Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 461 (as enacted)
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Sponsor: Senator Curtis S. VanderWall (S.B. 461)
          Senator Paul Wojno (S.B. 462)
Senate Committee: Regulatory Reform
House Committee: Regulatory Reform

PUBLIC ACT 160 of 2021
PUBLIC ACT 161 of 2021

Date Completed: 3-1-23

CONTENT

Senate Bill 461 amended the Medical Marihuana Facilities Licensing Act (MMFLA) to do the following:

-- **Require a proof of financial responsibility for a licensee under the Act to be a liability insurance policy that meets all the bill's requirements.**
-- **Require a licensee or applicant to include with its filing of proof of financial responsibility for liability an attestation of compliance.**
-- **Require the Marijuana Regulatory Agency to suspend a licensee's license until the licensee provided the required proof of financial responsibility if the licensee fails to maintain it.**
-- **Refer to the Marijuana Regulatory Agency instead of the Department of Licensing and Regulatory Affairs (LARA) and the Medical Marihuana Licensing Board.**

Senate Bill 462 amended the MMFLA to specify that an applicant is ineligible to receive a license if the Marijuana Regulatory Agency determines that the applicant is not in compliance with Section 408 of the Act, which Senate Bill 461 amended.

The bills took effect on March 30, 2022.

Senate Bill 461 is described in greater detail below.

Proof of Financial Responsibility

Section 408 of the MMFLA requires a licensee or applicant to file with (formerly) LARA proof of financial responsibility for liability for bodily injury to lawful users resulting from the manufacture, distribution, transportation, or sale of adulterated marihuana or adulterated marihuana-infused product in an amount of at least $100,000 before the Board (formerly) grants or renews a license. Where the Act refers to the Board and the Department, the bill refers to the Marijuana Regulatory Agency.

Previously, the proof of financial responsibility could be in the form of cash, unencumbered securities, a liability insurance policy, or a constant value bond executed by a surety company authorized to do business in Michigan. Under the bill, the proof of financial responsibility instead must be a liability insurance policy that meets all the following requirements:

-- Is issued by a licensed insurance company or licensed insurance company in Michigan.
-- Does not include a condition, provision, stipulation, or limitation contained in the policy, or any other endorsement, that relieves the insurer from liability for the payment of any claim for which the insured may be held liable under the MMFLA.
-- The proof of financial responsibility must cover bodily injuries to a qualifying patient including injuries that are caused by the intentional conduct of the licensee or its employee of agent; however, it does not have to cover bodily injuries to qualifying patients caused by the licensee or its employee or agent if the licensee or its employee or agent act with the intent to harm.

Attestation of Compliance & Failure to Maintain Proof

The bill requires a licensee or applicant to include with its filing an attestation of compliance with the above provisions on a form approved by the Marijuana Regulatory Agency. An officer of the licensed insurance company or licensed captive insurance company that issues the policy must sign the attestation of compliance.

If a licensee fails to maintain proof of financial responsibility, the Agency must suspend the licensee's license immediately until the licensee provides to the Agency proof of financial responsibility.

MCL 333.27408 (S.B. 461)   Legislative Analyst: Eleni Lionas
    333.27402 (S.B. 462)

FISCAL IMPACT

The bills will have no fiscal impact on State or local government.

Fiscal Analyst: Jonah Houtz