

Legislative Analysis



SURPLUS LINES POLICY FEES

Phone: (517) 373-8080
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House Bill 5174 (H-1) as reported from committee

Sponsor: Rep. Daire Rendon

1st Committee: Insurance

2nd Committee: Ways and Means

Complete to 12-10-19

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 62 of 2020)

SUMMARY:

House Bill 5174 would amend the Insurance Code to modify the fees that can be charged by a holder of a license to act as an agent or broker of surplus lines insurance.

Currently under the code, a surplus lines licensee cannot charge a fee of over \$50 to cover costs incurred in placing the indemnity unless both of the following apply:

- The fee is filed with the director of the Department of Insurance and Financial Services (DIFS) and is not disapproved within 30 days.
- The fee exceeds \$50 only to the extent that actual additional costs for services performed by persons unrelated to the licensee exceed that amount. (The licensee must keep complete documentation of these fees.)

The code provides for the \$50 cap to be adjusted for inflation beginning June 1, 2008, and annually thereafter. (The current adjusted amount is \$64.) Additionally, under the code, a fee charged by a licensee cannot be excessive or discriminatory and cannot be included as part of the premium when computing premium taxes.

House Bill 5174 would instead allow a licensee to charge a fee for a surplus lines insurance policy, in addition to a commission, only if the fee was not included in the premium and the fee was reasonable to cover underwriting and other expenses that are unique to surplus lines. (This provision would generally apply to commercial policies.) For a personal lines insurance policy, a licensee could charge a fee of up to the greater of \$100 or 10% of the policy premium.

A fee could not be excessive or discriminatory and could not be included in the premium when computing premium taxes. The bill would require the fee to be fully disclosed to the insured, in detail and in writing, before the sale. The fee would have to be separately itemized on the policy declarations page, billing statement, or other documentation provided to the purchaser setting forth the cost of the policy. The licensee would have to maintain documentation of all fees charged and evidence of the required disclosure and itemization.

Finally, the bill would remove the annual adjustment of the fee cap for inflation.

MCL 500.1915

FISCAL IMPACT:

House Bill 5174 would not have a significant fiscal impact on any unit of state or local government.

POSITIONS:

Representatives of the following entities testified in support of the bill (11-7-19):

Wholesale and Specialty Insurance Association

H.W. Kaufman Group

The Department of Insurance and Financial Services indicated a neutral position regarding the bill. (12-3-19)

Legislative Analyst: Rick Yuille
Fiscal Analyst: Marcus Coffin

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