

EXECUTIVE REORGANIZATION ORDER

E.R.O. No. 2008-1

445.2005 Renaming office of financial and insurance services to office of financial and insurance regulation; creation of position of automobile and home insurance consumer advocate.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the Office of Financial and Insurance Services was established by Executive Order 2000-4, MCL 445.2003;

WHEREAS, the Commissioner of Financial and Insurance Services regulates the provision of automobile and home insurance in Michigan under The Insurance Code of 1956, 1956 PA 218, MCL 500.100 to 500.8302;

WHEREAS, Chapter 31 of The Insurance Code of 1956, 1956 PA 218, MCL 500.3101 to MCL 500.3179, requires the owner or registrant of a motor vehicle required to be registered in this state to maintain security for payment of benefits under personal protection insurance, property protection insurance, and residual liability insurance;

WHEREAS, The Insurance Code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, also provides Michigan insurance consumers with important legal rights and protections;

WHEREAS, it is imperative that Michigan automobile and home insurance consumers have access to an effective regulatory system that strengthens insurance oversight, prevents abuse, and maintains representation of consumers' interests;

WHEREAS, ensuring that Michigan residents have access to affordable, reliable, and fair insurance no matter where they live is critical to growing our cities and growing Michigan's economy;

WHEREAS, the creation of an independent advocate within state government dedicated solely to representing and protecting the interests of automobile and home insurance consumers would greatly benefit Michigan residents;

WHEREAS, the creation of an independent advocate within state government dedicated solely to representing and protecting the interests of automobile and home insurance consumers would enhance efficiency and effectiveness within state government by consolidating and focusing consumer advocacy responsibilities in a single position while enabling the Commissioner of the Office of Financial and Insurance Regulation to focus activities on regulatory responsibilities;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order the following:

I. DEFINITIONS

As used in this Order:

A. "Automobile and Home Insurance Consumer Advocate" or "Advocate" means the position created under Section III of this Order.

B. "Automobile insurance" means that term as defined under Section 2102 of the Insurance Code of 1956, 1956 PA 218, MCL 500.2102.

C. "Civil Service Commission" means the commission required under Section 5 of Article XI of the Michigan Constitution of 1963.

D. "Commissioner of Financial and Insurance Regulation" or "Commissioner" means the head of the Office of Financial and Insurance Regulation, formerly known as the Commissioner of Financial and Insurance Services and renamed the Commissioner of Financial and Insurance Regulation under Section II.C. of this Order.

E. "Department of Labor and Economic Growth" or "Department" means the principal department of state government created as the Department of Commerce under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, and renamed the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011.

F. "Department of Management and Budget" means the principal department of state government created under Section 121 of The Management and Budget Act, 1984 PA 431, MCL 18.1121.

G. "Home insurance" means that term as defined under Section 2103 of the Insurance Code of 1956, 1956 PA 218, MCL 500.2103.

H. "Office of Financial and Insurance Regulation" means the office established by Executive Order 2000-4, MCL 445.2003, as the Office of Financial and Insurance Services, and renamed the Office of Financial and Insurance Regulation under Section II.A. of this Order.

I. "State Budget Director" means the individual appointed by the Governor pursuant to Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

II. RENAMING THE OFFICE OF FINANCIAL AND INSURANCE SERVICES

A. The Office of Financial and Insurance Services is renamed the Office of Financial and Insurance Regulation.

B. Any and all statutory or other references to the Office of Financial and Insurance Services not inconsistent with this Order shall be deemed references to the Office of Financial and Insurance Regulation.

C. The Commissioner of Financial and Insurance Services is renamed the Commissioner of Financial and Insurance Regulation.

D. Any and all statutory or other references to the Commissioner of Financial and Insurance Services not inconsistent with this Order shall be deemed references to the Commissioner of Financial and Insurance Regulation.

E. The Office of Financial and Insurance Regulation shall exercise its prescribed statutory powers, duties and functions of rule-making, licensing and registration including the prescription of rules, rates, regulations and standards, and adjudication independently of the Director of the Department of Labor and Economic Growth. All budgeting, procurement, and related management functions of the Office of Financial and Insurance Regulation shall be performed under the direction and supervision of the Director of the Department of Labor and Economic Growth.

