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SFA



BILL ANALYSIS

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Senate Bill 1213 (as enrolled)
Sponsor: Senator Bill Bullard, Jr.
Senate Committee: Financial Services
House Committee: Insurance and Financial Services

PUBLIC ACT 664 of 2002

Date Completed: 1-22-03

CONTENT

The bill amends the Insurance Code to do the following:

- **Exempt from filing requirements and rate standards insurance that is sold to an exempt commercial policyholder.**
- **Permit the Commissioner of the Office of Financial and Insurance Services (OFIS) to require that certain insurers submit changes to their manuals and rating plans for prior approval, if the Commissioner first certifies a lack of competition for that classification, type, or kind of insurance.**
- **Require that insurance companies providing surety bonds and not regulated by State statute appoint the Commissioner as the companies' agent to receive service of process in any action in United States District Court on the surety bond, and permit the Commissioner to establish a reasonable fee for that service.**

The bill will take effect March 31, 2003.

Exemptions

Under the Code, insurers must file basic insurance policy forms and annuity contracts with the Commissioner of OFIS, who approves them for use based on criteria specified in the Code. Under the bill, the filing requirements for basic insurance policies and annuity contracts, and the rate standards for casualty insurance rates and fire and inland marine rates, will not apply to insurance that is sold to an exempt commercial policyholder and that contains a prominent disclaimer stating, "This policy is exempt from the filing requirements of section 2236 of the insurance

code of 1956..." or words that are substantially similar. The bill defines "exempt commercial policyholder" as an insured that purchases the services for other than personal, family, or household purposes. In the case of rate standards for casualty insurance rates and fire and inland marine insurance rates, workers' compensation insurance is not subject to the exemption.

Absence of Competition

Under the bill, in the areas of both casualty insurance rates and fire and inland marine rates, the Commissioner may certify the absence of a reasonable degree of competition for a specified classification, type, or kind of insurance. Upon certification, the Commissioner may order that each insurer file for prior approval, subject to the provisions of Chapter 24 (Casualty Insurance Rates) and Chapter 26 (Fire and Inland Marine Rates) of the Code, any changes to its manuals of classification, manuals of rules and rates, and rating plans the insurer proposes to use for that specified classification, type, or kind of insurance. The order must state, in writing, the reasons for the Commissioner's decision to order the filing. The order will expire two years after the date of issuance. If such an order is in effect, rates to which it applies must be filed at least 30 days before their proposed effective date. The Commissioner's failure to act within 30 days after submittal will constitute approval.

The bill specifies that a determination concerning the existence of a reasonable degree of competition must take into account a reasonable spectrum of relevant economic tests, including the number of insurers

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

Commissioner as Agent

The bill specifies that every insurance company not organized under State statute that provides a surety bond required or permitted under the laws of the United States 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. The bill provides that service upon the Commissioner is service upon the company, and the Commissioner may establish a reasonable fee, payable at the time of service, for the acceptance of service. Upon receiving service of process, the Commissioner must forward the service of process to the resident agent designated by the company and required under the Code. The bill states that service of process on the Commissioner only applies for a bond provided within this State, and is in addition to and not in place of any other method of service authorized by law or court rule.

MCL 500.456 et al.

Legislative Analyst: Claire Layman

FISCAL IMPACT

The bill will have an indeterminate fiscal impact on State or local government. There is no information regarding the yet-to-be determined amount of the Commissioner's fee for service of process, nor is there information estimating the number of companies that will be subject to this fee.

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.