

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: SB 812

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Reciprocal Insurers

DATE: December 1, 2015

REVISED: \_\_\_\_\_

|    | ANALYST   | STAFF DIRECTOR | REFERENCE | ACTION           |
|----|-----------|----------------|-----------|------------------|
| 1. | Billmeier | Knudson        | BI        | <b>Favorable</b> |
| 2. | _____     | _____          | CM        | _____            |
| 3. | _____     | _____          | RC        | _____            |

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**I. Summary:**

SB 812 creates an additional process for a domestic reciprocal insurer to distribute to policyholders unassigned funds such as unused premiums, savings, and credits. The process created by the bill differs from current law primarily by not requiring the reciprocal insurer to create subscriber accounts to make distributions to policyholders. Distributions using this method may not exceed 50 percent of the insurer's net income from the previous calendar year and may be up to 10 percent of the insurer's surplus.

**II. Present Situation:**

A reciprocal insurance company is an unincorporated group of subscribers who exchange risk, with each member serving both as the insurer and insured.<sup>1</sup> The subscribers operate through an attorney in fact to provide reciprocal insurance among themselves.<sup>2</sup> Reciprocal insurers may transact any line of insurance other than life or title.<sup>3</sup> Reciprocal insurers are not common and primarily write motor vehicle insurance. Two of the larger reciprocal insurance companies are Farmers Insurance and United Services Automobile Association (USAA). In Florida, authorized reciprocal insurers are governed by the provisions of ch. 629 of the Florida Statutes.

A domestic reciprocal insurer may be organized by 25 or more persons domiciled in Florida, provided the reciprocal is formed in accordance with the requirements of ch. 629, Florida Statutes, and is approved by the Office of Insurance Regulation.<sup>4</sup> The reciprocal insurer must have a subscribers' advisory committee with powers set forth in the subscribers' agreement. These powers must include supervising the finances of the insurer, supervising the insurer's

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<sup>1</sup> Robert W. Klein, *A Regulator's Introduction to the Insurance Industry*, 5-4 (National Association of Insurance Commissioners 1999).

<sup>2</sup> Section 629.021, F.S.

<sup>3</sup> Section 629.041, F.S.

<sup>4</sup> Section 629.081, F.S.

operations to assure conformity with the subscribers' agreement and power of attorney, and procuring the audit of the accounts and records of the insurer and the attorney in fact.<sup>5</sup> Section 629.274, F.S., governs the distribution of savings from reciprocal insurers to their subscribers. Reciprocal insurers may distribute to subscribers unused premiums, savings, or credits accruing to their subscriber savings accounts. Distributions may not unfairly discriminate between classes of risks, or policies, or between subscribers but may vary as to classes of subscribers based up on the experience of such subscriber classes.

The Internal Revenue Code provides that a reciprocal insurer may claim a deduction from taxable income for amounts that are added to subscriber savings accounts.<sup>6</sup> For an insurer to claim the deduction, the amounts in subscriber savings accounts must be immediately payable to the subscriber at the end of the taxable year if the subscriber ends his or her account. The credits to the subscriber accounts are considered a paid or declared dividend by the subscriber.

### **III. Effect of Proposed Changes:**

SB 812 amends s. 629.271, F.S., to create an additional process for a domestic reciprocal insurer to distribute to policyholders unassigned funds such as unused premiums, savings, and credits. The process created by the bill differs from current law primarily by not requiring the reciprocal insurer to create subscriber accounts to make distributions to policyholders. Only domestic reciprocal insurers may use the distribution process created by the bill.

The new policyholder distribution process created by the bill instead creates limits on the total amount of distributions if subscriber accounts are not used and also subjects such distributions to Office of Insurance Regulation approval. The distribution may not exceed 50 percent of the insurer's net income from the previous calendar year and may be up to 10 percent of the insurer's surplus. As under current law for distributions using subscriber accounts, distributions using this method may not unfairly discriminate between classes of risks, policies, or subscribers.

The effective date of the bill is July 1, 2016.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

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<sup>5</sup> Section 629.201, F.S.

<sup>6</sup> 26 U.S.C. 832(f).

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

A domestic reciprocal reinsurer may save administrative costs by using the distribution method created by this bill rather than establishing and maintaining subscriber savings accounts. The method created by this bill will create savings for those domestic reciprocal insurers for whom the federal tax deduction for monies placed in subscriber accounts is exceeded by the administrative savings of using the procedure created by the bill.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 629.271 of the Florida Statutes:

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.