

HOUSE BILL No. 4244

February 11, 2009, Introduced by Reps. Simpson, Kennedy, Young, Segal, Constan, Meadows, Miller and Lipton 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 section 2090.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2090. (1) AN INSURER SHALL PAY REASONABLE ATTORNEY FEES
2 TO AN ATTORNEY WHO REPRESENTS THE INSURED IN A SUCCESSFUL FIRST-
3 PARTY ACTION TO RECOVER INSURANCE BENEFITS THAT ARE OVERDUE. THE
4 ATTORNEY FEE SHALL BE A CHARGE AGAINST THE INSURER IN ADDITION TO
5 THE BENEFITS RECOVERED AND IN ADDITION TO ALL OTHER REMEDIES
6 AVAILABLE. IF THE FAILURE TO TIMELY PAY BENEFITS WAS IN BAD FAITH,
7 THE INSURED SHALL ALSO RECEIVE THE GREATER OF \$10,000.00 OR 3 TIMES
8 THE AMOUNT OF BENEFITS WITHHELD. WHETHER AN INSURER HAS ACTED IN
9 BAD FAITH IS A QUESTION OF FACT AND NOT OF LAW.

10 (2) AS USED IN THIS SECTION:

1 (A) "BAD FAITH" MEANS THE BREACH OF DUTY OF GOOD FAITH AND
2 FAIR DEALING THAT IS OWED TO THE INSURED.

3 (B) "GOOD FAITH" MEANS THAT AN INSURER HAS GIVEN AT LEAST
4 EQUAL CONSIDERATION TO THE INSURED'S INTERESTS AS TO ITS OWN
5 INTERESTS AND IS HONEST, INTELLIGENT, IMPERSONAL, REALISTIC, AND
6 INFORMED IN ITS DECISION MAKING.