

# HOUSE BILL No. 4846

April 29, 2009, Introduced by Reps. Slezak, Haase, Kandrevas, Haugh, Scripps, Barnett, Slavens, Switalski, Young, Durhal, Miller, Nathan, Liss and Womack and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending section 2038 (MCL 500.2038).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2038. (1) If, after opportunity for a hearing held  
2 pursuant to ~~Act No. 306 of the Public Acts of 1969, as amended~~ **THE**  
3 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**  
4 **24.328**, the commissioner determines that the person complained of  
5 has engaged in methods of competition or unfair or deceptive acts  
6 or practices prohibited by sections 2001 to 2050, the commissioner  
7 shall reduce his **OR HER** findings and decision to writing and shall  
8 issue and cause to be served upon the person charged with the  
9 violation a copy of the findings and an order requiring the person  
10 to cease and desist from engaging in that method of competition,  
11 act, or practice and, **IN ADDITION**, the commissioner may order any

1 of the following:

2 (a) Payment of a monetary penalty of not more than ~~\$500.00~~  
3 **\$1,000.00** for each violation but not to exceed an aggregate penalty  
4 of ~~\$5,000.00~~**\$10,000.00**, unless the person knew or reasonably  
5 should have known he **OR SHE** was in violation of this chapter, in  
6 which case the penalty shall not be more than ~~\$2,500.00~~**\$5,000.00**  
7 for each violation and shall not exceed an aggregate penalty of  
8 ~~\$25,000.00~~**\$50,000.00** for all violations committed in a 6-month  
9 period.

10 (b) Suspension or revocation of the person's license or  
11 certificate of authority if the person knowingly and persistently  
12 violated a provision of this chapter.

13 (c) Refund of any overcharges.

14 (2) The filing of a petition for review does not stay  
15 enforcement of action pursuant to this section, but the  
16 commissioner may grant, or the appropriate court may order, a stay  
17 upon appropriate terms.

18 (3) Until the expiration of the time allowed under section 244  
19 for filing a petition for review if a petition has not been duly  
20 filed within that time or, if a petition for review has been filed  
21 within that time, then until the transcript of the record in the  
22 proceeding has been filed in the circuit court, ~~as hereinafter~~  
23 ~~provided,~~ the commissioner, upon notice and in a manner as he ~~shall~~  
24 ~~deem~~**OR SHE CONSIDERS** proper, may modify or set aside in whole or  
25 in part an order issued by ~~him~~**THE COMMISSIONER** under this section.

26 (4) After the expiration of the time allowed for filing a  
27 petition for review, if a petition has not been duly filed within

1 that time, the commissioner may at any time, by order, after notice  
2 and opportunity for hearing, reopen and alter, modify, or set  
3 aside, in whole or in part, an order issued by ~~him~~**THE COMMISSIONER**  
4 under this section, ~~when in his~~**IF IN THE COMMISSIONER'S** opinion  
5 conditions of fact or of law have so changed as to require that  
6 action or if the public interest ~~shall so require~~**REQUIRES**.