

## THE INSURANCE CODE OF 1956 (EXCERPT)

### Act 218 of 1956

#### CHAPTER 4

#### AUTHORIZATION OF INSURERS AND GENERAL REQUIREMENTS

##### **500.402 Insurers; certificate of authority requirement.**

Sec. 402. A person shall not act as an insurer and an insurer shall not issue a policy or otherwise transact insurance in this state except as authorized by a subsisting certificate of authority granted to it by the director under this act.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

**Popular name:** Act 218

##### **500.402a Transactions of insurance requiring certificate of authority.**

Sec. 402a. In this state, the following transactions of insurance, whether effected by mail or otherwise, require a certificate of authority:

- (a) The issuance or delivery of insurance contracts to residents of this state.
- (b) The solicitation of applications for insurance contracts from residents of this state.
- (c) The collection of premiums, membership fees, assessments, or other consideration for insurance contracts from residents of this state.
- (d) The doing or proposing to do any act in substance equivalent to subdivisions (a) to (c).

**History:** Add. 1967, Act 111, Eff. Nov. 2, 1967;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Popular name:** Act 218

##### **500.402b Transactions of insurance not requiring certificate of authority.**

Sec. 402b. In this state, the following constitute transactions of insurance for which a certificate of authority is not required:

- (a) Transaction of insurance under chapter 19.
- (b) Transaction of reinsurance, except a transfer of direct obligations to policyholders by assumption reinsurance or other transaction to the same effect.
- (c) Transaction of insurance on a risk not resident or located in this state at the time the insurance took effect, if the insurance was not written in this state.
- (d) Transaction of group or blanket insurance or group annuities in which a master policy was lawfully issued to an employer located in another state for the benefit of employees residing in this state.
- (e) Transaction of property or casualty insurance, under the same policy, on 1 or more risks resident or located both within and outside this state, if, under all the circumstances of the transaction, any appropriate part of the premium on the policy was apportioned to this state and if the policy was lawfully issued to a person resident in another state.
- (f) Transaction of insurance as defined in sections 614 and 616.
- (g) Transaction of insurance independently procured through negotiations occurring entirely outside of this state.
- (h) Transaction of insurance by a nonprofit life insurance company, if the transactions involve life insurance, disability, or annuity contracts issued direct from the home office of the company, without agents or representatives in this state other than representatives servicing life insurance, disability, annuity contracts, or providing information upon request concerning other products of the company, only to or for the benefit of employees of nonprofit educational, scientific, or religious institutions. The transactions defined in this subdivision do not include those of a fraternal benefit society, as defined in section 8164.
- (i) Transaction of group health insurance and incidental death and disability insurance if all of the following are met:
  - (i) The group health insurance and incidental death and disability insurance is maintained pursuant to a written collective bargaining agreement between a labor organization and 1 or more city, village, township, or county employers.
  - (ii) The labor organization demonstrates to the commissioner's satisfaction that it meets the definition of the term "labor organization" as defined in section 2(5) of the national labor relations act, chapter 372, 49 Stat. 450, 29 U.S.C. 152.
  - (iii) The group health insurance and incidental death and disability insurance is regulated under the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829, and is funded by a trust fund as described in section 302(c)(5) of title III of the labor management relations act, 1947, chapter 120, 61

Stat. 157, 29 U.S.C. 186.

**History:** Add. 1967, Act 111, Eff. Nov. 2, 1967;—Am. 1980, Act 341, Imd. Eff. Dec. 23, 1980;—Am. 1982, Act 195, Imd. Eff. June 30, 1982;—Am. 1987, Act 261, Imd. Eff. Dec. 28, 1987;—Am. 1988, Act 341, Imd. Eff. Oct. 18, 1988;—Am. 1990, Act 1, Eff. Apr. 1, 1990;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

#### **500.402c Motor vehicle rental company; insurance transaction; definitions.**

Sec. 402c. (1) A certificate of authority to transact insurance in this state is not required for the sale of any travel or auto-related insurance coverages by a motor vehicle rental company or its officers or employees in connection with and incidental to the rental of a motor vehicle.

(2) As used in this section:

(a) "Motor vehicle" means a motorized vehicle designed for transporting passengers or goods.

(b) "Motor vehicle rental company" means any person in the business of providing motor vehicles to the public under a rental agreement for a period not to exceed 90 days.

**History:** Add. 2002, Act 737, Imd. Eff. Dec. 30, 2002.

**Compiler's note:** Former MCL 500.402c, which pertained to determination that insurer is safe, reliable, and entitled to public confidence, was repealed by Act 158 of 1996, Imd. Eff. Apr. 3, 1996.

**Popular name:** Act 218

#### **500.403 Insurers; authorization to do business.**

Sec. 403. A domestic, foreign, or alien insurer shall not be authorized to do business in this state or continue to be authorized to do business in this state if the insurer is not or does not continue to be safe, reliable, and entitled to public confidence.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Popular name:** Act 218

#### **500.404 Insurers; financial conditions; compliance required.**

Sec. 404. Every like domestic, foreign, or alien insurer doing business in this state shall at all times be subject to the same standards and requirements concerning financial conditions and shall be in substantial compliance with those standards and requirements.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Popular name:** Act 218

#### **500.405 Foreign insurer; revocation of certificate of authority; conditions; requalification for certificate of authority if control acquired; determination.**

Sec. 405. (1) Except as provided in subsection (2), the certificate of authority of a foreign insurer with respect to whom control as defined in 115 changes after October 1, 1992 without being subject to the commissioner's approval shall be automatically revoked 90 days after the change in control without further action by the commissioner unless, within 90 days of the change of control or a longer period if the commissioner allows, the insurer requalifies for a certificate of authority under the provisions of this act in force as of the change of control. The certificate of authority shall be revoked under such conditions for the protection of policyholders, creditors, and the public as the commissioner may require. An insurer does not have to requalify for a certificate of authority under this subsection if the commissioner finds all of the following:

(a) The insurer's most recent a.m. best financial rating is at least an "A-" or is a comparable rating as assigned by a nationally recognized statistical rating organization approved by the commissioner.

(b) Following the change in control, the insurer meets the minimum capital and surplus requirements to qualify for and maintain authority to transact insurance in this state under section 410(2) and (3). However, the commissioner may waive the requirement of this subdivision if both of the following apply:

(i) The insurer possessed a certificate of authority to transact insurance in this state prior to the effective date of the amendatory act that added this subparagraph.

(ii) The commissioner finds that the insurer is otherwise safe, reliable, and entitled to public confidence.

(c) The insurer's total capital exceeds 2 times the company's authorized control level.

(d) The insurer's certificate of authority has not been suspended, revoked, or limited under section 436 at any time during the 5-year period immediately preceding the change of control.

(e) The insurer is not subject to an insurance regulatory information system priority 1 or 2 designation by the national association of insurance commissioners during the year immediately preceding the change of control.

(2) A person seeking to acquire control of a foreign insurer may request the commissioner to determine whether or not the commissioner would requalify the insurer for a certificate of authority if control is acquired. The commissioner shall determine within 90 days after the request is made whether or not the insurer would requalify for a certificate of authority if control is acquired. The commissioner's determination shall be in writing and shall state the commissioner's reasons as to why the commissioner would either grant or deny requalification for a certificate of authority if control is acquired. If the commissioner does not issue his or her determination within this 90-day period and the person seeking the request acquires control of the foreign insurer within 180 days after the request for a determination was made, the insurer shall be automatically requalified for a certificate of authority. If the commissioner issues an affirmative requalification determination and the person requesting the determination acquires control of the foreign insurer within 180 days after the request for a determination was made, the commissioner is prohibited from proceeding under subsection (1).

**History:** Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 228, Imd. Eff. June 30, 1994;—Am. 1998, Act 457, Imd. Eff. Jan. 4, 1999.

**Compiler's note:** In the first sentence of subsection (1), the phrase “as defined in 115” evidently should read “as defined in section 115.”

**Popular name:** Act 218

#### **500.405a Insurer subject to delinquency proceedings; revocation of certificate of authority; conditions.**

Sec. 405a. If an insurer is subject in its state or country of domicile to formal delinquency proceedings within the meaning of chapter 81 or to a proceeding of similar effect, and the formal delinquency proceeding was properly commenced by the appropriate domiciliary regulatory authority on or after October 1, 1991, the certificates of authority of the insurer and of any current affiliated insurers of the insurer shall be automatically revoked 90 days after the effective date of the delinquency or other proceedings without further action by the commissioner unless, within the 90-day period or a longer period if the commissioner allows, each insurer requalifies for a certificate of authority under the provisions of this act then in force. A domestic insurer for purposes of requalification shall be treated as though it is a foreign insurer. The certificate of authority shall be revoked under such conditions for the protection of the public as the commissioner may require.

**History:** Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

#### **500.405b Requalification pursuant to MCL 500.405 or 500.405a; formal review.**

Sec. 405b. An insurer that seeks requalification pursuant to sections 405 or 405a is entitled to a formal review by the commissioner during which the insurer may submit information, documents, or other data to the commissioner in support of the application for requalification. The commissioner shall act upon the application by an order that embodies the commissioner's findings and reasons for the decision. A record of the review, including the information, documents, or other data submitted by the insurer to the commissioner in support of the application for requalification, shall be prepared by the insurance bureau and made available.

**History:** Add. 1994, Act 226, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

#### **500.406 Foreign insurer; limitation on corporate purposes and powers; election of statute; denial of admission or authority; continuation of license to transact insurance business previously authorized; exception.**

Sec. 406. (1) A foreign insurer shall not be admitted to this state if the insurer's corporate purposes exceed those permitted for Michigan insurers.

(2) For the purpose of obtaining admission or renewal of authority to do business in this state, a foreign insurer, by proper corporate action, may limit its corporate purposes and powers with respect to business in this state, so that the corporate purposes do not exceed those of Michigan insurers authorized under the same classification. However, the foreign insurer, in its application for certificate of authority or for the corporate action referred to, shall elect the particular statute under which it desires admission or recertification.

(3) The commissioner may deny admission or continuance of authority to any foreign insurer engaged outside of this state in any kind or combination of kinds of business not permitted to be transacted by similar domestic insurers by the laws of this state, when in the commissioner's judgment the transacting of these kinds or combination of kinds of business is prejudicial to the best interests of the people of this state.

