

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

500.2236 Forms generally; filing; approval; type size; membership in or subscription to rating organization; substitute form; readability score and other requirements; approval of changes or additions; notice of disapproval or withdrawal of approval; prohibition; hearing; separate violation; penalty; applicability of filing requirements; satisfaction of requirement for delivery of form or notice; "exempt commercial policyholder" and "insurer" defined; court review of order.

Sec. 2236. (1) Except as otherwise provided in this section, an insurer shall not deliver or issue for delivery in this state a basic insurance policy form or annuity contract form; a printed rider or indorsement form or form of renewal certificate; or a group certificate in connection with the policy or contract unless a copy of the form is filed with the department and approved by the director as conforming with the requirements of this act and not inconsistent with the law. A form is considered approved if the director fails to act within 30 days after its submittal under this section. Except for disability insurance as described in section 3400, an insurer shall plainly print the form with a type size of not less than 8-point unless the director determines that portions of the form that are printed with type less than 8-point are not deceptive or misleading.

(2) An insurer may satisfy its obligations to make form filings by becoming a member of, or a subscriber to, a rating organization licensed under section 2436 or 2630 that makes the filings that are required under this section. An insurer described in this subsection shall file with the director a copy of its authorization of the rating organization to make the filings on its behalf. Except as otherwise provided in this subsection, an insurer that is a member of or subscriber to a rating organization shall adhere to the form filings made on its behalf by the organization. An insurer may file with the director a substitute form and if a subsequent form filing by the rating organization after the filing of a substitute form affects the use of the substitute form, the insurer shall review its use and notify the director whether to withdraw its substitute form.

(3) The director shall not approve a form filed under this section that provides for or relates to an insurance policy or an annuity contract for personal, family, or household purposes if the form fails to obtain the following readability score or meet the other requirements of this subsection, as applicable:

(a) The readability score must not be less than 45, as determined by the method provided in subdivisions (b) and (c).

(b) The readability score is determined as follows:

(i) For a form containing not more than 10,000 words, the entire form must be analyzed. For a form containing more than 10,000 words, not fewer than two 200-word samples per page must be analyzed instead of the entire form. The samples must be separated by at least 20 printed lines.

(ii) Count the number of words and sentences in the form or samples and divide the total number of words by the total number of sentences. Multiply this quotient by a factor of 1.015.

(iii) Count the total number of syllables in the form or samples and divide the total number of syllables by the total number of words. Multiply this quotient by a factor of 84.6. As used in this subparagraph, "syllable" means a unit of spoken language consisting of 1 or more letters of a word as indicated by an accepted dictionary. If the dictionary shows 2 or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(iv) Add the figures obtained in subparagraphs (ii) and (iii) and subtract this sum from 206.835. The figure obtained equals the readability score for the form.

(c) For the purposes of subdivision (b)(ii) and (iii), the following procedures must be used:

(i) A contraction, hyphenated word, or numbers and letters when separated by spaces are counted as 1 word.

(ii) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, is counted as 1 sentence.

(d) In determining the readability score, all of the following apply to the method provided in subdivisions (b) and (c):

(i) It must be applied to an insurance policy form or an annuity contract together with a rider or indorsement form usually associated with the insurance policy form or annuity contract. It may be applied to a group of policy, contract, rider, or indorsement forms that have substantially the same language resulting in a single readability score for those forms.

(ii) It must not be applied to a word or phrase that is defined in an insurance policy form or an annuity contract or a rider, indorsement, or group certificate associated with the insurance policy form or annuity contract.

(iii) It must not be applied to language specifically agreed upon through collective bargaining or required by a collective bargaining agreement.

(iv) It must not be applied to language that is prescribed by or based on state or federal statute or any related rules, regulations, or orders.

(v) It must not be applied to medical terms that are included in the form for coverage purposes.

(e) The form must contain both of the following:

(i) Topical captions.

(ii) An identification of exclusions.

