

# HOUSE BILL No. 4845

April 29, 2009, Introduced by Reps. Scripps, Kandrevas, Haugh, Nathan, Switalski, Roberts, Constan, Haase, Slezak, Barnett, Slavens, Smith and Warren and referred to the Committee on Judiciary.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3141 and 3145 (MCL 500.3141 and 500.3145).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 3141. An insurer may require written notice to be given  
2 as soon as practicable after an accident involving a motor vehicle  
3 with respect to which the policy affords the security required by  
4 this chapter. **HOWEVER, A NOTICE REQUIREMENT SHALL NOT SHORTEN ANY**  
5 **LIMITATIONS PERIOD OR NOTICE PERIOD ESTABLISHED UNDER THIS ACT OR**  
6 **APPLICABLE TO CLAIMS MADE UNDER THIS ACT.**

7       Sec. 3145. (1) An action for recovery of personal protection  
8 insurance benefits payable under this chapter for accidental bodily  
9 injury ~~may~~ **SHALL** not be commenced later than 1 year after the date  
10 of the accident causing the injury unless written notice of injury  
11 as provided ~~herein~~ **IN THIS SECTION** has been given to the insurer

1 within 1 year after the accident or unless the insurer has  
2 previously made a payment of personal protection insurance benefits  
3 for the injury. If the notice has been given or a payment has been  
4 made, the action may be commenced at any time within 1 year after  
5 the most recent allowable expense, work loss, or survivor's loss  
6 has been incurred. However, the claimant may not recover benefits  
7 for any portion of the loss incurred more than 1 year before the  
8 date on which the action was commenced. The notice of injury  
9 required by this subsection may be given to the insurer or any of  
10 its authorized agents by a person claiming to be entitled to  
11 benefits, ~~therefor,~~ or by ~~someone in~~ **A PERSON ACTING ON** his **OR HER**  
12 behalf. The notice shall give the name and address of the claimant  
13 and indicate in ordinary language the name of the person injured  
14 and the time, place, and nature of his **OR HER** injury **AS THE INJURY**  
15 **IS REASONABLY KNOWN TO THE PERSON GIVING THE NOTICE AT THE TIME THE**  
16 **NOTICE IS GIVEN. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT TO**  
17 **THE CONTRARY, THE 1-YEAR PERIOD FOR BRINGING A CLAIM OR FOR**  
18 **RECOVERING BENEFITS ON A CLAIM IS SUSPENDED FROM THE DATE A**  
19 **SPECIFIC CLAIM FOR BENEFITS IS SUBMITTED TO THE INSURER UNTIL THE**  
20 **DATE THE INSURER PROVIDES THE PERSON MAKING THE CLAIM WITH A FORMAL**  
21 **WRITTEN DENIAL OF THAT SPECIFIC CLAIM.**

22 (2) An action for recovery of property protection insurance  
23 benefits shall not be commenced later than 1 year after the  
24 accident.

25 (3) **NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL TIME**  
26 **LIMITATIONS CONTAINED IN THIS SECTION WITH RESPECT TO GIVING NOTICE**  
27 **OF INJURY, COMMENCING AN ACTION FOR BENEFITS, OR RECOVERING**

1 BENEFITS ON A CLAIM ARE TOLLED OR OTHERWISE SUSPENDED AS TO THE  
2 PERSON CLAIMING BENEFITS OR OTHERS CLAIMING UNDER THAT PERSON,  
3 INCLUDING, BUT NOT LIMITED TO, THAT PERSON'S PROVIDERS, AS FOLLOWS:

4 (A) IF THE PERSON ENTITLED TO BENEFITS WAS UNDER 18 YEARS OF  
5 AGE AT THE TIME THE CLAIM FOR BENEFITS ACCRUES, THE CLAIM IS TOLLED  
6 UNTIL THE PERSON REACHES 19 YEARS OF AGE, EXCEPT AS OTHERWISE  
7 PROVIDED IN SUBDIVISION (B), REGARDLESS OF WHETHER A GUARDIAN OR A  
8 CONSERVATOR HAS BEEN APPOINTED FOR THE PERSON.

9 (B) IF THE PERSON ENTITLED TO BENEFITS SUFFERED FROM A  
10 CONDITION OF MENTAL DERANGEMENT SUCH AS TO PREVENT THE PERSON FROM  
11 COMPREHENDING RIGHTS HE OR SHE IS OTHERWISE BOUND TO KNOW AT THE  
12 TIME THE CLAIM FOR BENEFITS ACCRUES, THE CLAIM IS TOLLED UNTIL 1  
13 YEAR AFTER THE CONDITION OR DISABILITY HAS BEEN UNEQUIVOCALLY AND  
14 IRREVOCABLY REMOVED THROUGH DEATH OR OTHERWISE, REGARDLESS OF  
15 WHETHER A GUARDIAN OR CONSERVATOR HAS BEEN APPOINTED FOR THE  
16 PERSON. A JUDICIAL DECLARATION OF INSANITY, MENTAL COMPETENCY, OR  
17 MENTAL DERANGEMENT IS NOT REQUIRED UNDER THIS SUBDIVISION.

18 (C) IF A PERSON DIES BEFORE THE PERIOD OF LIMITATIONS UNDER  
19 SUBSECTION (1) HAS RUN OR WITHIN 90 DAYS AFTER THE PERIOD OF  
20 LIMITATIONS HAS RUN, AN ACTION SURVIVING BY LAW MAY BE COMMENCED BY  
21 THE PERSONAL REPRESENTATIVE OF THE DECEASED PERSON AT ANY TIME  
22 WITHIN 2 YEARS AFTER LETTERS OF AUTHORITY ARE ISSUED EVEN IF THE  
23 PERIOD OF LIMITATIONS HAS RUN, REGARDLESS OF WHETHER A GUARDIAN OR  
24 CONSERVATOR HAD EVER BEEN APPOINTED FOR THE PERSON. HOWEVER, AN  
25 ACTION SHALL NOT BE BROUGHT UNDER THIS SUBDIVISION UNLESS THE  
26 PERSONAL REPRESENTATIVE COMMENCES IT WITHIN 3 YEARS OF THE TIME  
27 WITHIN WHICH THE PERSONAL REPRESENTATIVE WAS AUTHORIZED BY LAW TO

1 **COMMENCE ACTION.**

2 **(4) THIS SECTION APPLIES TO ANY CASE FILED ON OR AFTER OCTOBER**  
3 **1, 1973.**

4 Enacting section 1. Section 3145(3) of the insurance code of  
5 1956, 1956 PA 218, MCL 500.3145, as added by this amendatory act,  
6 is curative and intended to correct the misinterpretation of law  
7 and legislative intent that occurred in the Michigan court of  
8 appeals decision in Cameron v Auto Club Insurance Association, 263  
9 Mich App 95; 687 NW2d 354 (2004).