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GOVERNOR

STATE OF MICHIGAN
OFFICE OF FINANCIAL AND INSURANCE REGULATION
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
STANLEY "SKIP" PRUSS, DIRECTOR

KEN ROSS
COMMISSIONER

BILL ANALYSIS

BILL NUMBER: House Bill 4426 (H-1), as introduced
TOPIC: Require Michigan Catastrophic Claims Association (MCCA) to Submit to Annual Audit
SPONSOR: Representative Lee Gonzales
CO-SPONSORS: Representatives Dudley Spade, Gino Polidori, Jon Switalski, Vincent Gregory, Bob Constan, Joan Bauer, Fred Durhal, Lesia Liss
COMMITTEE: House Committee on Insurance
Analysis Done: March 24, 2009

POSITION

The Office of Financial and Insurance Regulation (OFIR) supports this legislation.

PROBLEM/BACKGROUND

The Michigan Catastrophic Claims Association (MCCA) was established in 1978 and is a critical part of the no-fault automobile insurance system. Because there is no limit on the amount of coverage for personal injuries under a Michigan no-fault policy, the liability for this coverage would be too large for most individual insurers to bear. When a liability is larger than an insurer can afford to accept on its own, the insurer transfers part of the risk to other insurers through a mechanism known as reinsurance -- insurance for an insurer.

Since the private market was not able to provide reinsurance for unlimited exposures, the MCCA was created to act as the reinsurer to companies writing auto insurance in Michigan. All auto insurance companies licensed in Michigan are members of the MCCA. As of July 1, 2008, each insurance company will pay the first \$440,000 of any catastrophic claim and be reimbursed by the MCCA for the rest. This retention level will gradually be increased until it reaches \$500,000, requiring each insurance company to assume more of the risk. Any amounts over the threshold are reimbursed by the MCCA and spread across all member companies in the form of the annual MCCA assessment.

Each year, the MCCA board of directors analyzes the amount needed to cover the lifetime claims of all people catastrophically injured in car accidents. This actuarial analysis includes many factors such as the MCCA's investment returns, surplus and costs, including medical cost inflation. This analysis yields an amount needed to pay those lifetime claims and may be adjusted to reflect excesses or deficiencies in earlier assessments. A per vehicle assessment is set for the year based on this amount and each insurance company writing auto insurance is then assessed by the MCCA for each vehicle it insures. In this way, the MCCA acts as an insurer whose policyholders are Michigan automobile insurance companies. Insurance companies may pass the assessment on through the premium charged to policyholders as permitted by statute.

The MCCA assessment has varied considerably over the years. In 1995, when the MCCA determined that its surplus was such that it could and should be reduced, it began applying a credit to the annual assessment amount. From 1995-2001 the MCCA returned approximately \$267 per insured vehicle, in addition to a one-time lump sum payment of \$180 in 1998 (\$447 total per vehicle). Due to decreased investment returns and increasing medical costs, the MCCA's surplus is currently negative. For the period from July 1, 2008 through June 30, 2009, the MCCA Board will assess \$104.58 per vehicle, which includes \$96.06 in pure premium (the actual costs for current year expenses) and an \$8.32 surplus deficit adjustment and a \$.20 administration fee.

DESCRIPTION OF BILL

The proposed legislation would require the Commissioner to annually conduct a performance post audit of the MCCA for the prior fiscal year. An independent accounting firm or legal counsel may be employed by the Commissioner to conduct the audit and make investigations pertinent to the conduct of the audit. The results of the audit would be reported to the legislature and would include a determination of whether the MCCA is compliant with its obligations under the statute.

SUMMARY OF ARGUMENTS

Pro

The statutory provisions governing the MCCA subject it to the same reporting, loss reserve and investment requirements as its member companies. These requirements include the filing of an annual audit report by an independent firm selected by the insurer, and granting authority to the OFIR Commissioner to perform onsite examinations as necessary.

The OFIR Commissioner has historically examined the operations of the MCCA less frequently than the five-year schedule required for domestic insurers. Requiring the Commissioner to conduct an annual performance post audit would presumably increase public confidence in the objectivity of the results of the audit by evaluating its operations in light of statutory obligations and/or other performance measures. Further, a performance post audit would assess a variety of non-financial aspects of MCCA operations which wouldn't necessarily be reviewed by either the MCCA's annual financial audit or its OFIR examination.

Con

The MCCA is already required to submit annual financial statements to OFIR, which include an audit by a CPA firm, attesting to the MCCA's financial stability and internal control structure. The MCCA's enabling legislation also authorizes the OFIR Commissioner to examine its financial books and records and related business practices at any time. OFIR also requires the MCCA to annually provide an actuarial opinion on the adequacy of its loss reserves.

FISCAL/ECONOMIC IMPACT

OFIR has identified the following revenue or budgetary implications in the bill as follows:

(a) To the Office of Financial and Insurance Regulation:

Budgetary: OFIR may incur some additional expense to appoint and monitor an independent accountant to audit the MCCA.

Revenue:

Comments:

(b) To the Department of Labor & Economic Growth: None known.

Budgetary:

Revenue:

Comments:

(c) To the State of Michigan: None known.

Budgetary:

Revenue:

Comments:

(d) To Local Governments within this State: None known.

Comments:

OTHER STATE DEPARTMENTS

None known.

ANY OTHER PERTINENT INFORMATION

This proposed legislation is similar to legislation introduced in previous legislative sessions.

ADMINISTRATIVE RULES IMPACT

The proposed legislation would amend the Michigan Insurance Code. OFIR has general rulemaking authority under the Insurance Code, 1956 PA 218.



Ken Ross
Commissioner

3-25-09

Date