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**House
Legislative
Analysis
Section**

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PREMIUM REFUNDS/MEDIGAP POLICIES

**Senate Bill 389 (Substitute H-1)
First Analysis (5-14-90)**

**Sponsor: Sen. William Faust
Senate Committee: Commerce & Technology
House Committee: Insurance**

THE APPARENT PROBLEM:

* The Insurance Code requires that a company keep at least 15 percent of the premium (or \$25, whichever is greater) when a property, casualty, or disability insurance policy is cancelled by the company or the insured. This means, for example, that if a business insured its office building and contents and the annual premium was \$10,000, the company would keep \$1,500 (15 percent of the premium) if the policy was cancelled, for whatever reason, even after just a few weeks. Some people feel this is unduly burdensome for policyholders, particularly those paying large premiums for such coverages as medical malpractice insurance. Some companies reportedly retain premiums upon cancellation on a pro rata (or proportional) basis to help customers, but the Insurance Code does not specifically permit such a practice. It has been recommended that the code be amended to permit pro rata premium retentions. At the same time, it has also been recommended that insurance companies be able to establish short rate premiums for motorcycles, watercraft, off-road vehicles, and snowmobiles because such vehicles tend to be insured only for a portion of the year and the policies get cancelled early. Short term premiums would allow insurers to defray the cost of issuing these policies by retaining a greater than pro rata share of the premiums when policies were cancelled early.

* Earlier this session, the legislature made changes in the Insurance Code's regulations covering Medicare supplemental insurance policies, in part to take into account passage at the federal level of the Medicare Catastrophic Coverage Act of 1988, which expanded the federal Medicare health insurance program. Congress repealed the act in 1989, however, in response to angry opposition by intended beneficiaries to the method of financing the expansion. This means that state laws governing Medicare supplemental policies must once again be altered so as to conform to federal law. At the same time, insurance specialists say, the federal government is requiring states to adopt certain Medicare supplemental marketing standards developed by the National Association of Insurance Commissioners aimed at preventing abuses in the sale of such policies to older Americans. An additional problem also needs to be addressed. There have been reports of checks for Medicare supplemental coverage being made out to insurance agents and then not passed on to the companies providing the coverage; it has been recommended that checks for such policies be payable to the company providing coverage.

THE CONTENT OF THE BILL:

Insurance premiums. The bill would amend the Insurance Code to specify that the minimum earned premium on a cancelled property, casualty, or disability policy would be

the pro rata (or proportional) premium for the expired time or \$25, whichever was greater.

The bill would also permit an insurer to provide a short rate premium for insurance on motorcycles, watercraft, off-road vehicles, and snowmobiles, provided the company filed with the insurance commissioner for a rule to establish such a premium. The rule would have to describe the circumstances under which a short rate could be applied and set forth the amount or percentage to be retained. Further, the bill would require that a disability or health insurance policy sent to a customer contain a notice that the policyholder could cancel the policy after 10 days (or 30 days for a Medicare supplemental policy) and that if the policy was cancelled, the insurer would have to refund the excess of any premium paid above the pro rata premium for the expired time.

MCL 500.2832 et al.

Medicare supplemental regulations. The bill would change Medicare supplemental insurance regulations in the following ways:

- The outline of coverage that must be provided to all applicants for a supplemental policy, which explains benefit gaps in Medicare, would be revised to reflect changes in the federal Medicare program resulting from the repeal of the Medicare Catastrophic Coverage Act of 1988.
- New federally-required marketing standards (reportedly drafted by the National Association of Insurance Commissioners) would be adopted. These provisions, among other things, require the fair and accurate comparison of policies for customers, require that any existing coverage be identified before new coverage is sold, prohibit the sale of excessive and duplicative coverage, and require that when one supplemental policy replaces another, the new policy waive all waiting periods and similar restrictions. A form notifying applicants for replacement coverage of their protections and advising them on how to evaluate their coverage would be mandated. The standards also specifically prohibit "twisting" (convincing a person to switch from one policy to another by misrepresentation), high pressure tactics, and cold lead advertising (a method of marketing that fails to disclose that its purpose is to sell insurance and that contact will later be made by an agent or company). Advertisements for supplemental policies would have to be filed with the Insurance Bureau at least 45 days before use.
- An insurance agent would be prohibited from accepting checks and money orders as payment of a premium for supplemental coverage if they were made out to the agent instead of the insurer. An agent would be required to immediately provide a written receipt to the insured

upon receiving payment of a premium for a supplemental policy.

MCL 500.1207 et al.

FISCAL IMPLICATIONS:

The Department of Licensing and Regulation says the bill has no revenue or budgetary implications for the state. (5-8-90)

ARGUMENTS:

For:

The bill would provide for fairer, more flexible refund-of-premium provisions in insurance policies. Currently, insurers must keep at least 15 percent of the total premium paid when a policy is cancelled even though far less than 15 percent of the policy period has passed. For expensive policies, such as medical malpractice and liquor liability, this is a severe penalty for the policyholder (who may no longer need the policy or may have found cheaper coverage). Companies now have no specific authority simply to return premiums on a pro rata basis; the bill would provide that authority. The bill will mean that customers pay only for the coverage they receive. It also encourages shopping around for insurance because the consumer is not unfairly penalized for switching from one company or policy to another. (It would also benefit those who finance their insurance premiums, because they would receive a greater refund with which to pay off their loans.) At the same time, the bill permits short rate premiums (so that more than the pro rata amount can be retained upon cancellation) for policies on certain kind of seasonal vehicles so that companies can recover the administrative costs of issuing such policies. If a policy on such a vehicle was maintained for more than a few months, then any refund upon cancellation would be on a pro rata basis.

Response: In some cases, the bill could prevent insurance companies from recouping legitimate up-front expenses associated with issuing commercial insurance policies.

For:

The bill would, according to insurance specialists, put into state statute regulations for Medicare supplemental policies required by the federal government. The bills reflect the recent repeal of the 1988 expansion of Medicare to cover certain "catastrophic" expenses by modifying the outline of coverage that must be provided to policy applicants, and reflect the requirement that Medicare supplemental marketing standards of the National Association of Insurance Commissioners (NAIC) be adopted by the states. The bill additionally would require insurance agents only to accept checks or money orders as payment for Medicare supplemental coverage that are made payable to the company providing coverage and would require the agent to provide a written receipt to the customer. This would prevent the recurrence of cases in which checks made out to agents were not passed on to insurers with resulting hardships for the customers.

POSITIONS:

The Insurance Bureau supports the bill. (5-8-90)

The Michigan Insurance Federation does not oppose the bill. (5-14-90)