

1998 PUBLIC AND LOCAL ACTS

[No. 107]

(HB 5535)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal certain acts and parts of acts; to repeal certain acts and parts of acts on specific dates; to repeal certain parts of this act on specific dates; and to provide penalties for the violation of this act," by amending section 4038 (MCL 500.4038), as added by 1993 PA 349.

The People of the State of Michigan enact:

500.4038 "Policy cost factors" defined; initial disclosure; statement of policy information; delivery; extension of free-look period; furnishing statement at time of policy delivery.

[M.S.A. 24.14038]

Sec. 4038. (1) As used in this section, "policy cost factors" means those amounts that affect the price per thousand of life insurance coverage or other benefits. They include interest, mortality, expense charges, and fees, including any surrender or withdrawal charges, but not persistency assumptions.

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(2) Unless a statement of policy information is provided pursuant to subsection (3), for initial disclosure in connection with any advertising, solicitation, or negotiation of a universal life insurance policy all of the following are required:

(a) Any statement of policy cost factors or benefits shall contain all of the following:

(i) The corresponding guaranteed policy cost factors or benefits, clearly identified.

(ii) A statement explaining the nonguaranteed nature of any current interest rates, charges, or other fees applied to the policy, including the insurer's rights to alter any of these factors.

(iii) Any limitation on the crediting of interest, including identification of those portions of the policy to which a specified interest rate shall be credited.

(b) Any illustration of the policy value shall be accompanied by the corresponding net cash surrender value.

(c) Any statement regarding the crediting of a specific current interest rate shall also contain the frequency and timing by which that rate is determined.

(d) If any statement refers to the policy being interest-indexed, the index shall be described. In addition, a description shall be given of the frequency and timing of determining the interest rate and of any adjustments made to the index in arriving at the interest rate credited under the policy.

(e) Any illustrated benefits based upon nonguaranteed interest, mortality, or expense factors shall be accompanied by a statement indicating that these benefits are not guaranteed.

(f) If the guaranteed cost factors or initial policy cost factor assumptions would result in policy values becoming exhausted before the policy's maturity date, that fact shall be disclosed, including notice that coverage will terminate under those circumstances.

(3) At the time the agent takes an application for a policy, except as provided in subsection (4), the agent shall furnish to the applicant a statement of policy information for the applicant in a format approved by the commissioner. The illustration of policy premium, death benefit, and cash value shall be shown for an interest rate no higher than the current interest rate actually being paid on the policy illustrated or to be issued and for the interest rate guaranteed in the policy. Interest rates higher than these shall not be illustrated. The commissioner shall issue guidelines for the statement of policy information.

(4) If the policy information for the applicant is not furnished at the time of application, it shall be delivered within 15 working days after the application is taken, but at least 5 days before delivery of the policy.

(5) If the policy is delivered sooner than 5 days after the policy information for the applicant, the free-look period shall be extended to 15 days. If the statement of policy information for applicant is not delivered at the time of application, the disclosure shall be accompanied by a statement that it is delivered for the express purpose of allowing comparison with other policies.

(6) For direct response solicitation methods, the statement of policy information for the applicant in compliance with the guidelines may be furnished at the time of delivery of the policy, if the purchaser is given an unconditional refund provision of at least 10 days.

This act is ordered to take immediate effect.

Approved June 3, 1998.

Filed with Secretary of State June 3, 1998.
