

SENATE BILL NO. 1087

November 13, 2024, Introduced by Senators CAVANAGH, BAYER, MCMORROW, CHANG, KLINEFELT, POLEHANKI and GEISS and referred to the Committee on Finance, Insurance, and Consumer Protection.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 150 and 2038 (MCL 500.150 and 500.2038), as
amended by 2019 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 150. (1) Any person ~~who~~**that** violates any provision of
2 this act for which a specific penalty is not provided under any
3 other provision of this act or of other laws applicable to the
4 violation must be afforded an opportunity for a hearing before the
5 director under the administrative procedures act of 1969, 1969 PA

1 306, MCL 24.201 to 24.328. If the director finds that a violation
2 has occurred, the director shall reduce the findings and decision
3 to writing and issue and cause to be served on the person charged
4 with the violation a copy of the findings and an order requiring
5 the person to cease and desist from the violation. In addition, the
6 director may order any of the following:

7 **(a) For an insurer found in violation of this act, payment of**
8 **a civil fine of not more than \$50,000.00 for each violation.**

9 **However, if the insurer knew or reasonably should have known that**
10 **it was in violation of this act, the director may order the payment**
11 **of a civil fine of not more than \$100,000.00 for each violation.**

12 **With respect to filings made by an insurer under chapters 21, 22,**
13 **23, 24, and 26, "violation" means a filing not in compliance with**
14 **those chapters and does not include an action with respect to an**
15 **individual policy based on a noncomplying filing. An order of the**
16 **director under this subdivision must not require the payment of**
17 **civil fines exceeding \$500,000.00. A fine collected under this**
18 **subdivision must be turned over to the state treasurer and credited**
19 **to the general fund.**

20 **(b) ~~(a) Payment~~ For a person other than an insurer found in**
21 **violation of this act, payment** of a civil fine of not more than
22 \$1,000.00 for each violation. However, if the person **other than the**
23 **insurer** knew or reasonably should have known that ~~he or she the~~
24 **person** was in violation of this act, the director may order the
25 payment of a civil fine of not more than \$5,000.00 for each
26 violation. ~~With respect to filings made under chapters 21, 22, 23,~~
27 ~~24, and 26, "violation" means a filing not in compliance with those~~
28 ~~chapters and does not include an action with respect to an~~
29 ~~individual policy based on a noncomplying filing. An order of the~~

1 director under this subdivision must not require the payment of
2 civil fines exceeding \$50,000.00. A fine collected under this
3 subdivision must be turned over to the state treasurer and credited
4 to the general fund.

5 (c) ~~(b)~~ The suspension, limitation, or revocation of the
6 person's license or certificate of authority.

7 (2) After notice and opportunity for hearing, the director may
8 by order reopen and alter, modify, or set aside, in whole or in
9 part, an order issued under this section if, in the director's
10 opinion, conditions of fact or law have changed to require that
11 action or the public interest requires that action.

12 (3) If a person knowingly violates a cease and desist order
13 under this section and has been given notice and an opportunity for
14 a hearing held under the administrative procedures act of 1969,
15 1969 PA 306, MCL 24.201 to 24.328, the director may order a civil
16 fine of \$20,000.00 for each violation, or a suspension, limitation,
17 or revocation of the person's license, or both. A fine collected
18 under this subsection must be turned over to the state treasurer
19 and credited to the general fund.

20 (4) The director may apply to the court of claims for an order
21 of the court enjoining a violation of this act.

22 Sec. 2038. (1) If, after opportunity for a hearing held under
23 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
24 to 24.328, the director determines that the person complained of
25 has engaged in methods of competition or unfair or deceptive acts
26 or practices prohibited by sections 2001 to 2050, the director
27 shall reduce ~~his or her~~ **their** findings and decision to writing and
28 shall issue and cause to be served on the person charged with the
29 violation a copy of the findings and an order requiring the person

1 to cease and desist from engaging in that method of competition,
2 act, or practice. The director may also order any of the following:

3 **(a) For a person that has engaged in methods of competition or**
4 **unfair or deceptive acts or practices in violation of sections 2001**
5 **to 2050 that is an insurer, payment of a monetary penalty of not**
6 **more than \$50,000.00 for each violation but not to exceed an**
7 **aggregate penalty of \$100,000.00 unless the insurer knew or**
8 **reasonably should have known it was in violation of this chapter,**
9 **in which case the penalty must not be more than \$50,000.00 for each**
10 **violation and must not exceed an aggregate penalty of \$500,000.00**
11 **for all violations committed in a 6-month period.**

12 **(b) ~~(a) Payment~~ For a person that has engaged in methods of**
13 **competition or unfair or deceptive acts or practices in violation**
14 **of sections 2001 to 2050 that is not an insurer, payment of a**
15 **monetary penalty of not more than \$1,000.00 for each violation but**
16 **not to exceed an aggregate penalty of \$10,000.00, unless the person**
17 **knew or reasonably should have known he was in violation of this**
18 **chapter, in which case the penalty must not be more than \$5,000.00**
19 **for each violation and must not exceed an aggregate penalty of**
20 **\$50,000.00 for all violations committed in a 6-month period.**

21 **(c) ~~(b)~~ Suspension or revocation of the person's license or**
22 **certificate of authority if the person knowingly and persistently**
23 **violated a provision of this chapter.**

24 **(d) ~~(c)~~ Refund of any overcharges.**

25 (2) The filing of a petition for review does not stay
26 enforcement of action under this section, but the director may
27 grant, or the appropriate court may order, a stay on appropriate
28 terms.

29 (3) If a petition for review has not been filed within the

1 time allowed under section 244, until the time for filing the
2 petition expires or, if a petition for review has been filed within
3 that time, until the transcript of the record in the proceeding has
4 been filed in the circuit court, as provided in this chapter, the
5 director, on notice and in a manner as he or she considers proper,
6 may modify or set aside in whole or in part an order issued under
7 this section.

8 (4) After the expiration of the time allowed for filing a
9 petition for review, if a petition has not been filed within that
10 time, the director may at any time, by order, after notice and
11 opportunity for hearing, reopen and alter, modify, or set aside, in
12 whole or in part, an order issued under this section, if in the
13 director's opinion conditions of fact or of law have so changed as
14 to require that action or if required by the public interest.