

Insurance; insurers; payment of claim; allow insured to sue and establish rights for insured in certain cases.

INSURANCE: Insurers; STATE AGENCIES (EXISTING): Consumer and industry services; CIVIL PROCEDURE: Civil actions; CIVIL PROCEDURE: Remedies; INSURANCE: Unfair trade practices; STATE AGENCIES (EXISTING): Attorney general

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending section 4507 (MCL 500.4507), as added by 1995 PA 276,  
and by adding section 2006a; and to repeal acts and parts of  
acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1        SEC. 2006A. (1) AN INSURER THAT FALSELY ACCUSES AN INSURED  
2        OF ARSON OR A FRAUDULENT INSURANCE ACT ENGAGES IN AN UNFAIR OR  
3        DECEPTIVE ACT OR PRACTICE IN THE BUSINESS OF INSURANCE.

4        (2) AN INSURER THAT KNOWINGLY OFFERS AN AMOUNT LESS THAN A  
5        REASONABLE PERSON WOULD BELIEVE THE INSURED IS ENTITLED TO  
6        RECEIVE TO RESOLVE A CLAIM ENGAGES IN AN UNFAIR OR DECEPTIVE ACT  
7        OR PRACTICE IN THE BUSINESS OF INSURANCE. THIS CONDUCT MAY BE  
8        DETERMINED BY A COURT TO CONSTITUTE BAD FAITH BY THE INSURER.

(3) IF AN INSURER ENGAGES IN CONDUCT DESCRIBED IN SUBSECTION (1) OR (2), ALL OF THE FOLLOWING APPLY:

(A) THE INSURED MAY BRING AN ACTION AGAINST THE INSURER AND MAY RECOVER ALL OF THE FOLLOWING:

(i) ACTUAL DAMAGES, INCLUDING ECONOMIC AND NONECONOMIC DAMAGES.

(ii) PUNITIVE AND EXEMPLARY DAMAGES.

(iii) ACTUAL ATTORNEY FEES.

(B) THE COMMISSIONER MAY SUSPEND, LIMIT, OR REVOKE THE INSURER'S AUTHORITY.

(C) THE COMMISSIONER OR THE ATTORNEY GENERAL MAY BRING AN ACTION ON BEHALF OF 1 OR MORE INSURED TO ENFORCE THE RIGHTS OF THE INSURED UNDER THIS SECTION.

(4) AS USED IN THIS SECTION:

(A) "ECONOMIC DAMAGES" MEANS MEDICAL EXPENSES, THE COST OF REHABILITATION SERVICES AND CUSTODIAL CARE, LOSS OF WAGES, LOSS OF FUTURE EARNINGS, LOSS OF USE OF PROPERTY, COST OF REPAIR OR REPLACEMENT OF PROPERTY, LOSS OF EMPLOYMENT, OR OTHER PECUNIARY DAMAGES.

(B) "FRAUDULENT INSURANCE ACT" MEANS CONDUCT DESCRIBED IN SECTION 4503.

(C) "NONECONOMIC DAMAGES" MEANS PAIN, SUFFERING, INCONVENIENCE, PHYSICAL IMPAIRMENT, DISFIGUREMENT, MENTAL ANGUISH, EMOTIONAL DISTRESS, LOSS OF SOCIETY AND COMPANIONSHIP, LOSS OF CONSORTIUM, INJURY TO REPUTATION, HUMILIATION, OR OTHER NONPECUNIARY DAMAGES.

1       Sec. 4507. (1) Upon written request by an authorized agency  
2 to an insurer, the insurer or an agent authorized by the insurer  
3 to act on its behalf may release to the authorized agency, at the  
4 authorized agency's expense, ~~any or~~ all information that is  
5 considered important relating to ~~any~~ suspected insurance  
6 fraud. An authorized agency may release information on suspected  
7 insurance fraud to an insurer or an agent authorized by an  
8 insurer to act on its behalf upon a showing of good cause by the  
9 insurer or the insurer's authorized agent. This information may  
10 include, but is not limited to, the following:

11       (a) Insurance policy information relevant to an investiga-  
12 tion, including ~~any~~ AN application for a policy.

13       (b) Policy premium payment records that are available.

14       (c) History of previous claims made by the insured.

15       (d) Information relating to the investigation of the sus-  
16 pected insurance fraud, including statements of any person,  
17 proofs of loss, and notice of loss.

18       (2) If an insurer knows or reasonably believes it knows the  
19 identity of a person who it has reason to believe committed a  
20 fraudulent insurance act or has knowledge of a suspected fraudu-  
21 lent insurance act that is reasonably believed not to have been  
22 reported to an authorized agency, then for the purpose of notifi-  
23 cation and investigation, the insurer or an agent authorized by  
24 an insurer to act on its behalf may notify an authorized agency  
25 of the knowledge or belief and provide any additional information  
26 in accordance with subsection (1).

(3) An insurer providing information to an authorized agency pursuant to subsection (2) has the right to request in writing information in the possession or control of the authorized agency relating to the same suspected fraudulent insurance act of which the insurer notifies the authorized agency under subsection (2). Upon a showing of good cause by the insurer, the authorized agency may provide the requested information at the insurer's expense within 30 days of the request.

(4) In addition to providing information to an insurer under subsection (3), the authorized agency provided with information pursuant to subsection (1) or (2) may release or provide the information to any other authorized agency.

(5) Nothing in this chapter impairs a person's right, as of ~~the effective date of this chapter~~ MARCH 28, 1996, to submit to the insurer or the insurer's representative a statement fully explaining the basis of the claim and to have that statement placed in the claim file.

(6) An authorized agency, insurer, or an agent authorized by an insurer to act on its behalf shall not request or release information under subsection (1) for any purpose other than for the investigation of suspected insurance fraud.

(7) AN INSURER SHALL REMOVE ALL DOCUMENTS RELATING TO ALLEGATIONS OF FRAUDULENT INSURANCE ACTS THAT HAVE BEEN DETERMINED TO BE UNFOUNDED FROM THE CLAIM FILE OF A PERSON WHO MAKES A REQUEST FOR REMOVAL.

Enacting section 1. Section 4509 of the insurance code of 1956, 1956 PA 218, MCL 500.4509, is repealed.