



# HOUSE BILL No. 5550

May 12 1994 Introduced by Reps Martin Brown and Griffin and referred to the Committee on Insurance

A bill to amend Act No 218 of the Public Acts of 1956,  
entitled as amended  
"The insurance code of 1956,"  
as amended, being sections 500 100 to 500 8302 of the Michigan  
Compiled Laws, by adding chapter 45 and to repeal certain parts  
of the act

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Act No 218 of the Public Acts of 1956, as  
2 amended, being sections 500 100 to 500 8302 of the Michigan  
3 Compiled Laws, is amended by adding chapter 45 to read as  
4 follows

### CHAPTER 45

### INSURANCE FRAUD

7 SEC 4501 AS USED IN THIS CHAPTER

1 (A) AUTHORIZED AGENCY' MEANS THE DEPARTMENT OF STATE  
2 POLICE A CITY, VILLAGE, OR TOWNSHIP POLICE DEPARTMENT A COUNTY  
3 SHERIFF'S DEPARTMENT A UNITED STATES CRIMINAL INVESTIGATIVE  
4 DEPARTMENT OR AGENCY THE PROSECUTING AUTHORITY OF A CITY, VIL-  
5 LAGE, TOWNSHIP COUNTY, OR STATE OR OF THE UNITED STATES THE  
6 INSURANCE BUREAU OR THE DEPARTMENT OF STATE

7 (B) FINANCIAL LOSS" INCLUDES, BUT IS NOT LIMITED TO LOSS  
8 OF EARNINGS OUT-OF-POCKET AND OTHER EXPENSES, REPAIR AND  
9 REPLACEMENT COSTS, AND CLAIMS PAYMENTS

10 (C) "INSURER" MEANS A PROPERTY-CASUALTY INSURER, LIFE INSUR-  
11 ER, OR HEALTH INSURER

12 (D) "NOT-FOR-PROFIT ORGANIZATION" MEANS A NOT-FOR-PROFIT  
13 ORGANIZATION ESTABLISHED BY MEMBER INSURERS TO DETECT AND PREVENT  
14 INSURANCE FRAUD

15 (E) "PRACTITIONER" MEANS A LICENSEE OF THIS STATE AUTHORIZED  
16 TO PRACTICE MEDICINE AND SURGERY, PSYCHOLOGY, CHIROPRACTIC, OR  
17 LAW OR ANY OTHER LICENSEE OF THE STATE WHOSE SERVICES ARE COMPEN-  
18 SATED DIRECTLY OR INDIRECTLY, BY INSURANCE PROCEEDS OR A  
19 LICENSEE SIMILARLY LICENSED IN OTHER STATES AND NATIONS OR THE  
20 PRACTITIONER OF ANY NONMEDICAL TREATMENT RENDERED IN ACCORDANCE  
21 WITH A RECOGNIZED RELIGIOUS METHOD OF HEALING

22 (F) "STATEMENT" INCLUDES BUT IS NOT LIMITED TO ANY NOTICE  
23 STATEMENT, PROOF OF LOSS, BILL OF LADING, RECEIPT FOR PAYMENT,  
24 INVOICE, ACCOUNT, ESTIMATE OF PROPERTY DAMAGES, BILL FOR SERV-  
25 ICES, DIAGNOSIS, PRESCRIPTION, HOSPITAL OR DOCTOR RECORD, X-RAYS,  
26 TEST RESULT, OR OTHER EVIDENCE OF LOSS, INJURY, OR EXPENSE

1        SEC 4503    A FRAUDULENT INSURANCE ACT INCLUDES, BUT IS NOT  
2 LIMITED TO, ACTS OR OMISSIONS COMMITTED BY ANY PERSON WHO  
3 KNOWINGLY, OR WITH AN INTENT TO INJURE DEFRAUD, OR DECEIVE

4        (A) PRESENTS, CAUSES TO BE PRESENTED, OR PREPARES WITH  
5 KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO AN INSURER,  
6 REINSURER, BROKER, OR ANY AGENT THEREOF ANY ORAL OR WRITTEN  
7 STATEMENT KNOWING THAT THE STATEMENT CONTAINS ANY FALSE, INCOM-  
8 PLETE, OR MISLEADING INFORMATION CONCERNING ANY FACT MATERIAL TO  
9 AN APPLICATION FOR THE ISSUANCE OF AN INSURANCE POLICY

10       (B) PREPARES OR ASSISTS, ABETS SOLICITS, OR CONSPIRES WITH  
11 ANOTHER TO PREPARE OR MAKE AN ORAL OR WRITTEN STATEMENT THAT IS  
12 INTENDED TO BE PRESENTED TO ANY INSURER IN CONNECTION WITH, OR IN  
13 SUPPORT OF ANY APPLICATION FOR THE ISSUANCE OF AN INSURANCE  
14 POLICY, KNOWING THAT THE STATEMENT CONTAINS ANY FALSE INCOM-  
15 PLETE, OR MISLEADING INFORMATION CONCERNING ANY FACT OR THING  
16 MATERIAL TO THE APPLICATION

