

HCS SS SB 6 -- INSURANCE

SPONSOR: Wieland (Hill)

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Insurance by a vote of 12 to 0. Voted "Do Pass" by the Standing Committee on Rules- Legislative Oversight by a vote of 10 to 0.

The following is a summary of the House Committee Substitute for SB 6.

This bill modifies several provisions of statute relating to insurance. In its main provisions the bill:

MISSOURI NATIONAL GUARD (Section 41.201, RSMo)

This bill provides that members of the Missouri National Guard will be considered state employees for the purpose of operating state-owned vehicles for official state business, unless such members are called into active federal military service.

CERTIFICATES OF SELF-INSURANCE (Section 303.220)

This bill allows any religious denomination that discourages its members from purchasing insurance as being contrary to its religious tenets, but has more than 25 members with motor vehicles, to qualify as a self-insurer by obtaining a self-insurance certificate issued by the Director of the Department of Revenue.

Currently, a religious denomination can only qualify if it prohibits its members from purchasing insurance of any form.

MOTOR CLUBS (Sections 304.153, 385.220, 385.320, and 385.450)

This bill modifies the existing definition of "motor club" in Section 304.153, which relates to tow companies or tow lists utilized by law enforcement and state transportation employees, to a legal entity that, in consideration of dues, assessments, or periodic payments of money, promises to provide motor club services to its members or subscribers. Motor club services include services relating to motor travel, which may include but are not limited to towing services, emergency road services, bail bond services, discount services, theft services, map services, touring services, legal fee reimbursement services in the defense of traffic offenses, and participation in an accident and sickness or accidental death insurance benefit program.

The bill also specifies that fees collected from the sale of motor

club contracts are not subject to premium tax, and provides that motor clubs complying with the provisions of the bill will not be subject to provisions governing insurance companies in this state.

This bill is the similar to HB 2465 (2020).

CONTINUING EDUCATION CREDITS FOR INSURANCE PRODUCERS (Section 375.029)

This bill allows an insurance producer to receive up to four hours of continuing education credit per biennial reporting period for participation as an individual member or employee of a business entity producer member of a local, regional, state, or national professional insurance association with approval by the Director of the Department of Commerce and Insurance.

An insurance producer shall not use continuing education credit granted under this section to satisfy continuing education hours required to be completed in a classroom or classroom-equivalent setting, or to satisfy any continuing education ethics requirements.

These provisions are similar to HB 1851 and HCS HB 1647 (2020).

PETROLEUM STORAGE TANK INSURANCE FUND (Section 319.131)

Currently, the Petroleum Storage Tank Insurance Fund assumes costs of 3rd-party claims and cleanup of contamination caused by releases from petroleum storage tanks and pays legal defense costs for eligible 3rd-party claims. This bill specifies that the legal defense costs are separate from other coverage limits and allows the Fund to set a limit for such coverage.

These provisions are the same as SB 310 (2021).

LICENSING INSURANCE PRODUCERS (Sections 375.018 and 384.018)

This bill requires insurance producer licenses to be renewed on the producers birth date instead of the anniversary date of issuance of such license.

CREDIT FOR REINSURANCE AS AN ASSET OR REDUCTION FROM LIABILITY OF AN INSURER (Section 375.246 and Section 375.246.1(6)(b)a)

The bill authorizes the Director of the Department of Commerce and Insurance to promulgate certain rules, as specified in the bill, to establish requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance agreements described in the bill, or the

circumstances under which credit will be reduced or eliminated.

