
Addendum: for use with Michigan Property & Casualty online ExamFX courses and study guide version 25693en/25694en per exam content outline updates effective 10/18/2021.

*The following are **content additions** to supplement your existing text unless otherwise indicated:*

PROPERTY AND CASUALTY

Insurance Regulation

D. Unfair Trade Practices and Other Regulations

5. Illegal Inducement – *additions to the existing text*

Any person — an insurer, agent, or other person — who violates the Insurance Code statutes on rebating and illegal inducement is guilty of a **misdemeanor**.

If an insurer or an agent has made any **misrepresentation or incomplete comparison** of policies for the purpose of inducing someone to purchase or replace an insurance policy, upon conviction, the offender will be sentenced to pay a fine of up to **\$2,000** per violation, or in the discretion of the court, to imprisonment in the county jail.

If a person has violated other statutes pertaining to rebates and illegal inducement, the person will be sentenced to pay a fine of up to \$100 per violation, or in the discretion of the court, to imprisonment in the county jail. In addition, the person's license or certificate of authority will be revoked and cannot be reissued for 1 year from the date of revocation.

7. Defamation – *additions to the existing text*

Civil actions may be brought for libel or slander as acts of defamation. Libel is any written or printed untrue statement that injures a person's or company's reputation. Slander is any verbal untrue statement that injures a person's or company's reputation. An action for libel or slander may not be brought based upon a communication involving public officials unless the claim is sustained by clear proof that the defamatory falsehood was published with knowledge that it was false or with reckless disregard of whether or not it was false.

12. Consumer Privacy Regulation – *additions to the existing text:*

In addition, a licensee is not required to provide the notice and opt out requirements for nonpublic personal financial information if the licensee is an employee, agent, or other representative of a principal and all of the following conditions are met:

- The principal is another licensee;
- The principal otherwise complies with and provides the required notices; and
- The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates.

Consumer means an individual, or the individual's legal representative, who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes. **Customer** means a consumer who has a customer relationship with a licensee.

Nonpublic personal financial information means personally identifiable financial information and any list, description, or other grouping of consumers and publicly available information pertaining to them that is derived using any personally identifiable financial information that is not publicly available. Nonpublic personal financial information does not include any of the following:

- Health and medical information otherwise protected by state or federal law;
- Publicly available information; or
- Any list, description, or other grouping of consumers and publicly available information pertaining to them that is derived without using any personally identifiable financial information that is not publicly available.

Personally identifiable financial information means any of the following information:

- Provided by a consumer to a licensee to obtain an insurance product;
- About a consumer resulting from any transaction involving an insurance product;
- Obtained by the licensee about a consumer in connection with providing an insurance product or service to that consumer.

The Michigan Administrative Code outlines the rules that establish the **standards for safeguarding customer financial information**. Each licensee is required to implement a **comprehensive written information security program** that includes administrative, technical, and physical safeguards for protecting the security, confidentiality, and integrity of customer information. The safeguards included in the program must be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

A licensee information security program must be designed to do the following:

- Ensure the security and confidentiality of customer information;
- Protect against any anticipated threats or hazards to the security or integrity of the information; and
- Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

Any violation of this regulation is an unfair method of competition or an unfair or deceptive act and practice in the conduct of the business of insurance in this state.

General Insurance

A. Key Concepts

Reinsurance

Reinsurance is a contract under which one insurance company (the reinsurer) indemnifies another insurance company for part or all of its liabilities. The purpose of reinsurance is to protect insurers against catastrophic losses. The originating company

that procures insurance on itself from another insurer is called the *ceding insurer* (because it cedes, or gives, the risk to the reinsurer). The other insurer is called the *assuming insurer*, or reinsurer.

When reinsurance is purchased on a specific policy, it is classified as *facultative reinsurance*. When an insurer has an automatic reinsurance agreement between itself and the reinsurer in which the reinsurer is bound to accept all risks ceded to it, it is classified as a reinsurance treaty. Treaties are usually negotiated for a period of a year or longer.

