

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 21, 2011

3:21 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Craig Johnson, Vice Chair  
Representative Dan Saddler  
Representative Paul Seaton  
Representative Lindsey Holmes  
Representative Bob Miller

**MEMBERS ABSENT**

Representative Steve Thompson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 164, "An Act relating to insurance; relating to health care insurance, exemption of certain insurers, reporting, notice, and record-keeping requirements for insurers, biographical affidavits, qualifications of alien insurers assuming ceded insurance, risk-based capital for insurers, insurance holding companies, licensing, federal requirements for nonadmitted insurers, surplus lines insurance, insurance fraud, life insurance policies and annuity contracts, rate filings by health care insurers, long-term care insurance, automobile service corporations, guaranty fund deposits of a title insurer, joint title plants, delinquency proceedings, fraternal benefit societies, multiple employer welfare arrangements, hospital and medical service corporations, and health maintenance organizations; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 164

SHORT TITLE: INSURANCE: HEALTH CARE & OTHER

SPONSOR(S): LABOR & COMMERCE

02/18/11	(H)	READ THE FIRST TIME - REFERRALS
02/18/11	(H)	L&C, FIN
02/21/11	(H)	L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

LINDA HALL, Director  
Division of Insurance  
Department of Commerce, Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Presented a section-by-section analysis of HB 164 and answered questions during the discussion of on HB 164.

**ACTION NARRATIVE**

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**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:21 p.m. Representatives Olson, Seaton, Johnson, Saddler, Holmes, and Miller were present at the call to order.

**HB 164-INSURANCE: HEALTH CARE & OTHER**

[3:22:09 PM](#)

CHAIR OLSON announced that the only order of business would be HOUSE BILL NO. 164, "An Act relating to insurance; relating to health care insurance, exemption of certain insurers, reporting, notice, and record-keeping requirements for insurers, biographical affidavits, qualifications of alien insurers assuming ceded insurance, risk-based capital for insurers, insurance holding companies, licensing, federal requirements for nonadmitted insurers, surplus lines insurance, insurance fraud, life insurance policies and annuity contracts, rate filings by health care insurers, long-term care insurance, automobile service corporations, guaranty fund deposits of a title insurer, joint title plants, delinquency proceedings, fraternal benefit societies, multiple employer welfare arrangements, hospital and medical service corporations, and health maintenance organizations; and providing for an effective date."

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LINDA HALL, Director, Division of Insurance, Department of Commerce, Community & Economic Development (DCCED) referred to member binders that contain sections which may help the committee as she reviews this complex bill.

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MS. HALL referred to the section-by-section analysis of HB 164 and offered to point out changes from existing law. She explained that Section 1 would apply to entities not required to be licensed under Alaska Statute (AS) 21.

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REPRESENTATIVE SEATON asked whether this provision would also apply to health insurance sold by another state.

MS. HALL answered that it has a relationship. This provision is intended to apply to a large employer headquartered in Texas who purchases a group health insurance policy for five people to not have to submit to the entire certificate of authority application process. She stipulated that the policy must be sold in Texas and cannot be marketed in Alaska. Additionally, the company would be limited to \$50,000 in premium sales. She offered her belief that this provision was not generally applicable to health insurance sold by another state.

MS. HALL stated that Sections 2-21 of HB 164 would modify the insurance terminology, including changing the term "managed care entity" to "health care insurer," she said.

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MS. HALL turned to the tab titled, "Financial Tab," which refers to pages 15-23 of the bill. These financial updates represent the most technical part of the bill. She related the primary mission of the Division of Insurance (DOI) is solvency oversight. An insurance policy is a promise to pay, she stated. The state's regulation over the industry really does not matter if funds are not available to pay claims, she said. She emphasized consumer protection relates first to solvency oversight. She pointed out some provisions in the financial section are quite technical and others are quite simple. Proposed Section 24 would require the DOI to collect electronic mailing addresses and file biographical affidavits. She highlighted the more critical pieces pertain to records maintenance, such as the requirement of insurers to keep records according to the state's requirement or according to the state of domicile's statutes, whichever is longer. She explained that during the complaint process, the DOI must be able to obtain records from the insurer, such as why they denied a claim and what the policy said at the time it was sold. She characterized these changes as a strengthening of the state's record maintenance requirements. A section on reinsurance, which is

