

NO FISCAL IMPACT

Drafting Number: LLS 14-0754
Prime Sponsor(s): Rep. Ginal
Sen. Tochtrop

Date: February 12, 2014
Bill Status: House Business, Labor, Economic,
and Workforce Development
Fiscal Analyst: Bill Zepernick (303-866-4777)

SHORT TITLE: FED HOME LOAN BANK RIGHTS IN COLLATERAL OF INSURER

Summary of Legislation

The bill prohibits a receiver or liquidator of an insolvent insurer from avoiding obligations to a federal home loan bank with regard to collateral under a security agreement. Any transfer of, or obligation to transfer, money or other property in such agreements involving a federal home loan bank must be honored, except if the transfer is made with actual intent to hinder, delay, or defraud existing or future creditors.

Background

When a Colorado-based insurer becomes insolvent, the Commissioner of Insurance in the Department of Regulatory Agencies acts as the receiver for the insurer. Depending on the type of insurance product, either the Colorado Insurance Guaranty Association (COIGA) or the Life and Health Insurance Protection Association (LHIPA), statutorily created nonprofit entities, are responsible for paying policyholder claims on behalf of insolvent insurers. These guaranty associations are funded through assessments on insurers.

When an insurer is in receivership, the Commissioner of Insurance may seek to rehabilitate the insurer if reform and revitalization of the insurer is possible, or liquidate the insurer if continued operations would not be financially sound. If the insurer must be liquidated, the Commissioner of Insurance may act as or appoint a liquidator to oversee disposition of the insurer's assets. The receivership, rehabilitation, and liquidation of insolvent insurers is subject to oversight in state court.

Assessment

The bill is not expected to increase costs or workload for any state agency, the courts, or the insurance guaranty associations. The bill adds federal home loan banks as a preferred class of secured creditor during the rehabilitation or liquidation of an insolvent insurer. This may affect the distribution of assets among creditors, but is not expected to impact costs or workload associated with the rehabilitation or liquidation process for the Division of Insurance or the courts.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Regulatory Agencies

Judicial

Guaranty Associations