III. CREATION OF THE POSITION OF AUTOMOBILE AND HOME INSURANCE CONSUMER ADVOCATE

A. The position of Automobile and Home Insurance Consumer Advocate is created within the Office of Financial and Insurance Regulation. The Advocate shall exercise his or her prescribed powers, duties, responsibilities, and functions independently of the Commissioner. The Advocate shall be a member of the classified state civil service. The appointing authority for the Advocate shall be the Governor.

B. All of the authority, powers, duties, or functions of the Office necessary for the Advocate to perform the powers, duties, and functions vested in the Advocate under this Order are transferred to the Advocate. Nothing in this paragraph shall be interpreted to diminish the ability of the Commissioner to independently exercise the powers, duties, responsibilities, and functions vested in the Commissioner prior to the effective date of this Order.

IV. POWERS AND DUTIES OF THE AUTOMOBILE AND HOME INSURANCE CONSUMER ADVOCATE

A. The Advocate shall do all of the following:

1. Advocate for affordable, reliable, and fair automobile insurance and home insurance.

2. Conduct hearings and receive testimony from consumers; examine and investigate laws, regulations, and practices; receive expert advice; and survey best practices from around the country to assess the impact of automobile insurance and home insurance rates, rules, and forms on consumers in Michigan.

3. Submit to the Governor an annual report on the Advocate's findings and recommendations for administrative, legislative, or other corrective actions that would positively affect the interests of automobile insurance and home insurance consumers.

4. Refer instances of potential criminal conduct of which the Advocate becomes aware in the course of his or her duties to the Commissioner, the Attorney General, or other appropriate law enforcement agencies. This paragraph shall not be interpreted to alter the duty of the Commissioner to report suspected criminal activity to the Attorney General under Section 228 of The Insurance Code of 1956, 1956 PA 218, MCL 500.228.

5. Perform other related duties as requested by the Governor, consistent with applicable law.

B. The Advocate may do all of the following:

1. Appear, intervene, and be heard before the Commissioner as a party or otherwise on behalf of insurance consumers in any matters affecting automobile insurance and home insurance.

2. Subject to available funding, utilize an internet website, a toll-free telephone number, or other mechanisms for receiving consumer input.

3. Educate consumers on how to protect themselves against predatory or illegal insurance practices.

4. Coordinate advocacy and educational efforts with non-governmental consumer advocacy entities and other organizations.

5. All other things necessary or convenient to achieve the objectives and purposes of this Order, consistent with applicable law.

C. The budgeting, procurement, and related management functions of the Advocate shall be performed under the direction and supervision of the Director of the Department of Labor and Economic Growth.

D. Subject to available funding, the Advocate may hire or retain such experts, contractors, subcontractors, advisors, consultants, and agents as he or she may deem advisable and necessary, in accordance with relevant law and the procedures, rules, and regulations of the Civil Service Commission and the Department of Management and

Budget, and may make and enter into contracts necessary or incidental to the exercise of powers and performance of his or her duties.

E. All departments, committees, commissioners, or officers of this state shall give to the Advocate any necessary assistance required by the Advocate in the performance of the Advocate's duties so far as is compatible with his or her duties, subject to applicable law. Free access shall also be given to any books, records, or documents in its, his, or her custody, relating to matters within the scope of authority, powers, duties, or functions of the Advocate, subject to applicable law.

F. The Advocate may accept donations of labor, services, or other things of value from a public or private agency or person to the extent these donations are used to perform his or her official duties. No insurance corporation or insurer or any officer, director, or agent thereof shall directly or indirectly, pay by way of gift, credit, loan, or any other pretense whatsoever, any sum of money or other valuable thing to the Advocate; and the Advocate shall not accept any such payment.

V. IMPLEMENTATION

A. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary for the implementation of this Order.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

History: 2008, E.R.O. No. 2008-1, Eff. Apr. 6, 2008

Compiler's Notes: For references to office of financial and insurance regulation to be deemed as department of insurance and financial services, and abolishment of office of financial and insurance regulation, see E.R.O. No. 2013-1, compiled at MCL 550.991. For references to commissioner of office of financial and insurance regulation to be deemed as references to director of department of insurance and financial services, and abolishment of office of commissioner of office of financial and insurance regulation, see E.R.O. No. 2013-1, compiled at MCL 550.991.