

AMENDMENTS TO LB 479

Introduced by Lathrop

1           1. Strike the original section and insert the following  
2 new sections:

3           Section 1. (1) No health plan and no self-funded  
4 employee benefit plan to the extent not preempted by federal  
5 law shall assert any contractual rights to the proceeds of  
6 any resources purchased by or on behalf of the policyholder,  
7 subscriber, certificate holder, or enrollee, including medical  
8 payments coverage under a motor vehicle insurance policy, uninsured  
9 or underinsured motorist coverage, accident or disability income  
10 coverage, specific disease or illness coverage, or hospital  
11 indemnity or other fixed indemnity coverage.

12           (2) This section shall not (a) affect the coordination  
13 of benefits between health plans or self-funded employee benefit  
14 plans, (b) prevent the coordination of benefits between a  
15 health plan or self-funded employee benefit plan and medical  
16 payments coverage under a motor vehicle insurance policy if such  
17 coordination of benefits applies medical payments coverage to  
18 deductible, copayment, and coinsurance amounts after discounts  
19 provided through the health plan or self-funded employee benefit  
20 plan, or (c) prevent the application of the medical payments  
21 coverage under a motor vehicle insurance policy to items not  
22 covered by a health plan or self-funded employee benefit plan.

23           (3) For purposes of this section, health plan means

1 an individual or group sickness and accident insurance policy or  
2 subscriber contract delivered, issued for delivery, or renewed  
3 in this state except for (a) policies that provide coverage for  
4 specified disease or other limited benefit coverage or hospital  
5 indemnity or other fixed indemnity coverage or (b) self-funded  
6 employee benefit plans to the extent preempted by federal law.

7           Sec. 2. Section 44-710.04, Revised Statutes Cumulative  
8 Supplement, 2012, is amended to read:

9           44-710.04 Except as provided in sections 44-710.05 and  
10 44-787, no policy of sickness and accident insurance delivered or  
11 issued for delivery to any person in this state shall contain  
12 provisions respecting the matters set forth below unless such  
13 provisions are in the words in which the provisions appear in  
14 this section, except that the insurer may, at its option, use in  
15 lieu of any such provision a corresponding provision of different  
16 wording approved by the Director of Insurance which is not less  
17 favorable in any respect to the insured or the beneficiary.  
18 Any such provision contained in the policy shall be preceded  
19 individually by the appropriate caption appearing in this section  
20 or, at the option of the insurer, by such appropriate individual  
21 or group captions or subcaptions as the Director of Insurance may  
22 approve.

23           (1) A provision as follows: CHANGE OF OCCUPATION: If the  
24 insured be injured or contract sickness after having changed his or  
25 her occupation to one classified by the insurer as more hazardous  
26 than that stated in this policy or while doing for compensation  
27 anything pertaining to an occupation so classified, the insurer

1 will pay only such portion of the indemnities provided in this  
2 policy as the premium paid would have purchased at the rates and  
3 within the limits fixed by the insurer for such more hazardous  
4 occupation. If the insured changes his or her occupation to one  
5 classified by the insurer as less hazardous than that stated in  
6 this policy, the insurer, upon receipt of proof of such change  
7 of occupation, will reduce the premium rate accordingly and will  
8 return the excess pro rata unearned premium from the date of change  
9 of occupation or from the policy anniversary date immediately  
10 preceding receipt of such proof, whichever is the more recent. In  
11 applying this provision, the classification of occupational risk  
12 and the premium rates shall be such as have been last filed by the  
13 insurer prior to the occurrence of the loss for which the insurer  
14 is liable or prior to date of proof of change in occupation with  
15 the state official having supervision of insurance in the state  
16 where the insured resided at the time this policy was issued;  
17 but if such filing was not required, then the classification of  
18 occupational risk and the premium rates shall be those last made  
19 effective by the insurer in such state prior to the occurrence of  
20 the loss or prior to the date of proof of change of occupation.

21 (2) A provision as follows: MISSTATEMENT OF AGE: If the  
22 age of the insured has been misstated, all amounts payable under  
23 this policy shall be such as the premium paid would have purchased  
24 at the correct age.

25 (3) A Except as provided in subdivision (6) of this  
26 section, a provision as follows: OTHER INSURANCE IN THIS INSURER:  
27 If an accident or sickness or accident and sickness policy or

1 policies previously issued by the insurer to the insured be  
2 in force concurrently herewith, making the aggregate indemnity  
3 for ..... (insert type of coverage or coverages) in  
4 excess of \$. ..... (insert maximum limit of indemnity or  
5 indemnities), the excess insurance shall be void and all premiums  
6 paid for such excess shall be returned to the insured or to his  
7 or her estate; or in lieu thereof: Insurance effective at any one  
8 time on the insured under a like policy or policies in this insurer  
9 is limited to the one such policy elected by the insured, his or  
10 her beneficiary, or his or her estate, as the case may be, and the  
11 insurer will return all premiums paid for all other such policies.