(4) Notwithstanding subsection (3), a foreign insurer which has been licensed to transact the business of

life insurance in this state continuously since January 1, 1921, shall continue to be licensed to transact the kind or kinds of insurance business which it was authorized to transact in this state immediately before January 1, 1941. However, this subsection shall not apply if the commissioner finds, as to a specific insurer, that the kinds of business or combinations of kinds of business has become prejudicial to the best interests of the people of this state.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1957, Act 12, Eff. Sept. 27, 1957;—Am. 1980, Act 342, Imd. Eff. Dec. 23, 1980.

**Popular name:** Act 218

#### **500.407 Authorization to transact kinds of insurance; exceptions.**

Sec. 407. An insurer that otherwise qualifies to transact insurance under this act may be authorized to transact any 1 kind or combination of kinds of insurance as defined in chapter 6 except:

(a) A life insurer is not authorized to transact any other kind of insurance except disability insurance as defined in section 606 unless it was engaged in transacting that other kind of insurance in this state prior to January 1, 1909.

(b) A reciprocal insurer is not authorized to transact life or health insurance.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1982, Act 501, Imd. Eff. Dec. 31, 1982;—Am. 1996, Act 548, Imd. Eff. Jan. 15, 1997.

**Popular name:** Act 218

#### **500.407a Noninsured benefit plan; offering and writing excess loss insurance; definition; authority of insurer not limited.**

Sec. 407a. (1) An insurer authorized to write insurance described in section 602 or 606 may offer and write specific or aggregate excess loss insurance to a noninsured benefit plan. An insurer that writes excess loss insurance shall comply with the applicable policy rate and form requirements under chapters 22, 24, and 30.

(2) As used in this section, "noninsured benefit plan" means that term as defined in section 5208.

(3) This section does not limit the authority of an insurer authorized to write insurance described in section 624 to offer and write specific or aggregate excess loss insurance to a noninsured benefit plan.

**History:** Add. 2002, Act 146, Imd. Eff. Apr. 2, 2002.

**Popular name:** Act 218

#### **500.408 Insurers; capital, surplus, or asset requirement; schedule; multiple lines; provisions for transacting certain insurance; applicability of section; compliance with MCL 500.403.**

Sec. 408. (1) To qualify for authority to transact insurance in this state a domestic, foreign, or alien insurer shall possess and thereafter maintain paid-in capital or surplus or assets in amounts that are not less than those shown by the applicable portion of the following schedule:

Kind of insurance	Domestic, foreign stock insurers	Domestic, foreign mutual life insurers	Domestic, foreign mutual insurers other than life	Alien insurers United States ASSETS
	<b>CAPITAL</b>	<b>SURPLUS</b>	<b>ASSETS</b>	
Life	\$ 200,000.00	\$ 200,000.00	not applicable	\$ 200,000.00
Life and disability	300,000.00	300,000.00	not applicable	300,000.00
Disability, except as provided in subsection (2), (3), or (4)	200,000.00	not applicable	\$ 50,000.00	200,000.00
Property & marine	200,000.00	not applicable	50,000.00	200,000.00
Automobile	200,000.00	not applicable	50,000.00	200,000.00
Casualty	200,000.00	not applicable	50,000.00	200,000.00
Surety & fidelity	250,000.00	not applicable	250,000.00	250,000.00
Surety, fidelity, casualty	450,000.00	not applicable	250,000.00	450,000.00

Kind of insurance	Reciprocal insurers
	<b>ASSETS</b>

Disability, except as provided in subsection (2), (3), or (4)	\$ 50,000.00
Property & marine	50,000.00
Automobile	50,000.00
Casualty	50,000.00
Surety & fidelity	50,000.00
Surety, fidelity, casualty	50,000.00

Multiple lines: Any insurer may reinsure risks of every kind or description and write any and all kinds of insurance other than life insurance for which it is authorized while it maintains paid-up capital and surplus of not less than \$500,000.00.

(2) An insurer authorized to transact casualty insurance shall also have authority to transact disability insurance without additional capital, surplus, or assets, as the case may be.

(3) A domestic stock insurer organized to insure on the monthly or weekly premium payment plan any person against bodily injury or death by accident or against disability on account of sickness, or to provide a cash funeral benefit not exceeding \$500.00, shall have paid-in capital stock of not less than \$25,000.00.

(4) As to a reciprocal insurer the authority to transact disability insurance, either alone or in combination with other insuring powers, does not include authority to transact health insurance.

(5) Financial requirements as to cooperative assessment life, disability, and loss of position insurers, as identified in chapter 64, shall be as provided in that chapter. Financial requirements as to domestic stock insurers formed to insure railway employees against loss of position, to transact disability and life insurance, and to make annuities as identified in section 6604 shall be as provided in section 6608.

(6) This section applies to domestic insurers organized prior to July 21, 1965 and to foreign and alien insurers not subject to the provisions of section 410. However, a domestic insurer organized prior to July 21, 1965 and any foreign or alien insurer not subject to the provisions of section 410 that attains the level of capital and surplus required by section 410(1), (2), or (3) is required thereafter to maintain that level of capital and surplus under section 410 unless the direct premiums written and any reinsurance assumed by the insurer in an annual period are less than the insurer's surplus.

(7) An insurer authorized to transact insurance on or after July 21, 1965 and before January 1, 1999 that attains the level of capital and surplus required by section 410(2) is required thereafter to maintain that level of capital and surplus under section 410 unless the direct premiums written and any reinsurance assumed by the insurer in an annual period are less than the insurer's surplus.

(8) Notwithstanding the specific requirements of this section, domestic, foreign, and alien insurers shall also comply with the standard set forth in section 403.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1958, Act 211, Eff. Sept. 13, 1958;—Am. 1965, Act 242, Imd. Eff. July 21, 1965;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994;—Am. 1994, Act 443, Imd. Eff. Jan. 10, 1995;—Am. 1998, Act 457, Imd. Eff. Jan. 4, 1999.

**Popular name:** Act 218

#### **500.410 Minimum amount of unimpaired capital and surplus; minimum amount and use of additional surplus; transacting life insurance or property insurance; continuing to transact insurance; transacting legal expense insurance; compliance with MCL 500.403.**

Sec. 410. (1) To qualify for and maintain authority to transact insurance in this state on or after July 21, 1965 and before January 1, 1999, a domestic, foreign, or alien insurer shall possess and thereafter maintain unimpaired capital and surplus in an amount determined adequate by the commissioner to continue to comply with section 403 but not less than \$1,000,000.00. The commissioner shall take into account the risk based capital requirements as developed by the national association of insurance commissioners in order to determine adequate compliance with section 403.

(2) To qualify for and maintain authority to transact insurance in this state on or after January 1, 1999, a domestic, foreign, or alien insurer shall possess and thereafter maintain unimpaired capital and surplus in an

amount determined adequate by the commissioner to continue to comply with section 403 but not less than \$7,000,000.00. The commissioner shall take into account the risk based capital requirements as developed by the national association of insurance commissioners in order to determine adequate compliance with section 403.

(3) In addition to the minimum capital and surplus specified in subsections (1) and (2), an insurer applying for an initial certificate of authority after July 21, 1965 in this state shall possess and maintain surplus or additional surplus in an amount determined by the commissioner adequate to comply with section 403 for the kind or kinds of insurance it writes or proposes to write, but in no event less than \$500,000.00.

(4) Except as provided by section 407, every insurer authorized to transact insurance in this state may transact life insurance or property insurance but not both, unless it was authorized to transact such other kind or kinds of insurance in this state immediately prior to January 1, 1965. For the purpose of this section, life insurance includes any 1 or more of the insurances described in sections 602 and 606; property insurance includes any 1 or more of the insurances described in chapter 6, excepting only section 602 and those provisions of section 632 that apply to insurances described in section 602. Nothing in this section shall be construed to broaden the authority of reciprocal insurers.

(5) Except as provided in subsection (7), an insurer authorized to transact insurance prior to July 21, 1965 may continue to transact insurance so long as it maintains the minimum financial requirements of section 408. However, an insurer authorized to transact insurance prior to July 21, 1965, that attains the level of minimum capital and surplus required by subsection (1) shall maintain compliance with this section unless the direct premiums written and any reinsurance assumed by the insurer in an annual period are less than the insurer's surplus.

(6) Except as provided in subsection (7), an insurer authorized to transact insurance on or after July 21, 1965 and before January 1, 1999 that attains the level of minimum capital and surplus required by subsection (2) shall maintain compliance with this section unless the direct premiums written and any reinsurance assumed by the insurer in an annual period are less than the insurer's surplus.

(7) An insurer shall not be authorized to transact legal expense insurance unless it meets the capital and surplus requirements of subsections (1), (2), and (3).

(8) Notwithstanding the specific requirements of this section, domestic, foreign, and alien insurers shall also comply with the standard set forth in section 403.

**History:** Add. 1965, Act 242, Imd. Eff. July 21, 1965;—Am. 1982, Act 501, Imd. Eff. Dec. 31, 1982;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994;—Am. 1994, Act 443, Imd. Eff. Jan. 10, 1995;—Am. 1998, Act 457, Imd. Eff. Jan. 4, 1999.

**Popular name:** Act 218

#### **500.410a Bail bond surety and fidelity insurance company; authority to transact insurance.**

Sec. 410a. (1) To qualify for and maintain authority to transact insurance in this state solely as a bail bond surety and fidelity insurance company on or after February 1, 2004, an insurer in good standing in its state of domicile that is subject to regulation by the commissioner shall possess and thereafter maintain unimpaired capital and surplus in an amount determined adequate by the commissioner to continue to comply with section 403 but not less than \$4,500,000.00 and have, in addition, not less than \$3,000,000.00 in current guarantees and security with respect to bail bonds issued by the insurer in states in which it is then authorized. An insurer with authority to transact bail bond surety and fidelity insurance in this state shall not offer or provide surety and fidelity coverages other than bail bonds.

(2) The commissioner shall take into account the risk based capital requirements as developed by the national association of insurance commissioners and the claims history for Michigan bail bonds issued by the licensed bail bond agencies for which the insurer will be or is issuing bail bonds in Michigan in order to determine adequate compliance with section 403.

(3) As used in this section, "bail bond surety and fidelity insurance" is surety and fidelity insurance that is limited to the provision of bail bonds.

