

THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.2043 Unfair methods of competition or deception; procedure to enjoin, jurisdiction of circuit court; filing petition; additional evidence; modification of findings; issuance of injunction; preliminary notice; application for trade conference.

Sec. 2043. (1) Whenever the commissioner has probable cause to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in sections 2005 through 2025, that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be in the interest of the public, the commissioner may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than 15 days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in section 2029. The commissioner shall, after such hearing, state in writing his findings of fact, his decision, and his order if any; and he shall serve a copy thereof upon all parties of record to the proceeding.

(2) If such finding and decision charges a violation of this uniform trade practices act and if such method of competition, act or practice has not been discontinued, the commissioner may, through the attorney general of this state, at any time after 15 days after the service of such finding and decision cause a petition to be filed in the circuit court of Ingham county to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public pendente lite.

(3) A transcript of the proceedings before the commissioner including all evidence taken and the findings and decision shall be filed with such petition. If any party of record shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner the court may order such additional evidence to be taken before the commissioner and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner may modify his findings of fact and decision or make new findings and decision by reason of the additional evidence so taken, and he shall file such modified or new findings and decision with the return of such additional evidence.

(4) If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, that the proceeding by the commissioner with respect thereto is in the interest of the public and that the findings of the commissioner are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

(5) The commissioner shall not proceed with any formal statement of charges or notice of hearing under subsection (1) of this section until he shall first have provided such person sought to be charged, within 10 days' preliminary notice of the commissioner's proposed statement of charges or intention to call a hearing. Such preliminary proceedings shall be deemed to be privileged and shall not be subject to public inspection or announcement. Such person sought to be charged, may within 10 days after receipt of such notice make application for a trade conference as provided for in section 2047 unless the practice complained of has been previously defined as an unfair trade practice by published rule, regulation or standard as provided in section 2047. If such application is made by such person, it shall be the duty of the commissioner to call such a trade conference as provided in section 2047 to discuss the method of competition, act or practice which is the subject matter of the proposed charge; and the commissioner shall not proceed to any action under subsection (1) of this section until after such trade conference shall have been held.

History: 1956, Act 218, Eff. Jan. 1, 1957.

Popular name: Act 218