B. Insurers

Marketing (Distribution) Systems

With the exception of a small amount of insurance sold through the mail, insurance companies are represented by agents. Most agents are independent contractors, but they may also be employees of the general agency or insurer. The following are marketing arrangements used by insurers:

- **Independent Agency System/American Agency System** - An independent agent represents several companies and is appointed on a non-exclusive basis. An independent agent earns commissions on personal sales and overrides of other agents, and owns the expirations of their policies allowing them to place the renewal business with any company they represent.
- **Exclusive Agency System/Captive Agents** - The agent represents only one insurer and is appointed on an exclusive basis. The captive agent earns commissions on personal sales and overrides of other agents. Business is owned by the insurer and the insured is a customer of the insurer. Therefore, renewals are placed with the insurer only.
- **General Agency System** - A general agent is an entrepreneur, empowered by the insurer that he or she represents on an exclusive basis to sell insurance in a specified territory and to appoint subagents. The general agent may receive compensation for office expenses, advertising and staffing, and will receive commissions on personal sales and overrides on his agents.
- **Managerial System** - A sales force is supervised by a branch manager who, in contrast to the general agent, is a salaried employee of the insurer. The agents assigned to the branch office can be employees of the insurer or independent contractors.
- **Direct Response Marketing System** - A company which advertises its insurance through the mail, internet, television, or through other mass marketing techniques and requires the applicant to complete the application and return it directly to the insurer by mail or online, therefore bypassing the agent, is a direct response marketing system. Telephone solicitors that use agents to complete the transaction and may pay a commission to the agents are also considered Direct Response Marketers.

Property and Casualty Insurance Basics

E. Michigan Laws, Regulations, and Required Provisions

Insurance Claims Handling

An insurer's failure to pay a claim promptly is an unfair trade practice. Such failure will result in an interest rate of 12% per year. Insurers must let claimants know what constitutes a satisfactory proof of loss within 30 days of receipt of the claim. Benefits must be paid within 60 days of receiving satisfactory proof of loss.

In Michigan, the following claim settlement practices are recognized as unfair trade practices:

- Misrepresenting pertinent facts or insurance policy provisions relating to coverage;
- Failing to promptly and reasonably acknowledge and respond to communications regarding claims;
- Failing to adopt and implement reasonable standards for the prompt investigation of claims;
- Refusing to pay claims without conducting a reasonable investigation;
- Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;
- Failing to attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability is reasonably clear;
- Forcing insureds to file lawsuits to receive benefits due by offering substantially less than the amounts due under the insurance policy;
- Attempting to settle a claim for less than benefits a reasonable person would expect based on advertisements;
- Attempting to settle claims based on an application that was altered without notice to or consent of the insured;
- Making a claims payment that does not explain the coverage under which each payment is being made;
- Telling claimants there is a policy of appealing arbitration awards solely to compel them to accept settlements less than the amount awarded in arbitration;
- Delaying the investigation or payment of claims by requiring claimants to submit a preliminary claim report, then to submit subsequent forms that require essentially the same information;
- Failing to settle claims where liability is clear under one portion of coverage in order to influence settlements under other portions of coverage; and
- Failing to promptly provide a reasonable explanation for the denial of a claim or for the offer of a compromise settlement.
- Failure of an insurer to maintain complete records of every complaint received between examinations by the Commissioner is an unfair trade practice. Records must include the total number of complaints, their classification by line of insurance, the nature of the complaints, and how and when the complaints were resolved.

E. Michigan Laws, Regulations and Required Provisions

3. Cancellation and Nonrenewal – *additions to the existing text*

Insurers must give written notice of terminations of insurance **at least 30 days** prior to the date of termination. The notice must state the effective date of termination and the specific reason for the termination.

PROPERTY

Commercial Package Policy (CPP)

D. Commercial Inland Marine

3. Inland Marine Coverage Forms

Equipment Dealers

The stock of mobile equipment and construction equipment dealers, including similar property of others in the insured's care, custody, or control may be insured under the filed equipment dealers coverage form. Property not covered includes the following:

- Automobiles, motor trucks, and motorcycles;
- Aircraft and watercraft;
- Accounts, bills, currency, deeds, money, notes;
- Property during manufacturing;
- Property leased, rented, or sold;
- Furniture, fixtures and office supplies;
- Improvements and betterments;
- Machinery, tools, fittings, patterns, molds; and
- Contraband, or property in illegal trade or transportation.

