

Act No. 314
Public Acts of 1996
Approved by the Governor
June 21, 1996
Filed with the Secretary of State
June 24, 1996

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996**

Introduced by Senator Bouchard

ENROLLED SENATE BILL No. 1025

AN ACT to amend Act No. 218 of the Public Acts of 1956, entitled as amended "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to repeal certain acts and parts of acts; to repeal certain acts and parts of acts on specific dates; to repeal certain parts of this act on specific dates; and to provide penalties for the violation of this act," as amended, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, by adding section 251.

The People of the State of Michigan enact:

Section 1. Act No. 218 of the Public Acts of 1956, as amended, being sections 500.100 to 500.8302 of the Michigan Compiled Laws, is amended by adding section 251 to read as follows:

Sec. 251. (1) In the reasonable exercise of discretion, the commissioner may issue a cease and desist order if the commissioner finds any of the following:

(a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.

(b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.

(c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.

(d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare.

(2) A cease and desist order under this section shall contain a description of the conduct to which the order applies and shall require the person to immediately cease and desist from that conduct.

(3) The commissioner shall serve the cease and desist order directly on the person affected by the order or shall serve the person by registered or certified mail, return receipt requested, to the address last known to the commissioner.

(4) A person who is the subject of a cease and desist order under this section may contest the order by requesting a hearing before the commissioner not later than 30 days after the order is delivered or mailed to the person. Within 10 days after receiving the request, the commissioner shall commence a hearing in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. Pending the hearing, the cease and desist order continues in full force and effect unless the order is stayed by the commissioner.

(5) Within 5 business days after the hearing, the commissioner shall affirm, modify, or set aside in whole or in part the cease and desist order.

(6) A person who violates or otherwise fails to comply with a cease and desist order under this section is subject to 1 or more of the following:

(a) Payment of a civil fine of not more than \$1,000.00 for each violation not to exceed an aggregate civil fine of \$30,000.00. However, if the person knew or reasonably should have known the person was in violation of the order, payment of a civil fine of not more than \$25,000.00 for each violation not to exceed an aggregate civil fine of \$250,000.00.

(b) Suspension or revocation of the person's license or certificate of authority.

(c) Complete restitution, in the form, amount, and within the period determined by the commissioner, to all persons in this state damaged by the violation or failure to comply.

(7) The commissioner may recover reasonable attorney fees if judicial action is necessary for enforcement of a cease and desist order under this section.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.

