COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 5302-01
Bill No.: SB 1135
Subject: Banks and Financial Institutions; Business and Commerce; Insurance - General; Insurance Dept.
Type: Original
Date: March 13, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on General Revenue Fund	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on Other State Funds	**$0**	**$0**	**$0**

Numbers within parentheses: ( ) indicate costs or losses.
This fiscal note contains 8 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Total Estimated Net Effect on All Federal Funds	**$0**	**$0**	**$0**

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government	**$0**	**$0**	**$0**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Economic Development, Joint Committee on Public Employee Retirement, Missouri State Employees' Retirement System,** and **Department of Insurance** assume the proposal will have no fiscal impact on their organizations.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal to the SOS for administrative rules is less than $1,500. The SOS does not expect additional funding would be required to meet these costs. However, the SOS recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with its core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

FISCAL IMPACT - State Government	FY 2007 (10 Mo.)	FY 2008	FY 2009
	$0	**$0**	**$0**

FISCAL IMPACT - Local Government	FY 2007 (10 Mo.)	FY 2008	FY 2009
	$0	**$0**	**$0**

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal modifies various provisions of law relating to insurance company investments.

POLICE AND FIREMEN'S PENSION SYSTEM - This proposal modifies the law with respect to how boards of trustees of police and firemen's pension systems may invest moneys. Under the proposal, the provision of law which stated that a certain life insurance investment restriction did not apply to these types of pensions systems is repealed.

EXEMPTING HEALTH INSURANCE COMPANIES FROM CERTAIN INVESTMENT RESTRICTION STATUTORY PROVISIONS - The proposal provides that a health insurer does not have to annually notify a policyholder of any interest due on a loan taken against an insurance policy. The proposal also provides that the provision of law that forbids insurance companies from trading in goods and other merchandise does not apply to health insurance companies. The proposal provides that certain real estate ownership and restrictions shall not apply to health insurance companies. The proposal explicitly provides that health insurance companies engage in derivative transactions under certain conditions. This proposal exempts health insurance companies from a provision of law that forbids insurance company officers from using funds for private gain. Under current law, capital, reserve and surplus of a domestic insurer may be invested in bonds, notes or other evidences of indebtedness, or preferred or guaranteed stocks if such bonds, notes or other evidences of indebtedness, or preferred or guaranteed stocks or shares, carry at least the second highest designation or quality rating conferred by the Securities Valuation Office of the National Association of Insurance Commissioners. Under this proposal, this provision shall not apply to health insurance companies. Under this proposal, certain foreign government and foreign company investment restrictions shall not apply to health insurance companies. This proposal provides that the "Investments I Medium and Lower Quality Obligations Law" shall not apply to health insurance companies.

INVESTMENTS BY HEALTH AND ACCIDENT INSURERS UNDER CHAPTER 376 - After making the above-mentioned statutory exemptions for health insurers, the proposal institutes a new investment statutory scheme (Sections 376.291 to 376.307). The proposal sets forth what insurers may acquire, hold, or invest in investments or engage in investment practices. Investments not conforming to the provisions of the proposal may not be admitted assets.

DESCRIPTION (continued)

The proposal provides that an insurer's board of directors shall adopt a written plan for acquiring and holding investments and for engaging in investment practices that specifies guidelines as to the quality, maturity, and diversification of investments and that contains other specifications including investment strategies intended to ensure that the investments and investment practices are appropriate for the business conducted by the insurer, its liquidity needs, and its capital and surplus. The proposal sets forth what types of investments are prohibited.

LOANS TO OFFICERS AND DIRECTORS - Under the proposalt, an insurer may not, except under specified circumstances, directly or indirectly, without the prior written approval of the director: 1) make a loan to an officer or director of the insurer or make another investment in a person in which the officer or director has any direct or indirect financial interest; 2) make a guarantee for the benefit of or in favor of an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest; or 3) enter into an agreement for the purchase or sale of property from or to an officer or director of the insurer or a person in which the officer or director has any direct or indirect financial interest. An insurer may, without the prior written approval of the commissioner, make any of the following: (1) Policy loans in accordance with the terms of the policy or contract; (2) Advances to officers or directors for expenses reasonably expected to be incurred in the ordinary course of the insurer's business or guarantees associated with credit or charge cards issued or credit extended for the purpose of financing these expenses; (3) Loans secured by the principal residence of an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request if the loans comply with the requirements of law and the terms and conditions are the same as those generally available from unaffiliated third parties; (4) Loans and advances to officers or directors made in compliance with state or federal law specifically related to the loans and advances by a regulated noninsurance subsidiary or affiliate of the insurer in the ordinary course of business and on terms no more favorable than available to other customers of the entity; and (5) Secured loans to an existing or new officer of the insurer made in connection with the officer's relocation at the insurer's request, if the loans meet certain criteria.

VALUATION OF INVESTMENTS - For the purposes of the proposal, the value or amount of an investment acquired or held under Chapter 376, RSMo, or an investment practice engaged in under this chapter, unless otherwise specified in statute, shall be the value at which assets of an insurer are required to be reported for statutory accounting purposes as determined in accordance with procedures prescribed in published accounting and valuation standards of the NAIC, including the Purposes and Procedures Manual of the Securities Valuation Office, the Valuation of Securities Manual, the Accounting Practices and Procedures Manual, the annual statement instructions, or any successor valuation procedures officially adopted by the NAIC.

