

HOUSE BILL No. 5428

November 7, 2007, Introduced by Reps. Leland, Corriveau, Scott, Virgil Smith, Byrnes, Hood, Johnson, Melton, Constan, Young, Lemmons, Farrah, Coulouris, Alma Smith, Polidori, Tobocman, Condino and Dean and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding chapter 3.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 3

OFFICE OF PUBLIC INSURANCE COUNSEL

SEC. 301. (1) THE INDEPENDENT OFFICE OF PUBLIC INSURANCE
COUNSEL IS CREATED WITHIN THE OFFICE OF FINANCIAL AND INSURANCE
SERVICES.

(2) THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE
SHALL APPOINT A PUBLIC COUNSEL FOR A TERM OF 4 YEARS. THE PUBLIC
COUNSEL SHALL SERVE AS EXECUTIVE DIRECTOR OF THE OFFICE OF PUBLIC
INSURANCE COUNSEL.

(3) TO BE ELIGIBLE TO SERVE AS PUBLIC COUNSEL FOR THE OFFICE
OF PUBLIC INSURANCE COUNSEL A PERSON SHALL MEET ALL OF THE

1 FOLLOWING REQUIREMENTS:

2 (A) BE A RESIDENT OF MICHIGAN.

3 (B) BE ADMITTED TO PRACTICE LAW IN MICHIGAN.

4 (C) DEMONSTRATE A STRONG COMMITMENT AND INVOLVEMENT IN EFFORTS
5 TO SAFEGUARD PUBLIC RIGHTS.

6 (D) POSSESS THE KNOWLEDGE AND EXPERIENCE NECESSARY TO PRACTICE
7 EFFECTIVELY IN INSURANCE PROCEEDINGS.

8 SEC. 303. THE OFFICE OF PUBLIC INSURANCE COUNSEL MAY ASSESS
9 THE IMPACT OF INSURANCE RATES, RULES, AND FORMS ON INSURANCE
10 CONSUMERS IN MICHIGAN AND, IN ITS OWN NAME, SHALL ACT AS AN
11 ADVOCATE OF POSITIONS THAT ARE MOST ADVANTAGEOUS TO A SUBSTANTIAL
12 NUMBER OF INSURANCE CONSUMERS AS DETERMINED BY THE PUBLIC COUNSEL
13 FOR THE OFFICE.

14 SEC. 305. THE OFFICE OF PUBLIC INSURANCE COUNSEL MAY ACCESS
15 ANY RECORDS THAT ARE AVAILABLE TO ANY PARTY IN A PROCEEDING BEFORE
16 THE COMMISSIONER AND IS ENTITLED TO DISCOVERY OF ANY NONPRIVILEGED
17 MATTER THAT IS RELEVANT TO THE SUBJECT MATTER INVOLVED IN ANY
18 PROCEEDING OR SUBMISSION BEFORE THE COMMISSIONER.

19 SEC. 307. (1) THE PUBLIC COUNSEL SHALL DO ALL OF THE
20 FOLLOWING:

21 (A) ADMINISTER, ENFORCE, AND CARRY OUT ALL DUTIES UNDER THIS
22 CHAPTER.

23 (B) PREPARE AND SUBMIT TO THE LEGISLATURE A BUDGET FOR THE
24 OFFICE OF PUBLIC INSURANCE COUNSEL.

25 (C) EMPLOY PROFESSIONAL, TECHNICAL, AND OTHER EMPLOYEES AS ARE
26 NECESSARY TO CARRY OUT THIS CHAPTER.

27 (D) SUBMIT TO THE COMMISSIONER FOR ADOPTION A CONSUMER BILL OF

1 RIGHTS APPROPRIATE TO EACH PERSONAL LINE OF INSURANCE REGULATED BY
2 THE COMMISSIONER TO BE DISTRIBUTED BY INSURERS UPON THE ISSUANCE OF
3 A POLICY TO EACH POLICYHOLDER UNDER RULES ADOPTED BY THE
4 COMMISSIONER.