**History:** Add. 2004, Act 113, Imd. Eff. May 21, 2004.

**Popular name:** Act 218

#### **500.411 Deposits required to transact insurance.**

Sec. 411. (1) To qualify for and maintain authority to transact insurance in this state a domestic insurer shall maintain a deposit with the state treasurer of \$300,000.00 or such larger amount as the commissioner considers appropriate taking into consideration the actual or anticipated premium volume of the insurer and the characteristics of, and the degree of risk inherent in, the insurance business written by the insurer. If a domestic insurer doing business on January 9, 1973 has assets of less than \$750,000.00, the commissioner

may approve a smaller deposit appropriate to the size of the insurer and the character of its business but not less than \$50,000.00. The deposit shall consist of cash or securities at market value, exclusive of interest, of the kinds described in section 912. The deposit shall be held by the state treasurer for the benefit of the policyholders of the insurer and shall be administered as directed in section 464. A policyholder of an insurer includes any person having a legal or equitable right arising out of an insurance or annuity contract issued by the insurer.

(2) To qualify for and maintain authority to transact insurance in this state a foreign insurer shall maintain a deposit with the state treasurer or with the treasurer or other state officer of the state in which the insurer is domiciled of the same kinds, in the same amounts, and for the same purpose as required in subsection (1) for domestic insurers.

(3) To qualify for and maintain authority to transact insurance in this state an alien insurer entering through this state to transact insurance in the United States shall maintain a deposit with the state treasurer and an alien insurer entering through a state other than this state to transact insurance in the United States shall maintain a deposit with the state treasurer or with the treasurer or other state officer of the state through which the insurer entered of the same kinds, in the same amounts, and for the same purpose as required in subsection (1) for domestic insurers.

(4) To qualify for and maintain authority to transact insurance in this state an alien insurer shall maintain deposits, including those required in subsection (3), with the state treasurer, with officers of states other than this state or with trustees resident in the United States or with any combination of such persons, under trust indentures approved by the commissioner. The insurer shall cause the persons holding the deposits to make to the insurance regulatory authority of the state through which the insurer entered to transact insurance in the United States a report, under oath on or before March 1 of each year, of the insurer's deposits as of December 31 of the preceding year. The deposits shall be in cash or in securities of the kinds described in sections 910 to 947 and shall satisfy the following conditions:

(a) The deposits shall be not less than the amount of liabilities with respect to the insurer's business in the United States.

(b) The deposits, if the insurer is a life insurer, shall be held for the benefit of policyholders who were residents of the United States on the date of issuance of the policy and for the benefit of creditors of the insurer within the United States.

(c) The deposits, if the insurer is not a life insurer, shall be held for the benefit of policyholders and creditors within the United States.

(d) The securities deposited under this subsection shall be valued and limited in accordance with section 901.

**History:** Add. 1972, Act 360, Imd. Eff. Jan. 9, 1973;—Am. 1982, Act 338, Imd. Eff. Dec. 17, 1982;—Am. 1986, Act 321, Imd. Eff. Dec. 26, 1986;—Am. 1992, Act 2, Imd. Eff. Jan. 31, 1992;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Popular name:** Act 218

#### **500.412 Procedure for becoming domestic insurer.**

Sec. 412. (1) An insurer organized under the laws of any other state and admitted to do business in this state for the purpose of writing insurance may become a domestic insurer by complying with all of the requirements of law relative to the organization and licensing of a domestic insurer of the same type and by designating its principal place of business at a place in this state.

(2) An insurer who complies with subsection (1) shall be entitled to domestic insurer certificates and licenses to transact business in this state and shall be subject to the authority and jurisdiction of this state.

**History:** Add. 1989, Act 92, Imd. Eff. June 20, 1989.

**Compiler's note:** Former MCL 500.412, which pertained to deposits required to transact insurance business, was repealed by Act 137 of 1966, Eff. Mar. 10, 1967.

**Popular name:** Act 218

#### **500.413 Transfer of domicile of domestic insurer to another state; effect of transfer; approval of transfer; "U.S. branch" defined.**

Sec. 413. (1) Upon the approval of the commissioner, a domestic insurer may transfer its domicile to any other state in which it is admitted to transact the business of insurance, and upon the transfer shall cease to be a domestic insurer but shall be admitted to this state if qualified as a foreign insurer. The commissioner shall approve a proposed transfer unless he or she determines the transfer is not in the interest of the policyholders of this state. For purposes of this section, an alien insurer using this state as a state of entry to transact insurance in the United States through a U.S. branch is considered to be a domestic insurer.

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

**History:** Add. 1989, Act 92, Imd. Eff. June 20, 1989;—Am. 1994, Act 227, Imd. Eff. June 27, 1994.

**Compiler's note:** Former MCL 500.413, which pertained to deposits required to transact insurance business, was repealed by Act 137 of 1966, Eff. Mar. 10, 1967;—Am. 1994, Act 227, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

**500.414 Certificate of authority, agent's appointments, licenses, rates, and other items of transferring insurer continue in full force and effect; outstanding policies remain in full force and effect; filing new or existing policy forms; notice of proposed transfer; filing amendments to corporate documents.**

Sec. 414. The certificate of authority, agent's appointments, licenses, rates, and other items which the commissioner allows, in his or her discretion, which are in existence at the time an insurer licensed to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation, or any other lawful method shall continue in full force and effect upon the transfer if the insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of a transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the company or its new location unless so ordered by the commissioner. Each transferring insurer shall file new policy forms with the commissioner on or before the effective date of the transfer, but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the commissioner. Each transferring insurer shall notify the commissioner of the details of the proposed transfer and shall file promptly any resulting amendments to corporate documents filed or required to be filed with the commissioner.

**History:** Add. 1989, Act 92, Imd. Eff. June 20, 1989.

**Compiler's note:** Former MCL 500.414, which pertained to deposits required to transact insurance business, was repealed by Act 137 of 1966, Eff. Mar. 10, 1967.

**Popular name:** Act 218

**500.415 Rules.**

Sec. 415. The commissioner shall promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, to carry out the purposes of sections 412 to 414.

**History:** Add. 1989, Act 92, Imd. Eff. June 20, 1989.

**Compiler's note:** Former MCL 500.415, which pertained to deposits required to transact insurance business, was repealed by Act 137 of 1966, Eff. Mar. 10, 1967.

**Popular name:** Act 218

**500.416 Special deposit.**

Sec. 416. As a condition of qualifying for and maintaining authority to transact insurance in this state or for qualifying as an eligible unauthorized insurer, the commissioner may require an insurer to maintain a special deposit with the state treasurer in such amount as the commissioner considers necessary for the protection of Michigan policyholders and claimants. The special deposit is subject to special deposit claims pursuant to section 8141a.

**History:** Add. 1989, Act 302, Imd. Eff. Jan. 3, 1990;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Compiler's note:** Former MCL 500.416, which pertained to deposits required to transact business was repealed by Act 360 of 1972, Imd. Eff. Jan. 9, 1973.

**Popular name:** Act 218

**500.417 Repealed. 1966, Act 137, Eff. Mar. 10, 1967.**

**Compiler's note:** The repealed section made provisions of code pertaining to stock life insurers relative to deposit of securities governing domestic automobile insurers.

**Popular name:** Act 218

**500.418 Identification of payers subject to child support arrearages; "title IV-D agency" defined.**

Sec. 418. (1) An insurer may voluntarily cooperate with a title IV-D agency and the child support lien network in identifying payers subject to child support arrearages who may be entitled to money to be paid under a liability insurance policy or the liability coverage portion of a multiperil insurance policy.

(2) As used in this section, "title IV-D agency" means that term as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

**History:** Add. 2004, Act 482, Imd. Eff. Dec. 28, 2004.

**Compiler's note:** Former MCL 500.418, which pertained to deposits required to transact insurance business, was repealed by Act 360 of 1972, Eff. Jan. 9, 1973.

**Popular name:** Act 218

#### **500.422 Repealed. 1994, Act 226, Imd. Eff. June 27, 1994.**

**Compiler's note:** The repealed section pertained to competition agreements by foreign or alien fire, marine, or inland insurers.

**Popular name:** Act 218

#### **500.424 Admission of foreign or alien insurer to state; application; report of financial standing; issuance of certificate of authority; filing fees.**

Sec. 424. (1) A foreign or alien insurer shall not be admitted to this state until the insurer files with the commissioner an application for admission upon a form as prescribed by the commissioner. The application shall be accompanied by a copy of the insurer's charter, compact, or articles of incorporation or agreement, and bylaws, duly certified by the commissioner of insurance or corresponding officer of the state of origin or entry, together with a sworn statement of the insurer's business affairs up to any date required by the commissioner to be furnished and any other information, under oath or otherwise, that the commissioner may demand of the applicant.

(2) In addition to subsection (1), an alien insurer shall make and execute under oath a report of its financial standing and of its deposit together with a full statement of its business in the United States for the year preceding the statement pursuant to section 438.

(3) The commissioner shall examine the application and if satisfied that the applicant is safe, reliable, and entitled to public confidence and meets the same financial conditions required of like insurers organized in this state, is authorized to do the kind or class of insurance it seeks to transact, and has complied in all other respects with the applicable laws of this state, the commissioner shall issue a certificate of authority to the applicant.

(4) The applicant shall pay the filing fees as provided by sections 223 and 240.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1972, Act 360, Imd. Eff. Jan. 9, 1973;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Popular name:** Act 218

#### **500.425, 500.426 Repealed. 1992, Act 182, Imd. Eff. Oct. 1, 1992.**

**Compiler's note:** The repealed sections pertained to admission of foreign mutual insurers to doing business and to application by foreign reciprocal insurer for application for certificate of authority to transact business.

**Popular name:** Act 218

#### **500.430 Repealed. 1992, Act 182, Imd. Eff. Oct. 1, 1992.**

**Compiler's note:** The repealed section pertained to a foreign or alien life or sickness and accident insurer on cooperative assessment plan.

**Popular name:** Act 218

#### **500.431 Definitions.**

Sec. 431. As used in sections 432 through 434:

(a) "Claimant" means any person or entity, supervisor, receiver, liquidator, rehabilitator, or conservator appointed for an alien insurer, and any guaranty association responsible for the payment of claims against the insurer, who has claims for costs and expenses of investigation or supervision pursuant to section 8109(11) or for receivership, liquidation, or payments of policyholders' claims.

