

LOCATION OF INSURANCE RECORDS

House Bill 5608

Sponsor: Rep. David Gubow

Committee: Insurance

Complete to 3-3-98

A SUMMARY OF HOUSE BILL 5608 AS INTRODUCED 2-25-98

Section 5256 of the Insurance Code deals with where a domestic insurance company (one domiciled in Michigan) must keep its books and records, as well as its securities, notes, and other evidences of indebtedness. It says, with certain exceptions, that these items must be kept at the company's home office or principal place of doing business in the state. The removal of records requires insurance commissioner approval. Insurers can place securities and related items for safekeeping with any national bank, state bank, trust company, or any other corporation located in the United States. The bill would amend those provisions in the following ways.

-- A domestic insurance company could keep records relating to its business or affairs either at its principal place of doing business in this state or at one or more locations outside the state approved in writing by the insurance commissioner for that purpose. The company would have to produce those records within a reasonable time period specified by the commissioner.

-- A bank, trust company, or corporation authorized to accept and hold personal property for safekeeping could employ a subcustodian outside the United States to hold assets that were not in physical form or that were customarily traded outside the United States.

-- A company that located its records outside the state or located personnel knowledgeable about the records outside the state would have to reimburse the insurance bureau for expenses and reasonable costs incurred by the bureau due to travel and other costs related to examinations or investigations of those records or personnel. The reimbursement could not include any costs the bureau would have incurred if the examination had taken place in the state. (These reimbursements would be in addition to any regulatory fees.)

-- The records required to be retained could be maintained in paper, photograph, micro process, magnetic, mechanical, or electronic media, or by any process that accurately reproduced or formed a durable medium for the reproduction of a record. If the original document was unavailable, the domestic insurer could produce in an alternative format the same data contained on the original document.

-- The insurance commissioner could require a domestic insurer to transfer its domicile to another state if he or she was not satisfied with the production of records and personnel knowledgeable about the records because all or part of the records or personnel were outside of the state.

-- Under the bill, a domestic insurer that failed to comply with an order of the commissioner issued under Section 5256 would be presumed to be no longer safe, reliable, and entitled to public confidence. This would be in addition to current penalties in the section for violations.

-- As now, a domestic company not in compliance with Section 5256 would be considered to be an alien or foreign company for purposes of the retaliatory tax (under Section 476a). The bill would allow the state treasurer (rather than the revenue commissioner) to make this determination after consulting with the insurance commissioner. The bill would require the insurance commissioner to inform the state treasurer when a domestic insurer was not in compliance with Section 5256. Other conditions that currently can trigger this determination would be eliminated.

-- The bill would eliminate separate, special provisions that apply to a domestic insurer that is a subsidiary of an alien insurer formed within the boundaries of Canada and that uses Michigan as its port of entry through a branch operation. These provisions include a special regulatory fee.

-- The insurance commissioner is required to report annually on all receivership activities pertaining to the liquidation of insolvent insurance companies. The bill would specify that the report must cover all insurers in receivership, including but not limited to alien insurers.

MCL 500.224 et al.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.