



**House
Legislative
Analysis
Section**

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INSURANCE FILING

**Senate Bill 1213 as passed by the Senate
First Analysis (12-11-02)**

**Sponsor: Sen. Bill Bullard, Jr.
House Committee: Insurance and
Financial Services
Senate Committee: Financial Services**

THE APPARENT PROBLEM:

In March of this year, the National Association of Insurance Commissioners (NAIC) adopted the Property and Casualty Commercial Rate and Policy Form Model Law. According to one NAIC member, the model law “is aimed at improving the efficiency of rate and form review and standardizing state laws for commercial lines insurance products.” The model represents many years of work by state insurance regulators, and is expected to implement a competitive rating system for commercial lines insurance rates, yet still allow state regulators to retain the ability to ensure fair rates and adequate competition. Legislation has been proposed to adopt some of the components of the NAIC model into the state insurance code.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code to make several changes to provisions pertaining to required filings by commercial insurance companies. Under the code, a basic insurance policy form or annuity contract form, as well as other specified forms, are not allowed to be issued or delivered to any person in the state until a copy is filed with the commissioner of the Office of Financial and Insurance Services (OFIS) and approved by the commissioner as conforming with requirements of the code. The code does, however, exempt a number of types of insurance, bonds, and policies from the filing requirement. The bill would add to the list of exemptions insurance that meets both of the following:

- Insurance sold to an exempt commercial policyholder. “Exempt commercial policyholder” would mean an insured that purchased the insurance for other than personal, family, or household purposes.
- Insurance that contained a prominent disclaimer that stated “This policy is exempt from the filing

requirements of Section 2236 of the Insurance Code of 1956, 1956 PA 218, MCL 500.2236.” or words that would be substantially similar.

The bill would also exempt all commercial insurance, except worker’s compensation insurance, from filing of rates if the policy contained the appropriate disclaimer as indicated above. (Currently, insurance companies, for all but exempted types of insurance, must file with the commissioner every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, along with every modification of these, that it proposes to use.)

However, if, under the bill’s provisions, the commissioner certified the absence of a reasonable degree of competition for a specified classification, type, or kind of insurance, the commissioner could order that each insurer file for prior approval – subject to the provisions in the applicable chapter of the code – any changes to its manuals of classification, manuals of rules and rates, and rating plans the insurer proposed to use for that specified classification, type, or kind of insurance. The order would have to state, in writing, the reasons for the commissioner’s decision to order the filing. An order would expire two years after the date of issuance.

If such an order were in effect, rates to which the order applied would have to be filed at least 30 days before their proposed effective date. Failure of the commissioner to act within 30 days after submission would constitute approval.

A determination concerning the absence of a reasonable degree of competition would have to take into account a reasonable spectrum of relevant economic tests, including the number of insurers actively engaged in writing the insurance compared to the availability in comparable past periods, the underwriting return of that insurance over a reasonable period of time sufficient to assure reliability in relation to the risk associated with that

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insurance, and the difficulty encountered by new insurers entering the market in order to compete for the writing of that insurance.

Currently, as a condition of doing business in the state, an unauthorized insurer who does not have a resident agent must file with the commissioner of the Office of Financial and Insurance Services (OFIS) an irrevocable written stipulation agreeing that any legal process affecting the company that is served upon the commissioner has the same effect as if personally served upon that company. (Domestic insurers appoint a resident agent; service of process is then made directly to the resident agent.) The bill would add a requirement that every insurance company that is not organized under laws of this state, but who provides a surety bond required or permitted under federal laws, must irrevocably appoint the commissioner (or his or her designee) as the company's agent to receive service of process in any action in U.S. district court on the surety bond. Service upon the commissioner would be service upon the company. The commissioner could establish a reasonable fee, payable at the time of service, for the acceptance of service. Upon receipt of the service of process, the commissioner would have to forward it to the resident agent designated under the code. Service of process on the commissioner under this new provision would only apply for a bond provided within Michigan and would be in addition to and not in place of any other method of service authorized by law or court rule.

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FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

According to committee testimony offered by a representative of the Office of Financial and Insurance Services (OFIS), the bill blends components of the NAIC model law with policies and practices unique to Michigan. The result is legislation that would move Michigan along with other states in the attempt to unify insurance laws, yet create provisions that would contain regulations that are needed for the Michigan market.

A major reason behind standardizing state insurance laws is that the business of insurance continues to be more national (and even international) in nature. A company based in one state no longer just serves

consumers or clients in that state, but operates regionally or nationally. To continue to have 50 different laws regarding rate filings, all of which may utilize vastly different forms and time frames, is inefficient and costly. In addition, recent federal law calls for states to standardize business practices where practicable; if states do not respond in a timely manner, the federal law grants Congress the authority to develop legislation to do so. Many agree that it is far preferable to allow state insurance regulators, through the NAIC, to explore and develop fair and workable policies.

The bill would enable companies who write commercial lines of insurance to respond more quickly to market changes, and should enable companies to more accurately price policies for risks that contain unique characteristics and so do not fit into the standard rating plans. Further, most commercial insurance forms are already exempt from filing due to a 1997 OFIS bulletin; therefore, the bill would be putting these filing exemptions into statute.

Against:

Under the bill, the commissioner could require commercial insurers to once again file rates if there were questions regarding the level of competition in the rating system. However, the bill would require such an order to expire automatically two years later. This could result in the order expiring before proper study and review of the issue could be conducted, and before policies to correct any identified problems could be implemented and reviewed for effect. Since the code provides that a commissioner's order can be challenged in circuit court, and since the commissioner has the authority to change the order at any time if a reasonable level of competition in that specific line returns to the market, this provision is unnecessary and could prove problematic.

POSITIONS:

The Office of Financial and Insurance Services supports the bill. (12-11-02)

The Michigan Insurance Coalition supports the bill. (12-11-02)

Auto-Owners Insurance Company supports the bill. (12-11-02)

Analyst: S. Stutzky

■ 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.