

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956
Chapter 52
CORPORATE POWERS, PROCEDURES OF STOCK AND MUTUAL INSURERS

500.5200 Applicability of chapter.

Sec. 5200.

(1) This chapter applies only to domestic stock, mutual, and cooperative plan insurers, including limited liability pools; except, that sections 5242 and 5252 apply also to foreign insurers, and section 5222 applies also to fraternal benefit societies.

(2) For additional provisions applicable only to:

(a) Mutual life and disability insurers, see chapter 54.

(b) General mutuals, see chapter 58.

(c) Cooperative or assessment plan life, disability, and loss of position insurers, see chapter 64.

(d) Limited liability pools, see chapter 65.

(e) Stock life, disability, and loss of position as railway employee insurers, see chapter 66.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1966, Act 140, Eff. Mar. 10, 1967 ;-- Am. 1986, Act 173, Imd. Eff. July 7, 1986

Popular Name: Act 218

500.5202 Life, accident or sickness insurers; reorganization under code.

Sec. 5202.

Any company organized to transact the business of life insurance or insurance against accident or sickness under any laws of this state in force prior to August 10, 1917, may reorganize under this code, and have the benefit of all its provisions, by a vote of the stockholders, or, if it be a mutual company, then by a vote of the members called for that purpose, in pursuance of its present articles, on entering into new articles of incorporation, signed by its charter officers, setting forth the particulars required under this code and filing a copy of such articles with the commissioner and the proper county clerk, after such a certificate of the attorney general has been obtained as is required when the articles are amended; and such company, in so reorganizing, shall be at liberty to make any change in its mode of doing business, not inconsistent with the provisions of this code, and to increase its capital stock, or to retire any guaranteed capital stock, as the stockholders or members may deem proper; but in so reorganizing they shall be subject to all the provisions of this code in regard to the deposit of securities, and to all its other provisions in the same manner and to the same extent as if such company had not previously had a corporate existence.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5204 Companies deemed bodies corporate and politic; corporation law applicable.

Sec. 5204.

All companies formed under the insurance laws of this state shall be deemed bodies corporate and politic, in fact and in name, and shall be subject to all of the provisions of law in relation to corporations as far as they are applicable.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5205 Proof of corporate existence and authority to insure.

Sec. 5205.

If it is necessary, in any legal proceedings, to prove the corporate existence of a domestic insurer, a copy of the articles of incorporation, with a certificate by the commissioner attached, that the copy is a duplicate of the copy on file in the insurance bureau and by the certificate of the state treasurer in proper cases, that the securities required to be deposited with the state treasurer have been deposited, together with a certified copy of the insurer's certificate of authority, shall be prima facie evidence of the corporate existence of the insurer; and except in proceedings by or under the authority of the state, to question its corporate right by information in the nature of quo warranto or otherwise, shall be conclusive evidence of the authority of the insurer to issue policies and transact business as contemplated by its articles, until such authority has been terminated.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1994, Act 226, Imd. Eff. June 27, 1994

Popular Name: Act 218

500.5206 Corporate powers; enumeration; exercise by board of directors.

Sec. 5206.

(1) Every corporation, unless otherwise provided, or inconsistent with the act under which a particular corporation is or shall have been formed shall have power:

(a) To have succession, by its corporate name, for the term stated in its articles;

(b) To sue and be sued, complain and defend, in any court of law or equity or to be a party to any proceedings before any board or commission or other public body of this state or any other state or government; suits at law may be maintained by such corporations against any of its members for any cause relating to the business of such corporation;

(c) To have a corporate seal which may be altered at pleasure and to use the same by causing it or a facsimile thereof to be impressed or affixed or reproduced, or otherwise;

(d) To acquire, purchase, hold, and convey real and personal estate and to mortgage or lease any such real or personal estate with or without any of its franchises, corporate or otherwise, subject to the provisions of this code;

(e) To appoint such officers and agents as the business of the corporation shall require and to allow them suitable compensation;

(f) To make, alter, amend and repeal bylaws for the regulation and government of its affairs, including the certification and transfer of its stock;

(g) To conduct its business in this state, other states, the District of Columbia, the territories and colonies of the United States and in foreign countries and the territories and colonies thereof and have 1 or more offices out of this state and to acquire, purchase, hold, mortgage, pledge, assign, transfer and convey real and personal property out of this state subject to the provisions of this code;

(h) To make contributions for public welfare.

(i) To have and to hold authorized but unissued shares of its own stock, which have been authorized by its stockholders as provided in section 5215 or 5218, as the case may be, for issuance at a subsequent date as the board of directors may determine, including the right for the allotment and sale of any or all of its unissued shares or of shares purchased or to be purchased, to the employees of the corporation, or to the employees of subsidiary corporations or to a trustee on their behalf, and for the payment of such shares in installments or at one time, and for the establishment of a special fund or funds in which such employees during the period of their employment or other period of time may be privileged to participate on such terms and conditions as may be imposed in respect thereof. Shares otherwise subject to pre-emptive rights under any articles of incorporation may be allotted and sold under such plan free from pre-emptive rights only with the written consent or vote of the holders of a majority of the shares entitled to exercise pre-emptive rights with respect thereto. Such allotment or sale may be cancelled by mutual agreement between the corporation or any employee or trustee, or in any other legal manner.

(2) The powers of a corporation, except as otherwise provided, shall be exercised by the board of directors.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1957, Act 91, Eff. Sept. 27, 1957

500.5208 Corporate powers; limitations; applicability of prohibition; services performed in connection with noninsured benefit plan; provisions; interference with rights and obligations under collective bargaining agreement prohibited; report; liability of employee covered under noninsured benefit plan; "noninsured benefit plan" or "plan" defined.

Sec. 5208.

(1) The corporate powers of an insurer incorporated in this state is limited to the issuance of policies insuring persons or property or other hazards in the state of domicile and in other states from which it has received authority to transact insurance business from the insurance department of that state, and to the provision of services of the kind it performs in the normal conduct of its insurance business whether or not those services are performed in connection with an insurance contract. This section does not apply to insurers organized in compliance with the insurance laws of this state, which cannot be properly authorized in other states, because the laws of those states do not permit the writing of the class or kind of insurance written by those insurers.

(2) For services provided under subsection (1) that are performed in connection with a noninsured benefit plan, all of the following apply:

(a) An insurer's fees for services rendered shall be on a basis that precludes cost transfers between individuals receiving those services and policyholders of the insurer.

(b) Any insurer providing services described in subsection (1) in connection with a noninsured benefit plan shall offer a program of specific or aggregate excess loss insurance.

(c) Except as provided in subdivision (d), an insurer providing the services described in subsection (1) in connection with a noninsured benefit plan shall not enter into the service contract for a plan covering a group of less than 500 individuals. However, an insurer may continue a service contract for a plan covering a group of less than 500 individuals if the contract was in existence on December 29, 1981.

(d) An insurer may enter into a service contract for a plan covering a group of less than 500 individuals if either the insurer makes arrangements for excess loss insurance or the sponsor of the plan that covers the individuals is liable for the plan's liabilities and is a sponsor of 1 or more plans covering 500 or more individuals in the aggregate. The commissioner, upon obtaining the advice of insurers, shall establish the standards for the manner and amount of the excess loss insurance required by this subdivision. It is the intent of the legislature that the excess loss insurance requirements be uniform as between insurers and other persons authorized to provide similar services.

(e) An insurer providing the services described in subsection (1) in connection with a noninsured benefit plan shall comply with section 5208a.

(f) A service contract containing an administrative services only arrangement between an insurer and a governmental entity not subject to ERISA, whose plan provides coverage under a collective bargaining agreement utilizing a policy or certificate issued by an insurer, health care corporation, dental care corporation, or health maintenance organization before the signing of the service contract, is void unless the governmental entity has provided the notice described in section 5208a(8) to the collective bargaining agent and to the members of the collective bargaining unit not less than 30 days before signing the service contract. The voiding of a service contract under this subdivision does not relieve the governmental entity of any obligations to the insurer under the service contract.

