

1-1 By: Carona S.B. No. 1006
 1-2 (In the Senate - Filed March 1, 2013; March 12, 2013, read
 1-3 first time and referred to Committee on Business and Commerce;
 1-4 March 20, 2013, reported favorably by the following vote: Yeas 9,
 1-5 Nays 0; March 20, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to requirements regarding certain shareholder and
 1-20 policyholder dividends.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 403.001, Insurance Code, is amended to
 1-23 read as follows:

1-24 Sec. 403.001. LIMITATION ON DIVIDENDS. An insurer
 1-25 organized under the laws of this state, including a life, health,
 1-26 fire, marine, or inland marine insurance company, may not pay a
 1-27 shareholder dividend except from surplus profits arising from the
 1-28 insurer's business.

1-29 SECTION 2. Subsections (a), (b), and (c), Section 1806.056,
 1-30 Insurance Code, are amended to read as follows:

1-31 (a) This subchapter does not prohibit an insurer [~~on~~
 1-32 ~~approval by the commissioner,~~] from distributing to policyholders
 1-33 who are on active duty in the United States Armed Forces any
 1-34 estimated profits resulting from service by those policyholders in
 1-35 a foreign country in a combat theater of operations after January 1,
 1-36 1990.

1-37 (b) An insurer that elects to make distributions under this
 1-38 section must:

1-39 (1) file a written application describing
 1-40 [~~description of~~] the insurer's distribution [~~program~~] with the
 1-41 commissioner for approval of a policyholder dividend amount that
 1-42 exceeds 10 percent of surplus; or [and]

1-43 (2) notify the commissioner in writing of each
 1-44 distribution of a policyholder dividend amount that is not greater
 1-45 than 10 percent of surplus [made under the program].

1-46 (c) If the commissioner does not act on the application
 1-47 [~~insurer's distribution program~~] on or before the fifth business
 1-48 day after the date the commissioner receives the application
 1-49 [~~insurer's description of the program~~], the distribution [~~program~~]
 1-50 is considered approved.

1-51 SECTION 3. Section 1806.057, Insurance Code, is amended to
 1-52 read as follows:

1-53 Sec. 1806.057. PROFIT SHARING WITH MEMBERS OF CERTAIN
 1-54 ASSOCIATIONS AUTHORIZED. (a) Section 1806.054 does not prohibit
 1-55 an insurer [~~on approval by the commissioner,~~] from sharing profits
 1-56 with policyholders who are part of a group program established by a
 1-57 nonprofit business association and who participate in the group
 1-58 program because of membership in the association.

1-59 (b) An insurer that elects to make distributions under this
 1-60 section must:

1-61 (1) file a written application describing

2-1 ~~[description of]~~ the insurer's distribution ~~[program]~~ with the
2-2 commissioner for approval of a policyholder dividend amount that
2-3 exceeds 10 percent of surplus; or ~~and~~

2-4 (2) notify the commissioner in writing of each
2-5 distribution of a policyholder dividend amount that is not greater
2-6 than 10 percent of surplus ~~made under the program~~.

2-7 (c) If the commissioner does not act on the application
2-8 ~~[insurer's distribution program]~~ on or before the fifth business
2-9 day after the date the commissioner receives the application
2-10 ~~[insurer's description of the program]~~, the distribution ~~[program]~~
2-11 is considered approved.

2-12 SECTION 4. Section 1806.058, Insurance Code, is amended by
2-13 amending Subsection (b) and adding Subsection (c) to read as
2-14 follows:

2-15 (b) An insurer must obtain commissioner approval before
2-16 distributing a policyholder dividend if the dividend amount exceeds
2-17 10 percent of surplus ~~[A distribution of profits or dividends to~~
2-18 insureds may not take effect or be paid until the commissioner
2-19 approves the distribution]. The commissioner may not approve a
2-20 distribution of profits or dividends until the insurer has
2-21 ~~[provided]~~ adequate reserves. The reserves must be computed on the
2-22 same basis for all classes of insurers operating under this
2-23 subchapter, Subtitle C, and Subchapter A, Chapter 5.

2-24 (c) The insurer must notify the commissioner in writing of
2-25 each distribution if the insurer's policyholder dividend amount is
2-26 not greater than 10 percent of surplus.

2-27 SECTION 5. Section 1806.105, Insurance Code, is amended by
2-28 amending Subsection (c) and adding Subsection (d) to read as
2-29 follows:

2-30 (c) A distribution of profits or dividends to an insured may
2-31 not take effect or be distributed until:

2-32 (1) the insurer has adequate reserves ~~[are provided]~~,
2-33 as computed on the same basis for all classes of insurers to which
2-34 this subchapter applies; and

2-35 (2) if the policyholder dividend amount exceeds 10
2-36 percent of surplus, the commissioner approves the distribution.

2-37 (d) The insurer must notify the commissioner in writing of
2-38 each distribution if the insurer's policyholder dividend amount is
2-39 not greater than 10 percent of surplus.

2-40 SECTION 6. Section 1806.106, Insurance Code, is amended to
2-41 read as follows:

2-42 Sec. 1806.106. PROFIT SHARING WITH CERTAIN ASSOCIATIONS
2-43 AUTHORIZED. (a) This subchapter does not prohibit an insurer~~, on~~
2-44 ~~approval by the commissioner,~~ from sharing profits with
2-45 policyholders who are part of a group program established by a
2-46 nonprofit business association and who participate in the group
2-47 program because of membership in the association.

2-48 (b) An insurer that elects to make distributions under this
2-49 section must:

2-50 (1) file a written application describing
2-51 ~~[description of]~~ the insurer's distribution ~~[program]~~ with the
2-52 commissioner for approval of a policyholder dividend amount that
2-53 exceeds 10 percent of surplus; or ~~and~~

2-54 (2) notify the commissioner in writing of each
2-55 distribution of a policyholder dividend amount that is not greater
2-56 than 10 percent of surplus ~~made under the program~~.

2-57 (c) If the commissioner does not act on the application
2-58 ~~[insurer's distribution program]~~ on or before the fifth business
2-59 day after the date the commissioner receives the application
2-60 ~~[insurer's description of the program]~~, the distribution ~~[program]~~
2-61 is considered approved.

2-62 SECTION 7. Section 2052.004, Insurance Code, is amended by
2-63 amending Subsections (b) and (c) and adding Subsection (d) to read
2-64 as follows:

2-65 (b) A policyholder dividend under a workers' compensation
2-66 insurance policy:

2-67 (1) must be ~~[does not take effect until]~~ approved by
2-68 the department ~~if the insurer's policyholder dividend amount~~
2-69 exceeds 10 percent of surplus; and

3-1 (2) may not be approved by the department until the
3-2 insurance company has [~~provides~~] adequate reserves.

3-3 (c) For purposes of Subsection (b), reserves must be
3-4 computed on the same basis for all classes of insurance companies
3-5 operating under this subtitle and Section 2051.002 [~~Article 5.66~~].

3-6 (d) An insurer must notify the department in writing of a
3-7 distribution if the insurer's policyholder dividend amount is not
3-8 greater than 10 percent of surplus.

3-9 SECTION 8. This Act takes effect immediately if it receives
3-10 a vote of two-thirds of all the members elected to each house, as
3-11 provided by Section 39, Article III, Texas Constitution. If this
3-12 Act does not receive the vote necessary for immediate effect, this
3-13 Act takes effect September 1, 2013.

3-14

* * * * *