

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2214 - SB 2145

February 16, 2020

SUMMARY OF BILL: Effective January 1, 2021, enacts the *Insurance Modernization Act* (the Act). Authorizes a reinsurance credit when the reinsurance is ceded to an assuming insurer who has its head office in, or is domiciled in, a reciprocal jurisdiction and is licensed in a reciprocal jurisdiction. Requires the assuming insurer have and maintain, on an on-going basis, a minimum capital and surplus, a minimum solvency or capital ratio, and agree in writing to the Commissioner of the Department of Commerce and Insurance (DCI) to consent to the laws and jurisdiction of this state.

Defines “reciprocal jurisdiction” as a jurisdiction that is either: (1) a non-United States (U.S) jurisdiction subject to a covered agreement to which the U.S. is a party; (2) a U.S. jurisdiction that meets requirements for accreditation under the National Association of Insurance Commissioners; or (3) a qualified jurisdiction, as determined by the Commissioner of DCI, that meets certain additional requirements, consistent with the terms and conditions of covered agreements.

Requires the Commissioner of DCI to timely create and publish a list of reciprocal jurisdictions and insurers that satisfy the provisions of the Act.

Deletes the *Tennessee Health Care Liability Reporting Act*, requiring every insuring entity or self-insurer that provides health care liability insurance to any facility or provider in this state to report each health care liability claim and incident identifier to the Commissioner of DCI by March 1 of each year.

ESTIMATED FISCAL IMPACT:

**Increase State Revenue - \$11,200/FY20-21
\$7,200/FY21-22 and Subsequent Years**

Assumptions relative to the Insurance Modernization Act:

- Based on a roster provided on the Department of Commerce and Insurance (DCI) website, 142 captive insurance companies are currently active in Tennessee.
- Authorizing a reinsurance credit as a captive insurance company to insurers in a reciprocal jurisdiction that meet all other qualifications under the Act, is estimated to increase the number of captive insurance companies by at least 10.
- According to the DCI website, the fees for a captive insurance company operating in this state are as follows: \$675 application fee; \$440 certificate of authority issuance fee;

\$515 annual statement filing fee; \$400 change in business plan of operations fee; and \$7 certificate of compliance fee.

- A one-time increase in state revenue in FY20-21 for 10 captive insurance companies applying to operate in Tennessee of \$11,150 [10 companies x (\$675 application fee + \$440 certificate of authority fee)].
- Change of business plans are required to be submitted to the Commissioner in the case of any material change to a captive insurance company's originally submitted plan of operation.
- Half of the 10 captive insurance companies established in FY20-21 are estimated to file one change of business plan annually.
- A recurring increase in state revenue, in FY21-22 and subsequent years, for 10 captive insurance companies established in FY20-21 paying fees associated with annual operation in this state of \$7,220 {[10 companies x (\$515 annual filing fee + \$7 certificate of compliance fee)] + (5 companies x \$400 change of business plan)}.
- The Commissioner can compile a list of reciprocal jurisdictions and insurers that satisfy the provisions of the Act within existing resources.

Assumptions relative to deleting the Tennessee Health Care Liability Reporting Act:

- Pursuant to Tenn. Code Ann. § 56-54-104, the Tennessee Health Care Liability Reporting Act does not apply to the state or those employed by the state.
- Pursuant to Tenn. Code Ann. §56-54-108, any cost incurred by DCI to implement the Health Care Liability Reporting Act is required to be paid out of existing reserves of the DCI Division of Insurance.
- The Commissioner is required to submit an annual report summarizing the information submitted by health care liability insurance providers to the Speaker of the Senate and House of Representatives on or before November 1 of each year.
- Deleting the requirement of the Commissioner to summarize claim information and submit a report annually is not estimated to significantly decrease workload or staffing resources within DCI.

IMPACT TO COMMERCE:

**Increase Business Expenditures - \$11,200/FY20-21
\$7,200/FY21-22 and Subsequent Years**

Assumptions:

- The proposed legislation is estimated to increase the number of captive insurance companies operating in the state by 10.
- A one-time increase in business expenditures in FY20-21 for 10 captive insurance companies applying to operate in Tennessee of \$11,150 [10 companies x (\$675 application fee + \$440 certificate of authority fee)].

- A recurring increase in business expenditures, in FY21-22 and subsequent years, for 10 captive insurance companies established in FY20-21 paying fees associated with annual operation in this state of \$7,220 {[10 companies x (\$515 annual filing fee + \$7 certificate of compliance fee)] + (5 companies x \$400 change of business plan)}.
- Pursuant to Tenn. Code Ann. § 56-54-105, the Commissioner is authorized to require insuring entities, self-insurers, facilities, and providers to submit all claim data electronically.
- It is assumed that all claim data is submitted electronically; therefore, business expenditures could decrease for insuring entities, self-insurers, facilities, and providers no longer having to file claim data, but any decrease is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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