(3) Nothing in this section shall be construed to permit an actionable interference by an insurer with the rights and obligations of the parties under a collective bargaining agreement.

(4) Services provided under subsection (1) that are performed in connection with a noninsured benefit plan shall be considered a business activity that is not an insurance carrier service and are subject to tax as authorized by the former single business tax act, 1975 PA 228, or the Michigan business tax act, 2007 PA 36, MCL 208.1101 to 208.1601.

(5) An insurer shall report with its annual statement the amount of business it has conducted as services provided under subsection (1) that are performed in connection with a noninsured benefit plan, and the commissioner shall annually transmit this information to the state commissioner of revenue.

(6) An employee covered under a noninsured benefit plan for which services are provided under a service contract authorized under subsection (1) is not liable for that portion of claims incurred and subject to payment under the plan if the service contract is entered into between an employer and insurer, unless that portion of the claim has been paid directly to the employee.

(7) As used in this section, "noninsured benefit plan" or "plan" means a benefit plan without insurance or the noninsured portion of a benefit plan that has specific or aggregate excess loss insurance.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1981, Act 189, Imd. Eff. Dec. 29, 1981 ;-- Am. 1984, Act 267, Imd. Eff. Dec. 18, 1984 ;-- Am. 2002, Act 146, Imd. Eff. Apr. 2, 2002 ;-- Am. 2007, Act 187, Imd. Eff. Dec. 21, 2007

Popular Name: Act 218

500.5208a Definitions; prohibited conduct; probable cause of violation; notice of hearing; opportunity to confer and discuss complaint and proceedings; action for damages; hearing; findings and decision; cease and desist order; processing claims for benefits; interest; claim form; service contract provisions; violation of section; penalties; severability.

Sec. 5208a.

(1) As used in this section:

(a) "Noninsured benefit plan" means a benefit plan without insurance or the noninsured portion of a benefit plan which has specific or aggregate excess loss insurance.

(b) "Process a claim" means the services performed in connection with a claim for benefits including the disbursement of benefit amounts.

(2) An insurer providing services under section 5208 in connection with a noninsured benefit plan, with respect to such services, shall not do any of the following:

(a) Misrepresent pertinent facts relating to coverage.

(b) Fail to acknowledge promptly or to act reasonably and promptly upon communications with respect to a claim for benefits.

(c) Fail to adopt and implement reasonable standards for the prompt investigation of a claim for benefits.

(d) Refuse to process claims without conducting a reasonable investigation based upon the available information.

(e) Fail to communicate affirmation or denial of coverage of a claim for benefits within a reasonable time after a claim has been received.

(f) Fail to attempt in good faith to promptly, fairly, and equitably process a claim for benefits.

(g) Knowingly compel covered individuals to institute litigation to recover amounts due under a benefit plan by offering substantially less than the amounts due.

(h) For the purpose of coercing a covered individual to accept a settlement or compromise in a claim, inform the covered individual of a policy of appealing administrative hearing decisions which are in favor of covered individuals.

(i) Delay the investigation or processing of a claim by requiring a covered individual, or the provider of services to the covered individual, to submit a preliminary claim and then requiring subsequent submission of a formal claim, seeking solely the duplication of a verification.

(j) Fail to promptly provide a reasonable explanation of the basis for denial or partial denial of a claim for benefits.

(k) Fail to promptly process a claim where liability has become reasonably clear under 1 portion of a benefit plan in order to influence a settlement under another portion of the benefit plan.

(l) Refuse to enter into a service contract nor refuse to provide services under a service contract because of race, color, creed, marital status, sex, national origin, residence, age, disability, or lawful occupation.

(3) An insurer providing services under section 5208 in connection with a noninsured benefit plan shall not, in order to induce a person to contract or to continue to contract with the insurer for the provision of services under a service contract offered by the insurer; to induce a person to lapse, forfeit, or surrender a policy or service contract issued by the insurer; or to induce a person to secure or terminate coverage with another insurer, health care corporation, health maintenance organization, or other person, directly or indirectly:

(a) Issue or deliver to the person money or any other valuable consideration.

(b) Offer to make or make an agreement relating to a service contract other than as plainly expressed in the service contract.

(c) Offer to give or pay, or give or pay, directly or indirectly, a rebate or adjustment of the rate payable on the service contract, or an advantage in the services thereunder, except as reflected in the rate and expressly provided in the service contract. Readjustment of the rate for services provided under the service contract may be made at the end of any contract year or contract period and may be made retroactive.

(d) Make, issue, or circulate, or cause to be made, issued, or circulated, any estimate, illustration, circular, or statement misrepresenting the terms of a service contract, the advantages provided thereunder, or the true nature thereof.

(e) Make a misrepresentation in a comparison, whether oral or written, between service contracts of the insurer or between service contracts of the insurer and another insurer, health care corporation, health maintenance

organization, or other person.

(4) When the commissioner has probable cause to believe that an insurer is violating, or has violated subsection (2), indicating a persistent tendency to engage in conduct prohibited by that subsection, or has probable cause to believe that an insurer is violating or has violated subsection (3), he or she shall give written notice to the insurer, pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, setting forth the general nature of the complaint against the insurer and the proceedings contemplated under this section. Before the issuance of a notice of hearing, the staff of the bureau of insurance responsible for the matters which would be at issue in the hearing shall give the insurer an opportunity to confer and discuss the possible complaint and proceedings in person with the commissioner or a representative of the commissioner, and the matter may be disposed of summarily upon agreement of the parties. This subsection shall not be construed to diminish the right of a person to bring an action for damages under this section.

(5) A hearing held pursuant to subsection (4) shall be held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. If, after the hearing, the commissioner determines that the insurer is violating, or has violated subsection (2), indicating a persistent tendency to engage in conduct prohibited by that subsection, or has violated or is violating subsection (3), the commissioner shall reduce his or her findings and decision to writing, and shall issue and cause to be served upon the insurer a copy of the findings and an order requiring the insurer to cease and desist from engaging in the prohibited activity. The commissioner may at any time, by order, and after notice and opportunity for a hearing, reopen and alter, modify, or set aside, in whole or in part, an order issued by him or her under this subsection, when in his or her opinion conditions of fact or law have so changed as to require that action, or if the public interest so requires.

(6) An insurer providing services under section 5208 in connection with a noninsured benefit plan shall process claims for benefits on a timely basis. When not paid on a timely basis, benefits payable to a covered individual shall bear simple interest from a date 60 days after a satisfactory claim form was received by the insurer, at a rate of 12% interest per annum. The interest shall be paid by the noninsured benefit plan in addition to, and at the time of payment of, the claim.

(7) An insurer providing services under section 5208 in connection with a noninsured benefit plan shall specify in writing the materials which constitute a satisfactory claim form not later than 30 days after receipt of a claim, unless the claim is settled within 30 days. If a claim form is not supplied as to the entire claim, the amount supported by the claim form shall be considered to be paid on a timely basis if paid within 60 days after receipt of the claim form by the insurer.

(8) An insurer providing the services under section 5208 in connection with a noninsured benefit plan shall provide in its service contract a provision that the person contracting for the services in connection with a noninsured benefit plan shall notify each covered individual what services are being provided; the fact that individuals are not insured or are only partially insured, as the case may be; which party is liable for payment of benefits; and of future changes in benefits.

(9) An insurer which violates this section shall be subject to the same penalties as provided in section 2038.

(10) The sections and subsections of this act are declared to be severable and if any court of competent jurisdiction finds that any section or subsection is invalid, the remaining sections or subsections shall remain in full force and effect.

History: Add. 1981, Act 189, Imd. Eff. Dec. 29, 1981 ;-- Am. 1998, Act 26, Imd. Eff. Mar. 12, 1998

Popular Name: Act 218

500.5209 Insurer's name; restrictions.

Sec. 5209.

