

# Legislative Analysis



## INSURER TO PAY INSURED'S ATTORNEY FEES IN SUCCESSFUL FIRST-PART ACTION BY INSURED

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4244**

**Sponsor: Rep. Mike Simpson**

**Committee: Insurance**

**Complete to 7-13-09**

### A SUMMARY OF HOUSE BILL 4244 AS INTRODUCED 2-11-09

The bill would amend the Insurance Code to require an insurance company to pay the reasonable attorney fees to an attorney who represents an insured (An insurance consumer) in a successful first-party action to recover overdue insurance benefits.

The attorney fee would be a charge against the company in addition to the benefits recovered and in addition to all other remedies available. If the failure to pay benefits in a timely manner was in bad faith, then the insured would also receive the greater of \$10,000 or three times the amount of benefits withheld. The bill says that whether an insurance company has acted in bad faith is a question of fact and not of law.

The bill defines "bad faith" as the breach of duty of good faith and fair dealing that is owed to the insured, and defines "good faith" to mean that an insurance company has given at least equal consideration to the insured's interests as to its own interests and is honest, intelligent, impersonal, realistic, and informed in its decision making.

### FISCAL IMPACT:

The bill would have no budgetary impact on the Office of Financial and Insurance Regulation. The office's activities are partially supported by the Insurance Bureau Fund, which consists of revenue from a regulatory assessment imposed on insurers. The amount of the assessment varies among insurers, based partly on premiums, with the total assessment spread against all insurers based on the OFIR appropriation.

Legislative Analyst: Chris Couch

Fiscal Analyst: Mark Wolf

---

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.