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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**S.B. 284**  
**(with AM3347 and**  
**AM3374)**  
**133<sup>rd</sup> General Assembly**

## **Fiscal Note &** **Local Impact Statement**

[Click here for S.B. 284's Bill Analysis](#)

**Version:** In House Insurance

**Primary Sponsor:** Sens. Hottinger and Peterson

**Local Impact Statement Procedure Required:** No

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### **Highlights**

- The bill's reinsurance-related requirements, levied on insurance companies, may increase the Department of Insurance's financial examination expenses. If there is any increase in such expenses, it is likely to be minimal. Any such expenses would be paid from the Superintendent's Examination Fund (Fund 5550). Expenses from conducting such examinations are paid by the company to the Superintendent and deposited into Fund 5550.
- The bill's requirement to create and publish lists of reciprocal jurisdictions and assuming insurers may also increase the Department of Insurance's administrative costs. Any increase in general departmental administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540).<sup>1</sup>
- The bill's requirements related to mental health parity implementation and enforcement are likely to increase the Department of Insurance's administrative costs. Any increase in such cost would be paid from Fund 5540.
- The bill's requirement that the Department of Medicaid (ODM) implement and enforce mental health parity rules for Medicaid managed care organizations (MCOs) may lead to increased administrative costs for ODM to ensure compliance among Medicaid MCOs.

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<sup>1</sup> Revenue to Fund 5540 comes from various fees imposed on insurance companies, primarily insurance agent license fees and agent appointment fees.

## Detailed Analysis

### Insurers receiving credit for reinsurance

The bill allows a domestic ceding insurer that is authorized to do any insurance business in Ohio to take credit for any reinsurance<sup>2</sup> ceded as either an asset or a reduction of liability if the reinsurance is ceded to an assuming insurer that meets explicit conditions as specified under the bill. The bill specifies several conditions that the assuming insurer must meet, primarily including minimum conditions related to capital, surplus, and solvency; the LSC bill analysis provides a complete description of the conditions. Two conditions may result in fiscal effects: the assuming insurer must (1) have its head office or be domiciled in, and be licensed in a reciprocal jurisdiction,<sup>3</sup> and (2) consent in writing to the jurisdiction of Ohio courts, to the appointment of the Superintendent of Insurance as agent for service of process and to pay all final judgments obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained. The fiscal effect from the first condition arises because the bill also requires the Superintendent to timely create and publish a list of reciprocal jurisdictions and a list of assuming insurers that have satisfied the bill's requirements.<sup>4</sup>

The bill requires the Superintendent to adopt certain rules related to the required conditions. The bill also specifies one element of a legal process of rehabilitation, liquidation, or conservation for the ceding insurer, requiring the assuming insurer to post security for outstanding ceded liabilities if ordered to do so by a court. The bill provisions do not limit or alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by sections 3901.61 to 3901.65 of the Revised Code or other applicable law, rule, or regulation.

These requirements may increase the Department of Insurance's financial examination expenses. If there is any increase in such expenses, it is likely to be minimal. Any such expenses would be paid from the Superintendent's Examination Fund (Fund 5550). Any expenses from conducting such examinations are paid by the company to the Superintendent and deposited into Fund 5550.

The bill's requirements that the Superintendent (1) create and publish a list of reciprocal jurisdictions, (2) create and publish a list of assuming insurers, and (3) act as agent for service of process for some assuming insurers may also increase the Department's administrative costs. Any increase in the Department's general administrative costs would be paid from the Department of Insurance Operating Fund (Fund 5540).

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<sup>2</sup> "Reinsurance" is when an insurer (the ceding insurer) purchases insurance from a separate insurer (the assuming insurer) to cover a portion or all of its potential liabilities.

<sup>3</sup> Under the bill, a "reciprocal jurisdiction" must meet specified criteria.

<sup>4</sup> The Superintendent is allowed to revoke or suspend the eligibility of the assuming insurer if it does not meet one or more of the conditions under the bill or rules adopted by the Superintendent.

The bill refers to the process of liquidation of a ceding insurer. Currently, when an Ohio domestic insurance company becomes insolvent and requires liquidation the Superintendent 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. Thus, the cost of liquidating such insurer would be recovered from the insurer's assets.

The bill's reinsurance provisions have no fiscal effect on local governments.

## **Mental Health Parity**

### **Health benefit plans and health plan issuers**

The bill requires health benefit plans and health plan issuers,<sup>5</sup> including public employee benefit plans, subject to the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 to comply with all applicable requirements of that act. The bill requires the Superintendent of Insurance to implement and enforce all applicable provisions of the act, including a requirement that the Superintendent evaluate all consumer and provider complaints regarding mental health and substance use disorder benefits for possible parity violations.

The bill exempts its mental health parity requirements from the existing requirement related to mandated health benefits. Under existing law, no mandated health benefits legislation enacted by the General Assembly after January 14, 1993, may be applied to sickness and accident or other health benefits policies, contracts, plans, or other arrangements until the Superintendent determines that the provision can be applied fully and equally in all respects to employee benefit plans subject to regulation by the federal Employee Retirement Income Security Act of 1974 (ERISA) and employee benefit plans established or modified by the state or any political subdivision of the state or by any agency or instrumentality of the state or any political subdivision of the state.

The requirements related to mental health parity implementation and enforcement are likely to increase the Department of Insurance's administrative costs. Any increase in such cost would be paid from Fund 5540.

### **Medicaid**

The bill stipulates that the Department of Medicaid (ODM) require their Medicaid Managed Care Organizations (MCOs) to provide their Medicaid enrollees the same benefits and rights that are required by the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008. The bill further requires the Medicaid Director to enforce and

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<sup>5</sup> The terms "health benefit plans" and "health plan issuers" apply to a policy, contract, certificate, or agreement offered by a health plan issuer as defined under section 3922.01 of the Revised Code. Health plan issuers include a sickness and accident insurance company, a health insuring corporation, a fraternal benefit society, a self-funded multiple employer welfare arrangement, or a nonfederal, government health plan.

monitor compliance of Medicaid MCOs with all applicable requirements of that mental health parity act. ODM may realize increased administrative costs to enforce and monitor compliance of Medicaid MCOs. Federal guidance from the Centers for Medicare and Medicaid Services already requires Medicaid MCOs to follow these rules.

### **Public records related to insurance claims**

The bill modifies a current law exemption from public records law for telephone numbers of a victim, as defined in section 2930.01 of the Revised Code, a witness to a crime, or a party to a motor vehicle accident subject to the requirements of section 5502.11 of the Revised Code that are listed on any law enforcement record or report. The bill permits release of such telephone numbers when requested by an insurer or insurance agent<sup>6</sup> investigating an insurance claim resulting from a motor vehicle accident.

This provision has no fiscal effect on the state or local governments.

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<sup>6</sup> “Insurer” and “insurance agent” have the same meanings as in section 3905.01 of the Revised Code.