Except as otherwise provided in this section, an insurer shall transact its business under its own name and shall not adopt any assumed name. An insurer, by amending its articles of incorporation, may change its name or take a new name. A nonprofit mutual disability insurer into which a nonprofit health care corporation that is organized under the nonprofit health care corporation reform act, 1980 PA 350, MCL 550.1101 to 550.1704, is merged or consolidated may retain and use trade names in use by the nonprofit health care corporation before the merger or consolidation.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 2013, Act 5, Imd. Eff. Mar. 18, 2013

Popular Name: Act 218

500.5210 Dealing in commodities prohibited; exception.

Sec. 5210.

No domestic property or marine or inland navigation and transportation, or automobile (limited) insurer shall, directly or indirectly, deal or trade in buying or selling any goods, wares, merchandise or other commodities whatever, excepting such articles as may have been insured by such insurer, and are claimed to be damaged by fire or water.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5214 Articles of incorporation; amendment.

Sec. 5214.

(1) An insurer may amend its articles of incorporation at any annual meeting of the stockholders or members or at any special meeting called by the directors for that purpose.

(2) Notice of any annual or special meeting and of the purpose for which it is called shall be served on each of the stockholders, or if it is a mutual company on each of the members, in the following prescribed manner:

(a) Notice by mail shall be considered sufficient if directed to the last known address of each stockholder or member, at least 21 days immediately preceding the meeting.

(b) Notice by publication shall be considered sufficient if published in a newspaper printed and published within this state, and having general circulation within the county or counties in which the company is transacting business. The notice shall be published each week for 3 consecutive weeks immediately preceding the date of the meeting provided that the last notice must be published at least 5 days before the meeting.

(3) The insurer shall furnish the commissioner with a true copy of the notice, supported by evidence of mailing or publication and shall also furnish the commissioner with an extract subscribed to by the president and secretary from so much of the minutes of the meeting as relates to the adoption of any amendment or amendments.

(4) Amendments to the articles of incorporation shall not take effect until submitted to the attorney general and certified by him or her as not in conflict with the constitution or laws of this state. The insurer shall pay to the attorney general the examination fee provided for in section 240(2). The amendments shall be filed in duplicate with the commissioner, 1 copy to be retained by the commissioner and 1 copy to be returned to the insurer with a certified copy of the certificate of approval of the commissioner attached.

(5) All amendments to the articles of incorporation shall be upon the form prescribed by the commissioner.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;— Am. 1994, Act 226, Imd. Eff. June 27, 1994

Popular Name: Act 218

500.5215 Articles of domestic stock insurer; amendment as to increase, decrease, or reclassification of capital stock.

Sec. 5215.

(1) A domestic stock insurer may increase or decrease its authorized capital stock or reclassify the same by changing the number, par value, designations, preferences or relative participating, optional or other special rights of the shares, or the qualifications, limitations, or restrictions of such rights as provided in this section. The par value of stock provided for in any amendment shall conform to the same limitations as to par value as provided for stock issued pursuant to original articles of incorporation.

(2) If a domestic stock insurer proposes to increase, decrease, or reclassify its capital stock, it shall first present its petition to the commissioner setting forth the reasons for the increase, decrease, or reclassification. The

commissioner, if satisfied that the proposed increase or decrease is for the best interests of the insurer and its policyholders, and that no reasonable objection exists, may authorize and approve the proposed plan of increase or decrease, or may direct such modification of the plan as may seem proper. After the approval of the petition by the commissioner, the increase or decrease must be approved and the articles of incorporation amended in this respect, by written consent given without a meeting or by the affirmative vote in person or by proxy at a regular or special meeting of the stockholders of not less than a majority of the capital stock of the insurer having voting power. Notice of the meeting and the purpose for which the meeting is called shall be served on each of the stockholders, either personally or by mail to the last known address of each stockholder at least 3 weeks prior to the meeting. However, if any proposed amendment would alter or change the preferences, special rights, or powers given to any 1 or more classes of stock by the articles of incorporation so as to affect that class or those classes of stock adversely or would increase or decrease the amount of the authorized stock of that class or those classes of stock adversely or would increase or decrease the par value of 1 or more classes of stock, then the holders of the stock of each class of stock so affected by the amendment shall be entitled to give written consent or vote as a class upon the amendment regardless of whether the terms of the articles of incorporation entitle the class to vote or not, and the affirmative action of a majority in interest of each class of stock so affected by the amendment shall be necessary for its adoption in addition to the affirmative action of the majority of all stock entitled to vote on an amendment as is required by law for its adoption. Separate action of any class of stock proposed to be increased or decreased shall not be required if the provisions of the articles of incorporation or amendment to the articles creating the class shall have authorized the increase or decrease without separate action.

(3) An amendment to the articles of incorporation shall not become effective until finally approved by the commissioner and until submitted to the attorney general and certified by him or her as not to be in conflict with the constitution or laws of this state. Amendments to the articles of incorporation shall be filed in duplicate with the commissioner, 1 copy to be retained by the commissioner and 1 copy to be returned to the insurer with a certified copy of the certificate of the approval of the commissioner attached.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1957, Act 91, Eff. Sept. 27, 1957 ;-- Am. 1966, Act 221, Imd. Eff. July 11, 1966 ;-- Am. 1994, Act 226, Imd. Eff. June 27, 1994

Popular Name: Act 218

500.5216 Articles; amendment as to reduction of capital; condition; methods of effecting reduction.

Sec. 5216.

(1) Any such stock life, disability, casualty, title or fidelity and surety insurer may by provision in its articles of incorporation or by amendment thereto made as in section 5215 provided authorized the reduction of its capital at any time and it may reduce its capital in conformity therewith. A certificate stating the fact that such reduction has been made in conformity with the articles of incorporation or amendments thereto, giving the wording of the resolution authorizing the same and the vote thereon, specifying the manner in and the extent to which the capital of the corporation is to be reduced, shall be made and filed as provided for certificates of amendment to the articles of incorporation.

(2) No such reduction, however, shall be made in the capital of the insurer unless the assets of the insurer remaining after such reduction are sufficient to pay any debts of the insurer, the payment of which shall not have been otherwise provided for, nor if in the opinion of the commissioner to whom such certificate shall be submitted before being filed such reduction of capital shall endanger the protection of policyholders. Upon such certificate being so made and filed, the capital of the insurer shall thereby be so reduced.

(3) Such reduction of the capital of the insurer may be effected by retiring or reducing the outstanding shares of any class or by drawing the necessary number of the outstanding shares of any class by lot for retirement or by the exchange by the holders of outstanding shares of any class of the shares of such class held by them for a decreased number of shares of stock of the same or of a different class of stock or by reducing in the manner herein provided the par value of the shares of any class of stock having par value, or where the amount of capital represented by shares of stock having par value exceeds such par value by reducing the amount of capital represented by such shares by an amount not greater than such excess, or in case the capital shall have been increased by the transfer thereto from surplus pursuant to any provision of law so authorizing and the transfer shall not have been made in respect of any designated class or classes of stock by retransferring to surplus all or any part of the amount by which capital shall have been so increased or by the purchase of shares for retirement either pro rata from all holders of shares of that class or stock or by purchasing such shares from time to time in the open market or at private sale in both cases at not exceeding such price or prices as may be fixed or approved by the stockholders entitled to vote upon the reduction of capital to be effected in that manner or by retiring shares owned by the

corporation. If such reduction of capital of the corporation be effected by retiring shares then if the consent or resolution of stockholders above referred to shall so provide an amount not exceeding that part of the capital of the insurer represented by such shares may be charged against or paid out of the capital of the insurer in respect of such shares. If such reduction of capital shall have been effected by retiring or reducing the outstanding shares of any class in any manner above mentioned including the retirement of shares already owned by the insurer, the filing of said certificate as herein provided containing a recital of such fact shall constitute an amendment to the articles of incorporation effecting a reduction of the authorized capital stock of the insurer to the extent of the aggregate par value of such shares and if such shares constitute all the outstanding shares of any particular class shall have the effect of eliminating from the articles of incorporation all reference to said particular class of stock.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1966, Act 221, Imd. Eff. July 11, 1966

Popular Name: Act 218

500.5218 Increase or decrease of capital stock; authorization by commissioner; approval by stockholders; vote; final approval; par value of stock; issuance of new stock.

