

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.222 Examination of insurers; examination report; hearing; public inspection; disclosure of confidential information; effect of current examination; director's authority to terminate or suspend examination not limited; limitation on foreign insurer examination.

Sec. 222. (1) The director, in person or by any of his or her authorized deputies or examiners, may examine any or all of the books, records, documents, and papers of an insurer at any time after its articles of incorporation have been executed and filed, or after it has been authorized to do business in this state. The director in his or her discretion may examine the affairs of a domestic insurer and, if he or she considers it expedient to do so, examine the affairs of a foreign or alien insurer doing business in this state.

(2) Instead of an examination under this act of a foreign or alien insurer authorized to do business in this state, the director may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port-of-entry state if that state accepts examination reports prepared by the director. This subsection applies only as follows:

(a) Until this state becomes accredited by the National Association of Insurance Commissioners' financial regulation standards and accreditation program.

(b) If this state loses accreditation by the National Association of Insurance Commissioners' financial regulation standards and accreditation program.

(3) Instead of an examination under this act of a foreign or alien insurer authorized to do business in this state, the director may accept an examination report on the insurer as prepared by the insurance regulator for the insurer's state of domicile or port-of-entry state if that state accepts examination reports prepared by the director and if the insurance regulatory agency of the state of domicile or port-of-entry state was accredited by the National Association of Insurance Commissioners' financial regulation standards and accreditation program at the time of the examination or if the examination is performed under the supervision of an accredited insurance regulatory agency or with the participation of 1 or more examiners who are employed by an accredited insurance regulatory agency and who, after a review of the examination work papers and report, state under oath that the examination was prepared in a manner consistent with the standards and procedures required by their accredited regulatory agency. This subsection only applies during the time this state is accredited by the National Association of Insurance Commissioners' financial regulation standards and accreditation program.

(4) The director, in person or by any of his or her authorized deputies or examiners, shall once every 5 years examine the books, records, documents, and papers of each authorized insurer. The director may examine an insurer more frequently and on its request shall examine a domestic insurer that has not been examined for the 3 years preceding the request. This section does not authorize the examination of books, records, documents, or papers if those items involve matters that are a subject of a currently pending administrative or judicial proceeding against the insurer from whom the information is sought, unless the director or judge specifically finds on the record of the proceeding that the examination is reasonably necessary to protect the interests of policyholders, creditors, or the public or to make a determination of whether an insurer is safe, reliable, and entitled to public confidence.

(5) The business affairs, assets, and contingent liabilities of insurers are subject to examination by the director at any time. The director may supervise and make the same examination of the business and affairs of every foreign or alien insurer doing business in this state as of domestic insurers doing the same kind of business and of its assets, books, accounts, and general condition. A foreign or alien insurer and the agents and officers of the insurer are subject to the same obligations, the same examinations, and, if the insurer, agent, or officer defaults in an obligation, the same penalties and liabilities that a domestic insurer doing the same kind of business and the agents and officers of the insurer are subject to under the laws of this state or the rules promulgated by the director. The director may, whenever he or she considers it expedient to do so, either in person or by a person appointed by him or her, go to the general office or other offices of the foreign or alien insurer, wherever located, and make an investigation and examination of the insurer's affairs and condition.

(6) On an examination under this section, the director, his or her deputy, or any examiner authorized by him or her may examine in person, by writing, and, if appropriate, under oath the officers or agents of the insurer or all persons considered to have material information regarding the insurer's property, assets, business, or affairs. The director may compel the attendance and testimony of witnesses and the production of any books, accounts, papers, records, documents, and files relating to the insurer's business or affairs, and may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence for this purpose. The insurer and its officers and agents shall produce its books and records and all papers in its or

their possession relating to its business or affairs, and any other person may be required to produce any books, records, or papers considered relevant to the examination for the inspection of the director, or his or her deputy or examiners, whenever required. The insurer's officers or agents shall facilitate the examination and aid in making the examination so far as it is in their power to do so. If the director's order or subpoena is not followed, the director may request the Ingham County circuit court to issue an order requiring compliance with the order or subpoena.

(7) Not later than 60 days after completing an examination under this section, the deputy or examiners shall make a full and true report, and furnish the insurer a copy of the examination report, that shall comprise only facts appearing on the insurer's books, records, or documents or ascertained from examination of its officers or agents or other persons concerning its affairs and the conclusions and recommendations as may be reasonably warranted from the facts disclosed. On request by an insurer examined under this section, the director shall grant the insurer a hearing before the director or his or her designee before the report is filed. On request of the insurer, the director shall close the hearing to the public. A hearing under this subsection is not subject to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Each examination report must be withheld from public inspection until the report is final and filed with the director. In addition, the director may withhold any examination report or any analysis of an insurer's financial condition from public inspection for any time that he or she considers proper. In any event, the department shall withhold from public inspection all information and testimony furnished to the department and the department's work papers, correspondence, memoranda, reports, records, and other written or oral information related to an examination report or an investigation and these items are confidential, are not subject to subpoena, and must not be divulged to any person, except as provided in this section. If assurances are provided that the information will be kept confidential, the director may disclose confidential work papers, correspondence, memoranda, reports, records, or other information as follows:

- (a) To the governor or the attorney general.
- (b) To any relevant regulatory agency or authority, including regulatory agencies or authorities of other states, the federal government, or other countries.
- (c) In connection with an enforcement action brought under this or another applicable act.
- (d) To law enforcement officials.
- (e) To persons authorized by the Ingham County circuit court to receive the information.
- (f) To persons entitled to receive the information in order to discharge duties specifically provided for in this act.

(8) The confidentiality requirements of subsection (7) apply to a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373. The confidentiality requirements of subsection (7) do not apply in any proceeding or action brought against or by the insurer under this act or any other applicable act of this state, any other state, or the United States.

(9) Notwithstanding the other provisions of this section, the director is not required to finalize and file an examination report for an insurer for a year in which an examination report was not finalized and filed, if the insurer is currently undergoing an examination subsequent to the year for which an examination report was not finalized and filed. This section does not limit the director's authority to terminate or suspend any examination to pursue other legal or regulatory action under the insurance laws of this state. Findings of fact and conclusions made in connection with any examination under this section are prima facie evidence in any legal or regulatory action.

(10) The examination of an alien insurer is limited to its United States business, except as otherwise required by the director.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1959, Act 39, Eff. Mar. 19, 1960;—Am. 1986, Act 173, Imd. Eff. July 7, 1986;—Am. 1989, Act 302, Imd. Eff. Jan. 3, 1990;—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. 2016, Act 276, Imd. Eff. July 1, 2016.

Popular name: Act 218