insurance that insurance companies buy to protect themselves, generally carries a large deductible and provides a layering of the portion of the risk. She reported that the reinsurance marketplace is changing. Some of the companies domiciled outside the U.S. keep trust funds in the U.S. for the benefit of policyholders. She clarified that this language changes the percentage of insurance the companies must keep for all policyholders. She noted this is referred to as ceding. She clarified the ceding provision only pertains to the portion the companies take on with respect to the insurance company rather than the amount of the full policy. She commented that some states such as New York and Florida have made changes in their laws and are no longer requiring a 100 percent trust fund. She recapped that some of the model laws for regulating reinsurance have changed and Alaska is updating its statutes to reflect these changes.

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MS. HALL referred to proposed Section 29 of the bill which pertains to a "company action level event" for a property and casualty insurer or health organization. This means something happened to cause the state's regulators to more closely review the action which would likely require additional reporting. The proposed change would increase the capital amount that a property and casualty insurer or health organization must have when that happens. Previously, when the insurer's total adjusted capital fell below 250 percent, the DOI would require additional reporting. That threshold has been increased to 300 percent. This percentage point would trigger when the DOI to review the reserves and overall solvency issues. "So increasing means it's a tighter regulation. We're upping the ante so to speak," she said. In response to Representative Saddler, she responded that proposed Section 29 refers to the risk based capital, which is the capital and surplus requirements of an insurer. This would represent the insurer's surplus capital and how much relates to what the insurer has obligated to pay policyholders. She reiterated that current when the insurer's total adjusted capital fell below 250 percent the DOI would perform a more rigid examination. Under this bill the percentage would be increased to 300 percent.

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REPRESENTATIVE SADDLER asked whether that means capital assets and reserves must equal 300 percent of the claims or the risk.

MS. HALL clarified that this provision pertains to risk. She elaborated that it would depend on the type of policy or type of exposure and whether the insurance is for automobiles or large commercial buildings since the firm would have a different level of exposure for any one risk. She characterized the risk based capital process as a complex formula.

REPRESENTATIVE SADDLER asked whether it is analogous to reserves for a bank.

MS. HALL answered that the terminology has also changed over time. It has changed from the amount of capital an insurer had to the number of policies it had written to a more subjective analysis of the risk the insurer takes. If an insurer writes a substantial number of policies for earthquake insurance, even though the earthquake event happens less frequently, the insurer's exposure is much greater than if the insurer were to write all auto policies. She equated the analysis as more of a subjective analysis performed to better assess the full risk.

REPRESENTATIVE SADDLER related his understanding that raising the threshold would require greater documentation.

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REPRESENTATIVE JOHNSON asked for clarification on the current requirement for recordkeeping.

MS. HALL answered that five years retention for records is typical but certain records have other requirements, including that original contracts must be kept for as long as the policy is in force. She recalled an incident related to a legal annuity claim in which neither the consumer nor the company had a copy of the original contract on file. It was difficult to sort out whether the Alaska regulations had been adhered to so these changes will help ensure the original records are available.

CHAIR OLSON recalled medical malpractice records must be retained substantially longer, in excess of 18 years, and earthquake policies are only retained for one year.

MS. HALL pointed out that the retention time can also depend on whether the policy is renewed with a different company or if a completely different policy issued. In those instances it would not be necessary to keep the old policy, she said.

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REPRESENTATIVE SADDLER asked for further clarification on "ceding" insurers and how it would apply to reinsurance.

MS. HALL related a scenario in which insurance company "A" whose main domicile is Alaska, is considered the domestic insurer. Any company whose headquarters is located outside Alaska would be referred to as a "foreign" insurer. When its headquarters are located in another country the company is considered an "alien" insurer. Many reinsurers are headquartered outside the U.S., she said. Insurance company "A" would only purchase insurance from a foreign insurer or an alien insurer since Alaska does not have any reinsurance companies located in the state. She characterized this process as similar to a deductible and whichever portion is reinsured, company "A" would be considered the "ceding" insurer. Therefore, company "A" would be ceding part of its risk to another company, she said.

