

# HOUSE BILL No. 4328

February 27, 2007, Introduced by Reps. Condino, Vagnozzi, Bieda, Polidori and Kathleen Law 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~~ **THE**  
3 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**  
4 **24.328**, the commissioner determines that the person complained of  
5 has engaged in methods of competition or unfair or deceptive acts  
6 or practices prohibited by sections 2001 to 2050, the commissioner  
7 shall reduce his **OR HER** findings and decision to writing and shall  
8 issue and cause to be served upon the person charged with the  
9 violation a copy of the findings and an order requiring the person  
10 to cease and desist from engaging in that method of competition,

1 act, or practice and, **IN ADDITION**, the commissioner may order any  
2 of the following:

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

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

14 (c) Refund of any overcharges.

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

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

27 (4) After the expiration of the time allowed for filing a

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