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

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Our October 30, 2015 Newsletter reported on proposed legislation amending the Michigan Insurance Code to grant DIFS additional authority to ensure financial solvency of insurance companies doing business in Michigan. The legislation was signed by the Governor and became effective December 22, 2015.

Senate Bill 177 amended 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, among other things, added an annual Enterprise Risk Report filing requirement and gives 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 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 …" Public Act 244 of 2015 can be found **here**. DIFS has a new **Form F** for reporting.

Senate Bill 178 adds a new Chapter 17 to the Insurance Code entitled "Risk Management and Own Risk and Solvency Assessment." Chapter 17 requires 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 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.

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. Public Act 245 of 2015 can be found **here**.

To learn more about this, contact a member of Foster Swift's Insurance Regulatory Group.