

HOUSE BILL No. 5275

November 28, 2017, Introduced by Reps. Cochran, Moss, Rabhi, Faris, Sowerby, Chang, Hoadley, Lasinski, Greig, Chirkun, Zemke, Wittenberg and Pagan 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 2016 PA 558.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 438. (1) 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 director a statement concerning its affairs in a form and manner as
5 prescribed by the director. The annual statement must be filed on
6 or before March 1 of the year following that covered by the
7 statement. On request and for good cause shown, the director may
8 grant to a company reasonable extensions of the March 1 filing date
9 for periods not to exceed 30 days. **THE ANNUAL STATEMENT MUST**

1 INCLUDE A DISCLOSURE OF ANY SECURITY BREACH THAT REQUIRES NOTICE TO
2 A 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 director shall prescribe the format and content of
7 statements that are suitable and adaptable to each kind of insurer
8 authorized by this act. The director shall include requests for
9 information on important elements of an insurer's business,
10 including any matter, condition, or requirement regulated by this
11 act. An annual statement filed by an insurer under this section
12 must be prepared in accordance with instructions provided by, and
13 accounting practices and procedures designated by, the director.

14 (3) The director may address inquiries to an insurer, in
15 relation to the insurer's activities or conditions, or any matter
16 connected with the insurer's transactions. The insurer shall
17 promptly reply in writing to each inquiry described in this
18 subsection.

19 (4) A report filed with the director under this section must
20 be made available to the public in compliance with the freedom of
21 information act, 1976 PA 442, MCL 15.231 to 15.246.

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

1 an insurer that does not make and deposit an annual statement, or
2 does not make a satisfactory reply to an inquiry of the director,
3 concerning the insurer's affairs is subject to proceedings under
4 section 436.

5 (6) The annual statement of an alien insurer must relate only
6 to the insurer's assets, transactions, and affairs in the United
7 States unless the director requires otherwise.

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