

JOURNAL OF THE HOUSE

Second Regular Session, 98th GENERAL ASSEMBLY

SEVENTY-SECOND DAY, WEDNESDAY, MAY 25, 2016

The House met pursuant to adjournment.

Speaker Richardson in the Chair.

Prayer by Representative Travis Fitzwater.

Dear Heavenly Father, thank You for Your many blessings. May what we do today be honoring to You, and our State, and to Your Glory.

In Jesus' name we pray. Amen.

The Pledge of Allegiance to the flag was recited.

SIGNING OF HOUSE CONCURRENT RESOLUTION

All other business of the House was suspended while **SS HCS HCR 73** was read at length and, there being no objection, was signed by the Speaker to the end that the same may become law.

Having been duly signed in open session of the Senate, **SS HCS HCR 73** was delivered to the Governor by the Chief Clerk of the House.

SIGNING OF HOUSE JOINT RESOLUTION

All other business of the House was suspended while **SS HJR 53** was read at length and, there being no objection, was signed by the Speaker to the end that the same may become law.

Having been duly signed in open session of the Senate, **SS HJR 53** was delivered to the Secretary of State by the Chief Clerk of the House.

SIGNING OF HOUSE BILLS

All other business of the House was suspended while **SCS HB 1414, HCS HB 1418, SS#2 SCS HCS HB 1432, SCS HCS HBs 1434 & 1600, SS HB 1435, HB 1443, SCS HCS HB 1474, SS HCS HB 1477, HCS HB 1480, HB 1530, HB 1534, SS#2 SCS HCS HB 1550, HB 1559, SS SCS HCS HB 1561, HCS HB 1562, HB 1565, HB 1568, SCS HB 1577, SCS HB 1582, SCS HCS HB 1583, HB 1593, SCS HCS HB 1599, SS#2 SCS HB 1631, SCS HCS HBs 1646, 2132 & 1621, SCS HCS HB 1649, HB 1681, SCS HB 1682, HCS HB 1684, SCS HCS HB 1696, SCS HB 1698, HB 1721, SS HB 1733, SS HCS HB 1765, SCS HB 1851, SS SCS HCS HB 1862,**

HB 1870, SS HCS HB 1877, SCS HB 1936, SS SCS HCS HB 1941, SCS HCS HB 1976, SCS HCS HB 2017, SS SCS HCS HB 2018, SS HCS HB 2029, SCS HCS HB 2030, SCS HB 2125, HCS HB 2150, SS SCS HCS HB 2194, HB 2237, SCS HB 2335, SS HB 2355, SS SCS HCS HB 2376, SS SCS HCS HB 2379, SS SCS HCS HB 2380, SS HCS HB 2381, HB 2428, SCS HCS HB 2453 and SCS HB 2591, HB 1958 and HB 2369 were read at length and, there being no objection, were signed by the Speaker to the end that the same may become law.

Representative Moon offered objections to **SCS HCS HB 1713, SS#2 HCS HB 1717, SS SCS HB 1816, and SS#2 SCS HCS HB 2332**, which were appended to the bills.

CONSTITUTIONAL OBJECTIONS

May 13, 2016

Adam Crumbliss
Chief Clerk of the House of Representatives
Room 317-B
201 Capitol Avenue
Jefferson City, MO 65101

CONSTITUTIONAL OBJECTION - SCS HCS HB 1713

SCS HCS HB 1713 contains amendments which violate Missouri's Constitution, Article III, Section 21 and/or 23, rendering the bill, in its entirety, unconstitutional.

/s/ Mike Moon
District 157

May 13, 2016

Adam Crumbliss
Chief Clerk of the House of Representatives
Room 317-B
201 Capitol Avenue
Jefferson City, MO 65101

CONSTITUTIONAL OBJECTION - SS#2 HCS HB 1717

SS#2 HCS HB 1717 contains amendments which violate Missouri's Constitution, Article III, Section 21 and/or 23, rendering the bill, in its entirety, unconstitutional.

/s/ Mike Moon
District 157

May 13, 2016

Adam Crumbliss
Chief Clerk of the House of Representatives
Room 317-B
201 Capitol Avenue
Jefferson City, MO 65101

CONSTITUTIONAL OBJECTION - SS SCS HB 1816

SS SCS HB 1816 contains amendments which violate Missouri's Constitution, Article III, Section 21 and/or 23, rendering the bill, in its entirety, unconstitutional.

/s/ Mike Moon
District 157

May 13, 2016

Adam Crumbliss
Chief Clerk of the House of Representatives
Room 317-B
201 Capitol Avenue
Jefferson City, MO 65101

CONSTITUTIONAL OBJECTION - SS#2 SCS HCS HB 2332

SS#2 SCS HCS HB 2332 contains amendments which violate Missouri's Constitution, Article III, Section 21 and/or 23, rendering the bill, in its entirety, unconstitutional.

