

THE INSURANCE CODE OF 1956 (EXCERPT)

Act 218 of 1956

CHAPTER 51

ORGANIZATION OF AN ACQUIRING INSURER FOR TRANSACTION OF CERTAIN TYPES OF INSURANCE

500.5100 Definitions.

Sec. 5100. As used in this chapter:

(a) "Acquiring insurer" means a domestic stock insurer, domestic mutual insurer, or reciprocal or inter-insurance exchange organized pursuant to this chapter.

(b) "Effective date of the transfer" means the date upon which a transfer occurs.

(c) "State accident fund" means the state accident fund created pursuant to the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws.

(d) "Transfer" means the acquisition by an acquiring insurer of all or substantially all of the assets, and assumption by the acquiring insurer of all or substantially all of the liabilities of, the state accident fund pursuant to Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws.

History: Add. 1993, Act 200, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

"Section 3. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

Popular name: Act 218

500.5102 State accident fund; acquisition of assets; effect of proposed transfer.

Sec. 5102. No person other than an acquiring insurer shall acquire all or substantially all of the assets of the state accident fund. A proposed transfer shall constitute a proposed change of control of a domestic insurer within the meaning of this act and shall be subject to all the requirements of this act governing a change of control of a domestic insurer.

History: Add. 1993, Act 200, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

"Section 3. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

Popular name: Act 218

500.5104 Organizing stock insurer or mutual insurer; purpose; domestic stock insurer owned by nonprofit health care corporation as acquiring insurer; limitation on transaction.

Sec. 5104. (1) Subject to the requirements of this act applicable to domestic stock insurers, domestic mutual insurers, reciprocals, or inter-insurance exchanges, and the further requirements of this chapter, 13 or more persons may organize a stock insurer or 20 or more persons may organize a mutual insurer for the purpose of transacting any or all of the following kinds of insurance: property, marine, inland navigation and transportation, casualty, or fidelity and surety, all as defined in chapter 6. Once organized and authorized, the acquiring insurer is subject to all applicable provisions of this act.

(2) During the period that the acquiring insurer is a domestic stock insurer owned by a nonprofit health care corporation formed pursuant to the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, for insurance products and services, the acquiring insurer under this chapter, whether directly or indirectly, shall only transact worker's compensation insurance and employer's liability insurance, transact disability insurance limited to replacement of loss of earnings, and act as an administrative services organization for an approved self-insured worker's compensation plan or a disability insurance plan limited to replacement of loss of earnings. This subsection does not preclude the acquiring insurer from providing either directly or indirectly noninsurance products and services as otherwise provided by law.

History: Add. 1993, Act 200, Eff. Dec. 28, 1994;—Am. 1999, Act 211, Imd. Eff. Dec. 21, 1999;—Am. 2013, Act 5, Imd. Eff. Mar. 18, 2013.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

“Section 3. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws.”

Popular name: Act 218

500.5106 Provisions applicable to acquiring insurer.

Sec. 5106. On and after the effective date of the transfer, any acquiring insurer shall be subject to the following:

(a) The acquiring insurer shall assume, indemnify, and hold the state of Michigan and any of its subdivisions harmless from and against all existing liabilities of the state accident fund under policies of workers' compensation and employers' liability insurance issued by the state accident fund before the effective date of the transfer.

(b) The acquiring insurer shall, in a manner similar to that of the state accident fund in the year before the effective date of the transfer, provide worker's compensation insurance to insureds with premiums less than \$10,000.00 adjusted annually according to the increase or decrease in the United States department of labor consumer price index as computed for each calendar year. The acquiring insurer shall not adopt or undertake any underwriting practices or procedures in connection with workers' compensation insurance that discriminate against insureds solely on the basis of the size of the premium of the insured.

(c) The acquiring insurer shall maintain investment securities, cash, and reserve funds acquired in the transfer and those generated from doing business in Michigan, on deposit or in custody within the state of Michigan.

(d) For a period of 5 years after the effective date of the transfer, the acquiring insurer shall administer the workers' disability compensation fund of the state of Michigan at the acquiring insurer's direct cost plus reasonably allocated overhead. Any agreement evidencing such arrangement shall be terminable by the state of Michigan 1 year after the effective date of the transfer upon 6 months' written notice.

(e) For a period of at least 1 year after the effective date of the transfer, the acquiring insurer shall recognize the collective bargaining representatives of employees as constituted on the effective date of the transfer.

(f) For a period of 1 year after the effective date of the transfer, the acquiring insurer shall employ, on terms and conditions determined by the acquiring insurer, and subject to the right of the acquiring insurer to terminate employment for good cause, the employees, other than those employees also employed by the department of attorney general, on the payroll of the state accident fund as of the effective date of the transfer.

(g) Within 90 days after the effective date of the transfer, the acquiring insurer shall notify each holder of a policy of insurance, the obligations of which are assumed by the acquiring insurer that the acquiring insurer is now the insurer under the policy, that the acquiring insurer is not a state agency, and that the acquiring insurer is a member of the property and casualty guaranty association created under chapter 79.