17       (C) PRESENTS OR CAUSES TO BE PRESENTED TO ANY INSURER ANY  
18 ORAL OR WRITTEN STATEMENT INCLUDING COMPUTER-GENERATED DOCUMENTS  
19 AS PART OF OR IN SUPPORT OF A CLAIM FOR PAYMENT OR OTHER BENE-  
20 FIT PURSUANT TO AN INSURANCE POLICY KNOWING THAT THE STATEMENT  
21 CONTAINS FALSE, INCOMPLETE, OR MISLEADING INFORMATION CONCERNING  
22 ANY FACT OR THING MATERIAL TO THE CLAIM

23       (D) ASSISTS, ABETS, SOLICITS, OR CONSPIRES WITH ANOTHER TO  
24 PREPARE OR MAKE ANY ORAL OR WRITTEN STATEMENT INCLUDING  
25 COMPUTER-GENERATED DOCUMENTS THAT IS INTENDED TO BE PRESENTED TO  
26 ANY INSURER IN CONNECTION WITH, OR IN SUPPORT OF, ANY CLAIM FOR  
27 PAYMENT OR OTHER BENEFIT PURSUANT TO AN INSURANCE POLICY KNOWING

1 THAT THE STATEMENT CONTAINS ANY FALSE, INCOMPLETE, OR MISLEADING  
2 INFORMATION CONCERNING ANY FACT OR THING MATERIAL TO THE CLAIM

3 (E) KNOWINGLY AND WILLFULLY ASSISTS, CONSPIRES WITH, OR  
4 URGES ANY PERSON TO FRAUDULENTLY VIOLATE ANY OF THE PROVISIONS OF  
5 THIS ACT, OR ANY PERSON WHO DUE TO THAT ASSISTANCE, CONSPIRACY,  
6 OR URGING KNOWINGLY AND WILLFULLY BENEFITS FROM THE PROCEEDS  
7 DERIVED FROM THE USE OF THE FRAUD

8 SEC 4507 (1) UPON WRITTEN REQUEST BY AN INSURER TO AN  
9 AUTHORIZED AGENCY OR BY AN AUTHORIZED AGENCY TO AN INSURER, THE  
10 INSURER, AN AGENT AUTHORIZED BY THE INSURER TO ACT ON ITS BEHALF,  
11 OR THE AUTHORIZED AGENCY MAY RELEASE TO THE AUTHORIZED AGENCY OR  
12 THE INSURER, AT THE AUTHORIZED AGENCY S OR INSURER S EXPENSE, ANY  
13 OR ALL INFORMATION THAT IS CONSIDERED IMPORTANT RELATING TO ANY  
14 SUSPECTED INSURANCE FRAUD THIS INFORMATION MAY INCLUDE, BUT IS  
15 NOT LIMITED TO THE FOLLOWING

16 (A) INSURANCE POLICY INFORMATION RELEVANT TO AN INVESTIGA-  
17 TION, INCLUDING ANY APPLICATION FOR A POLICY

18 (B) POLICY PREMIUM PAYMENT RECORDS THAT ARE AVAILABLE

19 (C) HISTORY OF PREVIOUS CLAIMS MADE BY THE INSURED

20 (D) INFORMATION RELATING TO THE INVESTIGATION OF THE SUS-  
21 PECTED INSURANCE FRAUD, INCLUDING STATEMENTS OF ANY PERSON,  
22 PROOFS OF LOSS, AND NOTICE OF LOSS

23 (2) IF AN INSURER KNOWS OR REASONABLY BELIEVES IT KNOWS THE  
24 IDENTITY OF A PERSON WHO IT HAS REASON TO BELIEVE COMMITTED A  
25 FRAUDULENT INSURANCE ACT OR HAS KNOWLEDGE OF A SUSPECTED FRAUDU-  
26 LENT INSURANCE ACT THAT IS REASONABLY BELIEVED NOT TO HAVE BEEN  
27 REPORTED TO AN AUTHORIZED AGENCY, THEN FOR THE PURPOSE OF

1 NOTIFICATION AND INVESTIGATION, THE INSURER OR AN AGENT  
2 AUTHORIZED BY AN INSURER TO ACT ON ITS BEHALF MAY NOTIFY AN  
3 AUTHORIZED AGENCY OF THE KNOWLEDGE OR BELIEF AND PROVIDE ANY  
4 ADDITIONAL INFORMATION IN ACCORDANCE WITH SUBSECTION (1)

