

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



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

Senate Bill 500 (as enrolled)  
Sponsor: Senator Dale L. Shugars  
Committee: Health Policy

Date Completed: 10-22-01

### **RATIONALE**

Under the Insurance Code, an insurer has the right to petition the circuit court for a stay of an order issued by the Commissioner of the Office of Financial and Insurance Services (OFIS) suspending, revoking, or limiting the insurer's certificate of authority. A stay issued by the court does not take effect, however, until the insurer deposits cash or securities with the State Treasurer, in amounts specified in the Code. The amount of the deposit varies depending on whether the insurer has its headquarters in Michigan, out of the State, or in another country. If the court issues a stay, and the deposit is paid, the Commissioner's order is suspended until the case is decided in a contested case hearing.

Currently, for a foreign (out-of-State) insurer, the deposit must equal 100% of the aggregate sum of Michigan direct unpaid losses and unpaid loss adjustment expenses, plus 100% of Michigan direct unearned premiums. According to the OFIS, the size of the required deposit can prevent foreign life and health insurers from obtaining a stay. It has been suggested that the formula be adjusted to enable these insurers to make deposits to stay a Commissioner's order.

### **CONTENT**

**The bill would amend the Insurance Code to raise the amount of deposit that a foreign insurer must make to the State Treasurer for a court-ordered stay to take effect; and to prescribe the deposit amount for a foreign life or health insurer.**

The bill specifies that for a foreign life or health insurer, the deposit would have to

equal 125% of Michigan reserves and liabilities for policies and contracts for which coverage was provided by the Michigan Life and Health Insurance Guaranty Association, without respect to the limitations and exclusions provided under Chapter 77 of the Code. (Chapter 77 created the Michigan Life and Health Insurance Guaranty Association to protect persons against failure to perform contract obligations, under insurance policies and annuity contracts, because of an insurer's impairment or insolvency. Chapter 77 excludes certain policies and contracts, and places specified limits on benefits for which the Association is liable.)

Further, for foreign insurers other than life or health insurers, the bill would raise the deposit by increasing the required percentage of unpaid losses and unpaid loss adjustment expenses from 100% to 125%.

MCL 500.244

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The OFIS reports that the current formula for determining the amount of deposit required for a foreign insurer to obtain a stay of a Commissioner's order is prohibitively expensive for foreign life or health insurers. While the formula appears to be no problem for property and casualty insurers, it precludes life or health insurers from paying the necessary amounts because some of their account obligations are substantially larger

than those of property and casualty insurers. The bill would make a distinction between amounts required for property/casualty and for life/health insurers, and thus give life or health insurers a reasonable opportunity to make a deposit in an amount required to place a court-ordered stay in effect.

Legislative Analyst: G. Towne

**FISCAL IMPACT**

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

Fiscal Analyst: M. Tyszkiewicz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.