



SENATE BILL No. 1315

November 29, 1994, Introduced by Senators WARTNER and O'BRIEN and referred to the Committee on Commerce.

A bill to amend section 224 of Act No. 218 of the Public Acts of 1956, entitled as amended
"The insurance code of 1956,"
as amended by Act No. 228 of the Public Acts of 1994, being section 500.224 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 224 of Act No. 218 of the Public Acts of
2 1956, as amended by Act No. 228 of the Public Acts of 1994, being
3 section 500.224 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 224. (1) All actual and necessary expenses incurred in
6 connection with the examination or other investigation of an
7 insurer or other person regulated under the commissioner's
8 authority shall be certified by the commissioner, together with a
9 statement of the work performed including the number of days

1 spent by the commissioner and each of the commissioner's
2 deputies, assistants, employees, and others acting under the
3 commissioner's authority, upon the examination or investigation,
4 to the department of commerce's budget/finance division. If cor-
5 rect, the department of commerce's budget/finance division shall
6 approve the expenses and the expenses shall be paid to the per-
7 sons by whom they were incurred, upon the warrant of the state
8 treasurer payable from appropriations made by the legislature for
9 this purpose.

10 (2) Except as otherwise provided in subsection (4), the com-
11 missioner shall prepare and present to the insurer or other
12 person examined or investigated a statement of the expenses and
13 reasonable cost incurred for each person engaged upon the exami-
14 nation or investigation, including amounts necessary to cover the
15 pay and allowances granted to the persons by the Michigan civil
16 service commission, and the administration and supervisory
17 expense including an amount necessary to cover fringe benefits in
18 conjunction with the examination or investigation. Except as
19 otherwise provided in subsection (4), the insurer or other
20 person, upon receiving the statement, shall pay to the commis-
21 sioner the stated amount. The commissioner shall deposit the
22 funds with the state treasurer as provided in section 225.

23 (3) The commissioner may employ attorneys, actuaries,
24 accountants, investment advisers, and other expert personnel not
25 otherwise employees of this state reasonably necessary to assist
26 in the conduct of the examination or investigation or proceeding
27 with respect to an insurer or other person regulated under the

1 commissioner's authority at the insurer's or other person's
2 expense except as otherwise provided in subsection (4). Except
3 as otherwise provided in subsection (4), upon certification by
4 the commissioner of the reasonable expenses incurred under this
5 section, the insurer or other person examined or investigated
6 shall pay those expenses directly to the person or firm rendering
7 assistance to the commissioner. Expenses paid directly to such
8 person or firm and the regulatory fees imposed by this section
9 shall be examination expenses under section 22e of the single
10 business tax act, Act No. 228 of the Public Acts of 1975, being
11 section 208.22e of the Michigan Compiled Laws.

12 (4) An insurer is subject to a regulatory fee instead of the
13 costs and expenses provided for in subsections (2) and (3). An
14 alien insurer is subject to a regulatory fee and a valuation fee
15 under section 830 through December 31, 1994. On and after
16 January 1, 1995, an alien insurer is subject to a regulatory fee
17 instead of the valuation fee provided for in section 830. By
18 June 30 of each year or within 30 days after the enactment into
19 law of any appropriation for the insurance bureau's operation,
20 the commissioner shall impose upon all insurers authorized to do
21 business in this state a regulatory fee calculated as follows:

22 (a) As used in this subsection:

23 (i) "A" means total annuity considerations written in this
24 state in the immediately preceding year.

25 (ii) "B" means base assessment rate. The base assessment
26 rate shall not exceed .00038 and shall be a fraction the
27 numerator of which is the total regulatory fee and the

1 denominator of which is the total amount of direct underwritten
2 premiums written in this state by all insurers for the immedi-
3 ately preceding calendar year as reported to the commissioner on
4 the insurer's annual statements filed with the commissioner.

5 (iii) "I" means all direct underwritten premiums other than
6 life insurance premiums and annuity considerations written in
7 this state in the immediately preceding year by all insurers.

8 (iv) "L" means all direct underwritten life insurance premi-
9 ums written in this state in the immediately preceding year by
10 all life insurers.

11 (v) Total regulatory fee shall not exceed 80% of the gross
12 appropriations for the insurance bureau's operation for a fiscal
13 year and shall be the difference between the gross appropriations
14 for the insurance bureau's operation for that current fiscal year
15 and any restricted revenues, other than the regulatory fee
16 itself, as identified in the gross appropriation for the insur-
17 ance bureau's operation. For fiscal year 1993-94, the gross
18 appropriation for the insurance bureau's operation shall be con-
19 sidered to be \$15,000,000.00.

20 (vi) Direct premiums written in this state do not include
21 any amounts that represent claims payments that are made on
22 behalf of, or administrative fees that are paid in connection
23 with, any administrative service contract, cost-plus arrangement,
24 or any other noninsured or self-insured business.

