

HCS HB 1278 -- INSURANCE (Luetkemeyer)

This substitute makes changes to the laws regarding insurance.

DEPARTMENT OF INSURANCE FEES

The substitute changes the way fees are assessed to pay for expenses incurred by the Department of Insurance. The substitute:

- (1) Limits the expenses that insurance companies must pay for examinations by the department. Current law allows the director to assess fees on each insurer for the examination of that insurer. The substitute limits this assessment to the direct expenses incurred by the examiners. The department must provide an itemized report of expenses which includes the rate of pay for each examiner and the amount of time spent by each examiner. The itemized reports must be verified by the insurance company before the department can issue the assessment; and
- (2) Limits the reimbursement of department employees to either 80% of the federal per diem rate or the actual travel expenses incurred in conducting the examinations, whichever is less.

PROPERTY AND CASUALTY INSURANCE

The substitute amends the laws regarding the Property and Casualty Insurance Guaranty Association Act. The substitute:

- (1) Expands the guaranty association's obligations for claims arising from bodily injury, sickness, or disease to include damages for pain and suffering;
- (2) Adds provisions establishing the guaranty association's obligations for insurance products that have been created during the past several years; and
- (3) Clarifies provisions regarding the administration of the guaranty fund to comply with the recommendations of the National Conference on Insurance Guaranty Funds.

GROUP HEALTH INSURANCE

The substitute amends the law regarding group health insurance. The substitute:

- (1) Defines the terms "pre-existing condition exclusions" and "waiting period";
- (2) Prohibits group health insurance issuers from establishing

enrollment eligibility requirements based on health status-related factors, which include medical history and genetic information;

(3) Prohibits health insurance issuers that offer group health insurance coverage from requiring any individual, as a condition of enrollment, to pay a premium or other contribution that is greater than that made by other similarly situated individuals enrolled in the plan on the basis of health status-related factors;

(4) Requires health insurance issuers offering large group health plan coverage to renew or continue coverage in force at the option of the plan sponsor;

(5) Outlines conditions under which health insurance issuers can non-renew or discontinue group health plan coverage, particular types of large group health insurance coverage, and all large group health insurance coverage;

(6) Permits health insurance issuers to modify coverage for a large group health plan at the time of coverage renewal; and

(7) Changes the definition of the term "placement" as it pertains to coverage of adopted children. In current law, placement means that the child is in the physical custody of the adoptive parent. The substitute changes it to mean the assumption and retention by the insured of a legal obligation for total or partial support of a child in anticipation of adoption.

#### MISSOURI HEALTH INSURANCE POOL

The substitute makes several changes to the laws regarding the Missouri Health Insurance Pool, known as the high-risk pool. The substitute:

(1) Adds the term "federal defined eligible individual" as it relates to the health insurance pool;

(2) Adds two members to the board of directors;

(3) Designates as eligible for pool coverage individuals who are residents of Missouri and who provide evidence of: (a) refusal by one insurer to issue substantially similar insurance for health reasons; or (b) refusal by an insurer to issue insurance except at a rate exceeding 150% of the standard risk rate;

(4) Creates a qualified plan that will comply with the federal Trade Adjustment Assistance Reform Act of 2002;

(5) Requires insurers to inform a person of the existence of the high-risk pool and how to apply for coverage when the person is affected by a change in the insurer's underwriting, such as the insurer putting new limitations on coverage or increasing premiums;

(6) Defers for three years the deductions from premium taxes that may be taken for high-risk pool participation assessments, starting in the 2005 tax year;

(7) Makes eligible for pool coverage persons who terminated coverage in the pool less than 12 months prior, persons on whose behalf the pool has paid out \$1 million in benefits, and persons receiving treatment for drug or alcohol abuse. Under current law, these persons are ineligible for pool coverage;

(8) Allows persons who do not maintain residency in Missouri to be terminated at the end of the policy period;

(9) Changes the percentage limit on pool rates from 200% to 150% of the rates applicable to individual standard risks; and

(10) Changes the time within which a person has to apply for pool coverage from 60 days to 63 days in order to have a waiver of pre-existing condition exclusions.