(b) "Policy" means either of the following:

(i) Any contract of insurance or any agreement containing a covenant to insure that an alien insurer may be authorized to issue in any state and that is made by an alien insurer and delivered in or issued for delivery in the United States to any person resident in the United States at the time of issue, including any life insurance contract, annuity contract, disability insurance contract, guaranteed investment contract, reinsurance contract, and any contract issued on the maturity of and pursuant to any of the previously listed contracts, but excluding any contract, agreement, or portion of a contract or agreement either not guaranteed by an alien insurer or under which the risk is borne by the policyholder or claimant or where the recourse of policyholders or claimants for claims is limited to separate accounts.

(ii) For separate accounts, any group annuity or deposit contract or any other contract that an alien insurer is authorized to issue in any state, made by an alien insurer and delivered in or issued for delivery in the United States to any person resident in the United States at the time of issue that provides the right to allocate amounts to a particular trust as a separate account, including any contract issued on the maturity of and

pursuant to a group annuity or deposit contract or any other contract that an alien insurer is authorized to issue in any state.

(c) "Policyholder" means the owner of, the certificate holder under, or the beneficiary under, a policy, including any other insurer if an alien insurer has issued to that insurer a reinsurance contract, and any pledgee, assignee, or other creditor having a security interest in the obligation arising out of a policy.

(d) "Qualified United States financial institution" means a state or nationally chartered bank or trust company, organized under the laws of any state or of the United States that has been granted authority to operate with fiduciary powers.

(e) "U.S. branch" means the business unit through which insurance is transacted within the United States by an alien insurer and the assets and liabilities of the insurer within the United States.

**History:** Add. 1994, Act 227, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

#### **500.431a State of entry by alien insurer through U.S. branch; requirements.**

Sec. 431a. (1) An alien insurer may use this state as a state of entry to transact insurance in the United States through a U.S. branch by qualifying as an insurer licensed to do business in this state and establishing a trust account pursuant to a trust agreement approved by the commissioner with a qualified United States financial institution approved by the commissioner, in an amount at least equal to the amount required by section 431c. With the prior approval of the commissioner, an alien insurer may establish more than 1 trust account pursuant to 1 or more trust agreements, provided that the aggregate of all amounts held in such trust accounts is at least equal to the amount required by section 431c.

(2) Before authorizing the entry through this state of a U.S. branch of an alien insurer, the commissioner shall require the alien insurer to do all of the following:

(a) Submit a copy of the proposed trust indenture for the commissioner's approval.

(b) Submit a copy of its charter, any current bylaws, and any other documents necessary to show the kinds of business that it is authorized to do in its domiciliary jurisdiction, attested to as accurate and complete by the insurance supervisory official in its domiciliary jurisdiction.

(c) Submit a full statement, subscribed and affirmed as true under the penalties of perjury by 2 officers or equivalent responsible representatives in such manner as the commissioner prescribes, of its financial condition as of the close of its latest fiscal year, showing its assets, liabilities, income, disbursements, business transacted, and other facts required to be shown in its annual statement, as reported to the insurance supervisory official in its domiciliary jurisdiction, together with an English language translation, as necessary, of any of the documents required.

(d) Submit to an examination of the insurer's affairs at its principal office within the United States unless the commissioner instead accepts a report of the insurance supervisory official of the insurer's domiciliary jurisdiction.

**History:** Add. 1994, Act 227, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

#### **500.431b U.S. branch using state as state of entry to transact insurance; compliance.**

Sec. 431b. A U.S. branch using this state as a state of entry to transact insurance in the United States is subject to all laws applicable to an insurer domiciled in this state except as otherwise provided. A U.S. branch using this state as a state of entry to transact insurance in the United States shall comply with all of the following requirements:

(a) Provide the commissioner, at intervals and in such form as the commissioner may require, having stated the reason for the requirement, with complete and accurate copies, current to within 10 days, of any of its books, records, and files requested by the commissioner, including all of the following:

(i) Corporate accounting records.

(ii) Records of its securities, notes, mortgages, and other evidences of indebtedness, representing investment of funds.

(iii) Minutes of meetings and resolutions of the board of directors, any committee of the board of directors, and the audit committee.

(iv) Records of current premium billing and collection processing and active claims inventory.

(v) Records of all policies held by policyholders of the U.S. branch, including policy type, amount of reserve, riders, dividend accumulation, unit values, endowment, and policy loan balances.

(b) Upon the commissioner's request, provide the commissioner, for the commissioner's regulatory use, with appropriate waivers for the commissioner concerning rights in the information, including copyright or goodwill, information, manuals, and documentation sufficient for regulatory purposes concerning the

computer system and software through which the insurer maintains its books, records, and files for its business in the United States.

(c) Upon the commissioner's request, obtain for the commissioner the right to use, at no additional charge, the computer software employed to maintain the books, records, and files listed in subdivision (a). This right of use shall be irrevocable and unconditional and shall include all revisions and upgrades, notwithstanding the insolvency or reorganization of the insurer.

(d) Arrange for testing to the commissioner's reasonable satisfaction of the processing of copies of the books, records, and files of the insurer listed in subdivision (a). This testing shall be performed annually or more frequently if requested by the commissioner at the office of the commissioner or at a business office of the insurer where such testing may take place at reasonable cost to the insurer.

**History:** Add. 1994, Act 227, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

#### **500.431c Trusteed assets; value.**

Sec. 431c. The assets in the trust accounts shall be known as trustee assets. The total value of trustee assets shall at all times be at least equal to the sum of the U.S. branch's reserves and other liabilities, the minimum capital and surplus required to be maintained by section 410, and any additional amounts considered necessary by the commissioner. The trustee assets shall be valued and limited in accordance with section 901.

**History:** Add. 1994, Act 227, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

#### **500.432 Trust agreement and amendments; authentication; withdrawal of approval; form; hearing; modifications or variations; contents and provisions of trust agreement; withdrawal of trustee assets in another state; notice; examination by commissioner; effect of refusal or neglect to comply with subsection (8); review.**

Sec. 432. (1) The trust agreement and all amendments to the trust agreement shall be authenticated in a form and manner prescribed by the commissioner and shall not be effective unless approved by the commissioner upon a finding of all of the following:

- (a) That the trust agreement or its amendments are sufficient in form and in conformity with law.
- (b) That the trustee or trustees are eligible to be trustees.
- (c) That the trust agreement is adequate to protect the interests of the beneficiaries of the trust.

(2) If at any time the commissioner finds after reasonable notice and hearing that the trust agreement no longer meets the requirements of subsection (1), the commissioner may withdraw approval of the trust agreement. The withdrawal of approval shall be in the form of a final order or decision and shall clearly set forth the findings and the reasons for the withdrawal of approval. A hearing under this subsection is not subject to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(3) The commissioner may from time to time approve modifications of or variations in any trust agreement that in the commissioner's judgment are not prejudicial to the interests of the people of this state or the United States and of policyholders and claimants of the U.S. branch.

(4) The trust agreement shall contain all of the following:

- (a) The vesting of legal title to trustee assets in a trustee and its lawfully appointed successors.
- (b) A requirement that, except with the approval of the commissioner for assets held in custodial or similar accounts, all assets deposited in the trust shall be continuously kept within the United States.
- (c) Provisions for substitution of a new trustee in case of a vacancy subject to the commissioner's approval.
- (d) A requirement that the trustee shall continuously maintain a record at all times sufficient to identify the trust's assets.

(e) A requirement that the trustee assets shall consist of cash or investments eligible for investment of the funds of domestic insurers and accrued interest on those assets if collectible by the trustee.

(f) A requirement that the trust shall be for the exclusive benefit, security, and protection of the policyholders and claimants of the U.S. branch and that it shall be maintained as long as there is outstanding any liability of the alien insurer arising out of its insurance transactions in the United States.

(g) A provision that no withdrawals of assets, other than income as specified in subsection (5), shall be made or permitted by the trustee without the commissioner's approval except to do the following:

(i) Substitute other assets permitted by law and at least equal in value and quality to those withdrawn, upon the specific written direction of the United States manager when duly empowered and acting pursuant to either general or specific written authority previously given or delegated by the board of directors. Substituted

assets are of the same quality if, for securities, they are rated "BBB" or above by Moody's or Standard & Poor's or are rated category 1 or 2 by the national association of insurance commissioners or, for other assets, are not in arrears, were acquired by the alien insurer in an arm's length transaction from an unaffiliated third party within 30 days prior to the substitution and, for interests in mortgages, the mortgages comply with section 942.

(ii) If the income of the trust is not paid over as specified in subsection (5), pay liabilities of the insurer to a policyholder or in satisfaction of a contractual provision in a policy, provided that the total trusted assets are not thereby less than the amount required to be maintained pursuant to section 431c.

(iii) Transfer assets to an official liquidator or rehabilitator pursuant to an order of a court of competent jurisdiction.

(h) A provision that withdrawals of assets shall be made or permitted by the trustee only with the commissioner's approval and only if a deposit is required by law in any state for the security or benefit of all policyholders, or policyholders and claimants, of the U.S. branch in the United States.

(5) The trust agreement may provide that income, earnings, dividends, or interest accumulations of the fund's assets may be paid over to the United States manager of the U.S. branch upon request, provided that the total trusted assets are not thereby less than the amount required to be maintained pursuant to section 431c.

(6) Upon withdrawal of trusted assets deposited in another state in which the insurer is authorized to do business, it is sufficient if the trust agreement requires similar written approval of the insurance supervising official of that state in lieu of approval by the commissioner provided that the total trusted assets are not thereby less than the amount required to be maintained pursuant to section 431c.

(7) For all withdrawals, the U.S. branch shall give the commissioner at least 15 days' prior notice in writing of the nature and extent of the proposed withdrawal. For a withdrawal due to overfunding, it shall be considered that the commissioner has approved the withdrawal in either of the following cases:

(a) The commissioner has not responded to the request in any manner within 15 days after receipt of the notice.

(b) After the U.S. branch has replied to any request by the commissioner for further information concerning the proposed withdrawal, the commissioner does not respond further in any manner within 15 days after receipt of the reply.

(8) The commissioner may make examinations from time to time of the trusted assets of any authorized U.S. branch and may require the trustee to file a statement, in such form as the commissioner may prescribe, certifying the trust fund's assets and amount.