MS. HALL related that proposed Section 34 contains the final change under the financial tab. This changes the date from April 1 to May 1 to allow insurers more time to file the extensive financial documents. She recalled that this suggestion was offered during the DOI's accreditation review.

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REPRESENTATIVE SEATON referred to page 22, to the definition section of HB 164. He asked whether it is clear that this refers to a health care insurer or if it needs to be clarified that a "managed care entity" includes a "health care entity."

MS. HALL responded these proposed sections ensure that a company who is a health or life insurer must file a risk-based capital report. She added that this provision is not really part of the definition. She offered her belief that the other sections adequately define the terms, but she offered to review this with her legal staff.

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MS. HALL referred to the next tab in members' binders labeled "Licensing." She explained that the Alaska statutes (AS) 21.27 refer to agent licensing and updates the DOI's antiquated agent licensing structure. She related that pages 23-27 of HB 164 help to streamline the process. Proposed Section 35 would delete the term "individual in a firm" and replace it with

"individual license." She stated that the effect is to provide portability to the individual license will to allow the license to follow an agent when the person changes firms. Currently, if an individual license and changes firms, the agent must cancel his/her license and reapply for a new license within 30 days or incur fines. These changes should streamline the process for agents and for the DOI. She pointed out that substantial paperwork is involved to process an individual agent changing firms. These provisions establish an employment contract, which indicates that the firm's company appointment extends to any individual working for the firm. The individual may use the fiduciary accounts of the firm and his/her records are considered records of the firm. Thus, the DOI would require a contract to outline specific terms. The firm would be responsible for its agents. The compliance officer would be responsible to make sure everyone working for the firm follows Alaska laws. She characterized the provision as the DOI seeking accountability and efficiency. She offered her belief that the current licensing fee structure is incredibly complex and estimated that the DOI refunds 100 or more overpayments each year to agents.

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MS. HALL pointed out that proposed Section 38 would remove the requirement for nonresidents to submit fingerprints. This change is necessary to comply with the requirements under the federal Gramm-Leach-Bliley Act and national uniformity license standards. She explained the DOI has not fingerprinted nonresidents by policy for a considerable time. The national standard requires that each state will fingerprint its own residents and perform background checks as part of the licensing process. A federal law requires felons to submit additional paperwork. This change prevents duplication for those agents obtaining registration in 25 states. This change would place the responsibility on the regulator in the state in which the agent resides.

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MS. HALL turned to the tab in members' binders labeled "Surplus Lines." She offered her belief that this section is the most important section of the bill. She explained that these provisions pertain to another type of insurance called "admitted" insurance covered by guarantee associations. "Non-admitted insurers" or "surplus lines insurers" operate differently. Typically, "surplus lines insurers" are insurers

that may not do sufficient business in a state to submit to the paperwork to become admitted insurers. She offered that most earthquake insurance is written in the surplus lines market. Several homeowner companies write earthquake insurance which is the only admitted market that writes earthquake coverage, but the market is fairly limited. Many large financially sound companies write in this matter. In June 2010, the Congress passed the Nonadmitted and Reinsurance Reform Act which changed the way the surplus lines market is taxed. The state must change its statute or its ability to collect and receive revenue on surplus lines coverage in Alaska will be restricted. She emphasized its importance. This concept establishes the home state for the company's principal place of business. The "home state" would be the only state that can do certain things such as collect premium tax, have authority over how agents conduct business, or authority over alien insurers. She offered to discuss this in more detail, if needed.

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MS. HALL stateded that much discussion has occurred nationally on the best way to implement changes in the federal act, which has a fairly narrow timeline since the act will become effective less than a year after it has been signed. She reiterated the critical nature to implement the federal changes. The National Association of Insurance Commissioners (NAIC) has created a clearinghouse concept. This bill would establish the authority to allow the DOI's director to participate in a clearinghouse between states. The clearinghouse would collect a tax and allocate taxes on multi-state risk using an allocation schedule. Each state would decide whether to participate. Some small states expressed concern that the some states would either be winner states or donor states. Louisiana has viewed itself as state as a donor state since major oil companies, who are Texas companies, perform some business in Louisiana but only Texas would be able to tax those risks.