25 (b) Two actual assessment rates shall be calculated so as to
26 distribute 75% of the burden of the regulatory fee shortfall
27 created by the exclusion of annuity considerations from the

1 assessment base to life insurance and 25% to all other
 2 insurance. The 2 actual assessment rates shall be determined as
 3 follows:

4 (i) $\frac{L \times B + .75 \times B \times A}{L}$ = assessment rate for life
 5 insurance.

6 (ii) $\frac{I \times B + .25 \times B \times A}{I}$ = assessment rate for insurance
 7 other than life insurance.

8 (c) Except as otherwise provided in ~~subdivision (d)~~

9 SUBDIVISIONS (D) AND (E), each insurer's regulatory fee shall be
 10 a minimum fee of \$250.00 and shall be determined by multiplying
 11 the actual assessment rate by the assessment base of that insurer
 12 as determined by the commissioner from the insurer's annual
 13 statement for the immediately preceding calendar year filed with
 14 the commissioner.

15 (d) The total regulatory fee for all health maintenance
 16 organizations in this state shall be determined by multiplying
 17 the actual assessment rate by 70% of direct underwritten premiums
 18 written by all health maintenance organizations in this state for
 19 the immediately preceding calendar year as reported to the com-
 20 missioner in the health maintenance organization's annual state-
 21 ments filed with the commissioner. Each health maintenance
 22 organization's regulatory fee shall be a minimum fee of \$250.00
 23 and shall be determined by taking the total regulatory fee for
 24 all health maintenance organizations divided by the total number
 25 of members of all health maintenance organizations and multiply-
 26 ing this quotient by the number of members in the individual
 27 health maintenance organization.

1 (E) THE TOTAL REGULATORY FEE FOR ALL PREPAID LIMITED HEALTH
2 SERVICE ORGANIZATIONS IN THIS STATE SHALL BE DETERMINED BY
3 MULTIPLYING THE ACTUAL ASSESSMENT RATE BY 70% OF DIRECT UNDER-
4 WRITTEN PREMIUMS WRITTEN BY ALL PREPAID LIMITED HEALTH SERVICE
5 ORGANIZATIONS IN THIS STATE FOR THE IMMEDIATELY PRECEDING CALEN-
6 DAR YEAR AS REPORTED TO THE COMMISSIONER IN THE PREPAID LIMITED
7 HEALTH SERVICE ORGANIZATION'S ANNUAL STATEMENTS FILED WITH THE
8 COMMISSIONER. EACH PREPAID LIMITED HEALTH SERVICE ORGANIZATION'S
9 REGULATORY FEE SHALL BE A MINIMUM FEE OF \$250.00 AND SHALL BE
10 DETERMINED BY TAKING THE TOTAL REGULATORY FEE FOR ALL PREPAID
11 LIMITED HEALTH SERVICE ORGANIZATIONS DIVIDED BY THE TOTAL NUMBER
12 OF MEMBERS OF ALL PREPAID LIMITED HEALTH SERVICE ORGANIZATIONS
13 AND MULTIPLYING THIS QUOTIENT BY THE NUMBER OF MEMBERS IN THE
14 INDIVIDUAL PREPAID LIMITED HEALTH SERVICE ORGANIZATION.

15 (5) Not less than 67% of the revenue derived from the regu-
16 latory fee under subsection (4) shall be used for the regulation
17 of financial conduct of persons regulated under the
18 commissioner's authority and for the regulation of persons regu-
19 lated under the commissioner's authority engaged in the business
20 of health care and health insurance in this state.

21 (6) The amount, if any, by which amounts credited to the
22 commissioner pursuant to section 225 exceed actual expenditures
23 pursuant to appropriations for the insurance bureau's operation
24 for a fiscal year shall be credited toward the appropriation for
25 the insurance bureau in the next fiscal year.

1 (7) All money paid into the state treasury by an insurer
2 under this section shall be credited as provided under section
3 225.

4 (8) A regulatory fee under this section shall not be treated
5 by an insurer as a levy or excise upon premium but as a regula-
6 tory burden that is apportioned in relation to insurance activity
7 in this state and reflects the insurance regulatory burden on
8 this state as a result of this insurance activity. A foreign or
9 alien insurer authorized to do business in this state may con-
10 sider the liability required under this section as a burden
11 imposed by the state of Michigan in the calculation of the
12 insurer's liability required under section 476a.