Coverage is provided on an all-risk basis and the following additional exclusions apply:

- Government actions;
- Nuclear hazard;
- War and military action;
- Water, flood, surface water;
- Delay, loss of use, loss of market or any other consequential loss;
- Unexplained disappearance;
- Dishonest or criminal act; and
- Processing or work upon the property.

The following extensions of coverage are included in this coverage form:

- Debris removal;
- Pollution cleanup and removal; and
- Theft damage to building.

There are several additional conditions found in this coverage form:

- **Valuation** — This condition replaces the standard inland marine valuation clause and states that the value of unsold property will be determined based on the lesser of the actual cash value of the property, the cost to reasonably restore the property, or the cost of replacing the damaged property with substantially identical property.
 - The value of sold property not yet delivered will be the net selling price minus discounts and allowances.
 - The value of property of others will be the lesser of the amount for which the insured is liable, including the cost of labor and materials the insured has added, or the actual cash value of the property, including the cost of labor and material the insured has added.
- **Coverage Territory** — Property is covered if located in the United States (including territories and possessions), Puerto Rico, and Canada.
- **Coinsurance** — Property must be insured to 80% of its replacement cost.
- **Records and Inventory** — Accurate records and inventory must be maintained by the insured for 3 years after the end of the policy period. These records include a detailed inventory of all stock in trade, purchases and sales, and property of others. In addition, a physical inventory of stock is required to be sent to the insurer at least once every 12 months.
- **Protective Safeguards** — If protective safeguards are required by the insurer, this condition says that coverage will be suspended if the insured fails to keep them in working condition or in operation while the business is closed.

Transportation Coverages

Property in transit is the oldest form of inland marine coverage. Transportation coverage is available to cover the exposure of the shipper, carrier, or consignee of goods.

Carriers of property may be divided into 3 categories:

1. **Common carriers** transport the property of anyone who hires them;
2. **Contract carriers** only transport property of others for which they have a written contract; and
3. **Private carriers** transport their own property.

In addition to the 3 types of carriers, there are 3 different parties that may have a financial interest in the property being transported:

1. **Shipper** — the person or company that is sending the goods;
2. **Consignee** — the person or company that will receive the goods; and
3. **Carrier** — the company that is transporting the goods.

Both the shipper and the consignee have an ownership interest in the property being shipped, the extent of which is determined by the terms of the sales agreement. The term free on board (F.O.B.) may be used in connection with this coverage.

For example, if the contract is written F.O.B. – Shippers Location, then the shipper owns the property only until it is transferred to the carrier. Once the carrier has possession, the consignee owns the property and will suffer any loss if the property is damaged during shipment. If, on the other hand, the property is shipped F.O.B. – Consignee's Location, then the shipper owns the property until it is delivered to the consignee.

Common Carrier Cargo Liability

The carrier is considered responsible for the safe delivery of property. **Common carrier cargo liability** covers the carrier's legal liability for damage or loss to property in the insured's care and custody for transportation.

The law recognizes certain instances in which the carrier will not be held responsible for damage or loss. These defenses are as follows:

- Acts of God or nature;
- Exercise of public authority;
- Acts of public enemy;
- Negligence of the shipper — If damage is caused by negligence in packing or shipping of items highly susceptible to damage from ordinary handling; or
- Inherent vice or nature of the property.

Motor Truck Cargo Forms

The unfiled **motor truck cargo policy – carriers form** is used by common carriers that transport the goods of others for a fee. It is a legal liability coverage that protects the carrier only against liability for damage to the goods. Property of others is covered on an open peril basis.

Property is covered until delivered to the final destination and up to 72 hours at a facility not designated in the declarations. Coverage can be purchased to provide coverage at unspecified terminals.

Private carriers, or owners who ship their goods using their own trucks, are insured on **motor truck cargo policy – owners form** coverage form. Coverage is written for direct damage to the owner's property. Liability is not a factor in these forms as with the motor truck cargo – carriers form. Coverage is written on an open peril basis. The form only covers goods in or on a vehicle while in transit from where the shipment begins to the final destination.

