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BILL ANALYSIS

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Senate Bill 748 (as introduced 9-6-07)
Sponsor: Senator Jason E. Allen
Committee: Senior Citizens and Veterans Affairs

Date Completed: 2-5-08

CONTENT

The bill would amend the Insurance Code to provide that an individual life insurance policy could not lapse, terminate, or be forfeited for nonpayment of premiums or interest or indebtedness on a premium if protection were applied for and granted under Sections 401 to 409 of the Soldiers' and Sailors' Civil Relief Act. (That Federal law provides for protection against the termination of a life insurance policy while the insured is performing military service and during two years after that service. Please see **BACKGROUND**, below, for more information.)

If the Commissioner of the Office of Financial and Insurance Services found, after an opportunity for a hearing under the Administrative Procedures Act, that a person had violated the bill, the Commissioner would have to put the findings and decision in writing and order the payment of a civil fine of up to \$2,000 per violation, in addition to any other penalty provided by law. A fine collected under the bill would have to be deposited into the Military Family Relief Fund created in the Military Family Relief Fund Act.

"Individual life insurance policy" would mean "policy" as defined in Section 401 of the Soldiers' and Sailors' Civil Relief Act.

Proposed MCL 500.4003

BACKGROUND

The protections of Sections 401 to 409 (Article IV) of the Soldiers' and Sailors' Civil Relief Act apply to an insured when he or she, or someone designated by the insured, makes a written application to the U.S. Secretary of Veterans Affairs, unless the Secretary finds that the policy is not entitled to protection. "Insured" means any person in the military service of the United States (as defined in the Act) whose life is insured and who is the owner and holder of and has an interest in a policy.

The Secretary of Veterans Affairs must determine whether a policy is entitled to protection and notify the insured and the insurer of that finding. Any policy that is found entitled to protection may not, after the date of application, and during the period of military service of the insured, or during two years after that service expires, lapse or otherwise terminate or be forfeited for the nonpayment of a premium becoming due and payable, or the nonpayment of any indebtedness or interest.

The payment of premiums and the interest on them that becomes due on a policy while it is protected is guaranteed by the United States. If the amount guaranteed is not paid to the

insurer before the period of protection expires, the insurer must treat the amount as a policy loan; if the cash surrender value is less than the amount due when the period of protection expires, however, the policy must terminate and the United States is to pay the insurer the difference between that amount and the cash surrender value. The amount paid by the United States to an insurer under Article IV becomes a debt due to the United States by the insured, and may be collected by a deduction from any amount due the insured by the United States or as otherwise authorized by law.

The total amount of insurance on the life of one insured under a policy protected by Article IV may not exceed \$10,000. If an insured applies for protection in excess of \$10,000, the Secretary may have the amount of insurance divided into two or more policies.

Article IV defines "policy" as any contract of life insurance or policy on a life, endowment, or term plan that does not provide for the payment of any sum less than the face value of the policy or for the payment of an additional amount as premiums if the insured engages in the military service of the United States, or that does not contain any limitation or restriction upon coverage relating to engagement in or pursuit of certain types of activities that a person might be required to engage in by virtue of being in military service, and 1) that is in force on a premium-paying basis at the time of application for benefits under Article IV, and 2) that was made and on which a premium was paid at least 180 days before the date the insured entered the military service.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have a minimal impact on the Office of Financial and Insurance Services (OFIS) within the Department of Labor and Economic Growth. Additional costs would depend on the frequency of complaints and hearings pursuant to the bill. It is expected, however, that these could be handled by existing staff. The office is funded entirely by restricted funds paid by regulated firms and individuals.

Any civil fines collected under the bill would be deposited into the Military Family Relief Fund created by Public Act 364 of 2004 for grants to military families in financial need. The amount of revenue would depend on the number of enforcement actions and the size of the fine imposed by the Commission of OFIS in each case. Currently, the Military Family Relief Fund is funded primarily by donations via a check-off on the Michigan income tax return. Since its beginning in tax year 2004, the Fund has received donations totaling \$2,577,000.

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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.