



**House  
Legislative  
Analysis  
Section**

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**IMPAIRED/INSOLVENT INSURERS**

**House Bill 4939 with committee amendments**  
**First Analysis (10-23-89)**

**RECEIVED**

**NOV 16 1989**

**Sponsor: Rep. Mary C. Brown**  
**Committee: Insurance**

Mich. State Law Library

***THE APPARENT PROBLEM:***

The National Association of Insurance Commissioners (NAIC) has developed two new model acts for dealing with impaired and insolvent insurers that reflect, officials say, what regulators have learned in the course of applying older model laws. Because insurance companies operate in many states at once and the guaranty funds created in each state need to work together when insurance companies are in financial distress, regulators believe it is important for the states to adopt uniform laws.

***THE CONTENT OF THE BILL:***

The bill would amend the Insurance Code to amend Chapter 77, which deals with the Life and Health Insurance Guaranty Association, and to provide an entirely new Chapter 81 to regulate the supervision, rehabilitation, and liquidation of insurance companies. (Chapter 78, which currently addresses that subject, would be repealed. Chapter 79, which deals with the Property and Casualty Guaranty Association, would not be amended by the bill.) Generally, the bill would make those two chapters conform with two model acts of the National Association of Insurance Commissioners: the Life and Health Insurance Guaranty Association Model Act and the Insurers Supervision, Rehabilitation, and Liquidation Model Act. In general, the acts provide the insurance commissioner with greater flexibility and latitude. For example, the commissioner would have expanded authority to demand a special deposit from an insurance company in an amount the commissioner deems necessary for the protection of the state's policyholders and claimants.

**Chapter 77**

The Life and Health Insurance Guaranty Association, made up of companies authorized to write life and health insurance and related lines in the state, has as its primary aim the protection of policyholders and other interested persons in the event a company is unable to meet its obligations due to impairment or insolvency. The association, when circumstances demand, guarantees or assumes the policies of the company and assures payments of its contractual obligations. (It has other "early warning" duties as well.) The bill would amend the act governing the association in several ways, principally to clarify when coverage is available from the association and when it is not; to alter the system of assessing member insurers; and to specify the conditions under which substitute coverage must be provided and to authorize the issuance of alternative policies. Generally, the guaranty association would only cover the policies and contracts of residents of the state, although non-residents would be covered in special circumstances. (For example, a non-resident would be eligible for coverage if he or she held a policy from a Michigan-domiciled company that had never been authorized in the resident's home state and the resident was not eligible for coverage by the guaranty association in the home state.) Coverage of insurance and annuity

contracts above certain interest rate guarantees would not be provided; and coverage would be limited at certain benefit levels in life and health policies and annuity contracts. For any one life the limits would be: \$300,000 in life insurance death benefits and \$100,000 in net cash surrender and withdrawal values, no matter how many policies were involved; \$100,000 in health insurance benefits; \$100,000 in the present value of annuity benefits; \$100,000 for individuals in unallocated annuity plans (such as 401(k) and 457 plans) and \$5 million for the contract holder, no matter how many contracts are held. The bill would also specify that the following are not covered: self-funded plans, including multiple employee welfare associations (MEWAs); dividends and experience rating credits; reinsurance policies or contracts, unless assumption certificates have been issued; an unallocated annuity contract issued to an employee benefit plan protected by the Federal Pension Benefit Guaranty Corporation.

**Chapter 81**

The stated purpose of the new chapter is "the protection of the interests of insureds, claimants, creditors, and the public with minimum interference with the normal prerogatives of the owners and managers of insurers," by means of the following: early detection of potentially dangerous conditions in an insurer and prompt application of appropriate corrective measures; improved methods for rehabilitating insurers, involving the cooperation and management expertise of the insurance industry; enhanced efficiency and economy of liquidation to minimize legal uncertainty and litigation; equitable apportionment of unavoidable loss; lessening the problems of interstate rehabilitation and liquidation by facilitating cooperation between the states in the liquidation process and by extending the scope of personal jurisdiction over debtors of the insurer outside this state; regulation of the insurance business relating to delinquency procedures and rules on the entire insurance business. Proceedings under the act could be applied to companies doing business (or which have done business) in the state and against whom claims exist or may exist; companies purporting to do business in the state; companies with insureds residing in the state; and all others organized or in the process of organizing with the intent to transact insurance business in the state.

Among many other provisions, the bill would specify the grounds upon which the insurance commissioner could seek a court order for, respectively, the supervision, rehabilitation, and liquidation of an insurance company and the powers and duties of the insurance commissioner as a supervisor, rehabilitator, and liquidator. The bill would also specify in detail how claims against an insurer would be made and settled, and the priority of distribution. Other provisions deal with the duties of agents, the liabilities of reinsurance companies, and relations with those involved in related proceedings in other states.

MCL 500.901 et al.

***FISCAL IMPLICATIONS:***

The Insurance Bureau reports that the bill has no revenue or budgetary implications for the state. (10-17-89)

H.B. 4939 (10-23-89)

## **ARGUMENTS:**

### ***For:***

The bill would put into Michigan's Insurance Code two comprehensive model acts developed by the National Association of Insurance Commissioners aimed at protecting policyholders when insurance companies are impaired or become insolvent. Regulators say the old model acts have been revised based on the experience of regulators in dealing with distressed insurance companies. (The act governing the Life and Health Guaranty Association requires only a few amendments since it was enacted in 1982; the act governing the supervision, rehabilitation, and liquidation of companies would be entirely new and the old act, original with the 1956 code, would be repealed.) Because many states are usually affected when an insurer gets into difficulty, it makes sense for the laws governing distressed insurers to be uniform from state to state and for each state's guaranty association to protect its own state's policyholders. Uniform laws also help in the prevention and early detection of insurance company financial problems, which benefits everyone.

### ***POSITIONS:***

The Insurance Bureau supports the bill. (10-17-89)

The Life and Health Insurance Guaranty Association supports the bill. (10-17-89)