



Ninety-Seventh Legislature - Second Session - 2002
Introducer's Statement of Intent
LB 1092

Chairperson: Senator David M. Landis
Committee: Banking, Commerce and Insurance
Date of Hearing: January 28, 2002

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

(1) The bill revises the formula for the deadlines under which the Department of Insurance operates when it approves the change of control of a domestic insurer. § 104 (c)(2)(A)(i) of the federal Gramm-Leach-Bliley Financial Services Modernization Act allows states to approve changes of control within the “60 day” period, but Nebraska statutes currently require the department to have a hearing within thirty days and then decide in thirty days. This revision of the statutory deadline is intended to comply with the literal requirements of the Gramm-Leach-Bliley Financial Services Modernization Act, although the department does not believe that the revision is substantive.

(2) The bill increases the priority of the federal government in the payment priorities in the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act in the event of a liquidation of an insurer, ahead of compensation to employees of the insurer, as required by the United States Supreme Court decision in *United States Treasury v. Fabe*.

(3) The bill explicitly establishes the authority of the Director of Insurance under the Unfair Insurance Trade Practices Act to, after notification to the appropriate banking regulator, examine the insurance activities of banks as allowed by the federal Gramm-Leach-Bliley Financial Services Modernization Act.

(4) The bill revises the Property and Casualty Insurance Rate and Form Act to accomplish the following changes:

The bill grants flexibility to medical professional liability insurers to charge forty percent more or less than the rate filed with the Department of Insurance in order to allow insurers to impose an appropriate rate and thereby avoid placement of medical professionals in the state-sponsored medical professional liability residual fund. The bill sets out a process by which medical professional liability coverage may be sold to insureds on a “consent-to-rate” basis.

The bill clarifies the director’s authority to increase the range of forty percent increase or decrease allowed under *Neb.Rev.Stat.* §44-7509 to recognize that subjective rating allowed under that section would rarely be expected to produce exactly a figure at the edge of the range.

The bill relaxes the prohibition of subjective rating by advisory organizations engaged in evaluating fire insurance rating plans for commercial risks due to the fact that these advisory organizations are providing a service to all insurers and are not actually imposing a rate themselves.

The bill relaxes the requirement that insurers inform commercial policyholders of non-standard forms at the earliest practical date, from “no later than the inception date” to thirty days after inception. This provision applies to situations in which coverage is being negotiated between insurer and insured.

The bill exempt forms and rating systems used by insurers to insure warranties and service contracts provided by businesses from rate and from act review, as the warranties and service contracts made by insurers are.

(5) The bill delays the reporting date from March 1 to April 1 each year that the administering carrier for the Nebraska Small Employer Health Reinsurance Program must report to the director any losses for the program and any assessments of insurance carriers that would be required.

(6) The bill replaces the administrative penalty for late filings of annual statements by third-party administrators with a late fee. The bill requires the director to notify a third-party administrator if the department has not received that filing within seven business days.

(7) The bill repeals the requirement that surplus lines insurance brokers must post bonds. The requirement as applied to non-resident surplus lines insurance brokers is a barrier to the reciprocity states must give to licensees from other states under the Gramm-Leach-Bliley Financial Services Modernization Act in order to maintain the authority to license insurance producers.

(8) The bill requires the director to use the application form submitted by a non-resident reinsurance intermediary to his or her home state as the application for a non-resident reinsurance intermediary license in this state. The bill explicitly provides for full reciprocity for non-resident reinsurance intermediaries if the non-resident reinsurance intermediary’s home state provides for licensure of Nebraska residents on a similar basis. The bill limits the applicability of a bond for reinsurance intermediaries to resident reinsurance intermediaries. The bill requires the reinsurance intermediary to provide the director with a person to whom the director’s orders and process should be sent.

(9) The bill expands the definition of “good funds” in the Title Insurers Act and the Title Insurance Agents Act to conform with the definition of good funds in the real estate closing agents statute by including warrants of Omaha and Lincoln as good funds within the meaning of the statute.

(10) The bill amends various sections of the Small Employer Health Insurance Availability Act, at §44-5223 et seq., and the large employer group laws at 44-6901 et seq., to

amend definitions and add standards for the “certification of creditable coverage”. The bill amends 44-787, which requires renewability of individual health insurance policies, to add standards for the “certification of creditable coverage”. All of these changes are required by the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and recent federal regulations.

(11) The bill increases compensation paid to members of the medical review panels under the Nebraska Hospital-Medical Liability Act from thirty dollars per day to fifty dollars per day.

(12) The bill provides that if an employer of a farm or ranch laborer has not elected to bring the farm or ranch laborer within the provisions of the workers’ compensation laws and a health insurance policy or plan that covers the farm or ranch laborer contains an exclusion of coverage for work-related injuries or illnesses, then the exclusion shall be null and void as to the farm or ranch laborer for work-related injuries or illnesses sustained in the course of employment with that employer if the farm or ranch laborer would have been entitled to workers’ compensation if the employer had elected to bring the farm or ranch laborer within the provisions of the workers’ compensation laws.

(13) The bill allows insurers that lend foreign securities to take the required collateral for such securities in the currency in which that foreign security is valued.

Principal Introducer:

_____ **Senator David M. Landis**