMINATION**
 16 **IS NOT REQUIRED.**

17 Sec. 4442. ~~There shall be a~~ **EACH GROUP LIFE INSURANCE POLICY**
 18 **SHALL CONTAIN A** provision that ~~to the group or class thereof~~
 19 ~~originally insured shall be added from time to time all new~~
 20 ~~employees of the employer eligible to insurance in such group or~~
 21 ~~class.~~ **EACH NEW EMPLOYEE OF AN EMPLOYER SHALL PERIODICALLY BE ADDED**
 22 **TO COVERAGE IF THE NEW EMPLOYEE SATISFIES THE CONDITIONS FOR**
 23 **COVERAGE AND IS IN THE GROUP OR CLASS OF AN EMPLOYEE ORIGINALLY**
 24 **INSURED.**

25 Sec. 4446. ~~(1) Policies of group life insurance, when issued~~
 26 ~~in this state by any insurer not organized under the laws of this~~
 27 ~~state, may contain, when issued, any provision required by the law~~

~~of the state, or territory, or district of the United States, or
foreign country, under which the insurer is organized; and policies
issued in other states or countries by insurers organized in this
state, may contain any provision required by the laws of the state,
territory, district or country, in which the same are issued,
anything in this chapter to the contrary notwithstanding.~~

~~—— (2) Any such policy may be issued or delivered in this state
which in the opinion of the commissioner contains provisions on any
1 or more of the several foregoing requirements set forth in~~

~~sections 4432 through 4442 more favorable to the employer or to the
employee than in such sections required.~~

**A GROUP POLICY OFFERED BY
AN INSURER ISSUED IN ANOTHER STATE SHALL NOT BE ISSUED IN THIS
STATE UNLESS THE DIRECTOR OF THE DEPARTMENT OF INSURANCE AND
FINANCIAL SERVICES DETERMINES THAT REQUIREMENTS SUBSTANTIALLY
SIMILAR TO SECTION 4424 (A) HAVE BEEN MET.**