HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 699 Reciprocal Insurers
SPONSOR(S): Grant
TIED BILLS: **IDEN./SIM. BILLS:** SB 812

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	9 Y, 0 N	Peterson	Luczynski
2) Regulatory Affairs Committee	15 Y, 0 N	Peterson	Hamon

SUMMARY ANALYSIS

A reciprocal insurance company is an unincorporated group of participants, known as subscribers, who share risk equally through a person who is authorized to perform transactions on behalf of the subscribers. In effect, subscribers serve as both the insurer and the insured. Reciprocal insurers can transact any kind of insurance other than life or title.

Under current law, a reciprocal insurer can return to its subscribers any unused premiums, savings, or credits accruing to their accounts. Such distributions cannot unfairly discriminate between classes of risks, or policies, or between subscribers, but may vary as to classes of subscribers based on the experience of such classes. Currently, if a reciprocal insurer wants to make a distribution of surplus to its subscribers, it must establish and maintain subscriber savings accounts.

Under current Florida law, a domestic reciprocal insurer who does not maintain subscriber savings accounts does not have explicit authority to make distributions of surplus to its subscribers.

The bill provides a domestic reciprocal insurer with an additional method by which it can return surplus funds to its subscribers without the requirement to maintain subscriber savings accounts. The bill gives a domestic reciprocal insurer the option of paying to its subscribers up to ten percent of its unassigned funds (surplus), capping distribution at fifty percent of its net income from the previous calendar year. The bill requires the Office of Insurance Regulation (OIR) to approve in writing such distributions. Further, the distributions cannot unfairly discriminate between classes of risks, or policies, or between subscribers, but may vary as to classes of subscribers based on the experience of such classes. The bill gives a domestic reciprocal insurer the option to return surplus funds to its subscribers without the administrative costs associated with subscriber savings accounts.

The bill does not appear to have a fiscal impact on state government or local governments. The bill may have a positive economic impact on the private sector.

This bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background Information on Reciprocal Insurance

Reciprocal insurance is a risk-pooling alternative to stock or mutual insurance.[1] Reciprocal insurance involves an exchange of reciprocal agreements of indemnity among participants who are known as "subscribers."[2] The subscribers generally have something in common; for example, USAA is a well-known reciprocal insurer for U.S. military service members and their families.[3]

The agreements of indemnity are exchanged through an attorney-in-fact, whose powers are set forth by the subscribers.[4] "In general, the attorney in fact manages the reciprocal's finances and handles underwriting, claims administration and investments."[5]

Twenty-five or more persons domiciled in Florida may organize a domestic reciprocal insurer and apply to the OIR for authority to transact insurance.[6] Reciprocal insurers may transact any kind of insurance other than life or title.[7]

Current Situation

Under Florida law, reciprocal insurers must have and maintain surplus funds of at least $250,000 and an expendable surplus of at least $750,000.[8] Currently, a reciprocal insurer can return to its subscribers any unused premiums, savings, or credits accruing to the subscribers' accounts.[9] Any such distribution cannot unfairly discriminate between classes of risks, or policies, or between subscribers, but such distribution may vary as to classes of subscribers based on the experience of such classes.[10] If a reciprocal insurer wants to make a distribution to its subscribers, it must establish and maintain subscriber savings accounts.[11,12]

In practice, not all domestic reciprocal insurers[13] maintain subscriber savings accounts; these accounts can be expensive for smaller-sized reciprocal insurers to maintain.[14] However, current Florida law does not provide a domestic reciprocal insurer who does not maintain subscriber savings accounts with explicit authority to return surplus to its subscribers.

Effect of Bill

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[1] *See* Kevin Moriarty, *Twenty Things You'd Always Wanted to Know about Reciprocals (But May Not Have Thought to Ask)*, THE RISK RETENTION REPORTER, July 2003.
[2] ss. 629.011 and 629.021, F.S.
[3] *See* USAA, https://www.usaa.com (last visited Nov. 25, 2015).
[4] ss. 629.011 and 629.101, F.S.
[5] *See* Kevin Moriarty, *Twenty Things You'd Always Wanted to Know about Reciprocals (But May Not Have Thought to Ask)*, THE RISK RETENTION REPORTER, July 2003.
[6] s. 629.081(1), F.S.
[7] s. 629.041(1), F.S.
[8] s. 629.071, F.S.
[9] s. 629.271, F.S.
[10] s. 629.271, F.S.
[11] E-mail from Caitlin Murray, Director of Government Affairs, Florida Office of Insurance Regulation, 699 (Nov. 30, 2015) (on file with the House Insurance & Banking Subcommittee).
[12] "Subscriber savings account" as used in this context refers to an accounting methodology and not to an account at a financial institution. Conversation with Lee Roddenberry, Brennan Law Office PA (Nov. 30, 2015).
[13] A domestic reciprocal insurer is a reciprocal insurer formed under Florida law. s. 624.06(1), F.S.
[14] Information obtained from Star & Shield Insurance Exchange, 11/24/15 (e-mail communication on file with the House Insurance & Banking Subcommittee).

The bill adds a subsection to s. 629.271, F.S., providing a domestic reciprocal insurer with another method by which it can make distributions to its subscribers without the requirement to maintain subscriber savings accounts. The proposed language allows a domestic reciprocal insurer to pay to its subscribers up to ten percent of its unassigned funds (surplus), capping distribution at fifty percent of its net income from the previous calendar year. Such distribution would require written approval from the OIR and may not unfairly discriminate between classes of risks, or policies, or between subscribers, but may vary as to classes of subscribers based on the experience of such classes.

The alternate method for distribution provided by this bill gives a domestic reciprocal insurer the option to return surplus funds to the subscribers without the administrative costs associated with subscriber savings accounts.[15]

This bill also makes technical changes to the language of s. 629.271, F.S.

B. SECTION DIRECTORY:

Section 1: amends s. 629.271, F.S., relating to distribution of savings.

Section 2: provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that domestic reciprocal insurers who do not maintain subscriber savings accounts would now have the option to make distributions of surplus to its subscribers, there may be a positive economic impact on those subscribers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

[15] Information obtained from Star & Shield Insurance Exchange, 11/24/15 (e-mail communication on file with House Insurance & Banking Subcommittee).

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.