

# House Watch

A summary of today's House actions;  
published daily when the House is in session.



8/19/09

## FINAL PASSAGE

**SB 334**

**(Jelinek)**

Supplemental appropriations for fiscal year 2008-2009.

- Committee substitute H-1 adopted
- McDowell-1A adopted
- SB 334 advanced to 3<sup>rd</sup> Reading
- Smith-1 adopted
- SB 334 was passed [RC 371: 62 yes, 44 no]
- IE was ordered

**HB 4999**

**(Mayes)**

The bill would expand an existing exemption in the Motor Vehicle Code that allows public utility trucks exceeding seasonally-reduced weight limits to travel on restricted roads under the jurisdiction of a county road agency to perform emergency or non-emergency work, provided that certain procedures are followed. This exemption would be expanded to cover *any public utility under the jurisdiction of the Public Service Commission or a transmission company*, as well as *any subcontractor* of a public utility or a transmission company. A subcontractor would no longer be limited to performing emergency electrical work during the "frost law" period but could perform any public utility work, electrical or non-electrical, emergency or routine, if it has seasonal permits for its trucks and it follows prescribed rules about signage and notices.

- Committee substitute H-1 adopted
- HB 4999 advanced to 3<sup>rd</sup> Reading
- HB 4999 was passed [RC 372: 100 yes, 6 no]
- IE was ordered

## HB 4244

(Simpson)

The bill would amend the Insurance Code to require an insurance company to pay the reasonable attorney fees to an attorney who represents an insured (An insurance consumer) in a successful first-party action to recover overdue insurance benefits. The attorney fee would be a charge against the company in addition to the benefits recovered and in addition to all other remedies available. If the failure to pay benefits in a timely manner was in bad faith, then the insured would also receive the greater of \$10,000 or three times the amount of benefits withheld. The bill says that whether an insurance company has acted in bad faith is a question of fact and not of law. The bill defines "bad faith" as the breach of duty of good faith and fair dealing that is owed to the insured, and defines "good faith" to mean that an insurance company has given at least equal consideration to the insured's interests as to its own interests and is honest, intelligent, impersonal, realistic, and informed in its decision making.

- Committee substitute H-2 adopted
- Denby amendment not adopted
- Green amendment adopted [RC 375: 57 yes, 49 no]
- Bauer amendment adopted
- Simpson substitute H-3 adopted
- HB 4244 advanced to 3<sup>rd</sup> Reading
- HB 4244 was passed [RC 376: 62 yes, 44 no]
- IE was ordered

## HB 4844

(Nathan)

The bill would amend the No-Fault Act within the Insurance Code to specify that an insurance company providing personal injury protection (PIP) benefits under an automobile policy "has a duty to deal fairly and in good faith with an injured person claiming benefits and that person's providers" (e.g., health care providers). An insurer that breaches this duty, under the bill, would be liable for compensatory, consequential, economic, noneconomic, and exemplary damages proximately caused by the breach, and for the costs of litigation, including actual attorney fees. Such a breach would include, but not be limited to, (1) a threat or act of intimidation against an injured person or provider with respect to the submission or payment of a claim under the act; (2) an act of retaliation against an injured person or provider for having asserted a right to make a claim; and (3) a statement or representation with respect to the submission of a claim, the payment of a claim, or the rights of an injured person or a provider, where that statement or representation was materially false and the insurer or its agents or representatives knew or should have known it was false.

- Committee substitute H-2 adopted
- Denby amendment not adopted
- Lund amendment adopted [RC 377: 69 yes, 37 no]
- Green amendment not adopted
- Haveman amendment adopted [RC 378: 63 yes, 43 no]
- Nathan substitute H-3 adopted
- HB 4844 advanced to 3<sup>rd</sup> Reading
- HB 4844 was passed [RC 379: 59 yes, 47 no]

**HB 4846****(Slezak)**

The bill would amend the Insurance Code to increase the penalties for engaging in prohibited methods of competition and unfair or deceptive acts. (The prohibitions are listed in the code.) Currently, there is a general monetary penalty of up to \$500 per violation not to exceed an aggregate of \$5,000. This would increase under House Bill 4846 to \$1,000 per violation, up to \$10,000 in aggregate. The code also contains a higher penalty if the violator knew or should have known he or she was in violation. Currently, that penalty is \$2,500 per violation, up to an aggregate of \$25,000 over a six-month period. Under House Bill 4846, this would increase to \$5,000 per violation, up to a six-month aggregate of \$50,000. In addition to these penalties, the commissioner of insurance can issue cease and desist orders, can suspend or revoke licenses and certificates, and can require refunds of overcharges.

