

HOUSE BILL No. 4539

April 8, 2003, Introduced by Reps. Condino, Lipsey, Vagnozzi, Stallworth, Sak, Hunter, Bieda, Hood, Gielegem, Phillips, Smith, Wojno, Minore, Woodward, Dennis, O'Neil, Meisner, Tobocman, Hopgood, Paletko, Anderson, Gleason, Accavitti, Farrah, Law, Plakas, Kolb, Cheeks, Jamnick, Brown, Whitmer, Murphy and Daniels and referred to the Committee on Insurance.

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.

9 (3) If an insurer engages in conduct described in subsection

1 (1) or (2), all of the following apply:

2 (a) The insured may bring an action against the insurer and
3 may recover all of the following:

4 (i) Actual damages, including economic and noneconomic
5 damages.

6 (ii) Punitive and exemplary damages.

7 (iii) Actual attorney fees and costs.

8 (b) The commissioner may suspend, limit, or revoke the
9 insurer's authority.

10 (c) The commissioner or the attorney general may bring an
11 action on behalf of 1 or more insureds to enforce the rights of
12 the insureds under this section.

13 (4) As used in this section:

14 (a) "Economic damages" means medical expenses, the cost of
15 rehabilitation services and custodial care, loss of wages, loss
16 of future earnings, loss of use of property, cost of repair or
17 replacement of property, loss of employment, or other pecuniary
18 damages.

19 (b) "Fraudulent insurance act" means conduct described in
20 section 4503.

21 (c) "Noneconomic damages" means pain, suffering,
22 inconvenience, physical impairment, disfigurement, mental
23 anguish, emotional distress, loss of society and companionship,
24 loss of consortium, injury to reputation, humiliation, or other
25 nonpecuniary damages.

26 Sec. 4507. (1) Upon written request by an authorized agency
27 to an insurer, the insurer or an agent authorized by the insurer

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

9 (a) Insurance policy information relevant to an
10 investigation, including ~~any~~ **an** application for a policy.

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

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

13 (d) Information relating to the investigation of the
14 suspected insurance fraud, including statements of any person,
15 proofs of loss, and notice of loss.

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

25 (3) An insurer providing information to an authorized agency
26 pursuant to subsection (2) has the right to request in writing
27 information in the possession or control of the authorized agency

1 relating to the same suspected fraudulent insurance act of which
2 the insurer notifies the authorized agency under subsection (2).
3 Upon a showing of good cause by the insurer, the authorized
4 agency may provide the requested information at the insurer's
5 expense within 30 days of the request.

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

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

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

19 **(7) An insurer shall remove all documents relating to**
20 **allegations of fraudulent insurance acts that have been**
21 **determined to be unfounded from the claim file of a person who**
22 **makes a request for removal.**

23 Enacting section 1. Section 4509 of the insurance code of
24 1956, 1956 PA 218, MCL 500.4509, is repealed.