

SUBSTITUTE FOR  
HOUSE BILL NO. 5020

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
(MCL 500.100 to 500.8302) by adding section 2203.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           SEC. 2203. (1) A PROPERTY OR CASUALTY INSURER OBLIGATED TO PAY  
2   BENEFITS OR CLAIMS UNDER A PROPERTY OR CASUALTY INSURANCE POLICY  
3   HAS A DUTY TO DEAL FAIRLY AND IN GOOD FAITH WITH AN INSURED  
4   CLAIMING THOSE BENEFITS. A PROPERTY OR CASUALTY INSURER THAT  
5   BREACHES THIS DUTY TO DEAL FAIRLY AND IN GOOD FAITH IS LIABLE FOR  
6   COMPENSATORY, CONSEQUENTIAL, AND EXEMPLARY DAMAGES PROXIMATELY  
7   CAUSED BY THE BREACH AND THE COSTS OF LITIGATION, INCLUDING ACTUAL  
8   ATTORNEY FEES. A BREACH OF THE DUTY TO DEAL FAIRLY AND IN GOOD  
9   FAITH INCLUDES, BUT IS NOT LIMITED TO, ANY OF THE FOLLOWING:  
10           (A) MISREPRESENTING PERTINENT FACTS OR INSURANCE POLICY

1 PROVISIONS CONCERNING COVERAGES AT ISSUE.

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

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

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

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

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

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

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

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

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

27 (K) MAKING KNOWN TO INSURED OR CLAIMANTS A POLICY OF

1 APPEALING FROM ARBITRATION AWARDS IN FAVOR OF INSURED OR CLAIMANTS  
2 FOR THE PURPOSE OF COMPELLING THEM TO ACCEPT SETTLEMENTS OR  
3 COMPROMISES LESS THAN THE AMOUNT AWARDED IN ARBITRATION.

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

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

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

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

19 (3) AS USED IN THIS SECTION, "PROPERTY OR CASUALTY INSURER"  
20 MEANS A HOME INSURER, AN AUTOMOBILE INSURER, A COMMERCIAL PROPERTY  
21 INSURER, OR A WORKERS COMPENSATION INSURER.

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

25 (a) House Bill No. 4244.

26 (b) House Bill No. 4844.

27 (c) House Bill No. 5145.

- 1 (d) House Bill No. 5146.
- 2 (e) House Bill No. 5147.
- 3 (f) House Bill No. 5148.
- 4 (g) House Bill No. 5150.
- 5 (h) House Bill No. 5151.