In addition to as currently provided by law, credit for reinsurance shall be allowed when the reinsurance is ceded to an assuming insurer meeting certain conditions. The assuming insurer shall have its head office or be domiciled in, as applicable, and licensed in a reciprocal jurisdiction, as such term is defined in the bill. The assuming insurer shall have and maintain minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction in an amount to be set forth by the Director by rule. If the assuming insurer is an association, it shall maintain the same, net of liabilities, and a central fund containing an amount to be set forth by rule. The assuming insurer shall have and maintain a minimum solvency or capital ratio, as applicable, which shall be set forth by rule. If the assuming insurer is an association, it shall have and maintain a minimum solvency and capital ratio in the reciprocal jurisdiction where the insurer has its head office or is domiciled, as applicable, and is also licensed. The assuming insurer shall agree and provide adequate assurance to the Director that it will provide prompt written notice and explanation to the Director if it falls below minimum capital and surplus requirements outlined in the bill, or if any regulatory action is taken against it for serious noncompliance with the law. The assuming insurer shall consent in writing to the jurisdiction of the courts of this state and to the appointment of the Director as agent for service of process. The Director may require that the consent for service of process be provided for and included in each reinsurance agreement. These provisions shall not alter the capacity of the parties to a reinsurance agreement to agree to enforceable alternative dispute resolution mechanisms. The assuming insurer shall consent in writing to pay all final judgments obtained by a ceding insurer or its legal successor, where enforcement is sought, which have been declared enforceable in the jurisdiction where the judgment was obtained. Each reinsurance agreement shall require the assuming insurer to provide security, in an amount equal to 100% of the assuming insurer's liabilities attributable to reinsurance under the agreement, if the assuming insurer resists enforcement of an enforceable final judgment or arbitration award. The assuming insurer shall confirm that it is not presently participating in any solvent scheme of arrangement involving this state's ceding insurers, and shall agree to notify the ceding insurer and the Director and to provide security as specified by rule in an amount equal to 100% of the assuming insurer's liabilities to the ceding insurer should the assuming insurer enter into such a solvent scheme of arrangement. The assuming insurer or its legal successor shall provide, if requested by the Director, certain documentation as specified by rule. The assuming insurer shall maintain a practice of prompt payment of claims under reinsurance agreements

as specified by rule. The assuming insurer's supervisory authority shall confirm to the Director on an annual basis that the assuming insurer complies with the minimum capital and surplus or solvency or capital ratio requirements specified in this bill. Nothing in these provisions precludes an assuming insurer from providing the Director with information on a voluntary basis.

This bill requires the Director to create and publish a list of reciprocal jurisdictions. The Director's list shall contain any jurisdiction meeting the definitions provided in the bill and shall consider any other reciprocal jurisdiction included on the list published by the National Association of Insurance Commissioners (NAIC). The Director may approve additional jurisdictions under rules promulgated by the Director. The Director may remove a jurisdiction from the list upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, except that the Director shall not remove a non-United States jurisdiction that is subject to a covered agreement, as defined in the bill, or a United States jurisdiction that meets the requirements for NAIC accreditation.

The Director shall create and publish a list of assuming insurers that have satisfied the conditions set forth in this bill and to which cessions shall be granted credit as specified in the bill. The Director may add an assuming insurer to the list if an NAIC accredited jurisdiction has added the assuming insurer to such a list, or if the eligible assuming insurer submits certain information to the Director, as provided in the bill, and complies with any additional requirements the Director may adopt that are not in conflict with an applicable covered agreement.

If the Director determines an assuming insurer no longer meets one or more requirements for recognition under the bill, the Director may revoke or suspend the insurer's eligibility for recognition in accordance with the bill. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the date of suspension shall qualify for credit, except to the extent that the assuming insurer's obligations are secured as provided by law. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of revocation with respect to any reinsurance agreement entered into by the insurer, before or after the revocation, except to the extent the insurer's obligations are secured as provided by law.

If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer or its representative may seek a court order requiring that the assuming insurer post security for all outstanding liabilities.

Nothing in this bill shall limit or in any way 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 law.

Credit may be taken under this bill only for reinsurance agreements entered into, amended, or renewed on or after December 31, 2021, and only with respect to losses incurred and reserves reported on or after the later of: the date on which the assuming insurer has met applicable eligibility requirements, or the effective date of the new reinsurance agreement, amendment, or renewal. Nothing in this bill shall alter or impair a ceding insurer's right to take credit for reinsurance under the bill as long as the reinsurance qualifies for credit under another applicable provision of law. Nothing in this bill shall limit or in any way alter the capacity of parties to any reinsurance agreement to renegotiate the agreement.