MS. HALL related a scenario in which a company, such as Princess Cruises, own properties and lodges in Alaska. However, since Alaska is not its principal place of doing business it would no longer be able to collect premium tax on the Princess Lodges in the event its coverage was placed in a surplus lines market. She stressed the scenario represents an example since she has no idea of Princess Cruise's insurance coverage. Unless Alaska joins with a group of other states, and all states agree to collect the tax and allocate it to the states where the risk is, Alaska would lose money. She related that she has rough

estimates from the state's tax auditor that showed that of the roughly \$50 million the state collects only about \$3 million falls under the surplus lines insurer category.

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CHAIR OLSON pointed out that the DOI provides income to the state.

MS. HALL acknowledged that the DOI's \$7 million budget is significantly less than the amount of funds it collects.

MS. HALL estimated that approximately \$500,000 would be impacted by the federal changes to the surplus lines insurance. She offered her belief that \$500,000 is still meaningful revenue which the DOI would like to track and collect. She remarked that the figure represents a very rough estimate since the state does not currently track of "home state" since that is not a concept currently in Alaska's statutes.

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REPRESENTATIVE SADDLER asked for clarification on the term "admitted."

MS. HALL answered that the term would mean "admitted" to do business in Alaska. She explained that currently only seven insurance companies are domiciled in Alaska and list Alaska as the primary regulator while approximately 2,000 companies are licensed to conduct insurance business in Alaska but Alaska is not their principal place of business.

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REPRESENTATIVE SADDLER asked whether being domiciled in Alaska and admitted to do business in Alaska is one and the same.

MS. HALL answered basically yes. She explained that once a company has obtained a certificate of authority it is free to sell insurance and is subject to Alaska's statutes and regulations. Alaska would just not be its primary regulator. She acknowledged that the DOI performs financial analysis of these companies.

REPRESENTATIVE SADDLER asked whether the foreign and alien companies would fall into the nonadmitted category.

MS. HALL recalled that about 7 of 2,000 companies are domiciled in Alaska. The rest are designated as foreign companies since they are headquartered in some other state. In further response to Representative Saddler, she explained that nonadmitted companies do not have a certificate of authority to operate in Alaska. The nonadmitted companies do not file forms or rates and are not guaranteed by the Guarantee Fund. Those companies would be companies that are authorized to do business in Alaska. They apply to be on the list of authorized insurers. The DOI maintains a list of authorized insurers and performs a financial review, but not to the same detail. Again, the "nonadmitted" companies are ones that are not guaranteed by the Guarantee Funds and do not file forms. The DOI considers these companies to be authorized and financially able to meet their obligations so the state authorizes them to conduct business in Alaska.

CHAIR OLSON pointed out that another insurance class of providers considered "alien companies" which are typically offshore companies. He clarified that foreign companies typically refer to the Lower 48 companies whereas alien companies fall into another class and are typically ones that are located in Bermuda, London, or other European countries.

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REPRESENTATIVE SADDLER related that he was unsure what nonadmitted companies can and cannot do but offered to study the matter outside of the committee.

MS. HALL pointed out that Chair Olson was previously a surplus lines broker as was Ms. Hall.

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REPRESENTATIVE JOHNSON asked for clarification on the employment contract, and whether an insurance employee with a contract would diminish any responsibilities of the company.

MS. HALL answered that she does not believe so. She explained that both the employer and employee are bound by the statutes to transact insurance, to have a license, to comply with all of the requirements set in statute. The bill is not intended in any way to relieve anyone's obligation. She thought that the bill may place a greater burden on employer to ensure its employees are following the statutes and to identify the reason the compliance officer is involved.

REPRESENTATIVE JOHNSON commented he wanted to be sure the proposed changes did not contract away certain obligations.

MS. HALL agreed that such action would not be acceptable to DOI either.

REPRESENTATIVE JOHNSON related a scenario in which a rogue agent does something. He wanted to ensure that the agent's action does not relieve company from fulfilling its obligation.

