

AMENDMENTS TO LB700

Introduced by Gloor

1 1. Strike section 12 and insert the following new
2 sections:

3 Sec. 15. Section 44-5702, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 44-5702 For purposes of the Producer-Controlled Property
6 and Casualty Insurer Act:

7 (1) Accredited state shall mean a state in which
8 the insurance department or regulatory agency has qualified as
9 meeting the minimum financial regulatory standards established and
10 promulgated from time to time by the National Association of
11 Insurance Commissioners;

12 (2) Captive insurers shall mean insurance companies owned
13 by another organization the exclusive purpose of which is to insure
14 risks of the parent organization and affiliated companies or, in
15 the case of groups and associations, insurance organizations owned
16 by the insureds the exclusive purpose of which is to insure risks
17 to member organizations or group members and their affiliates;

18 (3) Control or controlled shall have the same meaning as
19 in section 44-2121;

20 (4) Controlled insurer shall mean an insurer which is
21 controlled, directly or indirectly, by a producer;

22 (5) Controlling producer shall mean a producer which,
23 directly or indirectly, controls an insurer;

1 (6) Director shall mean the Director of Insurance;

2 (7) Insurer shall mean any person, firm, association, or
3 corporation holding a certificate of authority to transact property
4 and casualty insurance business in this state. Insurer shall not
5 include:

6 ~~(a) Risk retention groups as defined in the Superfund~~
7 ~~Amendments Reauthorization Act of 1986, Public Law 99-499, the Risk~~
8 ~~Retention Act, 15 U.S.C. 3901 et seq., and the Risk Retention Act;~~

9 ~~(b) (a) Residual market pools and joint underwriting~~
10 ~~authorities or associations; and~~

11 ~~(c) (b) Captive insurers other than risk retention groups~~
12 ~~as defined in 15 U.S.C. 3901 et seq. and 42 U.S.C. 9671, as such~~
13 ~~sections existed on January 1, 2014; and~~

14 (8) Producer shall mean an insurance broker or any
15 other person, firm, association, or corporation when, for any
16 compensation, commission, or other thing of value, such person,
17 firm, association, or corporation acts or aids in any manner in
18 soliciting, negotiating, or procuring the making of any insurance
19 contract on behalf of an insured other than the person, firm,
20 association, or corporation.

21 Sec. 16. Section 44-6008, Revised Statutes Supplement,
22 2013, is amended to read:

23 44-6008 Insurer means an insurer as defined in section
24 44-103 authorized to transact the business of insurance, except
25 that insurer does not include health organizations, unincorporated
26 mutual associations, assessment associations, health maintenance
27 organizations, prepaid dental service corporations, prepaid limited

1 health service organizations, monoline mortgage guaranty insurers,
2 monoline financial guaranty insurers, title insurers, prepaid legal
3 corporations, intergovernmental risk management pools, and any
4 other kind of insurer to which the application of the Insurers and
5 Health Organizations Risk-Based Capital Act, in the determination
6 of the director, would be clearly inappropriate. Insurer includes a
7 risk retention group.

8 Insurer, when referring to life and health insurers,
9 means an insurer authorized to transact life insurance business and
10 sickness and accident insurance business specified in subdivisions
11 (1) through (4) of section 44-201, or any combination thereof, and
12 also includes fraternal benefit societies authorized to transact
13 business specified in sections 44-1072 to 44-10,109.

14 Insurer, when referring to property and casualty
15 insurers, means an insurer authorized to transact property
16 insurance business and casualty insurance business specified in
17 subdivisions (5) through (14) and (16) through (20) of section
18 44-201, or any combination thereof, and also includes an insurer
19 authorized to transact insurance business specified in subdivision
20 (4) of section 44-201 if also authorized to transact insurance
21 business specified in subdivisions (5) through (14) and (16)
22 through (20) of section 44-201.

23 Sec. 17. Section 44-6016, Revised Statutes Supplement,
24 2013, is amended to read:

25 44-6016 (1) Company action level event means any of the
26 following events:

27 (a) The filing of a risk-based capital report by an

1 insurer or a health organization which indicates that:

2 (i) The insurer's or health organization's total adjusted
3 capital is greater than or equal to its regulatory action
4 level risk-based capital but less than its company action level
5 risk-based capital;

6 (ii) If a life and health insurer or a fraternal benefit
7 society, the insurer or society has total adjusted capital which
8 is greater than or equal to its company action level risk-based
9 capital but less than the product of its authorized control level
10 risk-based capital and ~~2.5~~ 3.0 and has a negative trend; ~~ex~~

11 (iii) If a property and casualty insurer, the insurer
12 has total adjusted capital which is greater than or equal to its
13 company action level risk-based capital but less than the product
14 of its authorized control level risk-based capital and 3.0 and
15 triggers the trend test determined in accordance with the trend
16 test calculation included in the property and casualty risk-based
17 capital instructions; or

18 (iv) If a health organization has total adjusted capital
19 which is greater than or equal to its company action level
20 risk-based capital but less than the product of its authorized
21 control level risk-based capital and 3.0 and triggers the trend
22 test determined in accordance with the trend test calculation
23 included in the health risk-based capital instructions;

24 (b) The notification by the director to the insurer or
25 health organization of an adjusted risk-based capital report that
26 indicates an event described in subdivision (1)(a) of this section
27 unless the insurer or health organization challenges the adjusted

1 risk-based capital report under section 44-6020; or

2 (c) If, pursuant to section 44-6020, the insurer or
3 health organization challenges an adjusted risk-based capital
4 report that indicates an event described in subdivision (1)(a)
5 of this section, the notification by the director to the insurer
6 or health organization that the director has, after a hearing,
7 rejected the insurer's or health organization's challenge.