Sec. 5218.

(1) A domestic stock property, marine, inland navigation and transportation, or automobile (limited) insurer may increase or decrease its capital stock in the manner herein provided. When any such insurer proposes to increase or decrease its capital stock it shall first present its petition to the commissioner, setting forth the reasons for such increase or decrease. The commissioner, if satisfied that the proposed increase or decrease is for the best interests of the insurer and its policyholders, and that no reasonable objection exists thereto, may authorize and approve the proposed plan of increase or decrease, or may direct such modification thereof as may seem proper.

(2) After the approval of the petition as aforesaid, such increase or decrease must be approved, and the articles of incorporation amended in this respect, by the affirmative vote of not less than 2/3 of the capital stock of the insurer, voting in person or by proxy, at a regular or special meeting of the stockholders, but notice of such meeting, reciting the purposes thereof, shall be served on each of the stockholders, either personally or by directing same through the post office to the last known post office address of such stockholder at least 3 weeks previous to such meeting.

(3) Such increase or decrease shall not become effective until finally approved by the commissioner, and until compliance is made with the requirements of section 5214.

(4) Whenever any insurer shall increase or decrease its capital stock as herein provided, the par value of its shares shall be fixed at not less than \$1.00 nor more than \$100.00 each, and the directors of the insurer shall have authority to make provision for calling in the old and issuing new certificates of stock.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5220 Blank forms for amending articles.

Sec. 5220.

The commissioner shall prepare and keep on hand blank forms covering the procedure for amending articles of incorporation of domestic insurers, which forms may be had on application, and shall be used by all insurers hereafter amending their articles of incorporation.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5222 Corporate life; extension.

Sec. 5222.

An insurance corporation whose term is about to expire by limitation may, at any time within 2 years before the expiration of the term, by a vote of a majority of its capital stock or its members present and voting, or if a fraternal benefit society by a majority vote of its governing body or board, as the case may be, at any annual meeting or at any special meeting of its stockholders, or members, or governing body or board, as the case may be, called for that purpose, upon such notice as is provided for in the case of amendments to articles of incorporation by section 5214, direct the continuance of its corporate existence for a further term, not less than 30 years from the expiration of the existing term, as may be expressed in a resolution for that purpose. The president and secretary of the members or governing body or board or stockholders' meeting shall make and sign duplicate copies of the resolution, and its passage shall be verified by the oath of the secretary attached to each of the copies. One of the copies shall be filed in the office of the commissioner and the filed copy or a certified copy of it shall be prima facie evidence of the passage of the resolution and of the extension of the corporate life. However, the filing fee prescribed by section 240(1)(a), for insurers organized in this state, shall be paid before the term shall be extended. This action may also be taken after the expiration of a charter, with the consent in writing of the commissioner. The commissioner shall give this consent only if the commissioner has determined, after examination of the corporation, that the corporation is safe, reliable, and entitled to public confidence. The renewal term of the corporation shall begin from the expiration of the former term, and the corporation whose term has thus been renewed shall be the same corporation and own all its property, and be subject to all its liabilities, and shall have the same stockholders and members and the same officers. The rights of all persons interested in the corporation shall continue as before such extension. The articles of incorporation and bylaws shall continue the same until changed or amended by the corporation in the manner required by law.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1984, Act 365, Imd. Eff. Dec. 27, 1984 ;-- Am. 1994, Act 226, Imd. Eff. June 27, 1994
Popular Name: Act 218

500.5224 Corporate life; expiration, liquidation.

Sec. 5224.

In case the stockholders or members thereof shall not, before the expiration of the corporate existence of a domestic insurer organize a new corporation for the same purposes, on the basis of receiving the assets of the old corporation, and assuming the performance of all its existing contracts and policies, the officers of such corporation, at the expiration of its corporate life, shall be trustees for the purpose of keeping its funds invested for the security of policyholders, settling its affairs, and fulfilling and discharging its obligations, and as such, shall be under the control and direction of the proper circuit court in chancery, or other equity court, as in the case of other trustees; but the officers of such corporation shall not, at the time of the termination of the corporate existence, or in anticipation thereof, make or declare any dividend, or, except in satisfaction of the demands of creditors or policyholders, make any other disposition of the assets of the corporation, or any part thereof, which shall leave the available amount of such assets below the amount of existing debts and of the net value of outstanding policies, to be determined as hereinbefore provided; and any such attempted dividend or distribution shall be void, and may be enjoined on the application of the commissioner; and such officers, before entering upon their duties as such trustees, shall give bond to the people of the state to the satisfaction of the commissioner and to be filed with him, conditioned for the faithful discharge of their duties as such; and they shall be at all times subject to the supervision of the commissioner, in the same manner that corporations are under the provisions of this code; but such trustees shall not make dividends among stockholders, nor to members, unless in reduction of premiums on outstanding policies, except under the order of the proper court of equity; nor shall such court order any such dividends as shall at any time reduce the available assets of the company below the amount of existing debts and the net value of outstanding policies, to be determined as hereinbefore provided.

History: 1956, Act 218, Eff. Jan. 1, 1957
Popular Name: Act 218

500.5228 Bylaws; adoption; filing.

Sec. 5228.

(1) The stockholders or members of a corporation may adopt bylaws that they consider advisable. Bylaws adopted under this subsection may provide 1 or both of the following:

(a) One or more directors may participate in a regular or special meeting of the board, or a committee of the board, or conduct the meeting, by means of electronic communication devices that enable all participants in the meeting to communicate with each other. A director participating in a meeting allowed under this subdivision is deemed to be present in person at a meeting.

(b) Any meeting of the stockholders or members may be conducted by means of electronic communications devices by which all stockholders or members participating may simultaneously participate in the meeting. A stockholder or member participating in a meeting allowed under this subdivision is deemed to be present in person at a meeting.

(2) The directors of a domestic insurer may make bylaws, not inconsistent with the constitution and laws of this state, or with the insurer's articles of incorporation, as they consider necessary for the government of the officers and members of the insurer, and the conduct of its affairs. All bylaws and any amendments to the bylaws must be filed with the director of the department before becoming operative.

(3) If bylaws adopted under subsection (1) need to be amended to allow meetings through electronic communication devices described in subsection (1), an amendment to the bylaws may be adopted at a meeting conducted through electronic communication devices described in subsection (1).

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1994, Act 226, Imd. Eff. June 27, 1994 ;-- Am. 2020, Act 266, Imd. Eff. Dec. 29, 2020 ;-- Am. 2023, Act 28, Imd. Eff. May 8, 2023

Popular Name: Act 218

500.5230 Special meetings of stockholders or members; notice of meetings.

Sec. 5230.

(1) A special meeting of the stockholders or members of a domestic stock or mutual insurer may be called for purposes other than amending articles of incorporation under section 5214 and extending its corporate existence under section 5222, by the directors at any time they consider advisable.

(2) Notice of a meeting of the members or stockholders must be given by mailing to each member or stockholder a copy of the notice, postage prepaid, directed to his or her last known post office address at least 21 days before the time fixed for the meeting. The notice must state the time and place, and if the meeting is a special meeting, the purpose of the special meeting. However, notice of the time and place of the annual meeting of a mutual insurer may be printed on the policy or certificate of renewal instead of mailing as required under this subsection, in which case the notice must also be printed with the annual statement of the insurer.

(3) A meeting of the stockholders or members may be conducted by means of electronic communications devices by which all stockholders or members participating may simultaneously participate in the meeting. A stockholder or member participating in a meeting allowed under this subsection is deemed to be present in person at a meeting.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 2020, Act 266, Imd. Eff. Dec. 29, 2020 ;-- Am. 2023, Act 28, Imd. Eff. May 8, 2023

Popular Name: Act 218

500.5232 Voting rights; stockholders, members, proxies, fiduciaries, pledgees.

Sec. 5232.

