

# HOUSE BILL No. 5256

September 29, 2005, Introduced by Reps. Proos, Shaffer, Jones, Acciavatti, Mortimer, Gaffney, Hansen, Booher, Caswell, Robertson, Condino, Taub, Vander Veen, Ball, Pavlov, Caul, Green, Wojno, Moore, Meyer, Pearce, Pastor, Stewart, Walker, Stahl, Tobocman, Mayes, Farrah, Brandenburg, Newell, Sheen, Phillips, Adamini, Brown, Leland, Angerer, Clemente and Bieda and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending section 3020 (MCL 500.3020), as amended by 1998 PA 410.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 3020. (1) A policy of casualty insurance, except worker's  
2       compensation and mortgage guaranty insurance, including all classes  
3       of motor vehicle coverage, shall not be issued or delivered in this  
4       state by an insurer authorized to do business in this state for  
5       which a premium or advance assessment is charged, unless the policy  
6       contains the following provisions:

7       (a) That the policy may be canceled at any time at the request  
8       of the insured, in which case the insurer shall refund the excess  
9       of paid premium or assessment above the pro rata rates for the  
10      expired time, except as otherwise provided in subsections (2), (3),

1 and (4).

2 (b) ~~That~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (D),**  
3 **THAT** the policy may be canceled at any time by the insurer by  
4 mailing to the insured at the insured's address last known to the  
5 insurer or an authorized agent of the insurer, with postage fully  
6 prepaid, a not less than 10 days' written notice of cancellation  
7 with or without tender of the excess of paid premium or assessment  
8 above the pro rata premium for the expired time.

9 (c) That the minimum earned premium on any policy canceled  
10 pursuant to this subsection, other than automobile insurance as  
11 defined in section 2102(2)(a) and (b), shall not be less than the  
12 pro rata premium for the expired time or \$25.00, whichever is  
13 greater.

14 **(D) THAT A MALPRACTICE INSURANCE POLICY MAY BE CANCELED AT ANY**  
15 **TIME BY THE INSURER ONLY BY MAILING TO THE INSURED AT THE INSURED'S**  
16 **ADDRESS LAST KNOWN TO THE INSURER OR AN AUTHORIZED AGENT OF THE**  
17 **INSURER, WITH POSTAGE FULLY PREPAID, A NOT LESS THAN 90 DAYS'**  
18 **WRITTEN NOTICE OF CANCELLATION WITH OR WITHOUT TENDER OF THE EXCESS**  
19 **OF PAID PREMIUM OR ASSESSMENT ABOVE THE PRO RATA PREMIUM FOR THE**  
20 **EXPIRED TIME. AS USED IN THIS SUBDIVISION, "MALPRACTICE INSURANCE"**  
21 **MEANS MALPRACTICE INSURANCE AS DESCRIBED IN SECTION 624(1)(H).**

22 (2) An insurer may file a rule with the commissioner providing  
23 for a minimum retention of premium for automobile insurance as  
24 defined in section 2102(2)(a) and (b). The rule shall describe the  
25 circumstances under which the retention is applied and shall set  
26 forth the amount to be retained, which is subject to the approval  
27 of the commissioner. The rule shall include, but need not be

1 limited to, the following provisions:

2 (a) That a minimum retention shall be applied only when the  
3 amount exceeds the amount that would have been retained had the  
4 policy been canceled on a pro rata basis.

5 (b) That a minimum retention does not apply to renewal  
6 policies.

7 (c) That a minimum retention does not apply when a policy is  
8 canceled for the following reasons:

9 (i) The insured is no longer required to maintain security  
10 pursuant to section 3101(1).

11 (ii) The insured has replaced the automobile insurance policy  
12 being canceled with an automobile insurance policy from another  
13 insurer and provides proof of the replacement coverage to the  
14 canceling insurer.

15 (3) Notwithstanding subsection (1), an insurer may issue a  
16 noncancelable, nonrefundable, 6-month prepaid automobile insurance  
17 policy in order for an insured to meet the registration  
18 requirements of section 227a of the Michigan vehicle code, 1949 PA  
19 300, MCL 257.227a.

20 (4) An insurer may provide for a short rate premium for  
21 insurance on a motorcycle, watercraft, off-road vehicle, or  
22 snowmobile. As used in this subsection:

23 (a) "Motorcycle" means that term as defined in section 3101.

24 (b) "Off-road vehicle" means an ORV as defined in section  
25 81101 of the natural resources and environmental protection act,  
26 1994 PA 451, MCL 324.81101.

27 (c) "Snowmobile" means that term as defined in section 82101

1 of the natural resources and environmental protection act, 1994 PA  
2 451, MCL 324.82101.

3 (d) "Watercraft" means that term as defined in section 80301  
4 of the natural resources and environmental protection act, 1994 PA  
5 451, MCL 324.80301.

6 (5) Cancellation as prescribed in this section is without  
7 prejudice to any claim originating before the cancellation. The  
8 mailing of notice is prima facie proof of notice. Delivery of  
9 written notice is equivalent to mailing.

10 (6) A notice of cancellation, including a cancellation notice  
11 under section 3224, shall be accompanied by a statement that the  
12 insured shall not operate or permit the operation of the vehicle to  
13 which notice of cancellation is applicable, or operate any other  
14 vehicle, unless the vehicle is insured as required by law.

15 (7) An insurer who wishes to provide for a short rate premium  
16 under subsection (4) shall file with the commissioner pursuant to  
17 chapter 24 or 26 a rule establishing a short rate premium. The rule  
18 shall describe the circumstances under which the short rate is  
19 applied and shall set forth the amount or percentage to be  
20 retained.

21 Enacting section 1. This amendatory act applies to malpractice  
22 insurance policies in effect on, or issued on or after, the date  
23 this amendatory act is enacted.