

SCS SB 66 -- INSURANCE

This bill changes the laws regarding insurance company investments; the Missouri Title Insurance Act; the Department of Insurance, Financial Institutions, and Professional Registration; life insurance; discount medical plans; and insurance company examinations.

INSURANCE COMPANY INVESTMENTS

The bill:

(1) Exempts insurers organized under Chapter 376, RSMo, from several requirements in Chapter 375 including the following:

(a) Insurance companies cannot deal or trade in goods, wares, merchandise, commodities, or certain real estate purchases, sales, or trades;

(b) Domestic insurers must invest in stocks or shares having at least the second highest designation or quality rating conferred by the Securities Valuation Office of the National Association of Insurance Commissioners;

(c) Insurance companies are permitted to invest in foreign governments or corporations if the investments are allowed in United States companies; and

(d) Insurance companies must follow the provisions of Sections 375.1070 - 375.1075 regarding investments in medium and lower quality obligations;

(2) Allows insurers organized under Chapter 376 to engage in derivative transactions through an investment subsidiary;

(3) Establishes provisions which apply to investments and investment practices of domestic insurers organized under Chapter 376. Terms relative to these provisions are defined;

(4) Requires an insurer's board of directors to adopt a plan for acquiring investments and for engaging in investment practices appropriate for the business conducted by the insurer, its liquidity needs, and its capital and surplus needs. Prohibited investments are also specified;

(5) Prohibits insurers, without the prior approval of the Director of the Department of Insurance, Financial Institutions, and Professional Registration from:

(a) Making a loan to or investing in an officer of the insurer

or a person in which the officer has any financial interest;

(b) Making a guarantee for the benefit of or in favor of an officer of the insurer or a person in which the officer has any financial interest; and

(c) Entering into an agreement for the purchase or sale of property from or to an officer of the insurer or a person in which the officer has any financial interest;

(6) Allows an insurer, without the prior approval of the department director, to:

(a) Make policy loans in accordance with the terms of the contract;

(b) Advance reasonable expenses expected in the course of business to the directors or officers;

(c) Make loans secured by the principal residence of an existing officer in connection with the officer's relocation at the insurer's request; and

(d) Make loans or advances to officers or directors which comply with state and federal laws pertaining to loans made to a regulated noninsurance subsidiary or affiliate of the insurer in the normal course of business;

(7) Requires investments to be valued based on published accounting and valuation standards of the National Association of Insurance Commissioners;

(8) Prohibits an insurer from investing more than 3% of its admitted assets in investments issued by a single person or 5% in investments in the voting securities of an institution. This limitation will not apply to amounts insured by a single financial guaranty insurer having the highest generic rating issued by a nationally recognized statistical rating organization or to asset-backed securities. Requirements are established for medium-grade, low-grade, and Canadian investments;

(9) Allows an insurer, subject to certain limitations, to acquire rated credit instruments assumed, guaranteed, or issued by the United States, Canada, government-sponsored enterprises of the United States or Canada, a government or class one money market mutual fund, a class one bond mutual fund, or general obligation instruments of the state;

(10) Allows an insurer to invest in tangible personal property if the resulting ownership of the property returns to the insurer

the cost of the investment plus a return deemed adequate by the insurer. Investments in tangible property cannot exceed 2% of admitted assets or .5% on any single item;

(11) Allows insurers to acquire obligations secured by mortgages on real estate situated within a domestic jurisdiction. A mortgage loan secured by other than a first lien cannot be acquired unless the insurer is the holder of the first lien and it meets certain requirements. The real estate must be income producing or intended for improvement or development to produce income;

(12) Allows insurers to enter into securities lending, repurchase, reverse repurchase, and dollar roll transactions subject to the board of directors adopting a written plan detailing how cash received will be invested or used, operational procedures used to manage investment risks, and the extent an insurer may engage in these transactions; and

(13) Establishes conditions and requirements for insurers to invest in foreign markets.

MISSOURI TITLE INSURANCE ACT

The bill:

(1) Requires a title insurer or title insurance agent issuing a lender's title insurance policy, when no owner's policy has been requested, to give written notice to a purchaser/mortgagor that the lender's policy does not protect the purchaser;

(2) Requires a written contract specifying the responsibilities between a title insurer and a title insurance agent and the title insurer's supervisory responsibilities regarding title insurance agents;

(3) Allows a title insurer or title insurance agent to operate as an escrow, security, settlement, or closing agent if certain requirements are met;

(4) Requires a title insurer to conduct on-site reviews at least annually on the practices and procedures of title insurance agencies or agents with which he or she contracts. Reports will be maintained for at least four years and made available to the department director upon request;

(5) Requires settlement agents to record all deeds and security instruments within five business days after completion;

(6) Allows the department director, if it is determined that a

person has engaged or may engage in a violation of title insurance laws, to issue administrative orders as authorized under Section 374.046 to suspend or revoke the license of a producer or the certificate of authority of any title insurer for the violation, and to bring action in court to enjoin violations of the Real Estate Settlement Procedures Act;

(7) Prohibits an insurer that transacts any other class, type, or kind of business from obtaining a title insurance license, except that a title insurer can issue closing or settlement protection;

(8) Requires a title insurer to maintain at least \$800,000 of paid-in capital and a surplus of at least \$800,000;

(9) Prohibits the net retained liability of a title insurer for a single risk from exceeding 50% of the surplus of all risks insured;

(10) Requires that the general investment provisions of Sections 379.080 - 379.082 will apply when determining the financial condition of a title insurer except that an investment in a title plant equal to the cost will be allowed as long as the aggregate amount of all investments does not exceed 20% of the surplus to policyholders;

(11) Prohibits the use of specified title insurance forms unless they have been approved by the department director;

(12) Requires all title insurance agents to be licensed and specifies their responsibilities, obligations for licensure, and continuing education requirements;

(13) Allows the department director to inspect the records of title agencies, insurance agencies, and agents; and

(14) Requires titled insurers, agencies, or agents to disclose and provide required information on any affiliated businesses involved in the transaction prior to commencing the transaction.