Transit Coverage Forms

Annual transit — This policy is used by those businesses that ship goods on a regular basis. Coverage can be written for all outgoing shipments, incoming shipments, or both that occur during the policy period.

Trip transit — This policy form is a variation of the annual transit policy and is used to cover a specific shipment or trip. The policy period is for the time the goods leave the shipper until they reach their destination. Loss or damage to covered goods is provided without regard to the legal liability of the carrier.

Coverage can be written on either a named peril or all-risk basis, but the all-risk coverage can be written only for goods shipped by a common carrier. Continuous coverage can be provided for goods shipped by several different carriers during transportation until they reach their ultimate destination.

F. Farm Coverage

Additional Coverages

The farm coverage policy provides the following as additional coverages:

- Debris removal;
- Reasonable repairs;
- Damage to property removed for safekeeping;
- Fire department service charges;
- Collapse;
- Pollutant clean up and removal; and
- Glass or safety glazing material.

CASUALTY

Casualty Insurance Basics

A. Principles and Concepts

Damages

A tort may result in two forms of injury to another: bodily injury and property damage. In the case of property damage, the extent of the loss is usually simple to determine; it is measured by the actual monetary loss the injured party suffered, which is measured by the value of the property damaged or destroyed and the loss of use of that asset.

In the case of bodily injury, it is more difficult to determine the loss monetarily. Bodily injury may lead to claims by the injured party not only for medical expenses and lost wages, but also for disfigurement, pain and suffering, mental anguish, and loss of consortium. The two classes of compensatory damages that may be awarded are special and general damages. Special damages are specific out-of-pocket expenses for medical, miscellaneous expenses, and loss of wages. General damages compensate the injured person for pain and suffering, mental anguish, disfigurement, and other similar types of losses. (Determination of the amount of general damages is highly subjective and can amount to whatever a judge or jury feels is "right.") A third class is a punitive damage, which is a form of punishment for extreme outrageous behavior, gross negligence or willful intent.

Auto Insurance

C. Laws

1. Michigan Motor Vehicle Financial Responsibility Law

Required Limits of Liability – *addition to the existing text*

In addition to having motor vehicle insurance as required under Michigan law, individuals who drive for **transportation network companies**, such as Uber or Lyft, must meet the following coverage requirements:

- While logged on to the company's network and available for ride requests, but **not currently engaged in a ride** — residual third-party automobile liability insurance coverage of at least \$50,000 per person for death or bodily injury, \$100,000 per incident for death or bodily injury, and \$25,000 for property damage; and
- While **currently engaged in a ride** — residual third-party automobile liability insurance with a minimum combined single limit of \$1,000,000 for all bodily injury or property damage.

Commercial Package Policy (CPP)

Products and Completed Operations

The products and completed operations hazard includes injuries or damage that occur after the insured has completed its job and left the site, or relinquished control of a product it manufactured or sold. Coverage to protect against the products and completed operations hazard is optional, although for some types of business risks, the coverage is included.

Owners and Contractors' Protective Liability Coverage Form

Owners and Contractors Protective Liability (OCP) is a liability policy used mostly in the construction industry. The owner of the project may require a contractor to purchase this policy on their behalf. The policy covers the owner for bodily injury and property damage arising from the contractor's actions during the construction project. This policy is designed to pay on a primary basis so the owner's general liability policy would be in excess of the OCP policy.

Pollution Liability Coverage Extension

Virtually all pollution losses, including clean-up costs, are excluded in the General Liability Policy. The General Liability Policy does cover pollution from smoke or fumes caused by a covered fire and for emissions away from the insured premises under products/completed operations coverage when the product or work is being used by others. Pollution is considered a potentially catastrophic exposure and many insurers are unwilling to assume liability for the exposure. Some insurers will even attach a Total Pollution Exclusion to the General Liability Policy to delete the limited pollution coverage provided in the policy. Many businesses have a need for this coverage and can usually purchase one of the following pollution coverage forms.

