

# HOUSE BILL No. 4627

April 19, 2005, Introduced by Reps. Condino, Wojno, Plakas, Anderson, Alma Smith, Donigan, Bieda, Tobocman, Polidori, Vagnozzi, Leland, Accavitti, Lemmons, III, Kolb and Meisner 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~~  
3 **THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201**  
4 **TO 24.328**, the commissioner determines that the person complained  
5 of has engaged in methods of competition or unfair or deceptive  
6 acts or practices prohibited by sections 2001 to 2050, the  
7 commissioner shall reduce his **OR HER** findings and decision to  
8 writing and shall issue and cause to be served upon the person  
9 charged with the violation a copy of the findings and an order

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

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

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

15 (c) Refund of any overcharges.

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

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

1 this section.

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