5 (2) THE PUBLIC COUNSEL SHALL NOT INTERVENE IN HEARINGS BEFORE
6 THE COMMISSIONER THAT RELATE TO APPROVAL OR CONSIDERATION OF
7 INDIVIDUAL CHARTERS, LICENSES, ACQUISITIONS, MERGERS, OR
8 EXAMINATIONS, PROCEEDINGS CONCERNING THE SOLVENCY OF INDIVIDUAL
9 INSURERS AFTER A RECEIVER IS APPOINTED, OR OTHER MATTERS AFFECTING
10 INDIVIDUAL INSURER OR AGENT LICENSES.

11 SEC. 309. THE PUBLIC COUNSEL MAY DO ANY OF THE FOLLOWING:

12 (A) APPEAR OR INTERVENE AS A MATTER OF RIGHT BEFORE THE
13 COMMISSIONER AS A PARTY OR OTHERWISE ON BEHALF OF INSURANCE
14 CONSUMERS AS A CLASS IN ANY OF THE FOLLOWING:

15 (i) MATTERS INVOLVING RATES, RULES, AND FORMS AFFECTING
16 PROPERTY AND CASUALTY INSURANCE.

17 (ii) MATTERS INVOLVING RATES, RULES, AND FORMS AFFECTING TITLE
18 INSURANCE.

19 (iii) MATTERS INVOLVING RULES AFFECTING LIFE, HEALTH, AND
20 ACCIDENT INSURANCE.

21 (iv) MATTERS INVOLVING RATES, RULES, AND FORMS AFFECTING CREDIT
22 LIFE AND CREDIT ACCIDENT AND HEALTH INSURANCE.

23 (v) MATTERS INVOLVING RATES, RULES, AND FORMS AFFECTING ALL
24 OTHER LINES OF INSURANCE FOR WHICH THE COMMISSIONER PROMULGATES,
25 SETS, OR APPROVES RATES, RULES, OR FORMS.

26 (vi) MATTERS INVOLVING WITHDRAWAL OF APPROVAL OF POLICY FORMS
27 IF THE PUBLIC COUNSEL DETERMINES THAT THESE FORMS DO NOT COMPLY

1 WITH THIS ACT OR A VALID RULE OR ARE OTHERWISE CONTRARY TO LAW.

2 (B) INITIATE OR INTERVENE AS A MATTER OF RIGHT OR OTHERWISE
3 APPEAR IN A JUDICIAL PROCEEDING INVOLVING OR ARISING OUT OF ANY
4 ACTION TAKEN BY AN ADMINISTRATIVE AGENCY IN A PROCEEDING IN WHICH
5 THE PUBLIC COUNSEL APPEARED UNDER THE AUTHORITY GRANTED BY THIS
6 CHAPTER.

7 (C) RECOMMEND LEGISLATION TO THE LEGISLATURE THAT, IN THE
8 JUDGMENT OF THE PUBLIC COUNSEL, WOULD AFFECT POSITIVELY THE
9 INTERESTS OF INSURANCE CONSUMERS.

10 (D) APPEAR OR INTERVENE AS A MATTER OF RIGHT AS A PARTY OR
11 OTHERWISE ON BEHALF OF INSURANCE CONSUMERS AS A CLASS IN ALL
12 PROCEEDINGS IN WHICH THE PUBLIC COUNSEL DETERMINES THAT INSURANCE
13 CONSUMERS NEED REPRESENTATION, EXCEPT THAT THE PUBLIC COUNSEL MAY
14 NOT INTERVENE IN ANY ENFORCEMENT PROCEEDING BROUGHT BY THE ATTORNEY
15 GENERAL.

16 SEC. 311. THE PUBLIC COUNSEL SHALL NOT, FOR A PERIOD OF 2
17 YEARS AFTER THE DATE HE OR SHE CEASES TO BE PUBLIC COUNSEL,
18 REPRESENT ANY PERSON OR RECEIVE COMPENSATION FOR SERVICES RENDERED
19 ON BEHALF OF ANY PERSON IN A PROCEEDING BEFORE THE COMMISSIONER.