Pollution Liability coverage is written on a claims-made basis only. Limited coverage existed in both the commercial package and the BOP for these types of losses. The coverage can be written as an endorsement attached to the General Liability Policy or as a separate policy. It provides 2 types of coverage:

1. Bodily injury or property damage liability caused by a pollution accident; and
2. Clean up costs mandated by a government entity. (Coverage can be purchased for voluntary clean-up costs which are necessary to prevent or curtail a pollution accident and in which the insurer provides written consent for an additional premium).

The common exclusions found in the coverage form are:

- Emissions from a closed or abandoned site;
- Acid rain; and
- Escape of fluids from a gas, oil, mineral, water or geothermal well.

All claims must occur after the retroactive date and be reported during the policy period. The policy provides an optional one-year extended reporting period if the insurer cancels or nonrenews coverage, replaces it with another type of policy, or renews it with a new retroactive date. The insured must request this extended reporting period within 30 days after the end of the policy period and pay any additional premium due..

B. Commercial Crime

3. Coverages

Inside the Premises – Theft of Money and Securities

Inside the premises – theft of money and securities provides coverage for loss of money and securities from inside a premises or a banking premises resulting directly from theft, disappearance, or destruction. Coverage also applies to damage to the premises or its exterior, and loss or damage to a locked safe, vault, cash register, cash drawer, or cash box located inside the premises resulting from actual or attempted theft.

Several additional exclusions also apply to this coverage in addition to those found in the general provisions. This insuring agreement does not cover losses resulting from:

- Accounting or arithmetic errors or omissions;
- Surrendering of property in any exchange or purchase;
- Fire;
- Loss of money from a money-operated machine, unless the machine has a continuous deposit recording device;
- Loss or damage to motor vehicles, trailers, or semi-trailers, or equipment and accessories attached to them;
- Inducement or voluntarily parting with any property;
- Loss of property after it has been transferred to another person or place outside the premises or banking facility caused by unauthorized instructions or the threat of bodily harm (this exclusion does not apply to covered property in the care or custody of a messenger);

- Vandalism or malicious mischief; or
- Voluntary parting of title to or possession of property.

Funds Transfer Fraud

The funds transfer fraud insuring agreement provides coverage for loss of funds resulting from fraudulent instructions received by a financial institution to pay money from an insured's transfer account to someone else. Computer fraud is excluded from this coverage.

C. Farm Coverage

Coverage J – Medical Payments

Coverage J – Medical Payments agrees to pay reasonable medical expenses caused by an accident, regardless of fault, if the expenses are incurred and reported to the insurer within 3 years of the accident date. Coverage applies only to a person who is not an insured. This means that farm employees are excluded from this coverage. However, resident employees are included.

Workers Compensation Insurance

A. Workers Compensation Laws

2. Michigan Workers Disability Compensation Act

Exclusive Remedy

The right to the recovery of benefits as provided by the Workers Disability Compensation Act is the employee's exclusive remedy against the employer for a personal injury or occupational disease. The only exception to this exclusive remedy is an intentional tort which exists only when an employee is injured as a result of a deliberate act of the employer and the employer specifically intended an injury. An employer will be deemed to have intended to injure if the employer had actual knowledge that an injury was certain to occur and willfully disregarded that knowledge.

C. Premium Computation

Premium Discounts

A premium discount applies when an insured owes a total standard premium greater than \$5,000.

D. Other Sources of Coverage

Self-insured Employers and Employer Groups

Under the Workers Compensation Act, an employer can receive authorization from the Director to be a self-insurer.

In the case of an individual employer, the Director may grant that authorization upon proof of the employer's solvency, financial ability to pay benefits, and ability to make payments directly to employees.

The Director may determine it necessary to require the furnishing of a bond or other security in a reasonable form and amount. This security may be provided by furnishing

- Specific excess insurance;
- Aggregate excess insurance coverage through an authorized carrier;
- A surety bond;
- An irrevocable letter of credit in a format acceptable to the bureau; and
- Claims payment guarantees.

Two or more employers in the same industry with combined assets of \$1,000,000 or more, or two or more public employers of the same type of unit, may be permitted to pool their liabilities and become self-insurers.