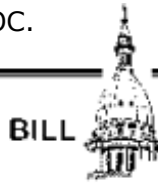




Senate Fiscal Agency
P. O. Box 30036
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**BILL ANALYSIS**

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House Bill 5292 (Substitute S-1 as reported)
Sponsor: Representative Leslie Mortimer
House Committee: Insurance
Senate Committee: Banking and Financial Institutions

CONTENT

The bill would amend Chapter 79 (Property and Casualty Guaranty Association Act) and Chapter 81 (Supervision, Rehabilitation, and Liquidation) of the Insurance Code to revise provisions pertaining to the Michigan Property and Casualty Guaranty Association. (Membership in the Association is a condition of transacting property and casualty insurance business in the State. The Association pays covered claims to policyholders and claimants when an insurance company becomes insolvent.) The bill would do all of the following:

- Allow the Association to bring an action against an insolvent insurer to obtain custody and control of claims information necessary for the Association to carry out its duties.
- Redefine "insolvent insurer" as an insurer that has been a member insurer and against whom a final order of liquidation has been entered with a finding of insolvency by a court of competent jurisdiction in the insurer's state of domicile.
- Specify that covered claims would not include the portion of a claim that exceeded \$5 million, other than for a worker's compensation claim or a personal protection claim under motor vehicle insurance (which would replace the current cap of one-twentieth of 1% of the aggregate premiums written by member insurers in the preceding year).
- Specify that covered claims would not include obligations for any first- or third-party claim by or against an insured whose net worth exceeded \$25 million.
- Specify that all proceedings in any administrative tribunal to which an insolvent insurer was a party, or was obligated to defend or had assumed the defense of a party, would have to be stayed after a receiver was appointed to give the Association sufficient time to prepare a proper defense.
- Include the Workers' Compensation Agency and a guaranty association or foreign guaranty association among third parties whom the Commissioner of the Office of Financial and Insurance Services may advise of the existence of a supervision order.
- Specify that any guaranty association or foreign guaranty association would have standing to appear and could intervene or otherwise appear and participate in a court proceeding concerning the rehabilitation or liquidation of an insurer.
- Regulate the use of collateral held under a deductible agreement by or for the benefit of, or assigned to, an insurer or the receiver, in delinquency proceedings.
- Require a receiver promptly to bill a policyholder for reimbursement of deductible amounts paid in claims by a guaranty association or foreign guaranty association, if the insurer had not contractually agreed to allow the policyholder to fund its own claims.
- Allow a receiver to deduct reasonable actual expenses, up to 3% of the collateral or total deductible reimbursement actually collected by the receiver, from reimbursements owed to a guaranty association or foreign guaranty association or collateral to be returned to a policyholder.
- Revise provisions relating to the disbursement of assets after the final determination of an insurer's insolvency, and allow a guaranty association or foreign guaranty association

to file with the court an application for disbursement of assets if the liquidator failed to do so within 120 days of a final determination of insolvency.

- Prohibit a liquidator from offsetting the amount to be disbursed to a guaranty association or foreign guaranty association by any special or statutory deposits or any other asset of the insolvent insurer, except to the extent those had been paid to the association for the purpose of satisfying its claims.

The bill also would amend Chapter 52 (Corporate Powers, Procedures of Stock and Mutual Insurers) of the Insurance Code to do all of the following:

- Require a domestic insurers' board of directors to meet at least four times each fiscal year, in person or by electronic communication.
- Unless prohibited by the articles of incorporation, allow certain actions required or permitted to be taken under authorization voted at a board meeting, to be taken without a meeting, with the consent of all the board members.
- Delete provisions that prohibit an insurer from making a compensation agreement with officers, directors, or salaried employees, that extends beyond 12 months or granting a pension to an officer or director.

MCL 500.3503 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Date Completed: 3-21-06

Fiscal Analyst: Elizabeth Pratt
Maria 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.