/s/ Mike Moon
District 157

All other business of the House was suspended while **SCS HCS HB 1713**, **SS#2 HCS HB 1717**, **SS SCS HB 1816** and **SS#2 SCS HCS HB 2332** were read at length and were signed by the Speaker to the end that the same may become law.

Having been duly signed in open session of the Senate, **SCS HB 1414**, **HCS HB 1418**, **SS#2 SCS HCS HB 1432**, **SCS HCS HBs 1434 & 1600**, **SS HB 1435**, **HB 1443**, **SCS HCS HB 1474**, **SS HCS HB 1477**, **HCS HB 1480**, **HB 1530**, **HB 1534**, **SS#2 SCS HCS HB 1550**, **HB 1559**, **SS SCS HCS HB 1561**, **HCS HB 1562**, **HB 1565**, **HB 1568**, **SCS HB 1577**, **SCS HB 1582**, **SCS HCS HB 1583**, **HB 1593**, **SCS HCS HB 1599**, **SS#2 SCS HB 1631**, **SCS HCS HBs 1646, 2132 & 1621**, **SCS HCS HB 1649**, **HB 1681**, **SCS HB 1682**, **HCS HB 1684**, **SCS HCS HB 1696**, **SCS HB 1698**, **SCS HCS HB 1713**, **SS#2 HCS HB 1717**, **HB 1721**, **SS HB 1733**, **SS HCS HB 1765**, **SS SCS HB 1816**, **SCS HB 1851**, **SS SCS HCS HB 1862**, **HB 1870**, **SS HCS HB 1877**, **SCS HB 1936**, **SS SCS HCS HB 1941**, **SCS HCS HB 1976**, **SCS HCS HB 2017**, **SS SCS HCS HB 2018**, **SS HCS HB 2029**, **SCS HCS HB 2030**, **SCS HB 2125**, **HCS HB 2150**, **SS SCS HCS HB 2194**, **HB 2237**, **SS#2 SCS HCS HB 2332**, **SCS HB 2335**, **SS HB 2355**, **SS SCS HCS HB 2376**, **SS SCS HCS HB 2379**, **SS SCS HCS HB 2380**, **SS HCS HB 2381**, **HB 2428**, **SCS HCS HB 2453**, **SCS HB 2591**, **HB 1958**, and **HB 2369** were delivered to the Governor by the Chief Clerk of the House.

SIGNING OF SENATE CONCURRENT RESOLUTION

All other business of the House was suspended while **SCR 50** was read at length and, there being no objection, was signed by the Speaker to the end that the same may become law.

SIGNING OF SENATE BILLS

All other business of the House was suspended while **CCS#2 HCS SS SCS SB 572, CCS HCS SCS SB 578, SB 579, HCS SCS SBs 588, 603 & 942, HCS SS#2 SCS SB 590, SCS SB 591, CCS HCS SB 607, CCS#2 HCS SS SB 608, SCS SB 613, SCS SBs 620 & 582, SB 624, CCS HCS SB 625, CCS HCS SB 635, CCS SCS SB 638, SB 641, SB 655, CCS HCS SB 656, HCS SS SCS SB 657, SB 660, SB 664, HCS SB 665, CCS SB 700, SB 702, SB 711, CCS HCS SS SB 732, CCS HCS SB 735, CCS HCS SCS SB 765, CCS HCS SS SB 786, SCS SB 794, HCS SCS SB 814, CCS HCS SCS SB 823, CCS HCS SB 833, SS SCS SB 838, SB 844, SS#2 SB 847, CCS SB 852, CCS HCS SCS SB 861, CCS HCS SS SCS SBs 865 & 866, CCS HCS SB 867, SB 875, SCS SBs 905 & 992, SB 915, SS SCS SB 919, CCS SCS SB 921, HCS SB 932, SB 947, SCS SB 968, CCS HCS SCS SB 973, CCS HCS SS SCS SB 986, CCS SB 988, CCS HCS SB 994, CCS HCS SB 997, SB 1002, SCS SB 1009, and SB 1025** were read at length and, there being no objection, were signed by the Speaker to the end that the same may become law.

MESSAGES FROM THE GOVERNOR

May 17, 2016

TO THE CHIEF CLERK OF THE
HOUSE OF REPRESENTATIVES
98TH GENERAL ASSEMBLY
SECOND REGULAR SESSION
STATE OF MISSOURI

Herewith I return to you **House Bill No. 1763**, entitled:

“AN ACT”

To amend chapter 375, RSMo, by adding thereto one new section relating to workers’ compensation large deductible policies, with an emergency clause.

