

Banking and Insurance Committee

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BANKING AND INSURANCE COMMITTEE

LEGISLATION ENACTED

state compensation fund; conforming changes (S.B. 1102) – Chapter 157

Conforms state statutes to reflect the termination of the State Compensation Fund.

insurance; health care sharing ministries (S.B. 1122) – Chapter 184

Describes the structure and function of a health care sharing ministry (HCSM). Stipulates that a HCSM's practices do not constitute the transaction of insurance business in Arizona and are not subject to regulation by the Department of Insurance. Codifies HCSMs as non-profit organizations that are a form of faith-based medical cost sharing.

rate service organizations; examinations (S.B. 1184) – Chapter 45

Allows the Director of the Department of Insurance to examine rate service organizations as often as is deemed necessary.

service companies; exemption (S.B. 1195) – Chapter 247

Exempts a retail or maintenance service company from having to obtain a permit only if the service contract covers the following items the service company sells: a) appliances or electronic equipment, or both; b) residential heating, cooling or air conditioning systems; or c) mechanical equipment, other than motor vehicles or their components. Exempts a service company from having to obtain a permit only to the extent that the company is in the business of selling or servicing directly, or through other retailers, cell phones and other electronic personal communications devices and accessories.

auto glass repair (S.B. 1238) – Chapter 161

Modifies the unfair practices and fraud statutes regarding third party auto glass administrators. Requires a third party administrator to inform a person of his or her right to choose any glass repair facility at the time they recommend or provide information about a glass repair facility. Prohibits an independent adjuster or a third party administrator's automotive physical damage appraiser or claims inspector from recommending any particular glass repair facility. Stipulates that a first offense is a petty offense; imposes fines of \$1,500 for a second violation and \$3,000 for any subsequent violation within 18 months after a prior violation. Specifies that a person acted knowingly if the person engaged in a regular consistent pattern of the prohibited activity.

~~foreclosures; proof of ownership~~ (NOW: noncontiguous county islands; fire services) (S.B. 1259) – Chapter 269

Allows a noncontiguous county island fire district to contract with a private fire protection service provider for fire protection services and redefines a *noncontiguous county island fire district* (district) as a district that is formed in a county that has a population of at least 1,500,000 persons and for which specific conditions apply.

Allows a district that is formed within a municipal planning area to enter into an intergovernmental agreement (IGA) with a municipal provider for fire protection services and allows a district that is not contained within a municipal planning area to enter into an IGA with a private fire protection service provider for fire protection services.

Requires a private fire protection service provider (provider) to make a formal expression of intent to enter into a contract with a district within 21 days of the formation of the district and states that the provider has the right of first refusal.

workers' compensation; reasonable accommodations (S.B. 1264) – Chapter 345 W/O

Requires wages payable for a modified job position, notwithstanding that the job is not available in the open competitive labor market, to be included in the determination of any temporary partial or permanent partial earning capacity if an employer has made reasonable accommodations pursuant to the Americans with Disabilities Act or other applicable federal or state law. Requires a person who advocates for a legislative proposal to submit a report to the Joint Legislative Audit Committee (JLAC) if the proposal as enacted either: a) mandates an insurer or self-insured employer deem that a disease or condition has arisen out of employment, including establishing a presumption of compensability; or b) substantially modifies a statute that establishes a presumption of compensability for a disease or condition. Specifies the information that must be included in the report to JLAC and requires the report to be submitted to JLAC on or before September 1 before the start of the legislative session for which the legislation is proposed. Requires JLAC to assign the report to the appropriate legislative committee of reference (COR) and for the COR to hold at least one hearing and take public testimony after receipt of the report. Requires the COR to study the report and deliver a report of its recommendations to JLAC, the Speaker of the House of Representatives, the President of the Senate, the Governor and the ICA on or before December 1 of the year in which the report is submitted.

