

HB 586 -- Department of Insurance, Financial Institutions, and Professional Registration

Sponsor: Yates

This bill changes the laws regarding the enforcement and regulatory powers of the Department of Insurance, Financial Institutions, and Professional Registration.

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS, AND PROFESSIONAL REGISTRATION

The bill:

- (1) Synchronizes the penalties, administrative orders, civil actions, and other remedies available to the department director;
- (2) Allows the director, upon determining that a person has violated or attempted to violate provisions of the insurance laws, to:
 - (a) Issue an order directing the person to cease and desist from engaging in the act, practice, omission, or course of business;
 - (b) Issue a curative order or an order directing the person to take other action necessary to comply with insurance laws;
 - (c) Order a civil penalty or forfeiture; or
 - (d) Award reasonable costs of the investigation;
- (3) Allows the director to suspend or revoke a corporation's or insurer's certificate of authority for violating insurance laws or for a felony or misdemeanor conviction. The director must provide 30 days' notice and a hearing, if requested, before revocation;
- (4) Removes the director's authority to suspend a prepaid dental corporation's certificate of authority if it issues a contract without prior approval;
- (5) Allows any applicant who is refused a license to sell insurance to file a petition with the Administrative Hearing Commission. The director will retain discretion in refusing a license or renewal;
- (6) Authorizes the director to consult and share information with other members of the National Association of Insurance Commissioners, the Commissioner of Securities within the Office of Secretary of State, state securities regulators, the Division

of Finance and the Division of Credit Unions within the department, the Attorney General, federal banking and securities regulators, the National Association of Securities Dealers (NASD), the United States Department of Justice, the Commodity Futures Trading Commission, and the Federal Trade Commission to effectuate greater uniformity in insurance and financial services regulation among state and federal governments and self-regulatory organizations. The cooperation, coordination, consultation, and sharing of records and information authorized by the bill include:

(a) Establishing or employing one or more designees as a central electronic depository for licensing and rate and form filings with the director and for records required or allowed to be maintained;

(b) Encouraging insurance companies and producers to implement electronic filing through a central electronic depository;

(c) Developing and maintaining uniform forms;

(d) Conducting joint market conduct examinations and other investigations through collaboration and cooperation with other insurance regulators;

(e) Holding joint administrative hearings;

(f) Instituting and prosecuting joint civil or administrative enforcement proceedings; and

(g) Sharing and exchanging personnel;

(7) Changes the laws regarding falsely testifying in insurance investigations and prohibits an individual from knowingly making a false statement under oath or affirmation in any record submitted to the director. Knowingly making false statements or making false entries upon documents will be a class D felony;

(8) Allows the director to seek an order to enforce compliance if a person refuses to testify, file statements, or produce records. Persons are not excused from testifying or producing records based on the grounds that the testimony or records may tend to incriminate them. In this case, the director may seek a court order to compel the testimony or production of records, and the testimony or records may not be used as evidence in a criminal case;

(9) Requires insurance producers, beginning January 1, 2008, to complete 24 hours of continuing education every two years; and

(10) Allows the director to adopt rules to prescribe uniform disclosure of material information on insurance policy forms.

DISCOUNT MEDICAL PLAN ORGANIZATION

The bill regulates discount medical plans. The bill:

(1) Defines "discount medical plan" as a business arrangement in which a discount medical plan organization (DMPO), in exchange for compensation, provides access for plan members to medical service providers at a discount;

(2) Requires a DMPO to register with the director and pay an application fee of \$250. The organization must be a legal entity organized under the laws of this state or authorized to transact business in this state;

(3) Allows the director to examine the business affairs of a DMPO;

(4) Allows a DMPO to charge reasonable fees as long as the fees are disclosed to the applicant. Members have a 30-day, free-look period on memberships;

(5) Prohibits a DMPO from disseminating information that could mislead a person to think that the plan is health insurance;

(6) Prohibits the restriction of access to providers including waiting and notification periods. A DMPO cannot collect or pay fees for medical services unless licensed by the director to act as an administrator;

(7) Requires a DMPO to maintain a net worth of at least \$150,000;

(8) Requires notification to the director at least 30 days prior to changing the organization's name or address;

(9) Requires a DMPO to maintain a surety bond with the director of at least \$35,000, for use by the director in protecting plan members; and

(10) Allows the director to deny or revoke registration of an applicant for material misstatements, misrepresentation, or fraud. The applicant can request an appeals hearing. The director is authorized to issue administrative orders and maintain civil actions against a DMPO that is in violation of these provisions.

BAIL BOND AGENTS

The bill changes the laws regarding the licensure of bail bond agents. The bill:

- (1) Requires the department to notify any bail bond agent who is listed as having a forfeited bond;
- (2) Requires all licenses issued to bail bond agents to include a photograph of the licensee;
- (3) Requires all bail bond agents to provide the department with the name, address, and telephone number of each employer for whom they work or contract with;
- (4) Requires any newly appointed surety bail bond agent to file an affidavit with the department stating that all forfeitures or judgments on previously written bonds have been satisfied;
- (5) Requires all applicants for licensure to be fingerprinted and have a criminal background check;
- (6) Authorizes the department to have a cause of action brought against a licensee who has been found guilty of a dangerous felony or has filed bankruptcy as an owner of a bail bond business;
- (7) Allows bail bond agents to write bonds in municipal or circuit courts if the general bail bond agent who employs them is qualified to write bonds in these courts; and
- (8) Requires any bail bond agent arrested for a felony to notify the department of the arrest within 10 days.