



**Senate Fiscal Agency**  
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BILL  ANALYSIS

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Senate Bill 1134 (as enrolled)  
 Sponsor: Senator Loren Bennett  
 Committee: Financial Services

Date Completed: 10-1-96

### RATIONALE

The Insurance Code requires that an agent offering surplus lines provide the Insurance Commissioner with a surety bond of at least \$5,000; authorizes life insurers to offer prepaid legal expense insurance; and includes a chapter that created a fund to provide medical malpractice insurance to health care providers. Some people believe that these provisions are either unnecessary or outdated and should be removed from the Code.

- Complying with the Code's requirements regarding agents' licensure, education, and examinations (MCL 500.1204-500.1206).
- Delivering to the Commissioner a financial guarantee bond from a surety acceptable to the Commissioner for \$5,000 or the largest semiannual surplus lines tax liability on premiums incurred in the immediately preceding five years, whichever is greater.

### CONTENT

**The bill would amend the Insurance Code to delete a requirement that a person licensed as a resident agent in Michigan provide a financial guarantee bond to obtain a surplus lines license, delete several references to legal expense insurance, and repeal a chapter dealing with temporary medical malpractice coverage.**

The bill would delete the bond requirement from the conditions for a resident agent to obtain a surplus lines license. ("Surplus lines insurance" is insurance in this State procured from or continued or renewed with an unauthorized insurer.)

#### Legal Expense Insurance

The Code provides that a life insurer is not authorized to transact any other kind of insurance except disability insurance and legal expense insurance, unless it was engaged in transacting that other kind of insurance in Michigan before January 1, 1909. The bill would delete legal expense insurance from that provision.

#### Surplus Lines Bond

The Code provides that a person licensed as a resident agent in Michigan may obtain a surplus lines license by doing all of the following:

- Filing an application in the form and with the information as the Insurance Commissioner may reasonably require to determine the ability of the applicant to act satisfactorily in accordance with the Code's provisions regarding surplus lines.
- Completing an examination testing the applicant's understanding of the Code's surplus lines provisions, the surplus lines insurance business, and other provisions of the Code, if required by the Commissioner.

Chapter 77 of the Code created the Michigan Life and Health Insurance Guaranty Association and requires that, for purposes of administration and assessment, the Association maintain a health insurance account, a life insurance and annuity account, and a legal expense insurance account. The bill would delete the requirement that the Association maintain a legal expense insurance account.

Chapter 77 specifies that it provides coverage to certain persons for direct, nongroup life, health, annuity, and supplemental policies or contracts; certificates under direct group life, health, annuity,

and supplemental policies and contracts; legal expense insurance policies; and unallocated annuity contracts issued by member insurers, except as limited by that chapter. The bill would delete legal expense insurance from that provision.

The Code specifies that a life or disability insurer cannot be a member of the Michigan Life and Health Insurance Guaranty Association, regardless of whether the insurer also transacts legal expense insurance. The bill would retain the prohibition, but delete the reference to transacting legal expense insurance.

#### Repealer

The bill would repeal Chapter 25 of the Insurance Code (also known as the Brown-McNeely Insurance Fund Act), which created the Brown-McNeely Insurance Fund in 1975 as a temporary means of providing medical malpractice insurance coverage to all eligible health care providers until the insurance industry could offer coverage to all eligible providers at reasonable rates. Chapter 25 specifies that the Fund could not issue or renew a policy of insurance that extended beyond July 1, 1980.

MCL 500.407 et al.

### **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**

Surety bonds can represent a significant cost to surplus lines agents, and the Insurance Bureau must monitor the agents' compliance with the bond requirement. Since the Bureau reports that it has never needed to call upon a surplus lines agent bond for tax payment purposes, the Commissioner recommends eliminating the mandate that a surplus lines licensee provide a bond.

#### **Supporting Argument**

Life insurers are not authorized to provide any other kind of insurance except disability insurance and legal expense insurance. Prepaid legal insurance is not similar to life insurance and, according to the Insurance Bureau, no life insurers have sold it in Michigan. Prepaid legal insurance usually is sold by specialists in that particular line of coverage. Life insurers should not be authorized to offer legal expense insurance and

that type of coverage should not be included under the Life and Health Insurance Guaranty Association.

#### **Supporting Argument**

In 1975, when Chapter 25 was added to the Insurance Code, many health care providers had a difficult time securing affordable medical malpractice insurance coverage. The Brown-McNeely Insurance Fund was created to provide temporary coverage to eligible health care providers. There have been significant improvements in Michigan's medical malpractice insurance market in recent years and, according to the Insurance Bureau, the Brown-McNeely Fund was sold several years ago. Chapter 25 is outdated and no longer necessary.

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

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

Fiscal Analyst: M. 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.