

HCS HB 50 -- INSURANCE HOLDING COMPANIES

SPONSOR: Gosen

COMMITTEE ACTIONS: Voted "Do Pass" by the Standing Committee on Property, Casualty, and Life Insurance by a vote of 8 to 3. Voted "Do Pass with HCS" by the Select Committee on Insurance by a vote of 8 to 2.

This bill changes laws regarding insurance holding companies. In its main provisions, the bill:

(1) Expands the authority of the Director of the Department of Insurance, Financial Institutions and Professional Registration to assess the financial stability and risk of insurance holding companies. The department director may seek information relevant to the determination of "enterprise risk" which is defined in terms of systematic financial risks that threaten to deplete capital under Section 375.1225, RSMo, or create a hazardous financial condition under Section 375.539. The department director may order the production of information and issue subpoenas in order to obtain relevant information that may legally be obtained by insurance holding companies. Whenever it appears to the department director that any person has committed a violation of the provisions of the bill and the violation prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of suspension. The department director may also require additional registration information such as financial interest statements from affiliates and board of governance member statements as specified in the bill. An ultimate controlling individual in each insurance holding company will be required to file an annual enterprise risk report with the department director. There will be a 30-day period for the department director to approve or disapprove a request for exemption from registration and reporting requirements on the basis of non-affiliation;

(2) Requires any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer to file a confidential notice with the department director, with a copy to the insurer, of its proposed divestiture at least 30 days prior to the cessation of control. The department director must determine those instances in which the party or parties seeking to divest or to acquire a controlling interest must be required to file for and obtain approval of the transaction. The acquiring person must also file a preacquisition notification with the department director containing specified information;

(3) Requires a person acquiring a controlling interest to sign a statement that includes an agreement to file an annual report with the department director for so long as control exists and an acknowledgment that he or she and all subsidiaries within its control in the insurance holding company will provide information to the department director upon request as necessary to evaluate enterprise risk to the insurer;

(4) Allows a consolidated public hearing upon request of the person filing the required statement if the proposed acquisition of control requires the approval of more than one state insurance commissioner. In connection with a change of control of a domestic insurer, any determination by the department director that the person acquiring control must be required to maintain or restore the capital of the insurer to the required state level must be made within 60 days after the date of notification of the change in control. Companies acquired by Missouri insurers may be subject to Missouri law and will no longer be exempt;

(5) Requires a disclaimer of affiliation with any authorized insurer to be deemed to have been granted unless the department director notifies, within 30 days following receipt of a complete disclaimer, the filing party that the disclaimer is disallowed. If it is disallowed, the disclaiming party may request an administrative hearing which must be granted;

(6) Requires the ultimate controlling person of every insurer subject to registration to file an annual enterprise risk report upon request of the department director. The report must be filed with the lead state insurance commissioner of the insurance holding company system as determined by specified procedures adopted by the National Association of Insurance Commissioners;

(7) Requires the accounting documentation of a registered insurer to include information as is necessary to support the reasonableness of fees, charges, and other transactions conducted with its affiliated insurers. Other criteria for department director supervision of affiliated insurer practices are specified in the bill;

(8) Requires the department director to have the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations to determine compliance by the insurer with these provisions. Each registered insurer subject to these provisions must be liable for and must pay the reasonable expenses of the department director's participation in a supervisory college;

(9) Specifies the requirements for the reporting and disclosure of information between the department director and the National Association of Insurance Commissioners or other regulatory bodies and prohibits all information, documents, and copies obtained by or disclosed to the department director from being subject to the Open Meetings and Records Law, commonly known as the Sunshine Law, and from being subject to discovery or admissible as evidence in any private civil action; and

(10) Specifies that the provisions of Sections 382.100 to 382.180 must not apply to any insurer, information, or transaction if and to the extent that the department director by rule, regulation, or order must exempt the same from the provisions.

PROPOSERS: Supporters say that the bill is based on model legislation from the National Association of Insurance Commissioners and is necessary for the Department of Insurance to retain accreditation.

Testifying for the bill were Representative Gosen; Matthew Fillo, RGA Reinsurance Co.; Brian Waller, Shelter Insurance; Missouri Insurance Coalition; America's Health Insurance; American Council of Life Insurers; SwissRe; State Farm Insurance Companies; and Randy Scherr.

OPPOSERS: Those who oppose the bill say that the portion of the bill that prohibits information from being subject to discovery or admissible as evidence in any private civil action is bad and should be removed. These documents need to be admissible in a court of law.

Testifying against the bill were Missouri Association of Trial Attorneys and Woody Cozad, Cozad Company, LLC.

OTHERS: Others testifying on the bill say that we need the bill to stay accredited.

Testifying on the bill was Department of Insurance, Financial Institutions and Professional Registration.