



HOUSE BILL No. 4682

March 30, 1995, Introduced by Reps. Bush, Llewellyn, Griffin, Perricone and Ryan 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.

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:

5 CHAPTER 45

6 INSURANCE FRAUD

7 SEC. 4501. AS USED IN THIS CHAPTER:

8 (A) "AUTHORIZED AGENCY" MEANS THE DEPARTMENT OF STATE
9 POLICE; A CITY, VILLAGE, OR TOWNSHIP POLICE DEPARTMENT; A COUNTY

1 SHERIFF'S DEPARTMENT; A UNITED STATES CRIMINAL INVESTIGATIVE
2 DEPARTMENT OR AGENCY; THE PROSECUTING AUTHORITY OF A CITY, VIL-
3 LAGE, TOWNSHIP, COUNTY, OR STATE OR OF THE UNITED STATES; THE
4 INSURANCE BUREAU; OR THE DEPARTMENT OF STATE.

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

8 (C) "INSURER" MEANS A PROPERTY-CASUALTY INSURER, LIFE INSUR-
9 ER, OR HEALTH INSURER.

10 (D) "ORGANIZATION" MEANS AN ORGANIZATION ESTABLISHED TO
11 DETECT AND PREVENT INSURANCE FRAUD.

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

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

24 SEC. 4503. A FRAUDULENT INSURANCE ACT INCLUDES, BUT IS NOT
25 LIMITED TO, ACTS OR OMISSIONS COMMITTED BY ANY PERSON WHO KNOW-
26 INGLY, OR WITH AN INTENT TO INJURE, DEFRAUD, OR DECEIVE:

1 (A) PRESENTS, CAUSES TO BE PRESENTED, OR PREPARES WITH
2 KNOWLEDGE OR BELIEF THAT IT WILL BE PRESENTED TO AN INSURER,
3 REINSURER, BROKER, OR ANY AGENT OF AN INSURER, REINSURER, OR
4 BROKER ANY ORAL OR WRITTEN STATEMENT KNOWING THAT THE STATEMENT
5 CONTAINS ANY FALSE, INCOMPLETE, OR MISLEADING INFORMATION CON-
6 CERNING ANY FACT MATERIAL TO AN APPLICATION FOR THE ISSUANCE OF
7 AN INSURANCE POLICY.

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

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

21 (D) ASSISTS, ABETS, SOLICITS, OR CONSPIRES WITH ANOTHER TO
22 PREPARE OR MAKE ANY ORAL OR WRITTEN STATEMENT INCLUDING
23 COMPUTER-GENERATED DOCUMENTS THAT IS INTENDED TO BE PRESENTED TO
24 ANY INSURER IN CONNECTION WITH, OR IN SUPPORT OF, ANY CLAIM FOR
25 PAYMENT OR OTHER BENEFIT PURSUANT TO AN INSURANCE POLICY, KNOWING
26 THAT THE STATEMENT CONTAINS ANY FALSE, INCOMPLETE, OR MISLEADING
27 INFORMATION CONCERNING ANY FACT OR THING MATERIAL TO THE CLAIM.

1 (E) KNOWINGLY AND WILLFULLY ASSISTS, CONSPIRES WITH, OR
2 URGES ANY PERSON TO FRAUDULENTLY VIOLATE THIS ACT, OR ANY PERSON
3 WHO DUE TO THAT ASSISTANCE, CONSPIRACY, OR URGING KNOWINGLY AND
4 WILLFULLY BENEFITS FROM THE PROCEEDS DERIVED FROM THE FRAUD.

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

13 (A) INSURANCE POLICY INFORMATION RELEVANT TO AN INVESTIGA-
14 TION, INCLUDING ANY APPLICATION FOR A POLICY.

15 (B) POLICY PREMIUM PAYMENT RECORDS THAT ARE AVAILABLE.

16 (C) HISTORY OF PREVIOUS CLAIMS MADE BY THE INSURED.