(h) The acquiring insurer shall file the applications described in section 5108.

History: Add. 1993, Act 200, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

“Section 3. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws.”

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500.5108 Acquiring insurer as party in place of state accident fund.

Sec. 5108. Within 90 days after the effective date of the transfer, the acquiring insurer shall apply to the court or administrative agency in this state in which an action or proceeding is pending in which the state accident fund was a party pursuant to section 731 of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.731 of the Michigan Compiled Laws, to be substituted as a party in place of the state accident fund.

History: Add. 1993, Act 200, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

“Section 3. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws.”

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Popular name: Act 218

500.5110 Determining violation of MCL 500.5106.

Sec. 5110. Upon probable cause the commissioner may examine and investigate into the affairs of an acquiring insurer to determine whether the insurer has been or is engaged in any practice in violation of section 5106.

History: Add. 1993, Act 200, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

“Section 3. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws.”

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500.5112 Notice of violation of MCL 500.5106; hearing; findings and conclusions; order to cease and desist; additional orders.

Sec. 5112. (1) Upon probable cause to believe that an acquiring insurer has been or is engaged in any practice in violation of section 5106, the commissioner shall give notice, 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 the acquiring insurer, setting forth the general nature of the complaint against it. Before the issuance of a notice of hearing, the commissioner or his or her designee shall give the acquiring insurer an opportunity to confer and discuss the possible complaint and proceedings with the commissioner or his or her representative and the matter may be disposed of summarily by the parties.

(2) If, after opportunity for a contested case hearing held pursuant to Act No. 306 of the Public Acts of 1969, the commissioner determines that the acquiring insurer has violated any provision of section 5106, the commissioner shall reduce his or her findings and conclusions to writing and shall issue and cause to be served upon the acquiring insurer a copy of the findings and conclusions and an order requiring the acquiring insurer to cease and desist from engaging in the violation. The commissioner may also order any of the following:

(a) Payment of a civil penalty of not more than \$5,000.00 for each violation but not to exceed an aggregate penalty of \$50,000.00, unless the acquiring insurer knew or reasonably should have known that it was in violation of section 5106, in which case the penalty shall not be more than \$10,000.00 for each violation and shall not exceed an aggregate penalty of \$100,000.00 for all violations committed in a 6-month period.

(b) Suspension or revocation of the acquiring insurer's certificate of authority if it knowingly and persistently violated section 5106.

History: Add. 1993, Act 200, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

“Section 3. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws.”

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500.5114 Insurance agents.

Sec. 5114. (1) All agents licensed by the state of Michigan to sell property and casualty insurance shall be authorized to sell workers' compensation and employers' liability insurance issued by, and to place such business with, the acquiring insurer for a period of 3 years commencing on the effective date of the transfer. The acquiring insurer shall pay reasonable compensation for business placed with and services rendered in connection with that business.

(2) After the effective date of the transfer to an acquiring insurer, the acquiring insurer shall contract with any insurance agent association having at least 300 members, to serve as a general agent of the acquiring insurer. Any agent licensed by the state of Michigan to sell property and casualty insurance, under contract with the general agent, shall be authorized to sell worker's disability compensation and employer's liability insurance for the acquiring insurer. The general agent shall not require the agent to be a member of the association.

(3) Notwithstanding subsections (1) and (2), but subject to the remaining provisions of this section, the acquiring insurer may contract with any licensed agent to represent the acquiring insurer.

(4) The acquiring insurer shall not unfairly discriminate against any agent in providing assistance in marketing, payment, or settlement of claims, or any other matters related to marketing, placing business, or handling claims. A pilot or test program of a term not exceeding 6 months in duration shall not constitute unfair discrimination under this section.

(5) After the 3-year period provided by subsection (1), the acquiring insurer shall not withhold such appointment unreasonably and shall pay reasonable compensation for business placed with and services rendered in connection with that business. After the 3-year period provided by subsection (1), the acquiring insurer, subject to the provisions of this section and chapter 12, shall have the sole discretion to determine those agents who shall be appointed to represent the acquiring insurer.

(6) During the 3-year period, the agent's authority shall not be suspended, limited, or terminated by the acquiring insurer, except for 1 or more of the following reasons:

(a) Malfeasance.

(b) Breach of fiduciary duty or trust.

(c) A persistent tendency to violate the procedures outlined in the acquiring insurer's basic manuals for Michigan worker's compensation and employer's liability insurance.

History: Add. 1993, Act 200, Eff. Dec. 28, 1994.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

"Section 3. This amendatory act shall not take effect unless the state administrative board certifies in writing to the secretary of state by December 31, 1994 that an agreement for the transfer of all or substantially all of the assets and the assumption of all or substantially all of the liabilities of the state accident fund has been consummated with a permitted transferee pursuant to the requirements of section 701a of the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being section 418.701a of the Michigan Compiled Laws."

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