Each stockholder or member of a domestic stock or mutual insurer shall at every meeting of the stockholders or members thereof be entitled to vote in person or by proxy in writing signed by such stockholder or member: Provided, That for insurers having only members and no stockholders, voting by proxy after June 1, 1943, shall be permitted only if provided in the articles or in any bylaw adopted by the members. Persons holding shares of the capital stock of any such insurer in a fiduciary capacity shall be entitled to vote the shares so held. Persons whose shares are pledged shall be entitled to vote, unless in the transfer by the pledgor on the books of the corporation he shall have expressly empowered the pledgee to vote thereon, in which case only the pledgee or his proxy may represent such shares and vote thereon.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5234 Stockholders and members; voting rights, quorum.

Sec. 5234.

A majority of the shares entitled to vote on a particular subject matter at any meeting of the stockholders shall constitute a quorum for such vote unless otherwise provided by law or in the articles or in any bylaw adopted by the stockholders. A minimum of 10 members present in person shall constitute a quorum at any meeting of those insurers having members only and no stockholders, unless a larger number is specified in the articles or in any bylaw adopted by the members.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5236 Voting rights; inspectors of election.

Sec. 5236.

Whenever any stockholder or member present at a meeting of stockholders or members of an insurer shall request the appointment of inspectors, the chairman of the meeting shall appoint inspectors who need not be stockholders or members. If the right of any person to vote at such meeting shall be challenged, the inspectors of election shall determine such right. The inspectors shall receive and count the votes either upon an election or the decision of any question and shall determine the result. Their certificate of any vote shall be prima facie evidence thereof.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5238 Trustees or directors; residency requirement; director as policyholder of insurer; meetings; frequency; oath.

Sec. 5238.

(1) In all insurers organized under the laws of Michigan, at least 1 of the trustees or directors shall be a resident of the state of Michigan. The articles of incorporation or bylaws of an insurer other than a stock insurer may provide that a director shall be a policyholder of the insurer.

(2) The board of directors of a domestic insurer shall meet not fewer than 4 times per fiscal year in person or by means of electronic communication devices that enable all participants in a meeting to communicate with each other.

(3) Each director of a domestic insurer when elected or appointed shall take and subscribe an oath that he or she will diligently and honestly perform the duties of the office and will not knowingly violate, or knowingly permit to be violated, any provisions of this act. The oath shall be transmitted to the commissioner for filing.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1962, Act 48, Eff. Mar. 28, 1963 ;-- Am. 1982, Act 338, Imd. Eff. Dec. 17, 1982 ;-- Am. 1989, Act 139, Eff. July 1, 1989 ;-- Am. 2006, Act 291, Imd. Eff. July 20, 2006

Popular Name: Act 218

500.5239 Repealed. 1988, Act 290, Eff. Jan. 1, 1989.

Compiler's Notes: The repealed section pertained to liability of directors for delinquency.

Popular Name: Act 218

500.5240 Discharging duties of director or officer; commencement of action for failure to perform duties.

Sec. 5240.

(1) A director or an officer shall discharge the duties of that position in good faith and with that degree of diligence, care, and skill which an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging his or her duties, a director or an officer, when acting in good faith, may rely upon the opinion of counsel for the corporation, upon the report of an independent appraiser selected with reasonable care by the board, or upon financial statements of the corporation represented to him or her as correct by the president or the officer of the corporation having charge of its books of account, or as stated in a written report by an independent public or certified public accountant or firm of accountants fairly to reflect the financial condition of the corporation.

(2) An action against a director or officer for failure to perform the duties imposed by this section shall be commenced within 3 years after the cause of action has accrued, or within 2 years after the time when the cause of action is discovered, or should reasonably have been discovered, by the complainant, whichever occurs first.

History: Add. 1988, Act 290, Eff. Jan. 1, 1989

Popular Name: Act 218

500.5241 Indemnification against expenses of action, suit, or proceeding generally.

Sec. 5241.

A corporation has the power to indemnify a person who was or is a party or is threatened to be made a party to a threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal, other than an action by or in the right of the corporation, by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, against expenses, including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit, or proceeding, if the person acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders or policyholders, and with respect to a criminal action or proceeding, if the person had no reasonable cause to believe his or her conduct was unlawful. The termination of an action, suit, or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, does not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders or policyholders, and, with respect to a

criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful.

History: Add. 1988, Act 290, Eff. Jan. 1, 1989

Popular Name: Act 218

500.5242 Indemnification against expenses of action, suit, or proceeding; additional provisions.

Sec. 5242.

A corporation has the power to indemnify a person who was or is a party to or is threatened to be made a party to a threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, whether for profit or not, against expenses, including actual and reasonable attorneys' fees, and amounts paid in settlement incurred by the person in connection with the action or suit, if the person acted in good faith and in a manner the person reasonably believed to be in or not opposed to the best interests of the corporation or its shareholders or policyholders. However, indemnification shall not be made for a claim, issue, or matter in which the person has been found liable to the corporation unless and only to the extent that the court in which the action or suit was brought has determined upon application that, despite the adjudication of liability but in view of all circumstances of the case, the person is fairly and reasonably entitled to indemnification for the expenses which the court considers proper.

History: Add. 1988, Act 290, Eff. Jan. 1, 1989

Compiler's Notes: Former MCL 500.5242, which prohibited an insurance company from controlling other insurers, was repealed by Act 91 of 1957, Eff. Sept. 27, 1957.

Popular Name: Act 218

500.5242a Indemnification against expenses of action, suit, or proceeding; mandatory; standard of conduct; determination.

Sec. 5242a.

(1) To the extent that a director, officer, employee, or agent of a corporation has been successful on the merits or otherwise in defense of an action, suit, or proceeding referred to in section 5241 or 5242, or in defense of a claim, issue, or matter in the action, suit, or proceeding, he or she shall be indemnified against expenses, including actual and reasonable attorneys' fees, incurred by him or her in connection with the action, suit, or proceeding and an action, suit, or proceeding brought to enforce the mandatory indemnification provided in this subsection.

(2) An indemnification under section 5241 or 5242, unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in sections 5241 and 5242. This determination shall be made in any of the following ways:

(a) By a majority vote of a quorum of the board consisting of directors who were not parties to the action, suit, or proceeding.

(b) If the quorum described in subdivision (a) is not obtainable, then by a majority vote of a committee of directors who are not parties to the action. The committee shall consist of not less than 2 disinterested directors.

(c) By independent legal counsel in a written opinion.

(d) By the shareholders or policyholders.

(3) If a person is entitled to indemnification under section 5241 or 5242 for a portion of expenses including attorneys' fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount thereof, the corporation may indemnify the person for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified.

History: Add. 1988, Act 290, Eff. Jan. 1, 1989

Popular Name: Act 218

500.5242b Payment of expenses in advance of final disposition of action, suit, or proceeding; undertaking.

Sec. 5242b.

Expenses incurred in defending a civil or criminal action, suit, or proceeding described in section 5241 or 5242 may be paid by the corporation in advance of the final disposition of the action, suit, or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay the expenses if it is ultimately determined that the person is not entitled to be indemnified by the corporation. The undertaking shall be by unlimited general obligation of the person on whose behalf advances are made but need not be secured.

History: Add. 1988, Act 290, Eff. Jan. 1, 1989

Popular Name: Act 218

500.5242c Indemnification or advancement of expenses not exclusive of other rights; indemnification inuring to benefit of heirs, executors, and administrators.

Sec. 5242c.

(1) The indemnification or advancement of expenses provided under sections 5241 to 5242b is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under the articles of incorporation, bylaws, or a contractual agreement. However, the total amount of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses.

(2) The indemnification provided for in sections 5241 to 5242b continues as to a person who ceases to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person.

History: Add. 1988, Act 290, Eff. Jan. 1, 1989

Popular Name: Act 218

500.5242d "Corporation" defined for purposes of MCL 500.5241 to 500.5242c.

