

HOUSE BILL No. 6125

May 20, 2008, Introduced by Reps. Simpson, Virgil Smith, Leland, Bieda, Miller, Cushingberry, Coulouris, Tobocman, Condino, Hood, Hammon, Clack, Donigan, Johnson and Vagnozzi and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2090.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2090. (1) AN INSURER SHALL PAY REASONABLE ATTORNEY FEES
2 TO AN ATTORNEY WHO REPRESENTS THE INSURED IN A SUCCESSFUL FIRST-
3 PARTY ACTION TO RECOVER INSURANCE BENEFITS THAT ARE OVERDUE. THE
4 ATTORNEY FEE SHALL BE A CHARGE AGAINST THE INSURER IN ADDITION TO
5 THE BENEFITS RECOVERED AND IN ADDITION TO ALL OTHER REMEDIES
6 AVAILABLE. IF THE FAILURE TO TIMELY PAY BENEFITS WAS IN BAD FAITH,
7 THE INSURED SHALL ALSO RECEIVE THE GREATER OF \$10,000.00 OR 3 TIMES
8 THE AMOUNT OF BENEFITS WITHHELD. WHETHER AN INSURER HAS ACTED IN
9 BAD FAITH IS A QUESTION OF FACT AND NOT OF LAW.

1 (2) AS USED IN THIS SECTION:

2 (A) "BAD FAITH" MEANS THE BREACH OF DUTY OF GOOD FAITH AND
3 FAIR DEALING THAT IS OWED TO THE INSURED.

4 (B) "GOOD FAITH" MEANS THAT AN INSURER HAS GIVEN AT LEAST
5 EQUAL CONSIDERATION TO THE INSURED'S INTERESTS AS TO ITS OWN
6 INTERESTS AND IS HONEST, INTELLIGENT, IMPERSONAL, REALISTIC, AND
7 INFORMED IN ITS DECISION MAKING.