

FISCAL NOTE
Requested by Legislative Council
12/22/2014

Bill/Resolution No.: SB 2129

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2013-2015 Biennium | | 2015-2017 Biennium | | 2017-2019 Biennium | |
|----------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

| | 2013-2015 Biennium | 2015-2017 Biennium | 2017-2019 Biennium |
|------------------|--------------------|--------------------|--------------------|
| Counties | | | |
| Cities | | | |
| School Districts | | | |
| Townships | | | |

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill requires a life or health insurer to submit a risk-based capital (RBC) report when the company's RBC is equal to or less than three times its authorized control level and the RBC has a negative trend. Under current law, this test is triggered at two and a half times.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill has no fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

This bill has no fiscal impact.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This bill has no fiscal impact.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

This bill has no fiscal impact

Name: Rebecca L. Ternes

Agency: Insurance Department

Telephone: 328-2440

Date Prepared: 12/30/2014

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2129

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2129
1/14/2015
Job Number 21939

- Subcommittee
 Conference Committee

| | |
|---------------------------|-------------------|
| Committee Clerk Signature | <i>Eva Lubelt</i> |
|---------------------------|-------------------|

Explanation or reason for introduction of bill/resolution:

Relating to risk-based capitol reports of insurers

Minutes:

| |
|-------------|
| Attachments |
|-------------|

Chairman Klein: Opened the hearing.

Edward Moody, Company Licensing Director North Dakota Insurance Department:
Written Testimony Attached (1), Proposed Amendment (2). (1:00-5:00)

Chairman Klein: Asked for an example of the Fraternal Benefit Society and if they have to file an RBC.

Edward Moody: That is an addition to the current law as well. In the past they didn't have to file an RBC, risk-based capital test. It has been expanded to include fraternal benefit society. Examples would be the Knights of Columbus, Lutheran Society.

Chairman Klein: Is this a result of a problem we are having?

Edward Moody: It's the expansion of the regulation to make it more inclusive so that all insurance entities are looked at with the same level of detail.

Chairman Klein: Does current regulation require the 3 times for the fraternal benefit society versus the 2 1/2?

Edward Moody: Currently fraternal benefit societies are exempt. North Dakota doesn't have any fraternal benefit societies.

Chairman Klein: So are regulation here is trying to keep up with the national?

Edward Moody: Said they want it in place in case they would get a fraternal benefit society in North Dakota.

Senator Campbell: Do you have smaller companies that give you numbers and how do you know you're getting good numbers if it's a smaller company?

Edward Moody: Multi-state companies would be required as part of the NAIC to complete the RBC report and they are also required to file an audited annual financial statement.

Senator Murphy: What happens if we don't meet the accreditation standards?

Edward Moody: We would be subject to review by the NAIC and could potentially pull our accreditation. (8:00-8:30)

Senator Poolman: Wouldn't it make it more difficult for a multi-state company to be doing business in this state if we are not following the same rules and regulations as the other states?

Edward Moody: I believe that is the objective whether or not it is actually the case would remain to be determined. Competition being what it is I think there would be plenty of people willing to write business for the premium. They wouldn't be willing to be domesticated here but they could have a license here and write the business here.

Levi Andrist, Vogel Law Firm on behalf of American Council of Life Insurers: In support of the bill and urges a do pass.

Chairman Klein: Closed the hearing.

Senator Murphy moved to adopt the proposed amendment.

Senator Poolman seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Murphy moved a do pass as amended.

Senator Campbell seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Murphy will carry the bill.

15.8090.01001
Title.02000

Adopted by the Industry, Business and Labor
Committee

January 14, 2015

~~ONE~~
8/14/15

PROPOSED AMENDMENTS TO SENATE BILL NO. 2129

Page 7, line 23, replace "commission" with "commissioner"

Renumber accordingly

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2129**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: 15.8090.01001

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Senator Murphy Seconded By Senator Poolman

| Senators | Yes | No | Senators | Yes | No |
|------------------------|-----|----|----------------|-----|----|
| Chairman Klein | x | | Senator Murphy | x | |
| Vice Chairman Campbell | x | | Senator Sinner | x | |
| Senator Burckhard | x | | | | |
| Senator Miller | x | | | | |
| Senator Poolman | x | | | | |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2129**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Senator Murphy Seconded By Senator Campbell

| Senators | Yes | No | Senators | Yes | No |
|------------------------|-----|----|----------------|-----|----|
| Chairman Klein | x | | Senator Murphy | x | |
| Vice Chairman Campbell | x | | Senator Sinner | x | |
| Senator Burckhard | x | | | | |
| Senator Miller | x | | | | |
| Senator Poolman | x | | | | |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Murphy

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2129: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2129 was placed on the Sixth order on the calendar.

