

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

500.214 Commissioner; immunity from civil liability; conditions.

Sec. 214. (1) The commissioner or his or her representatives are immune from civil liability, both personally and professionally, for any of their acts or omissions if all of the following are met:

(a) The commissioner or his or her representatives acted or reasonably believed he or she acted within the scope of his or her authority.

(b) The commissioner's or his or her representatives' conduct did not amount to gross negligence that was proximate cause of the injury or damages suffered.

(2) The commissioner or his or her representatives shall not be personally liable for the acts or omissions of others.

(3) Except as otherwise provided in this section, defense and indemnification of the commissioner or his or her representatives for an act or omission under this act shall be conducted in accordance with Act No. 170 of the Public Acts of 1964, being sections 691.1401 to 691.1415 of the Michigan Compiled Laws.

(4) If a claim is made or a civil action is commenced against the commissioner or his or her representatives, either personally or professionally, for an act or omission done in the course of employment as it pertains to chapter 78, chapter 81, or any successor chapter, legal representation shall be provided by the attorney general or a special assistant attorney general appointed to provide such representation.

(5) If the attorney general appoints a special assistant attorney general to represent the commissioner or his or her representatives, the costs of the defense shall be paid, as incurred, out of the insurer estate that is the subject of a claim arising out of a chapter 78, chapter 81, or any successor chapter proceeding.

(6) As a condition of the acceptance of the defense, the commissioner or his or her representatives shall agree to reimburse the costs of the defense, if it is finally determined by a final adjudication on the merits that the commissioner or his or her representatives acted outside of the scope of his or her authority and had no reasonable basis for believing that he or she acted within the scope of his or her authority and that his or her conduct amounted to gross negligence that was the proximate cause of the injury or damages suffered.

(7) If a judgment is awarded or a settlement is entered into in a civil action against the commissioner or his or her representatives for an act or omission pertaining to a chapter 78, chapter 81, or any successor chapter proceeding, the state shall indemnify the commissioner or his or her representatives out of the involved insurer's estate.

(8) This section does not apply to those persons acting as the commissioner's agents under section 438a.

(9) For purposes of this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate substantial lack of concern for whether injury results.

(b) "Representative" means any employee of the commissioner or the insurance bureau or any person exercising power delegated by the commissioner in accordance with this act, but does not include accountants, actuaries, or lawyers retained as independent contractors and acting in their professional capacity.

History: Add. 1992, Act 182, Imd. Eff. Oct. 1, 1992;—Am. 1994, Act 226, Imd. Eff. June 27, 1994.

Popular name: Act 218