Legislative Analysis

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INTERSTATE INSURANCE PRODUCT REGULATION

House Bill 5608 (Substitute H-1)
Sponsor: Rep. Barbara Farrah
Committee: Insurance

Complete to 3-27-06

A SUMMARY OF HOUSE BILL 5608 AS REPORTED FROM COMMITTEE

With the enactment of the bill, Michigan would enter into the Interstate Insurance Product Regulation Compact. This is said to be a model act developed by the National Association of Insurance Commissioners (NAIC). Each "compacting state" has one member on the Compact Commission created by the compact, namely the state insurance commissioner. (For Michigan, this would be the commissioner of the Office of Financial and Insurance Services or OFIS.) A state could withdraw from the compact by specifically repealing the statute this bill would create.

The compact becomes effective and binding when enacted into law by two compacting states; however, the commission would become effective for the purpose of adopting uniform standards and reviewing products filed with the commission only after 26 states have become compacting states, or after enactment of the compact by states representing more than 40 percent of premium volume for life insurance, annuity, disability income, and long-term care products. Insurance products filed with an individual state rather than with the commission would remain subject to the laws of that state.

Compact Purposes. The bill specifies that the purposes of this compact are, through means of joint and cooperative action among the compacting states:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products.

2. To develop uniform standards for insurance products covered under the compact.

3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related to those products, submitted by insurers authorized to do business in 1 or more compacting states.

4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard.

5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the compact.

6. To create the interstate insurance product regulation commission.

7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

Following is a brief description of some key aspects of the Compact Commission's operations.

Funding. The compact intends for the commission to be funded through filing fees imposed on insurance companies and other third parties filing a product for approval by the commission.

Management Committee. A management committee made up of no more than 14 members would be created, with one member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability income, and long-term care insurance products; four members from other states with at least two percent of the market based on premium volume, selected on a rotating basis; four members from states with less than two percent of the market, with one from each of four zone regions of the NAIC.

Legislative Monitoring Committee. A legislative committee would have to be established, made up of state legislators or their designees, to monitor the operations of the commission and to make recommendations. Prior to the adoption by the commission of any uniform standard, bylaw revision, annual, budget, or other significant matter, the management committee would have to consult with the legislative committee.

Advisory Commitees. Two advisory committees would have to be established, one made up of consumer representatives independent of the insurance industry and one made up of insurance industry representatives.

Uniform Product Standards. The commission could establish uniform product standards through a rulemaking procedure. A uniform standard would require a two-thirds majority approval from the management committee and from the members of the full commission (the representatives of the compacting states). Before the adoption of a uniform standard, the commission would have to give written notice of its intentions to the relevant legislative committees in each compacting state with responsibility for insurance issues.

State Opt-Out of Standards. A compacting state could "opt-out" of a uniform standard either by legislation or by a regulation promulgated by the state insurance regulator using the Administrative Procedures Act. To opt out, a compacting state would have to notify the commission that the uniform standard does not provide reasonable protections to the citizens of the state. The insurance commissioner would have to make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state that warrant a departure from the uniform standard.

Long-term Care Opt-out. A state could, at the time of enacting the compact, prospectively opt out of all uniform standards involving long-term care insurance products.

FISCAL IMPACT:

Because the State of Michigan already uses an Internet-based filing system, there will be no significant fiscal impact on the State or its local units of government.

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POSITIONS:

The Office of Financial and Insurance Services supports the bill. (3-23-06)

The American Council of Life Insurers supports the bill. (3-23-06)

The Life Insurance Association of Michigan has indicated support for the bill. (3-23-06)

The National Association of Insurance Commissioners (NAIC) supports the bill. (3-23-06)

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