

Act No. 162
Public Acts of 2023
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senators Cavanagh, Hertel, Klinefelt, Singh, Chang, Shink, McMorro, Polehanki, Brinks, Cherry and Wojno

ENROLLED SENATE BILL No. 357

AN ACT to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker’s compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act,” by amending section 2213b (MCL 500.2213b), as amended by 2016 PA 276, and by adding section 2213e.

The People of the State of Michigan enact:

Sec. 2213b. (1) Except as otherwise provided in this section and section 2213e, an insurer that delivers, issues for delivery, or renews in this state a health insurance policy shall renew the policy or continue the policy in force at the option of the individual or, for a group plan, at the option of the plan sponsor.

(2) At the time of renewal of an individual health insurance policy, the insurer may modify the policy if the modification is consistent with state and federal law and is effective on a uniform basis among all individuals with coverage under the policy.

(3) At the time of renewal of a group health insurance policy issued under chapter 34, the insurer may modify the policy.

(4) Guaranteed renewal of a health insurance policy is not required in cases of fraud, intentional misrepresentation of material fact, lack of payment, noncompliance with minimum contribution requirements, or noncompliance with minimum participation requirements, if the insurer no longer offers that particular type of coverage in the market, or if the individual or group moves outside the service area.

(5) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy shall not discontinue offering a particular plan or product in the nongroup or group market unless the insurer does all of the following:

(a) Provides notice to the director and to each covered individual or group, as applicable, provided coverage under the plan or product of the discontinuation at least 90 days before the date of the discontinuation.

(b) Offers to each covered individual or group, as applicable, provided coverage under the plan or product the option to purchase any other plan or product currently being offered in the nongroup market or group market, as applicable, by that insurer without excluding or limiting coverage for a preexisting condition or providing a waiting period.

(c) Acts uniformly without regard to any health status factor of enrolled individuals or individuals who may become eligible for coverage in making the determination to discontinue coverage and in offering other plans or products.

(6) An insurer shall not discontinue offering all coverage in the nongroup or group market unless the insurer does all of the following:

(a) Provides notice to the director and to each covered individual or group, as applicable, of the discontinuation at least 180 days before the date of the expiration of coverage.

(b) Discontinues all health benefit plans issued in the nongroup or group market from which the insurer withdrew and does not renew coverage under those plans.

(7) If an insurer discontinues coverage under subsection (6), the insurer shall not provide for the issuance of any health benefit plans in the nongroup or group market from which the insurer withdrew during the 5-year period beginning on the date of the discontinuation of the last plan not renewed under that subsection.

(8) Subsections (1) to (7) do not apply to a short-term or 1-time limited duration policy or certificate of not longer than 6 months.

(9) For the purposes of this section, a short-term or 1-time limited duration policy or certificate of not longer than 6 months is an individual health policy that meets all of the following:

(a) Is issued to provide coverage for a period of 185 days or less, except that the health policy may permit a limited extension of benefits after the date the policy ended solely for expenses attributable to a condition for which a covered person incurred expenses during the term of the policy.

(b) Is nonrenewable, provided that the health insurer may provide coverage for 1 or more subsequent periods that satisfy subdivision (a), if the total of the periods of coverage do not exceed a total of 185 days out of any 365-day period, plus any additional days permitted by the policy for a condition for which a covered person incurred expenses during the term of the policy.

(c) Does not cover any preexisting conditions.

(d) Is available with an immediate effective date, without underwriting, upon receipt by the insurer of a completed application indicating eligibility under the insurer's eligibility requirements, except that coverage that includes optional benefits may be offered on a basis that does not meet this requirement.

(10) By March 31 each year, an insurer that delivers, issues for delivery, or renews in this state a short-term or 1-time limited duration policy or certificate of not longer than 6 months shall provide to the director a written annual report that discloses both of the following:

(a) The gross written premium for short-term or 1-time limited duration policies or certificates issued in this state during the preceding calendar year.

(b) The gross written premium for all individual health insurance policies issued or delivered in this state during the preceding calendar year other than policies or certificates described in subdivision (a).

(11) The director shall maintain copies of reports prepared under subsection (10) on file with the annual statement of each reporting insurer.

(12) In each calendar year, an insurer shall not continue to issue short-term or 1-time limited duration policies or certificates if to do so the collective gross written premiums on those policies or certificates would total more than 10% of the collective gross written premiums for all individual health insurance policies issued or delivered in this state either directly by the insurer or through a person that owns or is owned by the insurer.

Sec. 2213e. (1) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy with respect to an individual, including a group to which the individual belongs or family coverage in which the individual is included, shall not rescind coverage under the policy unless both of the following apply:

(a) Either of the following applies:

(i) The individual or a person seeking coverage on behalf of the individual performs an act, practice, or omission that constitutes fraud. For purposes of this subparagraph, a person seeking coverage on behalf of an individual does not include an employee or authorized representative of the insurer or a producer.

(ii) The individual makes an intentional misrepresentation of material fact.

(b) The insurer provides written notice to the individual at least 30 days before the rescission.

(2) As used in this section, "rescind coverage" means a cancellation or discontinuance of coverage that has retroactive effect. A cancellation or discontinuance of coverage is not a rescission if any of the following apply:

(i) The cancellation or discontinuance of coverage has only a prospective effect.

(ii) The cancellation or discontinuance of coverage is effective retroactively, to the extent it is attributable to a failure to timely pay required premiums or contributions, including COBRA premiums, toward the cost of coverage. As used in this subparagraph, "COBRA" means the consolidated omnibus budget reconciliation act of 1985, Public Law 99-272.

(iii) The cancellation or discontinuance of coverage is initiated by the individual or by the individual's authorized representative and the sponsor, employer, plan, or issuer does not, directly or indirectly, take action to influence the individual's decision to cancel or discontinue coverage retroactively or otherwise take any adverse action or retaliate against, interfere with, coerce, intimidate, or threaten the individual.

(iv) The cancellation or discontinuance of coverage is initiated by an exchange established under the patient protection and affordable care act, Public Law 111-148, as amended by the health care and education reconciliation act of 2010, Public Law 111-152, and any regulations promulgated under those acts.

(3) This section applies to a health insurance policy delivered, issued for delivery, or renewed in this state before, on, or after the date of the effective date of the amendatory act that added this section.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor