

## LEGISLATIVE BILL 6

Approved by the Acting Governor January 24, 1989

Introduced by Labeledz, 5, Chairperson, Executive Board

AN ACT relating to insurance; to amend sections 44-107.03, 44-213.06, 44-336.04, 44-386.05, 44-710, 44-1491, 44-1493, 44-1498, 44-1802, 44-1803, 44-1804, and 44-1805, Reissue Revised Statutes of Nebraska, 1943; to eliminate references to repealed sections; to provide references to the Administrative Procedure Act for certain hearings and a notice provision; to change references to a nonexistent act; to eliminate a section which defines the term this act for certain sections; to eliminate a provision relating to certificates of authority for health maintenance organizations; to harmonize provisions; and to repeal the original sections, and also sections 44-1920 and 44-3212, Reissue Revised Statutes of Nebraska, 1943.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 44-107.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-107.03. Domestic insurance companies shall reimburse the Department of Insurance for the expense of examination, to be collected and paid as is provided in section 44-107.02. Reimbursement ~~PROVIDED~~; ~~said reimbursement shall be limited to a reasonable allocation for the salary of each examiner not to exceed the limits of compensation established by section 44-119-01; as now existing or as hereafter amended; plus actual expenses. All~~ ~~;~~ ~~all~~ such salaries and expenses ~~to shall~~ be paid in the manner provided by section 44-117.

Sec. 2. That section 44-213.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-213.06. In the event the Director of Insurance disapproves any proposed or existing plan, modification thereof, or amendment thereto for providing benefits upon or after retirement, he or she shall, after a hearing thereon has been held, prior written notice of such hearing having been given to the company

concerned, issue a written order specifying the reasons for disapproval. An appeal may be taken from the decision of the director, and the appeal shall be in accordance with the Administrative Procedure Act, pursuant to Chapter 44:

Sec. 3. That section 44-336.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-336.04. No such requirements shall be required of:

(1) Any agent who is a current holder of a valid outstanding resident agent's license and has held an agent's license since January 1, 1972;

(2) Any (a) ticket-selling agent of a common carrier who acts thereunder only with reference to the issuance of accident insurance, or insurance on personal effects carried as baggage, in connection with the transportation provided by such common carrier, or ~~applicants selling~~ (b) person who sells limited travel accident insurance in transportation terminals;

(3) Home office or branch office employees of insurers, or service representatives of insurers or of general agents who work with or through resident agents in the solicitation, negotiation, or effectuation of insurance, and who are compensated by salary only;

(4) Any persons involved in insurance solicitation solely through enrollment of individuals under a group insurance policy;

(5) Any ~~applicant~~ person who solicits, negotiates, or procures credit life, credit sickness and accident, or other tangible personal property insurance other than automobile insurance coverages in connection with a loan or a retail time-sales transaction; or

(6) Any ~~applicant whose application complies with the requirements of section 44-333-04 or 44-333-05;~~ or

~~(7)~~ Any agent of a hospital service corporation licensed under section 21-1513.

Sec. 4. That section 44-386.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-386.05. Whenever, from an inspection of the books and records or a review of the annual report, the Director of Insurance deems it prudent for the protection of the members of any association, he or she may conduct a hearing on the business affairs of the association. Notice shall be given as provided in Chapter 44, article 23 the Administrative Procedure Act. Actual expenses of the Department of Insurance shall be

paid by the association.

Sec. 5. That section 44-710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710. No policy of sickness and accident insurance shall be delivered or issued for delivery in this state, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until a copy of the form and of the premium rates and of the classification of risks pertaining thereto have been filed with the Director of Insurance. ~~No ; nor shall any such policy, endorsement, rider, or application shall be so used until the expiration of thirty days after the form has been received by the director unless the director shall sooner give gives his or her written approval thereto prior to the expiration of the thirty-day period.~~ The ; PROVIDED, said thirty-day period may be extended by the director for an additional period, not to exceed thirty days. Notice of such extension shall be mailed to the insurer involved. The director shall notify in writing the insurer which has filed any such form if it contains benefits that are unreasonable in relation to the premium charged or any provision which is unjust, unfair, inequitable, misleading, or contrary to the law of this state, specifying the reasons for his or her opinion, ; and it shall thereafter be unlawful for such insurer to use such form in this state. In such notice, the director shall state that a hearing will be granted within thirty days upon written request of the insurer. In all other cases the director shall give his or her approval. An appeal from the decision of the director may be taken pursuant to Chapter 44 The decision of the director may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 6. That section 44-1491, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1491. Cooperation among title insurance rating organizations; or among such rating organizations and title insurance companies; and concert of action among title insurance companies under the same general management and control in ratemaking or in other matters within the provisions of sections 44-413.01, 44-1487 to 44-1498, and 44-1918, and 44-1919 to 44-1920 and the Nebraska Title Insurance Act are hereby authorized, but the filings resulting therefrom are subject to all the provisions of such sections and act which are applicable to filings generally. The Director of Insurance may

review such activities and practices and if, after a hearing, he or she finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of such sections and act, he or she may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of such sections and act and requiring the discontinuance of such activity or practice.

