

CCS SS SCS HCS HB 577 -- REGULATION OF INSURANCE

This bill changes the laws regarding the regulation of insurance.

TAXATION OF INSURANCE COMPANIES (Sections 143.441, 147.010, and 148.370, RSMo)

Currently, insurance companies which pay an annual tax on gross premium receipts are exempt from Missouri corporate income and franchise taxes. The bill specifies that insurance companies which are subject to an annual tax on gross premium receipts are exempt from Missouri corporate income and franchise taxes.

MO HEALTHNET DATA TRANSPARENCY (Section 208.192)

The MO HealthNet Division within the Department of Health and Senior Services must implement, by August 28, 2010, a program to make available on its Internet web site nonaggregated data on MO HealthNet participants collected under the federal Medicaid Statistical Information System. The information must not contain any identifying information in accordance with the federal Health Insurance Portability and Accountability Act privacy requirements. When implementing the program, the division director is required to ensure that:

- (1) The information is available in a format that is easily accessible, useable, and understandable to the public;
- (2) The information is current and updated at least once quarterly. The division director is authorized to contract with a public or private entity to update the data;
- (3) Health care provider information identifies the provider by name; and
- (4) The division director periodically solicits comments from individuals accessing the information to determine how best to improve the utility of the program.

Beginning August 28, 2011, the division director must submit an annual report to the General Assembly and the MO HealthNet Oversight Committee on the progress of the program. By August 28, 2011, the division director must submit a report to the General Assembly and the MO HealthNet Oversight Committee on the feasibility, costs, and benefits of expanding the program to include information regarding the State Children's Health Insurance Program.

INSURANCE IDENTIFICATION CARDS (Section 303.024)

The bill specifies that any person who knowingly or intentionally produces, manufactures, sells, or otherwise distributes a fraudulent document intended to serve as a motor vehicle insurance identification card will be guilty of a class D felony and any person who knowingly or intentionally possesses a fraudulent card will be guilty of a class B misdemeanor.

INTERSTATE INSURANCE PRODUCT REGULATION COMPACT (Sections 374.350 - 374.352)

The bill establishes the Interstate Insurance Product Regulation Compact to develop uniform standards for certain insurance products and the Interstate Insurance Product Regulation Commission to create a central clearinghouse to receive and provide the prompt review of insurance products covered under the compact, provide appropriate regulatory approval, and improve the coordination of regulatory resources and expertise between state insurance departments. The compact is to promote and protect the interests of consumers of individual and group annuity, life insurance, disability income, and long-term care insurance products. The compact creates a single point to file products for regulatory review and approval and for certain insurance products and rate filings which would be subject to uniform national standards. States that are members of the compact will develop uniform standards that apply to products filed with the commission. If a product is approved under the compact, an insurer will be able to sell the product in multiple states without separate filings in each state. The compact will not prevent an insurance company from filing products in individual states through the existing form filing process.

Individual states will continue to regulate market activities and allow for the coordination among states to identify violations of the uniform standards. If a state disagrees with a product standard developed by the commission, the state can opt out of the uniform standard. For long-term care insurance, states can opt out at the time of joining the compact. All states joining the compact will be involved in setting up and overseeing the activities of the compact. The commission is required to report annually to the general assembly and governor in compacting states. The annual report must include the results of an audit by an independent certified public accountant.

BAIL BOND AGENTS (Section 374.776)

The Department of Insurance, Financial Institutions and Professional Registration is required to study licensing rules and other policies and procedures governing the bail bond industry in Missouri during the 2009 interim of the General Assembly. The department is authorized to hold public hearings

and take testimony from interested parties. If public hearings are held, notice must be given to all licensed bail bond agents. The department must submit a report of its findings to the insurance committees of the House of Representatives and Senate by January 6, 2010.

#### INSURANCE PRODUCERS AND BROKERS (Sections 375.020 and 382.400 - 384.062)

The bill changes the laws regarding insurance producers and brokers. In its main provisions, the bill:

- (1) Adds entities that provide educational courses to producers to the list of programs which meet the standards for their continuing educational requirements;
- (2) Changes the term "broker" to "producer" in Sections 382.400 - 382.409;
- (3) Changes surplus lines license renewal requirements from annually with a \$50 fee to biennially with a \$100 fee;
- (4) Requires surplus lines brokers to report quarterly to the Director of the Department of Insurance, Financial Institutions and Professional Registration the gross amount charged for surplus lines insurance and the amount of net premiums;
- (5) Requires the Department of Revenue to notify the Director of the Department of Insurance, Financial Institutions and Professional Registration of the amount of all taxes, penalties, and interest collected from each surplus lines licensee;
- (6) Repeals the provisions requiring the Department of Insurance, Financial Institutions and Professional Registration to annually report to the appropriate committees of the General Assembly on enforcement actions relating to health maintenance organizations, utilization review agents, and managed care health benefit plans; and
- (7) Repeals the provisions regarding the reporting requirements for surplus lines insurance brokers and licensees.

