

COMMITTEE STATEMENT

LB 551

HEARING DATE: March 2, 1999

COMMITTEE ON: Banking, Commerce, and Insurance

TITLE: (Landis) Adopt the Interstate Compact Uniform Receivership Act and the Nebraska Insurers Supervision Act

ROLL CALL VOTE – FINAL COMMITTEE ACTION

Advanced to General File

Advanced to General File with Amendments

X Indefinitely Postponed

Vote Results:

8 Yes Senators Landis, Tyson, Aguilar, Bourne, Bruning,
Jensen, Kremer, Schmitt

No

Present, not voting

Absent

PROPOSERS

Senator David Landis

Tim Wagner

Robert Craig

Rhonda Grand

REPRESENTING

Introducer

NE Dept. of Insurance

Lamson, Dugan & Murray

Michigan Life Insurance Co.

OPPOSERS

REPRESENTING

NEUTRAL

REPRESENTING

SUMMARY OF PURPOSE AND/OR CHANGES:

LB 551 (Landis) would enact the Interstate Compact Uniform Receivership Act (sections 1 to 143 of the bill) and the Nebraska Insurers Supervision Act (sections 144 to 151 of the bill) and would outright repeal the Insurers Supervision, Rehabilitation, and Liquidation Act (sections 44-4801 to 44-4862).

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The proposed receivership act portion of the bill would implement the Interstate Insurance Receivership Compact as ratified by Nebraska with enactment of LB 178, Laws 1995.

The proposed supervision act portion of the bill would be a reenactment of only supervision provisions of the current Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act which would be outright repealed by the bill.

The purpose of the compact is to promote joint and cooperative action among the compacting states (currently Nebraska, Illinois, and Michigan) to support, develop, and facilitate orderly, efficient, cost-effective, and uniform insurer receivership laws and operations.

The contents of the bill are as follows (with section numbers of the official text version and corresponding current Nebraska sections shown in parentheses):

RECEIVERSHIP ACT

Title and Purpose

Section 1. Citation of named act: the Interstate Compact Uniform Receivership Act.

Section 2. Interpretation, construction and purpose (section 101).

Section 3. Receivership proceedings to which the receivership act is applicable (section 102).

Section 4. Amendment of uniform law (section 105).

Section 5. Jurisdiction of the court (section 201).

Section 6. Power of the receivership court (section 202).

Section 7. Venue of receivership proceedings and civil proceedings under the receivership act (section 203).

Section 8. Appeals (section 204).

Section 9. Appeal pendency plans (section 205).

Sections 10 to 46. Definitions (section 301).

Section 47. Duty to provide information to the Interstate Compact Commission, other insurance regulators and guaranty associations (section 302).

Section 48. Cooperation of officers, owners and employees (section 303).

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- Section 49. Right to appear and be heard (section 304).
- Section 50. Entities subject to the receivership act (section 401).
- Section 51. Commencement of a receivership proceeding (section 402).
- Section 52. Grounds for entry of a rehabilitation or liquidation order (section 403).
- Section 53. Service of summons and return (section 404).
- Section 54. Automatic stay (section 405).
- Section 55. Answer and hearing (section 406).
- Section 56. Notice of entry of order of rehabilitation or liquidation (section 407).
- Section 57. Contents of notice of receivership (section 408).
- Section 58. Preliminary status hearing (section 409).
- Section 59. Dismissal of receivership proceeding (section 410).
- Section 60. Receivership proceedings for alien insurers (section 411).
- Section 61. Trusteed assets of a U.S. branch of an alien insurer (section 412).
- Section 62. Trust fund claims (section 413).
- Section 63. Limited appearance (section 414).
- Section 64. Advisory committees (section 415).
- Section 65. Ex parte orders of conservation and seizure (section 421).
- Section 66. Confidentiality of hearings (section 422).
- Section 67. Modification of orders of conservation (section 423).
- Section 68. Authority to operate and restructure insurer's business (section 431).
- Section 69. Conversion to liquidation (section 432).

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- Section 70. Order of liquidation (section 441).
- Section 71. Continuation of coverage (section 442).
- Section 72. Appointment of receiver (section 501).
- Section 73. Title to and possession of assets and records (section 502).
- Section 74. Immunity and indemnification of the receiver and employees (section 503).
- Section 75. Employment of professional persons (section 504).
- Section 76. Powers of rehabilitators and liquidators (section 505).
- Section 77. Advances to receiver (section 506).
- Section 78. Executory non-insurance contracts (section 507).
- Section 79. Abandonment of property and records (section 508).
- Section 80. Extension of time (section 509).
- Section 81. Periodic reports (section 510).
- Section 82. Document depository (section 510).
- Section 83. Audit of receivership records (section 512).
- Section 84. General service list (section 521).
- Section 85. Routine matters (section 522).
- Section 86. Matters requiring prior receivership court approval (section 523).
- Section 87. Notice of proposed claims disposition (section 524).
- Section 88. Turnover of property to the receiver (section 601).
- Section 89. Turnover of premiums owed (section 602).
- Section 90. Limitation on avoiding powers (section 603).