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS, AND PROFESSIONAL REGISTRATION

The bill:

(1) Synchronizes the penalties, administrative orders, civil actions, and other remedies available to the department director;

(2) Allows the department director, upon determining that a person has violated or attempted to violate provisions of the

insurance laws, to:

(a) Issue an order directing the person to cease and desist from engaging in the act, practice, omission, or course of business; or

(b) Issue a curative order or an order directing the person to take other action necessary to comply with insurance laws;

(c) Order a civil penalty or forfeiture; or

(d) Award reasonable costs of the investigation;

(3) Allows the department director to suspend or revoke a corporation's or insurer's certificate of authority for violating insurance laws or for a felony or misdemeanor conviction. The department director must provide 30 days' notice and a hearing, if requested, before revocation;

(4) Removes the department director's authority to suspend a prepaid dental corporation's certificate of authority if it issues a contract without prior approval;

(5) Allows any applicant who is refused a license to sell insurance to file a petition with the Administrative Hearing Commission. The department director will make the final decision to refuse or renew a license;

(6) Authorizes the department director to consult and share information with other members of the National Association of Insurance Commissioners, the Commissioner of Securities within the Office of the Secretary of State, state securities regulators, the Division of Finance and the Division of Credit Unions within the department, the Attorney General, federal banking and securities regulators, the National Association of Securities Dealers, the United States Department of Justice, the Commodity Futures Trading Commission, and the Federal Trade Commission to effectuate greater uniformity in insurance and financial services regulation among state and federal governments and self-regulatory organizations. The cooperation, coordination, consultation, and sharing of records and information authorized by the bill include:

(a) Establishing or employing one or more designees as a central electronic depository for licensing and rate and form filings with the department director and for records required or allowed to be maintained;

(b) Encouraging insurance companies and producers to implement electronic filing through a central electronic depository;

- (c) Developing and maintaining uniform forms;
 - (d) Performing joint market conduct examinations and other investigations through collaboration and cooperation with other insurance regulators;
 - (e) Holding joint administrative hearings;
 - (f) Instituting and prosecuting joint civil or administrative enforcement proceedings; and
 - (g) Sharing and exchanging personnel;
- (7) Changes the laws regarding falsely testifying in insurance investigations and prohibits an individual from knowingly making a false statement under oath or affirmation in any record submitted to the department director. Knowingly making false statements or making false entries on a document will be a class D felony;
- (8) Allows the department director to seek an order to enforce compliance if a person refuses to testify, file statements, or produce records. Persons are not excused from testifying or producing records based on the grounds that the testimony or records may tend to incriminate them. In this case, the department director may seek a court order to compel the testimony or production of records, and the testimony or records may not be used as evidence in a criminal case; and
- (9) Allows the department director to adopt rules to specify uniform disclosure of material information on insurance policy forms.

LIFE INSURANCE

The bill requires insurance producers, beginning January 1, 2008, to complete 16 hours of continuing education every two years, instead of the current 10 hours. Any life insurance policy may exclude life insurance liability for a death as the result of a suicide within one year after the issuance of the policy but must refund all the premiums paid.

DISCOUNT MEDICAL PLANS

The bill:

- (1) Defines "discount medical plan" as a business arrangement in which a discount medical plan organization (DMPO), in exchange for compensation, provides access for plan members to medical service providers at a discount;

(2) Requires a DMPO to register with the department director and pay an application fee of \$250. The organization must be a legal entity organized under the laws of this state or authorized to transact business in this state;

(3) Allows the department director to examine the business affairs of a DMPO;

(4) Allows a DMPO to charge reasonable fees as long as the fees are disclosed to the applicant. A member has a 30-day, free-look period on a membership;

(5) Prohibits a DMPO from disseminating information that could mislead a person to think that the plan is for health insurance;

(6) Prohibits the restriction of access to providers including waiting and notification periods. A DMPO cannot collect or pay fees for medical services unless it is licensed by the department director to act as an administrator;

(7) Requires a DMPO to maintain a net worth of at least \$150,000;

(8) Requires notification to the department director at least 30 days prior to changing the organization's name or address; and

(9) Allows the department director to deny or revoke the registration of an applicant for material misstatements, misrepresentation, or fraud. The applicant can request an appeal hearing. The department director is authorized to issue administrative orders and maintain civil actions against a DMPO that is in violation of these provisions.

INSURANCE COMPANY EXAMINATIONS

The fee schedules are revised for health services corporations, health maintenance organizations, and insurance companies and for certain document filing fees paid by these organizations. Assessments made against insurance companies for examination purposes will include:

(1) The cost of compensation, including benefits, for the examiners, analysts, actuaries, and attorneys contributing to the examination of the company;

(2) Reasonable travel, lodging, and meal expenses for an on-site examination; and

(3) Other expenses of the examination.

The department director must pay these expenses from the Insurance Examiners Fund, and the Insurance Dedicated Fund may be used for the regulation of the business of insurance and the operation of the Division of Consumer Affairs.

All domestic insurance companies subject to orders of conservation, rehabilitation, or liquidation must reimburse the Insurance Dedicated Fund for administrative services rendered by state employees to the company.

The provisions regarding the Insurance Examiner's Sick Leave Fund are repealed.

The provisions regarding the Missouri Title Insurance Act become effective January 1, 2008.