

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

500.5252 Director or officer of insurance corporation; receiving money or valuables for, or having pecuniary interest in, purchase, sale, or loan prohibited; certain transactions not prohibited; issuing certificate of exemption; hearing; refusal to issue certificate; order; judicial review; violation as felony; penalty.

Sec. 5252.

(1) A director or officer of an insurance corporation doing business in this state shall not knowingly and intentionally, directly or indirectly, receive any money or valuable thing for negotiating, procuring, recommending, or aiding in any purchase by or sale to such corporation of any property or any loan from such corporation, or be pecuniarily interested, either as principal, co-principal, agent, or beneficiary in any such purchase, sale, or loan. This section does not:

(a) Prohibit a life insurer from making a loan upon a policy held by the borrower not in excess of the net value of the policy.

(b) Prohibit an insurer, in connection with the relocation of the place of employment of an officer, from:

(i) Making a loan to the officer for a mortgage on real estate which is to be used as the officer's residence as long as the loan does not exceed the fair market value of the property.

(ii) Acquiring the officer's residence at not more than its fair market value.

(c) Prohibit an officer of an insurer, in connection with the relocation of his or her place of employment, from:

(i) Accepting a loan from the insurer for a mortgage on real estate which is to be used as the officer's residence as long as the loan does not exceed the fair market value of the property.

(ii) Selling the officer's home to the insurer at not more than its fair market value.

(d) Prohibit the conveyance of property between an insurer and an officer or director of an insurer if all of the following occur:

(i) Any interest in the conveyance on the part of any officer or director is disclosed or known to its board of directors or committee which authorizes, approves, or ratifies the conveyance, and noted in the minutes thereof, and the board or committee authorizes, approves, or ratifies the conveyance by a vote sufficient for the purpose without counting the vote or votes of any interested officer or director, however, an interested officer or director may be counted for purposes of a quorum.

(ii) The fact of such interest is disclosed, before or after the conveyance, to the shareholders in the case of a stock insurance company, or in the case of a mutual insurer, to the policyholders.

(iii) The insurer has obtained from the commissioner a certificate of exemption permitting the specific transaction. An insurer seeking to obtain a certificate of exemption shall file with the commissioner a written request for a certificate of exemption, which request shall include all of the following:

(A) A full description and disclosure of the transaction for which the certificate is sought.

(B) Copies of all contracts or other legal documents involved or to be involved in the transaction.

(C) A description of all assets involved in the transaction.

(D) The names, titles, capacities, and business relationships of all persons directly involved in the transaction.

(E) A description of any and all consideration on either or any side of the transactions.

(F) Such other information, opinions, or matters as the commissioner may reasonably require.

(2) The commissioner shall issue a certificate of exemption within 30 days after a request for a certificate of exemption has been received by him or her if the commissioner finds that the specific transaction for which the certificate of exemption is requested is fair, just, and equitable, and is not hazardous to the policyholders, stockholders, or creditors of the insurer.

(3) If the commissioner does not issue the certificate of exemption within such 30 days, the insurer seeking the certificate of exemption shall be entitled to a hearing before the commissioner pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The hearing shall be conducted within 60 days after the request for the certificate of exemption has been received by the commissioner. The commissioner may refuse to issue a certificate of exemption if he or she finds that the specific transaction for which the certificate of exemption is requested does not meet the requirements provided in subsection (2). In the order refusing the request for a certificate of exemption, the commissioner shall set forth in what respect the specific transaction fails to meet the requirements of subsection (2). The decision of the commissioner shall be subject to judicial review as provided in the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969.

(4) Any person violating any provision of this section shall be guilty of a felony and upon conviction shall be punished by a fine not exceeding \$5,000.00, or by imprisonment for a term not to exceed 5 years, or by both such fine and imprisonment, in the discretion of the court.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1968, Act 305, Eff. Nov. 15, 1968 ;-- Am. 1982, Act 292, Imd. Eff. Oct. 7, 1982 ;-- Am. 1984, Act 263, Imd. Eff. Dec. 14, 1984
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