

HOUSE BILL No. 5144

June 25, 2009, Introduced by Reps. Roberts, Haase, Lisa Brown, Segal, Kennedy, Huckleberry, Robert Jones, Slavens, Scripps, Warren, Valentine, Stanley and Switalski and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2035.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2035. A FULL-TIME OR PART-TIME EMPLOYEE OF AN INSURER
2 COVERED UNDER THIS ACT WHO REPORTS AN UNFAIR OR DECEPTIVE ACT OR
3 PRACTICE IN THE BUSINESS OF INSURANCE IS ENTITLED TO THE RIGHTS AND
4 PROTECTION OF THE WHISTLEBLOWERS' PROTECTION ACT, 1980 PA 469, MCL
5 15.361 TO 15.369. IN ADDITION, IF THE INFORMATION PROVIDED BY THE
6 EMPLOYEE IS INSTRUMENTAL TO EXPOSING OR BRINGING AN END TO A
7 PRACTICE THAT IS A VIOLATION OF THIS ACT, THE WHISTLEBLOWER MAY BE
8 ENTITLED TO A PAYMENT FROM THE INSURANCE WHISTLEBLOWER PROTECTION

1 **FUND CREATED IN SECTION 2035A.**

2 Enacting section 1. This amendatory act does not take effect
3 unless Senate Bill No.____ or House Bill No. 5149(request no.
4 03546'09) of the 95th Legislature is enacted into law.

HOUSE BILL No. 5145

June 25, 2009, Introduced by Reps. Huckleberry, Durhal, Segal, Haase, Liss, Roberts, Robert Jones, Jackson, Simpson, Nathan, Slavens, Tlaib, Young, Donigan, Bauer, Switalski, Barnett and Slezak and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2026c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2026C. (1) IF A VIOLATION BY AN INSURER OF SECTION 3149
2 OR, IF THE INSURER IS A PROPERTY AND CASUALTY INSURER, SECTION
3 2026A IS THE SECOND OR SUBSEQUENT VIOLATION OF THAT SECTION BY THE
4 INSURER, AFTER NOTICE AND AN OPPORTUNITY FOR A HEARING AND ON ORDER
5 OF THE COMMISSIONER, THE INSURER IS SUBJECT TO AN ADMINISTRATIVE
6 FINE OF \$1,000,000.00.

7 (2) THE COMMISSIONER SHALL DEPOSIT A FINE PAID UNDER THIS
8 SECTION INTO THE INSURANCE WHISTLEBLOWER PROTECTION FUND CREATED IN
9 SECTION 2035A.

1 Enacting section 1. This amendatory act does not take effect
2 unless all of the following bills of the 95th Legislature are
3 enacted into law:

4 (a) House Bill No 4844.

5 (b) Senate Bill No.____ or House Bill No.____ (request no.
6 03545'09).

7 (c) Senate Bill No.____ or House Bill No. 5149 (request no.
8 03546'09).

HOUSE BILL No. 5146

June 25, 2009, Introduced by Reps. Johnson, Lisa Brown, Slezak and Nathan and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2027b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2027B. (1) IF IN AN ACTION UNDER SECTION 2027A A PERSON
2 ENGAGED IN THIS STATE IN THE BUSINESS OF PROPERTY AND CASUALTY OR
3 AUTOMOBILE INSURANCE IS FOUND TO HAVE UNDERTAKEN AN UNFAIR METHOD
4 OF COMPETITION, AN UNFAIR OR DECEPTIVE ACT OR PRACTICE, OR ANY
5 OTHER CONDUCT PROHIBITED BY SECTIONS 2001 TO 2050 OR TO HAVE FAILED
6 TO PAY BENEFITS IN A TIMELY MANNER AS DESCRIBED IN SECTION 2090,
7 THERE IS A PRESUMPTION THAT THE PERSON WAS ACTING IN BAD FAITH. THE
8 PRESUMPTION CREATED BY THIS SECTION PLACES THE BURDEN OF DISPROVING
9 THE BAD FAITH ON THE PERSON.

1 (2) IF IT IS DETERMINED THAT A PERSON WAS ACTING IN BAD FAITH
2 AS PROVIDED IN THIS SECTION, THE INDIVIDUAL WHO BROUGHT THE ACTION
3 IS ENTITLED TO ALL OF THE FOLLOWING:

4 (A) INTEREST UNDER SECTION 2006(4).

5 (B) DAMAGES AND COSTS UNDER SECTION 2026A.

6 (C) ATTORNEY FEES AND PUNITIVE DAMAGES UNDER SECTION 2090.

7 (D) DAMAGES AND COSTS UNDER SECTION 3149.