12 (4) A Except as provided in subdivision (6) of this  
13 section, a provision as follows: INSURANCE WITH OTHER INSURERS: If  
14 there be other valid coverage, not with this insurer, providing  
15 benefits for the same loss on a provision-of-service basis or on an  
16 expense-incurred basis and of which this insurer has not been given  
17 written notice prior to the occurrence or commencement of loss, the  
18 only liability under any expense-incurred coverage of this policy  
19 shall be for such proportion of the loss as the amount which would  
20 otherwise have been payable hereunder plus the total of the like  
21 amounts under all such other valid coverages for the same loss  
22 of which this insurer had notice bears to the total like amounts  
23 under all valid coverages for such loss and for the return of such  
24 portion of the premiums paid as shall exceed the pro rata portion  
25 for the amount so determined. For the purpose of applying this  
26 provision when other coverage is on a provision-of-service basis,  
27 the like amount of such other coverage shall be taken as the amount

1 which the services rendered would have cost in the absence of such  
2 coverage. If the foregoing policy provision is included in a policy  
3 which also contains the next following policy provision there shall  
4 be added to the caption of the foregoing provision the phrase ....  
5 EXPENSE-INCURRED BENEFITS. The insurer may, at its option, include  
6 in this provision a definition of other valid coverage, approved  
7 as to form by the Director of Insurance, which definition shall  
8 be limited in subject matter to coverage provided by organizations  
9 subject to regulation by insurance law or by insurance authorities  
10 of this or any other state of the United States or any province  
11 of Canada and by hospital or medical service organizations and  
12 to any other coverage the inclusion of which may be approved by  
13 the Director of Insurance. In the absence of such definition such  
14 term shall not include group insurance, automobile medical payments  
15 insurance, or coverage provided by hospital or medical service  
16 organizations or by union welfare plans or employer or employee  
17 benefit organizations. For the purpose of applying the foregoing  
18 policy provision with respect to any insured, any amount of benefit  
19 provided for such insured pursuant to any compulsory benefit  
20 statute, including any workers' compensation or employers liability  
21 statute, whether provided by a governmental agency or otherwise  
22 shall in all cases be deemed to be other valid coverage of which  
23 the insurer has had notice. In applying the foregoing policy  
24 provision no third-party liability coverage shall be included as  
25 other valid coverage.

26 (5) A Except as provided in subdivision (6) of this  
27 section, a provision as follows: INSURANCE WITH OTHER INSURERS: If

1 there be other valid coverage, not with this insurer, providing  
2 benefits for the same loss on other than an expense-incurred basis  
3 and of which this insurer has not been given written notice prior  
4 to the occurrence or commencement of loss, the only liability for  
5 such benefits under this policy shall be for such proportion of  
6 the indemnities otherwise provided hereunder for such loss as the  
7 like indemnities of which the insurer had notice (including the  
8 indemnities under this policy) bear to the total amount of all  
9 like indemnities for such loss, and for the return of such portion  
10 of the premium paid as shall exceed the pro rata portion for  
11 the indemnities thus determined. If the foregoing policy provision  
12 is included in a policy which also contains the next preceding  
13 policy provision, there shall be added to the caption of the  
14 foregoing provision the phrase .... OTHER BENEFITS. The insurer  
15 may, at its option, include in this provision a definition of  
16 other valid coverage, approved as to form by the Director of  
17 Insurance, which definition shall be limited in subject matter  
18 to coverage provided by organizations subject to regulation by  
19 insurance law or by insurance authorities of this or any other  
20 state of the United States or any province of Canada and to any  
21 other coverage the inclusion of which may be approved by the  
22 Director of Insurance. In the absence of such definition such term  
23 shall not include group insurance or benefits provided by union  
24 welfare plans or by employer or employee benefit organizations. For  
25 the purpose of applying the foregoing policy provision with respect  
26 to any insured, any amount of benefit provided for such insured  
27 pursuant to any compulsory benefit statute, including any workers'

1 compensation or employers liability statute, whether provided by a  
2 governmental agency or otherwise shall in all cases be deemed to  
3 be other valid coverage of which the insurer has had notice. In  
4 applying the foregoing policy provision no third-party liability  
5 coverage shall be included as other valid coverage.

6 (6) In lieu of the provisions set forth in subdivisions  
7 (3) through (5) of this section but subject to section 1 of this  
8 act, the insurer may at its option include a provision entitled  
9 COORDINATION OF BENEFITS which provides for nonduplication and  
10 coordination between two or more coverages based on rules and  
11 regulations adopted and promulgated by the director.