(f) Except as otherwise provided in this subdivision, an insurance policy or annuity contract that has more than 3,000 words printed on not more than 3 pages of text or that has more than 3 pages of text regardless of the number of words must contain a table of contents. This subdivision does not apply to riders or indorsements.

(g) Each rider or indorsement form that changes coverage must do all of the following:

(i) Contain a properly descriptive title.

(ii) Reproduce either the entire paragraph or the provision as changed.

(iii) At the time of filing, be accompanied by an explanation of the change.

(h) If a computer system approved by the director calculates the readability score of a form as being in compliance with this subsection, the form is considered in compliance with the readability score requirements of this subsection.

(i) A variable life product or variable annuity product approved by the United States Securities and Exchange Commission for sale in this state is considered in compliance with this section.

(4) An insurer shall submit for approval under subsection (3) a change or addition to a policy or annuity contract form for personal, family, or household purposes, whether by indorsement, rider, or otherwise, or a change or addition to a rider or indorsement form associated with the policy form or annuity contract form, if the form has not been previously approved under subsection (3).

(5) Upon written notice to the insurer, the director may, on a case-by-case review, disapprove, withdraw approval, or prohibit the issuance, advertising, or delivery of a form to any person in this state if the form violates this act, contains inconsistent, ambiguous, or misleading clauses, or contains exceptions and conditions that unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the policy. The director shall specify in the notice the objectionable provisions or conditions and state the reasons for the decision. If the form is legally in use by the insurer in this state, the director shall give the effective date of the disapproval in the notice, which must not be less than 30 days after the mailing or delivery of the notice to the insurer. If the form is not legally in use, the disapproval is effective immediately.

(6) If a form is disapproved or approval is withdrawn under this act, the insurer is entitled on demand to a hearing before the director or a deputy director within 30 days after the notice of disapproval or of withdrawal of approval. After the hearing, the director shall make findings of fact and law and affirm, modify, or withdraw his or her original order or decision. An insurer shall not issue the form after a final determination of disapproval or withdrawal of approval.

(7) Any issuance, use, or delivery by an insurer of a form without the prior approval of the director as required under subsection (1) or after withdrawal of approval under subsection (5) is a separate violation for which the director may order the imposition of a civil penalty of \$25.00 for each offense, not to exceed a maximum penalty of \$500.00 for any 1 series of offenses relating to any 1 basic policy form. The attorney general may act to recover the penalty under this subsection as provided in section 230.

(8) The filing requirements of this section do not apply to any of the following:

(a) Insurance against loss of or damage to any of the following:

(i) Imports, exports, or domestic shipments.

(ii) Bridges, tunnels, or other instrumentalities of transportation and communication.

(iii) Aircraft and attached equipment.

(iv) Vessels and watercraft that are under construction, are owned by or used in a business, or have a straight-line hull length of more than 24 feet.

(b) Insurance against loss resulting from liability, other than worker's disability compensation or employers' liability arising out of the ownership, maintenance, or use of any of the following:

(i) Imports, exports, or domestic shipments.

(ii) Aircraft and attached equipment.

(iii) Vessels and watercraft that are under construction, are owned by or used in a business, or have a straight-line hull length of more than 24 feet.

(c) Surety bonds other than fidelity bonds.

(d) Policies, riders, indorsements, or forms of unique character designed for and used with relation to

insurance on a particular subject, or that relate to the manner of distribution of benefits or to the reservation of rights and benefits under life or disability insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. By order, the director may exempt from the filing requirements of this section and sections 3401a and 4430 for as long as he or she considers proper any insurance document or form, except that portion of the document or form that establishes a relationship between group disability insurance and personal protection insurance benefits subject to exclusions or deductibles under section 3109a, as specified in the order to which this section is not practicably applied, or the filing and approval of which are considered unnecessary for the protection of the public. Insurance documents or forms providing medical payments or income replacement benefits, except that portion of the document or form that establishes a relationship between group disability insurance and personal protection insurance benefits subject to exclusions or deductibles under section 3109a, exempt by order of the director from the filing requirements of this section and section 3401a are considered approved by the director for purposes of section 3430.

