

CLAIMS ADJUSTOR LICENSING

House Bill 4620 as introduced First Analysis (11-30-99)

Sponsor: Rep. Martha Scott
**Committee: Insurance and Financial
Affairs**

THE APPARENT PROBLEM:

Public insurance adjustors are insurance professionals who contract with individuals or businesses to help calculate, prepare, and present insurance claims to insurance companies. They are often hired to help with complicated property claims because the burden of proving how much insurance companies should pay for a loss is on the person making the claim. Public insurance adjustors are licensed by the state.

Michigan, like many other states, allows an adjustor from another state to practice here if the adjustor's home state allows Michigan adjustors to practice there. This is called a reciprocal agreement. Ohio does not have an agreement with Michigan and will not let Michigan adjustors be licensed to work there. As a result, Ohio adjustors are not licensed to practice in Michigan. The Insurance Code contains a provision enacted in response to Ohio's lack of reciprocity that says the insurance commissioner cannot issue or renew an adjustor's license to "a person residing in a state that denies a comparable license to a resident of this state solely because of residency."

Michigan adjustors and insurance regulators have been engaged in a legal dispute since 1992 (with roots going back to 1978) with a group of adjustors from Indiana seeking licensure in Michigan. The Indiana adjustors worked for an Indiana company that was affiliated with and owned by an Ohio adjustor. The Indiana adjustors were granted licenses in 1992 but these were revoked by the insurance commissioner in 1996 at the instigation of the Michigan Association of Public Insurance Adjustors. The circumstances were characterized as an attempt to get around the barrier to Ohio adjustors. The revocations were stayed while being appealed, however, and in 1997 the commissioner's ruling was reversed at the circuit court level. Legislation to base reciprocity on the state of ownership of the parent adjusting firm, and not on the residency of the adjustors, was introduced to address

the issue in the 1997-98 legislative session, passing the House but not the Senate. In August of this year, the

Michigan Court of Appeals reversed the circuit court and upheld the insurance commissioner's interpretation of the statute. Legislation has once again been introduced, this time to codify the appeals court's decision.

THE CONTENT OF THE BILL:

The bill would amend Chapter 12 of the Insurance Code to prohibit the insurance commissioner from issuing a new adjustor's license to, or accepting an annual license fee continuing a current license from, a person employed directly or indirectly by a claims adjuster that is a resident of a state, or that has a majority of shareholders, members, officers, directors, or owners that are residents of a state, that denies a comparable license to a resident of Michigan solely because of residency. An affidavit from an applicant could be relied on by the commissioner to show compliance.

This new provision would be in addition to the existing provision that prohibits the commissioner from issuing a new license to, or accepting a fee to continue an current license from, a person residing in a state that denies a comparable license to a resident of Michigan solely because of residency.

MCL 500.1224

BACKGROUND INFORMATION:

A similar bill, House Bill 5606, passed the House in the 1997-98 legislative session.

FISCAL IMPLICATIONS:

There is no fiscal information at present.

ARGUMENTS:

For:

The bill addresses a longstanding conflict between Michigan and Ohio over the licensing of public claims adjusters precipitated by Ohio's refusal to grant reciprocity to adjusters licensed in Michigan. It would essentially codify a recent Michigan Court of Appeals decision that said the state's insurance commissioner can deny a claims adjuster license to residents of Indiana who work for an Indiana corporation that is owned and controlled by an Ohio corporation. The bill closes a loophole that allowed an Ohio company to overcome the barrier set up to prevent its adjusters from being licensed in Michigan by using an affiliate in Indiana and employing Indiana residents. If Ohio companies want to compete for business in Michigan, then Michigan adjusters and companies must be allowed to compete for business in Ohio.

Against:

In the past, people have argued that the bill is excessive in its attempts to restrict access to out-of-state claims adjusters. While there may be justification for keeping Ohio adjusters from getting Michigan licenses (because Ohio will not grant reciprocity to Michigan adjusters), it seems unfair to prevent Indiana adjusters from being licensed to work here (since Michigan adjusters can be licensed reciprocally in Indiana), simply because the company they work for has Ohio ownership. The terms of the bill, moreover, could be hard to apply to a publicly traded company, since the majority ownership (and the residency of that ownership) could change from day to day as stock is bought and sold. In any case, the bill will impose additional administrative burdens on the insurance bureau, who will need to track the ownership of claims adjusting firms.

POSITIONS:

The Insurance Bureau, within the Department of Consumer and Industry Services, supports the bill. (11-9-99)

The Michigan Association of Public Insurance Adjusters supports the bill. (11-10-99)

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.