

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

500.224 Examinations and investigations of insurers; expenses; statement to insurers; employment of expert personnel; regulatory fees; expense of administering delinquency proceeding; definitions.

Sec. 224. (1) All actual and necessary expenses incurred in connection with the examination or other investigation of an insurer or other person regulated under the director's authority must be certified by the director, together with a statement of the work performed including the number of days spent by the director and each of the director's deputies, assistants, employees, and others acting under the director's authority. If correct, the expenses must be paid to the persons by whom they were incurred, on the warrant of the state treasurer payable from appropriations made by the legislature for this purpose.

(2) Except as otherwise provided in subsection (4), the director shall prepare and present to the insurer or other person examined or investigated a statement of the expenses and reasonable cost incurred for each person engaged on the examination or investigation, including amounts necessary to cover the pay and allowances granted to the persons by the Michigan civil service commission, and the administration and supervisory expense including an amount necessary to cover fringe benefits in conjunction with the examination or investigation. Except as otherwise provided in subsection (4), the insurer or other person, on receiving the statement, shall pay to the director the stated amount. The director shall deposit the money with the state treasurer as provided in section 225.

(3) The director may employ attorneys, actuaries, accountants, investment advisers, and other expert personnel not otherwise employees of this state reasonably necessary to assist in the conduct of the examination or investigation or proceeding with respect to an insurer or other person regulated under the director's authority at the insurer's or other person's expense except as otherwise provided in subsection (4). Except as otherwise provided in subsection (4), on certification by the director of the reasonable expenses incurred under this section, the insurer or other person examined or investigated shall pay those expenses directly to the person or firm rendering assistance to the director. Expenses paid directly to such person or firm and the regulatory fees imposed by this section are examination expenses under section 22e of the former single business tax act, 1975 PA 228, or under section 239(1) of the Michigan business tax act, 2007 PA 36, MCL 208.1239.

(4) An insurer is subject to a regulatory fee instead of the costs and expenses provided for in subsections (2) and (3). By June 30 of each year or within 30 days after the enactment into law of any appropriation for the department's operation, the director shall impose on all insurers authorized to do business in this state a regulatory fee calculated as follows:

(a) As used in this subsection:

(i) "A" means total annuity considerations written in this state in the preceding year.

(ii) "B" means base assessment rate. The base assessment rate must not exceed .00038 and must be a fraction, the numerator of which is the total regulatory fee and the denominator of which is the total amount of direct underwritten premiums written in this state by all insurers for the preceding calendar year, as reported to the director on the insurer's annual statements filed with the director.

(iii) "I" means all direct underwritten premiums other than life insurance premiums and annuity considerations written in this state in the preceding year by all insurers.

(iv) "L" means all direct underwritten life insurance premiums written in this state in the preceding year by all life insurers.

(v) Total regulatory fee must not exceed 80% of the gross appropriations for the department's operation for a fiscal year and must be the difference between the gross appropriations for the department's operation for that current fiscal year and any restricted revenues, other than the regulatory fee itself, as identified in the gross appropriation for the department's operation.

(vi) Direct premiums written in this state do not include any amounts that represent claims payments that are made on behalf of, or administrative fees that are paid in connection with, any administrative service contract, cost-plus arrangement, or any other noninsured or self-insured business.

(b) Two actual assessment rates must be calculated so as to distribute 75% of the burden of the regulatory fee shortfall created by the exclusion of annuity considerations from the assessment base to life insurance and 25% to all other insurance. The 2 actual assessment rates must be determined as follows:

(i)
$$\frac{L \times B + .75 \times B \times A}{L} = \text{assessment rate for life insurance.}$$

(ii)
$$\frac{I \times B + .25 \times B \times A}{I} = \text{assessment rate for insurance other than life insurance.}$$

(c) Each insurer's regulatory fee must be a minimum fee of \$250.00 and must be determined by multiplying the actual assessment rate by the assessment base of that insurer as determined by the director from the insurer's annual statement for the immediately preceding calendar year filed with the director.