5 (3) AN INSURER PROVIDING INFORMATION TO AN AUTHORIZED AGENCY  
6 PURSUANT TO SUBSECTION (2) SHALL HAVE THE RIGHT TO REQUEST IN  
7 WRITING INFORMATION IN THE POSSESSION OR CONTROL OF THE AUTHO-  
8 RIZED AGENCY RELATING TO THE SAME SUSPECTED FRAUDULENT INSURANCE  
9 ACT OF WHICH THE INSURER NOTIFIES THE AUTHORIZED AGENCY UNDER  
10 SUBSECTION (2) THE AUTHORIZED AGENCY SHALL PROVIDE THE  
11 REQUESTED INFORMATION AT THE INSURER S EXPENSE WITHIN 30 DAYS OF  
12 THE REQUEST

13 (4) IN ADDITION TO PROVIDING INFORMATION TO AN INSURER UNDER  
14 SUBSECTION (3) THE AUTHORIZED AGENCY PROVIDED WITH INFORMATION  
15 PURSUANT TO SUBSECTION (1) OR (2) MAY RELEASE OR PROVIDE THE  
16 INFORMATION TO ANY OTHER AUTHORIZED AGENCY

17 (5) EXCEPT AS OTHERWISE PROVIDED BY LAW ANY INFORMATION  
18 FURNISHED PURSUANT TO THIS SECTION SHALL BE PRIVILEGED AND NOT A  
19 PART OF ANY PUBLIC RECORD THE EVIDENCE OR INFORMATION SHALL NOT  
20 BE SUBJECT TO SUBPOENA DUCES TECUM IN A CIVIL OR CRIMINAL PRO-  
21 CEEDING UNLESS, AFTER REASONABLE NOTICE TO AN INSURER AGENT, AND  
22 AUTHORIZED AGENCY THAT HAS AN INTEREST IN THE INFORMATION AND A  
23 SUBSEQUENT HEARING, A COURT DETERMINES THAT THE PUBLIC INTEREST  
24 AND ANY ONGOING INVESTIGATION WILL NOT BE JEOPARDIZED BY OBEYING  
25 THE SUBPOENA DUCES TECUM

26 SEC 4509 (1) IF ACTING WITHOUT MALICE A PERSON IS NOT  
27 SUBJECT TO LIABILITY BY VIRTUE OF FILING REPORTS, OR FURNISHING

1 ORALLY OR IN WRITING OTHER INFORMATION CONCERNING SUSPECTED  
2 ANTICIPATED, OR COMPLETED INSURANCE FRAUD, IF THE REPORTS OR  
3 INFORMATION ARE PROVIDED TO OR RECEIVED FROM THE INSURANCE  
4 BUREAU, THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, ANY  
5 FEDERAL STATE OR GOVERNMENTAL AGENCY ESTABLISHED TO DETECT AND  
6 PREVENT INSURANCE FRAUD, AS WELL AS ANY OTHER NOT-FOR-PROFIT  
7 ORGANIZATION, AND THEIR AGENTS, EMPLOYEES, OR DESIGNEES

8 (2) EXCEPT IN PROSECUTION FOR PERJURY OR INSURANCE FRAUD,  
9 AND IN THE ABSENCE OF MALICE, AN INSURER, OR ANY OFFICER, EMPLOY-  
10 EE, OR AGENT OF AN INSURER OR ANY PRIVATE PERSON WHO COOPERATES  
11 WITH, FURNISHES EVIDENCE, OR PROVIDES OR RECEIVES INFORMATION  
12 REGARDING SUSPECTED INSURANCE FRAUD TO OR FROM AN AUTHORIZED  
13 AGENCY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, OR  
14 ANY NOT-FOR-PROFIT ORGANIZATION ESTABLISHED TO DETECT AND PREVENT  
15 INSURANCE FRAUD OR WHO COMPLIES WITH AN ORDER ISSUED BY A COURT  
16 ACTING IN RESPONSE TO A REQUEST BY ANY OF THESE ENTITIES TO PRO-  
17 VIDE EVIDENCE OR TESTIMONY IS NOT SUBJECT TO A CRIMINAL PROCEED-  
18 ING OR TO A CIVIL PENALTY WITH RESPECT TO ANY ACT CONCERNING  
19 WHICH THE PERSON TESTIFIES TO OR PRODUCES RELEVANT MATTER

