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BILL ANALYSIS

Senate Fiscal Agency

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**Senate Bill 202** (as enrolled) (Public Act 168 of 1987)

Sponsor: Senator Dick Posthumus

Senate Committee: Commerce and Technology

House Committee: Insurance

Date Completed: 3-17-88

***SUMMARY OF SENATE BILL 202 as enrolled:***

The bill would amend the Insurance Code to require that a fire insurance contract and a casualty insurance policy (other than one for workers' compensation or no-fault auto insurance) contain a provision that, upon cancellation by the insured, the insurer would have to refund the excess premium on a pro rata (rather than a customary short-rate) basis; and the minimum earned premium on such a policy could not be less than 15% of the total premium payable or \$25, whichever was greater. A disability insurance policy also could include such a provision.

For no-fault auto insurance, an insurer could file a rule with the Commissioner providing for a minimum retention of premium, upon cancellation of a policy under certain specified conditions; the rule would have to provide that a minimum retention would be applied only when the amount exceeded the amount that would have been retained had the policy been canceled on a pro rata basis.

In addition, the Code precludes a foreign insurance company from doing business in Michigan if its name closely resembles that of another insurer. The bill would allow such an insurer to be authorized to do business in Michigan by adding to its name "a word, abbreviation, or other distinctive and distinguishing element". The insurer would have to use that name on its certificate authority, in its dealing with the Commissioner, and in the conduct of its affairs in Michigan. The bill also would authorize the Commissioner to disapprove the use of any name that he or she determined was deceptive or misleading.

**Pro Rata Refunds**

The Code requires a policy for fire insurance or for casualty insurance (other than workers' compensation) to specify that the refund of premiums, upon cancellation of the policy by the insurer, is to be made on a pro rata basis. Also, the Code permits a policy for disability insurance to include a provision for a refund of "the unearned portion of any premium paid" in the event of cancellation by the insurer. All of these types of policies, however, specify that, upon cancellation by the insured, a refund is to be based on the excess of paid premium above the customary short rates for the expired time.

The bill would require fire insurance and casualty insurance policies (except for workers' compensation or no-fault auto insurance) to specify that cancellation at the request of the insured would entitle the insured to a refund of the "excess of paid premium above the pro rata rates for the expired time". Also, the bill would permit a cancellation provision

in a disability insurance policy to specify that an insured who had cancelled his or her premium would receive a pro rata refund.

In addition, the bill would require fire insurance and casualty insurance policies to include a statement that the minimum earned premium on any cancelled policy could not be less than \$25 or 15% of the total premium payable on the policy, whichever was greater. Similarly, the bill would allow the cancellation provision of a disability policy to specify that the minimum earned premium on a cancelled policy could not be less than \$25 or 15% of the total premium payable on the policy, whichever was greater.

**Auto Insurance**

The bill would allow an insurer to file a rule with the Commissioner to provide for a minimum retention of premium for private passenger auto insurance. The rule would have to specify the circumstances in which the retention would be applied and the amount to be retained. The retention could be applied only when the amount of the retention exceeded the amount that would have been retained had the policy been cancelled on a pro rata refund basis, and could not be applied to renewal policies. The retention could not apply if a policy were cancelled because the insured no longer was required to maintain security under the Code (MCL 500.3101) or because the insured had replaced the cancelled policy with auto insurance from another insurer, and had provided proof of the replacement coverage. An insurer could file a similar rule with the Commissioner, providing for a minimum retention of premium for insurance on a motorcycle, watercraft, off-road vehicle, or snowmobile.

Finally, the bill specifies that required auto insurance would only have to be in effect "during the period the motor vehicle is driven or moved upon a highway", and that an insurer could allow a portion of coverage on a vehicle that was not driven or moved upon a highway to be deleted while maintaining the comprehensive coverage on the vehicle.

MCL 500.454 et al.

Legislative Analyst: P. Affholter

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.