

SUBSTITUTE FOR  
HOUSE BILL NO. 4846

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

1 violation a copy of the findings and an order requiring the person  
2 to cease and desist from engaging in that method of competition,  
3 act, or practice and, **IN ADDITION**, the commissioner may order any  
4 of the following:

5 (a) Payment of ~~a monetary penalty~~ **AN ADMINISTRATIVE FINE** of  
6 not more than ~~\$500.00~~ **\$2,000.00** for each violation but not to  
7 exceed an aggregate ~~penalty~~ **FINE** of ~~\$5,000.00~~ **\$20,000.00**, unless  
8 the person knew or reasonably should have known he **OR SHE** was in  
9 violation of this chapter, in which case the ~~penalty~~ **FINE** shall not  
10 be more than ~~\$2,500.00~~ **\$10,000.00** for each violation and shall not  
11 exceed an aggregate ~~penalty~~ **FINE** of ~~\$25,000.00~~ **\$100,000.00** for all  
12 violations committed in a 6-month period. **A FINE COLLECTED UNDER**  
13 **THIS SUBDIVISION SHALL BE DEPOSITED IN THE INSURANCE WHISTLEBLOWER**  
14 **PROTECTION FUND CREATED IN SECTION 2035A.**

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

18 (c) Refund of any overcharges.

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

23 (3) Until the expiration of the time allowed under section 244  
24 for filing a petition for review if a petition has not been duly  
25 filed within that time or, if a petition for review has been filed  
26 within that time, then until the transcript of the record in the  
27 proceeding has been filed in the circuit court, ~~as hereinafter~~

1 ~~provided,~~ the commissioner, upon notice and in a manner as he ~~shall~~  
2 ~~deem~~ **OR SHE CONSIDERS** proper, may modify or set aside in whole or  
3 in part an order issued by ~~him~~ **THE COMMISSIONER** under this section.

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

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

- 15 (a) House Bill No. 5144.  
16 (b) House Bill No. 5149.