

SUBSTITUTE FOR  
HOUSE BILL NO. 4844

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
(MCL 500.100 to 500.8302) by adding section 3149.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 3149. (1) AN INSURER OBLIGATED TO PAY BENEFITS OR CLAIMS  
2        FOR PERSONAL PROTECTION INSURANCE BENEFITS UNDER THIS ACT HAS A  
3        DUTY TO DEAL FAIRLY AND IN GOOD FAITH WITH AN INJURED PERSON  
4        CLAIMING THOSE BENEFITS AND THAT PERSON'S PROVIDERS. AN INSURER  
5        THAT BREACHES THIS DUTY TO DEAL FAIRLY AND IN GOOD FAITH IS LIABLE  
6        FOR COMPENSATORY, CONSEQUENTIAL, NONECONOMIC, ECONOMIC, AND  
7        EXEMPLARY DAMAGES PROXIMATELY CAUSED BY THE BREACH AND THE COSTS OF  
8        LITIGATION, INCLUDING ACTUAL ATTORNEY FEES. A BREACH OF THE DUTY TO  
9        DEAL FAIRLY AND IN GOOD FAITH INCLUDES, BUT IS NOT LIMITED TO, ANY  
10       OF THE FOLLOWING:

1 (A) MISREPRESENTING PERTINENT FACTS OR INSURANCE POLICY  
2 PROVISIONS CONCERNING COVERAGES AT ISSUE.

3 (B) FAILING TO ACKNOWLEDGE PROMPTLY OR TO ACT REASONABLY AND  
4 PROMPTLY UPON COMMUNICATIONS CONCERNING CLAIMS ARISING UNDER THE  
5 INSURANCE POLICY.

6 (C) FAILING TO ADOPT AND IMPLEMENT REASONABLE STANDARDS FOR  
7 THE PROMPT INVESTIGATION OF CLAIMS ARISING UNDER THE INSURANCE  
8 POLICY.

9 (D) REFUSING TO PAY CLAIMS WITHOUT CONDUCTING A REASONABLE  
10 INVESTIGATION BASED UPON THE AVAILABLE INFORMATION.

11 (E) FAILING TO AFFIRM OR DENY COVERAGE OF CLAIMS WITHIN A  
12 REASONABLE TIME AFTER PROOF OF LOSS STATEMENTS HAVE BEEN COMPLETED.

13 (F) FAILING TO ATTEMPT IN GOOD FAITH TO EFFECTUATE PROMPT,  
14 FAIR, AND EQUITABLE SETTLEMENTS OF CLAIMS IN WHICH LIABILITY HAS  
15 BECOME REASONABLY CLEAR.

16 (G) COMPELLING INSURED TO INSTITUTE LITIGATION TO RECOVER  
17 AMOUNTS DUE UNDER AN INSURANCE POLICY BY OFFERING SUBSTANTIALLY  
18 LESS THAN THE AMOUNTS DUE THE INSURED.

19 (H) ATTEMPTING TO SETTLE A CLAIM FOR LESS THAN THE AMOUNT TO  
20 WHICH A REASONABLE PERSON WOULD BELIEVE THE CLAIMANT WAS ENTITLED,  
21 BY REFERENCE TO WRITTEN OR PRINTED ADVERTISING MATERIAL  
22 ACCOMPANYING OR MADE PART OF AN APPLICATION.

23 (I) ATTEMPTING TO SETTLE CLAIMS ON THE BASIS OF AN APPLICATION  
24 THAT WAS ALTERED WITHOUT NOTICE TO, OR KNOWLEDGE OR CONSENT OF, THE  
25 INSURED.

26 (J) MAKING A CLAIMS PAYMENT TO A POLICYHOLDER OR BENEFICIARY  
27 OMITTING THE COVERAGE UNDER WHICH EACH PAYMENT IS BEING MADE.

1 (K) MAKING KNOWN TO INSUREDS OR CLAIMANTS A POLICY OF  
2 APPEALING FROM ARBITRATION AWARDS IN FAVOR OF INSUREDS OR CLAIMANTS  
3 FOR THE PURPOSE OF COMPELLING THEM TO ACCEPT SETTLEMENTS OR  
4 COMPROMISES LESS THAN THE AMOUNT AWARDED IN ARBITRATION.

5 (I) DELAYING THE INVESTIGATION OR PAYMENT OF CLAIMS BY  
6 REQUIRING AN INSURED, CLAIMANT, OR THE PHYSICIAN OF EITHER TO  
7 SUBMIT A PRELIMINARY CLAIM REPORT AND THEN REQUIRING SUBSEQUENT  
8 SUBMISSION OF FORMAL PROOF OF LOSS FORMS, SEEKING SOLELY THE  
9 DUPLICATION OF A VERIFICATION.

10 (M) FAILING TO PROMPTLY SETTLE CLAIMS WHERE LIABILITY HAS  
11 BECOME REASONABLY CLEAR UNDER 1 PORTION OF THE INSURANCE POLICY  
12 COVERAGE IN ORDER TO INFLUENCE SETTLEMENTS UNDER OTHER PORTIONS OF  
13 THE INSURANCE POLICY.

14 (N) FAILING TO PROMPTLY PROVIDE A REASONABLE EXPLANATION OF  
15 THE BASIS IN THE INSURANCE POLICY CONCERNING THE FACTS OR  
16 APPLICABLE LAW FOR DENIAL OF A CLAIM OR FOR THE OFFER OF A  
17 COMPROMISE SETTLEMENT.

18 (2) WHETHER AN INSURER HAS BREACHED THE DUTY UNDER SUBSECTION  
19 (1) IS A QUESTION OF FACT AND NOT OF LAW.

20 Enacting section 1. This amendatory act does not take effect  
21 unless all of the following bills of the 95th Legislature are  
22 enacted into law:

23 (a) House Bill No. 4244.

24 (b) House Bill No. 5020.

25 (c) House Bill No. 5145.

26 (d) House Bill No. 5146.

27 (e) House Bill No. 5147.

- 1 (f) House Bill No. 5148.
- 2 (g) House Bill No. 5150.
- 3 (h) House Bill No. 5151.