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Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

**SFA****BILL ANALYSIS**

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

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House Bill 5418 (Substitute S-2 as reported)  
Sponsor: Representative David M. Gubow  
House Committee: Insurance  
Senate Committee: Financial Services

### **CONTENT**

The bill would amend the Insurance Code to provide for an exception to the standard set of claim priorities against an insolvent insurance company. The exception would apply to assets in a separate account established under a written agreement or a contract on a variable basis. The bill specifies that if a written agreement, statute, or rule provided that the assets in a separate account were not chargeable with liabilities arising out of any other business of the insurer, that part of a claim that included a separate account would have to be satisfied out of the assets in the separate account equal to the reserves maintained in that separate account under the separate account agreement. The remainder of the claim would have to be treated as a "Class 2" claim against the insurer's estate to the extent that reserves had been established in the company's general account under statute, rule, or the separate account agreement. (Class 2 claims include claims under policies for losses incurred, including third party claims; all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property that are not policies; and all claims of a guaranty association or foreign guaranty association. The Code requires that all claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, be treated as loss claims.)

The bill also would provide for reciprocal penalties to be imposed on out-of-state insurers operating in Michigan when Michigan insurers were penalized by another state because of failure to comply with requirements of the National Association of Insurance Commissioners (NAIC); impose reporting requirements upon the NAIC; and specify that a Michigan insurer could not be required or compelled to pay a fee imposed by the NAIC, unless authorized by an order of Michigan's Insurance Commissioner.

MCL 500.8134 et al.

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Date Completed: 2-26-98

Fiscal Analyst: M. Tyszkiewicz