Sec. 5242d.

For purposes of sections 5241 to 5242c, "corporation" includes all constituent corporations absorbed in a consolidation or merger and the resulting or surviving corporation, so that a person who is or was a director, officer, employee, or agent of the constituent corporation or is or was serving at the request of the constituent corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise whether for profit or not shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as the person would if he or she had served the resulting or surviving corporation in the same capacity.

History: Add. 1988, Act 290, Eff. Jan. 1, 1989

Popular Name: Act 218

500.5243 Repealed. 1988, Act 290, Eff. Jan. 1, 1989.

Compiler's Notes: The repealed section pertained to indemnification and reimbursement of directors, officers, or employees.

Popular Name: Act 218

500.5244 Liability for payment under invalid law or ordinance.

Sec. 5244.

No personal liability shall arise against any director, trustee, officer, or agent of any insurer by reason of any payment made by or on behalf of such insurer on account of any taxes, licenses, or fees paid pursuant to any statute, law, or ordinance, even though the statute, law, or ordinance is subsequently declared or held to be invalid.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1966, Act 217, Eff. Mar. 10, 1967 ;-- Am. 1988, Act 290, Eff. Jan. 1, 1989

Popular Name: Act 218

500.5245 Board of directors; quorum; special meetings; consent to action taken without meeting.

Sec. 5245.

(1) A majority of the board of directors constitutes a quorum for the transaction of business, and the acts of a majority of the directors present at a meeting at which a quorum is present are the acts of the board of directors.

(2) On written notice of the time and place and purpose or purposes of any special meeting, any of the directors, in-between regular meetings of the board of directors, may consent in writing to any specific action to be taken by the corporation, and if approved by a majority of the directors at the special meeting, including those consenting in writing, the action is as valid a corporation action as though authorized at a regular meeting of the directors. The minutes of approval and action must be fully recorded, each written consent must be made a part of the minutes, and the minutes and written consent must be reviewed at the next regular meeting of the board of directors.

(3) Unless prohibited by the articles of incorporation or bylaws, action required or permitted to be taken under authorization voted at a meeting of the board or a committee of the board may be taken without a meeting if, before or after the action, all members of the board then in office or of the committee consent to the action in writing or by electronic transmission. The written consents must be filed with the minutes of the proceedings of the board or committee. The consent has the same effect as a vote of the board or committee for all purposes.

(4) The board of directors may permit 1 or more directors to participate in a regular or special meeting of the board, or a committee of the board, or conduct the meeting, by means of electronic communication devices that enable all participants in the meeting to communicate with each other. A director participating in a meeting under this subsection is deemed to be present in person at the meeting.

History: Add. 1966, Act 170, Eff. Mar. 10, 1967 ;-- Am. 2006, Act 290, Imd. Eff. July 20, 2006 ;-- Am. 2020, Act 266, Imd. Eff. Dec. 29, 2020 ;-- Am. 2023, Act 28, Imd. Eff. May 8, 2023

Popular Name: Act 218

500.5246 Officers and agents; appointment, removal, bond.

Sec. 5246.

The board of directors of a domestic insurer shall select a president, a secretary, and a treasurer, or such equivalent officers as may be designated in its articles or bylaws, and may select 1 or more vice-presidents, assistant secretaries and assistant treasurers. Any 2 of the above offices except those of president and vice-president may,

unless otherwise provided by the bylaws, be held by the same person but no officer shall execute, acknowledge, or verify an instrument in more than 1 capacity. The board may also appoint such other officers and agents as they may deem necessary for the transaction of the business of the corporation. All officers and agents shall respectively have such authority and perform such duties in the management of the property and affairs of the corporation, as may be delegated by the board of directors. Any officer or agent may be removed by the board of directors whenever in their judgment the business interests of the corporation will be served thereby. The board of directors may secure the fidelity of any or all of such officers by bond or otherwise. Unless otherwise provided in the articles or bylaws, the board of directors shall have power to fill any vacancies in any offices occurring from whatever reason.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5248 Directors, officers, and employees of domestic insurer; compensation.

Sec. 5248.

(1) No domestic insurer shall pay any salary, compensation, or emolument to any officer or director of the domestic insurer unless the payment is first authorized by a vote of the board of directors of the insurer.

(2) A director, officer, or employee of a domestic insurer shall not be compensated unreasonably. The compensation of any director or officer of a domestic insurer shall not be calculated, directly or indirectly, as a percentage of premiums collected or insurance written by the insurer, without the approval of the commissioner.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1957, Act 91, Eff. Sept. 27, 1957 ;-- Am. 1959, Act 30, Eff. Mar. 19, 1960 ;-- Am. 1963, Act 69, Eff. Sept. 6, 1963 ;-- Am. 1965, Act 243, Imd. Eff. July 21, 1965 ;-- Am. 2006, Act 289, Imd. Eff. July 20, 2006

Popular Name: Act 218

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

Popular Name: Act 218

500.5256 Records relating to insurer's business or affairs; locations; production; safekeeping of securities, notes, mortgages, or other evidences of indebtedness; exceptions; holding certificates in name of nominee; indorsement; control or possession of certificate; reproduction of records; removal of records; hearing; findings, decision, and order; violation of section; liability; failure to comply with order; transfer of domicile.

Sec. 5256.

(1) Each domestic insurer shall keep under its control all records relating to the insurer's business or affairs at 1 or more of the following locations:

- (a) The principal place of doing business in this state.
- (b) One or more locations outside the state approved for that purpose, in writing, by the commissioner.

(2) A domestic insurer shall produce those records relating to the insurer's business or affairs and personnel knowledgeable about the records at a principal place of doing business in or outside this state for examination within a reasonable time period specified by the commissioner.

(3) A domestic insurer may place for safekeeping all or any part of its securities, notes, mortgages, or other evidences of indebtedness, with any national bank, state bank, trust company, or any other United States corporation authorized as a custodian to accept and hold personal property for safekeeping. A national bank, state bank, trust company, or United States corporation authorized to accept and hold personal property for safekeeping may employ a subcustodian outside of the United States to hold assets that are not in physical form or that are customarily traded outside the United States. A statutory deposit required by any state or foreign country shall be excepted and any delivery and pledge or assignment of its notes, mortgages, or other securities by any such insurer, as security for money borrowed by it or as required in the regular course of its business by the laws of any state or

foreign country, shall also be excepted. The insurer may hold certificates evidencing shares of stock or other registrable securities in the name of a nominee or nominees employed by the insurer and responsible to the insurer. The nominee or nominees, on the request of the insurer, shall indorse the certificate representing shares of stock or other registrable securities in blank or by assignment separate from the certificates. The insurer at all times shall maintain control or possession of the certificate representing the share of stock or other registrable securities, but, if necessary, the nominee or nominees may have access thereto for the purpose of examination under the supervision of the corporation.

(4) The records required to be retained by this section may be maintained in paper, photograph, micro process, magnetic, mechanical or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record. If the original document is unavailable, the domestic insurer may produce in an alternative format the same data that was contained on the original document.

(5) Removal of all or a material part of the records of a domestic insurer from this state, except pursuant to a plan or merger or consolidation approved by the commissioner under this act or as may be approved in writing by the commissioner, is prohibited. If after a hearing is held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the commissioner determines that the insurer has violated this section, the commissioner shall reduce his or her findings and decision to writing and shall issue and cause to be served upon the insurer charged with the violation a copy of the findings and order requiring the insurer to return the office, records, and assets to this state. An insurer that violates this section shall be treated as a foreign insurer for the period of time the records were removed from this state, and the insurer shall be liable for both of the following:

(a) The amount of tax prescribed in section 476a and interest in the amount of 3% of the amount due and unpaid for each month or part of a month that the insurer was in violation of this section.

(b) A penalty of \$5,000.00 plus an additional \$50.00 for each day that the insurer was not in compliance with this section. A domestic insurer that fails to comply with an order of the commissioner issued under this section is presumed to be no longer safe, reliable, and entitled to public confidence under section 436.