The bill authorizes the Director to adopt rules and regulations applicable to reinsurance agreements relating to certain life insurance policies, variable annuities with guaranteed benefits, long-term care insurance policies, and such other life and health insurance and annuity products as to which the NAIC adopts model rules with respect to credit for reinsurance. A rule adopted under these provisions regarding life insurance policies may apply to any treaty containing policies issued on or after January 1, 2015, or policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with a treaty on or after January 1, 2015. A rule adopted under these provisions may require the ceding insurer, in calculating the amounts or forms of security required to be held, to use the NAIC valuation manual to the extent applicable. Regulations adopted under this authority shall not apply to an assuming insurer that: meets the conditions set forth in this bill or, if this state has not fully implemented the provisions of this bill, is operating in at least 5 states that have implemented the provisions of this bill; is certified in this state; or maintains at least \$250,000,000 in capital and surplus as specified in the bill and is licensed in at least 26 states, or licensed in at least 10 states and licensed or accredited in at least 35 states. The authority to adopt regulations under these provisions does not limit the Director's authority to otherwise adopt regulations relating to credit for reinsurance.

These provisions are similar to SB 634, HB 1619, and provisions in HCS SB 551 (2020).

ASSOCIATION HEALTH PLANS (Section 376.421)

This bill repeals the requirements that in order for an association

to be issued a policy of group health insurance, the association shall have been organized and maintained for purposes other than obtaining health insurance, and that the association shall have been in existence for at least 2 years.

ISSUANCE OF FUNDING AGREEMENTS (Section 376.2080)

This bill specifies that life insurance companies may issue funding agreements, defined in the bill as an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts not based on mortality or morbidity contingencies of the person to whom the funding agreement is issued. Funding agreements shall not be deemed to constitute a security. The issuance of a funding agreement shall be deemed to be doing insurance business.

A funding agreement shall be a class 2 claim for purposes of distribution of funds from an insolvent insurer under the Insurers Supervision, Rehabilitation and Liquidation Act.

These provisions are the same as to SB 90 (2021), and similar to SB 698 and HB 1618 (2020).

EXPLANATIONS OF REFUSAL TO WRITE AUTOMOBILE INSURANCE (Section 379.120)

Currently, if any insurer refuses to write a policy of automobile insurance, the insurer must send to the applicant a written explanation of the refusal which clearly states the reason for the refusal and that the applicant may be eligible for coverage through the assigned risk plan if other insurance is not available.

This bill exempts insurers from these requirements if the applicant is written on a policy of insurance issued by an affiliate or subsidiary insurer within the same insurance holding company system.

These provisions are the same as SB 294 (2021) and SB 1074 (2020).

GROUP PERSONAL LINES PROPERTY AND CASUALTY INSURANCE (Sections 379.1800 to 379.1824)

The bill specifies that no policy of group personal lines property and casualty insurance shall be issued or delivered in the state unless it conforms to one of the categories described in the bill.

The bill describes policies issued to an employer or trustees of a fund established by an employer policies issued to a labor union or similar employee organization policies issued to a trust, or

trustees of a fund, established by two or more employers or by one or more labor unions or similar employee organizations or by a combination thereof and policies issued to an association or to a trust, or trustees of a fund, established for the benefit of members of one or more associations. For each, the bill specifies persons' eligibility for coverage under the policies, and the sources of funds from which the policy premiums may be paid. For policies issued for the benefit of an association or associations, the bill further requires that the association or associations have at the outset least 100 members, have been organized and maintained in good faith for purposes other than obtaining insurance, and have been in active existence for at least one year. The association or associations' constitution and bylaws shall require that the association shall meet at least annually to further the purposes of the members, shall collect dues or solicit member contributions, and shall provide members with voting privileges and representation on the governing board and committees. Lastly, if compensation of any kind will be paid to the policyholder in connection with a group policy issued for the benefit of an association or associations, the insurer shall notify prospective insureds as required in the bill.