Page 7, line 23, replace "commission" with "commissioner"

Renumber accordingly

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2129

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2129
3/18/2015
25036

- Subcommittee
 Conference Committee



Explanation or reason for introduction of bill/resolution:

Risk-based capital reports of insurers.

Minutes:

Attachment 1, 2

Chairman Keiser: Opens the hearing on SB 2129.

Edward Moody~Company Licensing Director-North Dakota Insurance Department:
(Attachment 1).

2:14

Chairman Keiser: What is a fraternal benefit society?

Moody: They are companies like "Knights of Columbus", we have 20 licensed in North Dakota but have no domestic but they do consider them a business.

Chairman Keiser: We have some movement nationally on an attempt to bring in under health insurance, would they be under this category?

Moody: No, they still fall under the life, accident & health. It's the accident & health piece that's under the life companies that falls outside of the purview of the pure health.

Levi Andrist~Bismarck of the Voegel Law Firm-represents American Council Life Insurers: Introduces John Gerni.

John Gerni~Regional Vice President of State Relations for the American Council of Life Insurers: (Attachment 2).

Chairman Keiser: How does this relate to PBR's in terms of establishing risk based?

Gerni: They are indirectly related simply because you have reserving standards on one side of PBR and then you have risk based capital component which would include the reserves. They are all tied together.

Representative Laning: Could you give me your definition of risk based capital.

Gerni: The risk that the company takes on related to the products that they sell and it has a formula that goes into what the department reviews. It also has an investment component for the investment that the insurer may make.

Representative Laning: Are there predetermined risk levels chosen or are they lumped together?

Gerni: I can't answer that question.

Chairman Keiser: Edward, could you help us understand the relationship between the products sold to risk based capital and principle based reserved?

Moody: The way the formula works is it's unique to every insurance company. What they look at is what type of investments, products they underwrite reinsurance and credit relationships that they are exposed to. That gets mathematically combined to generate a number. What we do as regulators is we look at those numbers that are absolute and relative to other insurance companies in the groups. It takes all the operations into consideration and generates a number. That number is used to bench mark you against your peers. Basically, it just takes the companies surplus and adjusts it for the specific risks of their operations. Each company is unique.

Chairman Keiser: Anyone else here to testify in support of SB 2129, opposition, neutral?

Representative Lefor: Moves a Do Pass.

Representative Boschee: Seconded.

Roll call was taken on SB 2129, for a Do Pass with 14 yes, 0 no, 1 absent and Representative Laning will carry the bill.

Date: Mar 18, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2129

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Lefor Seconded By Rep Boschee

| Representatives | Yes | No | Representatives | Yes | No |
|--------------------------|-----|----|-------------------------|-----|----|
| Chairman Keiser | x | | Representative Lefor | x | |
| Vice Chairman Sukut | x | | Representative Louser | x | |
| Representative Beadle | x | | Representative Ruby | x | |
| Representative Becker | x | | Representative Amerman | x | |
| Representative Devlin | x | | Representative Boschee | x | |
| Representative Frantsvog | Ab | | Representative Hanson | x | |
| Representative Kasper | x | | Representative M Nelson | x | |
| Representative Laning | x | | | | |
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Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Laning

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2129, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2129 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2129

SENATE BILL NO. 2129

**Presented by: Edward Moody
Company Licensing Director
North Dakota Insurance Department**

**Before: Senate Industry, Business and Labor Committee
Senator Jerry Klein, Chairman**

Date: January 14, 2015

TESTIMONY

Good morning, Chairman Klein and committee members. For the record, my name is Edward Moody and I am Chief Examiner and Director of the Examinations and Company Licensing Division of the North Dakota Insurance Department.

You have before you Senate Bill No. 2129 which amends existing risk-based capital (RBC) law to increase the ratio when a Company Action Level event occurs for a life, health or fraternal benefit society from two and a half times its authorized control level risk-based capital to three times if the company also has a negative trend in its RBC. This treatment already exists for property and casualty insurers. The trend tests analyze the insurer's RBC number and its negative trend to give the Insurance Department an earlier warning of companies that may experience financial strain.

