The Policyholder Protection Act (S. 798/H.R. 1478)

- State insurance regulators urge passage of this common sense legislation to preserve our ability to protect consumers within complex financial firms so that policyholder dollars necessary to pay claims for a damaged home or a deceased bread winner are not jeopardized by complex bets, risk taking, or poor management elsewhere within the firm.

- Consistent with existing federal law governing Bank Holding Companies, this legislation creates a level playing field and ensures that such authorities would also apply to insurers organized as Savings and Loan Holding Companies.

- This legislation also clarifies insurance regulators’ authority to protect policyholders during resolution of an insurance company regardless of the company’s structure.

Background

The Policyholder Protection Act of 2015 clarifies three critical insurance consumer protections:

- State regulators have long-standing authority to wall off insurance company assets designated for the benefit of policyholders. These authorities clearly apply to insurers in bank holding company systems and those purely organized under state law, but the law governing savings and loan holding companies does not contain the same procedural protections. This bill will clarify that the same set of rules applies across insurer organizational structures.

- State regulators have long-standing authority to liquidate or rehabilitate troubled insurance companies. In certain circumstances and in the event a state insurance regulator does not act, the FDIC has back-up authority. This bill will protect policyholders by correcting a technical drafting error through the addition of rehabilitation as an option for the FDIC’s back-up authority and preserve the intended deference to states to choose the resolution process most appropriate to maximize recoveries for insurance consumers.

- State regulators have long-standing authority to protect policyholder assets from contagion emanating from an affiliate through their authorities to approve material transactions and to protect policyholders in resolution proceedings. This bill will ensure that the assets of an insurance company will not be subject to liens unless insurance regulators are comfortable that the lien will not impact the company’s ability to pay claims.

Key Points

- State regulators set strong capital and reserving requirements and review insurers’ material transactions that could impact the ability of companies to pay out policyholder claims.

- Given the potential impact on policyholders, insurers should not serve as a source of financial strength to troubled banks or other affiliates without insurance regulatory approval. Bank regulators already have existing safeguards for depositors and capital requirements to prevent banks from becoming troubled in the first place.

- The FDIC’s back-up authority should be tailored to match that of the insurance regulator under state law to ensure that policyholders are protected.

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