8 Enacting section 1. This amendatory act does not take effect
9 unless all of the following bills of the 95th Legislature are
10 enacted into law:

11 (a) House Bill No. 4244.

12 (b) House Bill No. 4844.

13 (c) Senate Bill No.____ or House Bill No.____ (request no.
14 03545'09).

15 (d) Senate Bill No.____ or House Bill No. 5150 (request no.
16 03547'09).

HOUSE BILL No. 5147

June 25, 2009, Introduced by Reps. Switalski, Roberts, Huckleberry and Haase and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2026b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2026B. THE PRESIDENT OR CHIEF EXECUTIVE OFFICER OR AN
2 INDIVIDUAL SERVING IN AN EQUIVALENT POSITION FOR AN INSURER TO WHOM
3 SECTION 2026A OR 3149 APPLIES WHO KNOWINGLY CREATES, FOSTERS, OR
4 ENCOURAGES AN ENVIRONMENT THAT LEADS TO SYSTEMIC WRONGFUL DENIAL OF
5 CLAIMS BECAUSE OF THE VIOLATION OF SECTION 2026A OR 3149, AS
6 APPLICABLE, IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR UP
7 TO 4 YEARS OR A FINE OF NOT MORE THAN \$50,000.00, OR BOTH.

8 Enacting section 1. This amendatory act does not take effect
9 unless all of the following bills of the 95th Legislature are

1 enacted into law:

2 (a) House Bill No. 4844.

3 (b) Senate Bill No. _____ or House Bill No. 5148 (request no.
4 03544'09 a).

5 (c) Senate Bill No. _____ or House Bill No. _____ (request no.
6 03545'09).

HOUSE BILL No. 5148

June 25, 2009, Introduced by Reps. Haase, Roberts, Lisa Brown, Segal, Liss, Huckleberry, Robert Jones, Kennedy, Jackson, Slavens, Nathan, Leland, Barnett, Tlaib, Switalski, Young, Durhal, Bettie Scott, Scripps, Constan and Dean and referred to the Committee on Insurance.

A bill to amend 1927 PA 175, entitled
 "The code of criminal procedure,"
 by amending section 15a of chapter XVII (MCL 777.15a), as added
 by 2002 PA 206.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 CHAPTER XVII

2 Sec. 15a. This chapter applies to the following felonies
 3 enumerated in chapters 500 to 550 of the Michigan Compiled Laws:

4	M.C.L.	Category	Class	Description	Stat Max
5	500.1325(3)	Pub trst	E	Insurance code – knowingly misrepresenting false financial condition	5

1	500.1371	Pub trst	H	Holding companies – violation	2
2	500.1505(2)	Pub trst	C	Insurance code – license and regulatory violations	15
3	500.2026B	PUB TRST	F	INSURANCE – PRESIDENT OR CEO CREATING ENVIRONMENT THAT LEADS TO SYSTEMIC DENIAL OF CLAIMS	4
4	500.4511(1)	Pub trst	F	Insurance code – fraudulent insurance act	4
5	500.4511(2)	Pub trst	D	Insurance fraud – agreement or conspiracy to commit	10
6	500.5252(4)	Property	G	Insurance – improper personal interest in transactions	5
7	500.7034(2)	Pub trst	E	Officer of a MEWA knowingly receive valuables for sale property or loan	10
8	500.8197(2)	Pub trst	C	Insurance – knowing or willful false statements in application for insurance	15
9	500.8197(3)	Property	E	Consolidation merger – compensation otherwise than expressed in contract	5

HOUSE BILL No. 5149

June 25, 2009, Introduced by Rep. Ebli and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2035a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2035A. (1) THE INSURANCE WHISTLEBLOWER PROTECTION FUND IS
2 CREATED WITHIN THE STATE TREASURY.

3 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
4 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL
5 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT
6 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

7 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
8 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

9 (4) THE OFFICE OF FINANCIAL AND INSURANCE REGULATION SHALL BE

1 THE ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.

2 (5) THE OFFICE OF FINANCIAL AND INSURANCE REGULATION SHALL
3 EXPEND MONEY FROM THE INSURANCE WHISTLEBLOWER PROTECTION FUND, UPON
4 APPROPRIATION, ONLY FOR 1 OR MORE OF THE FOLLOWING PURPOSES:

5 (A) NOT MORE THAN 10% OF THE AMOUNT DEPOSITED EACH YEAR INTO
6 THE FUND SHALL BE USED TO PAY THE COSTS OF ADMINISTERING THE FUND
7 AND THE REWARD PROGRAM.