By way of background, RBC reports are filed with the Insurance Department annually by licensed insurance companies. These reports encompass a separate and unique formula for each type of insurer; that is, property and casualty, life and health insurers. The RBC formula creates a minimum standard for capital and surplus that is used to identify a poorly capitalized insurer given its overall business operations, size and risk profile. RBC is one of the financial ratios used by all insurance regulators to monitor the financial health of the insurer.

North Dakota's existing statutes authorize the Commissioner to take action when the following occur:

- Company Action Level – A RBC ratio greater than 200% but less than or equal to 250% and a negative trend or a RBC ratio of 200% or less requires the insurer to submit a financial plan identifying conditions that contributed to the company's action level and outlining corrective actions it intends to take.
- Regulatory Action Level – A RBC ratio of 150% or less requires the insurer to submit a financial plan and authorizes the Commissioner to perform any examination or analysis of the insurer's operations deemed necessary and to issue an appropriate corrective order.
- Authorized Control Level – A RBC ratio of 100% or less authorizes the Commissioner to take whatever regulatory actions are necessary to protect the best interests of the policyholders and creditors including any action to place the insurer under regulatory control.
- Mandatory Control Level – A RBC ratio of 70% or less requires the Commissioner to take control of the insurer.

In computing the RBC ratio, the adequacy of the company's actual capital is measured against the risk-based capital charge associated with the unique risks inherent in operating an insurance company. The typical risk components include:

1. *Asset risk* relating to the risk that asset values turn out to be lower than expected.
2. *Underwriting risk* relating to excessive growth or funding deficiencies.
3. *Business risk* relating to risk exposures such as litigation costs.

- 4. *Interest Rate Risk* relating to the risk of losses due to changes in interest rates.

- 5. *Credit risk* relating to the recoverability of receivables.

Although the current law already has a trend test for life insurers, the amendments in Senate Bill No. 2129 will allow earlier detection of financially unstable life insurance companies and will conform with recent changes to the model RBC law included in the National Association of Insurance Commissioners (NAIC) accreditation program that sets out capital and surplus standards for insurers. Under the accreditation program, established by the NAIC in 1990, the goal is for each state to adopt certain laws and rules so that multi-state life, health and property and casualty insurers are subject to consistent solvency regulation requirements. North Dakota has maintained its accredited status since 1992 by adopting and implementing the necessary standards to effectively regulate an insurer's corporate and financial affairs. The accreditation program is instrumental in promoting and maintaining state-based regulation of the insurance industry. This change in the RBC trend test for life, health or fraternal benefit insurers becomes an accreditation standard that North Dakota must meet by January 1, 2017.

The fiscal note on this bill indicates no fiscal impact.

Mr. Chairman, members of the committee, I am happy to answer any questions and urge a vote of "do pass" on Senate Bill No. 2129. Thank you.

(2)

January 14, 2015

PROPOSED AMENDMENTS TO SENATE BILL NO. 2129

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Renumber accordingly

1

SENATE BILL NO. 2129

Presented by: Edward Moody
Company Licensing Director
North Dakota Insurance Department

Before: House Industry, Business and Labor Committee
Representative George Keiser, Chairman

Date: March 18, 2015

TESTIMONY

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The fiscal note on this bill indicates no fiscal impact.

Mr. Chairman, members of the committee, I am happy to answer any questions and urge a vote of "do pass" on Senate Bill No. 2129. Thank you.

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS
BEFORE THE HOUSE INDUSTRY BUSINESS AND LABOR COMMITTEE
IN SUPPORT OF SB 2129

John P. Gerni
Regional Vice President; State Relations
March 18, 2015

Good morning, Chairman Keiser and members of the House IBL Committee. My name is John Gerni and I am the Regional Vice President of State Relations for the American Council of Life Insurers. The ACLI is a national trade association representing the life insurance industry that has nearly 300 member companies who hold more than 93 percent of the total life insurance in America today accounting for 93 percent of the total life insurance coverage on North Dakota residents.

ACLI supports SB 2129, as it updates the state's risk based capital law to conform with the NAIC Risk Based Capital Model Act. The risk based capital law is a significant component of the NAIC accreditation program as it allows the Insurance Department to effectively regulate the solvency of its domestic insurers. Having such consistent solvency standards in place in the states is an important priority for the ACLI and its member companies.

The ACLI would appreciate the committee's favorable consideration of SB 2129.