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S.B. 175

135th General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Lang

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SUMMARY

Insurance

- Exempts insurance rules that are necessary to meet the accreditation requirements by the National Association of Insurance Commissioners' Financial Regulation Standards from the continuing law requirement concerning reductions in regulatory restrictions.
- Exempts certain commercial policy documents from insurers that are unique in character and designed for a particular risk from the continuing law filing requirement with the Superintendent of Insurance.
- Removes the requirement that the Superintendent approve a higher rate when an insurer uses a rate that is greater than the rate filed with the Superintendent on a specific risk and when the person insured applies to the Superintendent in writing stating the reasons for the rate.
- Requires that the insurer retain any insurance policy form, endorsement, or rate that is exempt from filing requirements for three years after the effective date of the exemption and requires that the insurer make this information and supporting documentation available for inspection by the Superintendent.
- Modifies the taxation of insurance premiums written for bail bonds.

Professional employer organizations

- Specifies that a professional employer organization (PEO) is the employer of shared employees co-employed by the PEO and a client employer for purposes of determining whether a PEO who sponsors a group health benefit plan is covered under Ohio's Small Employer Health Benefit Law.
- Specifies that Ohio's Small Employer Health Benefit Law does not apply to a fully insured health benefit plan sponsored by a PEO if the PEO is not a small employer for purposes of the law.

DETAILED ANALYSIS

Insurance

Regulatory restrictions

Under continuing law, the Superintendent of Insurance may not adopt a new regulatory restriction unless it simultaneously removes two or more existing regulatory restrictions. A "regulatory restriction" is any part of an administrative rule that requires or prohibits an action.[1] The bill exempts from this law regulatory restrictions adopted by the Superintendent that are necessary to meet the requirements for accreditation by the National Association of Insurance Commissioners' (NAIC) Financial Regulation Standards and Accreditation Committee.[2] The NAIC is a national standard-setting organization governed by the chief insurance regulators from the 50 states, the District of Columbia, and U.S. territories to coordinate regulation of multi-state insurers. The Ohio Department of Insurance is currently accredited by the NAIC. According to the NAIC, this accreditation demonstrates that state insurance department meets standards of solvency regulation and provides effective regulation of multi-state insurers.[3]

The bill also requires that, as soon as practicable after the effective date of the bill, the Superintendent amend the list of regulatory restrictions to remove the regulations discussed above. The Superintendent must then post the amended list on its website and transmit a copy to the Joint Committee on Agency Rule Review.[4]

Filing requirements

Under continuing law, insurers are generally required to file with the Superintendent of Insurance certain documents that they propose to use: every form of a policy, endorsement, rider, manual, minimum class rate, rating schedule, rating plan, and rating rule, along with modifications of those items. Continuing law exempts documents for inland marine risk insurance from this requirement. The bill exempts commercial insurance policy forms or endorsements that are "unique in character and designed for a particular risk" from the filing requirements, subject to restrictions prescribed by the Superintendent of Insurance.[5] Continuing law generally prohibits insurers from making or issuing contracts or policies that are different from those filed with the Superintendent. However, under existing law, an insurer may use a rate that is greater than the rate filed with the Superintendent on a specific risk if the person insured applies to the Superintendent in writing stating the reasons for the rate and the

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[1] R.C. 121.95 to 121.953, not in the bill.

[2] R.C. 3901.041.

[3] Alaska, Iowa, Minnesota, and Ohio Receive NAIC Accreditation, August 10, 2022, which can be found on the National Association of Insurance Commissioners website: naic.org, search term "Ohio."

[4] Section 3.

[5] R.C. 3935.04(H) and 3937.03(H).

Superintendent approves the application. The bill eliminates the requirement of the Superintendent's approval.[6]

The bill requires that for policies that are exempt from any filing requirements, the insurer must retain the exempt policy and all supporting documents for at least three years after the effective date of the policy. The insurer must make the policy and all supporting documentation available for inspection by the Superintendent upon request.[7]

Premiums tax

The bill modifies the taxation of insurance premiums written for bail bonds. Under continuing law, Ohio taxes the gross premiums collected by foreign and domestic insurance companies from policies issued in the state. This includes premiums charged to underwrite bail bonds.

Under current law, the tax on bail bond premiums is based on the gross premiums paid, without deduction. The bill modifies this calculation by allowing insurance companies to deduct amounts retained by bail bond agents. However, the deduction cannot cause the company's taxable bail bond premiums to be less than 6.5% of the company's gross bail bond premiums.[8]

The bill applies to premiums reported on annual statements filed in 2021 and thereafter. If an insurance company has already filed an annual statement for any such year, and the bill's changes would reduce the company's tax liability for that year, the company can request a refund.[9]

Professional employer organizations

The bill specifies that a professional employer organization (PEO) is the employer of shared employees co-employed by the PEO and a client employer for purposes of determining whether a PEO who sponsors a group health benefit plan is covered under Ohio's Small Employer Health Benefit Law.[10] Additionally, under the bill, Ohio's Small Employer Health Benefit Law does not apply to a fully insured health benefit plan sponsored by a PEO if the PEO is not a small employer for purposes of the law.[11]

Under continuing law, a PEO is a business entity that enters into an agreement with one or more client employers to share the responsibilities and liabilities of being an employer. A "client employer" is the business entity that enters into the agreement with a PEO to share

[6] R.C. 3935.04(G) and 3937.03(G).

[7] R.C. 3935.04(I) and 3937.03(I).

[8] R.C. 5725.18 and 5729.02; R.C. 3905.901, not in the bill.

[9] Section 4.

[10] R.C. 3924.01 to 3924.14, not in the bill.

[11] R.C. 4125.041.

employer responsibility and liability with the PEO over their shared employees.[12] Under continuing law, Ohio's Small Employer Health Benefit Law generally applies to employers with 50 employees or less.[13]

HISTORY

Action	Date
Introduced	10-17-23

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[12] R.C. 4125.01, not in the bill.

[13] R.C. 3924.01 and 3924.02, not in the bill.