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Section 91. Receiver as lien creditor and as successor to certain creditors, purchasers, and fiduciaries (section 604).

Section 92. Preferences (section 605).

Section 93. Fraudulent transfers and obligations (section 606).

Section 94. Transfer of insurer's property to good faith purchaser (section 607).

Section 95. Recoupment from affiliates (section 608).

Section 96. Liability of transferee of an avoided transfer (section 609).

Section 97. Automatic preservation of avoided transfer (section 610).

Section 98. Setoff (section 611).

Section 99. Qualified financial contracts (section 612).

Section 100. Recovery from reinsurers (section 613).

Section 101. Property and casualty cut-through provisions (section 614).

Section 102. Life and health reinsurance (section 615).

Section 103. Rights and liabilities of creditors fixed upon liquidation (section 701).

Section 104. Claims filing; Late filing (section 702).

Section 105. Proof of claim (section 703).

Section 106. Allowance of claims (section 704).

Section 107. Allowance of contingent and unliquidated claims (section 705).

Section 108. Reserve for third party claims against insured (section 706).

Section 109. Allowance of secured claims (section 707).

Section 110. Preliminary notice of claims determination (section 708).

Section 111. Claims of codebtors (section 709).

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- Section 112. Approval of agreed claims (section 710).
- Section 113. Denial of claim (section 711).
- Section 114. Claim by creditor in receipt of voidable transfer (section 712).
- Section 115. Priority of distribution (section 713).
- Section 116. Domiciliary liquidator's proposal for early access disbursements to property and casualty guaranty associations (section 714).
- Section 117. Who may file a plan (section 801).
- Section 118. Contents of a plan (section 802).
- Section 119. Receivership court approval of plan (section 803).
- Section 120. Effect of court approval of plan (section 804).
- Section 121. Partial and final distributions and dividends (section 805).
- Section 122. Transfer of assets and liabilities to liquidating trust (section 806).
- Section 123. Collateralization of case reserves and incurred but not reported losses (section 807).
- Section 124. Commutations (section 808).
- Section 125. Mandatory negotiation and arbitration (section 809).
- Section 126. Reinsurance recoverable trust provisions (section 810).
- Section 127. Liquidating trust provisions (section 811).
- Section 128. Unclaimed and undistributed funds (section 901).
- Section 129. Termination of receivership proceedings and discharge of receiver (section 902).
- Section 130. Petition to reopen proceedings (section 903).
- Section 131. Ancillary receivership proceedings (section 1001).

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Section 132. Filing and proving of claims of non-resident against domiciliary insurers (sections 1002).

Section 133. Proof of claims of residents in connection with receivership proceedings in other non-compacting states (section 1003).

Section 134. Priority of preferred claims (section 1004).

Section 135. Priority of special deposit claims (section 1005).

Section 136. Priority of secured claims (section 1006).

Section 137. Right of domiciliary receiver to residuum of assets of insurers domiciled in non-compacting ancillary states (section 1007).

Section 138. Attachment and garnishment of assets (section 1008).

Section 139. Declaration of purpose (section 1009).

Section 140. Uniformity of interpretation (section 1010).

Section 141. Cooperation with the commission and among compacting states (section 1101).

Section 142. Interstate enforcement of receivership order (section 1102).

Section 143. Proceeding commenced before effective date.

SUPERVISION ACT

Section 144. Citation of named act: the Nebraska Insurers Supervision Act (based on section 44-4862).

Section 145. Purpose of supervision act (based on section 44-4801).

Section 146. Definitions (based on section 44-4803).

Section 147. Applicability of Supervision Act (based on section 44-4802).

Section 148. Cooperation of officers, owners, and employees (based on section 44-4806).

Section 149. Director's orders; supervision proceedings; hearings; violation; civil penalty; court orders (based on section 44-4809).

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Section 150. Placement of insurer in rehabilitation or liquidation regardless of whether proceeding initiated under supervision act.

Section 151. Continuation of proceedings under prior law (based on section 44-4860).

Section 152. Rules and regulations (based on section 44-4862).

Section 153 to 184. Amendments to various sections in Chapters 25 and 44 to harmonize internal references.

Section 185. Severability.

Section 186. Repealer of amended sections.

Section 187. Outright repeal of Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act.

EXPLANATION OF AMENDMENTS, IF ANY:

Senator David Landis