

CCS HCS SB 464 -- REGULATION OF CERTAIN BUSINESS ENTITIES

(Vetoed by the Governor)

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

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.

TRAILER DEALER LIABILITY INSURANCE (Section 301.560)

Currently, a trailer dealer is required to provide a copy of a current dealer garage liability insurance policy when submitting his or her licensure application. The bill removes this requirement.

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.

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.

UNCLAIMED FUNDS (Section 375.1224)

The bill specifies that withheld and unclaimed funds which have not been distributed in a liquidator's possession when he or she applies to a court for discharge will be distributed to claim holders in the order of the priority of distribution specified in Section 375.1218 when an insurer is being liquidated. Currently, these unclaimed funds are held and disposed of as unclaimed property by the Department of Economic Development.

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

The bill requires group policies delivered or issued by an insurance company, health service corporation, or health maintenance organization to employers not covered by the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) to provide the continuation of group health insurance coverage in the same manner as provided by the COBRA law to an individual who has terminated employment or membership.

LIFE INSURANCE (Section 376.502)

Life insurance companies, doing business within the state with gross written premiums of \$300 million per year or more, 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.

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