



## The Michigan Department of Insurance and Financial Services Proposes Legislation Relating To Risk Management Of Michigan Insurers And Insurance Holding Companies

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**PRACTICE AREAS**

Insurance Law

The Michigan Department of Insurance and Financial Services (DIFS) is supporting proposed legislation that was introduced earlier this year that would amend the Michigan Insurance Code to grant DIFS additional authority to ensure the financial solvency of Michigan insurance companies.

Senate Bill 177 would amend Chapter 13 of the Insurance Code (Holding Company Act, MCL 500.1301 *et seq.*) relating to the control and the change in control of insurers. This amendment would, among other things, add an annual Enterprise Risk Report filing requirement and would give DIFS access to information to enable it to evaluate Enterprise Risk that might have an adverse effect on the financial condition or liquidity of the insurer or holding company. Enterprise Risk is defined under the proposed amendment as “any activity, circumstance, event, or series of events ... that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole[.]” The full text of SB 177 can be found here (We have identified that the following link is no longer active, and it has been removed). We obtained Form F (We have identified that the following link is no longer active, and it has been removed) from DIFS which they have adopted for use under the proposed amendment to Chapter 13.

Senate Bill 178 would add a new Chapter 17 to the Insurance Code entitled “Risk Management and Own Risk and Solvency Assessment.” Chapter 17 would require insurers to maintain a risk management framework and to perform an “Own Risk and Solvency Assessment” (ORSA) on an annual basis to assess and manage material and relevant risks. Under this amendment, insurers would need to submit an annual ORSA summary report to the insurer’s board of directors and to DIFS that contains information adequate to permit DIFS to determine the insurer’s risk management framework and the insurer’s assessment of risk exposure.

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Although the new Chapter 17 would exempt certain insurers from the new requirements (including insurers and insurance holding companies with an annual direct written premium of less than \$500 million and \$1 billion respectively), DIFS could require compliance by otherwise exempt insurers should it determine that: 1) unique circumstances exist; 2) the insurer has a risk-based capital "company action level event;" 3) the insurer meets one or more of the conditions described in MCL 500.436 (i.e., it is no longer safe, reliable, or entitled to public confidence); 4) the operation of the insurer is hazardous to policyholders, creditors, or the public under MCL 500.436a; or 5) the insurer exhibits qualities of a troubled insurer. The full text of SB 178 can be found here (We have identified that the following link is no longer active, and it has been removed).

To learn more about these proposed amendments, please contact a member of Foster Swift's Insurance Regulatory Group.

**UPDATE - Legislation Relating To Risk Management Of Insurers And Insurance Holding Companies Signed by Michigan Governor Effective December 22, 2015.**