

This week saw House Health give a favorable report to **H.B. 265 – Establish High Risk Pool**. The bill received a spirited hearing in House Health, and moved forward with a unanimous vote. The bill was scheduled to be heard in House Insurance this week, but meetings of House Insurance were canceled. I would expect this legislation to be considered in House Insurance next week. If it emerges successfully from House Insurance, it will then go to House Appropriations and then to House Finance. I will keep you advised as this bill progresses.

S.B. 356 – Reenact and Expand Long Term Care Tax Credit was introduced this week by Senator Julia Boseman (D-Wilmington). It has been referred to Senate Finance. This legislation would reenact and increase the long term care tax credit from \$350 to \$500 under N.C.G.S. § 105-151.28. The interesting thing to note about this bill is that it has a whopping 35 co-sponsors, including senior Democratic leadership and several Republicans. Note that **H.B. 3** and **H.B. 144** would also reenact the LTC Tax Credit.

I believe I reported in error the bill number for the legislation that would repeal the chiropractic provision that has been in the news as of late. The correct bill number is **S.B. 322**, and not S.B. 321.

In today's email I received the North Carolina Department of Insurance's proposed legislative package for the 2007 session of the General Assembly. Some of their bills may be of more relevance to your interests than others, but I will briefly describe each of their 8 proposals (that's right: 8) below:

MEDIATION/DISASTER CLAIMS. This legislation would revise last session's mediation legislation. Under current law disasters can be declared by the President of the United States and the Governor of North Carolina. This legislation would expand those authorized to declare disasters to include the North Carolina General Assembly and the Commissioner of Insurance.

Perhaps the biggest problem with this last session's bill was the ambiguity in the legislation with regard to how many notices an insurer must give its insureds of the right to mediate. This legislation has been revised to indicate that only one notice need be given.

Last year's bill required that a notice of non-covered perils be given to insureds. The notice first applied to insurers selling property insurance policies. The notice provision would now apply to insurers selling "residential or commercial" property insurance policies.

The bill also addresses the nuts and bolts of the mediation process itself. We will review the bill carefully, and will report to you on any changes that appear advisable.

UNAUTHORIZED INSURERS. This DOI proposal would increase the existing criminal penalties for one who acts as an agent of an authorized insurer. Also, such

agents would be strictly liable for unpaid claims of coverage placed with an unauthorized insurer.

CUSTODIAL AGREEMENTS. This proposal would adopt the NAIC model act on custodial agreements and clearing corporations. The purpose would be to authorize insurance companies to use modern systems for holding and transferring securities without physical delivery of security certificates, subject to appropriate rules of the Commissioner.

RATE EVASION. This auto insurance problem in search of a solution is a complicated one, and we shall have some thoughts for you shortly on potential approaches to take to the rate evasion issue. The DOI proposal involves making rate evasion as practiced by an applicant a felony. Note that agents would be required to have their applicants sign a statement that includes the applicants' attestations of eligible risk status for all named insureds to be insured on the policy for which that application was made. Note that the agent would also have to verify that the information provided as to the applicant's address and the place of garagement is correct. The agent must also satisfy these verification requirements by obtaining "reliable proof" of North Carolina residency from the applicant.

All insurers would have to implement a program designated as the "Rate Evasion Prevention Program" designed to prevent fraudulent procurement of insurance. This program would require insurers to audit their business written for auto insurance business at least annually for application misrepresentations and address and garagement of its insureds, and would require that the insurers' agents validate the residency of insureds at the point of sale and upon the notification of a claim.

We will provide you with more detailed feedback on the DOI proposal, as well as give you some alternative ideas as to how we might address the rate evasion issue.

SOLVENCY. This proposal would specifically address mortgage guaranty insurance and the solvency of insurers writing this coverage. Also note that P&C insurers would have to submit annual statements of actuarial opinions. Summaries of these opinions would be provided upon request of the DOI for companies not domiciled in North Carolina but licensed here. Work papers would also have to be provided to the DOI upon request. Statements of actuarial opinion would not be public records, but the Commissioner could share them with the NAIC.

LIFE AND HEALTH OMNIBUS. The first portion of this proposal would create the Suitability in Annuity Transactions Act. The purpose would be to set forth standards and procedures for recommendations to consumers that result in a transaction involving annuity products. The focus of this proposal would be that annuity recommendations would have to be "suitable" for the consumer. The producer or the insurer where no producer is involved would have to make "reasonable efforts" to obtain information about the consumer's financial status, tax status and investment objectives. Insurers would either have to insure that a system to supervise recommendations that is

reasonably designed to achieve compliance with this law is established, or would have to establish and maintain a monitoring system. General agents and independent agents would either adopt the system established by an insurer to supervise recommendations or themselves establish and maintain such a system. Insurers, producers and agencies would have to take “reasonably appropriate corrective action” for any consumer harmed by violations of the Act. Insurers, agents and agencies would have to maintain and make available to the DOI records of the information collected from the consumer.

Other provisions of this bill include provisions for making accident and health and life insurance portable. There would be also increased portability for health insurance coverage through a limitation on preexisting conditions. Group life insurance would become portable, and long-term care insurance would include, among other things, group and individual annuities and life insurance policies or riders that supplement or directly provide long-term care insurance. The bill would provide that, with respect to life insurance, long-term care insurance does not include life insurance policies that accelerate the death benefit specifically for one or more of the qualifying events of terminal illness, medical conditions requiring extraordinary medical intervention or permanent institutional confinement, and that provide the option of a lump sum payment for those benefits and where neither the benefits nor the eligibility for the benefits is conditioned upon the receipt of long-term care.

MILITARY SALES/LIFE INSURANCE AND ANNUITIES. This proposal would regulate practices which are found to be false, misleading, deceptive or unfair and the sales of life insurance policies and annuities to members of the Armed Forces. I have not planned to provide you with a detailed assessment of this bill, but if you would like for me to do so, please let me know.

LICENSING OF AGENTS. This legislation makes various changes in the laws relating to the licensing of insurance producers, and would make changes in these fee structures for agents and adjusters. Individuals would not be able to simultaneously hold an agent’s and an adjuster’s license in North Carolina. The DOI wishes to clamp down on practices that involve abuses of trust or misdemeanors involving moral turpitude. Fees would be on the rise for course providers who deliver continuing education courses.

That should cover the waterfront for now. I look forward to legislative activities next week and will keep you advised of all developments.

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