

HOUSE BILL No. 5740

June 8, 2016, Introduced by Reps. Cochran, Moss, Banks, Gay-Dagnogo, Robinson, Plawecki, Hovey-Wright, Dianda, Garrett, Geiss, Pagan, Greig and Wittenberg and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 438 (MCL 500.438), as amended by 1994 PA 227.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 438. (1) ~~Each~~**AN** insurer, foreign, alien, U.S. branch, or
2 domestic, transacting business within this state, shall annually,
3 on or before March 1, prepare under oath and deposit with the
4 ~~commissioner~~**DIRECTOR** a statement concerning its affairs in a form
5 and manner as prescribed by the ~~commissioner~~**DIRECTOR**. The annual
6 statement ~~shall~~**MUST** be filed on or before March 1 of the year
7 following that covered by the statement. ~~Upon~~**ON** request and for
8 good cause shown, the ~~commissioner~~**DIRECTOR** may grant to ~~any~~**A**
9 company reasonable extensions of the March 1 filing date for
10 periods not to exceed 30 days. The insurer shall pay the filing fee
11 prescribed in section 240(1)(b). **THE ANNUAL STATEMENT MUST INCLUDE**

1 A DISCLOSURE OF ANY SECURITY BREACH THAT REQUIRES NOTICE TO A
2 RESIDENT IN THIS STATE UNDER SECTION 12 OF THE IDENTITY THEFT
3 PROTECTION ACT, 2004 PA 452, MCL 445.72. AS USED IN THIS
4 SUBSECTION, "SECURITY BREACH" MEANS THAT TERM AS DEFINED IN SECTION
5 3 OF THE IDENTITY THEFT PROTECTION ACT, 2004 PA 452, MCL 445.63.

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

15 (3) The ~~commissioner~~-DIRECTOR may address inquiries to ~~any~~-AN
16 insurer, in relation to the insurer's activities or conditions, or
17 any matter connected with the insurer's transactions. ~~An~~-THE
18 insurer ~~so addressed~~ shall promptly reply in writing to each
19 inquiry ~~by the commissioner~~-DESCRIBED IN THIS SUBSECTION.

20 (4) ~~Each~~-A report filed with the ~~commissioner~~ pursuant to
21 DIRECTOR UNDER this section shall ~~shall~~-MUST be made available to the
22 public in compliance with the freedom of information act, ~~Act No.~~
23 ~~442 of the Public Acts of 1976, being sections 15.231 to 15.246 of~~
24 ~~the Michigan Compiled Laws.~~ 1976 PA 442, MCL 15.231 TO 15.246.

25 (5) ~~Each~~-AN authorized insurer that ~~fails to~~-DOES NOT make or
26 deposit the annual statement required by this section, or ~~fails to~~
27 DOES NOT reply within 30 days to an inquiry of the ~~commissioner~~,

1 **DIRECTOR**, is subject to a civil penalty of not less than \$1,000.00
2 or more than \$5,000.00, and an additional \$50.00 for every day that
3 the insurer ~~fails to~~**DOES NOT** make and deposit the annual statement
4 or reply to the inquiry. In addition, each ~~AN~~ insurer that ~~fails to~~
5 **DOES NOT** make and deposit an annual statement, or ~~fails to~~**DOES NOT**
6 make a satisfactory reply to an inquiry of the ~~commissioner~~,
7 **DIRECTOR**, concerning the insurer's affairs ~~shall be~~**IS** subject to
8 proceedings under section 436.

9 (6) The annual statement of an alien insurer ~~shall~~**MUST** relate
10 only to the insurer's assets, transactions, and affairs in the
11 United States unless the ~~commissioner~~**DIRECTOR** requires otherwise.

12 (7) As used in this section, "U.S. branch" means that term as
13 defined in section 431.