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BILL ANALYSIS

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House Bill 5675 (Substitute H-1 as passed by the House)
Sponsor: Representative Virgil Smith
House Committee: Insurance
Senate Committee: Banking and Financial Institutions

Date Completed: 6-10-08

CONTENT

The bill would amend the Insurance Code to require the Commissioner of Financial and Insurance Regulation to withhold from public inspection financial statements of an applicant insurer's parent corporation that was a family trust or personal financial statements of controlling individuals of the applicant insurer, furnished by an insurer applying for admission to the State. The financial statements also would not be subject to subpoena.

Under the Code, no person may act as an insurer and no insurer may issue any policy or otherwise transact insurance in this State except as authorized by a certificate of authority granted by the Commissioner. A foreign or alien insurer may not be admitted to this State until the insurer files with the Commissioner an application for admission. The application must be accompanied by a copy of the insurer's charter, compact, or articles of incorporation or agreement, and bylaws, together with a sworn statement of the insurer's business affairs and any other information, under oath or otherwise, that the Commissioner may demand of the applicant

Under the bill, if during the course of application for admission, the Commissioner required a domestic, foreign, or alien insurer to furnish financial statements of the applicant insurer's parent corporation that was a family trust or closely held corporation with the sole specific purpose of holding the assets of the family's personal wealth, or to furnish personal financial statements of controlling individuals of the applicant insurer, all of the following would apply:

- The Commissioner would have to withhold the financial statements from public inspection.
- The financial statements would have to be held confidential.
- The financial statements would not be subject to subpoena.
- The financial statements could not be divulged to any person except as provided under the bill.

If assurances were provided that the financial statements would be kept confidential, the Commissioner could disclose them for good cause as follows:

- To the Governor or the Attorney General.
- To any relevant regulatory agency as it related to the insurer, including regulatory agencies of other states or the Federal government.

- In connection with an enforcement action brought pursuant to the Insurance Code or another applicable act.
- To law enforcement officials.
- To people authorized by the Ingham County Circuit Court to receive the information.
- To people entitled to receive such information in order to discharge duties specifically provided for under the Code.

The confidentiality requirements would not apply in any proceeding or action brought against or by the insurer under the Code or any other applicable act of this State, any other state, or the United States.

(Under the Code, a "domestic" insurer is an insurer formed under the laws of this State. A "foreign" insurer is an insurer formed under the laws of the District of Columbia, or some state, commonwealth, territory, or possession of the United States other than the State of Michigan. An "alien" insurer is an insurer formed under the laws of a country other than the United States or any state, district, commonwealth, territory, or possession of the United States.)

Proposed MCL 500.404a

Legislative Analyst: Craig Laurie

FISCAL IMPACT

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

Fiscal Analyst: Elizabeth Pratt
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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.