8 (2) In the event of a company action level event, the
9 insurer or health organization shall prepare and submit to the
10 director a risk-based capital plan which shall:

11 (a) Identify the conditions which contribute to the
12 company action level event;

13 (b) Contain proposals of corrective actions which the
14 insurer or health organization intends to take and would be
15 expected to result in the elimination of the company action level
16 event;

17 (c) Provide projections of the insurer's or health
18 organization's financial results in the current year and at least
19 the four succeeding years in the case of an insurer or at least
20 the two succeeding years in the case of a health organization, both
21 in the absence of proposed corrective actions and giving effect to
22 the proposed corrective actions, including projections of statutory
23 balance sheets, operating income, net income, capital and surplus,
24 and risk-based capital levels. The projections for both new and
25 renewal business may include separate projections for each major
26 line of business and separately identify each significant income,
27 expense, and benefit component;

1 (d) Identify the key assumptions impacting the insurer's
2 or health organization's projections and the sensitivity of the
3 projections to the assumptions; and

4 (e) Identify the quality of, and problems associated
5 with, the insurer's or health organization's business, including,
6 but not limited to, its assets, anticipated business growth and
7 associated surplus strain, extraordinary exposure to risk, and mix
8 of business and use of reinsurance, if any, in each case.

9 (3) The risk-based capital plan shall be submitted:

10 (a) Within forty-five days after the occurrence of the
11 company action level event; or

12 (b) If the insurer or health organization challenges an
13 adjusted risk-based capital report pursuant to section 44-6020,
14 within forty-five days after the notification to the insurer
15 or health organization that the director has, after a hearing,
16 rejected the insurer's or health organization's challenge.

17 (4) Within sixty days after the submission by an
18 insurer or a health organization of a risk-based capital plan
19 to the director, the director shall notify the insurer or
20 health organization whether the risk-based capital plan shall be
21 implemented or is, in the judgment of the director, unsatisfactory.
22 If the director determines that the risk-based capital plan
23 is unsatisfactory, the notification to the insurer or health
24 organization shall set forth the reasons for the determination
25 and may set forth proposed revisions which will render the
26 risk-based capital plan satisfactory in the judgment of the
27 director. Upon notification from the director, the insurer or

1 health organization shall prepare a revised risk-based capital
2 plan which may incorporate by reference any revisions proposed by
3 the director. The insurer or health organization shall submit the
4 revised risk-based capital plan to the director:

5 (a) Within forty-five days after the notification from
6 the director; or

7 (b) If the insurer or health organization challenges
8 the notification from the director under section 44-6020, within
9 forty-five days after a notification to the insurer or health
10 organization that the director has, after a hearing, rejected the
11 insurer's or health organization's challenge.

12 (5) In the event of a notification by the director
13 to an insurer or a health organization that the insurer's
14 or health organization's risk-based capital plan or revised
15 risk-based capital plan is unsatisfactory, the director may, at
16 the director's discretion and subject to the insurer's or health
17 organization's right to a hearing under section 44-6020, specify
18 in the notification that the notification constitutes a regulatory
19 action level event.

20 (6) Every domestic insurer or domestic health
21 organization that files a risk-based capital plan or revised
22 risk-based capital plan with the director shall file a copy of the
23 risk-based capital plan or revised risk-based capital plan with the
24 insurance commissioner of any state in which the insurer or health
25 organization is authorized to do business if:

26 (a) Such state has a law substantially similar to
27 subsection (1) of section 44-6021; and

1 (b) The insurance commissioner of such state has notified
2 the insurer or health organization of its request for the filing
3 in writing, in which case the insurer or health organization shall
4 file a copy of the risk-based capital plan or revised risk-based
5 capital plan in such state no later than the later of:

6 (i) Fifteen days after the receipt of notice to file a
7 copy of its risk-based capital plan or revised risk-based capital
8 plan with the state; or

9 (ii) The date on which the risk-based capital plan or
10 revised risk-based capital plan is filed under subsection (3) or
11 (4) of this section.

12 Sec. 18. Sections 1 to 11 of this act become operative on
13 January 1, 2015. The other sections of this act become operative on
14 their effective date.

15 Sec. 19. Original sections 12-1109, 44-165, 44-3719, and
16 44-5702, Reissue Revised Statutes of Nebraska, and sections 44-6008
17 and 44-6016, Revised Statutes Supplement, 2013, are repealed.