

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bill 493 (as enrolled)  
Sponsor: Senator Bill Bullard, Jr.  
Senate Committee: Financial Services  
House Committee: Insurance and Financial Services

**PUBLIC ACT 32 of 2002**

Date Completed: 8-14-02

**RATIONALE**

The Insurance Code had contained inconsistent provisions regarding the authority of the Commissioner of the Office of Financial and Insurance Services to issue subpoenas. Under Chapter 12 (Agents, Solicitors, Adjusters, and Counselors), the Commissioner was required to obtain the approval of a circuit judge in order to issue subpoenas in cases involving the denial, suspension, or revocation of a license. On the other hand, Chapter 20 (Unfair and Prohibited Trade Practices and Frauds) also authorizes the Commissioner to issue subpoenas but does not contain a judicial approval requirement. It was suggested that Commissioner should have the authority to issue subpoenas, as necessary, in a manner that is consistent throughout the Code.

**CONTENT**

The bill amended Section 1242 of Chapter 12 of the Insurance Code to eliminate the requirement that the Commissioner of the Office of Financial and Insurance Services obtain the approval of an Ingham County Circuit Court judge before issuing subpoenas to require the attendance and testimony of witnesses and the production of documents necessary to conduct hearings on granting, renewing, suspending, or revoking an individual's license to act as a solicitor, adjuster, or insurance counselor.

Section 1242 also requires the Commissioner to refuse to grant a license to act as a solicitor, insurance counselor, or adjuster to an applicant who fails to meet the requirements of Chapter 12; authorizes the Commissioner to suspend or revoke the license of a solicitor, insurance counselor, or adjuster who fails to maintain the standards

required for initial licensing or who violates the Code; and permits the Commissioner to refuse to grant or renew a license to act as a solicitor, adjuster, or insurance counselor if it is probable that the applicant's business or primary occupation will give rise to coercion, indirect rebating of commissions, or other prohibited practices in the sale of insurance. Previously, these provisions had referred to an agent, as well as a solicitor, insurance counselor, and adjuster. The bill deleted the references to an agent.

MCL 500.1242

**ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

**Supporting Argument**

Requiring the Commissioner to seek the approval of a judge under Chapter 12 before issuing a subpoena was burdensome and unnecessary, as well as inconsistent with the Commissioner's authority under other provisions of the Code. By removing the requirement for a judge's approval in cases involving the denial, suspension, or revocation of a license, the bill streamlines the subpoena process under Chapter 12 and helps to make the Commissioner's powers consistent throughout the Code.

**Supporting Argument**

Deleting references to an agent in Section 1242 brings that section into conformity with changes made by Public Act 228 of 2001. That Act amended Chapter 12 to add new licensing provisions for insurance "producers", which include agents. Thus, applying Section

1242 to agents was redundant and potentially inconsistent with the new regulations governing producers.

**Response:** Public Act 228 of 2001 also amended Section 1242 to delete references to agents, as well as remove the requirement that the Commissioner receive judicial approval to issue subpoenas. It appears that all of the changes purportedly made by Senate Bill 493 already had been enacted by Public Act 228.

Legislative Analyst: Suzanne Lowe

### **FISCAL IMPACT**

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: Maria Tyszkiewicz

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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.