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MCCA REBATE BY INSURERS

House Bill 5723 with committee amendments First Analysis (5-19-98)

Sponsor: Rep. Pat Gagliardi
Committee: Insurance

THE APPARENT PROBLEM:

On March 18, the board of the Michigan Catastrophic Claims Association voted to return \$1.2 billion of its estimated \$2.5 billion surplus to its member companies, the insurance companies writing motor vehicle insurance in the state. The action was taken after legislation had been passed by the House requiring a return of surplus in that amount by the MCCA to its member companies and, in turn, by the companies to the motorists who are their customers, and after intervention by the governor. [House Bill 5491 as introduced in January would have required a \$1 billion rebate; amendments on the House floor in March increased the amount to \$1.2 billion. See the HLAS analysis of House Bill 5491 dated 3-17-98 for a discussion of the issue and for a full description of the MCCA. The HLAS analysis of House Bills 4993-4996 dated 10-14-97 also discusses in some detail the operation of the MCCA.]

The MCCA charges member companies a premium on a per car basis to cover personal injury claims when they exceed \$250,000, and the companies collect from their insureds (that is, their customers). So, the return of premiums to companies, anticipated before the end of June, ought to lead to a return of money to customers. The rebate amounts to an estimated \$180 per car insured. It applies to cars and motorcycles insured as of March 18, 1998 only, under the MCCA board's resolution. There has been some concern about how and when customers will receive their rebates from insurance companies. There were suggestions from some companies that the rebates would take place over time as deductions from the premiums charged customers, while other companies have said they will make one-time refunds in the near future by issuing checks to customers. (Political leaders and insurance agents have been quoted in the press urging the latter approach.) Legislation has been introduced that would provide a deadline for auto insurers to rebate the money to customers.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code to require automobile insurance companies to rebate to their Michigan customers by August 1, 1998, the money received in 1998 from the catastrophic claims association plan to reduce its surplus. Each insurer would be required to distribute the money to each of its insureds on a uniform basis per car insured by the company on the date specified by resolution of the catastrophic claims association board. By June 15, 1998, each insurer would have to file in writing with the insurance commissioner its plan to distribute the money. The term "car" as used in the bill includes motorcycles.

MCL 500.2111f

SUGGESTED AMENDMENTS:

Amendments have been proposed that would, among other things, charge insurance companies that miss the bill's rebate deadline simple interest of 12 percent per annum and would add \$50 per car to the rebate if a company rebated money by means of a premium credit rather than by issuing a check.

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bill would have no fiscal impact on the state or local units of government. (Fiscal Note dated 5-18-98)

ARGUMENTS:

For:

The money the MCCA is rebating to its member companies properly belongs to policyholders. Michigan motorists deserve immediate repayment of this money as soon as the companies receive it. Delays in payments would simply mean a windfall for insurance companies. The bill sets a reasonable deadline for insurance companies to meet.

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Against:

It is not the proper role of the legislature to intervene in the rebating of the MCCA surplus either from the MCCA to its member companies or from the companies to their customers. While the association is authorized in statute, it is not a state agency and receives no state financing. The MCCA serves as a reinsurer for auto insurance companies writing policies in Michigan. That is a private purpose. How and when insurance companies deal with the MCCA rebate is best left to the companies and their customers in the competitive auto insurance marketplace. Indeed, legislation of this kind could lead to a constitutional challenge by insurers, which could result in delays in rebates to state motorists. It also could lead to a downgrading in the financial rating of the state's insurers, if the size and stability of MCCA reserves are perceived as subject to political maneuvering.

Response:

The MCCA is a creature of legislation; the legislature is within its rights to amend the statute that creates the association and governs its operations. It should be noted that had the legislature not acted earlier in the year, the dramatic return of surplus dollars (which represent overpayments by consumers) would never have occurred. Moreover, some people believe that if the MCCA board had more public representation and conducted its affairs more openly, this kind of intervention would not be necessary. (See the HLAS analysis of House Bills 4993-4996.)

POSITIONS:

The Insurance Bureau is opposed to the bill. (5-18-98)

Analyst: C. Couch

■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.