12 ~~(6)~~ (7) A provision as follows: RELATION OF EARNINGS TO  
13 INSURANCE: If the total monthly amount of loss-of-time benefits  
14 promised for the same loss under all valid loss-of-time coverage  
15 upon the insured, whether payable on a weekly or monthly basis,  
16 shall exceed the monthly earnings of the insured at the time  
17 disability commenced or his or her average monthly earnings for  
18 the period of two years immediately preceding a disability for  
19 which claim is made, whichever is the greater, the insurer will  
20 be liable only for such proportionate amount of such benefits  
21 under this policy as the amount of such monthly earnings or such  
22 average monthly earnings of the insured bears to the total amount  
23 of monthly benefits for the same loss under all such coverage  
24 upon the insured at the time such disability commences and for the  
25 return of such part of the premiums paid during such two years as  
26 shall exceed the pro rata amount of the premiums for the benefits  
27 actually paid hereunder; but this shall not operate to reduce the

1 total monthly amount of benefits payable under all such coverage  
2 upon the insured below the sum of two hundred dollars or the sum  
3 of the monthly benefits specified in such coverages, whichever is  
4 the lesser, nor shall it operate to reduce benefits other than  
5 those payable for loss of time. The foregoing policy provision may  
6 be inserted only in a policy which the insured has the right to  
7 continue in force subject to its terms by the timely payment of  
8 premiums (a) until at least age fifty or (b) in the case of a  
9 policy issued after age forty-four for at least five years from  
10 its date of issue. The insurer may, at its option, include in this  
11 provision a definition of valid loss-of-time coverage, approved  
12 as to form by the Director of Insurance, which definition shall  
13 be limited in subject matter to coverage provided by governmental  
14 agencies or by organizations subject to regulation by insurance  
15 law or by insurance authorities of this or any other state of  
16 the United States or any province of Canada or to any other  
17 coverage the inclusion of which may be approved by the Director of  
18 Insurance or any combination of such coverages. In the absence of  
19 such definition such term shall not include any coverage provided  
20 for such insured pursuant to any compulsory benefit statute,  
21 including any workers' compensation or employers liability statute,  
22 or benefits provided by union welfare plans or by employer or  
23 employee benefit organizations.

24 ~~(7)~~ (8) A provision as follows: UNPAID PREMIUM: Upon the  
25 payment of a claim under this policy, any premium then due and  
26 unpaid or covered by any note or written order may be deducted  
27 therefrom.



1           ~~(8)~~ (9) A provision as follows: CANCELLATION: The insurer  
2 may cancel this policy at any time by written notice delivered to  
3 the insured which shall be effective only if mailed by certified  
4 or registered mail to the named insured at his or her last-known  
5 address, as shown by the records of the insurer, at least thirty  
6 days prior to the effective date of cancellation, except that  
7 cancellation due to failure to pay the premium or in cases of fraud  
8 or misrepresentation shall not require that such notice be given at  
9 least thirty days prior to cancellation. Subject to any provisions  
10 in the policy or a grace period, cancellation for failure to pay a  
11 premium shall be effective as of midnight of the last day for which  
12 the premium has been paid. In cases of fraud or misrepresentation,  
13 coverage shall be canceled upon the date of the notice or any later  
14 date designated by the insurer. After the policy has been continued  
15 beyond its original term the insured may cancel this policy at  
16 any time by written notice delivered or mailed to the insurer,  
17 effective upon receipt or on such later date as may be specified  
18 in such notice. In the event of cancellation, the insurer will  
19 return promptly the unearned portion of any premium paid. If the  
20 insured cancels, the earned premium shall be computed by the use  
21 of the short-rate table last filed with the state official having  
22 supervision of insurance in the state where the insured resided  
23 when the policy was issued. If the insurer cancels, the earned  
24 premium shall be computed pro rata. Cancellation shall be without  
25 prejudice to any claim originating prior to the effective date of  
26 cancellation.

27           ~~(9)~~ (10) A provision as follows: ILLEGAL OCCUPATION: The

1 insurer shall not be liable for any loss to which a contributing  
2 cause was the insured's commission of or attempt to commit a felony  
3 or to which a contributing cause was the insured's being engaged in  
4 an illegal occupation.

5           ~~(10)~~ (11) A provision as follows: INTOXICANTS AND  
6 NARCOTICS: The insurer shall not be liable for any loss sustained  
7 or contracted in consequence of the insured's being intoxicated  
8 or under the influence of any narcotic unless administered on the  
9 advice of a physician.

10           Sec. 3. Original section 44-710.04, Revised Statutes  
11 Cumulative Supplement, 2012, is repealed.