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Commercial insurers urge lawmakers to reject bill to allow Blues acquisition

By [Jay Greene](#)

A coalition of for-profit commercial insurers is calling for Michigan legislators to vote against a pending bill that would allow a for-profit workers' compensation subsidiary of **Blue Cross Blue Shield of Michigan** to enter other lines of insurance.

Last week, Attorney General Michael Cox filed a lawsuit against Blue Cross, alleging it broke state laws last November when it transferred \$125 million in subscriber premiums to the **Accident Fund Insurance Co. of America**. The for-profit Accident Fund then used the money to buy a California-based insurance company for \$127 million.

Kurt Gallinger, a spokesman for the **Coalition for a Fair and Competitive Insurance Market**, said Cox's lawsuit shows that Blue Cross has used its reserves — up to \$2.8 billion in 2006 from \$1.3 billion in 2001 — to unfairly compete against smaller insurers.

The seven-member coalition includes **Citizens Insurance, AAA Michigan, American Physicians Assurance Corp.** and **Amerisure Cos.**

"We see no reason why the Legislature would want to legalize what the Blues have been doing illegally for years," Gallinger said. "There are no firewalls that you can put in legislation that the Blues won't get around or completely ignore. The Blues can't be trusted."

But Andrew Hetzel, Blue Cross' vice president of corporate communications, said the company will fight the lawsuit and any effort to derail the proposed legislation.

"We think (Cox) is wrong, and when it goes to court we will win because we have the facts on our side," Hetzel said.

Hetzel said the legislation is crucial to enable the Accident Fund to diversify into such lines as auto and life to compete against other insurers.

Last October, the **Michigan House of Representatives** passed House Bill 5284 that would allow the Accident Fund to enter other lines of insurance with no strings attached.

The House bill and one Senate version — which would require Blue Cross to set up a \$100 million fund that would grant subsidies for people to purchase individual health insurance policies — are in the **Senate Health Policy Committee**, which is chaired by Sen. Tom George, R-Kalamazoo.

George told *Crain's* he wants to wait until the court renders a decision before holding further hearings.

"I am looking out for the taxpayers of Michigan," George said. "When Blue Cross bought the Accident Fund, the sale price was based on workers' compensation (product line). The state would have charged more (if the transaction allowed Blue Cross to enter other insurance lines)."

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In the three-count lawsuit filed in **Ingham County Circuit Court** in Lansing, Cox alleges Blue Cross violated Public Act 350 by improperly contributing premiums to the Accident Fund and that it breached the terms of the purchase agreement that allowed Blue Cross to acquire the Accident Fund from the state in 1993.

As a result, Cox said, "Consumers, the sick and the elderly have paid higher premiums because funds that could have been used to lower their costs were diverted for this purchase."

From 2003 through 2007, Blue Cross' individual premium rates have increased 79 percent while group conversion premium rates have risen 92 percent, Cox said.

But Hetzel said profits earned by the Accident Fund are returned to Blue Cross through dividend payments. Blue Cross contends more than \$100 million has been returned to the company from Accident Fund profits.

"We contribute positively to the ability of Blue Cross to offer affordable (health insurance) to the people of Michigan," Hetzel said.

Cox's lawsuit suggests the court has three options on which to rule:

- Order Blue Cross to divest CompWest and two other acquisitions it has made — **United Wisconsin Insurance Co.** and **Third Coast Insurance Co.**
- Order the Accident Fund to repay Blue Cross the \$125 million for CompWest.
- Order Blue Cross to restructure the transaction into a loan with interest from a straight capital transfer.

Blue Cross has until July 25 to respond to Cox's lawsuit.

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