(9) Refusal or neglect of any trustee to comply with the requirements of subsection (8) is grounds for injunctive relief and other remedies including suspension, limitation, or revocation of the insurer's license, liquidation of its U.S. branch, or the trustee's removal. If removal occurs prior to the appointment of a new trustee, the trusted assets shall be deposited with the commissioner or as the commissioner directs. Failure of any trustee to comply with the other requirements of this section is grounds for suspension, limitation, or revocation of the insurer's license or the liquidation of its U.S. branch.

(10) Within 90 days after the effective date of this section, the commissioner shall inform each U.S. branch that the trust agreement in force on that date to which the U.S. branch is party is subject to review by the commissioner and the approximate date of the review. Following the review, the commissioner shall inform the relevant U.S. branch in a written notice of any deficiencies in its trust agreements. The U.S. branch shall amend or replace its trust agreement in accordance with this amendatory act within 30 days after receiving the notice from the commissioner.

**History:** Add. 1994, Act 227, Imd. Eff. June 27, 1994.

**Compiler's note:** Former MCL 500.432, which pertained to the continuation of certificate of authority, was repealed by Act 360 of 1972, Imd. Eff. Jan. 9, 1973.

**Popular name:** Act 218

### **500.432a Certificate of authority to do business; issuance or amendment to U.S. branch; proof that insurer will not violate act or charter; noncompliance.**

Sec. 432a. (1) Before issuing or amending a certificate of authority to do business to any U.S. branch, the commissioner may require satisfactory proof, either in the alien insurer's charter or by an agreement evidenced by a duly certified resolution of its board of directors or otherwise as the commissioner requires, that the insurer will not engage in any insurance business that violates this act or that is not authorized by its charter.

(2) A U.S. branch that does outside of this state any kind or combination of kinds of insurance business not permitted to be done in this state by similar domestic insurers hereafter organized, shall not be or continue to be authorized to do any insurance business in this state, unless in the commissioner's judgment the doing of

those kinds of insurance outside of this state will not be prejudicial to the best interests of the residents of this state.

(3) Except as otherwise specifically provided, a U.S. branch, entering through this state or another state, shall not be or continue to be authorized to do the business of insurance in this state if it fails to comply substantially with any requirement or limitation of this act applicable to similar domestic insurers hereafter organized that in the judgment of the commissioner is reasonably necessary to protect the interest of the policyholders.

**History:** Add. 1994, Act 227, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

#### **500.433 Trusteed assets below minimum required; proceeding against alien insurer.**

Sec. 433. If it appears to the commissioner from any annual or quarterly statement or any other report that a U.S. branch's trusteed assets are below the minimum required to be maintained pursuant to section 431c, the commissioner may proceed against the alien insurer pursuant to the provisions of chapter 81 as an insurer whose condition no longer meets the requirements of section 403.

**History:** Add. 1994, Act 227, Imd. Eff. June 27, 1994.

**Popular name:** Act 218

#### **500.434 Repealed. 1972, Act 360, Imd. Eff. Jan. 9, 1973.**

**Compiler's note:** The repealed section pertained to grounds for revocation of certificates of authority.

**Popular name:** Act 218

#### **500.435 Certificate of authority as evidence of authority to transact insurance; duration of certificate; certificate as property of state; prerequisites to termination of certificate.**

Sec. 435. (1) The certificate of authority issued by the commissioner to an insurer is evidence of its authority to transact the kind or kinds of insurance specified in the certificate in this state.

(2) A certificate of authority shall remain in force until terminated at the request of the insurer or suspended or revoked by the commissioner.

(3) A certificate of authority at all times remains the property of the state. Upon termination at the request of the insurer or revocation by the commissioner, the certificate of authority shall be delivered promptly by the insurer to the commissioner.

(4) The commissioner shall not grant the request of an insurer to terminate its certificate of authority as long as the insurer has any obligations outstanding under a policy of insurance to policyholders or claimants who are residents of this state unless either of the following occurs:

(a) The insurer has deposited with the state treasurer securities acceptable to the commissioner in an amount equal to its liabilities including its reserves as required by this act in respect to its business in this state, as computed by the commissioner, for the sole benefit of its policyholders and creditors resident in this state. The deposits shall be held by the state treasurer and administered as directed by section 464.

(b) The insurer has made other provisions satisfactory to the commissioner to secure obligations to Michigan policyholders or claimants.

**History:** Add. 1972, Act 360, Imd. Eff. Jan. 9, 1973;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Popular name:** Act 218

#### **500.436 Conditions for suspension, revocation, or limitation of certificate of authority; "insurer" defined.**

Sec. 436. (1) The director may suspend, revoke, or limit the certificate of authority of an insurer if he or she determines that any of the following conditions exist:

(a) The insurer no longer meets the requirements of this act respecting capital, surplus, deposits, or assets.

(b) The insurer's condition is such that it is no longer safe, reliable, or entitled to public confidence or is unsound, or the insurer is using financial methods and practices in the conduct of its business that render further transaction of insurance by the insurer in this state hazardous to policyholders, creditors, or the public.

(c) The insurer's certificate of authority to transact business in its state of domicile, or in the case of an alien insurer, in its state of entry, has been suspended or revoked.

(d) The insurer has failed, after written request by the director, to remove or discharge an officer or director whose record of business conduct does not satisfy the requirements of section 436a(1)(k) or 1315(1)(f) or who has been convicted of any crime involving fraud, dishonesty, or like moral turpitude.

(e) The insurer fails to promptly comply with sections 222 or 438.

(f) The insurer has failed for an unreasonable period to pay any final judgment rendered against it in this

state on any policy, bond, recognizance, or undertaking issued or guaranteed by it.

(g) The insurer has failed, within 30 days after notice of delinquency from the director, to cure its failure to pay the taxes, fees, assessments, or expenses required by this act.

(h) The insurer has violated any other provision of this act that provides for suspension or revocation of its certificate of authority.

(2) As used in this section, "insurer" includes a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373.

**History:** Add. 1972, Act 360, Imd. Eff. Jan. 9, 1973;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

**Popular name:** Act 218

**500.436a Continuing operation of insurer transacting insurance in state or nonprofit dental corporation operating under MCL 550.351 to 550.373; standards; subscription to private rating organization not required; determination of financial condition; issuance of order by director; hearing requested by insurer.**

Sec. 436a. (1) In addition to any other relevant standards, the director may consider 1 or more of the following to determine whether the continued operation of an insurer transacting an insurance business in this state or a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373, is safe, reliable, and entitled to public confidence or is considered hazardous to policyholders, creditors, or the public:

(a) Affirmative or adverse findings reported in financial condition and market conduct examination reports.

(b) The National Association of Insurance Commissioners' insurance regulatory information system and its related reports.

(c) Whether the ratios of commission expense, general insurance expense, policy benefits, and reserve increases as to annual premium and net investment income could likely lead to an impairment of capital and surplus.

(d) Whether the insurer's asset portfolio, when viewed in light of current economic conditions, is of sufficient value, liquidity, or diversity to assure the insurer's ability to meet its outstanding obligations as they mature.

(e) Whether the ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the insurer's remaining surplus after taking into account the insurer's cash flow, the classes of business written, and the financial condition of the assuming reinsurer.

(f) The insurer's operating loss in the last 12-month period or any shorter period of time, including, but not limited to, net capital gain or loss, change in assets, and cash dividends paid to shareholders, in relation to the insurer's remaining capital and surplus in excess of the amount required to comply with section 403.

(g) Whether any affiliate, subsidiary, or reinsurer is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligation.

(h) Contingent liabilities, pledges, or guaranties that either individually or collectively involve a total amount that in the director's opinion may affect the insurer's solvency.

(i) Whether any controlling person of an insurer is delinquent in transmitting or the payment of net premiums to the insurer or has caused the insurer to divert assets, make investments, or assume liabilities with respect to the affiliates of the insurer that have had a material adverse effect on the insurer's financial solidity.

(j) The age and collectibility of receivables.

(k) Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of the insurer, possesses and demonstrates the competence, fitness, and character considered necessary to serve the insurer in such a position.

(l) Whether management of an insurer has failed to respond to inquiries relative to the insurer's condition or has furnished false and misleading information concerning an inquiry.

(m) Whether management of an insurer has filed a materially false or misleading financial statement, has released a materially false or misleading financial statement to lending institutions or to the general public, or has made a materially false or misleading entry or has omitted an entry of material amount in the insurer's books.

(n) Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to timely meet its obligations.

(o) Whether the insurer has experienced or will experience in the foreseeable future cash flow or liquidity problems.

(p) Subject to subsection (3), ratings and rating reports concerning the insurer from rating organizations that meet all of the following requirements:

(i) Are registered under the investment advisors act of 1940, 15 USC 80b-1 to 80b-21.

- (ii) Have adequate training, supervision, and continuing education for its analysts.
- (iii) Make a determination as to whether the company being rated has the ability to service and repay its debts.
- (iv) Assign a credit committee to each rated company, members of which are changed annually.
- (v) Give rated companies a right of appeal as to the rating received prior to publication.
- (vi) Maintain continuous monitoring as to the rating in the event of significant developments.
- (vii) Maintain an employee code of ethics and an internal procedure to prevent misuse of information, such as a prohibition against conflict of interest.
- (q) Whether the insurer demonstrates material adverse deviations from industry averages with respect to significant indicators of financial solidity such as leverage, liquidity, profitability, reinsurance, investment risk, and reserve adequacy.
- (r) The extent to which the insurer meets standards of financial solidity such as risk based capital requirements as developed by organizations with recognized expertise in evaluating the financial condition of insurers such as the National Association of Insurance Commissioners.
- (s) The size of the insurer as measured by its assets, capital and surplus reserves, premium writings, insurance in force, and other appropriate criteria.
- (t) The extent to which the insurer's business is diversified among the several lines of insurance, the number and size of risks insured in each line of business, and the extent of the geographical dispersion of the insurer's insured risks.
- (u) The nature and extent of the insurer's reinsurance program.
- (v) The quality, diversification, and liquidity of the insurer's investment portfolio.
- (w) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders and the surplus as regards policyholders maintained by other comparable insurers.
- (x) The adequacy of the insurer's reserves.
- (y) The quality and liquidity of investments in affiliates.
- (z) Compliance by the insurer with section 901.
- (2) For purposes of the standards set forth in subsection (1), the director may consider a nonprofit dental care corporation in the same manner as an insurer.
- (3) The director shall not require an insurer to subscribe to a private rating organization.
- (4) The director may do any of the following in making a determination of an insurer's financial condition under this section:
  - (a) Disregard any credit or amount receivable resulting from transactions with a reinsurer that has totally ceased writing new business or that is insolvent, impaired, or otherwise subject to a delinquency proceeding.
  - (b) Make appropriate adjustments including disallowance to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates.
  - (c) Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the account's age or the debtor's financial condition.
  - (d) Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken.
- (5) If the director determines that an insurer authorized to transact business in this state has ceased to be safe, reliable, and entitled to public confidence or that the insurer's continued operation may be hazardous to policyholders, creditors, or the public, the director, in addition to his or her authority under section 437 and chapter 81, may issue an order requiring the insurer to do any of the following:
  - (a) Reduce the total amount of present and potential liability for policy benefits by sound reinsurance transactions approved by the director.
  - (b) Reduce, suspend, or limit the volume of business being accepted or renewed.
  - (c) Reduce general insurance and commission expenses by specified methods.
  - (d) Increase the insurer's capital and surplus.
  - (e) Suspend or limit the declaration and payment of dividends by an insurer to its stockholders or to its policyholders.
  - (f) File reports in a form acceptable to the director concerning the market value of an insurer's assets.
  - (g) Limit or withdraw from certain investments or discontinue certain investment practices.
  - (h) Document the adequacy of premium rates in relation to the risks insured.
  - (i) File, in addition to regular annual statements, interim financial reports on the form or in the format promulgated by the director.
  - (j) Correct corporate governance practice deficiencies and adopt and use governance practices that are acceptable to the director.