MS. HALL agreed it would not.

[4:00:55 PM](#)

MS. HALL referred to the tab in members' binders, labeled, "Health and Long Term Care" which covers pages 37-50 of HB 164. She offered that this section contains numerous updates, none of which pertains to federal health care reform. She related that the first few sections, in particular, AS 21.36, pertain to the trade practices and fraud. Proposed Section 58 would provide consumer protection since it would require insurers to provide adequate notice of 45 days to consumers of any changes in health insurance contract provisions, premiums, or coverage. Generally the DOI has these types of requirements in homeowner and auto insurance premiums but has not had specific notice for health care premiums. She recalled a recent issue in which a 30-day notice could be given midstream. She highlighted those types of issues can adversely affect someone who is pregnant in the event that the company provides midstream notice that it will no longer be covering pregnancy. She recalled such a case and reported the issue was satisfactorily resolved.

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MS. HALL drew attention to changes in proposed Section 59, which she pointed out as important, but does would also pertain to long-term care or health insurance. She related a scenario in which a "rogue agent" created a serious situation. She referred to proposed Section 59 (p) (4) of HB 164. She identified this paragraph as language being removed from the criminal code and placed directly into the insurance code felony section. She explained that AS 11.46 pertains to intent to defraud. The language in question basically states that someone commits a felony if they knowingly issue a forged certificate of insurance or other document relating to insurance. She explained the "rogue agent" situation as one in which an agent had not renewed his/her license, but issued certificates of coverage. However,

the agent did not collect any money or ever "place" the coverage. This came to the attention of the DOI when a tour bus operator, who had a certificate of insurance and operated two tour buses, simply assumed the buses were covered. She stated the tour operator was not insured and had never been billed. The tour operator pointed to the certificate of insurance as proof of insurance. The DOI did not have the authority to prosecute the "rogue agent." The DOI found the agent's behavior egregious and a violation of the agent's responsibility to clients. She reported that the DOI needs the authority to stop that type of behavior. Currently, the DOI does not have the ability to do so. In response to Representative Johnson, she agreed it couldn't be retroactive.

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CHAIR OLSON recalled the agent's license was revoked and although the agent did not renew the license, the revocation provision would ensure the agent's license could not be renewed

MS. HALL related that the agent operated in Southeast Alaska in a small community. She characterized the incident as a difficult situation.

MS. HALL referred to proposed Section 60, which provides a "free look" and requires insurers to give consumers at least 10 days to return a policy and receive a refund of the premium.

MS. HALL referred to proposed Section 61, which relates to insurance rates. This would require all health insurers transacting health insurance to file prior approval of their rates with the division. Currently, hospitals and medical corporations which in Alaska is primarily Premera Blue Cross file rates for approval. The rest of market has a general rating standard that indicates rates cannot be excessive or unfairly discriminatory.

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REPRESENTATIVE SEATON referred to proposed Section 58 of HB 164 which requires 45 days notice for individual insurance contracts. He then asked for clarification in proposed Section 61, which requires 60 days notice for premium rate changes.

MS. HALL answered the insurer must give consumers 45 days notice of rate changes but the insurer must file with the agency 60 days in advance of any rate changes. In response to

Representative Seaton, she explained that the 45 day notice matches the DOI's other statutes with respect to notice of cancellation provisions. She offered her belief the cancellation standards are uniform, but the filing with DOI represents a different standard.

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MS. HALL referred to proposed changes to AS 21.53, which relate to changes to the long-term care insurance statutes. She pointed out that these statutes are 20 years old and need updating. Long-term care insurance has changed during this time. In addition to bringing the laws up to date, adopting the current National Association of Insurance Commissioner's (NAIC) Long-Term Care model provisions will allow insurers to offer long term care policies in Alaska that comply with the federal long-term care partnership policy requirements. This would allow future state participation in the federal long-term care partnership program, if the state chooses to do so. Last legislature, a bill was introduced that would have elected this option but it did not pass. Alaska currently approves long-term care forms, but these changes would also provide authority to approve long-term care rates. She related that in her experience the largest number of rate complaints surround long-term care. Someone may have had a policy for 10-15 years but the premium becomes exorbitantly expensive and people can no longer afford their policies, often when they most need them.