- Committee substitute H-4 adopted
- HB 4846 advanced to 3<sup>rd</sup> Reading
- HB 4846 was passed [RC 373: 65 yes, 42 no]
- IE was ordered

**HB 5020****(Valentine)**

The bill would specify that an insurance company obligated to pay benefits or claims under a property and casualty insurance policy "has a duty to deal fairly and in good faith with an insured individual claiming the benefits." An insurance company that breaches this duty is liable for compensatory, consequential, and exemplary damages proximately caused by the breach. The bill would amend Chapter 20 of the Insurance Code, which deals with unfair and prohibited trade practices and frauds. The portion of Chapter 20 being amended is referred to as the Uniform Trade Practices Act.

- Committee substitute H-2 adopted
- Denby amendment not adopted
- Lund amendment not adopted
- Green amendment not adopted
- Haveman amendment not adopted
- HB 5020 advanced to 3<sup>rd</sup> Reading
- HB 5020 was passed [RC 380: 61 yes, 45 no]
- IE was ordered

**HB 5144****(Roberts)**

Insurance Employee Whistleblower Protections: House Bill 5144 would add Section 2035 to specify that an insurance company employee who reports an unfair or deceptive act or practice is entitled to the rights and protections of the Whistleblowers' Protection Act. Also, if information provided by an employee is instrumental in exposing or bringing to an end a violation of the Insurance Code, the whistleblower might be entitled to a payment from the Whistleblower Protection Fund (to be created by House Bill 5149).

- Committee substitute H-1 adopted
- Haveman amendment not adopted
- HB 5144 advanced to 3<sup>rd</sup> Reading
- HB 5144 was passed [RC 381: 63 yes, 43 no]
- IE was ordered

**HB 5145**                      **(Huckleberry)**

Insurance Employee Whistleblower Protections: House Bill 5145 would impose an administrative fine of \$1 million on second or subsequent violations by insurance companies of failing to deal fairly and in good faith with customers claiming benefits. The revenue would go to the Whistleblower Protection Fund. Two related bills, House Bill 4846 (no-fault medical benefits) and House Bill 5020 (property and casualty benefits) appear to add this specific duty to deal fairly and in good faith to Chapter 20.

- Committee substitute H-2 adopted
- Lund amendment not adopted
- HB 5145 advanced to 3<sup>rd</sup> Reading
- HB 5145 was passed [RC 382: 60 yes, 46 no]
- IE was ordered

**HB 5146**                      **(Johnson)**

Private Causes of Action for Prohibited Conduct: House Bill 5146 would specify that if, in such an action, a person engaged in the property/casualty or auto insurance business is found to have undertaken prohibited conduct or to have failed to pay benefits in a timely manner, there would be a presumption that the industry member was acting in bad faith. This presumption places the burden of disproving bad faith on the insurance business. If it was determined the industry member acted in bad faith, then the individual bringing the action would be entitled, generally speaking, to interest, various damages and costs, as well as attorney fees and punitive damages

- Committee substitute H-3 was adopted
- Lund amendment not adopted
- HB 5146 advanced to 3<sup>rd</sup> Reading
- HB 5146 was passed [RC 383: 60 yes, 45 no]
- IE was ordered

**HB 5147**                      **(Switalski)**

CEO Felony for Systemic Wrongful Denial of Claims: Under House Bill 5147, the president or chief executive officer of an insurance company who knowingly creates, fosters, or encourages an environment that leads to systemic wrongful denial of claims is guilty of a felony punishable by imprisonment for up to four years and/or a fine of not more than \$50,000. House Bill 5148 would put that felony into the sentencing guidelines found in the Code of Criminal Procedure as a Class F felony against the public trust.

