

# SENATE BILL No. 409

May 3, 1989, Introduced by Senator NICHOLS and referred  
to the Committee on Judiciary.

A bill to amend sections 2033, 6858, 6859, and 6860 of Act  
No. 218 of the Public Acts of 1956, entitled as amended  
"The insurance code of 1956,"  
being sections 500.2033, 500.6858, 500.6859, and 500.6860 of the  
Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 2033, 6858, 6859, and 6860 of Act  
2       No. 218 of the Public Acts of 1956, being sections 500.2033,  
3       500.6858, 500.6859, and 500.6860 of the Michigan Compiled Laws,  
4       are amended to read as follows:

5       Sec. 2033. If any natural person shall ask to be excused  
6       from attending and testifying or from producing any books,  
7       papers, records, correspondence or other documents at any hearing  
8       on the ground that the testimony or evidence required of him OR  
9       HER may tend to incriminate him OR HER or subject him OR HER to a

1 penalty or forfeiture, and shall notwithstanding be directed to  
2 give ~~such~~ testimony or produce ~~such~~ evidence, he OR SHE must  
3 nonetheless comply with ~~such~~ THE directions, but he OR SHE  
4 shall not ~~thereafter~~ be prosecuted or subjected to any penalty  
5 or forfeiture for or on account of any transaction, matter or  
6 thing concerning which he OR SHE may testify or produce evidence  
7 pursuant ~~thereto~~ TO THIS SECTION, and no testimony ~~so~~ given  
8 or evidence produced shall be received against him OR HER upon  
9 any criminal action, investigation or proceeding. ~~Provided,~~  
10 ~~however, That no such~~ NO individual ~~so~~ testifying shall be  
11 exempt UNDER THIS SECTION from prosecution or punishment for any  
12 perjury committed by him OR HER while so testifying and the tes-  
13 timony or evidence ~~so~~ given or produced shall be admissible  
14 against him OR HER upon any criminal action, investigation or  
15 proceeding concerning ~~such~~ THE perjury, nor shall he OR SHE be  
16 exempt from the refusal, revocation or suspension of any license,  
17 permission or authority conferred, or to be conferred, pursuant  
18 to the insurance code. Any ~~such~~ individual may execute,  
19 acknowledge and file in the office of the commissioner a state-  
20 ment expressly waiving ~~such~~ immunity or privilege in respect to  
21 any transaction, matter or thing specified in ~~such~~ THE state-  
22 ment and ~~thereupon~~ the testimony of ~~such~~ THE person or ~~such~~  
23 evidence in relation to ~~such~~ THE transaction, matter or thing  
24 may be received or produced before any judge, ~~or justice,~~  
25 court, tribunal, grand jury or otherwise, and if so received or  
26 produced ~~such~~ THE individual shall not be entitled to any

1 immunity or privilege on account of any testimony he OR SHE may  
2 ~~so~~ give or evidence ~~so~~ produced.

3       Sec. 6858. That any ~~justice of the peace~~ DISTRICT OR  
4 MUNICIPAL COURT OF JURISDICTION of this state is ~~hereby~~ autho-  
5 rized and required to issue subpoenas, and compel the attendance  
6 of witnesses before the president, vice-president, secretary,  
7 board of directors, or either of the directors, or the auditor or  
8 board of auditors of any mutual insurance company organized under  
9 the laws of this state, whenever requested so to do by said offi-  
10 cers of ~~such~~ THE insurance companies, or any 1 of them, or the  
11 insured, to give evidence in any matter touching the adjustment  
12 or arbitration of losses by fire or other cause which may come  
13 before such officer or officers; and ~~such~~ THE subpoena shall be  
14 valid to compel the attendance of a witness within the same  
15 county where such matter is to be tried, and within 30 miles of  
16 the place of such trial. The opposite party interested in ~~such~~  
17 THE adjustment or arbitration shall be notified, without cost to  
18 him, HER, or them, at least 24 hours in advance, of the time and  
19 place where such witnesses are to be examined, and he, SHE, or  
20 they shall have the right to appear by attorney or in person, and  
21 cross-examine all witnesses produced.

22       Sec. 6859. Any ~~such~~ subpoena may be served by a sheriff,  
23 constable or any other person, and it shall be served by deliver-  
24 ing a copy ~~thereof~~ OF THE SUBPOENA, and by paying or tendering  
25 to him OR HER the same fees for traveling and 1 day's attendance  
26 as are allowed by law. ~~in justice courts.~~

1       Sec. 6860. Whenever it shall appear to the satisfaction of  
2 ~~said justice of the peace~~ THE JUDGE, by affidavit of a party  
3 interested in said adjustment or arbitration, or by other compe-  
4 tent testimony, that any person duly subpoenaed to appear as  
5 required ~~in said~~ BY subpoena, shall have refused or neglected  
6 without just cause to attend as a witness in conformity to ~~such~~  
7 THE subpoena, and the testimony of such witnesses is material, as  
8 the deponent verily believes, the ~~said justice~~ JUDGE shall have  
9 power to issue an attachment to compel the attendance of ~~such~~  
10 THE witness, and ~~said~~ THE witness shall be liable for the cost  
11 of such attachment for the service of the same, which costs may  
12 be recovered in an action of assumpsit at the suit of the party  
13 injured by such neglect or refusal, before any court having com-  
14 petent jurisdiction in like cases, and shall moreover be liable  
15 to ~~said~~ THE injured party in damages.