

SUBSTITUTE FOR
HOUSE BILL NO. 4044

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 1205 and 1239 (MCL 500.1205 and 500.1239),
section 1205 as amended by 2008 PA 422 and section 1239 as amended
by 2008 PA 423.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1205. (1) A person applying for a resident insurance
2 producer license shall file with the ~~commissioner~~**director** the
3 uniform application required by the ~~commissioner~~**director** and shall
4 declare under penalty of refusal, suspension, or revocation of the
5 license that the statements made in the application are true,
6 correct, and complete to the best of the individual's knowledge and
7 belief. ~~An~~**The director shall not approve an** application for a



1 resident insurer producer license ~~shall not be approved~~ unless the
 2 ~~commissioner~~ **director** finds that the individual meets all of the
 3 following **conditions**:

4 (a) Is at least 18 years of age.

5 (b) Has not committed any act listed in section 1239(1).

6 (c) As required under section 1204(2), has completed a
 7 prelicensing course of study for the qualifications for which the
 8 person has applied.

9 (d) Has paid the fees applicable to the individual under
 10 section 240.

11 (e) Has successfully passed the examination required for each
 12 qualification for which the person has applied.

13 (2) A business entity acting as an insurance producer shall
 14 obtain an insurance producer license. A business entity applying
 15 for an insurance producer license shall file with the ~~commissioner~~
 16 **director** the uniform business entity application required by the
 17 ~~commissioner. An~~ **director**. **The director shall not approve an**
 18 application for an insurance producer license under this subsection
 19 ~~shall not be approved unless the commissioner~~ **director** finds all of
 20 the following:

21 (a) The business entity has paid the fees under section
 22 240(1)(d).

23 (b) The business entity has designated an individual licensed
 24 producer responsible for the business entity's compliance with this
 25 state's insurance laws, rules, and regulations.

26 (c) The business entity has not committed any act listed in
 27 section 1239(1).

28 (3) The ~~commissioner~~ **director** may require the production of
 29 any documents reasonably necessary to verify the information



1 contained in an application.

2 (4) ~~Each~~**An** insurer that sells, solicits, or negotiates any
 3 form of limited line credit insurance shall provide to each
 4 individual whose duties will include selling, soliciting, or
 5 negotiating limited line credit insurance a program of instruction
 6 that may be approved by the ~~commissioner~~**director**.

7 Sec. 1239. (1) In addition to any other powers under this act,
 8 the ~~commissioner~~**director** may place on probation, suspend, or
 9 revoke an insurance producer's license or may levy a civil fine
 10 under section 1244 or any combination of actions, and the
 11 ~~commissioner~~**director** shall ~~refuse to not~~ issue a license under
 12 section 1205 or 1206a, for any 1 or more of the following causes:

13 ~~(a) Providing incorrect, misleading, incomplete, or materially~~
 14 ~~untrue information in the license application.~~

15 ~~(b) Violating any insurance laws or violating any regulation,~~
 16 ~~subpoena, or order of the commissioner or of another state's~~
 17 ~~insurance commissioner.~~

18 **(a) (e)** Obtaining or attempting to obtain a license through
 19 misrepresentation or fraud.

20 **(b) (d)** Improperly withholding, misappropriating, or
 21 converting any money or property received in the course of doing
 22 insurance business.

23 **(c) (e)** Intentionally misrepresenting the terms of an actual
 24 or proposed insurance contract or application for insurance.

25 **(d) (f)** Having been convicted of a felony **within 10 years**
 26 **before the uniform application was filed.**

27 **(e) Regardless of the date of conviction, having been**
 28 **convicted of a felony involving any of the following:**

29 **(i) Violence or threat of violence against an individual,**



1 including, but not limited to, domestic violence.

2 (ii) Criminal sexual conduct.

3 (iii) A felony of a fiduciary nature or financial nature such as
4 fraud, embezzlement, bribery, or extortion.

5 (f) ~~(g)~~ Having admitted or been found to have committed any
6 insurance unfair trade practice or fraud.

7 (g) ~~(h)~~ Using fraudulent, coercive, or dishonest practices or
8 demonstrating incompetence, untrustworthiness, or financial
9 irresponsibility in the conduct of business in this state or
10 elsewhere.