(6) If an insurer fails to comply with an order issued under this section, as modified or extended, the commissioner shall suspend or revoke the insurer's certificate of authority.

(7) The commissioner may require a domestic insurer to transfer its domicile to another state if the commissioner is not satisfied with the production of the records and personnel knowledgeable about the records because all or part of the records or personnel are located outside this state.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1969, Act 318, Eff. Mar. 20, 1970 ;-- Am. 1982, Act 338, Imd. Eff. Dec. 17, 1982 ;-- Am. 1989, Act 302, Imd. Eff. Jan. 3, 1990 ;-- Am. 1990, Act 256, Imd. Eff. Oct. 15, 1990 ;-- Am. 1998, Act 121, Imd. Eff. June 10, 1998

Popular Name: Act 218

500.5258 Acknowledgments.

Sec. 5258.

A corporation may acknowledge any instrument required by law to be acknowledged, by any 1 of its officers or by its attorney appointed by instrument in writing.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5260 Stock certificates; substitutions.

Sec. 5260.

(1) In case a certificate for shares of a corporation is lost, stolen or destroyed, a new certificate may be secured as provided for lost or destroyed certificates in section 17 of Act No. 106 of the Public Acts of 1913, which is known as the uniform stock transfer act.

(2) A corporation which voluntarily and in good faith issues a new certificate in lieu of one believed to have been lost, stolen or destroyed, or issues a new certificate in compliance with an order of a court of competent jurisdiction may recognize the person in whose name the new certificate or any certificate thereafter issued in exchange or

substitution therefor, is issued, as the owner of the shares described therein for all purposes, including the right to vote and the right to receive payment of dividends, distribution or redemption price, until the owner of the original certificate or a transferee thereof without notice and for value shall enjoin the corporation and the holder of any new certificate or any certificate issued in exchange or substitution therefor from so acting.

History: 1956, Act 218, Eff. Jan. 1, 1957

Compiler's Notes: Act 106 of 1913, referred to in this section, was repealed by Act 174 of 1962.

Popular Name: Act 218

500.5264 Expenditures, vouchers, and affidavits.

Sec. 5264.

No domestic life insurer shall make any disbursement of \$100.00 or more unless the same be evidenced by a voucher signed by or on behalf of the person receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements, the voucher shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditure be in connection with any matter pending before any legislative or public body, or before any department or officer of any state or government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such insurer therein. When such voucher cannot be obtained the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure and stating the reason for not obtaining the voucher.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5266 Dividends to stockholders; general provision.

Sec. 5266.

No dividends shall be declared due and payable to stockholders of any stock insurance company, except out of the surplus earnings of the company unless otherwise provided for in this code.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5267 Dividends to stockholders; domestic fire insurance company.

Sec. 5267.

It shall not be lawful for the directors or managers of any domestic fire insurance company to declare any dividend, except from the surplus profits arising from their business; and in estimating such profits, there shall be reserved from its admitted assets a sum equal to the amount of unearned premiums on unexpired risks and policies, and all other outstanding liabilities: Provided, always, That no company may declare dividends exceeding 10%, on its capital stock, in any 1 year, unless it shall have accumulated and be in possession of a surplus, in addition to the amount of its capital stock, and of such dividend, and all outstanding liabilities, equal to 1/4 of the amount of the unearned premiums on risks not terminated at the time of making such dividend or 1/2 of its capital stock, whichever is the greater. Any dividend made contrary to these provisions, shall subject the company making the same to a forfeiture of its corporate rights, and each stockholder receiving it to a liability to the creditors of such company to the extent of the dividend received, in addition to the other penalties and punishments in such case made and provided.

History: 1956, Act 218, Eff. Jan. 1, 1957
Popular Name: Act 218

500.5270 Insurer's rights as stockholder in other corporations.

Sec. 5270.

When an insurer shall be a stockholder in any other corporation, as provided for in sections 922 (investment in stocks and bonds), 926 (investment in insurance stocks), and 938 (collateral loans), its president and other officers or any of its directors shall be eligible to the office of director of such insurer the same as if they were individually stockholders therein and an insurer holding such stock shall possess and exercise in respect thereof, all the rights, powers, privileges and liabilities of individual owners or holders of such stock.

History: 1956, Act 218, Eff. Jan. 1, 1957 ;-- Am. 1957, Act 91, Eff. Sept. 27, 1957
Popular Name: Act 218

500.5272 Domestic fire insurance company; deficiency of assets; notice; cessation of business; liability.

Sec. 5272.

(1) Whenever it shall appear to the commissioner, from examination of any domestic fire insurance company that the assets of the company are insufficient to justify the continuance in business of such company, he may direct the officers thereof to require the stockholders to pay in the amount of such deficiency within such period as he may designate in such requisition, and in case any such company shall fail to pay in and make good the full amount of such deficiency within 30 days after such requisition and direction as aforesaid, the commissioner shall give notice of such failure in some newspaper published in the county where the office of such company is located by its charter. Such notice shall contain a brief statement of the fact of such failure to comply with this section, and shall be published in such paper once in each week for 3 successive weeks.

(2) It shall not be lawful after the first publication of such notice for such company to issue any policy of insurance, or to make any contract for the same, or to transact any business under its charter, except to close up its business; and all contracts of insurance and policies issued after such first publication of such notice shall be void and of no binding force, and the person or persons making such contracts or issuing such policy shall be liable, in an action of trover, to the person insured, in double the sum named as premium in such contract or policy.

History: 1956, Act 218, Eff. Jan. 1, 1957
Popular Name: Act 218

500.5274 Domestic fire insurance company; assessment of stockholders.

Sec. 5274.

(1) Any company receiving the requisition from the commissioner provided for in section 5272, shall forthwith call upon its stockholders for such amounts as will make its capital equal to the amount fixed by the articles of incorporation of the company; and in case any stockholder of the company shall fail to pay the amount so called for, after notice personally given or by advertisement, in such time and manner as the commissioner shall approve, it shall be lawful for the company to require the return of the original certificate of stock held by such stockholder, and in lieu thereof to issue new certificates for such number of shares as such stockholder may be entitled to in the proportion that the ascertained value of the funds of the company may be found to bear to the original capital of the company; the value of such shares, for which new certificates shall be issued, to be ascertained under the direction of the commissioner, and the company paying for the fractional parts of shares; and it shall be lawful for the

directors of such company to create new stock and dispose of the same, and to issue new certificates therefor, to an amount sufficient to make up the original capital of the company.

(2) Any transfer of the stock of any such company made during the pending of any such investigation, shall not release the party making the transfer from his liability for losses which may have accrued previous to the transfer.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5276 Domestic fire insurance company; liability of directors under new risks accepted during deficiency.

Sec. 5276.

In the event of any additional losses accruing upon new risks, taken after the expiration of the period limited by the commissioner in the requisition, pursuant to section 5272, for the filling up of the deficiency in the capital and assets of such company, and before said deficiency shall have been made up, the directors shall be individually liable to the extent thereof.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5280 Domestic mutual insurer; assets; deficiency; liability of director.

Sec. 5280.

(1) If, upon examination, it appears to the commissioner that the assets of any domestic mutual insurer are insufficient to justify the continuance of such insurer in business, it shall be his duty to proceed in relation to such insurer in the same manner as is herein required in regard to stock companies; and the directors of such insurer are hereby made personally liable for any losses which may be sustained upon risks taken after the expiration of the period limited by the commissioner for filling up the deficiency in the capital and assets of such company, and before such deficiency shall have been made up.

(2) All the provisions of section 5272 shall apply to such a mutual insurer.

History: 1956, Act 218, Eff. Jan. 1, 1957

Popular Name: Act 218

500.5282 Domestic stock insurer; statement of beneficial ownership of equity securities.

Sec. 5282.

