



# SENATE BILL No. 1025

May 14, 1996, Introduced by Senator BOUCHARD and referred to the Committee on Financial Services.

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 section 251.

**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 section 251 to read as  
4 follows:

5 SEC. 251. (1) IN THE REASONABLE EXERCISE OF DISCRETION, THE  
6 COMMISSIONER MAY ISSUE A CEASE AND DESIST ORDER IF THE COMMIS-  
7 SIONER FINDS ANY OF THE FOLLOWING:

1 (A) A PERSON IS CONDUCTING TRANSACTIONS OF INSURANCE FOR  
2 WHICH A CERTIFICATE OF AUTHORITY IS REQUIRED BY THIS ACT WITHOUT  
3 HAVING OBTAINED A CERTIFICATE OF AUTHORITY.

4 (B) A PERSON IS ACTING AS AN INSURANCE AGENT, SOLICITOR,  
5 ADJUSTER, OR COUNSELOR WITHOUT A LICENSE AS REQUIRED BY THIS  
6 ACT.

7 (C) A PERSON IS ENGAGED IN AN ACT OR PRACTICE IN THE BUSI-  
8 NESS OF INSURANCE FOR WHICH AUTHORITY FROM OR NOTIFICATION TO THE  
9 COMMISSIONER IS REQUIRED BY THIS ACT AND THE PERSON HAS NOT  
10 RECEIVED AUTHORITY OR GIVEN NOTIFICATION.

11 (D) A PERSON AUTHORIZED TO ENGAGE IN THE BUSINESS OF INSUR-  
12 ANCE UNDER THIS ACT IS ENGAGED IN CONDUCT THAT PRESENTS AN IMME-  
13 DIATE DANGER TO PUBLIC HEALTH, SAFETY, OR WELFARE.

14 (2) A CEASE AND DESIST ORDER UNDER THIS SECTION SHALL CON-  
15 TAIN A DESCRIPTION OF THE CONDUCT TO WHICH THE ORDER APPLIES AND  
16 SHALL REQUIRE THE PERSON TO IMMEDIATELY CEASE AND DESIST FROM  
17 THAT CONDUCT.

18 (3) THE COMMISSIONER SHALL SERVE THE CEASE AND DESIST ORDER  
19 DIRECTLY ON THE PERSON AFFECTED BY THE ORDER OR SHALL SERVE THE  
20 PERSON BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED,  
21 TO THE ADDRESS LAST KNOWN TO THE COMMISSIONER.

22 (4) A PERSON WHO IS THE SUBJECT OF A CEASE AND DESIST ORDER  
23 UNDER THIS SECTION MAY CONTEST THE ORDER BY REQUESTING A HEARING  
24 BEFORE THE COMMISSIONER NOT LATER THAN 30 DAYS AFTER THE ORDER IS  
25 DELIVERED OR MAILED TO THE PERSON. WITHIN 10 DAYS AFTER RECEIV-  
26 ING THE REQUEST, THE COMMISSIONER SHALL COMMENCE A HEARING IN  
27 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT

1 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO  
2 24.328 OF THE MICHIGAN COMPILED LAWS. PENDING THE HEARING, THE  
3 CEASE AND DESIST ORDER CONTINUES IN FULL FORCE AND EFFECT UNLESS  
4 THE ORDER IS STAYED BY THE COMMISSIONER.

5 (5) WITHIN 5 BUSINESS DAYS AFTER THE HEARING, THE COMMIS-  
6 SIONER SHALL AFFIRM, MODIFY, OR SET ASIDE IN WHOLE OR IN PART THE  
7 CEASE AND DESIST ORDER.

8 (6) A PERSON WHO VIOLATES OR OTHERWISE FAILS TO COMPLY WITH  
9 A CEASE AND DESIST ORDER UNDER THIS SECTION IS SUBJECT TO 1 OR  
10 MORE OF THE FOLLOWING:

11 (A) PAYMENT OF A CIVIL FINE OF NOT MORE THAN \$1,000.00 FOR  
12 EACH VIOLATION NOT TO EXCEED AN AGGREGATE CIVIL FINE OF  
13 \$30,000.00. HOWEVER, IF THE PERSON KNEW OR REASONABLY SHOULD  
14 HAVE KNOWN THE PERSON WAS IN VIOLATION OF THE ORDER, PAYMENT OF A  
15 CIVIL FINE OF NOT MORE THAN \$25,000.00 FOR EACH VIOLATION NOT TO  
16 EXCEED AN AGGREGATE CIVIL FINE OF \$250,000.00.

17 (B) SUSPENSION OR REVOCATION OF THE PERSON'S LICENSE OR CER-  
18 TIFICATE OF AUTHORITY.

19 (C) COMPLETE RESTITUTION, IN THE FORM, AMOUNT, AND WITHIN  
20 THE PERIOD DETERMINED BY THE COMMISSIONER, TO ALL PERSONS IN THIS  
21 STATE DAMAGED BY THE VIOLATION OR FAILURE TO COMPLY.

22 (7) THE COMMISSIONER MAY RECOVER REASONABLE ATTORNEY FEES IF  
23 JUDICIAL ACTION IS NECESSARY FOR ENFORCEMENT OF A CEASE AND  
24 DESIST ORDER UNDER THIS SECTION.