

HCS SB 325 -- LIFE INSURANCE CONTRACTS AND PRODUCER EXAMINATIONS

SPONSOR: Loudon (Yates)

COMMITTEE ACTION: Voted "do pass" by the Committee on Insurance Policy by a vote of 12 to 0.

This substitute changes the laws regarding the enforcement and regulatory powers of the Department of Insurance, Financial Institutions, and Professional Registration; life insurance policies; discount medical plans; bail bond agents; and insurance company examinations.

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS, AND PROFESSIONAL REGISTRATION

The substitute:

- (1) Synchronizes the penalties, administrative orders, civil actions, and other remedies available to the department director;
- (2) Allows the department 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 department 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 department director must provide 30 days' notice and a hearing, if requested, before revocation;
- (4) Removes the department 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 department director will retain discretion in refusing or renewing a license;

(6) Authorizes the department director to consult and share information with other members of the National Association of Insurance Commissioners, the Commissioner of Securities within the Office of the 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 substitute include:

(a) Establishing or employing one or more designees as a central electronic depository for licensing and rate and form filings with the department 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 department director. Knowingly making false statements or making false entries on a document will be a class D felony;

(8) Allows the department 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 department 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; and

(9) Allows the department director to adopt rules to specify uniform disclosure of material information on insurance policy forms.

LIFE INSURANCE

The substitute:

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

(2) Excludes life insurance coverage for suicide for one year after the issuance of the policy.

DISCOUNT MEDICAL PLANS

The substitute:

(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 department 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 department 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 for 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 it is licensed by the department 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 department 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 department director of at least \$35,000, for use by the department director in protecting plan members; and

(10) Allows the department director to deny or revoke the registration of an applicant for material misstatements, misrepresentation, or fraud. The applicant can request an appeal hearing. The department 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 substitute:

(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.

INSURANCE COMPANY EXAMINATIONS

The substitute revises the fee schedules for health services corporations, health maintenance organizations, and insurance companies and for certain document filing fees paid by these organizations. Assessments made against insurance companies for

examination purposes will include:

- (1) The cost of compensation, including benefits, for the examiners, analysts, actuaries, and attorneys contributing to the examination of the company;
- (2) Reasonable travel, lodging, and meal expenses for an on-site examination; and
- (3) Other expenses of the examination.

The department director must pay these expenses from the Insurance Examiners Fund, and the Insurance Dedicated Fund may be used for the regulation of the business of insurance and the operation of the Division of Consumer Affairs.

All domestic insurance companies subject to orders of conservation, rehabilitation, or liquidation must reimburse the Insurance Dedicated Fund for administrative services rendered by state employees to the company.

Provisions regarding the Insurance Examiner's Sick Leave Fund are repealed.

FISCAL NOTE: Estimated Income on General Revenue Fund of Unknown less than \$311,530 in FY 2008, FY 2009, and FY 2010. Estimated Cost on Other State Funds of \$493,147 in FY 2008, \$528,397 in FY 2009, and \$528,397 in FY 2010.

PROPOSERS: Supporters say that the bill will allow insurers to make a one-year suicide exclusion on life insurance policies.

Testifying for the bill were Senator Loudon; Missouri Insurance Coalition; American Council of Life Insurers; Life Insurance Association of Missouri; and Prudential.

OPPOSERS: There was no opposition voiced to the committee.