

Act No. 276
Public Acts of 1995
Approved by the Governor
January 7, 1996
Filed with the Secretary of State
January 8, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Reps. Bush, Llewellyn, Griffin, Perricone and Ryan

ENROLLED HOUSE BILL No. 4682

AN ACT to amend Act No. 218 of the Public Acts of 1956, entitled as amended "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal certain acts and parts of acts; to repeal certain acts and parts of acts on specific dates; to repeal certain parts of this act on specific dates; and to provide penalties for the violation of this act," as amended, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, by adding chapter 45.

The People of the State of Michigan enact:

Section 1. Act No. 218 of the Public Acts of 1956, as amended, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, is amended by adding chapter 45 to read as follows:

CHAPTER 45 INSURANCE FRAUD

Sec. 4501. As used in this chapter:

(a) "Authorized agency" means the department of state police; a city, village, or township police department; a county sheriff's department; a United States criminal investigative department or agency; the prosecuting authority of a city, village, township, county, or state or of the United States; the insurance bureau; or the department of state.

(b) "Financial loss" includes, but is not limited to, loss of earnings, out-of-pocket and other expenses, repair and replacement costs, investigative costs, and claims payments.

(c) "Insurance policy" or "policy" means an insurance policy, health maintenance organization contract, nonprofit dental care corporation certificate, or health care corporation certificate.

(d) "Insurer" means a property-casualty insurer, life insurer, third party administrator, self-funded plan, health insurer, health maintenance organization, nonprofit dental care corporation, health care corporation, reinsurer, or any other entity regulated by the insurance laws of this state and providing any form of insurance.

(e) "Organization" means an organization or internal department of an insurer established to detect and prevent insurance fraud.

(f) "Person" includes an individual, insurer, company, association, organization, Lloyds, society, reciprocal or inter-insurance exchange, partnership, syndicate, business trust, corporation, and any other legal entity.

(g) "Practitioner" means a licensee of this state authorized to practice medicine and surgery, psychology, chiropractic, or law, or any other licensee of the state whose services are compensated, directly or indirectly, by insurance proceeds, or a licensee similarly licensed in other states and nations, or the practitioner of any nonmedical treatment rendered in accordance with a recognized religious method of healing.

(h) "Statement" includes, but is not limited to, any notice statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damages, bill for services, claim form, diagnosis, prescription, hospital or doctor record, X-rays, test result, or other evidence of loss, injury, or expense.

Sec. 4503. A fraudulent insurance act includes, but is not limited to, acts or omissions committed by any person who knowingly, and with an intent to injure, defraud, or deceive:

(a) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer or any agent of an insurer any oral or written statement knowing that the statement contains any false information concerning any fact material to an application for the issuance of an insurance policy.

(b) Prepares or assists, abets, solicits, or conspires with another to prepare or make an oral or written statement that is intended to be presented to or by any insurer in connection with, or in support of, any application for the issuance of an insurance policy, knowing that the statement contains any false information concerning any fact or thing material to the application.

(c) Presents or causes to be presented to or by any insurer, any oral or written statement including computer-generated information as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains false information concerning any fact or thing material to the claim.

(d) Assists, abets, solicits, or conspires with another to prepare or make any oral or written statement including computer-generated documents that is intended to be presented to or by any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that the statement contains any false information concerning any fact or thing material to the claim.

(e) Solicits or accepts new or renewal insurance risks by or for an insolvent insurer.

(f) Removes or attempts to remove the assets or records of assets, transactions, and affairs, or a material part of the assets or records, from the home office or other place of business of the insurer or from the place of safekeeping of the insurer, or who conceals or attempts to conceal the assets or record of assets, transactions, and affairs, or a material part of the assets or records, from the commissioner.

(g) Diverts, attempts to divert, or conspires to divert funds of an insurer or of other persons in connection with any of the following:

(i) The transaction of insurance or reinsurance.

(ii) The conduct of business activities by an insurer.

(iii) The formation, acquisition, or dissolution of an insurer.

(h) Knowingly and willfully assists, conspires with, or urges any person to fraudulently violate this act, or any person who due to that assistance, conspiracy, or urging knowingly and willfully benefits from the proceeds derived from the fraud.

Sec. 4507. (1) Upon written request by an authorized agency to an insurer, the insurer or an agent authorized by the insurer to act on its behalf may release to the authorized agency, at the authorized agency's expense, any or all information that is considered important relating to any suspected insurance fraud. An authorized agency may release information on suspected insurance fraud to an insurer or an agent authorized by an insurer to act on its behalf upon a showing of good cause by the insurer or the insurer's authorized agent. This information may include, but is not limited to, the following:

(a) Insurance policy information relevant to an investigation, including any application for a policy.