insurance adjusters; licensure; examination (S.B. 1400) – Chapter 237

Further defines an insurance adjuster as an individual who collects claim information from or furnishes claim information to insureds or claimants and who conduct data entry, including entering data into an automated claims adjudication system, if no more than 25 persons are under the supervision of a single licensed adjuster or licensed producer. Grants reciprocity to: a) Canadian residents who have obtained a resident adjuster license in another state and designated that state as their home state; and b) nonresident license applicants who hold a license in good standing from their home state if that state issues nonresident licenses to residents of Arizona on the same basis. Allows the Director of the Department of Insurance to: a) require fingerprints of applicants in order to determine license eligibility and to submit the fingerprints and fees as prescribed by statute; and b) contract with nongovernmental entities to perform any ministerial functions, including collections of fees and data related to licensing, that the Director deems appropriate. Removes: a) the requirement for a licensed adjuster to have and maintain an office accessible to the public and keep the usual and customary records pertaining to transactions under the license; and b) the provision permitting a firm or corporation to be licensed as an adjuster if each individual who is to exercise the license powers is qualified for an individual license as an adjuster.

life settlements (S.B. 1461) – Chapter 297

Adds numerous provisions to statute regulating life settlements under the Department of Insurance. Provisions include: a) licensure requirements for providers and brokers; b) life settlement contract requirements; c) information that providers and brokers must disclose to policy owners; d) the authorization for the Director Department of Insurance (Director) to adopt rules to regulate life settlement transactions; e) the establishment of privacy protections for insureds; f) the authorization for the Director to investigate suspected fraudulent life settlement acts and persons engaged in the business of life settlements lists and provisions for examining those persons; and g) the requirement for licensed providers to file an annual statement with the Director on or before March 1 of each year and stipulates the information to be included in the statements.

workers' compensation deductible coverage; report (NOW: notices; commercial insurance) (S.B. 1567) – Chapter 327

Modifies the time frame, from 60 days to 45 days before the effective date, for written notice of cancellation or nonrenewal of a commercial insurance policy to be sent to an insured, and stipulates that if the written notice of nonrenewal is mailed less than 45 days before expiration of the policy, the coverage must remain in effect until 45 days after the written notice is mailed. Modifies the timeframe, from 60 days to 30 days before the expiration date, for written notice of premium increase, change in deductible, reduction in limits or substantial reduction in coverage to be mailed or delivered to an insured, and stipulates that notice is considered given 30 days following the date of mailing or delivery of the notice. Requires that notice of premium or coverage changes be considered given if an insurer delivers new policy terms and conditions 30 days before the expiration date of the policy.

commercial mortgage brokers; license conversion (H.B. 2004) – Chapter 11

Permits the holder of a mortgage broker license to convert the license to a commercial mortgage broker license, and exempts the Department of Financial Institutions from rulemaking procedures for one year after the effective date.

bail bond agents; civil; licensing (H.B. 2109) – Chapter 171

Prohibits a licensed bail bond agent from transacting civil bonds for a surety insurer unless the agent is also licensed as a property and casualty producer. Requires an applicant for a bail bond agent license to submit an affidavit attesting to residency in Arizona for at least one year immediately preceding the date of application and to submit a full set of fingerprints to the Arizona Department of Insurance for the purpose of obtaining a state and federal criminal records check.

insurance; risk retention groups (H.B. 2110) – Chapter 135

Classifies risk retention groups as licensed insurers. Stipulates that every insurer is subject to the requirements of the National Association of Insurance Commissioners' annual financial reporting model regulations for that calendar year except for those insurers with direct premiums written of less than \$1 million nationwide in any calendar year and less than 1,000 policyholders or certificate holders of direct written policies nationwide at the end of the calendar year, unless the Director of the Department of Insurance makes a specific finding that compliance is necessary. Specifies that statutes relating to insurance holding company systems apply to risk retention groups.

insurance; surplus lines (H.B. 2112) – Chapter 136

Allows the Director of the Department of Insurance to enter into a compact or multistate agreement to provide for the reporting, payment, collection and allocation of taxes imposed on unauthorized surplus lines insurance covering multistate risks if, after a hearing, it is determined it is in the best interest of Arizona.

qualified financial contracts; receivership (H.B. 2113) – Chapter 46

Adds provisions, based on National Association of Insurance Commissioners model language, relating to qualified financial contracts (QFC) entered into between Arizona domiciled insurance companies that are in receivership and an outside counterparty. Stipulates that a person is not enjoined or prohibited from exercising: a) a contractual right to cause the termination, liquidation, acceleration or closeout of obligation; b) any right under a pledge, security, collateral, reimbursement or guarantee agreement; or c) any right to offset transfer obligations relating to a netting agreement or QFC. Defines a counterparty's damages in the termination of a QFC and prohibits a nondefaulting party from walking away from any settlement amount owed to an insurer. Outlines provisions for the receiver's transfer of QFCs and disaffirmance or repudiation of QFCs. Prohibits a receiver from avoiding a transfer of money or property in connection with a netting agreement or QFC or any pledge, security, collateral or guarantee agreement unless it was made with the intent to hinder, delay or defraud the insurer, receiver or existing future creditors. Stipulates that an injunction ordered by a judge of the superior court does not operate to enjoin or prohibit any right to cause the netting, liquidation, setoff, termination, acceleration or closeout of obligations or enforcement of any security agreement in connection with any netting agreement or QFC.

