

HOUSE BILL NO. 6096

May 11, 2022, Introduced by Rep. Sowerby and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 2236 (MCL 500.2236), as amended by 2016 PA 276,
and by adding section 2227a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2227a. (1) Notwithstanding anything in this act to the
2 contrary, each home insurance policy that is delivered, issued for
3 delivery, or renewed in this state must be construed to include
4 among the perils under the policy coverage for the loss of use and

1 occupancy of an insured dwelling directly or indirectly related to
2 this state or a political subdivision of this state prohibiting
3 occupancy of the dwelling.

4 (2) An insurer that delivers, issues for delivery, or renews
5 in this state a home insurance policy shall provide coverage for
6 living expenses during a loss of occupancy described in subsection
7 (1).

8 (3) The coverage required under this section for a home
9 insurance policy is subject to any monetary limits in the home
10 insurance policy.

11 (4) An insurer shall not deliver or issue for delivery in this
12 state a home insurance form that differs from a home insurance form
13 used by the insurer before the effective date of the amendatory act
14 that added this section unless a copy of the form is filed with the
15 department and expressly approved by the director as conforming
16 with the requirements of this act and not inconsistent with the
17 law.

18 (5) As used in this section, "home insurance" means that term
19 as defined in section 2103.

20 Sec. 2236. (1) Except as otherwise provided in this section,
21 an insurer shall not deliver or issue for delivery in this state a
22 basic insurance policy form or annuity contract form; a printed
23 rider or indorsement form or form of renewal certificate; or a
24 group certificate in connection with the policy or contract unless
25 a copy of the form is filed with the department and approved by the
26 director as conforming with the requirements of this act and not
27 inconsistent with the law. ~~A-Except as otherwise provided in~~
28 **section 2227a**, a form is considered approved if the director fails
29 to act within 30 days after its submittal under this section.

1 Except for disability insurance as described in section 3400, an
2 insurer shall plainly print the form with a type size of not less
3 than 8-point unless the director determines that portions of the
4 form that are printed with type less than 8-point are not deceptive
5 or misleading.

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

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

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

27 (b) The readability score is determined as follows:

28 (i) For a form containing not more than 10,000 words, the
29 entire form must be analyzed. For a form containing more than

1 10,000 words, not fewer than two 200-word samples per page must be
2 analyzed instead of the entire form. The samples must be separated
3 by at least 20 printed lines.

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

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

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

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

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

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

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

26 (i) It must be applied to an insurance policy form or an
27 annuity contract together with a rider or indorsement form usually
28 associated with the insurance policy form or annuity contract. It
29 may be applied to a group of policy, contract, rider, or

1 indorsement forms that have substantially the same language
2 resulting in a single readability score for those forms.

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

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

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

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

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

16 (i) Topical captions.

17 (ii) An identification of exclusions.

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

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

26 (i) Contain a properly descriptive title.

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

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

1 the change.

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

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

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

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

1 disapproval is effective immediately.

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

10 (7) Any issuance, use, or delivery by an insurer of a form
11 without the prior approval of the director as required under
12 subsection (1) or after withdrawal of approval under subsection (5)
13 is a separate violation for which the director may order the
14 imposition of a civil penalty of \$25.00 for each offense, not to
15 exceed a maximum penalty of \$500.00 for any 1 series of offenses
16 relating to any 1 basic policy form. The attorney general may act
17 to recover the penalty under this subsection as provided in section
18 230.

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

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

23 (i) Imports, exports, or domestic shipments.

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

26 (iii) Aircraft and attached equipment.

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

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

5 (i) Imports, exports, or domestic shipments.

6 (ii) Aircraft and attached equipment.

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

10 (c) Surety bonds other than fidelity bonds.

11 (d) Policies, riders, indorsements, or forms of unique
12 character designed for and used with relation to insurance on a
13 particular subject, or that relate to the manner of distribution of
14 benefits or to the reservation of rights and benefits under life or
15 disability insurance policies and are used at the request of the
16 individual policyholder, contract holder, or certificate holder. By
17 order, the director may exempt from the filing requirements of this
18 section and sections 3401a and 4430 for as long as he or she
19 considers proper any insurance document or form, except that
20 portion of the document or form that establishes a relationship
21 between group disability insurance and personal protection
22 insurance benefits subject to exclusions or deductibles under
23 section 3109a, as specified in the order to which this section is
24 not practicably applied, or the filing and approval of which are
25 considered unnecessary for the protection of the public. Insurance
26 documents or forms providing medical payments or income replacement
27 benefits, except that portion of the document or form that
28 establishes a relationship between group disability insurance and
29 personal protection insurance benefits subject to exclusions or

1 deductibles under section 3109a, exempt by order of the director
2 from the filing requirements of this section and section 3401a are
3 considered approved by the director for purposes of section 3430.

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

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

6 (ii) The insurance policy contains a prominent disclaimer that
7 states "This policy is exempt from the filing requirements of
8 section 2236 of the insurance code of 1956, 1956 PA 218, MCL
9 500.2236." or words that are substantially similar.

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

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

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

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

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

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

29 (10) Subject to the requirements of this section, an insurer

1 may file health insurance policies, certificates, and riders
2 quarterly. This subsection does not limit or restrict an insurer's
3 ability to file large group health insurance policies,
4 certificates, or riders at any time during the year.

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

9 (12) As used in this section, "insurer" includes a nonprofit
10 dental care corporation operating under 1963 PA 125, MCL 550.351 to
11 550.373.

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