

**SENATE BILL REPORT**

**SB 5172**

**AS PASSED SENATE, MARCH 8, 1993**

**Brief Description:** Requiring notifications from impaired insurers.

**SPONSORS:** Senators Wojahn, Moore, Fraser, Prentice and Pelz

**SENATE COMMITTEE ON LABOR & COMMERCE**

**Majority Report:** Do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Amondson, Cantu, Fraser, McAuliffe, Newhouse, Prince, Sutherland, and Vognild.

**Staff:** Benson Porter (786-7470)

**Hearing Dates:** January 29, 1993; February 10, 1993

**BACKGROUND:**

The National Association of Insurance Commissioners has adopted a model state law requiring an insurer's officers and directors to report to the commissioner when the insurer becomes financially impaired. Currently, four states -- Maryland, Ohio, Rhode Island, and West Virginia -- have adopted laws imposing such requirements and criminal penalties for noncompliance.

**SUMMARY:**

Duties and penalties relating to the financial impairment of an insurer are imposed upon various persons.

The chief executive officer is required to notify the Insurance Commissioner and the insurer's board if the insurer becomes financially impaired. Such notice must be given in writing within 15 days after the person knows or has reason to know of the impairment. In addition, an officer, director, or trustee must notify the chief executive officer upon gaining knowledge or reason to know of the impairment. A person violating one of these requirements is guilty of a felony punishable by a fine up to \$50,000, imprisonment up to one year, or both.

No person may knowingly conceal the insurer's or the person's property, mutilate or alter documents relating to property of the insurer, or receive consideration for an act that contributes to an insurer's impairment or insolvency. A person violating these prohibitions is guilty of a class C felony punishable by imprisonment up to five years, a fine up to \$5,000, or both.

The term "financial impairment" is defined to mean the financial situation where the insurer's assets are less than the sum of the insurer's liabilities and minimum required capital and surplus.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** none requested

**TESTIMONY FOR:**

Early notice to the Insurance Commissioner's Office will facilitate proper regulatory oversight.

**TESTIMONY AGAINST:**

The imposition of criminal penalties may be an excessive enforcement mechanism.

**TESTIFIED:** Basil Badley, AIA, ACCI HIAA; Melodie Bankers, Insurance Commissioner's Office (pro)