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BILL ANALYSIS

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Senate Bill 1022 (as introduced 5-14-96)
Sponsor: Senator Michael J. Bouchard
Committee: Financial Services

Date Completed: 5-15-96

CONTENT

The bill would amend the Insurance Code to delete provisions under which insurers may not use forms until they have been filed with the Insurance Bureau and approved by the Insurance Commissioner; and to specify circumstances under which the Commissioner could disapprove or withdraw approval of a form. The bill would make these changes in Chapters 22, 34, 36, 40, and 44, which govern basic insurance policy forms, disability insurance policies, group and blanket disability insurance, life insurance policies, and group life insurance, respectively. The bill also provides that a form or document issued in this State by an insurer that conformed with the Code and was not inconsistent with law would be approved until the Commissioner took action to disapprove or withdraw approval of the form or document.

Currently, a basic insurance policy form or annuity contract form may not be issued or delivered in this State until a copy of it is filed with the Insurance Bureau and approved by the Commissioner as conforming with the requirements of the Code and not inconsistent with the law. The bill would delete reference to filing and approval. Under the bill, a form could not be issued or delivered unless it conformed with the Code and was not inconsistent with law.

The Code provides that an insurer may satisfy its obligations to make form filings by becoming a member of, or a subscriber to, a rating organization that makes such filings and by filing with the Commissioner a copy of its authorization of the organization to make filings on the insurer's behalf. The bill provides, instead, that an insurer that was a member of, or a subscriber to, a rating organization would have to file a copy of its authorization with the Commissioner. No member of or subscriber to a rating organization could issue a form developed by a rating organization until a copy of the form was filed with the Insurance Bureau and approved by the Commissioner as conforming with the Act and not inconsistent with law. As currently provided, the Commissioner's failure to act within 30 days after submittal would constitute approval.

The bill would retain current provisions that every member of or subscriber to a rating organization must adhere to the form filings made on its behalf by the organization although an insurer may file a substitute form. The bill would require an insurer to file that portion of a document or form that affected or established a relationship between group disability insurance and personal protection insurance benefits subject to exclusions or deductibles pursuant to the Code.

Under the bill, upon written notice to the insurer or rating organization, the Commissioner could disapprove or withdraw approval of any form used in this State if he or she found one or more of the following:

-- It was unfairly discriminatory, misleading, deceptive, or obscure, or encouraged misrepresentation, including cases in which the form: was misleading because its benefits were too restricted to achieve the purposes for which the policy was sold; contained provisions whose natural consequence was to lessen competition; was unnecessarily verbose or complex in language; or was misleading, deceptive, or obscure because of such physical aspects as format, typography, style, color, material, or organization.
-- It provided benefits or contained other provisions that endangered the insurer's solidity.
-- For a policy only, it failed to provide the exact name and the full address of the insurer. This provision would not apply to a rider or endorsement.
-- It did not conform with the Code or a rule promulgated by the Commissioner, or was otherwise inconsistent with law.

When written notice was given to an insurer, it would have to specify the objectionable provisions or conditions and state the reasons for the Commissioner's decision. If the form were legally in use by the insurer in this State, the notice would have to give the effective date of the Commissioner's disapproval or withdrawal of approval, which could not be less than 30 days after the notice was mailed or delivered to the insurer. If the form were not legally in use, disapproval or withdrawal of approval would be effective immediately.

If the Commissioner determined that certain forms could have a tendency not to conform with the Code's requirements, he or she could order that insurers file for prior approval forms for a specified classification, type, or kind of insurance. The order would have to state the reasons for the decision. If an order were in effect, the forms would have to be filed at least 30 days before the proposed effective date. The Commissioner's failure to act within 30 days after submittal would constitute approval.

In the reasonable exercise of discretion, the Commissioner could request that insurers provide him or her with copies of specific forms that were in use for new or old business. These submissions would not be considered forms filed for the Commissioner's approval.

The bill would delete a requirement that any change or addition to a policy or annuity contract form for personal, family, or household purposes be submitted for approval if the form has not been previously approved. The bill also would delete provisions under which the Commissioner may disapprove, withdraw approval, or prohibit the issuance, advertisement, or delivery of any form if it violates any provisions of the Code or contains exceptions and conditions that unreasonably or deceptively affect the risk purported to be assumed.

Under the Code, any issuance, use, or delivery by an insurer of any form without prior approval of the Commissioner or after withdrawal of approval is a separate violation subject to civil penalties. The bill would apply the penalty, instead, to any issuance, use, or delivery of any form that did not conform with the Code or was inconsistent with law. The bill specifies that a nonconforming form in use by an insurer would have to be construed in a manner not less favorable to the policyholder than that allowable under the Code. Insurers using a form filed for approval, or not filed for approval under exemptions from the filing requirements, would not be subject to penalties for use of that form if it were later determined nonconforming.

The bill states that every order made by the Commissioner under these provisions would be subject to court approval as provided in the Code.

MCL 500.2236 et al. Legislative Analyst: S. Margules

FISCAL IMPACT

This bill would require group disability and personal protection insurers to maintain their own files of rates and forms as opposed to filing them with the Insurance Bureau, as currently required. This new requirement would make the insurers subject to examination by the Bureau to ensure conformity with the Insurance Code. The Insurance Bureau anticipates a reduction in administrative costs as greater efficiency would be realized through this new process. It is difficult to determine the actual amount of these savings as they would be realized over time.

Fiscal Analyst: M. Barsch

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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.