(6) An insurer subject to an order under subsection (5) may request a hearing as in a contested case pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to review the order. The notice of hearing must be served on the insurer and state the time and place of hearing and the conduct, conditions, or grounds on which the director based the order. Unless mutually agreed between the director and the insurer, the hearing must occur not less than 10 days or more than 30 days after notice is served. The director shall hold all hearings under this subsection privately unless the insurer requests a public hearing, in which case the hearing must be public.

**History:** Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

**Popular name:** Act 218

#### **500.436b Certificate of authority limited by order of commissioner.**

Sec. 436b. If the commissioner finds on the basis of appropriate investigation and public hearings that a type of insurance or a subset of a type of insurance or of other contracts entered into by insurers authorized to do business in this state present a degree of risk or hazard to the insurer not adequately taken into account by insurance accounting techniques or normal methods of measuring insurance or other contractual risk, the commissioner may conclude that only those authorized insurers possessed of a sufficient degree of financial strength, measured by relevant methods, techniques, analysis, rating systems, and other appropriate financial standards uniformly applied, may engage with safety to policyholders, creditors, or the public in assuming obligations of such a type or subset of a type of insurance or other contracts. In these circumstances, the commissioner may limit by appropriate order the certificate of authority of an insurer that does not possess such a sufficient degree of financial strength so as to preclude prospectively the authority of the insurer to engage in assuming obligations in this state of such a type or subset of a type of insurance or other contracts.

**History:** Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Popular name:** Act 218

#### **500.437 Proceeding for suspension, revocation, or limitation of certificate of authority; notice; imposition of conditions in order of limitation.**

Sec. 437. (1) A proceeding to suspend, revoke, or limit an insurer's certificate of authority shall be initiated by the commissioner by granting the insurer an opportunity to show compliance with all lawful requirements as provided under section 92 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.292 of the Michigan Compiled Laws. If the commissioner subsequently determines pursuant to section 436 to suspend, revoke, or limit the insurer's certificate of authority, the determination and the reasons for the determination shall be stated in the order of suspension, revocation, or limitation.

(2) The insurer aggrieved by the commissioner's determination and order issued under section 436 shall be entitled to a contested case hearing pursuant to Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. During the pendency of the contested case proceeding, the commissioner's order shall remain in effect, except as modified by the commissioner or as stayed by a court pursuant to section 244.

(3) The commissioner's order and determination may be confirmed or modified by the commissioner as the result of a contested case hearing and shall be the final decision or order in the contested case.

(4) Upon suspension, revocation, or limitation of an insurer's certificate of authority, if the commissioner considers it necessary or desirable for the protection of the public, he or she may mail notice of the action to the insurer's agents and publish notice of the suspension, revocation, or limitation in 1 or more newspapers of general circulation in the state.

(5) The commissioner's order of limitation may restrict the solicitation of new business within the state, may restrict the renewal of business in force within the state, may require the reinsurance of business in force within the state and, if reinsurance is not effected within 30 days after the order requiring reinsurance is issued, may require cancellation of business in force within the state and may impose such other conditions to continued authorization as are reasonably necessary to protect policyholders, creditors, and the public.

**History:** Add. 1972, Act 360, Imd. Eff. Jan. 9, 1973;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Popular name:** Act 218

#### **500.438 Annual statement; filing; extensions; format and content; reply to inquiries; availability of report to public; penalty for failure to file statement or reply to inquiry; statement of alien insurer; "U.S. branch" defined.**

Sec. 438. (1) An insurer, foreign, alien, U.S. branch, or domestic, transacting business within this state, shall annually, on or before March 1, prepare under oath and deposit with the director a statement concerning

its affairs in a form and manner as prescribed by the director. The annual statement must be filed on or before March 1 of the year following that covered by the statement. On request and for good cause shown, the director may grant to a company reasonable extensions of the March 1 filing date for periods not to exceed 30 days.

(2) The director shall prescribe the format and content of statements that are suitable and adaptable to each kind of insurer authorized by this act. The director shall include requests for information on important elements of an insurer's business, including any matter, condition, or requirement regulated by this act. An annual statement filed by an insurer under this section must be prepared in accordance with instructions provided by, and accounting practices and procedures designated by, the director.

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

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

(5) An authorized insurer that does not make or deposit the annual statement required by this section, or does not reply within 30 days to an inquiry of the director, is subject to a civil penalty of not less than \$1,000.00 or more than \$5,000.00, and an additional \$50.00 for every day that the insurer does not make and deposit the annual statement or reply to the inquiry. In addition, an insurer that does not make and deposit an annual statement, or does not make a satisfactory reply to an inquiry of the director, concerning the insurer's affairs is subject to proceedings under section 436.

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

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

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1957, Act 91, Eff. Sept. 27, 1957;—Am. 1959, Act 39, Eff. Mar. 19, 1960;—Am. 1978, Act 506, Imd. Eff. Dec. 13, 1978;—Am. 1986, Act 173, Imd. Eff. July 7, 1986;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 227, Imd. Eff. June 27, 1994;—Am. 2016, Act 558, Eff. Apr. 10, 2017.

**Popular name:** Act 218

#### **500.438a Domestic, foreign, and alien insurers; filing annual statement with national association of insurance commissioners; foreign insurers considered in compliance with section; agents of commissioner; confidentiality of information.**

Sec. 438a. (1) Each domestic, foreign, and alien insurer authorized to transact insurance in this state shall file annually on or before March 1 of each year, with the national association of insurance commissioners a copy of its annual statement along with additional filings for the preceding year as prescribed by the commissioner. The information filed with the national association of insurance commissioners shall be in the same format and scope as that required by the commissioner and shall include the signed jurat page and any actuarial certification. An amendment or addendum to the annual statement filing subsequently filed with the commissioner shall also be filed with the national association of insurance commissioners.

(2) A foreign insurer that is domiciled in a state that has a law substantially similar to subsection (1) shall be considered in compliance with this section.

(3) In the absence of actual malice, members of the national association of insurance commissioners, their duly authorized committees, subcommittees, and task forces, their delegates, national association of insurance commissioners employees, and all others charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of an annual statement shall be acting as the commissioner's agents under the authority of this act and shall not be subject to civil liability for libel, slander, or any other cause of action because of their collection, review, and analysis or dissemination of the data and information collected from the filings.

(4) All financial analysis ratios and examination synopses concerning insurers that are submitted to the commissioner by the national association of insurance commissioners' insurance regulatory information system are confidential and may not be disclosed by the commissioner or those acting under the commissioner's authority.

**History:** Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992.

**Popular name:** Act 218

#### **500.439 Repealed. 1992, Act 182, Imd. Eff. Oct. 1, 1992.**

**Compiler's note:** The repealed section pertained to reciprocal insurers, annual report, and fee.

**Popular name:** Act 218

#### **500.440 Repealed. 1987, Act 261, Imd. Eff. Dec. 28, 1987.**

**Compiler's note:** The repealed section pertained to specific premium tax on business written by foreign insurer.

**Popular name:** Act 218

#### **500.440a Credit against tax imposed by MCL 500.476a; claim; refund; retroactive application.**

Sec. 440a. (1) Beginning August 3, 1987, an insurer that is subject to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may credit against the tax imposed by section 476a an amount equal to the amount paid during that tax year by the insurer under section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by the director of the bureau of worker's disability compensation under section 391 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.391.

(2) The credit under this section shall be claimed in the manner prescribed by the revenue commissioner.

(3) A taxpayer claiming a credit under this section shall claim a portion of the credit allowed by this section equal to the payments made during a calendar quarter pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, against the quarterly payments required under section 443. The state treasurer shall refund a credit in excess of a quarterly payment to the taxpayer on a quarterly basis within 60 days after receipt of a properly completed quarterly filing as required by this act. A subsequent increase or decrease in the amount claimed for payments made by the insurer or self-insurer shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(4) Except as otherwise provided in this subsection, the state treasurer shall refund, without interest, a credit under this section that is in excess of the insurer's tax liability for the calendar year to the insurer within 60 days after receipt of a properly completed annual tax return as required by this act. The state treasurer shall only make a refund to an insurer whose tax liability or fee amount under this act is greater than its tax liability under the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(5) This section shall be applied retroactively to August 3, 1987.

**History:** Add. 1990, Act 256, Imd. Eff. Oct. 15, 1990;—Am. 2007, Act 187, Imd. Eff. Dec. 21, 2007.

**Compiler's note:** Former MCL 500.440a, which pertained to credit against premium tax by foreign insurer, was repealed by Act 261 of 1987, Imd. Eff. Dec. 28, 1987.