13 (9) An insurer may file with the commissioner a protest to
14 the regulatory fee imposed not later than 15 days after receipt
15 of the regulatory fee. The commissioner shall review the grounds
16 for the protest and shall hold a conference with the insurer at
17 the insurer's request. The commissioner shall transmit his or
18 her findings to the insurer with a restatement of the regulatory
19 fee based upon the findings. Statements of regulatory fees to
20 which protests have not been made and restatements of regulatory
21 fees are due and shall be paid not later than 30 days after their
22 receipt. Regulatory fees that are not paid when due bear inter-
23 est on the unpaid fee which shall be calculated at 6-month inter-
24 vals from the date the fee was due at a rate of interest equal to
25 1% plus the average interest rate paid at auctions of 5-year
26 United States treasury notes during the 6 months immediately
27 preceding July 1 and January 1, as certified by the state

1 treasurer, and compounded annually, until the assessment is paid
2 in full. An insurer who fails to pay its regulatory fee within
3 the prescribed time limits may have its certificate of authority
4 or license suspended, limited, or revoked as the commissioner
5 considers warranted until the regulatory fee is paid. If the
6 commissioner determines that a regulatory fee or a part of a
7 regulatory fee paid by an insurer is in excess of the amount
8 legally due and payable, the amount of the excess shall be
9 refunded or, at the insurer's option, be applied as a credit
10 against the regulatory fee for the next fiscal year. An overpay-
11 ment of \$100.00 or less shall be applied as a credit against the
12 insurer's regulatory fee for the next fiscal year unless the
13 insurer had a \$100.00 or less overpayment in the immediately pre-
14 ceding fiscal year. If the insurer had a \$100.00 or less over-
15 payment in the immediately preceding fiscal year, at the
16 insurer's option, the current fiscal year overpayment of \$100.00
17 or less shall be refunded.

18 (10) Any amounts stated and presented to or certified,
19 assessed, or imposed upon an insurer as provided in
20 subsections (2), (3), and (4) that are unpaid as of the date that
21 the insurer is subjected to a delinquency proceeding pursuant to
22 chapter 81 shall be regarded as an expense of administering the
23 delinquency proceeding and shall be payable as such from the gen-
24 eral assets of the insurer.

25 (11) Any statements presented to insurers pursuant to sub-
26 sections (2) and (3) in respect of examinations or investigations
27 conducted since October 1, 1993 shall be ~~cancelled as of the~~

~~1 effective date of the amendatory act that added this subsection~~
2 CANCELED AS OF JUNE 30, 1994. Amounts actually paid by an
3 insurer because of those statements shall be credited against the
4 regulatory fee levied for the 1993-94 fiscal year and any excess
5 amounts shall be refunded.

6 (12) As used in this section:

7 (a) "Annuity considerations" means receipts on the sale of
8 annuities as used in section 22a of the single business tax act,
9 being section 208.22a of the Michigan Compiled Laws.

10 (b) "Insurer" means an insurer authorized to do business in
11 this state and includes nonprofit health care corporations,
12 dental care corporations, health maintenance organizations, and
13 the state accident fund.

14 (13) All fees added by the amendatory act that added this
15 subsection shall not apply on and after January 1, 1996, unless
16 all of the following conditions are met:

17 (a) By September 1, 1994, the commissioner submits a report
18 to the senate and house of representatives standing committees on
19 insurance issues and to the senate and house of representatives
20 appropriations regulatory subcommittees on all receivership
21 activities of the commissioner and the insurance bureau pertain-
22 ing to the liquidation of insolvent insurers for the 1992 and
23 1993 calendar years. By September 1, 1995, and annually thereaf-
24 ter, the commissioner submits a report to the senate and house of
25 representatives standing committees on insurance issues and to
26 the senate and house of representatives appropriations regulatory
27 subcommittees on all receivership activities of the commissioner

1 and the insurance bureau pertaining to the liquidation of
2 insolvent insurers for the immediately preceding calendar year.

3 (b) Reports under subdivision (a) SHALL include all of the
4 following:

5 (i) A summary schedule of all insurance bureau expenditures
6 for legal, accounting, and administrative expenditures made or
7 incurred for the liquidation of insurers in receivership and paid
8 for out of the insurer's assets during the calendar year being
9 reported on.

10 (ii) A detailed schedule of all insurance bureau contractual
11 expenditures for legal, accounting, and administrative expendi-
12 tures made or incurred for the liquidation of insurers in receiv-
13 ership and paid for out of the insurer's assets during the calen-
14 dar year being reported on including, but not limited to, item-
15 ization of legal billings, criminal investigation expenses,
16 travel, meals, and general office expenses.

17 (iii) A statement of the net changes in assets and liabili-
18 ties of each insurer in receivership. This statement shall
19 include changes due to interest rate changes, real estate values,
20 and other investment activities, including a detailed statement
21 of the sale of assets and the net loss or gain on those assets
22 and a statement of the amount of assets preserved, gained, or
23 recovered by the receiver.

24 Section 2. This amendatory act shall take effect 90 days
25 after it is enacted into law.

1 Section 3. This amendatory act shall not take effect unless
2 Senate Bill No. 1316
3 of the 87th Legislature is enacted into law.