11 ~~(i) Having an insurance producer license or its equivalent~~
12 ~~denied, suspended, or revoked in any other state, province,~~
13 ~~district, or territory.~~

14 (h) ~~(j)~~ Forging another's name to an application for insurance
15 or to any document related to an insurance transaction.

16 ~~(k) Improperly using notes or any other reference material to~~
17 ~~complete an examination for an insurance license.~~

18 ~~(l) Knowingly accepting insurance business from an individual~~
19 ~~who is not licensed.~~

20 ~~(m) Failing to comply with an administrative or court order~~
21 ~~imposing a child support obligation.~~

22 ~~(n) Failing to pay the single business tax or the Michigan~~
23 ~~business tax or comply with any administrative or court order~~
24 ~~directing payment of the single business tax or the Michigan~~
25 ~~business tax.~~

26 (i) Knowingly accepting insurance business from an individual
27 who is not licensed.

28 (2) In addition to any other powers under this act, the
29 director may place on probation, suspend, or revoke an insurance



1 producer's license or may levy a civil fine under section 1244 or
2 any combination of actions, and the director may refuse to issue a
3 license under section 1205 or 1206a, for any 1 or more of the
4 following causes:

5 (a) Providing incorrect, misleading, incomplete, or materially
6 untrue information in the license application.

7 (b) Having been convicted of a felony other than a felony
8 described in subsection (1)(e).

9 (c) Having an insurance producer license or its equivalent
10 denied, suspended, or revoked in any other state, province,
11 district, or territory.

12 (d) Improperly using notes or any other reference material to
13 complete an examination for an insurance license.

14 (e) Violating any insurance laws or violating any regulation,
15 subpoena, or order of the director or of another state's insurance
16 commissioner.

17 (f) Failing to comply with an administrative or court order
18 imposing a child support obligation.

19 (g) Failing to pay the single business tax or the Michigan
20 business tax or comply with any administrative or court order
21 directing payment of the single business tax or the Michigan
22 business tax.

23 (3) Subject to subsection (2), after examination,
24 investigation, and interrogatories, the director shall issue a
25 license under section 1205 or 1206a to an applicant if the director
26 determines the applicant possesses good moral character to act as
27 an insurance producer.

28 (4) ~~(2) Before the commissioner~~director denies an application
29 for a license under section 1205 or 1206a, the ~~commissioner~~



1 **director** shall notify in writing the applicant or licensee of the
 2 denial and of the reason for the denial. Not later than 30 days
 3 after this written denial, the applicant or licensee may make
 4 written demand ~~upon~~ **on** the ~~commissioner~~ **director** for a hearing
 5 before the ~~commissioner~~ **director** to determine the reasonableness of
 6 the ~~commissioner's~~ **director's** action. A hearing under this
 7 subsection ~~shall~~ **must** be held ~~pursuant to~~ **under** the administrative
 8 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

9 (5) ~~(3)~~ The license of a business entity may be suspended,
 10 revoked, or refused if the ~~commissioner~~ **director** finds, after
 11 hearing, that an individual licensee's violation was known or
 12 should have been known by 1 or more of the partners, officers, or
 13 managers acting on behalf of the partnership or corporation and the
 14 violation was ~~neither~~ **not** reported to the ~~commissioner~~ **nor director**
 15 **and** corrective action **was not** taken.

16 (6) ~~(4)~~ In addition to or ~~in lieu~~ **instead** of any applicable
 17 denial, suspension, or revocation of a license, a person may, after
 18 hearing, be subject to a civil fine under section 1244.

19 (7) ~~(5)~~ In addition to the penalties under this section, the
 20 ~~commissioner~~ **director** may enforce the provisions of and impose any
 21 penalty or remedy authorized by this act against ~~any~~ **a** person ~~who~~
 22 **that** is under investigation for or charged with a violation of this
 23 act even if the person's license or registration has been
 24 surrendered or has lapsed by operation of law.

25 Enacting section 1. This amendatory act takes effect 6 months
 26 after the date it is enacted into law.