MS. HALL pointed out most of the provisions incorporate the proposals in the model bill. The changes would add new provisions for producer training the DOI believes would be helpful. It would add consumer benefits such as written reasons for claim denial, but generally would update the division's 20-year-old statute to better reflect the market products. In response to Representative Saddler, she indicated the changes to the long-term care extend up to page 48 in the bill.

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REPRESENTATIVE JOHNSON asked whether public notification is required when raising insurance rates.

MS. HALL answered that the 45-day notice is to notify the consumer or policy holder. In further response to Representative Johnson, she answered that the rates are confidential until approved. She stated that the DOI would not publish the rates until the rates were approved by the

division, and once the rates were approved, the filing would become public. Currently, the rate filings do not become public documents, she added.

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REPRESENTATIVE JOHNSON asked for clarification on the 45-day consumer notification.

MS. HALL answered that the 45 days would apply to the individual policy renewal. She explained the 45 day period would follow the DOI's approval.

REPRESENTATIVE JOHNSON asked whether rates could increase in the middle of a 12-month policy.

MS. HALL agreed they could be raised.

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REPRESENTATIVE JOHNSON recapped that the insurer notifies the DOI 60 days prior to a rate change and the rates are then approved. He asked for further clarification on the notice the insurer must provide on a rate change since the 45 days pertains to the policy renewal period.

MS. HALL answered that once the DOI approves the rate that the new rates can go into effect. While the rates are technically effective, the insurer does not typically use them since changes also require programming the company's computers. The insurer's new rate could not go into effect for at least 45 days even if notice was given the day the DOI approved the rate increase.

REPRESENTATIVE JOHNSON related his understanding that this would apply not just for renewal but any time rates were increased.

MS. HALL answered that most individual policies have a January 1 renewal date. She recalled that most small group policies do not have a uniform time. Thus, currently when the DOI approves rates they apply to the base rate and may impact a particular group anytime over the 12 months, depending on when the policy is renewed. She related that the rate increase would not automatically apply to each and every policy. She related a scenario in which in which the DOI approved a rate increase on February 1 which would apply to policyholders as policies were renewed.

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REPRESENTATIVE SEATON asked for clarification on proposed Section 72 with respect to the "field agent."

MS. HALL responded that a field agent is a producer or agent visiting clients in their homes or in his office. These are insurers who have been granted underwriting authority. The proposed change would ensure that someone selling policies in the field bases the cost on the premium cost. If the producer has the authority to issue policies, the agent should be compensated by the number of policies but not make a commission she said. The goal in long-term care is not to write the most expensive policy. Many people may only need a shorter term, which is based on life expectancy, she stated.

MS. HALL referred to proposed Section 76 of HB 164. This section would require rate filing and prior approval of group health care insurance rates which are the same changes as for individuals just discussed. The goal would be to review, have actuarial analysis, and approve them prior to use.

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MS. HALL explained that proposed Section 78 of HB 164 would prohibit employers from giving employees funds to purchase individual health care policies. She recalled some circumstances in which employers decided not to have a group policy. The effect of this is to circumvent the DOI's small group laws. The small group laws guarantee an individual can obtain insurance. When a person with a preexisting condition really needs insurance and the employer drops the group policy, the individual cannot purchase insurance except for high-risk pool insurance. She highlighted that the high-risk insurance is prohibitively expensive. This provision would ensure that the small group laws are followed and are not being circumvented. She commented that when this has occurred the insurance companies have worked with the DOI to resolve the matter. She discovered about three instances in the past 12 months.

REPRESENTATIVE SEATON asked for the breadth of this issue. He related his understanding that small employer have not provided insurance. He recalled some employers provided vouchers for the health fair, which basically amounts to a cash contribution. He asked whether that would be prohibited.

MS. HALL answered no. She explained that activity is not a health insurance product. She characterized the vouchers as a cost management technique but is not insurance.