Group personal lines property and casualty insurance issued to a group other than one described above shall meet additional requirements. No such policy shall be issued or delivered in this state unless the Director of the Department of Commerce and Insurance finds that the issuance of the group policy is not contrary to the best interest of the public, would result in economies of acquisition or administration, and that the benefits are reasonable in relation to the premiums charged. No policy issued or delivered in another state shall offer coverage in this state unless the Director, or another state with comparable requirements, determines these additional requirements have been met. Premiums for these plans shall be paid from funds that are contributed by the policyholder, by covered persons, or by both. If compensation is to be paid to the policyholder in connection with the group policy, the insurer shall notify prospective insureds as specified in the bill.

For all group personal lines property and casualty insurance, master policies shall be issued to the policyholders, and eligible employees or members insured under a master policy shall be issued certificates of coverage setting forth a statement as to the insurance protection to which they are entitled. No master policy or certificate of insurance, nor any subsequent amendments to the policy forms, shall be issued or delivered in this state unless the forms and any amendments thereto have met the applicable filing requirements of this state. The master policy shall set forth coverages, exclusions, and conditions of the insurance provided,

together with the terms and conditions of the agreement between the policyholder and insurer, as provided in the bill. If the master policy provides for remittance of premiums by the policyholder, failure by the policyholder to remit premiums timely paid by an employee or member shall not be considered nonpayment of premium by the employee or member.

The master policy shall provide a basic package of coverages and limits that are available to all eligible employees or members, including at least the minimum coverages and limits required in the employee's or member's state of residence or in the state where the subject property is located, and may offer additional coverages or limits to qualified employees or members for an increased premium. The master policy shall provide coverage for all eligible employees or members who elect coverage during their initial period of eligibility, which may be up to 31 days. Employees or members who do not elect coverage during the initial period and later request coverage shall be subject to the insurer's underwriting standards. Coverage under a master policy may be reduced only as to all members of a class, and shall never be reduced to a level below the limits required by applicable law. Coverage under the master policy may be terminated as to an employee or member only for reasons specified in the bill. If optional coverages or limits are required by law to be available, the policyholder's acceptance or rejection of them on behalf of the group shall be binding on the employees or members. If the policyholder rejects any coverages or limits that are required by law to be provided unless rejected by the named insured, notice of the rejection shall be given to the employees or members upon or before delivery of their certificates of coverage. The bill prohibits the stacking of coverages or limits under a master policy, except that state law shall apply with regard to the stacking of coverages for separate certificates of coverage issued to relatives living in the same household.

No master policy or certificate of insurance shall be issued or delivered in this state unless the rating plan and amendments thereto have met applicable filing requirements of this state. Group insurance premium rates shall not be deemed to be unfairly discriminatory if adjusted to reflect past and prospective loss experience or group expense factors, or if averaged broadly among persons covered under the master policy. The rates likewise shall not be deemed unfairly discriminatory if they do not reflect individual rating factors including surcharges and discounts required for individual personal lines property and casualty policies. Experience refunds or dividends may be paid to the policyholder of a group personal lines property and casualty policy if justified by the insurer's experience under that policy. However, if an experience refund or dividend is paid, it shall be applied for the sole benefit of the insured employees or members to

the extent it exceeds the policyholder's contribution to premiums for the applicable period.

An insurer issuing or delivering group personal lines property and casualty insurance shall maintain separate statistics as to the loss and expense experience pertinent thereto. No insurer shall issue or deliver a policy if purchasing insurance is a condition of employment or membership in the group, or if any employee or member shall be penalized for nonparticipation. The bill prohibits insurers from issuing or delivering a policy if the purchase is contingent on purchase of other insurance, product, or services, or on the purchase of additional coverage under the policy, except as specified in the bill. The insurer's experience from the policies shall be included in the determination of its participation in residual market plans. For purposes of premium taxes, the insurer shall allocate premiums in accordance with the rules for individual personal lines policies, except that the allocation may be based on an annual survey of the insureds. Premiums shall be apportioned among states without differentiation between the source of payment.

