

HCS SB 392 -- REGULATION OF INSURANCE

SPONSOR: Wieland (Gosen)

COMMITTEE ACTIONS: Voted "Do Pass" by the Standing Committee on Property, Casualty, and Life Insurance by a vote of 10 to 0. Voted "Do Pass with HCS" by the Select Committee on Insurance by a vote of 9 to 0.

This bill changes the laws regarding the regulation of insurance.

OPINIONS BY BOARDS AND COMMISSIONS

Any board or commission within the Division of Professional Registration in the Department of Insurance, Financial Institutions and Professional Registration may, at its discretion, issue oral or written opinions addressing topics relating to the qualifications, functions, or duties of any profession licensed by any board or commission within the division. Any opinion is for educational purposes, is in no way binding on the licensee, and cannot be used as the basis for any discipline against a licensee.

INFORMATIONAL DOCUMENTS ISSUED BY THE DEPARTMENT OF INSURANCE,
FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

The Department of Insurance, Financial Institutions and Professional Registration is allowed to issue non-binding informational documents to insurers. The department may issue informal bulletins for the purpose of informing or educating the insurance industry and the general public about a regulatory topic or issue. Bulletins do not have the force or effect of law and must not be considered statements of general applicability that would require promulgation by rule.

The bill allows the department director to issue a no-action letter stating the intention of the department to not take enforcement actions to a particular insurer based on a specific set of facts presented by the insurer under applicable law as of the date of the issuance of the letter. If there is not a change in any material fact or law or the discovery of a material misrepresentation or omission made by the insurer, the department is estopped from bringing any enforcement action against an insurer who has been issued a no-action letter concerning the specific conduct that is the subject of the no-action letter.

WORKERS' COMPENSATION LARGE DEDUCTIBLE POLICIES

The bill requires all large deductible claims as specified in the bill that are also covered claims as defined by the applicable

guaranty association law to be turned over to the responsible guaranty association for handling unless otherwise agreed by the responsible guaranty association. To the extent the insured funds or pays a deductible claim pursuant to an agreement, the funding or payment will extinguish the obligations, if any, of the receiver or any guaranty association to pay the claim. A charge of any kind cannot be made against the receiver or a guaranty association on the basis of an insured's funding or payment of a deductible claim. To the extent a guaranty association pays any deductible claim for which the insurer would have been entitled to reimbursement from the insured, a guaranty association must be entitled to the full amount of the reimbursement to the extent necessary to reimburse the guaranty association. If the guaranty association is not reimbursed, it must be entitled to assert a claim for the amount owed in the delinquency proceeding.

The receiver must have the obligation to collect reimbursements owed for deductible claims and must take all commercially reasonable actions to collect the reimbursements. The receiver must promptly bill the insured for the reimbursement. Insolvency of the insurer or its inability to perform its obligations under the policy must not be a defense to the insured's reimbursement obligation. Except for gross negligence, an allegation of improper handling or payment of a deductible claim by the insurer, the receiver or any guaranty association cannot be a defense to the insured's reimbursement obligations.

A receiver is required to utilize collateral, when available, to secure the insured's obligations to fund or reimburse deductible claims or other secured obligations or other payment obligations.

FRATERNAL BENEFIT SOCIETY AGENTS

Currently, there are two categories of individuals within a fraternal benefit society that must not be deemed an agent of a fraternal benefit society requiring insurance agent licensure. They are:

- (1) Any regular salaried officer, employee, or secretary who devotes substantially all of his or her services to activities other than the solicitation of insurance contracts and receives no commission or other compensation directly dependent upon the amount of business obtained; or
- (2) Any member representative of a society that insures its members against death, dismemberment, and disability resulting from accident only which pays no commission or other consideration for the collection of premiums for the contracts.

The bill changes the second category of individuals exempt from insurance agent licensure to be any member representative of any fraternal benefit society who devotes, or intends to devote, less than 50% of his or her time to the solicitation and procurement of insurance contracts for the society. A member representative is deemed to devote 50% or more of his or her time to the solicitation and procurement of insurance contracts if he or she solicited and procured insurance contracts in an amount of insurance in excess of \$50,000 or writes contracts on more than 25 individuals.

SELF-SERVICE STORAGE INSURANCE

The bill creates a regulatory system for self-service storage insurance and the selling of the insurance. A limited lines self-service storage producer is allowed to offer and disseminate self-service storage insurance. A producer must meet certain licensing and training criteria and establish and maintain a register of each individual that offers self-service storage insurance on the producer's behalf and make the information contained in the register available to the Department of Insurance, Financial Institutions and Professional Registration within 30 days upon request. A producer must also require each employee and authorized representative of the producer whose duties include offering and disseminating self-service storage insurance to receive training that meets minimum standards specified in the bill that must be reviewed and approved by the department director.

A producer offering or disseminating self-service storage insurance must provide brochures or other print materials to prospective purchasers that meet minimum standards as specified in the bill. A self-service storage insurance producer's employees and authorized representatives must not engage in certain activities including evaluating or interpreting the technical terms, benefits, and conditions of the policies or holding themselves out as licensed insurers, licensed producers, or insurance expert. Limited lines self-service storage insurance producers, operators, employees, and authorized representatives may offer and disseminate self-service storage insurance policies in an amount not to exceed \$3,000 per customer per storage unit.

PROPONENTS: Supporters say that the bill clarifies what individuals of a fraternal benefit society need to be licensed as insurance agents.

Testifying for the bill was Senator Wieland.

OPPONENTS: There was no opposition voiced to the committee.