

EXECUTIVE REORGANIZATION ORDERS 1999

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[No. 1999-3]

418.3 Transfer of certain powers and duties of the insurance bureau to the bureau of workers' disability compensation; determination of worker's compensation unfair trade practices as provided through a self-insurer's group.

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

WHEREAS, the Bureau of Workers' Disability Compensation of the Department of Consumer and Industry Services is the primary state department with regulatory responsibility for the Michigan's workers' compensation program pursuant to Act No. 317 of the Public Acts of 1969, being Section 418.101 et seq. of the Michigan Compiled Laws; and

WHEREAS, since the inception of workers' compensation self-insurance in the state of Michigan from its creation by the legislature, through 1998, the Bureau of Workers' Disability Compensation has had sole responsibility for the regulation of both individual self-insured employers and self-insured employer groups; and

WHEREAS, self-insured group funds consist of employers in the same industry that jointly and severally guarantee payment of workers' compensation benefits to employees of members of the fund that are injured in the course of their employment, and public employers of the same type of unit that jointly guarantee payment; and

WHEREAS, the Bureau of Workers' Disability Compensation under the Workers' Compensation Disability Act, Act No. 317 of the Public Acts of 1969, being Section 418.611(b)(2) of the Michigan Compiled Laws, is required to approve such self-insured group funds before they can provide such coverage; and

WHEREAS, Section 2016 of Act No. 457 of the Public Acts of 1998, being Section 500.2016 of the Michigan Compiled Laws, created in the Insurance Code, provides that certain practices by workers' compensation self-insured group funds are unfair methods of competition and unfair and deceptive acts or practices in the business of insurance; and that enforcement and oversight of these practices would be handled by Michigan Insurance Bureau; and

WHEREAS, it is organizationally sound and appropriate to continue to concentrate sole regulation of workers' compensation self-insurance and regulation of group funds specifically in the Bureau of Workers' Disability Compensation; and

WHEREAS, the Bureau of Workers' Disability Compensation can more effectively and efficiently carry out the regulation of workers' compensation group funds and the Insurance Bureau's expertise and oversight is and has historically been restricted to insurance carriers under the Insurance Code; and

WHEREAS, the Insurance Code, Act No. 218 of the Public Acts of 1956, being Sections 500.2038 and 500.2040 of the Michigan Compiled Laws, provides that the remedy for violation of unfair trade practices as determined by the Insurance Commissioner is revocation of the violator's Certificate of Authority; and

WHEREAS, such self-insured group funds are not insurance carriers pursuant to the Insurance Code and therefore do not carry on their activities pursuant to insurance authority certificates issued under the Insurance Code; and

WHEREAS, the Bureau of Workers' Disability Compensation is the proper agency to oversee the determination of such unfair trade practices as applicable to workers'

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compensation coverage by self-insured group funds as provided in Section 2016 of Act No. 457 of the Public Acts of 1998, being Section 500.2016 of the Michigan Compiled Laws.

NOW, THEREFORE, I, John Engler, Governor of the state of Michigan, pursuant to the powers vested in me by the Constitution of the state of Michigan of 1963 and the laws of the state of Michigan do hereby order the following:

All the authority, powers, duties, functions, grants and responsibilities of the Insurance Bureau to determine unfair methods of competition and unfair and deceptive acts or practices as applied to workers' compensation coverage provided through a self-insurer's group, provided for in Act No. 457 of the Public Acts of 1998, being Section 500.2016 of the Michigan Compiled Laws, are hereby transferred to the Bureau of Workers' Disability Compensation.

The Director of the Department of Consumer and Industry Services shall provide executive direction and supervision for the implementation of the transfer.

The Director of the Bureau of Workers' Disability Compensation and the Commissioner of the Insurance Bureau shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

All records, personnel, property, grants and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Insurance Bureau for the activities, powers, duties, functions and responsibilities transferred by this Order are hereby transferred to the Bureau of Workers' Disability Compensation.

All rules, orders, contracts, grants and agreements relating to the functions transferred to the Bureau of Workers' Disability Compensation lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by the reason of the taking effect of this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective sixty (60) days after the filing of this Order.

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**Compiler's note:** Executive Reorganization Order No. 1999-3 was promulgated on June 25, 1999, as Executive Order No. 1999-5, Eff. August 25, 1999.

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