(e) An insurance policy to which both of the following apply:

(i) The insurance is sold to an exempt commercial policyholder.

(ii) The insurance policy contains a prominent disclaimer that states "This policy is exempt from the filing requirements of section 2236 of the insurance code of 1956, 1956 PA 218, MCL 500.2236." or words that are substantially similar.

(9) Notwithstanding any provision of this act to the contrary, a health insurer may satisfy a requirement for the delivery of an insurance form or notice required by this act to a subscriber, insured, enrollee, or contract holder by doing all of the following:

(a) Taking appropriate and necessary measures reasonably calculated to ensure that the system for furnishing a form or notice meets all of the following requirements:

(i) It results in the actual receipt of a delivered form or notice.

(ii) It protects the confidentiality of a subscriber's, insured's, enrollee's, or contract holder's personal information.

(b) Ensuring that an electronically delivered form or notice is prepared and furnished in a manner consistent with the style, format, and content requirements applicable to the particular form or notice.

(c) On request, delivering to the subscriber, insured, enrollee, or contract holder a paper version of an electronically delivered form or notice.

(10) Subject to the requirements of this section, an insurer may file health insurance policies, certificates, and riders quarterly. This subsection does not limit or restrict an insurer's ability to file large group health insurance policies, certificates, or riders at any time during the year.

(11) As used in this section and sections 2401 and 2601, "exempt commercial policyholder" means an insured that purchases the insurance for other than personal, family, or household purposes.

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

(13) An order made by the director under this section is subject to court review as provided in section 244.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1963, Act 53, Eff. Sept. 6, 1963;—Am. 1970, Act 180, Imd. Eff. Aug. 3, 1970;—Am. 1987, Act 52, Imd. Eff. June 22, 1987;—Am. 1990, Act 137, Eff. June 29, 1990;—Am. 1990, Act 305, Imd. Eff. Dec. 14, 1990;—Am. 1993, Act 200, Eff. Dec. 28, 1994;—Am. 2002, Act 664, Eff. Mar. 31, 2003;—Am. 2014, Act 140, Eff. Mar. 31, 2015;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

Compiler's note: Section 2 of Act 52 of 1987 provides:

"The amendments to sections 2236, 2242, 3440, 3606, 3610, and 4430 of Act No. 218 of the Public Acts of 1956, being sections 500.2236, 500.2242, 500.3440, 500.3606, 500.3610, and 500.4430 of the Michigan Compiled Laws, pursuant to this amendatory act apply to all insurance policies issued on or after January 1, 1957 that were either approved by the commissioner on or after January 1, 1957 or subject to an order of the commissioner exempting policies from filing on or after September 1, 1968. The amendments to sections 2236, 2242, 3440, 3606, 3610, and 4430 of Act No. 218 of the Public Acts of 1956, being sections 500.2236, 500.2242, 500.3440, 500.3606, 500.3610, and 500.4430 of the Michigan Compiled Laws, pursuant to this amendatory act are intended to codify and approve long-standing administrative and commercial practice taken and approved by the commissioner pursuant to his or her legal authority. This amendatory act shall serve to cure and clarify any misinterpretation of the operation of such sections since the effective date of their original enactment. It is the intent of this amendatory act to rectify the misconstruction of the insurance code of 1956 by the court of appeals in Bill v Northwestern National Life Insurance Company, 143 Mich App 766, with respect to the power of the insurance commissioner to exempt certain insurance documents from filing requirements and the offsetting of social security benefits against disability income insurance benefits. This amendatory act does not affect the relationship between disability insurance benefits and personal protection insurance benefits as provided in Federal Kemper v Health Insurance Administration Inc., 424 Mich 537."

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."

Enacting section 3 of Act 276 of 2016 provides:

"Enacting section 3. On the effective date of this amendatory act, an insurer may submit to the director of the department of insurance and financial services for approval any modification to policies and certificates that were approved before or on the effective date of this amendatory act, to conform with amendments made to the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, by this amendatory act. This enacting section does not apply to rates and rating methodologies."

Popular name: Act 218