(b) Policy premium payment records that are available.

(c) History of previous claims made by the insured.

(d) Information relating to the investigation of the suspected insurance fraud, including statements of any person, proofs of loss, and notice of loss.

(2) If an insurer knows or reasonably believes it knows the identity of a person who it has reason to believe committed a fraudulent insurance act or has knowledge of a suspected fraudulent insurance act that is reasonably believed not to have been reported to an authorized agency, then for the purpose of notification and investigation, the insurer or an agent authorized by an insurer to act on its behalf may notify an authorized agency of the knowledge or belief and provide any additional information in accordance with subsection (1).

(3) An insurer providing information to an authorized agency pursuant to subsection (2) has the right to request in writing information in the possession or control of the authorized agency relating to the same suspected fraudulent insurance act of which the insurer notifies the authorized agency under subsection (2). Upon a showing of good cause by the insurer, the authorized agency may provide the requested information at the insurer's expense within 30 days of the request.

(4) In addition to providing information to an insurer under subsection (3), the authorized agency provided with information pursuant to subsection (1) or (2) may release or provide the information to any other authorized agency.

(5) Nothing in this chapter impairs a person's right, as of the effective date of this chapter, to submit to the insurer or the insurer's representative a statement fully explaining the basis of the claim and to have that statement placed in the claim file.

(6) An authorized agency, insurer, or an agent authorized by an insurer to act on its behalf shall not request or release information under subsection (1) for any purpose other than for the investigation of suspected insurance fraud.

Sec. 4509. (1) A person acting without malice is not subject to liability for filing a report or requesting or furnishing orally or in writing other information concerning suspected or completed insurance fraud, if the reports or information are provided to or received from the insurance bureau, the national association of insurance commissioners, any federal, state, or governmental agency established to detect and prevent insurance fraud, as well as any other organization, and their agents, employees, or designees, unless that person knows that the report or other information contains false information pertaining to any material fact or thing.

(2) In a prosecution for perjury or insurance fraud, and in the absence of malice, an insurer, or any officer, employee, or agent of an insurer, or any private person who cooperates with, furnishes evidence, or provides or receives information regarding suspected insurance fraud to or from an authorized agency, the national association of insurance commissioners, or any organization, or who complies with an order issued by a court acting in response to a request by any of these entities to provide evidence or testimony, is not subject to civil liability with respect to any act concerning the suspected insurance fraud that the person testifies to or produces relevant matter, unless that person knows that the evidence, information, testimony, or matter contains false information pertaining to any material fact or thing.

(3) In the absence of malice, an insurer, or any officer, employee, or agent of an insurer, or any person who cooperates with, furnishes evidence, or provides information regarding suspected insurance fraud to an authorized agency, the national association of insurance commissioners, or any organization, or who complies with an order issued by a court of competent jurisdiction acting in response to a request by any of these entities to furnish evidence or provide testimony, is not subject to civil liability for libel, slander, or any other tort, and a civil cause of action of any nature does not exist against the person, for filing a report, providing information, or otherwise cooperating with an investigation or examination of any of these entities, unless that person knows that the evidence, information, testimony, or matter contains false information pertaining to any material fact or thing.

(4) The authorized agency, the national association of insurance commissioners, or any organization, and any employee or agent of any of these entities, when acting without malice, is not subject to civil liability for libel, slander, or any other tort, and a civil cause of action of any nature does not exist against the person for official activities or duties of the entity because of the publication of any report or bulletin related to the entity's official activities or duties, unless the report or bulletin contains false information concerning any material fact or thing and the authorized agency, the national association of insurance commissioners, an organization, or an employee or agent of these entities knows that the information is false.

(5) This section does not abrogate or modify in any way common law or statutory privilege or immunity otherwise available to any person or entity.

Sec. 4511. (1) A person who commits a fraudulent insurance act under section 4503 is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$50,000.00, or both, and shall be ordered to pay restitution as provided in section 1a of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 769.1a of the Michigan Compiled Laws, and in the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being sections 780.751 to 780.834 of the Michigan Compiled Laws.

(2) A person who enters into an agreement or conspiracy to commit a fraudulent insurance act under section 4503 is guilty of a felony, punishable by imprisonment for not more than 10 years or by a fine of not more than \$50,000.00, or both, and shall be ordered to pay restitution as provided in section 1a of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 769.1a of the Michigan Compiled Laws, and in the crime victim's rights act, Act No. 87 of the Public Acts of 1985, being sections 780.751 to 780.834 of the Michigan Compiled Laws.

(3) If the court finds a practitioner or insurer responsible for or guilty of a fraudulent insurance act under section 4503, the court shall notify the appropriate licensing authority in this state of the adjudication.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.