17 (D) INFORMATION RELATING TO THE INVESTIGATION OF THE SUS-
18 PECTED INSURANCE FRAUD, INCLUDING STATEMENTS OF ANY PERSON,
19 PROOFS OF LOSS, AND NOTICE OF LOSS.

20 (2) IF AN INSURER KNOWS OR REASONABLY BELIEVES IT KNOWS THE
21 IDENTITY OF A PERSON WHO IT HAS REASON TO BELIEVE COMMITTED A
22 FRAUDULENT INSURANCE ACT OR HAS KNOWLEDGE OF A SUSPECTED FRAUDU-
23 LENT INSURANCE ACT THAT IS REASONABLY BELIEVED NOT TO HAVE BEEN
24 REPORTED TO AN AUTHORIZED AGENCY, THEN FOR THE PURPOSE OF NOTIFI-
25 CATION AND INVESTIGATION, THE INSURER OR AN AGENT AUTHORIZED BY
26 AN INSURER TO ACT ON ITS BEHALF MAY NOTIFY AN AUTHORIZED AGENCY

1 OF THE KNOWLEDGE OR BELIEF AND PROVIDE ANY ADDITIONAL INFORMATION
2 IN ACCORDANCE WITH SUBSECTION (1).

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

10 (4) IN ADDITION TO PROVIDING INFORMATION TO AN INSURER UNDER
11 SUBSECTION (3), THE AUTHORIZED AGENCY PROVIDED WITH INFORMATION
12 PURSUANT TO SUBSECTION (1) OR (2) MAY RELEASE OR PROVIDE THE
13 INFORMATION TO ANY OTHER AUTHORIZED AGENCY.

14 (5) EXCEPT AS OTHERWISE PROVIDED BY LAW, ANY INFORMATION
15 FURNISHED PURSUANT TO THIS SECTION IS PRIVILEGED AND IS NOT A
16 PUBLIC RECORD. THE EVIDENCE OR INFORMATION IS NOT SUBJECT TO
17 SUBPOENA DUCES TECUM IN A CIVIL OR CRIMINAL PROCEEDING UNLESS,
18 AFTER REASONABLE NOTICE TO AN INSURER, AGENT, AND AUTHORIZED
19 AGENCY THAT HAS AN INTEREST IN THE INFORMATION AND A SUBSEQUENT
20 HEARING, A COURT DETERMINES THAT THE PUBLIC INTEREST AND ANY
21 ONGOING INVESTIGATION WILL NOT BE JEOPARDIZED BY ISSUING THE SUB-
22 POENA DUCES TECUM.

23 SEC. 4509. (1) A PERSON ACTING WITHOUT MALICE IS NOT
24 SUBJECT TO LIABILITY FOR FILING A REPORT OR REQUESTING OR FUR-
25 NISHING ORALLY OR IN WRITING OTHER INFORMATION CONCERNING SUS-
26 PECTED, ANTICIPATED, OR COMPLETED INSURANCE FRAUD, IF THE REPORTS
27 OR INFORMATION ARE PROVIDED TO OR RECEIVED FROM THE INSURANCE

1 BUREAU, THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS, ANY
2 FEDERAL, STATE, OR GOVERNMENTAL AGENCY ESTABLISHED TO DETECT AND
3 PREVENT INSURANCE FRAUD, AS WELL AS ANY OTHER ORGANIZATION, AND
4 THEIR AGENTS, EMPLOYEES, OR DESIGNEES.

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

16 (3) IN THE ABSENCE OF MALICE, AN INSURER, OR ANY OFFICER,
17 EMPLOYEE, OR AGENT OF AN INSURER, OR ANY PERSON WHO COOPERATES
18 WITH, FURNISHES EVIDENCE, OR PROVIDES INFORMATION REGARDING SUS-
19 PECTED INSURANCE FRAUD TO AN AUTHORIZED AGENCY, THE NATIONAL
20 ASSOCIATION OF INSURANCE COMMISSIONERS, OR ANY ORGANIZATION, OR
21 WHO COMPLIES WITH AN ORDER ISSUED BY A COURT OF COMPETENT JURIS-
22 DICTION ACTING IN RESPONSE TO A REQUEST BY ANY OF THESE ENTITIES
23 TO FURNISH EVIDENCE OR PROVIDE TESTIMONY, IS NOT SUBJECT TO CIVIL
24 LIABILITY FOR LIBEL, SLANDER, OR ANY OTHER TORT, AND A CIVIL
25 CAUSE OF ACTION OF ANY NATURE DOES NOT EXIST AGAINST THE PERSON,
26 FOR FILING A REPORT, PROVIDING INFORMATION, OR OTHERWISE