Every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of the company, shall file in the office of the commissioner on or before January 31, 1966, or within 10 days after he becomes beneficial owner, director or officer a statement, in such form as the commissioner may prescribe, of the amount of all equity securities of the company of which he is the beneficial owner. Within 10 days after the close of each calendar month thereafter, if there has been a change in ownership during the month, every such person shall file in the office of the commissioner a statement, in such form as the commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during the calendar month.

History: Add. 1965, Act 377, Eff. Mar. 31, 1966

Popular Name: Act 218

500.5283 Unfair use of information; prevention; actions for recovery of profits; limitations; exempt transactions.

Sec. 5283.

For the purpose of preventing the unfair use of information which may have been obtained by the beneficial owner, director or officer by reason of his relationship to the company, any profit realized by him from any transfer of any equity security of the company within any period of less than 6 months, unless the security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of the beneficial owner, director or officer in entering into the transaction, of holding the security purchased, or of not repurchasing the security sold, for a period exceeding 6 months. Action to recover the profit may be instituted in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company fails or refuses to bring the action within 60 days after request or fails diligently to prosecute the action. No action shall be brought more than 2 years after the date the profit was realized. This section shall not be construed to cover any transaction where the beneficial owner was not such at the time the transaction dealing with the security involved, or any transaction which the commissioner by rules and regulations may exempt as not comprehended within the purpose of this section.

History: Add. 1965, Act 377, Eff. Mar. 31, 1966

Popular Name: Act 218

500.5283a Acquisition of stock or stock option; exemption from MCL 500.5283; conditions; definition.

Sec. 5283a.

Any acquisition of shares of stock, other than stock acquired upon the exercise of an option, warrant, or right, pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings, or similar plan, or any acquisition of an incentive, qualified, or restricted stock option pursuant to an incentive, qualified, or restricted stock option plan, or a stock option pursuant to an employee stock purchase plan, by a director or officer of an insurer issuing the stock or stock option is exempt from the operation of section 5283 if the plan meets the conditions provided in rules R 500.523 and R 500.526 of the Michigan Administrative Code. As used in this section and sections 5283B and 5283C, "Incentive stock option" means that term as defined in section 422A of the internal revenue code.

History: Add. 1984, Act 365, Imd. Eff. Dec. 27, 1984

Popular Name: Act 218

500.5283b Selection of director or officer to whom stock allocated or options granted; exercise of discretion; director or committee member as disinterested person; section inapplicable to certain options or equity securities.

Sec. 5283b.

(1) If the selection of any director or officer of the insurer to whom stock may be allocated or to whom incentive, qualified, restricted, or employee stock purchase plan stock options may be granted pursuant to the plan, or the determination of the number or maximum number of shares of stock which may be allocated to any director or officer or which may be covered by incentive, qualified, restricted, or employee stock purchase plan stock options granted to any director or officer, is subject to the discretion of any person, then such discretion shall be exercised only as prescribed in this section.

(2) With the respect to the participation of directors:

(a) By the board of directors of the insurer, a majority of which board and a majority of the directors acting in the matter are disinterested persons.

(b) By, or only in accordance with the recommendations of, a committee of 3 or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons.

(c) In accordance with the plan, if it specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to incentive, qualified, restricted, or employee stock purchase plan stock options granted to directors and the terms upon which, and the times at which, or the periods within which, such stock may be acquired or such options may be acquired and exercised; or sets forth, by formula or otherwise, effective and determinable limitations on such acquisitions or grants based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares, or percentages of outstanding shares, or similar factors.

(3) With respect to the participation of officers who are not directors:

(a) By the board of directors of the insurer or a committee of 3 or more directors.

(b) By, or only in accordance with the recommendations of, a committee of 3 or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons.

(4) For the purpose of this section, a director or committee member shall be deemed to be a disinterested person only if he or she is not eligible at the time the discretion is exercised and has not been eligible at any time within 1 year prior thereto for selection as a person to whom stock may be allocated or to whom incentive, qualified, restricted, or employee stock purchase plan stock options may be granted pursuant to the plan or any other plan of the insurer or any of its affiliates entitling the participants therein to acquire stock or incentive, qualified, restricted, or employee stock purchase plan stock options of the insurer or any of its affiliates.

(5) This section shall not apply with respect to any option granted, or other equity security acquired, prior to the date that sections 5282, 5283, and 5284 first become applicable with respect to any class of equity securities of any insurer.

History: Add. 1984, Act 365, Imd. Eff. Dec. 27, 1984

Popular Name: Act 218

500.5283c Stock purchase plan; limitations.

Sec. 5283c.

As to each participant or as to all participants the stock purchase plan shall effectively limit the aggregate dollar amount or the aggregate number of shares of stock which may be allocated or which may be subject to incentive, qualified, restricted, or employee stock purchase plan stock options granted pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan, whether or not the plan has a fixed termination date; and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares, or percentages of outstanding shares, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

History: Add. 1984, Act 365, Imd. Eff. Dec. 27, 1984

Popular Name: Act 218

500.5284 Securities not owned; sale; failure to deliver to transferee; exception.

Sec. 5284.

It is unlawful for any beneficial owner, director or officer, directly or indirectly, to sell any equity security of the company if he does not own the security sold, or if owning the security, does not deliver the security to the transferee within 20 days after the sale, or does not within 5 days after the sale deposit it in the mails or other usual

channels of transportation. No person shall be deemed to have violated this section if he proves that notwithstanding the exercise of good faith he was unable to make the delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

History: Add. 1965, Act 377, Eff. Mar. 31, 1966
Popular Name: Act 218

500.5285 Nonapplication of sections to certain transactions.

Sec. 5285.

The provisions of section 5283 shall not apply to any transaction, and the provisions of section 5284 shall not apply to any sale of an equity security of a domestic stock insurance company not then or previously held by the transferor in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by the dealer of a primary or secondary market, otherwise than on an exchange as defined in the securities exchange act of 1934, for the security. The commissioner, by such rules and regulations as he deems necessary or appropriate in the public interest, may define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

History: Add. 1965, Act 377, Eff. Mar. 31, 1966
Popular Name: Act 218

500.5286 Foreign or domestic arbitrage transactions; exemptions.

Sec. 5286.

The provisions of sections 5282, 5283 and 5284 shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner may adopt in order to carry out the purposes of this act.

History: Add. 1965, Act 377, Eff. Mar. 31, 1966
Popular Name: Act 218

500.5287 Equity security; definition.

Sec. 5287.

The term "equity security" means any stock or similar security; or any security convertible, with or without consideration into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

History: Add. 1965, Act 377, Eff. Mar. 31, 1966
Popular Name: Act 218

500.5288 Registered equity securities; exemptions; conditions.

Sec. 5288.

The provisions of sections 5282, 5283 and 5284 shall not apply to equity securities of a domestic stock insurance company if the securities shall be registered, or shall be required to be registered, pursuant to section 12 of the securities exchange act of 1934, as amended, or if the domestic stock insurance company shall not have any class of its equity securities held of record by 100 or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 5282, 5283 and 5284 except for the provisions of this section.

History: Add. 1965, Act 377, Eff. Mar. 31, 1966

Popular Name: Act 218

500.5289 Insurance commissioner; regulatory powers; effect of good faith.

Sec. 5289.

The commissioner may make such rules and regulations as may be necessary for the execution of the functions vested in him by sections 5282 to 5288, and for such purpose may classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of sections 5282, 5283 and 5284 imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner, notwithstanding that the rules or regulations may be amended or rescinded or determined by judicial or other authority to be invalid for any reason, after such act or omission.

History: Add. 1965, Act 377, Eff. Mar. 31, 1966

Popular Name: Act 218

Admin Rule: R 500.402 et seq. of the Michigan Administrative Code.

500.5290 Unlawful solicitation; use of name to solicit proxies or consents.

Sec. 5290.

It is unlawful for any person, in contravention of such rules and regulations as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security of a domestic insurer not listed on a national securities exchange.

History: Add. 1965, Act 377, Eff. Mar. 31, 1966

Popular Name: Act 218