**Popular name:** Act 218

#### **500.441, 500.442 Repealed. 1987, Act 261, Imd. Eff. Dec. 28, 1987.**

**Compiler's note:** The repealed sections pertained to tax on premiums, deductions, and deposit premiums.

**Popular name:** Act 218

#### **500.443 Foreign insurer; payment of quarterly installments of estimated tax; filing statement with revenue commissioner.**

Sec. 443. (1) Before April 30, July 31, October 31, and January 31 of each year, each foreign insurer admitted to do insurance business in this state and subject to the tax prescribed in section 476a shall pay to the state treasurer, accompanied by forms prescribed by the revenue commissioner, quarterly installments of the insurer's total estimated tax for the current year. Failure of an insurer to make quarterly payments of at least 1/4 of either of the following shall subject the insurer to the penalty and interest prescribed in 1941 PA 122, MCL 205.1 to 205.31:

(a) If the preceding year's liability was \$20,000.00 or less, the total tax liability of the insurer for the previous calendar year. For purposes of this subdivision, an insurer's tax liability for the previous calendar year shall be considered to be the amount of tax imposed that year under section 476a or under the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, whichever is greater.

(b) Eighty-five percent of the actual tax liability of the insurer for the current calendar year.

(2) Annually before March 1, each insurer described in subsection (1) shall make and file with the revenue commissioner its statement showing all of the data necessary for computation of its taxes under this chapter, upon forms and including information that the revenue commissioner prescribes, and shall pay any additional amount due for the preceding calendar year. The failure to file the statement with the revenue commissioner does not excuse or relieve an insurer from the payment of the tax that is justly due.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1959, Act 37, Eff. Mar. 19, 1960;—Am. 1971, Act 54, Imd. Eff. June 30, 1971;—Am. 1981, Act 110, Imd. Eff. July 17, 1981;—Am. 1987, Act 261, Imd. Eff. Dec. 28, 1987;—Am. 1990, Act 256, Imd. Eff. Oct. 15,

1990;—Am. 2007, Act 187, Imd. Eff. Dec. 21, 2007.

**Popular name:** Act 218

#### **500.444 Collection of delinquent taxes with interest or penalty.**

Sec. 444. The taxes prescribed in this code may be collected, in case of delinquency, together with any interest or penalty on those taxes, by the revenue commissioner, out of money or by the sale of securities, deposited with the state treasurer by the delinquent insurer or if securities or money are not deposited, by an action in a court of competent jurisdiction as for the collection of a debt to the state. In such an action the computation of the revenue commissioner duly sworn to is prima facie evidence of the amount of the computation.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1959, Act 37, Eff. Mar. 19, 1960;—Am. 1967, Act 111, Eff. Nov. 2, 1967;—Am. 1971, Act 54, Imd. Eff. June 30, 1971;—Am. 1990, Act 256, Imd. Eff. Oct. 15, 1990.

**Popular name:** Act 218

#### **500.445 Delinquency as bar to granting certificate of authority.**

Sec. 445. A certificate of authority shall not be granted to an insurer or to its agents if the insurer is delinquent in the payment of the taxes or penalties prescribed in this chapter.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1967, Act 111, Eff. Nov. 2, 1967;—Am. 1971, Act 54, Imd. Eff. June 30, 1971;—Am. 1981, Act 110, Imd. Eff. July 17, 1981;—Am. 1990, Act 256, Imd. Eff. Oct. 15, 1990.

**Popular name:** Act 218

#### **500.446 Repealed. 1987, Act 261, Imd. Eff. Dec. 28, 1987.**

**Compiler's note:** The repealed section pertained to premium tax on foreign reciprocal insurer.

**Popular name:** Act 218

#### **500.448, 500.449 Repealed. 1975, Act 232, Eff. July 2, 1976.**

**Compiler's note:** The repealed sections pertained to privilege fees of domestic insurers.

**Popular name:** Act 218

#### **500.450 Repealed. 1987, Act 261, Imd. Eff. Dec. 28, 1987.**

**Compiler's note:** The repealed section pertained to penalty for delinquency in payment of privilege fee.

**Popular name:** Act 218

#### **500.451 Taxes on unauthorized insurers; regulatory fee; payment; delinquency.**

Sec. 451. Any unauthorized insurer transacting insurance in this state shall be subject to a tax of 2% of premiums written in this state and to an additional regulatory fee of 0.5% on premiums written in this state. The tax required by this section shall be considered delinquent if not paid within 30 days after a copy of the computation of the tax by the commissioner is delivered to the insurer in the manner prescribed by law for the service of process.

**History:** Add. 1967, Act 111, Eff. Nov. 2, 1967;—Am. 1987, Act 261, Imd. Eff. Dec. 28, 1987;—Am. 1994, Act 228, Imd. Eff. June 30, 1994.

**Popular name:** Act 218

#### **500.454 Name of insurer.**

Sec. 454. (1) Except as otherwise provided in this section, the department shall not authorize an insurer to do business in this state if its name is the same as or closely resembles the name of another insurer organized under or authorized to do business under the laws of this state. However, the department may authorize an insurer to do business in this state if it adds to its corporate name a word, abbreviation, or other distinctive and distinguishing element.

(2) The department shall issue a certificate of authority to an insurer in the name applied for, and the insurer shall use that name in all its dealings with the department and in the conduct of its affairs in this state. An insurer shall identify the incorporated name of the insurer in any document used or advertising offered in this state.

(3) The director may disapprove the use of a name of an insurer or health maintenance organization if the director determines that the name is deceptive or misleading.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1987, Act 168, Imd. Eff. Nov. 9, 1987;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

**Popular name:** Act 218

#### **500.456 Legal process served on resident agent effective as personal service on company,**

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**association, or group; stipulation; filing copy of appointment; fee; duration of appointment; service of process.**

Sec. 456. (1) Every insurance company, association, risk retention group, or purchasing group not organized under the statutes of this state shall file with the commissioner, as a condition precedent to doing business in this state, the name and address of a resident agent upon which any local process affecting the company, association, or group may be served. Service upon the resident agent designated under this section is service on the company, association, or group. This designation shall remain in force as long as any liability remains within this state.

(2) As a condition of doing business in this state, an unauthorized insurer who does not have a resident agent shall file with the commissioner an irrevocable written stipulation agreeing that any legal process affecting the company, association, or group that is served upon the commissioner or his or her designee has the same effect as if personally served upon the company, association, or group. A copy of the appointment shall be filed with the commissioner. Service upon the commissioner is service upon the company, association, or group and the fee for service is \$10.00 payable at time of service. This appointment remains in force as long as any liability remains within this state.

(3) Every insurance company not organized under the statutes of this state that provides a surety bond required or permitted under the laws of the United States shall irrevocably appoint the commissioner or his or her designee as the company's agent to receive service of process in any action in United States district court on the surety bond. Service upon the commissioner is service upon the company, and the commissioner may establish a reasonable fee, payable at the time of service, for the acceptance of service. Upon receipt of service of process, the commissioner or his or her designee shall forward the service of process to the resident agent designated under subsection (1). Service of process on the commissioner under this subsection only applies for a bond provided within this state and is in addition to and not in place of any other method of service authorized by law or court rule.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1981, Act 1, Imd. Eff. Mar. 30, 1981;—Am. 1989, Act 214, Eff. Jan. 1, 1990;—Am. 2002, Act 26, Imd. Eff. Mar. 6, 2002;—Am. 2002, Act 664, Eff. Mar. 31, 2003.

**Popular name:** Act 218

**500.457 Repealed. 1992, Act 182, Imd. Eff. Oct. 1, 1992.**

**Compiler's note:** The repealed section pertained to service of process on insurance commissioner.

**Popular name:** Act 218

**500.460 Insurance producer to write or place insurance policies.**

Sec. 460. Except as otherwise provided in section 1202, an insurer authorized to transact business in this state shall not write, place, or cause to be written or placed an insurance policy or insurance contract in this state, except through an insurance producer.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1963, Act 37, Eff. Sept. 6, 1963;—Am. 1972, Act 133, Eff. Mar. 30, 1973;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

**Popular name:** Act 218

**500.462 Signature of insurance producer on application for life or disability insurance.**

Sec. 462. Except as otherwise provided in this section, an application for life or disability insurance must bear the signature of an insurance producer. This section does not apply to an application for insurance through the insurer's internet website if the website contains a statement that the applicant may use an insurance producer to assist with the application at no cost to the applicant.

**History:** 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1972, Act 133, Eff. Mar. 30, 1973;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

**Popular name:** Act 218

**500.464 Additional deposits by domestic insurers.**

Sec. 464. (1) Whenever a domestic insurer desiring to do business in any other state or in any foreign country is required to make or maintain a deposit of cash or securities or both in some state other than or in addition to the deposit required to be made with the state treasurer under this act, the other or additional deposit may be made and maintained with the treasurer of this state.

(2) Deposits by insurers with the state treasurer pursuant to this act or in compliance with the law of another state or a foreign country, shall be held for the purposes specified in the applicable law. Special deposits by insurers with the state treasurer shall be held for the purposes specified by the insurer in making the deposit.

(3) Securities deposited with the state treasurer shall be indorsed to bearer or to the state treasurer in the

name of his office. The state treasurer shall not enforce, sell or assign securities except when necessary to fulfill the purposes of the deposit and except to return the securities to the depositing insurer when return is permitted.

(4) The insurer may collect and receive dividends and interest on the securities deposited with the state treasurer and may exchange securities for other acceptable securities.

(5) If the market value of securities held by the state treasurer becomes less than the required amount of the deposit, the commissioner may suspend or revoke the authority of the insurer to transact insurance in this state until the deficiency has been covered by the deposit of additional acceptable securities.

(6) Deposits required by this act may be released to the depositing insurer to the extent the insurer demonstrates to the satisfaction of the commissioner that the deposited securities are no longer necessary to cover the obligations of the insurer, if the insurer no longer is transacting business within the state. Other deposits or portions of other deposits may be released to the depositing insurer at any time to the extent that the insurer has demonstrated to the satisfaction of the commissioner that the deposited securities no longer are necessary to satisfy the purposes of the deposit.

