

Act No. 67
Public Acts of 2017
Approved by the Governor
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**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2017**

Introduced by Reps. Barrett, Hughes, Theis, Lucido, Green and Greimel

ENROLLED HOUSE BILL No. 4325

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” by amending sections 835a, 1204a, and 1204c (MCL 500.835a, 500.1204a, and 500.1204c), section 835a as added by 2016 PA 558, section 1204a as amended by 2008 PA 575, and section 1204c as amended by 2008 PA 574; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 835a. (1) Except as otherwise provided in section 836, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued after December 31, 2014 and for all annuities and pure endowments

purchased after December 31, 2014 under group annuity and pure endowment contracts must be the Commissioner's Reserve Valuation Method described in section 834(2) and (3), and the following tables and interest rates:

(a) For individual single premium immediate annuity contracts, excluding any disability and accidental death benefits in these contracts, the standard must be the 2012 IAR Table or any individual annuity mortality table adopted after 2015 by the National Association of Insurance Commissioners that is approved by a rule promulgated by the director for use in determining the minimum standard of valuation for such contracts, or a modification of these tables approved by the director, and an interest rate as determined by the methodology described in section 836.

(b) Except as otherwise provided in subdivision (d), for individual annuity and pure endowment contracts, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in the contracts, the standard must be the 2012 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 2017 by the National Association of Insurance Commissioners that is approved by a rule promulgated by the director for use in determining the minimum standard of valuation for such contracts, or a modification of these tables approved by the director, and an interest rate as determined by the methodology described in section 836 for single premium deferred annuity and pure endowment contracts, and an interest rate as determined by the methodology described in section 836 for all other such individual annuity and pure endowment contracts.

(c) For all annuities and pure endowments purchased under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under these contracts, the standard must be the 1994 GAR Table, or any group annuity mortality table adopted after 2017 by the National Association of Insurance Commissioners that is approved by a rule promulgated by the director for use in determining the minimum standard of valuation for such annuities and pure endowments, or a modification of these tables approved by the director, and an interest rate as determined by the methodology described in section 836.

(d) For individual annuity and pure endowment contracts, the standard must be the 1983 Table a without projection only if the contract is based on life contingencies and is issued to fund periodic benefits arising from either of the following:

(i) Settlements of various forms of claims pertaining to court settlements, out of court settlements from tort actions, or settlements involving similar actions such as worker's compensation claims.

(ii) Settlement of long-term disability claims if a temporary or life annuity has been used instead of continuing disability payments.

(2) As used in this section:

(a) "Annuity 2000 Table" means the mortality table developed by the Society of Actuaries Committee on Life Insurance Research and shown on page 240 of volume XLVII of the Transactions of the Society of Actuaries.

(b) "Generational Mortality Table" means a mortality table containing a set of mortality rates that decrease for a given age from 1 year to the next based on a combination of a period table and a projection scale containing rates of mortality improvement.

(c) "Period table" means a table of mortality rates applicable to a given calendar year.

(d) "Projection Scale G2" means the table of annual rates, $G2_x$, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012 developed by the Society of Actuaries Committee on Life Insurance Research.

(e) "1983 GAM Table" means that mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners.

(f) "1983 Table a" means the mortality table developed by the Society of Actuaries Committee to recommend a new mortality basis for individual annuity valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

(g) "1994 GAR Table" means the mortality table developed by the Society of Actuaries group annuity valuation table task force and published on pages 866-867 of volume XLVII of the Transactions of the Society of Actuaries, where the mortality rate for an individual of age x in year $1994+n$, Q_x^{1994+N} , is determined as follows:

$$QX_{1994+N} = QX_{1994}(1-AA_x)^N$$

where Q_x^{1994} is as specified in the 1994 GAR Table, n is the number of years that have elapsed since 1994, and AA_x is as specified in the 1994 GAR Table.

(h) "2012 IAM Period Table" means the period table developed by the Society of Actuaries Committee on Life Insurance Research that contains loaded mortality rates for calendar year 2012.

