

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1917-03  
Bill No.: SB 535  
Subject: Insurance Department; Insurance - General; Credit and Bankruptcy  
Type: Original  
Date: March 2, 2001

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON STATE FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
<b>Total Estimated Net Effect on <u>All</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 4 pages.

## FISCAL ANALYSIS

### ASSUMPTION

Officials from the **Department of Insurance (INS)** state the proposal would modify current law to correspond with National Association Insurance Commissioners model. INS assume no fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

### FISCAL IMPACT - Small Business

Small insurance companies could expect to be fiscally impacted to the extent they would incur additional administrative costs as a result of the requirements of this proposal.

### DESCRIPTION

This proposal would make various changes to the law regarding regulation or reinsurers and insolvency proceedings regarding insurance companies. This proposal would modify provisions relating to credit for reinsurance when an insurance company is involved in an insolvency proceeding. This provision is modeled after the NAIC Model Law on Credit for Reinsurance. The purpose behind this section is to reinforce Missouri's actions to compel security from alien reinsurers and to enforce state requirements that the claims against insolvent aliens be valued and paid in accordance with Missouri law. The law would be clarified to state that credit would be allowed a domestic ceding insurer when reinsurance is ceded to an insurer licensed in the ceding company's state of domicile "only as respect cession of those kinds of business which the assuming insurer is licensed or otherwise permitted to write or assume in this state". This section would also provide for a Lloyd's transition provision applying to reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date of August 1, 1995 and those with recoverables on direct and reinsurance business on agreements with an inception date

DESCRIPTION (continued)

of July 31, 1995, which are not amended or renewed. Trusts would provide financial statements that would be filed with domestic regulators within 90 days of that filing date. These statements would be a clarification as to the solvency of each underwriter in the group or if that is not available, financial statements prepared by public accountants of each group member. If the assuming insurer in a non-U.S. insurer using a multiple beneficiary trust fund, then the reinsurer would waive certain rights under U.S. Bankruptcy Code. In the reinsurance agreement, the trust fund reinsurer would agree that if its fund is found to be inadequate or the reinsurer is found to be insolvent, the trustee would comply with an order to transfer control of the trust to the commissioner with regulatory oversight. The trustee would agree that the assets would be distributed by, and claims filed with and valued by, the commissioner subject to the laws for liquidation of insurers of the state of oversight. The commissioner with regulatory oversight would, upon a finding of the trust being inadequate, require the trustee to distribute funds in accordance with the trust agreement.

The Director may hire employees to assist him in his duties as rehabilitator but no employee would be hired not be related within the second degree by blood or marriage to the rehabilitator, the special duty rehabilitator, or to any law firm or consulting firm receiving fees from the insurer's assets. The liquidator's employees, legal counsel and other personnel would not be related within the second degree by blood or marriage to the liquidator, special duty liquidator, or any law firm or other persons receiving fees from the insurer's assets. Would require the court to approve rehabilitator's legal actions before the rehabilitator pursues them. The court would consider the costs and benefits of pursuing such a legal action before approving the rehabilitator's legal action. The court would impose conditions on the rehabilitator's pursuit of legal remedies so that the insurer's assets would be conserved. The Attorney General and rehabilitator would agree on whether to appeal a lower court decision releasing a company from rehabilitation. A special deputy would not be anyone who served as a special deputy rehabilitator for the same insurer unless a court determines that such appointment would contribute to conserving the assets of the insurer. Liquidator employees would not be related within the 2nd degree by blood or marriage to the liquidator, nor would employees of law firms and other persons receiving substantial fees from the insurer's assets be related within the 2nd degree to the liquidator. States that payment made to an insured or other creditor would not diminish the reinsurer's obligation to the insurer's estate except where the reinsurance contract specifically provides payment to the named insured in the event of the ceding insurer's insolvency or where the assuming insurer has assumed the ceding insurer's policy obligations.

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 Insurance

A handwritten signature in black ink, appearing to read "Jeanne Jarrett". The signature is written in a cursive style with a large initial "J".

Jeanne Jarrett, CPA  
Director

March 2, 2001