The bill requires persons acting as an insurance broker or agent in connection with the policies to be licensed in this state as an insurance producer, except as otherwise specified in the bill and provides that the signature of a licensed producer residing in this state shall not be required for issuance or delivery of a policy.

Regarding termination of coverage, the bill requires insurers to give 30 days written notice, as specified in the bill, to persons whose coverage is being terminated for reasons other than by their own request or a failure to pay premiums. The employee or member whose coverage is terminated shall be entitled to be issued a comparable individual policy if he or she applies and pays the first premium within 30 days of receiving the notice. These notice and replacement policy provisions shall not apply if the master policy is replaced within 30 days.

The bill further requires insurers to be duly licensed, specifies that the bill is not applicable to mass marketing of individual policies, excludes certain credit insurance, specifies that it does not apply or modify motor vehicle insurance, and provides that it shall not modify the authority of the Director with respect to consumer complaints or disputes.

These provisions shall take effect on January 1, 2022. A master policy or certificate of insurance that is lawfully in effect at that time shall comply with this bill within 12 months of such date.

These provisions are the same as SB 209 (2021), SB 843 (2020), and

similar to HB 2085, provisions in HB 1634, and provisions in HCS SB 551 (2020).

INSURANCE HOLDING COMPANIES (Sections 382.010, 382.110, 382.176, 382.177 and 382.230)

The bill modifies provisions related to insurance holding companies. The chief executive officer of every insurer subject to registration shall file an annual group capital calculation as directed by the Director of the Department of Commerce and Insurance in accordance with the National Association of Insurance Commissioners (NAIC) group capital calculation instructions and using the procedures within the Financial Analysis Handbook adopted by the NAIC. Several insurance holding company systems are exempt from filing the group capital calculation as outlined in the bill.

The lead state director has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria as specified in regulations promulgated by the director. Any insurance holding company system, as determined by the Director of the lead state, that no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this section, such insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the director of the lead state based on reasonable grounds shown.

The chief executive officer of every insurer subject to registration and also scoped into the NAIC liquidity stress test framework shall file the results with the Director of the insurance holding company system of a specific year's liquidity stress test. Any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January first of the year following the calendar year in which such changes are adopted. Insurers meeting at least one threshold of the scope criteria are considered scoped into the NAIC liquidity stress test framework for the specified data year unless the Director, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer shall not be scoped into the framework for that data year.

Insurers that do not trigger at least one threshold of the scope criteria are considered scoped out of the NAIC liquidity stress test framework for the specified data year, unless the Director, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer shall be scoped into the framework for that data year. To avoid having insurers scoped into and out of the NAIC liquidity stress test framework on a frequent

basis, the Director, in consultation with the Financial Stability Task Force or its successor, shall assess this concern as part of the determination for an insurer. The bill also requires the performance of, and filing of the results from, a specific year's liquidity stress test shall comply with the NAIC liquidity stress test framework's instructions and reporting templates for that year and any director determinations, in conjunction with the Financial Stability Task Force or its successor, provided within the framework.

All of the information and documents given to the Department of Commerce and Insurance are considered proprietary and to contain trade secrets and shall be given confidential treatment and privileges.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that the bill enacts provisions relating to credit for reinsurance as an asset or reduction from liability of an insurer and will help remove collateral requirements and could lower prices for Missouri consumers. Regarding the storage tank insurance fund the EPA made an issue of DNR's tank program language discrepancy and this bill fixes that issue. Missouri has an excellent record of completing cleanups.

Testifying for the bill were Senator Wieland; James Greer, MFA Oil Company; Missouri Petroleum Storage Tank Insurance Fund; Missouri Petroleum & Convenience Association; Prudential; ACLI; Life Insurance Association of Missouri; Missouri Insurance Coalition; Missouri Department of Commerce and Insurance; Missouri Petroleum and Convenience Association; and Swiss Re.

OPPONENTS: There was no opposition voiced to the committee.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.