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MS. HALL referred to the tab in members' binders labeled "Title, Records & Other Provisions." She related that these provisions provide administrative changes such as providing the director authority when a title insurance company becomes insolvent, control of the insurance companies' deposits, and the ability to pay claims from them, custodial agreements, and the ability to obtain basic information such as electronic e-mail addresses from applicants.

MS. HALL then referred to the tab in members' binders labeled "Insolvency." Again, this updates official communications can be conducted via e-mail. She turned to proposed Section 86, which provides the primary emphasis of this section. This represents a portion of a bill that had been introduced but was not understood. This proposed change pertains to policies sold with a very large deductible, such as \$100,000, and are referred to as a retention. These policies are not covered under receivership laws. Thus, if an insurance company becomes insolvent, the deductible the employer pays is not addressed in current AS. This would clarify that the deductible is still an asset of an estate, but can be paid to the guarantee fund. She related that once an insurance company becomes insolvent, the guarantee fund picks up the claims obligation and pays them. In these instances the employer is responsible for that large deductible, but the guarantee fund must pay the whole claim. The DOI wants the guarantee fund to be able to access the funds the employer would pay if the insurer were still in business. The DOI is attempting to address a specific situation that the insolvency statutes do not currently cover.

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REPRESENTATIVE SEATON asked for clarification. He related a scenario in which in which someone becomes bankrupt, becomes insolvent and asked whether everyone with a policy must pay the \$100,000 to the guarantee corporation.

MS. HALL answered no. She explained that the last portion of that section adds long-term care to the coverage provided by the guarantee funds in proposed Section 88. It would increase the amount of an annuity protected in a guarantee fund. The limit

today is \$100,000 and the proposed change would increase the cap on an annuity to \$250 thousand. The guarantee fund supports this increase. She characterized this as a consumer benefit.

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CHAIR OLSON asked whether assessments would be made on the proposed coverage being brought on.

MS. HALL agreed that those would still be assessed. She referred to the last tab, titled "Financial," which she characterized as relating to miscellaneous provisions. She related that proposed Section 89, which pertains to the biographical affidavits and the DOI's ability to require them. She elaborated that this section pertains to fraternal benefit societies.

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REPRESENTATIVE SEATON asked for clarification on page 63, line 13, to the \$100,000 in present-value annuity benefits in the aggregate and whether that was changed.

MS. HALL answered yes. She explained that this pertains to a specific government benefit retirement program, which is different than a traditional annuity that an individual would purchase. She commented that the benefit has not been increased on governmental annuities.

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MS. HALL referred to proposed Section 90, which allows a self-insured group, the multiple employer welfare association, to sell short term disability policies. She pointed out that this group sells health insurance.

MS. HALL related that proposed Sections 91 and 92 relate to biographical affidavits.

MS. HALL related that proposed Section 93 would require hospital and medical service corporations to comply with the new rate requirements contained in proposed Sections 61 and 73.

MS. HALL reported that the remainder of the bill pertains to various repealer provisions and effective dates, she said.

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REPRESENTATIVE SEATON recalled a bill prior legislature passed that allowed pooling by nonprofits. He asked whether that is separate or encompassed in this bill. He asked whether anything in this bill would affect the nonprofit and small business pooling.

MS. HALL answered no, that the pooling is not being addressed in this bill. She recalled that a program by the United Way was done through association language. She related that groups of employers are pooling in the hopes that the businesses will create wellness programs as a self-insured plan.

[4:34:19 PM](#)

REPRESENTATIVE JOHNSON referred to an earlier discussion with respect to employers being prohibited from providing employees with cash payments to purchase their own insurance. He related a scenario in which he is an employer who interviews someone and advises them they do not carry health insurance but pay their employees 20 percent more than similar companies. He asked whether that would be prohibited.

MS. HALL answered no. She explained that so long as the employer is not giving special stipends for employers to specifically buy insurance and just paying a higher wage. The employer is not cancelling its current group insurance plan and providing the employee \$200 to purchase his/her own insurance.

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MS. HALL offered her belief that HB 164 is a complex bill. She expressed her willingness to explain any provisions to members.

[HB 164 was held over.]

[4:36:28 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:36 p.m.