8 (B) NOT MORE THAN 50% OF THE AMOUNT DEPOSITED EACH YEAR INTO
9 THE FUND SHALL BE USED FOR CONSUMER INFORMATION AND EDUCATION
10 CONCERNING INSURANCE PRACTICES AND CONSUMER INSURANCE RIGHTS.

11 (C) THE BALANCE OF THE FUND MAY BE USED TO REWARD FULL-TIME OR
12 PART-TIME EMPLOYEES OF AN INSURER REGULATED UNDER THIS ACT WHO
13 REPORT AN UNFAIR OR DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF
14 INSURANCE THAT IS A VIOLATION OF THIS ACT, IF THE INFORMATION THE
15 EMPLOYEE PROVIDES AID IN AN ADMINISTRATIVE OR JUDICIAL ACTION
16 AGAINST THE EMPLOYER. THE AMOUNT OF EACH REWARD SHALL BE DETERMINED
17 BY THE OFFICE OF FINANCIAL AND INSURANCE REGULATION, BASED ON THE
18 SEVERITY OF THE OFFENSE REPORTED, THE IMPORTANCE OF THE INFORMATION
19 PROVIDED TO THE PROSECUTION, THE OUTCOME OF THE ADMINISTRATIVE OR
20 JUDICIAL PROCEEDING, AND THE AMOUNT OF THE FUND BALANCE.

21 Enacting section 1. This amendatory act does not take effect
22 unless all of the following bills of the 95th Legislature are
23 enacted into law:

24 (a) Senate Bill No. _____ or House Bill No. 5144 (request no.
25 01155'09).

26 (b) House Bill No. 4846.

HOUSE BILL No. 5150

June 25, 2009, Introduced by Reps. Segal, Haase, Liss, Huckleberry, Roberts, Haugh,
Barnett, Slavens, Nathan and Lisa Brown and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2027a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 2027A. AN INDIVIDUAL MAY BRING AN ACTION AGAINST A PERSON**
2 **ENGAGED IN THIS STATE IN THE BUSINESS OF INSURANCE FOR DAMAGES**
3 **SUSTAINED BY THE INDIVIDUAL AS A RESULT OF AN UNFAIR METHOD OF**
4 **COMPETITION, AN UNFAIR OR DECEPTIVE ACT OR PRACTICE, OR ANY OTHER**
5 **CONDUCT PROHIBITED BY SECTIONS 2001 TO 2050 UNDERTAKEN BY THE**
6 **PERSON.**

HOUSE BILL No. 5151

June 25, 2009, Introduced by Reps. Tlaib, Switalski, Roberts, Slavens, Constan, Huckleberry, Johnson, Kandrevas, Slezak, Haugh, Liss, Haase, Womack, Cushingberry, Miller, Jackson, Durhal, Young, Geiss, Stanley, Bledsoe, Segal, Donigan, Coulouris, Bennett, Bettie Scott, Nathan and Lisa Brown and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2090a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2090A. (1) IF THE COMMISSIONER OR A COURT DETERMINES THAT
2 AN INSURER HAS ACTED IN BAD FAITH IN FAILING TO TIMELY PAY BENEFITS
3 UNDER AN INSURANCE POLICY, THE INSURER SHALL SEND A LETTER TO EACH
4 OF THE 3 LARGEST NATIONAL CONSUMER REPORTING AGENCIES THAT CONTAINS
5 BOTH OF THE FOLLOWING:

6 (A) A STATEMENT THAT ANY DELINQUENCY BY THE INSURED IN MAKING
7 A PAYMENT RELATED TO THE INSURER'S ACT OF BAD FAITH IS THE FAULT OF
8 THE INSURER AND NOT THE INSURED.

9 (B) A REQUEST THAT THE CONSUMER REPORTING AGENCY AMEND THE

1 INSURED'S CREDIT HISTORY ACCORDINGLY.

2 (2) AN INSURER THAT FAILS TO COMPLY WITH SUBSECTION (1) IS
3 LIABLE TO THE INSURED FOR ALL OF THE FOLLOWING:

4 (A) THE GREATER OF \$10,000.00 OR 3 TIMES THE AMOUNT OF ANY
5 DAMAGES SUSTAINED BY THE INSURED AS A RESULT OF THE FAILURE.

6 (B) REASONABLE ATTORNEY FEES INCURRED BY THE INSURED IN
7 ENFORCING THE LIABILITY UNDER THIS SECTION.

8 (3) AS USED IN THIS SECTION:

9 (A) "BAD FAITH" MEANS THAT TERM AS DEFINED IN SECTION 2090.

10 (B) "CONSUMER REPORTING AGENCY" MEANS THAT TERM AS DEFINED IN
11 SECTION 603 OF THE FAIR CREDIT REPORTING ACT, 15 USC 1681A.