BILL ANALYSIS

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S.B. 1006
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Policyholder dividends are refunds of insurance premiums that insurers pay to policyholders. Pursuant to Chapter 403 (Dividends) and Chapter 1806 (Prohibited Practices and Rebates Related to Policies), Insurance Code, the Texas Department of Insurance (TDI) must approve all policyholder dividends by formal order before the insurers are permitted to pay the amount, regardless of the amount of the distribution in proportion to the overall financial condition of the company. TDI reports that recently, most policyholder dividend filings received are minimal, when compared to the overall financial condition of most companies.

This process requires TDI to review the payment of dividends by an insurer to make certain that they will not cause the insurer to be in a hazardous financial condition. TDI is then required to formally approve the dividends, which is done through issuing an official commissioner of insurance's (commissioner) order. This can take time as TDI's staff must draft, refine, and administratively process official commissioner's orders. TDI estimates that the regulatory review takes only a few days; however, because of the formal approval requirement, the entire process typically takes 20 to 30 days or longer.

S.B. 1006 retains a formal approval process requirement for large dividends, which the bill defines as dividends that exceed 10 percent of the insurer’s surplus funds. However, S.B. 1006 implements an informal approval process for all other dividends, which allows them to be paid five days after giving notice to TDI. S.B. 1006 also clarifies that the current restriction on paying dividends from an insurer’s earned surplus applies only to shareholder dividends, that is, dividends paid to the owner of an insurer. This clarification codifies TDI’s existing agency practice. S.B. 1006 enhances the efficiency of TDI's approval process, shortens the time frame for regulatory filings by insurers, and expedites premium refunds to policyholders.

As proposed, S.B. 1006 amends current law relating to requirements regarding certain shareholder and policyholder dividends.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 403.001, Insurance Code, to prohibit an insurer organized under the laws of this state, including a life, health, fire, marine, or inland marine insurance company, from paying a shareholder dividend except from surplus profits arising from the insurer's business.

SECTION 2. Amends Sections 1806.056(a), (b), and (c), Insurance Code, as follows:

> (a) Provides that this subchapter does not prohibit an insurer, rather than an insurer on approval by the commissioner of insurance (commissioner), from distributing to policyholders who are on active duty in the United States Armed Forces any estimated profits resulting from service by those policyholders in a foreign country in a combat theater of operations after January 1, 1990.

(b) Requires an insurer that elects to make distributions under this section to file a written application describing the insurer's distribution with the commissioner for approval of a policyholder dividend amount that exceeds 10 percent of surplus, or, notify the commissioner in writing of each distribution of a policyholder dividend amount that is not greater than 10 percent of surplus, rather than authorizing the insurer to file a written description of the insurer's distribution program with the commissioner for approval and notify the commissioner in writing of each distribution made under the program.

(c) Provides that if the commissioner does not act on the application on or before the fifth business day after the date the commissioner receives the application the distribution is considered approved, rather than providing that if the commissioner does not act on the insurer's distribution program on or before the fifth business day after the date the commissioner receives the insurer's description of the program, the distribution program is considered approved.

SECTION 3. Amends Section 1806.057, Insurance Code, as follows:

Sec. 1806.057. PROFIT SHARING WITH MEMBERS OF CERTAIN ASSOCIATIONS AUTHORIZED. (a) Provides that Section 1806.054 does not prohibit an insurer, rather than does not prohibit an insurer, on approval by the commissioner, from sharing profits with policyholders who are part of a group program established by a nonprofit business association and who participate in the group program because of membership in the association.

(b)-(c) Makes conforming changes.

SECTION 4. Amends Section 1806.058, Insurance Code, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Requires an insurer to obtain commissioner approval before distributing a policyholder dividend if the dividend amount exceeds 10 percent of surplus. Prohibits the commissioner from approving a distribution of profits or dividends until the insurer has adequate reserves, rather than has provided adequate reserves. Deletes existing text prohibiting a distribution of profits or dividends to insureds from taking effect or being paid until the commissioner approves the distribution.

(c) Requires the insurer to notify the commissioner in writing of each distribution if the insurer's policyholder dividend amount is not greater than 10 percent of surplus.

SECTION 5. Amends Section 1806.105, Insurance Code, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Prohibits a distribution of profits or dividends to an insured from taking effect or being distributed until the insurer has adequate reserves, rather than until adequate reserves are provided, as computed on the same basis for all classes of insurers to which this subchapter applies and if the policyholder dividend amount exceeds 10 percent of surplus, the commissioner approves the distribution.

(d) Requires the insurer to notify the commissioner in writing of each distribution if the insurer's policyholder dividend amount is not greater than 10 percent of surplus.

SECTION 6. Amends Section 1806.106, Insurance Code, as follows:

Sec. 1806.106. PROFIT SHARING WITH CERTAIN ASSOCIATIONS AUTHORIZED. (a) Provides that this subchapter does not prohibit an insurer, rather than does not prohibit an insurer, on approval by the commissioner, from sharing profits with policyholders who are part of a group program established by a nonprofit business association and who participate in the group program because of membership in the association.

(b)-(c) Makes conforming changes.

SECTION 7. Amends Section 2052.004, Insurance Code, by amending Subsections (b) and (c) and adding Subsection (d), as follows:

(b) Provides that a policyholder dividend under a workers' compensation insurance policy is required to be approved, rather than does not take effect until approved, by the Texas Department of Insurance (TDI) if the insurer's policyholder dividend amount exceeds 10 percent of surplus and is prohibited from being approved by TDI until the insurance company has adequate reserves, rather than provides adequate reserves.

(c) Requires that reserves, for purposes of Subsection (b), be computed on the same basis for all classes of insurance companies operating under this subtitle and Section 2051.002 (Construction of Certain Laws), rather than this subtitle and Article 5.66.

(d) Requires an insurer to notify TDI in writing of a distribution if the insurer's policyholder dividend amount is not greater than 10 percent of surplus.

SECTION 8. Effective date: upon passage September 1, 2013.