



**House
Legislative
Analysis
Section**

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PRIORITY OF CLAIMS

**House Bill 6086 as introduced
First Analysis (9-24-96)**

**Sponsor: Rep. John Llewellyn
Committee: Insurance**

THE APPARENT PROBLEM:

The Insurance Bureau has requested legislation that would amend the Insurance Code to alter the priority of the distribution of claims during the liquidation of an insurance company. The amendment is said to be necessary to bring Michigan's statute into compliance with a 1993 U.S. Supreme Court decision about where the federal government must rank in the list of claims. The court, according to testimony before the House Insurance Committee, struck down an Ohio statute that put the federal government fifth in the list of claims, arguing that federal law allowed state statutes to place only claims of policyholders and administrative costs and expenses ahead of the federal government in the priority list. Michigan's statute also places the federal government fifth on the priority list. The Insurance Bureau wants the legislature to make the law conform to the court decision to prevent any interference by the federal government in an upcoming hearing regarding the Confederation Life case.

THE CONTENT OF THE BILL:

The bill would amend the Insurance Code to make claims of the federal government a "class 3" claim in priority of distribution of claims rather than a "class 5" claim. The bill also would move up to "class 1" certain debts due to employees for services performed within one year before the filing of the petition for liquidation, which are currently "class 2" claims.

(Generally, the current order of priority is: costs and expenses of administration; certain debts to employees; claims under policies, including claims of the guaranty association; claims under nonassessable policies for unearned premium; claims of the federal government or any state or local government; claims filed late; surplus or contribution notes; and claims of shareholders and other owners. The new order of priority would place the debts to employees as a sub-category of costs and expenses of administration and would move the federal government to third place after the claims of policyholders.)

MCL 500.8142 and 500.8159

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the state revenue impact of this bill is indeterminate. The HFA has prepared a lengthy fiscal analysis of the legislation dated 9-20-96 which should be consulted.

ARGUMENTS:

For:

The aim of the bill, according to insurance regulators, is to bring Michigan's statute regarding the priority of distribution of claims from an insurer's estate in liquidation proceedings into conformity with a U.S. Supreme Court decision. This would forestall any intervention from the courts on behalf during an upcoming hearing on the Confederation Life case, which involves a failed Canadian life insurer with many Michigan customers, including state employees.

POSITIONS:

A representative of the Insurance Commissioner testified in support of the bill before the House Insurance Committee. (9-19-96)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

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