(i) "2012 IAR Table" means the generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research that contains rates derived from a combination of the 2012 IAM Period Table and Projection Scale G2, where mortality rates for an individual of age x in year $2012+n$, Q_x^{2012+N} , are determined as follows, and the results rounded to the nearest one-thousandth:

$$QX_{2012+N} = QX_{2012}(1-G2_x)^N$$

where Q_x^{2012} is as specified in the 2012 IAM Period Table, n is the number of years that have elapsed since 2012, and $G2_x$ is as specified in Projection Scale G2.

Sec. 1204a. (1) To qualify as a registered insurance producer program of study, the program of study must meet all of the following criteria:

(a) Be conducted through an educational institution offering home study courses that has been in existence for not less than 5 years, by an insurance trade association, by an authorized insurer as provided in subsection (2), or by an educational institution listed in the state board of education directory of institutions of higher learning.

(b) Except as provided in subsection (2), provide for a minimum number of hours of classroom instruction or its equivalent in home study or online courses as follows:

(i) For a program of study for health insurance producers, 20 hours of instruction.

(ii) For a program of study for life insurance producers, 20 hours of instruction.

(iii) For a combined program of study for life and health insurance producers, 40 hours of instruction.

(iv) For a program of study for property insurance producers and solicitors, 20 hours of instruction.

(v) For a program of study for casualty insurance producers and solicitors, 20 hours of instruction.

(vi) For a program of study for personal lines producers, 20 hours of instruction.

(vii) For a program of study for property and casualty producers and solicitors, 40 hours of instruction. A program of study completed under this subparagraph satisfies the program of study requirements for personal lines producers and solicitors.

(c) Include instruction in ethical practices in the marketing and selling of insurance.

(d) Subject to subsection (5), instruction must be given only by individuals who meet the qualifications required by the director. The director shall promulgate rules prescribing the criteria that must be met by a person to render instruction in a registered insurance producer program of study.

(2) An authorized insurer may conduct that portion of the minimum number of hours of instruction under subsection (1) as the director considers appropriate. Any combination of classroom, online, or self-study hours may be used in satisfying the minimum number of hours of instruction under subsection (1).

(3) The director shall promulgate rules prescribing the subject matter that a program of study must possess to qualify for registration under this section.

(4) The director may recommend improvements in course materials as considered necessary by the director. The director may, after notice and opportunity for a hearing, withdraw the registration of a program of study that does not maintain reasonable standards as determined by the director for the protection of the public.

(5) For a registered insurance producer program of study under this section, the director may refuse to approve an insurance education instructor, and the director may place an approved insurance education instructor on probation or suspend or revoke approval of an approved insurance education instructor, or take any combination of these actions, if 1 or more of the following apply:

(a) The insurance education instructor violates an insurance law or violates a rule, subpoena, or order of the director or of another state's insurance commissioner.

(b) The insurance education instructor uses fraudulent, coercive, or dishonest practices or demonstrates incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or outside this state.

(c) The insurance education instructor's insurance producer license or its equivalent is revoked in conjunction with a disciplinary action in any state, province, district, or territory.

Sec. 1204c. (1) An insurance producer's hours of study accrued under this section must be reviewed for license continuance every 2 years under a schedule established by the director. The director may establish a schedule for license continuation that staggers license continuation dates to apportion the continuation dates throughout the calendar year. If the system of staggered continuation is adopted, the director may extend the licensure period for some licensees.

(2) Except as provided in subsections (9) to (12), and subject to subsection (13), before the review date of each applicable 2-year period provided for under subsection (1), an insurance producer wishing to renew his or her license shall renew his or her license by attending or instructing not less than 24 hours of continuing education classes approved by the director or 24 hours of home study or online training if evidenced by successful completion of coursework approved by the director. Of the 24 hours of continuing education required, not less than 3 hours must be in ethics in insurance classes or coursework.

(3) The director shall approve a registered insurance producer program of study if the director determines that the program increases knowledge of insurance and related subjects as follows:

(a) For a life-health agent program of study, the program offers instruction in 1 or more of the following:

(i) The fundamental considerations and major principles of life insurance.

(ii) The fundamental considerations and major principles of health insurance.

(iii) Estate planning and taxation as related to insurance.

