

Legislative Analysis



MCPA INSURANCE EXEMPTIONS

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House Bill 5558

Sponsor: Rep. Tom Leonard

Committee: Judiciary

Complete to 5-14-14

A SUMMARY OF HOUSE BILL 5558 AS INTRODUCED 5-8-14

A consumer is currently prevented from bringing a private cause of act under the Michigan Consumer Protection Act against an insurance company for committing unfair and deceptive trade practices in violation of Chapter 20 of the Insurance Code. The bill would amend the Michigan Consumer Protection Act to specify that this applies to deceptive practices occurring before, on, or after March 28, 2001.

House Bill 5558 also states that the bill would be retroactive and effective March 28, 2001, and that it is curative and intended to prevent any misinterpretation that the Consumer Protection Act applies to or creates a cause of action for an unfair, unconscionable, or deceptive method, act, or practice occurring before March 28, 2001, that is made unlawful by Chapter 20 of the Insurance Code, that may result from the decision of the Michigan Supreme Court in *Converse v Auto Club Group Ins Co*, No. 142917, October 26, 2012.

Lastly, the bill would make technical corrections to citations to the Michigan Public Service Commission Act and the Credit Union Act.

MCL 445.904

BACKGROUND INFORMATION:

Public Act 432 of 2001, which took effect March 28, 2001, removed from the Michigan Consumer Protection Act the ability of private individuals to bring lawsuits regarding trade practices branded as unfair, unconscionable, or deceptive by Chapter 20 of the Insurance Code.

Then and now, a consumer may not bring a private cause of action under the MCPA against any company for a transaction or conduct specifically authorized under laws administered by a regulatory board or officer acting under statutory authority of this state or the United States. Also, except for an action filed by a person under Section 11 of the MCPA (which does allow an individual to bring private actions under certain circumstances for injunctive relief or to recover actual damages, among other things), the MCPA specifies that it does not apply to or create a cause of action for an unfair, unconscionable, or deceptive method, act, or practice that is made unlawful under the Banking Code, Michigan Public Service Commission Act, Motor Carrier Act, Savings

Bank Act, and Credit Union Act. Prior to Public Act 432, the exemption also applied to violations of unfair trade practices made unlawful by Chapter 20 of the Insurance Code. In response to a state Supreme Court decision in *Smith v Globe Life*, the Legislature enacted PA 432 to make Chapter 20 of the Insurance Code the sole remedy for persons aggrieved by actions by insurance companies.

In *Converse*, generally speaking, the state Supreme Court issued an order appearing to say that a plaintiff can seek to recover damages resulting from methods, acts, or practices violative of the MCPA based on conduct by a [insurance company] defendant occurring [before] March 28, 2001, as long as it was timely filed.

FISCAL IMPACT:

The bill would have no significant fiscal impact on the state or local units of government.

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