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BILL ANALYSIS

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House Bill 5930 (as reported without amendment)
Sponsor: Representative David Robertson
House Committee: Insurance
Senate Committee: Banking and Financial Institutions

CONTENT

The bill would amend Chapter 81 (Supervision, Rehabilitation, and Liquidation) of the Insurance Code to specify that a person could not be stayed or prohibited from exercising any of the following:

- A contractual right to terminate, liquidate, or close out any "netting agreement" or "qualified financial contract" with an insurer because of the commencement of formal delinquency proceedings under Chapter 81 or the insurer's insolvency.
- Any right under a pledge, security, collateral, or guarantee agreement or any other similar security arrangement or credit support document relating to a netting agreement or qualified contract.
- Subject to Section 8130(2) of the Code, any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a netting agreement or qualified financial contract in which the counterparty or its guarantor was organized under Federal law or the laws of a state or foreign jurisdiction approved by the securities valuation office of the National Association of Insurance Commissioners and approved by the Commissioner of the Office of Financial and Insurance Services (OFIS) as eligible for netting. (Section 8130(2) specifies conditions under which a setoff or counterclaim is not allowed.)

The bill also specifies the responsibilities of a receiver appointed under Chapter 81 with regard to making a transfer pursuant to a netting agreement or qualified financial contract.

("Netting agreement" would mean a contract or agreement that documents one or more transactions between the parties to the agreement for or involving one or more qualified financial contracts and that provides for the netting or liquidation of qualified financial contracts or present or future payment obligations or entitlements under those contracts, including related liquidation or close-out values, among the parties to the netting agreement. "Qualified financial contract" would mean a commodity, contract, forward contract, repurchase agreement, securities contract, swap agreement, and any similar agreement that the OFIS Commissioner determined by regulation, resolution, or order to be a qualified financial contract for the purposes of Chapter 81.)

Proposed MCL 500.8115a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

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Fiscal Analyst: Maria Tyszkiewicz
Analysis available @ <http://www.michiganlegislature.org>

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.