20 (3) IN THE ABSENCE OF MALICE AN INSURER OR ANY OFFICER  
21 EMPLOYEE, OR AGENT OF AN INSURER, OR ANY PERSON WHO COOPERATES  
22 WITH, FURNISHES EVIDENCE OR PROVIDES INFORMATION REGARDING SUS-  
23 PECTED INSURANCE FRAUD TO AN AUTHORIZED AGENCY, THE NATIONAL  
24 ASSOCIATION OF INSURANCE COMMISSIONERS, OR ANY NOT-FOR-PROFIT  
25 ORGANIZATION OR WHO COMPLIES WITH AN ORDER ISSUED BY A COURT OF  
26 COMPETENT JURISDICTION ACTING IN RESPONSE TO A REQUEST BY ANY OF  
27 THESE ENTITIFS TO FURNISH EVIDENCE OR PROVIDE TESTIMONY, IS NOT

1 SUBJECT TO CIVIL LIABILITY FOR LIBEL, SLANDER OR ANY OTHER TORT,  
2 AND A CIVIL CAUSE OF ACTION OF ANY NATURE SHALL NOT EXIST AGAINST  
3 THE PERSON, FOR FILING REPORTS, PROVIDING INFORMATION OR OTHER-  
4 WISE COOPERATING WITH AN INVESTIGATION OR EXAMINATION OF ANY OF  
5 THESE ENTITIES

6 (4) THE AUTHORIZED AGENCY THE NATIONAL ASSOCIATION OF  
7 INSURANCE COMMISSIONERS OR ANY NOT-FOR-PROFIT ORGANIZATION AND  
8 ANY EMPLOYEE OR AGENT OF ANY OF THESE ENTITIES, WHEN ACTING WITH-  
9 OUT MALICE IS NOT SUBJECT TO CIVIL LIABILITY FOR LIBEL SLANDER  
10 OR ANY OTHER TORT, AND A CIVIL CAUSE OF ACTION OF ANY NATURE  
11 SHALL NOT EXIST AGAINST THE PERSON BY VIRTUE OF THE EXECUTION OF  
12 OFFICIAL ACTIVITIES OR DUTIES OF THE ENTITY BY VIRTUE OF THE PUB-  
13 LICATION OF ANY REPORT OR BULLETIN RELATED TO THE ENTITY'S OFFI-  
14 CIAL ACTIVITIES OR DUTIES

15 (5) THIS SECTION DOES NOT ABROGATE OR MODIFY IN ANY WAY  
16 COMMON LAW OR STATUTORY PRIVILEGE OR IMMUNITY OTHERWISE AVAILABLE  
17 TO ANY PERSON OR ENTITY

18 SEC 4511 (1) IF A PERSON VIOLATES THIS CHAPTER, THE  
19 PERSON IS SUBJECT TO A CIVIL FINE NOT TO EXCEED \$25 000 00 THE  
20 FINE SHALL BE PAID TO THE DEPARTMENT OF TREASURY AND DEPOSITED IN  
21 AN INSURANCE ANTIFRAUD FUND WHICH IS HEREBY ESTABLISHED FOR THE  
22 RESTRICTED PURPOSE OF INSURANCE BUREAU EXPENDITURES THE INSUR-  
23 ANCE ANTIFRAUD FUND SHALL BE A REVOLVING FUND AND MONEY REMAINING  
24 IN THE FUND AT THE END OF THE FISCAL YEAR SHALL REMAIN IN THE  
25 FUND AND SHALL NOT REVERT TO THE GENERAL FUND THE COURT MAY  
26 ALSO ORDER THE PERSON FOUND TO HAVE VIOLATED THIS CHAPTER TO PAY  
27 COURT COSTS AND REASONABLE ATTORNEY FEES

1       (2) A PERSON WHO VIOLATES THIS CHAPTER IS GUILTY OF A FELONY  
2 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF  
3 NOT MORE THAN \$2,000 00, OR BOTH, AND SHALL BE ORDERED TO PAY  
4 RESTITUTION AS PROVIDED IN SECTION 1A OF CHAPTER IX OF THE CODE  
5 OF CRIMINAL PROCEDURE, ACT NO 175 OF THE PUBLIC ACTS OF 1927  
6 BEING SECTION 769 1A OF THE MICHIGAN COMPILED LAWS AND IN THE  
7 CRIME VICTIM'S RIGHTS ACT, ACT NO 87 OF THE PUBLIC ACTS OF 1985,  
8 BEING SECTIONS 780 751 TO 780 834 OF THE MICHIGAN COMPILED LAWS

9       (3) IF A PRACTITIONER VIOLATES THIS CHAPTER, THE COURT SHALL  
10 NOTIFY THE APPROPRIATE LICENSING AUTHORITY IN THIS STATE OF THE  
11 ADJUDICATION

12       Section 2   Chapter 32a of Act No 218 of the Public Acts of  
13 1956, being sections 500 3275 to 500 3297 of the Michigan  
14 Compiled Laws, is repealed

15       Section 3   This amendatory act shall take effect  
16 December 1 1995