DESCRIPTION (continued)

GENERAL THREE PERCENT DIVERSIFICATION -- MEDIUM-GRADE AND LOWER-GRADE INVESTMENTS -- CANADIAN INVESTMENTS - Under this proposal, an insurer may not acquire, directly or indirectly through an investment subsidiary, an investment under this chapter if, as a result of and after giving effect to the investment, the insurer would hold more than 3% of its admitted assets in investments of all kinds issued, assumed, accepted, insured, or guaranteed by a single person. The 3% limitation does not apply to the aggregate amounts insured by a single financial guaranty insurer with the highest generic rating issued by a nationally recognized statistical rating organization. Asset-backed securities are not subject to the limitations. However, an insurer may not acquire an asset-backed security if, as a result of and after giving effect to the investment, the aggregate amount of asset-backed securities that are secured by or evidencing an interest in a single asset or single pool of assets held by a trust or other business entity and that are then held by the insurer would exceed 3% of its admitted assets. The proposal sets forth the conditions for medium and lower grade investments. The proposal also establishes the conditions for Canadian investments.

RATED CREDIT INSTRUMENTS - Subject to certain provisions of law, an insurer may acquire rated credit instruments issued, assumed, insured, or guaranteed by: (1) The United States; or (2) A government-sponsored enterprise of the United States, if the instruments of the government-sponsored enterprise are assumed, guaranteed, or insured by the United States or are otherwise backed or supported by the full faith and credit of the United States; (3) Canada; or (4) A government-sponsored enterprise of Canada, if the instruments of the government-sponsored enterprise are assumed, guaranteed, or insured by Canada or are otherwise backed or supported by the full faith and credit of Canada.

However, an insurer may not acquire an Canadian instrument if, as a result of and after giving effect to the investment, the aggregate amount of investments then held by the insurer would exceed 40% of its admitted assets.

Subject to the certain limitations, an insurer may acquire rated credit instruments, excluding asset-backed securities: (1) Issued by a government money market mutual fund, a class one money market mutual fund, or a class one bond mutual fund; (2) Issued, assumed, insured, or guaranteed by a government-sponsored enterprise of the United States; (3) Issued, assumed, insured, or guaranteed by a state if the instruments are general obligations of the state; or (4) Issued by a multilateral development bank.

An insurer may not acquire special rated credit instruments under this section if, as a result of and after giving effect to the investment, the aggregate amount of special rated credit instruments then held by the insurer would exceed 5% of its admitted assets.

DESCRIPTION (continued)

TANGIBLE PERSONAL PROPERTY - An insurer may acquire tangible personal property or equity interests in tangible personal property located or used wholly or in part within a domestic jurisdiction, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by law, joint ventures, stock of an investment subsidiary, membership interests in a limited liability company, trust certificates, or other similar instruments. Such investments acquired are eligible only if: (1) The property is subject to a lease or other agreement with a person whose rated credit instruments in the amount of the purchase price of the personal property the insurer could then acquire under law; and (2) The lease or other agreement provides the insurer the right to receive rental, purchase, or other fixed payments for the use or purchase of the property and the aggregate value of the payments, together with the estimated residual value of the property at the end of its useful life and the estimated tax benefits to the insurer resulting from ownership of the property, are adequate to return the cost of the insurer's investment in the property, plus a return considered adequate by the insurer.

The insurer shall compute the amount of each investment under this section on the basis of the out-of-pocket purchase price and applicable related expenses paid by the insurer for the investment, net of each borrowing made to finance the purchase price and expenses, to the extent the borrowing is without recourse to the insurer. An insurer may not acquire an investment under this section if, as a result of and after giving effect to the investment, the aggregate amount of all investments then held by the insurer under this section would exceed: (a) 2% of its admitted assets; or (b) 0.5% of its admitted assets as to any single item of tangible personal property.

An insurer may acquire obligations secured by mortgages on real estate situated within a domestic jurisdiction, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by law, joint ventures, stock of an investment subsidiary, membership interests in a limited liability company, trust certificates, or other similar instruments or obligations secured by mortgages on real estate. However, a mortgage loan that is secured by other than a first lien may not be acquired unless the insurer is the holder of the first lien. The obligations held by the insurer and any obligations with an equal lien priority may not, at the time of acquisition of the obligation, exceed certain limitations imposed by the proposal.

An insurer may acquire, manage, and dispose of real estate situated in a domestic jurisdiction, either directly or indirectly through limited partnership interests and general partnership interests not otherwise prohibited by law, joint ventures, stock of an investment subsidiary, membership interests in a limited liability company, trust certificates, or other similar instruments. The real estate must be income-producing or intended for improvement or development for investment purposes under an existing program, in which case the real estate shall be considered to be

DESCRIPTION (continued)

income-producing. An insurer may acquire, manage, and dispose of real estate for the convenient accommodation of the insurer's or the insurer's affiliates' business operations, including home office, branch office, and field office operations.

SECURITIES LENDING - An insurer may enter into securities lending, repurchase, reverse repurchase, and dollar roll transactions with business entities, subject to the following requirements: (1) The insurer's board of directors shall adopt a written plan that is consistent with the requirements of the written plan that specifies guidelines and objectives to be followed; (2) Operational procedures to manage interest rate risk, counterparty default risk, the conditions under which proceeds from reverse repurchase transactions may be used in the ordinary course of business, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction; and (3) The extent to which the insurer may engage in these transactions.

FOREIGN INVESTMENTS AND FOREIGN CURRENCY TRANSACTIONS- The proposal sets forth the conditions in which an insurer may invest in foreign investments or engage in investment practices with persons in foreign jurisdictions. The proposal also authorizes insurers to acquire investments in foreign currencies if certain conditions are met.

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

Department of Economic Development -
Division of Credit Unions
Division of Finance
Department of Insurance
Joint Committee on Public Employee Retirement
Missouri State Employees' Retirement System
Office of Secretary of State

Mickey Wilson

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Director
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