

Legislative Analysis



INSURANCE AUDITING PROCEDURES

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House Bill 5722

Sponsor: Rep. Virgil Smith

Committee: Insurance

Complete to 9-15-08

A SUMMARY OF HOUSE BILL 5722 AS INTRODUCED 2-13-08

The bill would make a number of amendments to Chapter 10 of the Insurance Code, which addresses annual audited financial reports of insurance companies.

The chapter requires an insurance company's annual audited financial report to report on the firm's financial condition at the end of the most recent calendar year and the results of its operations, cash flows, and changes in capital and surplus for the year just ended. It must include the report of an independent public accountant; a balance sheet reporting admitted assets, liabilities, capital, and surplus; a statement of gain or loss from operations; a statement of cash flows; a statement of changes in capital and surplus; as well as other information requested by the commissioner of the Office of Financial and Insurance Regulation (OFIR).

The bill would amend the auditing provisions in the following ways.

****** The independent public accountant would have to conduct the examination in accordance with generally accepted auditing standards. Consideration would have to be given to the procedures illustrated in the "Financial Conditions Examiners Handbook," prepared by the National Association of Insurance Commissioners (NAIC).

****** The commissioner of OFIR could only recognize an individual or firm as an independent public accountant if the individual or firm had not, either directly or indirectly, entered into an indemnification agreement, whether an agreement of indemnity or release of liability, with respect to an insurance company audit.

******The term "indemnification" would be defined for the purposes of the auditing chapter to mean an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the accountant or accounting firm for failure to adhere to applicable auditing or professional standards, whether or not resulting from knowing in part of other misrepresentations made by the insurance company or its representatives.

****** An independent certified accountant could enter into agreement with an insurance company to have disputes relating to an audit resolved by mediation or arbitration. However, if a delinquency proceeding was begun against an insurer under Chapter 81,

the mediation or arbitration provision would operate at the option of the statutory successor.

****** If an accountant became aware, after the date of an audited financial report filed under Chapter 10, of facts that could have affected the report, the accountant would be required to take action as prescribed by the professional standards of the American Institute of Certified Public Accountants.

Reinsurance Agreements. The bill also contains an amendment to Chapter 11 of the Insurance Code, which deals with reinsurance. The bill would specify that, generally speaking, a reinsurance agreement would have to state that the agreement constituted the entire agreement between the parties with respect to the business being insured and there were no other understandings between the parties except as expressed in the agreement.

[Reinsurance is defined as a form of insurance that insurance companies buy for their own protection, a "sharing of insurance." An insurance company reduces its possible maximum loss on an individual risk or a large number of risks by giving, or ceding, a portion of its liability to another insurance company. (Adapted from Barron's Dictionary of Insurance Terms.)]

MCL 500.1001 et al.

FISCAL IMPACT:

The bill does not appear to have any fiscal impact on state government.

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