Ohio Legislative Service Commission

Ruhaiza Ridzwan

Fiscal Note & Local Impact Statement

Bill: Am. H.B. 117 of the 130th G.A. **Date**: June 24, 2013

Status: As Passed by the House **Sponsor**: Reps. Hackett and Stinziano

Local Impact Statement Procedure Required: No

Contents: To provide for the operation of captive insurance companies in Ohio

State Fiscal Highlights

STATE FUND	FY 2014	FY 2015	FUTURE YEARS
Captive Insurance Regulation and Supervision Fund (new)			
Revenues	Gain	Gain	Gain
Expenditures	Increase	Increase	Increase
Department of Insurance Operating Fund (Fund 5540)			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2014 is July 1, 2013 – June 30, 2014.

- The bill creates a new fund, the Captive Insurance Regulation and Supervision Fund (CIRSF), in the state treasury, to pay all expenses and receive deposit of all fees, fines, penalties, and assessments related to the regulation and enforcement of captive insurance companies (CICs), including protected cell captive insurance companies (PCICs).
- The bill would increase the Department of Insurance's administrative expenses related to the oversight of captive insurers. Any such costs would be paid from the CIRSF. In addition, at the discretion of the Superintendent of Insurance, any costs related to captive insurance regulation and enforcement may also be covered by the Department of Insurance Operating Fund (Fund 5540). Thus, it may increase the Department's expenditures from Fund 5540.
- The bill establishes a $500 fee for applying to operate as a CIC in Ohio, and a $500 annual license renewal fee. It also establishes a fee based on net direct premiums, and a fee based on revenue from assumed reinsurance premiums. The resulting revenue, which would depend on the number of captive insurers who would apply for a license to operate in Ohio and on the premiums that they collect, would be deposited into the CIRSF.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

Captive insurance companies

The bill would allow captive insurance companies (CICs) to be based in Ohio. The bill defines a CIC as any insurer that insures only the risks of its parent or affiliated companies of its parent. The bill provides that a CIC may reinsure any risks insured by its parent or an affiliated company, as approved by the Superintendent of Insurance. A CIC may offer only certain lines of insurance as specified by the bill, but the bill provides that the Superintendent may authorize other lines of insurance. The bill also provides that a CIC may be organized as a protected cell captive insurance company (PCIC) and may form one or more protected cells to insure or reinsure the risks of one or more participants of the PCIC.

The bill specifies that a CIC seeking a license to do business in Ohio must file an application with the Superintendent, accompanied by specified documents. Each applicant must pay a nonrefundable fee of $500 for processing its application. Each CIC must also pay a renewal fee of $500 annually. These fees are deposited into the Captive Insurance Regulation and Supervision Fund (CIRSF), which is created by the bill. The bill specifies that the Superintendent is authorized to suspend or revoke the license of a CIC under certain conditions.

The bill requires each CIC to pay a fee on or before March 2 in each year based on the premiums it has collected. The bill specifies that a CIC must pay 0.35% of its net direct premiums and 0.15% of its revenue from assumed reinsurance premiums. The bill establishes an annual minimum aggregate fee of $7,500 and an annual maximum fee of $250,000. In addition, the bill specifies that a PCIC is required to pay an additional annual fee for each protected cell in an amount to be established by the Superintendent, at the time of paying the annual premium fee. These fees are also deposited into the CIRSF. The bill specifies that the new fund, the CIRSF, is to pay for all expenses related to captive insurance regulation and enforcement, including examination of CICs.

The bill requires the Superintendent to examine CICs. Under the bill, the Superintendent may charge CICs for any expenses related to such examination and other expenses related to the oversight of captive insurers. The bill provides that the Superintendent may adopt rules that are reasonably necessary for the implementation and operation of this bill.

The bill prohibits a CIC from being required to join a rating organization. A CIC is also prohibited from joining or contributing financially to a guaranty fund and from receiving a benefit from such a fund. The bill also requires CICs to file an annual financial statement, including supplemental financial reports to the Superintendent. The bill provides minimum levels of assets in excess of liabilities that a CIC and PCIC must maintain. The bill also provides that the Superintendent may prescribe additional capital and surplus based upon the type, volume, and nature of insurance business transacted.

The bill allows a CIC to amend its organizational document and become a PCIC, and specifies the conditions under which it may do so. The bill allows a PCIC to amend its organizational document to cease to be a PCIC. The bill allows for a protected cell to be transferred from one PCIC to another. The bill also provides that a CIC organized under the laws of another state or jurisdiction may become a domestic CIC after complying with all the bill's relevant requirements.

The bill also contains other provisions governing CICs, including requirements related to a CIC's board of directors, but those provisions would have no direct fiscal effects.

Fiscal impact

The bill would expand the Department of Insurance's regulatory and enforcement responsibilities related to CICs and PCICs. Thus, the Department's administrative costs may increase. Any increase in costs would depend on the number of CICs and PCICs who would do business in the state. Any such costs would be paid from the newly created fund, the CIRSF. In addition, the bill allows the Department, at the discretion of the Superintendent of Insurance, to pay costs related to the oversight of CICs and PCICs using moneys from the Department of Insurance Operating Fund (Fund 5540). Thus, it may increase the Department's administrative costs from Fund 5540.

The bill also allows the Department to charge premium fees, penalties, and assessments, mentioned above, that would increase revenue to the CIRSF. The amount of revenue would depend on the number of CICs applying for a license to do business in Ohio, the amount of premiums based in Ohio, and the compliance of CICs with the requirements under the bill.

Self insuring employers

The bill specifies that any self-insuring employer that is indemnified by a CIC granted a certificate of authority under this bill, is required to pay a contribution to the Self-Insuring Employers' Guaranty Fund. The fund is a custodial fund in the state treasury and operated by the Bureau of Workers' Compensation (BWC). Under existing law, the BWC's Administrator is required to annually establish the contributions due from self-insuring employers for the fund at rates as low as possible, but such as will assure sufficient moneys to guarantee the payment of any claims against the fund.[1] Currently, the fund provides for payments of compensation and benefits to employees of the self-insuring employer in order to cover any default in payment by that employer.

Fiscal impact

This provision would have no direct fiscal impact on the state and local governments.

HB0117HP.docx/dp

[1] In FY 2012, approximately 1,200 employers self-insured against workers' compensation liability.