

SENATE BILL No. 1087

September 5, 2018, Introduced by Senator JONES and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
(MCL 500.100 to 500.8302) by adding section 2081.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 2081. (1) ON PAYMENT BY AN INSURER OF AT LEAST \$5,000.00
2 TO AN ATTORNEY LICENSED IN THIS STATE, OR OTHER REPRESENTATIVE, IN
3 SETTLEMENT OR SATISFACTION BY AN INSURED OR A THIRD PARTY OF A
4 CLAIM ARISING OUT OF AN INSURANCE POLICY ISSUED OR DELIVERED IN
5 THIS STATE, THE INSURER SHALL SEND TO THE CLAIMANT OR JUDGMENT
6 CREDITOR ON THE UNDERLYING INSURANCE OR LIABILITY CLAIM A NOTICE OF
7 THE PAYMENT WITHIN 5 BUSINESS DAYS AFTER THE DATE PAYMENT IS MADE
8 OR SENT TO THE ATTORNEY OR OTHER REPRESENTATIVE OF THE CLAIMANT OR
9 JUDGMENT CREDITOR. A COPY OF THE NOTICE MUST BE SENT SIMULTANEOUSLY

1 TO THE ATTORNEY OR REPRESENTATIVE OF THE CLAIMANT OR JUDGMENT
2 CREDITOR.

3 (2) THE NOTICE REQUIRED UNDER SUBSECTION (1) MUST BE SENT IN A
4 MANNER REASONABLY CALCULATED TO REACH THE CLAIMANT OR JUDGMENT
5 CREDITOR, WHICH MAY INCLUDE MAILING TO THE PHYSICAL ADDRESS, OR
6 ELECTRONIC MAIL OR OTHER ELECTRONIC ADDRESS, FURNISHED BY THE
7 CLAIMANT OR JUDGMENT CREDITOR TO THE INSURANCE COMPANY, UNLESS THE
8 CLAIMANT OR JUDGMENT CREDITOR HAS NOTIFIED THE INSURANCE COMPANY IN
9 WRITING THAT THE CLAIMANT WAIVES NOTICE OF PAYMENT. IN THE ABSENCE
10 OF ANY ADDRESS OR WAIVER FURNISHED BY THE CLAIMANT OR JUDGMENT
11 CREDITOR, THE NOTICE MUST BE SENT TO THE LAST KNOWN ADDRESS OF THE
12 CLAIMANT OR JUDGMENT CREDITOR. THE NOTICE MUST BE SENT BY THE
13 INSURER ONLY AFTER A SETTLEMENT HAS BEEN AGREED TO BY THE ATTORNEY
14 OR OTHER REPRESENTATIVE OF THE CLAIMANT OR JUDGMENT CREDITOR. THE
15 NOTICE MUST CONTAIN ONLY THE FOLLOWING LANGUAGE:

16 PURSUANT TO [INSERT], YOU ARE HEREBY NOTIFIED
17 THAT A PAYMENT OF _____
18 (INSERT DOLLAR AMOUNT OF PAYMENT)
19 WAS SENT ON _____
20 (INSERT DATE ON WHICH PAYMENT WAS SENT)
21 BY _____ TO YOUR ATTORNEY OR OTHER
22 (INSERT NAME OF INSURER)
23 REPRESENTATIVE, _____,
24 (INSERT NAME, ADDRESS, AND TELEPHONE NUMBER OF
25 ATTORNEY OR OTHER REPRESENTATIVE KNOWN TO INSURER)
26 IN SATISFACTION OF YOUR CLAIM OR JUDGMENT AGAINST
27 _____.

1 (INSERT NAME OF INSURER, OR INSURED, WHICHEVER
2 IS APPROPRIATE)

3 "PURSUANT TO MRPC 1.15, '(B) A LAWYER SHALL: (3)
4 PROMPTLY PAY OR DELIVER ANY FUNDS OR OTHER PROPERTY
5 THAT THE CLIENT OR THIRD PERSON IS ENTITLED TO
6 RECEIVE, EXCEPT AS STATED IN THIS RULE OR OTHERWISE
7 PERMITTED BY LAW OR BY AGREEMENT WITH THE CLIENT
8 OR THIRD PERSON, AND, UPON REQUEST BY THE CLIENT
9 OR THIRD PERSON, PROMPTLY RENDER A FULL ACCOUNTING
10 REGARDING SUCH PROPERTY. (C) WHEN TWO OR MORE
11 PERSONS (ONE OF WHOM MAY BE THE LAWYER) CLAIM
12 INTEREST IN THE PROPERTY, IT SHALL BE KEPT SEPARATE
13 BY THE LAWYER UNTIL THE DISPUTE IS RESOLVED. THE
14 LAWYER SHALL PROMPTLY DISTRIBUTE ALL PORTIONS
15 OF THE PROPERTY AS TO WHICH THE INTERESTS ARE
16 NOT IN DISPUTE.'

17 IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT YOUR
18 ATTORNEY OR OTHER REPRESENTATIVE."

19 (3) THIS SECTION DOES NOT DO ANY OF THE FOLLOWING:

20 (A) CREATE A CAUSE OF ACTION FOR MONETARY DAMAGES FOR ANY
21 PERSON AGAINST AN INSURER BASED ON A FAILURE TO PROVIDE NOTICE AS
22 REQUIRED BY THIS SECTION OR THE PROVISION OF A DEFECTIVE NOTICE.

23 (B) ESTABLISH A DEFENSE FOR ANY PERSON TO ANY CAUSE OF ACTION
24 BASED ON A FAILURE TO PROVIDE NOTICE AS REQUIRED BY THIS SECTION OR
25 THE PROVISION OF A DEFECTIVE NOTICE.

26 (C) INVALIDATE OR AFFECT THE SETTLEMENT OR SATISFACTION FOR
27 WHICH THE PAYMENT WAS MADE BY THE INSURER.

1 (4) EXCEPT AS PROVIDED AND AUTHORIZED BY THIS SECTION, AN
2 INSURER SHALL NOT OTHERWISE COMMUNICATE WITH A CLAIMANT OR JUDGMENT
3 CREDITOR KNOWN TO BE REPRESENTED BY AN ATTORNEY LICENSED IN THIS
4 STATE, OR OTHER REPRESENTATIVE, REGARDING SETTLEMENT OF A CLAIM OR
5 SATISFACTION OF A JUDGMENT WITHOUT THE WRITTEN CONSENT OF THE
6 ATTORNEY OR OTHER REPRESENTATIVE.