

HOUSE BILL No. 4328

February 27, 2007, Introduced by Reps. Condino, Vagnozzi, Bieda, Polidori and Kathleen Law 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,

1 act, or practice and, **IN ADDITION**, the commissioner may order any
2 of the following:

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

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

14 (c) Refund of any overcharges.

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

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

27 (4) After the expiration of the time allowed for filing a

1 petition for review, if a petition has not been duly filed within
2 that time, the commissioner may at any time, by order, after notice
3 and opportunity for hearing, reopen and alter, modify, or set
4 aside, in whole or in part, an order issued by ~~him~~**THE COMMISSIONER**
5 under this section, ~~when in his~~**IF IN THE COMMISSIONER'S** opinion
6 conditions of fact or of law have so changed as to require that
7 action or if the public interest ~~shall so require~~**REQUIRES**.