(5) Not less than 55% of the revenue derived from the regulatory fee under subsection (4) may be used for the regulation of financial conduct of persons regulated under the director's authority and for the regulation of persons regulated under the director's authority engaged in the business of health care and health insurance in this state.

(6) The amount, if any, by which amounts credited to the director under section 225 exceed actual expenditures under appropriations for the department's operation for a fiscal year must be credited toward the appropriation for the department in the next fiscal year.

(7) All money paid into the state treasury by an insurer under this section must be credited as provided under section 225.

(8) An insurer shall not treat a regulatory fee under this section as a levy or excise on premium but as a regulatory burden that is apportioned in relation to insurance activity in this state. A regulatory fee under this section reflects the insurance regulatory burden on this state as a result of this insurance activity. A foreign or alien insurer authorized to do business in this state may consider the liability required under this section as a burden imposed by this state in the calculation of the insurer's liability required under section 476a.

(9) An insurer may file with the director a protest to the regulatory fee imposed not later than 15 days after receipt of the regulatory fee. The director shall review the grounds for the protest and hold a conference with the insurer at the insurer's request. The director shall transmit his or her findings to the insurer with a restatement of the regulatory fee based on the findings. Statements of regulatory fees to which protests have not been made and restatements of regulatory fees are due and must be paid not later than 30 days after their receipt. Regulatory fees that are not paid when due bear interest on the unpaid fee, which must be calculated at 6-month intervals from the date the fee was due at a rate of interest equal to 1% plus the average interest rate paid at auctions of 5-year United States treasury notes during the 6 months preceding July 1 and January 1, as certified by the state treasurer, and compounded annually, until the assessment is paid in full. An insurer who fails to pay its regulatory fee within the prescribed time limits may have its certificate of authority or license suspended, limited, or revoked as the director considers warranted until the regulatory fee is paid. If the director determines that a regulatory fee or a part of a regulatory fee paid by an insurer is in excess of the amount legally due and payable, the amount of the excess must be refunded or, at the insurer's option, be applied as a credit against the regulatory fee for the next fiscal year. An overpayment of \$100.00 or less must be applied as a credit against the insurer's regulatory fee for the next fiscal year unless the insurer had a \$100.00 or less overpayment in the immediately preceding fiscal year. If the insurer had a \$100.00 or less overpayment in the immediately preceding fiscal year, at the insurer's option, the current fiscal year overpayment of \$100.00 or less must be refunded.

(10) Any amounts stated and presented to or certified, assessed, or imposed on an insurer as provided in subsections (2), (3), and (4) that are unpaid as of the date that the insurer is subjected to a delinquency proceeding under chapter 81 are regarded as an expense of administering the delinquency proceeding and are payable as such from the general assets of the insurer.

(11) In addition to the regulatory fee provided in subsection (4), each insurer that locates records or personnel knowledgeable about those records outside this state under section 476a(3) or section 5256 shall reimburse the department for expenses and reasonable costs incurred by the department as a result of travel and other costs related to examinations or investigations of those records or personnel. The reimbursement must not include any costs that the department would have incurred if the examination had taken place in this state.

(12) As used in this section:

(a) "Annuity considerations" means receipts on the sale of annuities as used in section 22a of the former single business tax act, 1975 PA 228, or in section 235 of the Michigan business tax act, 2007 PA 36, MCL 208.1235.

(b) "Insurer" means an insurer authorized to do business in this state and includes nonprofit health care corporations, dental care corporations, and health maintenance organizations.

History: 1956, Act 218, Imd. Eff. Jan. 1, 1957;—Am. 1957, Act 91, Imd. Eff. Sept. 27, 1957;—Am. 1958, Act 196, Imd. Eff. Apr. 21, 1958;—Am. 1968, Act 275, Imd. Eff. July 1, 1968;—Am. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 228, Imd. Eff. June 30, 1994;—Am. 1998, Act 121, Imd. Eff. June 10, 1998;—Am. 2000, Act 252, Imd. Eff. June 29, 2000;—Am. 2001, Act 143, Imd. Eff. Oct. 26, 2001;—Am. 2007, Act 187, Imd. Eff. Dec. 21, 2007;—Am. 2019, Act 21, Imd. Eff. June 11, 2019.

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