1 COOPERATING WITH AN INVESTIGATION OR EXAMINATION OF ANY OF THESE
2 ENTITIES.

3 (4) THE AUTHORIZED AGENCY, THE NATIONAL ASSOCIATION OF
4 INSURANCE COMMISSIONERS, OR ANY ORGANIZATION, AND ANY EMPLOYEE OR
5 AGENT OF ANY OF THESE ENTITIES, WHEN ACTING WITHOUT MALICE, IS
6 NOT SUBJECT TO CIVIL LIABILITY FOR LIBEL, SLANDER, OR ANY OTHER
7 TORT, AND A CIVIL CAUSE OF ACTION OF ANY NATURE DOES NOT EXIST
8 AGAINST THE PERSON FOR OFFICIAL ACTIVITIES OR DUTIES OF THE
9 ENTITY BECAUSE OF THE PUBLICATION OF ANY REPORT OR BULLETIN
10 RELATED TO THE ENTITY'S OFFICIAL ACTIVITIES OR DUTIES.

11 (5) THIS SECTION DOES NOT ABROGATE OR MODIFY IN ANY WAY
12 COMMON LAW OR STATUTORY PRIVILEGE OR IMMUNITY OTHERWISE AVAILABLE
13 TO ANY PERSON OR ENTITY.

14 SEC. 4511. (1) IF A PERSON COMMITS A FRAUDULENT INSURANCE
15 ACT UNDER SECTION 4503, THE PERSON IS SUBJECT TO A CIVIL FINE OF
16 NOT MORE THAN \$25,000.00. THE FINE SHALL BE PAID TO THE DEPART-
17 MENT OF TREASURY AND DEPOSITED IN AN INSURANCE ANTIFRAUD FUND
18 THAT IS HEREBY ESTABLISHED FOR THE RESTRICTED PURPOSE OF INSUR-
19 ANCE BUREAU EXPENDITURES. THE INSURANCE ANTIFRAUD FUND SHALL BE
20 A REVOLVING FUND AND MONEY REMAINING IN THE FUND AT THE END OF
21 THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT REVERT TO
22 THE GENERAL FUND. THE COURT MAY ALSO ORDER THE PERSON WHO COM-
23 MITS A FRAUDULENT INSURANCE ACT UNDER SECTION 4503 TO PAY COURT
24 COSTS AND REASONABLE ATTORNEY FEES.

25 (2) A PERSON WHO COMMITS A FRAUDULENT INSURANCE ACT UNDER
26 SECTION 4503 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
27 NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$2,000.00, OR

1 BOTH, AND SHALL BE ORDERED TO PAY RESTITUTION AS PROVIDED IN
2 SECTION 1A OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE, ACT
3 NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTION 769.1A OF THE
4 MICHIGAN COMPILED LAWS, AND IN THE CRIME VICTIM'S RIGHTS ACT, ACT
5 NO. 87 OF THE PUBLIC ACTS OF 1985, BEING SECTIONS 780.751 TO
6 780.834 OF THE MICHIGAN COMPILED LAWS.

7 (3) IF THE COURT FINDS A PRACTITIONER RESPONSIBLE FOR OR
8 GUILTY OF A FRAUDULENT INSURANCE ACT UNDER SECTION 4503, THE
9 COURT SHALL NOTIFY THE APPROPRIATE LICENSING AUTHORITY IN THIS
10 STATE OF THE ADJUDICATION.