



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**OUT-OF-STATE INSURERS/SERVICE
OF PROCESS**

**Senate Bill 496 as passed by the Senate
First Analysis (6-7-01)**

**Sponsor: Sen. Bill Bullard, Jr.
House Committee: Insurance and
Financial Services
Senate Committee: Financial Services**

THE APPARENT PROBLEM:

Before conducting business in the state, insurance companies, associations, risk retention groups, and purchasing groups that are not organized under Michigan law must agree that service of legal papers upon the Commissioner of the Office of Financial and Insurance Services (OFIS) constitutes service upon the insurer. Serving the insurer through the commissioner means that there is a time lag between when the commissioner receives the papers and when he or she mails them to the insurer. Moreover, the cost of mailing the papers often exceeds the current \$5 fee that is charged when papers are served upon the commissioner.

THE CONTENT OF THE BILL:

Senate Bill 496 would amend the Insurance Code to require "foreign" (out of state) and "alien" (out of country) insurance companies, associations, risk retention groups, and purchasing groups to designate a resident agent for the service of legal papers, as a condition of doing business in the state. The designation of a resident agent would involve filing with the commissioner the name and address of a resident agent upon whom any legal papers affecting the insurer would be served. Service upon the resident agent would constitute service upon the insurer, and the designation of a resident agent would remain in force as long as the insurer had any liability within the state. This would replace the current requirement that an alien insurer stipulate that legal papers are to be served on the commissioner.

The bill would also require unauthorized insurers without a resident agent to stipulate to service on the commissioner. In accordance with current law, the insurer would have to file with the commissioner irrevocable written stipulation agreeing that service of legal papers upon the commissioner would constitute service on the insurer. The bill would also increase from \$5 to \$10 the fee for service on the commissioner. Appointment of the commissioner

would remain in force as long as the insurer had any liability within the state.

FISCAL IMPLICATIONS:

According to the Office of Financial and Insurance Services in the Department of Consumer Industry Services, the bill will reduce the amount of fees received by the office by eliminating the majority of instances that service of process to the office will occur. However, the bill would save time and money for the office's staff. (5-23-01)

ARGUMENTS:

For:

The bill would simply eliminate the role of the commissioner as an intermediary in the process of serving legal papers upon foreign and alien insurers. Thus, OFIS would no longer have to expend time and resources forwarding the papers to the insurer. The insurer would no longer be required to pay the commissioner for a service that can be performed more efficiently by the resident agent. Finally, increasing the fee for service upon the commissioner more accurately reflects costs that are incurred when the commissioner receives legal papers for an unauthorized insurer.

POSITIONS:

The Office of Financial and Insurance Services supports the bill. (6-6-1)

The Michigan Insurance Federation supports the bill. (6-6-01)

Analyst: J. Caver

■ 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.