- Committee substitute H-2 adopted
- Denby amendment not adopted
- HB 5147 advanced to 3<sup>rd</sup> Reading
- HB 5147 was passed [RC 384: 57 yes, 49 no]
- IE was ordered

**HB 5148**                      **(Haase)**

CEO Felony for Systemic Wrongful Denial of Claims: House Bill 5148 would put that felony into the sentencing guidelines found in the Code of Criminal Procedure as a Class F felony against the public trust.

- Committee substitute H-2 adopted
- Denby amendment not adopted
- HB 5148 advanced to 3<sup>rd</sup> Reading
- HB 5148 was passed [RC 385: 57 yes, 49 no]
- IE was ordered

**HB 5149**                      **(Ebli)**

Insurance Employee Whistleblower Protections: House Bill 5149 would create the Whistleblower Protection Fund. It would be administered by the Office of Financial and Insurance Regulation (OFIR), and money could be spent, upon appropriation, only as follows: (1) not more than 10 percent deposited each year for the costs of administering the Fund and its reward program; (2) not more than 50 percent deposited each year for consumer information and education about insurance practices and consumer rights; with (3) the remainder available to reward insurance company employees who report an unfair or deceptive act or practice that violates the Insurance Code if the information aids in an administrative or judicial action against the employer (insurance company). The amount of the reward would be determined by OFIR based on the severity of the offense reported, the importance of the information to the prosecution, the outcome of the administrative or judicial proceeding, and the amount of money in the Fund. (This bill is tied to House Bill 4846, which increases penalties for engaging in prohibited methods of competition and unfair or deceptive acts.)

- HB 5149 advanced to 3<sup>rd</sup> Reading
- HB 5149 was passed [RC 374: 63 yes, 44 no]
- IE was ordered

**HB 5150**                      **(Segal)**

Private Causes of Action for Prohibited Conduct: House Bill 5150 would allow an individual to bring an action against a person engaged in the business of insurance for damages sustained as a result of an unfair method of competition, an unfair or deceptive act or practice, or any other prohibited conduct under Chapter 20.

- Committee substitute H-1 adopted
- Denby amendment not adopted
- Lund amendment not adopted
- HB 5150 advanced to 3<sup>rd</sup> Reading
- HB 5150 was passed [RC 387: 62 yes, 44 no]
- IE was ordered

## **HB 5151**

**(Tlaib)**

Letters from Insurers to Credit Agencies: Under House Bill 5151, if the commissioner of OFIR or a court determines that an insurance company has acted in bad faith in failing to pay timely benefits under an insurance policy, the insurance company would have to send letters to the three largest national consumer reporting agencies containing (1) a statement that any delinquency by the insured (the customer) in making a payment related to the act of bad faith is the fault of the company and not the customer; and (2) a request that the agency amend the insured's credit history accordingly. An insurance company that fails to comply would be liable to the insured for the greater of \$10,000 or three times the amount of any damages sustained by the insured and for reasonable attorney fees incurred by the insured in enforcing the liability.

- Committee substitute H-1 adopted
- Green amendment not adopted
- Green amendment not adopted
- HB 5151 advanced to 3<sup>rd</sup> Reading
- HB 5151 was passed [RC 388: 61 yes, 45 no]
- IE was ordered

## **HB 4995**

**(Lahti)**

The bill would require that both the Upper and Lower Peninsulas of Michigan be included on any illustration, image, or depiction of the state produced by a state department or agency. The bill would create a new act and applies to all documents produced by the State of Michigan for distribution to any member of the public, including, but not limited to, maps, forms, brochures, pamphlets, and commemorative items, and also applies to digital images made available over the Internet by any state department or agency.

- Lahti substitute H-1 adopted
- HB 4995 advanced to 3<sup>rd</sup> Reading
- HB 4995 was passed [RC 386: 106 yes, 0 no]
- IE was ordered