

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

***** 500.1207.amended THIS AMENDED SECTION IS EFFECTIVE MAY 5, 2024 *****

500.1207.amended Agent as fiduciary; separate accounts; examination of records; remuneration of person acting as agent; placing refused coverage; use of intimidation, threats, or unlawful inducements; agent as party to contract.

Sec. 1207. (1) An agent is a fiduciary for all money received or held by the agent in the agent's capacity as an agent.

(2) An agent shall treat all premiums and return premiums as fiduciary money and segregate the premiums from the agent's own money. Except as otherwise provided in this subsection, an agent shall not commingle premiums or return premiums with any other money of the agent. An agent may make an initial deposit from the agent's own money to establish the separate account. An agent may make additional deposits from the agent's own money into the separate account solely for the purpose of paying or avoiding financial institution charges or fees, or both, required to maintain the separate account. Any of the agent's own money deposited into the separate account under this subsection must be separately accounted for and identifiable in the agent's books and records.

(3) The separate account under subsection (2) must be established and maintained in any state or federally chartered financial institution that is federally insured. The separate account may be interest-bearing.

(4) An agent may hold returned premiums in the separate account for the purpose of paying future premiums on behalf of an insured with the insured's written authorization.

(5) An agent shall use reasonable accounting methods to record money received in the agent's fiduciary capacity, including the receipt and distribution of premiums due each of the agent's insurers.

(6) An agent who receives fiduciary money must document the receipt of the fiduciary money in sufficient detail to determine, at a minimum, the date received, the name of the payee, the amount received, and a description of the money.

(7) An agent shall record return premiums received by or credited to the agent that are due an insured on policies reduced or canceled or that are due a prospective purchaser of insurance as a result of a rejected or declined application.

(8) Failure by an agent in a timely manner to turn over the money that the agent holds in a fiduciary capacity to the persons to whom it is owed is prima facie evidence of violation of the agent's fiduciary responsibility.

(9) An agent shall not accept payment of a premium for a Medicare supplemental policy or certificate in the form of a check or money order made payable to the agent instead of the insurer. On receiving payment of a premium for a Medicare supplemental policy or certificate, an agent shall immediately provide a written receipt to the insured.

(10) Records required by this section must be open to examination by the director.

(11) Except as provided in sections 1211 and 1212 and subsection (12), an agent shall not reward or remunerate any person for procuring or inducing business in this state, furnishing leads or prospects, or acting in any other manner as an agent.

(12) If an agent is unable to immediately provide, through the agent's insurers that are authorized to underwrite the coverage, all or a part of the coverage requested on a risk, the agent may obtain the part of the coverage refused by the agent's insurers through another licensed agent or through a risk sharing plan permitted by state law. An agent who attempts to place the refused part of the coverage through another licensed agent shall advise the buyer in writing that the refused part of the coverage is not in effect until the buyer receives written evidence of insurance.

(13) A person shall not sell or attempt to sell insurance by means of intimidation or threats, whether express or implied. Except as provided in section 2077(4), a person may not induce the purchase of insurance through a particular agent or from a particular insurer by means of a promise to sell goods, lend money, or provide services, or by a threat to refuse to sell goods, lend money, or provide services.

(14) After January 1, 1973, an insurer or an agent may not be a party to a contract under which the agent assumes any responsibility or obligation for payment, from the agent's commission or any allocation of premium to the agent by the insurer, of any losses on insurance policies sold by the agent unless the claim adjusting is done by insurance company adjusters or licensed independent adjusters.

History: Add. 1972, Act 133, Eff. Mar. 30, 1973;—Am. 1990, Act 170, Imd. Eff. July 2, 1990;—Am. 1993, Act 200, Eff. Dec. 28, 1994;—Am. 2018, Act 449, Imd. Eff. Dec. 21, 2018;—Am. 2023, Act 181, Eff. May 5, 2024.

Compiler's note: Section 3 of Act 200 of 1993 provides as follows:

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Page 1

Michigan Compiled Laws Complete Through PA 39 of 2024

“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.”

Popular name: Act 218