Sec. 7. That section 44-1493, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1493. Any member of or subscriber to a title insurance rating organization may appeal to the Director of Insurance from any action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization. The ~~7~~ and the director shall, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal and to take action or make a decision upon it within thirty days. If such appeal is from the action or decision of the title insurance rating organization in rejecting a proposed addition to its filings, ~~he the director~~ may, ~~in the event he if he or she~~ finds that such action or decision was unreasonable, issue an order directing such rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his or her findings, and within a reasonable time after the issuance of such order. If the appeal is from the action of the title insurance rating organization with regard to a rate or a proposed change in or addition to its filings relating to the character and extent of coverage, he or she shall approve the action of such rating organization or such modification thereof as ~~shall have~~ has been suggested by the appellant, if either be is in accordance with sections 44-413.01, 44-1487 to 44-1498, ~~and~~ 44-1918, ~~and~~ 44-1919 ~~to~~ 44-1920 and the Nebraska Title Insurance Act.

Sec. 8. That section 44-1498, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1498. No title insurance company or title insurance agent shall willfully withhold information from, or knowingly give false or misleading information to, the Director of Insurance, or to any title insurance

rating organization, of which the title insurance company is a member or subscriber, which will affect the rates or fees chargeable under the provisions of sections 44-413.01, 44-1487 to 44-1498, and 44-1918, and ~~44-1919 to 44-1920~~ and the Nebraska Title Insurance Act.

Sec. 9. That section 44-1802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1802. When used in sections 44-1801 to 44-1806, unless the context otherwise requires For purposes of the Unauthorized Insurers False Advertising Process Act:

(1) Director shall mean the Director of Insurance; and of this state;

~~(2) Unfair Trade Practice Act shall mean Chapter 44, article 15, and~~

~~(2) (3)~~ Residents shall mean and include persons, partnerships, or corporations, domestic, alien, or foreign.

Sec. 10. That section 44-1803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1803. No unauthorized foreign or alien insurer of the kind described in section 44-1801 shall make, issue, circulate, or cause to be made, issued, or circulated, to residents of this state any estimate, illustration, circular, pamphlet, or letter, or cause to be made in any newspaper, magazine, or other publication or over any radio or television station, any announcement or statement to such residents misrepresenting its financial condition or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon in violation of the Unfair Trade Practice Act; and whenever sections 44-1522 to 44-1535. Whenever the director shall have reason to believe that any such insurer is engaging in such unlawful advertising, it shall be his or her duty to give notice of such fact by either registered or certified mail to such insurer and to the insurance supervisory official of the domiciliary state of such insurer. For the purpose of this section, the domiciliary state of an alien insurer shall be deemed to be the state of entry or the state of the principal office in the United States.

Sec. 11. That section 44-1804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1804. If after thirty days following the

giving of the notice mentioned in section 44-1803 such insurer has failed to cease making, issuing, or circulating such false misrepresentations or causing the same to be made, issued, or circulated in this state, and if the director has reason to believe that a proceeding by him or her in respect to such matters would be to the interest of the public; and that such insurer is issuing or delivering contracts of insurance to residents of this state or collecting premiums on such contracts or doing any of the acts enumerated in section 44-1805, he or she shall take action against such insurer under the Unfair Trade Practice Act sections 44-1522 to 44-1535.

Sec. 12. That section 44-1805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1805. Any of the following acts in this state, effected by mail or otherwise, by any such unauthorized foreign or alien insurer: (1) The issuance or delivery of contracts of insurance to residents of this state, (2) the solicitation of applications for such contracts, (3) the collection of premiums, membership fees, assessments, or other considerations for such contracts, or (4) any other transaction of insurance business, shall constitute sufficient contact with the state for the exercise of personal jurisdiction over such insurer in any proceeding instituted in respect to the misrepresentation set forth in section 44-1803 under the provisions of the Unfair Trade Practice Act, sections 44-1522 to 44-1535 or in any action, suit, or proceeding for the recovery of any penalty ~~therein~~ provided in such sections.

Sec. 13. That original sections 44-107.03, 44-213.06, 44-336.04, 44-386.05, 44-710, 44-1491, 44-1493, 44-1498, 44-1802, 44-1803, 44-1804, and 44-1805, Reissue Revised Statutes of Nebraska, 1943, and also sections 44-1920 and 44-3212, Reissue Revised Statutes of Nebraska, 1943, are repealed.