Ohio Legislative Service Commission

Ruhaiza Ridzwan

Fiscal Note & Local Impact Statement

Bill: Sub. H.B. 341 of the 129th G.A.

Date: February 22, 2012

Status: As Passed by the House

Sponsor: Rep. Henne

Local Impact Statement Procedure Required: No

Contents: To make changes to the law regulating fraternal benefit societies

State Fiscal Highlights

STATE FUND	FY 2012	FY 2013	FUTURE YEARS
General Revenue Fund (GRF)			
Revenue	- 0 -	Potential minimal gain	Potential minimal gain
Expenditures	- 0 -	- 0 -	- 0 -
Department of Insurance Operating Fund (Fund 5540)			
Revenue	- 0 -	Potential gain	Potential gain
Expenditures	- 0 -	Potential minimal increase	Potential minimal increase
Superintendent's Examination Fund (Fund 5550)			
Revenues	- 0 -	Potential gain	Potential gain
Expenditures	- 0 -	- 0 -	- 0 -

Note: The state fiscal year is July 1 through June 30. For example, FY 2010 is July 1, 2009 – June 30, 2010.

- The bill may increase the Department of Insurance's administrative costs to oversee fraternal benefit societies' additional requirements. Any increase in administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540).
- The bill may minimally increase the number of agents licensed by the Department. Any increase in the number of agent appointments would increase fee revenue to Fund 5540 and the GRF.
- The bill allows the Superintendent of Insurance to impose fees and fines when a fraternal benefit society fails to appoint or maintain an agent or fails to notify the Superintendent of an agent's change of address. All fees and fines would be deposited into Fund 5540. The amount of revenue collected would depend on the compliance of fraternal benefit societies with the bill's requirements.
- The bill requires a domestic fraternal benefit society to pay any additional expense of an examination resulting from unreasonable delays by the society in fulfilling a request for documents or information by an examiner conducting the examination. Any payments related to such examination would be deposited into the Superintendent's Examination Fund (Fund 5550).

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.

Detailed Fiscal Analysis

The bill makes several changes to the law regulating fraternal benefit societies. Currently, there are 58 fraternal benefit societies authorized to do business in Ohio. Of that number, ten of the societies are domiciled in Ohio. Most of the bill's provisions have minimal fiscal effect on the state, and none of the provisions have any fiscal effect on local governments. The following provisions would have minimal fiscal effect on the state; provisions not expected to have a fiscal effect are described separately in the LSC bill analysis.

The bill specifies that all agents of a fraternal benefit society who sell an annuity contract are subject to licensing requirements under existing law, eliminating an exemption in current law for certain agents who devote less than 50% of their time to those sales. Currently, each insurer must pay to the Superintendent of Insurance a fee of $20 for each initial and annual renewal of an agent appointment. The Department retains up to $15 of this $20 fee, which is deposited into the Department of Insurance Operating Fund (Fund 5540), with the remaining revenue deposited into the General Revenue Fund (GRF).

The bill revises the requirements on fraternal benefit societies related to appointing a statutory agent or legal agent upon whom legal process may be served (a statutory agent is not required to be a licensed insurance agent). The bill imposes a fee of $5 when a fraternal benefit society changes a statutory agent appointment or address. The bill allows the Superintendent of Insurance to charge a fraternal benefit society between $25 and $200 per violation when the society fails to appoint or maintain an agent or to notify the Superintendent of an agent's change of address. The Superintendent may also fine a society $50 each time the Superintendent is required to act as the society's agent due to the society's failure to appoint, maintain, or provide an accurate address for an agent. All fees and fines collected by the Superintendent will be credited to Fund 5540.

The bill provides that a domestic fraternal benefit society is liable for the payment of any additional expense of an examination resulting from unreasonable delays by the society in fulfilling a request for documents or information by the examiner conducting the examination. A delay is deemed unreasonable if the examiner has made two separate unfulfilled requests for the same documents or information. In the event of an unreasonable delay, the examiner must notify the Superintendent of Insurance who must set a hearing to determine if there has been an unreasonable delay because of the fraternal benefit society's response to a request for documents or information and to calculate the additional expense incurred by the Superintendent as a result of the unreasonable delay. The Department's expenses from conducting an examination of an insurer are paid by the insurer to the Superintendent and deposited into the Superintendent's Examination Fund (Fund 5550).

The bill also requires a fraternal benefit society with assets of less than $5 billion that provides fraternal benefits of major medical, Medicare supplemental, or long-term care to reinsure at least 50% of the risk arising from the coverage if the society's risk-based capital (RBC) is less than 300%. Based on financial data derived from the 2011 Ohio Department of Insurance Annual Report, only four out of 58 fraternal benefit societies had total assets more than $5 billion as of December 31, 2010.

Other bill provisions have negligible fiscal effects, if any. They include certain reporting requirements, subjecting fraternal benefit societies to the existing standards of RBC for life or health insurers, and subjecting societies to a process for enjoinment, hearing, and liquidation that is similar to the existing process for a domestic insurance company.

Fiscal effect

The bill may increase the Department of Insurance's administrative costs to license additional agents, and to oversee the additional requirements imposed on fraternal benefit societies. Any increase in administrative costs would be paid from Fund 5540. The number of additional agents that would be licensed due to the changes is undetermined at this time. LSC staff consider it likely that any increase in expenditures would be minimal. The bill also allows the Superintendent of Insurance to charge fees and fines, described above, that would be deposited into Fund 5540. The amount of revenue collected would depend on the number of additional agents licensed and the compliance of fraternal benefit societies with the requirements under this bill.

In addition, payment of any additional expenses incurred in examining domestic fraternal benefit societies resulting from unreasonable delays may increase revenue to Fund 5550.

Provisions related to the liquidation of a society would have no fiscal effect. Under current law, when an Ohio domestic insurance company becomes insolvent and requires liquidation the Superintendent of Insurance would initiate a court action to place the company in liquidation. The Office of the Ohio Insurance Liquidator is technically a private trustee's office, overseen by the Franklin County Court of Common Pleas, and it would liquidate all assets and resolve all claims against the insolvent insurance company. The Office is funded by a share of the estate left by a liquidated insurance company. Extending this framework to fraternal benefit societies would mean that the cost of liquidating an insolvent society would be recovered from the society's assets.

The bill would have no direct fiscal impact on local governments.

HB0341HP.docx / lb