#### SMALL EMPLOYER HEALTH INSURANCE

The substitute amends the laws regarding the Small Employer Health Insurance Availability Act. The substitute:

(1) Adds the terms "creditable coverage," "excepted benefits," "health status-related factor," and "medical care" as they relate to the Small Employer Health Insurance Availability Act;

(2) Modifies the definition of "small employer" as it pertains to a group health plan to include political subdivisions. A small employer is one who employs two to 50 eligible employees. Under current law, a small employer has three to 25 employees;

(3) Modifies conditions under which small employer health benefit plans are not renewable;

(4) Lists conditions under which small employer carriers can discontinue a particular type of small group health benefit plan and discontinue all small employer health insurance coverage;

(5) Repeals the requirement for small employer carriers electing to non-renew all of its small employer health plans in the state to provide certain types of notice;

(6) Allows small employer carriers offering coverage through a network plan not to offer coverage to an eligible person who no longer lives or works in the service area or to a small employer who no longer has an enrollee in the plan who lives or works in the service area;

(7) Requires small employer carriers to offer all health benefit plans they actively market to small employers in the state. Current law requires small employer carriers to offer at least two health benefit plans: a basic and a standard health benefit plan;

(8) Changes the way small employer health benefit plans can define pre-existing conditions. The substitute specifies that a pregnancy existing on the effective date of coverage is not considered a pre-existing condition;

(9) Changes the requirement that creditable coverage be continuous from 30 days prior to the effective date of new coverage to a date not less than 63 days prior to application for new coverage;

(10) Establishes cases where small employer carriers are prohibited from imposing any pre-existing condition exclusion; and

(11) Abolishes the Missouri Small Employer Reinsurance Program on December 31, 2005. The program will not take on any risk after October 1, 2004.

#### CAR RENTAL CONTRACTS

The substitute makes several changes in the laws regarding car rental contracts. The substitute:

(1) Changes the definition of "authorized driver" as it applies to car rental contracts to exclude employers, parking valets, and family members other than a spouse;

(2) Revises the written notice that must appear on every car rental contract regarding the purchase of optional insurance coverage;

(3) Requires car rental companies to post a clear and conspicuous sign on the premises that informs the consumer about collision damage waiver, any other optional car rental insurance, and how the consumer's own auto insurance policy or credit card might already offer that protection; and

(4) Makes a car rental company subject to a \$50 fine for each

violation, up to \$10,000 in any calendar year.

#### OTHER PROVISIONS

In other provisions regarding insurance, the substitute:

(1) Repeals the sunset clause on a section of law governing the liquidation of insurance companies. This provision is currently set to expire on December 31, 2005. The provision allows an estimation of contingent liabilities to be used to fix creditors' claims during the liquidation process. It also requires a reinsurer's payment to be made directly to the liquidator, except where the contract specifically provides for another payee or where another insurer assumes the ceding insurer's policy obligations;

(2) Changes the definition of "renewal" as it applies to automobile insurance. Any automobile insurance policy with a term of less than six months or with no fixed expiration date will be considered a six-month policy. Under current law, the default term is 12 months;

(3) Repeals the bond requirement for acquiring a license to sell surplus lines of insurance;

(4) Amends the formula used to determine extraordinary dividends for shareholders in insurance holding companies;

(5) Grants public entities that self-insure for their health care benefits the right to subrogation in the same manner, with the same rights, obligations, and available remedies that the Department of Social Services has with the Medicaid Program;

(6) Prohibits property insurers from using weather-related claims, including any inquiry as to whether a particular loss is covered by the policy, as a basis for non-renewal of the policy. A "weather-related claim" is defined as any loss resulting from an act of God for which an insured is unable to reduce the risk. The substitute also defines "claim," clarifying that an inquiry as to coverage does not constitute a claim; and

(7) Extends the expiration date for the Mental Health and Chemical Dependency Insurance Act to January 1, 2010.

FISCAL NOTE: Estimated Effect on General Revenue Fund of an income of \$0 to a cost of up to \$10,620,676 in FY 2005, FY 2006, and FY 2007. Does not include unknown savings from subrogation of claims. May exceed \$100,000. Estimated Income on Other State Funds of \$7,850 in FY 2005, \$0 in FY 2006, and \$0 in FY 2007. Does not include unknown savings resulting from subrogation of

claims. May exceed \$100,000 annually. Does not include unknown loss from Merchandising Practices Revolving Fund.