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BILL ANALYSIS

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House Bills 6223 through 6235 (as passed by the House)
Sponsor: Representative Leslie Mortimer
House Committee: Insurance

CONTENT

The bills would amend provisions of the Insurance Code pertaining to guaranty associations and the Michigan Property and Casualty Guaranty Association. The bills are all tie-barred to each other.

House Bills 6223 through 6227 would amend Chapter 81 (Supervision, Rehabilitation, and Liquidation) to do all of the following:

- 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 of 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 deposit or any other asset of the insolvent insurer, except to the extent it had been paid to the association for the purpose of satisfying its claims.
- 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 to bill a policyholder promptly 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 3.0% 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.
- 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, and delete a current provision giving a guaranty association or foreign guaranty association standing to appear in a court proceeding concerning the liquidation of an insurer if the association is or may become liable to act a result of the liquidation.
- Allow the Commissioner of the Office of Financial and Insurance Services to advise the Workers' Compensation Agency and a guaranty association or foreign guaranty association of the existence of a supervision order.

(Chapter 81 defines "guaranty association" as the Michigan Property and Casualty Association, the Worker's Compensation Self-Insurance Security Fund, the Michigan Life and Health Insurance Guaranty Association, and any other similar entity created by the Legislature for the payment of claims of insolvent insurers. A "foreign guaranty association" is a similar entity of another state.)

House Bills 6228 through 6234 would amend Chapter 79 (Property and Casualty Guaranty Association Act) to do all of the following:

- 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.
- Delete a provision specifying that the State Accident Fund is not liable for any assessment based on premiums written after the effective date of Public Act 137 of 1990 (which, among other things, removed the Accident Fund from the Association).
- Delete a requirement that the Association pay and discharge covered claims for the amount by which each covered claim exceeds \$10.
- Require that a claimant, insured, or self-insured entity first exhaust all coverage provided by any policy or the self-insured retention of an excess insurance policy; and provide that, to the extent that the Association's obligation was reduced by this requirement, the liability of the person insured by the insolvent insurer's policy also would have to be reduced in the same amount.
- Exclude from "covered claims" (obligations of an insolvent insurer that meet certain criteria) the portion of a claim that exceeded \$5.0 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 1.0% 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 \$25.0 million.
- 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.
- 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.

House Bill 6235 would amend Chapter 35 (Health Maintenance Organizations) to specify that Section 7925 of the Code would apply to health maintenance organizations (HMOs). (That section, which House Bill 6231 would amend, defines "covered claims".)

MCL 500.8134 (H.B. 6223)
Proposed MCL 500.8133a (H.B. 6224)
Proposed MCL 500.8124a (H.B. 6225)
MCL 500.8124 (H.B. 6226)
500.8111 (H.B. 6227)
500.7945 (H.B. 6228)
500.7941 (H.B. 6229)
500.7931 (H.B. 6230)
500.7925 (H.B. 6231)
500.7921 (H.B. 6232)
500.7918 (H.B. 6233)
500.7911 (H.B. 6234)
500.3503 (H.B. 6235)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

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Analysis available @ <http://www.michiganlegislature.org>

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