I disapprove **House Bill No. 1763**. My reasons for disapproval are as follows:

House Bill No. 1763 contains drafting errors that would make an exemption in the bill ineffectual and create ambiguity regarding the rules applicable to the orderly distribution of assets in insurance delinquency proceedings. For those reasons, it cannot receive my approval.

The bill relates to large deductible workers’ compensation policies, which are insurance products that obligate an insurer to pay an injured worker’s claim in full and then seek reimbursement from the insured for the deductible amount. The drafting error occurs in a provision that exempts certain policies: “Large deductible policies do not include policies, endorsements, or agreements which provide that the initial portion of any covered claim shall be self-insured and further that the insured shall have no payment obligation within the self-insured retention.”

[Emphasis added.]

Because House Bill No. 1763 uses the term “insured” instead of the term “insurer” when describing the self-insurance policies it seeks to exempt, it incorrectly describes a self-insurance policy as one in which the insured has no obligation to pay the self-insured portion of a policy. Such a description is nonsensical and would fail to exempt the self-insurance policies the legislation seeks to exclude from the bill’s reach - namely, policies in which the insured is responsible for the initial portion of any covered claim and the insurer has no payment obligation within the self-insured retention.

Guaranty Associations are statutorily obligated to pay policyholder claims on behalf of insolvent insurance companies. Under House Bill No. 1763, Guaranty Associations would be given priority status to collect the reimbursement and the collateral that secures it under those policies, for the amount the Guaranty Associations paid on the deductible portion of a claim. To that extent, the bill would change the current priority in which creditors of insolvent insurance companies are paid, but only for a specific category of assets related to a specific type of policy.

While House Bill No. 1763 is intended to apply to large deductible workers’ compensation policies, the typographical error in the bill would frustrate that purpose by inaccurately describing a specific type of policy that is exempt. No only would this technical error fail to exempt self-insurance policies as intended, it would create the potential for much broader and unintended consequences. Insurance insolvencies involve lengthy proceedings where courts must ultimately determine the legal rights of creditors, including injured workers with covered claims, and distribute the assets accordingly. Rules of statutory construction in Missouri require that courts presume that the legislature intended each word, clause, sentence and provision of a statute have effect and be given meaning. Courts also presume that the legislature did not insert superfluous language or idle verbiage in a statute.

By incorrectly describing the elements of a self-insurance policy when attempting to exempt those policies, House Bill No. 1763 would substantively change the intended exemption and create the potential for inconsistent interpretations and unintended outcomes. And, because House Bill No. 1763 contains an emergency clause, the uncertainty that the typographical error would interject into insurance delinquency proceedings would take effect immediately, applying to all pending delinquency proceedings for which there is no final order of liquidation.

Finally, House Bill No. 1763 appears to also contain an omission. The legislation specifically uses the term “large deductible policy” to describe the policies within its purview, which connotes that its provisions are not intended to apply to all deductible policies and that only deductible policies that exceed a certain dollar threshold would be considered “large” for purposes of the bill. Indeed, similar legislation filed during the 2015 legislative session, House Bill No. 609 and Senate Bill No. 402, defined “large deductible policy” as “any policy with a deductible of fifty thousand dollars or more.” A monetary trigger would also be consistent with the model language on this subject. However, House Bill No. 1763 fails to include any monetary threshold and thus all deductible policies – regardless of the size of the deductible – would be considered “large” and subject to the provisions of the bill.

House Bill No. 1763 contains errors that would create ambiguity within an already complex area of law dealing with insurance delinquency proceedings. As a result, **House Bill No. 1763** does not receive my approval.

Respectfully submitted,

/s/ Jeremiah W. (Jay) Nixon
Governor

COMMUNICATION

May 10, 2016

Adam Crumbliss, Chief Clerk
Missouri House of Representatives
State Capitol, Room 317-B
Jefferson City, MO 65101

Mr. Chief Clerk,

The House Select Committee on Rules Chair has reviewed the following House Resolutions requesting use of the House Chamber and approved the following: **HR 3225**.

Sincerely,

/s/ Donna Pfautsch
State Representative
Chairman, Select Committee on Rules

The following members' presence was noted; Berry, Dugger, English, Fitzwater (49), Jones, Kelley, Kendrick, Koenig, Leara, Muntzel, Plocher, Richardson, Ruth, Spencer, Wiemann, and Wood.

ADJOURNMENT

The Speaker declared the House of Representatives of the Ninety-eighth General Assembly, convened in the Second Regular Session on January 6, 2016, adjourned sine die as of midnight, May 30, 2016, pursuant to the Constitution.

TODD RICHARDSON
Speaker of the House

D. ADAM CRUMBLISS
Chief Clerk of the House