

HCS SB 464 -- REGULATION OF CERTAIN BUSINESS ENTITIES

SPONSOR: Stouffer (Yates)

COMMITTEE ACTION: Voted "do pass" by the Committee on Insurance Policy by a vote of 9 to 1.

This substitute changes the laws regarding the regulation of certain business entities.

TAXATION OF INSURANCE COMPANIES (Sections 143.441 - 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 substitute specifies that insurance companies which are subject to an annual tax on gross premium receipts are exempt from Missouri corporate income and franchise taxes.

INSURANCE IDENTIFICATION CARDS (Section 303.024)

The crime of knowingly or intentionally producing, manufacturing, selling, or distributing a fraudulent insurance identification card is created, a class D felony. Any person who knowingly or intentionally possesses a fraudulent insurance identification card will be guilty of a class B misdemeanor.

BAIL BOND AGENTS (Sections 374.702 - 374.755)

Beginning August 28, 2009, the substitute requires a person licensed as an active bail bond agent to hold that license for a period of at least four years prior to becoming a general bail bond agent or being an officer of a corporation that is authorized as surety on a bail bond. When applying for license renewal, a general bail bond agent licensed prior to August 28, 2009, must have completed at least two years as a bail bond agent and possess at least \$10,000 in liquid assets along with an executed assignment of \$10,000 to the state. For a general bail bond agent licensed on or after August 28, 2009, he or she must have completed four years as a bail bond agent and possess \$50,000 in liquid assets along with an executed assignment of \$50,000 to the state. In addition, the general bail bond agent must execute an assignment of \$5,000 for each bail bond agent licensed under his or her authority on or after August 28, 2009. A bail bond agent will not be required to assign \$5,000 for any agent licensed under the authority of the same general bail bond agent prior to August 28, 2009.

The substitute also removes the provision allowing a person to

apply for licensure as a bail bond agent after 15 years from a final adjudication or plea of guilty or nolo contendere in a criminal prosecution. Disclosure of a suspended sentence is not required for licensing or renewal purposes and will not be a basis for a license denial.

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

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

- (1) Exempts insurers with less than \$1 million in direct premiums written in Missouri and less than 1,000 policies or certificate holders nationwide in a calendar year from the financial report auditing requirements unless the Director of the Department of Insurance, Financial Institutions and Professional Registration finds that an audit is necessary;
- (2) Exempts foreign or alien insurers from filing a report of internal control over financial reporting when the insurer has filed a substantially similar report in another state;
- (3) 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;
- (4) Requires certain insurers to designate a group of individuals as its audit committee;
- (5) Changes the content requirements for the financial report;
- (6) Adds several provisions regarding the qualifications of the certified public accountant for an insurer's annual audited financial report;
- (7) Specifies that an insurer can apply, in writing, to the department director for permission to file audited combined financial statements in certain situations;
- (8) Removes the statement of liability insurance coverage from the required contents of the accountant's letter;
- (9) Requires an accountant to have an understanding of the internal control of the insurer to plan the audit;
- (10) Requires an insurer to provide the department director with a written communication of any unresolved 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;

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

(12) 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

(13) Requires certain insurers to file a report of internal control over financial reporting and establishes the requirements for these reports.

UNCLAIMED FUNDS (Section 375.1224)

The substitute specifies that withheld and unclaimed funds in a liquidator's possession will be distributed according to the priority of distribution in Section 375.1218 when an insurer is being liquidated.

GROUP HEALTH INSURANCE COVERAGE AFTER TERMINATION OF EMPLOYMENT (Section 376.428)

The substitute requires group policies by a health carrier or health benefit plan to comply with the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) provisions regarding the continuation of group health insurance coverage to an individual who has terminated employment or membership.

LIFE INSURANCE (Section 376.502)

Life insurance companies 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 life insurance based on the applicant's past or future lawful travel destinations unless it is based on sound actuarial principles or an anticipated experience. A violation of these provisions will be considered an unfair trade practice and subject to penalties specified in Sections 375.930 - 375.948. The provisions of the substitute apply to any life insurance policy issued or renewed on or after August 28, 2009.

CAPTIVE INSURANCE COMPANIES (Sections 379.1300 - 379.1412)

The substitute 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 substitute:

- (1) Requires the captive insurance company's subscribers' advisory committee 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;
- (3) Requires organizers of a reciprocal insurer to petition the Director of the Department of Insurance, Financial Institutions and Professional Registration 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 between them and 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 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.

INSURANCE PRODUCERS AND BROKERS (Sections 382.400 - 384.062)

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

- (1) Adds entities that provide educational courses to producers to the list of programs which meet the standards for 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 biennial 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 the amount of premium taxes collected from each surplus lines licensee;

(6) Repeals the provisions requiring the Department of Insurance, Financial Institution 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.

TRAVEL CLUBS (Section 407.1243)

Any travel club offering vacation benefits for sale is required to demonstrate that it has liquid assets of at least \$250,000. Demonstration of proof can be made to the Office of the Attorney General or the Department of Insurance, Financial Institutions and Professional Registration with one or more certificates of deposit, a letter of credit from a financial institution with assets of at least \$75 million, or an executed assignment to the state of Missouri in the required amount. Any interest earned will accrue to the travel club, except for any money due to the Attorney General.

The substitute contains an emergency clause for the provisions regarding group health insurance coverage after termination of employment.

FISCAL NOTE: Estimated Cost on General Revenue Fund of At least \$11,821 in FY 2010, FY 2011, and FY 2012. Estimated Income on Other State Funds of At least \$11,821 in FY 2010, FY 2011, and FY 2012.

PROponents: Supporters say that the bill codifies a previous executive order, changes references from "brokers" to "producers," and clarifies existing language.

Testifying for the bill were Senator Stouffer; and Department of Insurance, Financial Institutions and Professional Registration.

OPPONENTS: There was no opposition voiced to the committee.