

Legislative Analysis



AUTO INSURANCE COMPANIES: DUTY TO DEAL FAIRLY & IN GOOD FAITH

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House Bill 4844

Sponsor: Rep. David Nathan

Committee: Insurance

Complete to 7-13-09

A SUMMARY OF HOUSE BILL 4844 AS INTRODUCED 4-29-09

The bill would amend the No-Fault Act within the Insurance Code to specify that an insurance company providing personal injury protection (PIP) benefits under an automobile policy "has a duty to deal fairly and in good faith with an injured person claiming benefits and that person's providers" (e.g., health care providers).

An insurer that breaches this duty, under the bill, would be liable for compensatory, consequential, economic, noneconomic, and exemplary damages proximately caused by the breach, and for the costs of litigation, including actual attorney fees.

Such a breach would include, but not be limited to, (1) a threat or act of intimidation against an injured person or provider with respect to the submission or payment of a claim under the act; (2) an act of retaliation against an injured person or provider for having asserted a right to make a claim; and (3) a statement or representation with respect to the submission of a claim, the payment of a claim, or the rights of an injured person or a provider, where that statement or representation was materially false and the insurer or its agents or representatives knew or should have known it was false.

[Personal injury protection, or PIP, coverage is a mandatory coverage under Michigan's No-Fault automobile insurance system. It covers, generally speaking, medical and rehabilitation costs, lost earnings, replacement for personal services, and survivor benefits. Michigan's system provides unlimited lifetime medical and rehabilitation benefits.]

MCL 500.3149

FISCAL IMPACT:

The bill would have an indeterminate impact on the Office of Financial and Insurance Regulation. The office would likely be required to conduct additional investigations and otherwise respond to increased complaints from consumers alleging violations of the bill. These activities would likely be undertaken by the Consumer Services Division (Market Conduct Section) and the Office of General Counsel. The resulting increased activities may necessitate the hiring of additional investigators and OGC staff (generally subject to executive and legislative restrictions on hiring). No estimate is currently available on the

impact on the office's activities, although any increased costs are supported by the Insurance Bureau Fund (an insurance regulatory assessment, based on the OFIR appropriation) and Insurance Licensing and Regulation Fees. Information concerning complaints against insurance companies is available through the OFIR consumer services website, [http://www.michigan.gov/dleg/0,1607,7-154-10555_12902---,00.html].

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