

By: Carona  
(Sheets)

S.B. No. 1006

A BILL TO BE ENTITLED

AN ACT

relating to requirements regarding certain shareholder and policyholder dividends.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 403.001, Insurance Code, is amended to read as follows:

Sec. 403.001. LIMITATION ON DIVIDENDS. An insurer organized under the laws of this state, including a life, health, fire, marine, or inland marine insurance company, may not pay a shareholder dividend except from surplus profits arising from the insurer's business.

SECTION 2. Subsections (a), (b), and (c), Section 1806.056, Insurance Code, are amended to read as follows:

(a) This subchapter does not prohibit an insurer [~~on approval by the 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) An insurer that elects to make distributions under this section must:

(1) file a written application describing [~~description of~~] the insurer's distribution [~~program~~] with the commissioner for approval of a policyholder dividend amount that

1 exceeds 10 percent of surplus; or [and]

2 (2) notify the commissioner in writing of each  
3 distribution of a policyholder dividend amount that is not greater  
4 than 10 percent of surplus [made under the program].

5 (c) If the commissioner does not act on the application  
6 [insurer's distribution program] on or before the fifth business  
7 day after the date the commissioner receives the application  
8 [insurer's description of the program], the distribution [program]  
9 is considered approved.

10 SECTION 3. Section 1806.057, Insurance Code, is amended to  
11 read as follows:

12 Sec. 1806.057. PROFIT SHARING WITH MEMBERS OF CERTAIN  
13 ASSOCIATIONS AUTHORIZED. (a) Section 1806.054 does not prohibit  
14 an insurer [, on approval by the commissioner,] from sharing profits  
15 with policyholders who are part of a group program established by a  
16 nonprofit business association and who participate in the group  
17 program because of membership in the association.

18 (b) An insurer that elects to make distributions under this  
19 section must:

20 (1) file a written application describing  
21 [description of] the insurer's distribution [program] with the  
22 commissioner for approval of a policyholder dividend amount that  
23 exceeds 10 percent of surplus; or [and]

24 (2) notify the commissioner in writing of each  
25 distribution of a policyholder dividend amount that is not greater  
26 than 10 percent of surplus [made under the program].

27 (c) If the commissioner does not act on the application

1 ~~[insurer's distribution program]~~ on or before the fifth business  
2 day after the date the commissioner receives the application  
3 ~~[insurer's description of the program]~~, the distribution ~~[program]~~  
4 is considered approved.

5 SECTION 4. Section 1806.058, Insurance Code, is amended by  
6 amending Subsection (b) and adding Subsection (c) to read as  
7 follows:

8 (b) An insurer must obtain commissioner approval before  
9 distributing a policyholder dividend if the dividend amount exceeds  
10 10 percent of surplus ~~[A distribution of profits or dividends to~~  
11 ~~insureds may not take effect or be paid until the commissioner~~  
12 ~~approves the distribution]~~. The commissioner may not approve a  
13 distribution of profits or dividends until the insurer has  
14 ~~[provided]~~ adequate reserves. The reserves must be computed on the  
15 same basis for all classes of insurers operating under this  
16 subchapter, Subtitle C, and Subchapter A, Chapter 5.

17 (c) The insurer must notify the commissioner in writing of  
18 each distribution if the insurer's policyholder dividend amount is  
19 not greater than 10 percent of surplus.

20 SECTION 5. Section 1806.105, Insurance Code, is amended by  
21 amending Subsection (c) and adding Subsection (d) to read as  
22 follows:

23 (c) A distribution of profits or dividends to an insured may  
24 not take effect or be distributed until:

25 (1) the insurer has adequate reserves ~~[are provided]~~,  
26 as computed on the same basis for all classes of insurers to which  
27 this subchapter applies; and

1           (2) if the policyholder dividend amount exceeds 10  
2 percent of surplus, the commissioner approves the distribution.

3           (d) The insurer must notify the commissioner in writing of  
4 each distribution if the insurer's policyholder dividend amount is  
5 not greater than 10 percent of surplus.

6           SECTION 6. Section 1806.106, Insurance Code, is amended to  
7 read as follows:

8           Sec. 1806.106. PROFIT SHARING WITH CERTAIN ASSOCIATIONS  
9 AUTHORIZED. (a) This subchapter does not prohibit an insurer [~~on~~  
10 ~~approval by the commissioner,~~] from sharing profits with  
11 policyholders who are part of a group program established by a  
12 nonprofit business association and who participate in the group  
13 program because of membership in the association.

14           (b) An insurer that elects to make distributions under this  
15 section must:

16           (1) file a written application describing  
17 [~~description of~~] the insurer's distribution [~~program~~] with the  
18 commissioner for approval of a policyholder dividend amount that  
19 exceeds 10 percent of surplus; or [~~and~~]

20           (2) notify the commissioner in writing of each  
21 distribution of a policyholder dividend amount that is not greater  
22 than 10 percent of surplus [~~made under the program~~].

23           (c) If the commissioner does not act on the application  
24 [~~insurer's distribution program~~] on or before the fifth business  
25 day after the date the commissioner receives the application  
26 [~~insurer's description of the program~~], the distribution [~~program~~]  
27 is considered approved.

1 SECTION 7. Section 2052.004, Insurance Code, is amended by  
2 amending Subsections (b) and (c) and adding Subsection (d) to read  
3 as follows:

4 (b) A policyholder dividend under a workers' compensation  
5 insurance policy:

6 (1) must be [~~does not take effect until~~] approved by  
7 the department if the insurer's policyholder dividend amount  
8 exceeds 10 percent of surplus; and

9 (2) may not be approved by the department until the  
10 insurance company has [~~provides~~] adequate reserves.

11 (c) For purposes of Subsection (b), reserves must be  
12 computed on the same basis for all classes of insurance companies  
13 operating under this subtitle and Section 2051.002 [~~Article 5.66~~].

14 (d) An insurer must notify the department in writing of a  
15 distribution if the insurer's policyholder dividend amount is not  
16 greater than 10 percent of surplus.

17 SECTION 8. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2013.