national banks; mortgage loan originators (H.B. 2296) – Chapter 172

Allows a federally registered bank that is exempt from state licensure as a mortgage broker to file for a certificate of exemption with the Department of Financial Institutions in order to reasonably supervise the activities of a mortgage loan originator who is employed by the bank.

escrow agents; recovery fund; repeal (H.B. 2297) – Chapter 51

Repeals the Escrow Recovery Fund and directs any remaining monies on the effective date to be transferred to the state General Fund. Requires a real property escrow agent to disclose to the buyer and seller of a residential dwelling that the title insurer must offer, on request, a closing protection letter. Removes the requirement for the Superintendent of the Department of Financial Institutions to conduct semiannual surveys of each regulated escrow agent and to make the results available to the public.

credit card agreements. (H.B. 2412) – Chapter 57

Requires an action for debt to be commenced and prosecuted within six years after the cause of action accrues if the indebtedness is evidenced by or found on a credit card or other revolving debt agreement. Stipulates that in the case of a conflict between Arizona and another jurisdiction relating to the statute of limitations for a debt action, the six year requirement applies.

workers' compensation; certain diseases; exposure (H.B. 2476) – Chapter 317

Increases the time period that an employee has to report, in writing, to an employer the details of possible significant exposure to methicillin-resistant staphylococcus aureus (MRSA), spinal meningitis or tuberculosis from 10 calendar days to 30 calendar days. Modifies the time period that an employee must be diagnosed with MRSA from 2 to 10 days to 15 days after reporting the possible exposure.

workers' compensation; directed care (H.B. 2584) – Chapter 93

Establishes a pilot program to allow a city with a population of more than 150,000 persons and a self-insured county insurance pool to direct care to specific medical, surgical and hospital providers.

workers' compensation; controlled substances (H.B. 2616) – Chapter 338

Stipulates that, upon written request of an interested party, physicians are required to include the following information in their workers' compensation reports: a) the use of a narcotic or opium based controlled substance or the prescription of a combination of narcotics or opium based controlled substances greater or equal to 120mg morphine equivalent dose per day; and b) the prescription of a long-acting or controlled release opioid for acute pain. Requires that the workers' compensation reports include justification for the controlled substance and a treatment plan. Allows an interested party to request that a physician submit an inquiry to the state Board of Pharmacy requesting information on a prescription compiled under the Controlled Substance Prescription Monitoring Program. Specifies that failure of a physician to comply with the requirements constitutes grounds for the employer, carrier or the Industrial Commission (ICA) to request a change of physician. Permits an employer, carrier or the ICA to request information and require the compliance of a physician notwithstanding the existence of a prior award addressing medical maintenance benefits for medication. Stipulates that an employer or carrier is not liable for bad faith or unfair claims processing for any act taken consistent with the requirements.

workers' compensation; settlement of claims (H.B. 2617) – Chapter 139

Permits parties to a workers' compensation claim to enter into a final settlement and release of a claim for undisputed entitlement to supportive medical maintenance benefits after the period of temporary disability is terminated by a final notice of claim status or award of the Industrial Commission.

LEGISLATION VETOED

health insurance; interstate purchase (S.B. 1593) – VETOED

Allows foreign insurers that hold a certificate of authority in another state to transact health or sickness insurance in Arizona, if the insurer provides evidence to the Director of the Department of Insurance that while providing insurance in Arizona he or she is subject to the jurisdiction of another state's Department of Insurance and that his or her certificate of authority requires financial reserves of not less than the amount required in Arizona.

In her veto message, the Governor states that she has been a strong advocate for injecting more choice and competition into the health insurance market. However, she believes that since the provision that would change Arizona's benefit requirements was added on the floor it was not subject to the typical public input that major policy decisions should receive. The Governor also states that she is concerned about the risks to citizens who may be subject to other states' regulatory procedures that could leave them with little recourse in the event of mistreatment.