



Sub. H.B. 281

125th General Assembly

(As Reported by S. Insurance, Commerce, and Labor)

Reps. Martin, McGregor, Kearns, Seitz, Husted, Schaffer, Webster, Gibbs, Walcher, Carano, G. Smith, Olman, Wolpert, Faber, Hughes, Daniels, Allen, Barrett, Buehrer, Calvert, Carmichael, Chandler, Collier, DeBose, DeGeeter, Distel, Domenick, C. Evans, Flowers, Gilb, Grendell, Hagan, Hartnett, Harwood, Hoops, Jolivette, Kilbane, Latta, Niehaus, Otterman, S. Patton, Perry, Price, Reidelbach, Schlichter, Schmidt, Setzer, Sferra, D. Stewart, J. Stewart, Strahorn, Taylor, Ujvagi, Wagner, Widener, Yates

BILL SUMMARY

- Provides a means of identifying a health insuring corporation's admitted assets for purposes of meeting the statutory minimum, repealing the current listing of qualifying assets.
- Imposes penalties on any person operating a multiple employer welfare arrangement, health insuring corporation, or insurance company, without a valid certificate of authority from the Superintendent of Insurance.
- Imposes criminal and administrative penalties on agents selling policies of unlicensed insurers.
- Limits the circumstances under which the Superintendent of Insurance is required to issue certificates of compliance to insurers.

CONTENT AND OPERATION

Assets qualifying as the admitted assets of a health insuring corporation

(secs. 1751.02 and 1751.28)

Under continuing law, every health insuring corporation authorized to provide health care services pursuant to the Health Insuring Corporation Law, Chapters 1751. and 1753. of the Revised Code, is required to maintain total "admitted assets" equal to a minimum of 110% of the corporation's liabilities.

Currently, the Revised Code identifies the assets that qualify as admitted assets for this purpose by listing dozens of specific, qualifying securities, investments, receivables, and other assets. The Revised Code also currently imposes conditions and limitations on the valuation of qualifying assets and provides that all admitted assets must be held in the health insuring corporation's name and must be free and clear of all encumbrances, pledges, or hypothecation.

The bill defines how health insuring corporations are to identify "admitted assets" for purposes of meeting the required minimum and repeals the current method of listing in the Revised Code the assets that qualify as admitted assets. In order to qualify as an admitted asset under the bill, the asset must be consistent with the forms, instructions, and manuals prescribed by the National Association of Insurance Commissioners for the preparation and reporting of statutory financial statements and other financial information, as these forms, instructions, and manuals are adopted by the Superintendent of Insurance, including modifications and later-approved rules. The bill repeals the provision requiring that all admitted assets be held in a health insuring corporation's name and be free and clear of all encumbrances, pledges, or hypothecation. The new method of identifying the admitted assets of a health insuring corporation would first apply to calendar year 2004.

Certificate of authority required for the operation of a multiple employer welfare arrangement

(secs. 1739.02, 1739.27, and 1739.99)

The bill expressly prohibits any person from establishing, operating, or maintaining a multiple employer welfare arrangement in Ohio, providing benefits through a group self-insurance program, without a valid certificate of authority from the Superintendent. Under the bill, a violation of this prohibition is classified as a felony of the fourth degree. The bill also prohibits insurance agents, brokers, and others persons from advertising, soliciting, negotiating, collecting premiums on, or selling enrollments in, a multiple employer welfare arrangement's group self-insurance program, if the multiple employer welfare arrangement does not have a valid certificate of authority from the Superintendent, classifying a violation of this prohibition as a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. The bill permits a trial court to award restitution, in accordance with existing law (R.C. section 2929.18), if a person is found guilty of violating either one of these prohibitions or existing law pertaining to the operation of multiple employer welfare arrangements (R.C. section 1739.02(B)).

