

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4251-02  
Bill No.: HCS for HB 1253  
Subject: Banks and Financial Institutions; Insurance - General; Insurance Dept.  
Type: Original  
Date: March 16, 2004

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 4 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Office of State Courts Administrator, Department of Economic Development (DED) - Division of Credit Unions, DED - Division of Finance, Office of Prosecution Services, Department of Social Services, and Office of State Public Defender** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Department of Insurance (INS)** state the proposal will have no fiscal impact on the INS, but it would impact how receiverships are handled. Under section 375.246, companies would get credit for reinsurance even though reinsurers might refuse to pay the receiver in certain events. Changes to section 375.1198 would likely work to limit the receiver's right to setoff debts or avoid setoff of debts owed to the estate. Currently reinsurers are class 5 claims. Under the revised language, reinsurers would be getting their money up front without going through the claims priority scheme, leaving fewer funds available to pay claims in classes 1-4.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>

FISCAL IMPACT - Local Government

FY 2005  
(10 Mo.)

FY 2006

FY 2007

\$0

\$0

\$0

FISCAL IMPACT - Small Business

Small businesses could be affected by this proposal if the insurer becomes insolvent.

DESCRIPTION

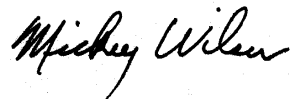
This proposal makes changes to the insurance laws regarding the powers and duties of liquidators, mutual credits, debt set-offs, and credits for reinsurance. The proposal clarifies that an order to liquidate an insurer does not affect the validity of any arbitration clauses in the insurer's existing contracts. The proposal repeals provisions that limit the extent to which an insurer may set off debts in cases of an insurer's liquidation, insolvency, or rehabilitation. The proposal repeals provisions clarifying that the statute supersedes the insurer's contractual terms in determining the setoff rights of any person under contract with the insurer. The proposal also repeals the sunset clause on a provision regarding payment from a reinsurer on the basis of estimated incurred but not reported losses and clarifies that expert testimony concerning these estimates may be received in evidence in any proceeding.

The substitute contains penalty provisions.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of State Courts Administrator  
Department of Economic Development -  
    Division of Finance  
    Division of Credit Unions  
Department of Social Services  
Department of Insurance  
Office of Prosecution Services  
Office of State Public Defender

A handwritten signature in black ink, reading "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
March 16, 2004