

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5418 (as passed by the House)
Sponsor: Representative David M. Gubow
House Committee: Insurance
Senate Committee: Financial Services

Date Completed: 2-25-98

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. (These provisions would be an exception to the Code's requirement that the priority of distribution of claims from an insurer's estate be according to the order of classes of claims set forth in the Code.)

(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.)

Under the bill, "insurer's estate" would mean all of the assets of the insurer less any assets held in separate accounts. The following would not be considered assets held in separate accounts:

- Assets that represented money provided by the insurer initially to fund the special account.
- Assets that represented policy reserves properly allocable to the general account.
- General account investments held in the separate account.

"Separate account" would mean a separate account authorized under Section 925 of the Code and established in accordance with the terms of a written agreement or a contract on a variable basis. (Section 925 allows a life insurer to allocate to one or more separate accounts, in accordance with the terms of a written agreement or a contract on a variable basis, amounts that are paid to the insurer in connection with a pension, retirement, or profit-sharing plan, or in connection with a contract on a variable basis, applied to purchase retirement benefits in fixed or variable dollar amounts, or both, or to provide benefits in accordance with a contract on a variable basis. The investments and liabilities of the account must, at all times, be clearly identifiable and distinguishable from the insurer's other investments and liabilities.)

MCL 500.8134 et al.

Legislative Analyst: P. Affholter

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.