Legislative Analysis

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NO PREMIUM INCREASES DURING TERM OF POLICY

House Bill 4070 (Proposed Substitute H-1)
Sponsor: Rep. Tory Rocca
Committee: Insurance

First Analysis (4-30-09)

BRIEF SUMMARY: The bill would amend the Insurance Code to prohibit insurance companies from increasing the premium for an automobile or home insurance policy during the term of the policy, unless (1) the premium had been based on materially incorrect information provided by the applicant or insured; or (2) a change in the terms or coverages of the policy is requested by the customer (the insured).

FISCAL IMPACT: There is no apparent significant fiscal impact on the State of Michigan or its local units of government.

THE APPARENT PROBLEM:

Sometimes, after an insurance customer has received a bill for a homeowner's or automobile insurance policy and paid all or part of the premium, the company will increase the premium owed. This means the customer has to pay the additional amount or face the prospect of losing coverage. Some people believe this should not be permitted, that once a customer has paid all or part of the billed premium, the company should not be allowed to raise its price until the policy term has expired. Insurance customers are often encouraged by the insurance industry, regulators, and financial advisors to shop around for the best insurance prices, and it is the responsibility of regulators to see that a competitive market exists. But if prices are subject to revision even after payments have been submitted, the savings from shopping around can evaporate, leaving customers no choice other than to pay the revised premium or begin shopping around once again. Legislation has been introduced to address this issue.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code (MCL 500.2111b) to prohibit insurance companies from increasing the premium for an automobile or home insurance policy during the term of the policy.

The only exceptions to this would be if the premium had been based on materially incorrect information provided by the applicant or insured or if the customer had requested a change in policy terms or coverages.

Specifically under the bill, the premium could not be increased once the premium is billed by an insurance company or agent <u>and</u> paid in whole or in part by the insurance customer.

ARGUMENTS:

For:

Once customers have entered into a policy contract with an auto or home insurer and paid all or a portion of the billed amount, the company should not be allowed to raise the premium. Unless the customer had somehow misled the company or its agents in the insurance application, the company should honor the billed amount. If adjustments need to be made, they can be made when the policy comes up for renewal. Otherwise, how are consumers to shop around for the best price?

However, there is nothing currently in statute to prevent an insurance company from increasing a premium mid-term. This bill will protect consumers by making it clear when such increases are permitted and prohibited. Obviously, if a customer has misinformed the insurance company about the nature of the risk, adjustments should be allowed. If the underlying risk itself changes -- an added room on a home, for example -- adjustments should be allowed. But agents and companies should not be able to quote and bill one price (perhaps to attract customers) and then arbitrarily charge a higher price mid-term.

Response:

State insurance regulators have recommended that similar amendments be enacted to apply to group insurance, since more drivers are being covered under these polices, such as those issued by credit unions and the AARP. This bill applies only to individual auto policies.

Against:

A number of concerns have been raised about the bill. In general, it should be noted that insurance companies are interested in keeping customers rather than offending and losing them, so when prices are increased it is likely based on information not available when the initial price was established, and adjustments are likely to be minor. Insurance prices are not established like prices of consumer goods. Rates are set based on certain characteristics of the risk involved.

Industry representatives have said that they do not oppose legislation preventing arbitrary mid-term premium increases but do not want legislation that prevents them from raising premiums to correct bona fide errors or to take into account information that is discovered in verifying the information submitted by customers. They also have said that the bill needs to be clarified in several ways. For example, its affect on binders needs examination. (Insurers and agents sometimes "bind" coverage and accept payment without full knowledge of the risks that will determine the final price of coverage. Does that constitute being "billed?") Companies must be allowed to modify the premium when the underlying risk changes. (What if a customer adds a vehicle or makes home improvements during the term of a policy; that is, without a new policy being issued?) There also needs to be clarification of the phrase "materially incorrect information."

POSITIONS:

The Office of Financial and Insurance Services supports the bill with amendments. (4-30-09)

The Michigan Association for Justice (formerly the Michigan Trial Lawyers Association) supports the bill. (4-30-09)

The Insurance Institute of Michigan testified in opposition to the introduced version of the bill. (4-30-09)

A representative of the Michigan Insurance Coalition testified that the organization opposes the bill as introduced. (4-30-09)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.