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House Bill 4783 (as reported without amendment)
Sponsor: Representative Alan Sanborn
House Committee: Insurance and Financial Services
Senate Committee: Financial Services

Date Completed: 10-9-01

RATIONALE

Under Chapter 33 of the Insurance Code, every insurer authorized to write automobile insurance in Michigan is required to participate in the Michigan Automobile Insurance Placement Facility, and the Facility must accept applications for coverage from any licensed agent in Michigan. Apparently, the Facility does not have the ability to disqualify an agent from placing business through the Facility, even if the agent repeatedly violates the Facility's rules contained in its plan of operation. It has been reported that violations by an agent, such as late applications, insufficient premium deposits, or missing proof of vehicle ownership, can result in additional time and resources spent by the Facility and a delay for the consumer trying to obtain coverage. Some people believe that the Facility should be able to disqualify agents who routinely violate its rules. (Please see **BACKGROUND** for more information on the Michigan Automobile Insurance Placement Facility.)

CONTENT

The bill would amend the Insurance Code to allow the Michigan Automobile Insurance Placement Facility to disqualify an agent from placing automobile insurance through the facility if the agent persistently violated the Facility's rules contained in its plan of operation. The bill also would require the Facility to notify the agent and the Commissioner of the Office of Financial and Insurance Services of the disqualification; allow the agent to request a hearing for disqualification before the Facility's board of governors; allow the agent to appeal the disqualification ruling to the Commissioner; and require the Facility to

amend its plan of operation to establish standards and procedures for disqualifying an agent.

An agent could submit a written request for a hearing before the Facility's board of governors or its designee within 10 business days after the notice was issued. If a written request for a hearing were received, the disqualification would have to be suspended pending a ruling by the board. The board or its designee would have to hold a hearing within 10 business days after receiving the written request, issue a ruling within five business days after the hearing, and notify the Commissioner of the ruling. A ruling of disqualification by the board or its designee would take effect five calendar days after the date of the ruling.

An agent could appeal a ruling of disqualification to the Commissioner by filing a written notice of appeal with the Facility and the Commissioner within 30 calendar days after the date of the ruling. The disqualification ruling would remain effective during the process of appealing to the Commissioner. Upon receiving the appeal, the Commissioner or his or her designee would have to provide a hearing under the Administrative Procedures Act, and approve, disapprove, or direct the board or its designee to reconsider its ruling.

On and after the effective date of a disqualification, the disqualified agent could not do any of the following:

- Solicit, negotiate, or effect automobile insurance on behalf of any participating member through the Facility.

- Submit new applications through the Facility.
- Service any existing Facility policies except as permitted by the Facility's user manual under procedures for disqualified agents.
- Be entitled to compensation for either new business applications or renewals.
- Obtain any binders or other supplies from the Facility.

A disqualification would not affect the disqualified agent's authority to place automobile insurance through an authorized insurer in the voluntary market.

The Facility would have to amend its plan of operation to establish standards and procedures for disqualifying an agent from placing automobile insurance through the Facility. These standards and procedures would have to contain at least all of the following:

- The actions or inactions that could lead to an agent's disqualification.
- Standards and procedures under which an agent could petition the Facility for removal of the disqualification.
- That written notification would have to be sent to an agent that had been disqualified. The notification would have to include the reasons for the disqualification, the procedure to be followed to appeal the disqualification to the board or its designee, and the conditions and procedures under which the agent could petition the Facility for the removal of the disqualification.
- A procedure under which the disqualified agent could appeal the disqualification to the board, that protected the interests of both the agent and the Facility. The procedure would have to include the opportunity for the agent, upon request and payment of a reasonable copying charge, to receive any information pertinent to the disqualification.
- A notice to the disqualified agent after the board's or its designee's ruling as to how the agent could appeal that ruling to the Commissioner or his or her designee if the agent disagreed with the ruling.

MCL 500.3355

BACKGROUND

The Insurance Code requires all automobile

insurers to participate in the Michigan Automobile Insurance Placement Facility in order to ensure that automobile insurance coverage will be available to any person who is unable to obtain it through ordinary methods, and to promote price competition by encouraging maximum use of the normal private insurance system. Drivers who do not qualify for insurance through the standard markets include those with poor driving records, poor payment histories, or no prior insurance coverage.

The Facility is a joint underwriting association made up of auto insurers in Michigan, who act as servicing carriers by issuing policies, billing for premiums, and settling claims. The administrative costs and operating results are shared among all the Michigan auto insurers in proportion to their competitive market business. The Facility's operations are directed by an 11-member board of governors, which includes seven members elected pursuant to the Facility's plan of operation, and four members appointed by the Commissioner. The Facility is available to any individual who owns a motor vehicle registered or to be registered in Michigan or has a valid driver's license, or is eligible for the restoration of his or her Michigan driver's license upon the filing of proof of financial responsibility. Applicants may apply for coverage in the Facility through any licensed Michigan agent and may request the servicing carrier that will issue the policy.

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

The bill would allow the Facility to disqualify insurance agents who persistently violate the rules contained in its plan of operation. Currently, the Facility conducts hearings for those agents who routinely and regularly violate the rules, but the only real recourse for the Facility is to refer these agents to the Office of Financial and Insurance Services for possible enforcement action. This involves a lengthy process and usually results in a fine with no license suspension or revocation. Meanwhile, the agent can continue to place business with the Facility and ignore its rules without any real consequences.

In the voluntary auto insurance market, an insurance carrier is able to disqualify any of its appointed agents who do not follow the company guidelines, and the company can refuse to accept further business from a disqualified agent. The bill would provide the Facility with the same protection.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would allow for an appeal to the Commissioner, which would increase responsibilities and could increase costs. The Office of Financial and Insurance Services has no information regarding the potential number of appeals; therefore, the annual costs are unknown.

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.