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Bill Analysis
Legislative Service Commission

Am. Sub. S.B. 279*
126th General Assembly
(As Reported by H. Insurance)

Sens. Stivers, Cates, Spada, Armbruster, Goodman, Mumper, Wachtmann

Reps. G. Smith, Daniels, Evans, Faber, Gibbs, T. Patton, Raussen, Wolpert

BILL SUMMARY

- Specifies that all claims filed with the Ohio Insurance Guaranty Association, which covers claims filed against insolvent insurers, and arising out of bodily injury or death to any one person constitute a single claim for purposes of claims exceeding \$300,000, which currently are excluded from the definition of "covered claim."
- Excludes from the definition of "covered claim" a claim due an insured whose net worth exceeds \$50 million, except in specified cases concerning the insured's insolvency.
- Narrows the exemption under the Guaranty Association Law for reciprocal or interinsurance exchange contracts.

CONTENT AND OPERATION

"Covered claim" under the Ohio Insurance Guaranty Association

The Ohio Insurance Guaranty Act, under which was created the Ohio Insurance Guaranty Association, was enacted with a stated purpose to (1) provide a mechanism for the payment of "covered claims" under certain insurance policies (that were issued by an insolvent insurer), (2) avoid excessive delay in payment and reduce financial loss to claimants or policyholders because of the insolvency of an insurer, (3) assist in the detection and prevention of insurer insolvencies, and (4) provide an association to assess the cost of such protection among insurers. A

* This analysis was prepared before the report of the House Insurance Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

"covered claim" is an unpaid claim, including one for unearned premiums, that arises out of and is within the coverage of an insurance policy issued by an insurer that becomes insolvent. To be considered a "covered claim," the claimant or insured must be a resident of this state at the time of the event that resulted in the claim or the claim must be a first-party claim for property damage to an insured's property that is permanently located in this state. (R.C. 3955.01 and 3955.03, not in the bill.)

Under existing law, several types of claims are excluded from the definition of "covered claim." Among the types of claims excluded are claims for an amount in excess of \$300,000. The bill specifies that, for purposes of this exclusion, all claims arising out of bodily injury or death to any one person constitute a single claim regardless of the number of insurance policies issued or the number of derivative claims made, including, but not limited to, claims for survivorship, for loss of consortium, for injury to the relationship, or arising out of wrongful death. (R.C. 3955.01.)

Existing law permits the Association to recover the amount of any covered claim paid to or on behalf of an insured whose net worth exceeds \$50 million on the last day of the insured's fiscal year next preceding the date the insurer becomes an insolvent insurer. The bill removes this provision and in its place excludes from the definition of "covered claim" any claim due under a policy of insurance issued to such an insured. Under the bill, an insured's net worth equals the aggregate of the net worth of the insured and all of the insured's subsidiaries. The bill defines "net worth" to mean the amount by which the value of all assets exceeds all liabilities and includes, but is not limited to, such accounting terms as owners equity, partnership equity, shareholders equity, net assets, and fund balances.

Under the bill, the exclusion for the above-described insured does not apply if (1) the insured has applied for or consented to the appointment of a receiver, trustee, or liquidator for all or a substantial part of the insured's assets, (2) the insured has filed a voluntary petition in bankruptcy, (3) the insured has filed a petition or answer seeking a reorganization or arrangement with creditors or seeking to take advantage of any insolvency law, or (4) a court of competent jurisdiction has entered an order, judgment, or decree concerning the insured's bankruptcy, insolvency, or reorganization petition. (*Id.*)

Exemptions

Under current law, the Ohio Insurance Guaranty Association Law does not apply to any of the following: (1) title insurance, (2) fidelity or surety bonds or other bonding obligations, (3) insurance protecting the interests of a creditor arising out of a creditor-debtor transaction, (4) mortgage guaranty, financial

guaranty, residual value, or other forms of insurance protecting against investment risk, (5) ocean marine insurance, (6) any insurance provided by or guaranteed by the government, (7) contracts of any corporation by which health services are provided to its subscribers, (8) life, annuity, health, or disability insurance, (9) fraternal benefit insurance, (10) mutual protective insurance of persons or property, (11) reciprocal or interinsurance contracts for medical malpractice insurance, (12) self-insurance provided by a political subdivision or joint political subdivision, (13) warranty or service contracts or insurance of those contracts, (14) state or university self-insurance programs, (15) transactions involving insurers and the transfer of investment or credit risk unaccompanied by a transfer of insurance risk, (16) credit union share guaranty insurance, (17) insurance issued by risk retention groups, or (18) workers' compensation insurance. (R.C. 3955.05.)

The bill narrows the existing exemption for reciprocal or interinsurance contracts, by limiting the exemption to only those reciprocal or interinsurance contracts for medical malpractice where the reciprocal or interinsurance exchange is not subject to the risk-based capital requirements in effect in the state of domicile of the reciprocal or interinsurance exchange. (*Id.*)

HISTORY

ACTION	DATE
Introduced	03-02-06
Reported, S. Insurance, Commerce, & Labor	05-17-06
Passed Senate (24-8)	05-17-06
Reported, H. Insurance	---

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