

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1173 (as enrolled)
Sponsor: Senator Bill Bullard, Jr.
Committee: Financial Services

Date Completed: 6-23-00

RATIONALE

Apparently, the interplay between two unrelated statutes may result in the disclosure of consumer information related to workers' compensation insurance policies. The Workers' Disability Compensation Act requires all Michigan employers to file proof of workers' compensation coverage with the Bureau of Worker's Disability Compensation to ensure that any compensable injury will be covered by the employer's workers' compensation insurance. In addition, the Freedom of Information Act (FOIA) entitles a person to inspect, copy, or receive copies of public records of a public body upon written request. ("Public body" includes a State officer, employee, agency, department, division, bureau, or other body in the executive branch of State government; a State legislative agency, board, commission, or council; a local unit of government; and the judiciary.)

By filing requests under the FOIA, some companies apparently collect and sell confidential consumer information for marketing purposes. Reportedly, in approximately 20 other states, a company called Datalister has filed FOIA requests for all workers' compensation "Proofs of Coverage" on file at a state's bureau of worker's disability compensation. Compelled by its state's own version of the FOIA, the bureau must disclose the information and provide it to Datalister. Datalister evidently then reformats the data and sells it to insurance agents, who use it to solicit workers' compensation policies.

A number of states have attempted to prevent access to these records by Datalister on the ground that private information should not be sold. Reportedly, in every case so far, the court has ruled that unless the information is

specifically excluded from the FOIA, the information must be turned over. Under Michigan's current statute, State agencies would be compelled to disclose private information about many businesses operating in Michigan, including names of customers, addresses, policy coverage, premium amounts, and policy expiration dates.

It has been suggested that the State should prevent the disclosure of workers' disability compensation insurance policy information.

CONTENT

The bill would amend the Worker's Disability Compensation Act to provide that workers' disability compensation insurance policy information submitted to the Bureau of Worker's Disability Compensation by an individual employer or group of employers under Section 615, or a notice of issuance of a policy submitted to the Bureau by an insurer under Section 625, would be confidential and exempt from disclosure under the Freedom of Information Act. (Section 615 requires reports as to employees, work, and insurance coverage upon request of the Bureau Director. Section 625 requires an insurer to file with the Director a notice of issuance of a policy, effective date, and coverage.) Currently, the Worker's Disability Compensation Act provides an exemption from disclosure for records submitted by an individual employer or a group of employers in support of an application for self-insured status, and information concerning the injury of and benefits paid to an individual worker.

The Act permits the Bureau to release, disclose, or publish confidential information under certain circumstances. These include the disclosure or publication of aggregate information for statistical or research purposes, as long as it is disclosed or published in a way that protects the confidentiality of

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information about individual workers and the financial records of individual employers or self-insured employers. The information made confidential under the bill also would be subject to this provision.

The bill further specifies that in the case of workers' disability compensation insurance policy information, in response to a request that pertained to a specific employer and included the employer's address and the date of the injury of the claim for which the information was requested, the Bureau could disclose the name and address of the insurer that, according to the Bureau's records, provided coverage on the date of injury, but could not disclose the effective date or expiration date of the policy.

MCL 418.230

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

According to the Michigan Association of Insurance Agents, expiration dates of insurance policies are a true measure of the value of an independent agency. Reportedly, they are agencies' most important assets and the degree to which agents lose control of this information is the degree to which their agencies lose their value. The bill would ensure the confidentiality of workers' compensation insurance policy information. Although the bill would allow the Bureau to disclose this information under certain circumstances, it would prohibit the disclosure of the effective date or expiration date of a policy. This would protect employers from harassing calls and inquiries regarding policy renewal or transfers, and would protect insurance agencies' ownership of policy expiration dates.

Legislative Analyst: N. Nagata

FISCAL IMPACT

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

Fiscal Analyst: M. Tyszkiewicz