Certificates of compliance and certificates of authority issued to insurers and health insuring corporations; violations

(secs. 3901.78, 3905.14, 3999.18, and 3999.99)

Currently, the Insurance Law, Title 39 of the Revised Code, requires the Superintendent of Insurance to issue a certificate of compliance with the laws of Ohio to each insurance company authorized to do business in this state, upon the insurer's filing of its annual statement with the Superintendent. The Superintendent also must issue a certificate of compliance to each insurance company applying to do business in Ohio, upon finding that the applicant should be authorized to do business in this state. Current law provides that a certificate of compliance must contain a statement of the amounts of paid up capital stock, assets, liabilities, income and expenditures for the preceding year, as shown in an insurer's annual statement for that year, or, in the case of an applicant insurer, as shown in the financial statement submitted to the Superintendent by the applicant's officers.

The bill repeals the current provisions governing the issuance of certificates of compliance to existing insurers and applicants and governing the contents of certificates of compliance. It requires the Superintendent to issue a certificate of compliance to an insurer following the insurer's filing of annual statements, but only if the insurer is authorized to do business in Ohio but is incorporated elsewhere. The insurer must publish the certificate in a newspaper of general circulation in every county where the insurance company has an agency. Additionally, the bill permits the Superintendent to issue a certificate of compliance to an insurance company authorized to do business in Ohio, upon the insurer's request or in any other circumstance the Superintendent considers to be appropriate. Certificates of compliance issued in these circumstances are not subject to publication requirements. All certificates of compliance either must be on forms established by the National Association of Insurance Commissioners or on such other forms as the Superintendent prescribes.

Under the bill, no person may establish, operate, or maintain an entity in Ohio that delivers, issues, or renews policies of sickness and accident insurance or contracts of health care if Ohio law requires the person to have a certificate of authority under the Insurance Law or the Health Insuring Corporation Law and the person does not have a valid certificate of authority. A violation of this prohibition is classified as a felony of the fourth degree. The bill also prohibits insurance agents, brokers, and other persons from advertising, soliciting, negotiating, collecting premiums on, or selling, policies of sickness and accident insurance or contracts of health care services, unless the entity that delivers, issues, or renews the policy or contract maintains any certificate of authority required under the Insurance Law or the Health Insuring Corporation Law,

classifying a violation of this prohibition as a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense. The bill permits a trial court to award restitution, in accordance with Ohio law (R.C. section 2929.18), if a person is found guilty of violating these or any of the other criminal prohibitions listed in section 3999.99 of the Revised Code.

The Insurance Agent Law permits the Superintendent of Insurance to suspend, revoke, or refuse to issue or renew any license of an insurance agent, and to assess a civil penalty, for specified offenses by an agent. Currently, one offense that allows the Superintendent to impose penalties against an agent is when an agent offers "within this state, in person or by advertisement, poster, letter, circular, or otherwise, to sell, procure, or obtain" policies, contracts, agreements, or applications for life insurance, annuities, or sickness and accident insurance, either for insurers or other entities that are not authorized to transact business in Ohio or for nonexistent, liquidating, or bankrupt insurers or other entities. The bill extends the scope of the offense to "[o]ffering, selling, soliciting, or negotiating" policies, contracts, or agreements, or applications for *any* form of insurance, either for insurers or multiple employer welfare arrangements not authorized to transact business in Ohio or for nonexistent, liquidating, or bankrupt insurers or multiple employer welfare arrangements. Under the bill, the Superintendent of Insurance may continue to impose any existing penalty or penalties on agents who violate this "sales" prohibition; however, the bill amends the existing provisions that do not currently require the Superintendent to suspend an agent's license for this offense to mandate that the Superintendent impose a minimum of a two-year suspension on all of the offending agent's licenses for all lines of insurance.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	09-17-03	p. 1067
Reported, H. Insurance	12-03-03	p. 1146
Passed House (96-0)	12-09-03	pp. 1265-1266
Reported, S. Insurance, Commerce, and Labor	02-12-04	p. 1526

H0281-RS-125.doc/jc