#### AUDITED FINANCIAL REPORTS OF CERTAIN INSURERS (Sections 375.1025 - 375.1057)

The bill changes the laws regarding audited financial reports for certain insurers. In its main provisions, the bill:

- (1) Exempts insurers with less than \$1 million in direct premiums written in Missouri in any calendar year and less than

1,000 policies or certificate holders nationwide at the end of the calendar year from the financial report auditing requirements. The exemption will not apply if the Director of the Department of Insurance, Financial Institutions and Professional Registration finds that an audit is necessary to carry out statutory responsibilities or if the insurer has assumed premiums under contracts or treaties of reinsurance of \$1 million or more;

(2) Exempts foreign or alien insurers from filing a management's report of internal control over financial reporting when the insurer has filed a report in another state which has substantially similar requirements;

(3) Changes from 20 days to 10 days the deadline to request an extension of the June 1 filing date for audited financial reports;

(4) Specifies that a similar 30-day extension is granted for the filing of the management's report of internal control over financial reporting when an insurer has been granted an extension of the June 1 filing date for audit reports;

(5) Requires certain insurers to designate a group of individuals as its audit committee;

(6) Changes the content requirements for the financial report;

(7) Adds several provisions regarding the qualifications of the certified public accountant for an insurer's annual audited financial report;

(8) Specifies that an insurer can apply, in writing, to the department director for permission to file audited consolidated or combined financial statements in certain situations;

(9) Removes from the required contents of the accountant's letter a statement that the accountant has liability insurance coverage of the lesser of \$1 million or 10% of the insurer's admitted assets;

(10) Requires an accountant to have an understanding of the internal control of the insurer sufficient to plan the audit;

(11) Requires an insurer to provide the department director with a written communication of any unremediated material weaknesses in its internal control over financial reporting noted during the audit and the completed or proposed actions to correct them unless the actions have been described in the accountant's communication;

(12) Establishes the membership requirements and functions of the audit committee;

(13) Specifies that false or misleading statements to an accountant in connection with any audit, review, or required communication will be considered a level three violation under Section 374.049; and

(14) Requires, beginning January 1, 2010, certain insurers to file a management report of internal control over financial reporting and establishes the requirements for these reports.

#### HEALTH INSURANCE CO-PAYMENTS AND CO-INSURANCE FOR CHIROPRACTIC SERVICES (Section 376.391)

Health benefit plans and health carriers are prohibited from imposing any co-payment that exceeds 50% of the total cost of providing any single chiropractic service to an enrollee.

#### LIFE INSURANCE (Section 376.502)

Life insurance companies doing business within the state are prohibited from denying or refusing to accept an application for life insurance; refusing to renew, cancelling, restricting, or terminating a life insurance policy; or charging a different rate for the same life insurance coverage based on the individual's past or future lawful travel destinations unless it is based on a specific travel destination where the denial, restriction, or rate differential is based on sound actuarial principles or is related to an actual or reasonably anticipated experience. A violation of these provisions will be considered an unfair trade practice and subject to the penalties specified in Sections 375.930 - 375.948. The provisions of this section will apply to any life insurance policy issued or renewed on or after August 28, 2009.

#### COVERAGE FOR PROSTHETIC DEVICES AND SERVICES (Section 376.1232)

Every health carrier or health benefit plan delivered, issued, continued, or renewed on or after January 1, 2010, must offer coverage for prosthetic devices and services. These provisions do not apply to certain supplemental insurance policies.

#### CAPTIVE INSURANCE COMPANIES (Sections 379.1300 - 379.1412)

The bill changes the laws regarding captive insurance companies and allows an association captive insurance company or an industrial insured captive insurance company to be organized as a reciprocal insurer. In its main provisions, the bill:

(1) Requires the subscribers' advisory committee of a reciprocal insurer to meet at least once a year;

(2) Removes the requirement that a captive insurance company hold at least 35% of its assets in Missouri or through a financial institution located in the state and approved by the Director of the Department of Insurance, Financial Institutions and Professional Registration;

(3) Requires organizers of a reciprocal insurer to petition the department director to issue a certificate finding that the proposed association will promote the general good of the state;

(4) Specifies that the captive insurance company statutes will control in cases where there is a conflict with the reciprocal insurance statutes;

(5) Requires the State Treasurer to deposit 90% of the premium taxes collected from captive insurance companies and special purpose life reinsurance captive (SPLRC) companies into the General Revenue Fund and 10% into the Insurance Dedicated Fund, subject to a maximum of 3% of the current fiscal year's appropriation from the fund;

(6) Allows an association captive insurance company or an industrial insured captive insurance company formed as a stock or mutual corporation to be converted to or merged with and into a reciprocal insurer and specifies the requirements and procedures for the conversion or merger plan;

(7) Reduces from two to one the number of Missouri residents required to incorporate or organize a SPLRC; and

(8) Changes the way in which the assets of a SPLRC are valued.

The provisions regarding MO HealthNet data transparency will expire six years from the effective date.