- (iv) Industry and legal standards concerning ethics in insurance.
- (v) Legal, legislative, and regulatory matters concerning insurance, the insurance code, and the insurance industry.
- (vi) Principal provisions used in life insurance contracts, health insurance contracts, or annuity contracts and differences in types of coverages.
- (vii) Accounting and actuarial considerations in insurance.
- (viii) Principles of agency management, excluding telemarketing or other marketing instruction.
- (ix) The fundamental considerations, major principles, and statutory requirements of long-term care insurance.
- (b) For a property-casualty agent program of study, the program offers instructions in 1 or more of the following:
 - (i) The fundamental considerations and major principles of property insurance.
 - (ii) The fundamental considerations and major principles of casualty insurance.
 - (iii) Basic principles of risk management.
 - (iv) Industry and legal standards concerning ethics in insurance.
 - (v) Legal, legislative, and regulatory matters concerning insurance, the insurance code, and the insurance industry.
 - (vi) Principal provisions used in casualty insurance contracts, no-fault insurance contracts, or property insurance contracts and differences in types of coverages.
 - (vii) Accounting and actuarial considerations in insurance.
 - (viii) Principles of agency management, excluding telemarketing or other marketing instruction.

(4) A provider of a program of study for insurance producers applying for approval or reapproval from the director under this section shall file, on a form provided by the director, a description of the course of study including a description of the subject matter and course materials, hours of instruction, location of classroom, qualifications of instructors, and maximum student-instructor ratio and shall pay a nonrefundable \$25.00 filing fee. Any material change in a program of study requires the reapproval of the director. If the information in an application for approval or reapproval is insufficient for the director to determine whether the program of study meets the requirements under subsection (3), the director shall give written notice to the provider, within 15 days after the provider's filing of the application for approval or reapproval, of the additional information needed by the director. An application for approval or reapproval is considered approved unless disapproved by the director within 90 days after the application for approval or reapproval is filed, or within 90 days after the receipt of additional information if the information was requested by the director, whichever is later.

(5) A provider of a program of study approved by the director under this section shall pay a provider authorization fee of \$500.00 for the first year the provider's program of study is approved under this section and a \$100.00 provider renewal fee for each subsequent year that the provider offers the approved program of study.

(6) A person dissatisfied with an approved program of study may petition the director for a hearing on the program or the director on his or her own initiative may request a hearing on a program of study. If the director finds that the petition was submitted in good faith, that the petition if true shows that the program of study does not satisfy the criteria in subsection (3), or that the petition otherwise justifies holding a hearing, the director shall hold a hearing under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, within 30 days after receipt of the petition and on not less than 10 days' written notice to the petitioner and the provider of the program of study. If the director requests a hearing on a program of study on his or her own initiative, the director shall hold a hearing under chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287, on not less than 10 days' written notice to the provider of the program of study.

(7) If after a hearing under subsection (6) the director finds that the program of study does not satisfy the requirements under subsection (3), the director shall state, in a written order mailed first-class to the petitioner and provider of the program of study, his or her findings and the date on which the director will revoke approval of the program of study, which date must be within a reasonable time of the issuance of the order.

(8) A certificate of attendance or instruction in an approved program of study or a certificate of successful completion of coursework must be filed as directed by the director on a form prescribed by the director and must indicate the name and number of the course of study, the number of hours, dates of completion, and the name and number of schools attended or taught by the insurance producer or the evidence of successful completion of coursework. A representative of the approved program of study shall file the form and a fee of \$1.00 per hour for course credit for each insurance producer license renewal as directed by the director within 30 days after the insurance producer completes the program. A copy of the form must also be mailed first-class to the insurance producer who attended, taught, or successfully completed the program of study. The director may enter into contracts to provide for the administrative functions of this subsection.

(9) The director shall waive the continuing education requirements of this section for an insurance producer if the producer is unable to comply with the continuing education requirements of this section because of military service or

if the director determines that enforcement of the requirements would cause a severe hardship. The director shall waive the continuing education requirements of this section for the following insurance producers:

(a) An insurance producer who is licensed to write only travel or baggage insurance policies and whose employment is for a purpose other than the sale of those policies.

(b) An insurance producer who is licensed to write only limited line credit insurance.

(10) The director may enter into reciprocal continuing education agreements with insurance commissioners from other states.

