



**House
Legislative
Analysis
Section**

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SUPERVISION OF LIABILITY POOLS

House Bill 5198 as introduced
First Analysis (11-15-89)

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Sponsor: Rep. Mary C. Brown
Committee: Insurance

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THE APPARENT PROBLEM:

Public Act 173 of 1986, among other things, permitted the formation of limited liability pools by business and professional groups, nonprofit organizations, and others if the insurance commissioner determined that liability coverage was not readily available for certain kinds of insureds. Basically, these pools are a kind of small insurance company with a special set of financial regulations and serving a special market. Among the pools currently operating under that act are two that offer liquor liability coverages to bars, bowling alleys, and other liquor retailers subject to the dram shop act. Several amendments have been proposed, based on recommendations of a special task force, that would increase the supervision of these pools by the insurance bureau in order to protect policyholders (and claimants) from the prospect of the pools encountering financial difficulties.

THE CONTENT OF THE BILL:

The bill would amend Chapter 65 of the Insurance Code, which regulates limited liability pools, in the following ways.

- A pool would be required to have its loss reserves certified annually by an actuary approved by the insurance commissioner.
- A pool's rates would have to be submitted to the insurance commissioner for approval prior to use.
- A pool's underwriting rules would have to be put in writing and be submitted to the insurance commissioner prior to use. By underwriting rules, the bill means the written statements, guidelines, or criteria describing the standards under which the pool issues, renews, refuses to renew, or limits coverage for liability insurance.
- A pool could reinsure all or any portion of its potential liability with reinsurers licensed to transact insurance in the state or approved by the insurance commissioner. A pool could not reinsure directly or indirectly any portion of its potential liability with an insurer not authorized to transact insurance in the state without approval of the commissioner.
- A pool would have to maintain a contingency reserve at all times at least equal to two-sevenths of the total premium income for the preceding calendar year, but not less than \$300,000. Currently, pools are required to maintain a contingency reserve of at least one-tenth of premium income (with the \$300,000 minimum).

MCL 500.6512 et al.

FISCAL IMPLICATIONS:

The bill has no revenue or budgetary implications, according to the Insurance Bureau. (11-14-89)

ARGUMENTS:

For:

The bill would improve the supervision of the financial condition of limited liability pools by the Insurance Bureau. An analysis from the bureau says: "Because limited liability

pools may be formed to write the most risky, least predictable types of insurance, because they are small insurers, and because they have very little margin for error, these pools require more supervision than other insurers which have a larger surplus and smaller ratio of premiums written to surplus." Limited liability pools do not have to meet the same financial standards as commercial insurance companies, so it is possible for groups (financially unable to form regular insurance companies) to form them to provide a kind of coverage that otherwise would not be available. Obviously, it is important that they remain solvent, so that the rights of policyholders and claimants are protected. (Limited liability pools are members of the guaranty fund that regular property-casualty insurance companies constitute, and the fund would have to pay claims in case of a pool's insolvency.) The bill's provisions are based on recommendations made by the Governor's Insurance Task Force in 1988.

SUGGESTED AMENDMENT:

The Insurance Bureau has proposed an amendment that would require all insurers, including limited liability pools, to maintain a \$1 million surplus (as insurers authorized after July 21, 1965, must maintain) once their surplus has reached that level. Insurers authorized to transact insurance after 1965 must maintain a \$1 million surplus; those authorized earlier have lower surplus requirements. Limited liability pools must have a surplus of at least \$300,000 currently. The amendment would require pre-1965 insurers and limited liability pools that have surpluses of \$1 million or more to keep their surpluses at least at that level. (The bureau reports that one pre-1965 insurer whose surplus had exceeded \$1 million but began falling when it got into financial trouble was able to put off bureau demands that its surplus be maintained by pointing to the lower statutory requirement. Reportedly, the company later became insolvent.)

POSITIONS:

The Insurance Bureau supports the bill. (11-14-89)

H.B. 5198 (11-15-89)