



February 4, 2015

TO: Senate Business and Transportation Committee
FROM: American Family Insurance
RE: **SB 317 - Use of Discretionary Clauses**

American Family Mutual Insurance Company is strongly opposed to SB 317. This bill provides that an insurer may not offer or issue a policy, contract or certificate of insurance that provides that insurer has sole right or right that is superior to right of insured to interpret terms and conditions of policy, contract or certificate or that specifies standard of interpretation or review that is inconsistent with laws of this state.

As you may know, the Insurance Division has been working on rulemaking on the same issue. However SB 317 is distinctly worse than the rule because the bill requires two new statements that would have to be on all policies or certificates of insurance. Section 1(1)(b) of the bill states:

“(b) Each policy, contract or certificate of insurance that an insured issues must have provisions that read:

(A) “This (policy, contract or certificate) conforms with all applicable provisions of the Insurance Code of the State of Oregon, which is incorporated into this (policy, contract or certificate) by this reference. If a term, condition or other provision of this (policy, contract or certificate) conflicts with a provision of the Insurance Code, the Insurance Code controls over the conflicting provision of this (policy, contract or certificate).”

(B) “This (policy, contract or certificate) does not give the insurer the sole right, or a right that is superior to the right of the insured, to interpret the terms and conditions of this (policy, contract or certificate) and may not specify a standard for interpreting or reviewing this (policy, contract or certificate) that is inconsistent with Oregon law. To the extent that a provision of this (policy, contract or certificate) does purport to give the insurer the sole right or a superior right to interpret the terms and conditions of this (policy, contract or certificate) or to specify a standard for interpretation or review that is inconsistent with Oregon law, the provision is void and of no effect.”

We have three main reasons for opposing the bill.

1. Unnecessary – Language Exists Already

First, the required language about conforming to Oregon law is unnecessary for American Family Mutual Insurance Company, and probably for other carriers too. We already have provisions in our policies that say basically the same thing. Here are the Conditions found in our Classic Homeowners and Advance Homeowners policies:

Classic Policy contract:

Conformity to State Law. If any part of this policy is contrary to a law of the state in which the described property is located, we agree to alter that part of our policy and make it conform with that state law. However, all other parts of this policy will remain in force and unaltered.

Advance Policy contract:

Conformity. This policy is subject to the statutes of the state in which the **residence premises** is located. If any part of this policy is contrary to such statutes, **we** agree to alter that part of the policy to make it conform. However, all other parts of this policy will remain the same.

2. Expensive

Second, adding language to all our policies is really expensive and unnecessary. As you know, there are significant costs with changing the form itself, but probably even bigger costs with all the mailing of new state amendatory endorsements to all *existing* customers.

3. Compliance Problem and Amendment Suggestion

Finally, we would only have 91 days after the act is passed to comply with these requirements. There is no way that's even possible for us. We start mailing people renewal notices more than a month ahead of time, so then we'd have less than 60 days to do all the document changes and programming necessary to start sending out new state amendatories to our policies at renewal. That's **unrealistic January 1, 2016 would be a more realistic date.** If this bill moves forward, please at least amend the bill to revise the effective date to January 1, 2016.

Conclusion

Requiring insurers to amend every policy with language concerning an activity they have never participated in (using discretionary clauses), and rewriting similar language already in their policies, seem completely unnecessary ... and expensive.

Thank you for your consideration of both our opposition and suggested amendment.

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