(11) If an insurance producer has not met his or her continuing education requirements by the expiration date of his or her license, the insurance producer has a 90-day grace period in which to meet the continuing education requirements of this section. During the 90-day grace period, the insurance producer shall not solicit or sell new policies of insurance, bind coverage, or otherwise act as an insurance producer, except that the insurance producer may continue to service policies previously sold and may receive commissions on policies previously sold. If the insurance producer has not met his or her continuing education requirements by the expiration of the 90-day grace period, the director shall cancel the insurance producer's license. An insurance producer whose license has been canceled under this section may reapply for a license to act as an insurance producer under section 1204.

(12) An insurance producer who has sold his or her insurance business and who has not met the continuing education requirements of this section shall not solicit or sell new policies of insurance, bind coverage, or otherwise act as an insurance producer, except that the insurance producer may continue to service policies previously sold and may receive commissions on policies previously sold as well as receive partial commissions on policies of insurance sold by a purchasing insurance producer. An insurance producer who is in the process of selling his or her insurance business and who has not met the continuing education requirements of this section shall not solicit or sell new policies of insurance, bind coverage, or otherwise act as an insurance producer, except that the insurance producer may continue to service policies previously sold and may receive commissions on policies previously sold as well as receive partial commissions on policies of insurance sold by a purchasing insurance producer, for a period not to exceed 12 months after the selling insurance producer's license review date under subsection (1). An insurance producer whose license has been canceled and who wishes to resume soliciting or selling new policies of insurance, bind coverage, or otherwise act as an insurance producer and who has not met the continuing education requirements within the immediately preceding 12 months may reapply for a license to act as an insurance producer under section 1204.

(13) After 1 year after the effective date of the amendatory act that added subsection (14), for a review date of an applicable 2-year period under subsection (1), all of the following apply:

(a) Subject to subdivisions (b) and (c), if an insurance producer completes more than 24 hours of continuing education in an applicable 2-year period, the insurance producer may, for purposes of subsection (2), apply each hour more than 24 hours to the next 2-year period. However, no more than 12 hours may be applied to the next applicable 2-year period under this subdivision.

(b) An insurance producer may not apply any hours in ethics in insurance classes or coursework to the next applicable 2-year period under subdivision (a).

(c) If an insurance producer completes the same continuing education class or coursework under subsection (2) in an applicable 2-year period, an hour associated with a duplicative class or coursework may not be applied to the next applicable 2-year period under subdivision (a).

(14) The director or his or her designee may access any classroom while instruction for a program of study under section 1204a or this section is in progress to monitor the classroom instruction.

(15) For an insurance producer program of study under this section, the director may refuse to approve an insurance education instructor, and the director may place an approved insurance education instructor on probation or suspend or revoke approval of an approved insurance education instructor, or take any combination of these actions, if 1 or more of the following apply:

(a) The insurance education instructor violates an insurance law or violates a rule, subpoena, or order of the director or of another state's insurance commissioner.

(b) The insurance education instructor uses fraudulent, coercive, or dishonest practices or demonstrates incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or outside this state.

(c) The insurance education instructor's insurance producer license or its equivalent is revoked in conjunction with a disciplinary action in any state, province, district, or territory.

(16) As used in this section:

(a) "Hour" means a period of time of not less than 50 minutes.

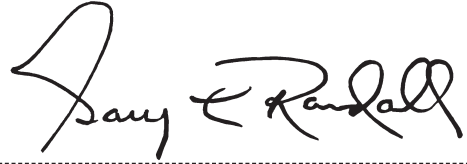
(b) "Insurance producer" means a life-health agent or property-casualty agent.

(c) "Life-health agent" means a resident or nonresident individual insurance producer licensed for life, limited life, mortgage redemption, or accident and health or a combination of life, limited life, mortgage redemption, or accident and health.

(d) "Property-casualty agent" means a resident or nonresident individual insurance producer or solicitor licensed for automobile, fire, multiple lines, or any limited or minor property and casualty lines or a combination of automobile, fire, multiple lines, or limited or minor property and casualty lines.

Enacting section 1. Section 1204b of the insurance code of 1956, 1956 PA 218, MCL 500.1204b, is repealed.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor