

HCS SB 164 -- FINANCIAL TRANSACTIONS

SPONSOR: Sifton (Gosen)

COMMITTEE ACTIONS: Voted "Do Pass with Amendments" 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 11 to 0.

This bill changes the laws regarding financial transactions. In its main provisions, the bill:

FOREIGN INVESTMENTS BY INSURANCE COMPANIES

Currently, insurance companies organized under Missouri law having assets of at least \$100 million may invest not more than 5% of their admitted assets in securities, investments, and deposits issued, guaranteed or assumed by a foreign government or foreign corporation. The bill increases the percentage to not more than 20% with not more than 10% in a single foreign jurisdiction having a sovereign debt rating of SVO "1" or 5% of its admitted assets as to any other foreign jurisdiction.

An insurer is prohibited from acquiring, directly or indirectly through an investment subsidiary, a Canadian investment otherwise permitted under law if the aggregate amount of the Canadian investments then held by the insurer would exceed 25% of its admitted assets.

For any insurer authorized to do business in Canada or that has outstanding contracts on lives or risks resident or located in Canada, denominated in Canadian currency, the 25% limitation must be increased by the greater of the amount the insurer is required by applicable Canadian law to invest in Canada or be denominated in Canadian currency or 125% of the amount of the insurer's reserves and other obligations under contracts on risks resident or located in Canada.

STANDARD VALUATION LAW

The Standard Valuation Law is established that requires Missouri insurers providing life, accident and health, annuity and pure endowment, or specified deposit policies to meet minimum standards of valuation for their financial reserves based on the valuation manual adopted by the National Association of Insurance Commissioners.

The Director of the Department of Insurance, Financial Institutions and Professional Registration must annually value or cause to be

valued the reserves for all outstanding contracts of every company issued on or after the operative date of the valuation manual. The bill contains exceptions for valuation requirements for policies issued prior to the date of the valuation manual and specified time limitations based on the effective date of policies and the provisions of the bill. Every insurer regulated by the department director must annually submit the opinion of the appointed actuary showing compliance with the valuation manual to the department director. The criteria for the actuarial opinion is specified in the bill.

The bill specifies the criteria for the confidentiality of the information used in the valuation opinion submitted to the department director by insurers. This information is exempt from the provisions of the Open Meetings and Records Law, commonly known as the Sunshine Law, and may not be subject to subpoena and cannot be subject to discovery or be admissible in evidence in any private civil action. The department director is authorized to use the confidential information in the furtherance of any regulator or legal action brought against the company as part of his or her official duties. Specified confidential information may be subject to subpoena for the purpose of defending an action seeking damages from the appointed actuary or may otherwise be released with the written consent of the company.

A company that is licensed and doing business in Missouri that has less than \$300 million of ordinary life premium may hold reserves based on the mortality tables and interest rates defined by the valuation manual for net premium reserves using the methodology as specified in the bill as they apply to ordinary life insurance if they meet specified requirements.

QUALIFIED SPOUSAL TRUSTS

The bill specifies that a qualified spousal trust can include without limitation a discretionary power to distribute trust property to a person in addition to a settlor. All property at any time held in a qualified spousal trust, without regard to how the property was titled prior to it being so held, must have the same immunity from the claims of a separate creditor of either settlor as if the property were held outside the trust by the settlors as tenants by the entirety, unless otherwise provided in writing by the settlor or settlors who transferred the property to the trust, and the property must be treated for that purpose, including without limitation, federal and state bankruptcy laws, as tenants by entirety property. Property held in a qualified spousal trust must cease to receive immunity from the claims of creditors upon dissolution of marriage of the settlors by the court.

The respective rights of settlors who are married to each other in any property for purposes of a dissolution of the settlors' marriage must not be affected or changed by reason of the transfer of that property to, or its subsequent administration as an asset of, a qualified spousal trust during the marriage of the settlors unless both settlors expressly agree otherwise in writing.

A transfer to a qualified spousal trust cannot avoid or defeat the Missouri Uniform Fraudulent Transfer Act and any transfer of an asset to a trustee of a trust, to the trust itself, or to a share of the trust, in a manner that is reasonably calculated to identify the trust or that share of the trust, subjects that asset to the terms of the trust or that share.

PROPERTY EXEMPTIONS FROM ATTACHMENT

The bill specifies that when a debtor is the beneficiary of a matured life insurance policy, the debtor may exempt from bankruptcy up to \$15,000 of the policy proceeds to be used for actual funeral or burial expenses when the deceased is the parent, child, or spouse of the debtor.

PROPOSERS: Supporters say that currently, if a life insurance policy matures within six months of the filing of a bankruptcy petition, there is nothing in place to protect that money; the bill simply provides an exemption for enough money to get the individual buried or cremated.

Testifying for the bill were Senator Sifton and Brian Baehr.

OPPOSERS: There was no opposition voiced to the committee.