**History:** Add. 1972, Act 360, Imd. Eff. Jan. 9, 1973.

**Popular name:** Act 218

#### **500.470 Repealed. 1992, Act 182, Imd. Eff. Oct. 1, 1992.**

**Compiler's note:** The repealed section pertained to deficiency in life insurer assets.

**Popular name:** Act 218

#### **500.476 Repealed. 1987, Act 261, Imd. Eff. Dec. 28, 1987.**

**Compiler's note:** The repealed section pertained to deposit of securities for protection of policyholders.

**Popular name:** Act 218

#### **500.476a Alien or foreign insurers; deposit of securities or making certain payments; computation; revocation of certificate of authority; purpose of section; domestic insurer owned or controlled by alien or foreign insurer; domestic insurer as alien or foreign insurer; compliance; taxes subject to MCL 208.22d or MCL 208.1243; administration of tax; disclosure of tax return.**

Sec. 476a. (1) Beginning August 3, 1987, whenever, by a law in force outside of this state or country, a domestic insurer or agent of a domestic insurer is required to make a deposit of securities for the protection of policyholders or otherwise, or to make payment for taxes, fines, penalties, certificates of authority, valuation of policies, or otherwise, or a special burden or other burden is imposed, greater in the aggregate than is required by the laws of this state for a similar alien or foreign insurer or agent of an alien or foreign insurer, the alien or foreign insurer of that state or country is required, as a condition precedent to its transacting business in this state, to make a like deposit for like purposes with the state treasurer of this state, and to pay to the revenue commissioner for taxes, fines, penalties, certificates of authority, valuation of policies, and otherwise an amount equal in the aggregate to the charges and payments imposed by the laws of the other state or country upon a similar domestic insurer and the agents of a domestic insurer, regardless of whether a domestic insurer or agent of a domestic insurer is actually transacting business in that state or country. For fire department or salvage corps taxes or other local taxes the amount shall be computed by the revenue commissioner by dividing the total of the payments made by domestic insurers in that state or country by the gross premium received by domestic insurers in that state or country less return premiums. The commissioner shall revoke the certificate of authority of an alien or foreign insurer refusing for 30 days to make payment of fees or taxes as required by this chapter. Except as provided in subsections (3) and (4), for purposes of this section, an insurer organized under the laws of a state or country other than these United States shall be considered an insurer of the state in which its general deposit for the benefit of its policyholders is made.

(2) The purpose of this section is to promote the interstate business of domestic insurers by deterring other states from enacting discriminatory or excessive taxes.

(3) Subsection (4) does not apply to a domestic insurer that is owned or controlled, directly or indirectly, by an alien or foreign insurer who prior to 1998 and with the commissioner's approval did not keep books, records, and files or true copies thereof in this state.

(4) For purposes of this section, the state treasurer, after consultation with the commissioner, shall determine that a domestic insurer is an alien or foreign insurer domiciled in a state or country determined by the state treasurer if the insurer does not comply with all of the following:

(a) Maintain its principal place of business in this state.

(b) Maintain in this state officers and personnel responsible for and knowledgeable of the company's

operation, books, records, administration, and annual statement.

(c) Conduct in this state a substantial portion of its underwriting, sales, claims, legal, and, if applicable, medical operations relating to Michigan policyholders and certificate holders.

(d) Comply with section 5256(1)(a) and (2) through (6). The commissioner shall inform the state treasurer when a domestic insurer is not in compliance with section 5256(1)(a) or (2) through (6).

(5) Taxes collected pursuant to this section are subject to section 22d of the former single business tax act, 1975 PA 228, or section 243 of the Michigan business tax act, 2007 PA 36, MCL 208.1243.

(6) The state treasurer shall administer the tax prescribed by this section in the manner provided in 1941 PA 122, MCL 205.1 to 205.31.

(7) The requirements of section 28 of 1941 PA 122, MCL 205.28, that prohibit an employee or an authorized representative or former employee or authorized representative or anyone connected with the department of treasury from divulging any facts or information obtained in connection with the administration of taxes, do not apply to disclosure of the tax return prescribed in this act.

**History:** Add. 1987, Act 261, Imd. Eff. Dec. 28, 1987;—Am. 1990, Act 256, Imd. Eff. Oct. 15, 1990;—Am. 1998, Act 121, Imd. Eff. June 10, 1998;—Am. 2007, Act 187, Imd. Eff. Dec. 21, 2007.

**Constitutionality:** Neither Michigan's retaliatory tax nor the 1988 amendment to that tax violates the state or federal constitutions. The retaliatory tax, and the amendments of it, are rationally related to the legitimate governmental purpose of promoting Michigan insurers in other states. Because the tax and its amendments do not violate equal protection, they also do not violate the Michigan Constitution's Uniformity of Taxation Clause (Const. 1963, art 9, § 3). TIG Ins Co Inc v Treasury, 464 Mich 548; 629 NW2d 402 (2000).

**Popular name:** Act 218

#### **500.476b Taxes to which authorized insurer subject.**

Sec. 476b. Authorized insurers are subject to the tax as provided in section 476a if applicable or the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601, whichever is greater.

**History:** Add. 1987, Act 261, Imd. Eff. Dec. 28, 1987;—Am. 2007, Act 187, Imd. Eff. Dec. 21, 2007.

**Popular name:** Act 218

#### **500.476c Repealed. 1993, Act 200, Eff. Dec. 28, 1994.**

**Compiler's note:** The repealed section pertained to payment of fee and legal status of accident fund.

**Popular name:** Act 218

#### **500.478 NAIC report of activities.**

Sec. 478. (1) On or before October 1 of each year, the NAIC shall file a report of its activities with the commissioner and the senate and house of representatives standing committees on insurance issues. The report shall include all of the following:

(a) A summary of the activities of the NAIC during the preceding year.

(b) A fiscal report, in accordance with generally accepted accounting principles and on a form approved by the commissioner, stating each category of personal, operating, and capital expenditures, and each category of revenue from all sources for the NAIC's preceding fiscal year, and anticipated expenses and revenues for the current and succeeding fiscal years. The fiscal report shall include for each fiscal year statements of expenditures by major program; an audit opinion of the association's fiscal report; the salaries and other compensation for the association's officers; the salaries and other compensation of the professional and managerial employees receiving the highest 5 salaries; the salary range and other compensation of all other professional and managerial employees; and other information as may be requested on or before August 1 of each year by the commissioner or the senate and house of representatives standing committees on insurance issues.

(c) A list of each proposed or required NAIC standard, identified by name and version, to be enacted, adopted, or followed in order for a state to receive or continue its status as an NAIC accredited state, including a detailed explanation of how each NAIC standard benefits the public interest and why alternative means, less restrictive of state sovereignty and innovation, would not accomplish an equal or greater benefit to the public interest.

(d) A list of each NAIC standard adopted or proposed to be adopted during the preceding calendar year, identified by name and version, that is not required or proposed to be required for a state to receive or continue its status as an NAIC accredited state.

(e) A description of the policies and procedures in effect with the NAIC that are designed to ensure that a state's accreditation status is determined solely based on the merits of a state's regulatory effectiveness, a statement on whether the NAIC has complied with those policies and procedures, and a detailed explanation

of any noncompliance with those policies and procedures.

(f) A description of the policies and procedures designed to ensure that the NAIC conducts its deliberations and makes its decisions in meetings that are open to the public and in a manner that provides fair notice and a fair opportunity for all affected persons to be heard; a statement on whether the NAIC has complied with those policies and procedures; and a detailed explanation of any noncompliance with those policies and procedures.

(2) On or before March 15 of each year, the senate and house of representatives standing committees on insurance issues shall review the NAIC report filed under subsection (1). The committees may provide an opportunity for consumers, the commissioner and other state regulators, insurers, and any other interested person to be heard on matters relating to the NAIC and any other matter relative to the efficient and effective regulation of insurers. The committees may explore the feasibility of conducting legislative oversight hearings together with the legislative committees of other states that have jurisdiction over insurance matters. The committees may transmit the record of their oversight review to the national conference of insurance legislators, the NAIC, and the commissioner on or before July 1 of each year.

**History:** Add. 1998, Act 279, Imd. Eff. July 27, 1998.

**Popular name:** Act 218

#### **500.479 Imposition of fee by NAIC.**

Sec. 479. (1) An insurer domiciled in this state and authorized to transact insurance in this state is not required and cannot be compelled to pay any fee imposed by the NAIC, unless the fee is authorized by an order of the commissioner pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) In determining whether to authorize the payment of a fee imposed by the NAIC, the commissioner shall consider the NAIC's annual report required under section 478, any legislative oversight reports, records, or findings transmitted by the senate and house of representatives standing committees on insurance issues under section 478, and the following factors:

(a) How the NAIC dedicates the use of the fees, including the degree to which any solvency-related revenue is improperly used to subsidize NAIC functions other than solvency oversight.

(b) The degree to which fees imposed by the NAIC are based on an insurer's annual amount of premium volume, rather than the cost of a service rendered by the NAIC.

(c) Whether the NAIC has exceeded its legal authority, as determined by an examination of the fiscal report required under section 478, as well as any other factors considered appropriate by the commissioner.

(d) The level of accountability shown by the NAIC to legislative and regulatory authorities.

(e) The effect of NAIC standards on state sovereignty and innovation.

(f) Whether the NAIC determines the state's accreditation status solely on the basis of its regulatory effectiveness.

(g) Whether NAIC proceedings and decision making are open and publicly accessible.

(3) An order issued under this section shall include a detailed explanation of the commissioner's findings concerning the factors listed in subsection (2).

(4) The commissioner may by an appropriate order authorize or prohibit, in whole or in part, the payment of a fee imposed by the NAIC. The commissioner may rescind or modify, in whole or in part, an order issued by the commissioner under this section as circumstances warrant.

**History:** Add. 1998, Act 279, Imd. Eff. July 27, 1998.

**Popular name:** Act 218

#### **500.480 Definitions.**

Sec. 480. As used in sections 478 and 479:

(a) "Fee" means financial data base fees, annual statement filing fees, securities valuation fees, user fees, and any other financial assessment or charge of any kind imposed directly or indirectly by the NAIC.

(b) "NAIC" means the national association of insurance commissioners.

(c) "NAIC standard" means a directive; financial annual statement requirement; model act; model regulation; issue paper; market conduct or financial examination report or requirement; accounting practice, procedure, or reporting standard; securities valuation requirement; or any report, action, or program of any kind promulgated by the NAIC, or a committee, task force, working group, or advisory committee of the NAIC.

(d) "Solvency oversight" means an activity directly related to regulating the financial condition of an insurer. Solvency oversight does not include an activity related to market conduct regulation, market regulatory support, or general regulatory support.

(e) "Solvency-related revenue" means only financial data base fees, annual statement fees, and securities valuation fees.

**History:** Add. 1998, Act 279, Imd. Eff. July 27, 1998.

**Popular name:** Act 218