

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bill 674 (Substitute S-1 as reported)  
Sponsor: Senator Bill Bullard, Jr.  
Committee: Financial Services

### **CONTENT**

The bill would amend the Insurance Code to create an "insurance compliance self-evaluative audit document" privilege, which would mean that the document would not be subject to discovery and could not be admitted as evidence in a civil, criminal, or administrative proceeding, and a person who prepared the audit could not be compelled to testify about it.

The bill also would provide for the confidentiality of a self-evaluative audit document submitted to the Commissioner of the Office of Financial and Insurance Services either voluntarily or as a result of a request of the Commissioner. The document would not be subject to the Freedom of Information Act.

The privilege would not apply in a civil, administrative, or criminal proceeding if a court, after a private hearing, found that the privilege was asserted for a fraudulent purpose or that the material was not subject to the privilege. In a criminal proceeding, a court also could require disclosure if the Commissioner or the Attorney General had a compelling need for information that was not otherwise available and the Commissioner or Attorney General could not obtain equivalent information without unreasonable cost and delay.

The privilege would not apply to documents expressly required to be collected, developed, maintained, or reported to a regulatory agency under the Code or other State or Federal law; information obtained by observation or monitoring by any regulatory agency; or information obtained from a source independent of the insurance compliance audit.

"Insurance compliance self-evaluative audit document" would mean a document prepared as a result of or in connection with an insurance compliance audit. "Insurance compliance audit" would mean a voluntary, internal evaluation, review, assessment, audit, or investigation for the purpose of identifying or preventing noncompliance with or promoting compliance with laws, regulations, orders, or industry or professional standards, conducted by or for an insurer licensed or regulated under the Code or involving an activity regulated under the Code.

Proposed MCL 500.221

Legislative Analyst: S. Lowe

### **FISCAL IMPACT**

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

Date Completed: 10-8-01

Fiscal Analyst: M. Tyszkiewicz