

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 21

FINAL READING

Introduced by Williams, 36.

Read first time January 07, 2021

Committee: Banking, Commerce and Insurance

1 A BILL FOR AN ACT relating to insurance; to amend sections 44-322,
2 44-3,127, 44-32,119, and 44-5814, Reissue Revised Statutes of
3 Nebraska, and sections 44-3902 and 44-3903, Revised Statutes
4 Cumulative Supplement, 2020; to provide for distribution of
5 administrative penalties in accordance with Article VII, section 5,
6 of the Constitution of Nebraska; to change requirements for
7 transmittal and review of applications related to health maintenance
8 organizations; to redefine a term; to change continuing education
9 exceptions; to harmonize provisions; and to repeal the original
10 sections.

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

1 Section 1. Section 44-322, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 44-322 (1)(a)(i) Every insurance company holding a certificate of
4 authority to transact the business of insurance in this state shall file
5 with the director or, if required by the director, with the National
6 Association of Insurance Commissioners, on or before March 1 of each
7 year, an annual financial statement for the year ending December 31
8 immediately preceding on forms prescribed by the director which conform
9 substantially to the forms adopted by the National Association of
10 Insurance Commissioners, except that fees, premium tax payments, and
11 other payments associated with such filings shall be paid to the
12 director.

13 (ii) The financial statement shall be prepared in accordance with
14 annual statement instructions and accounting practices and procedures
15 manuals as prescribed by the director which conform substantially to the
16 annual statement instructions and the Accounting Practices and Procedures
17 Manuals adopted by the National Association of Insurance Commissioners.

18 (iii) The salaries and compensation of the officers and any other
19 information required by the director shall be filed with the director.

20 (iv) Every insurance company subject to this section shall make such
21 other periodic financial filings as the director may reasonably require.

22 (b)(i) Within seven days after the failure of an insurance company
23 to comply with the requirements of subdivision (1)(a) of this section,
24 the director shall notify the insurance company of such failure.

25 (ii) Subject to subdivision (1)(b)(iii) of this section, if an
26 insurance company fails to comply with the requirements of subdivision
27 (1)(a) of this section and any rules and regulations adopted and
28 promulgated under such subdivision and any orders issued under such
29 subdivision, (A) such insurance company shall pay a fine of ~~forfeit~~ one
30 hundred dollars for each day thereafter such failure continues and the
31 insurance company continues to transact any business of insurance and (B)

1 in addition to the fine forfeiture required under subdivision (1)(b)(ii)
2 (A) of this section, the director may suspend or refuse to renew the
3 certificate of authority of the insurance company until it has complied
4 with the requirements of subdivision (1)(a) of this section and any rules
5 and regulations adopted and promulgated under such subdivision and any
6 orders issued under such subdivision. The director shall remit all ~~All~~
7 such fines ~~forfeitures~~ ~~collected by the director shall be remitted~~ to the
8 State Treasurer for distribution in accordance with Article VII, section
9 5, of the Constitution of Nebraska ~~credit to the permanent school fund.~~

10 (iii) For good and sufficient cause shown, the director may grant a
11 reasonable extension of time not to exceed thirty days within which the
12 financial statement may be filed as required under subdivision (1)(a) of
13 this section without the fine forfeiture required under subdivision (1)
14 (b)(ii)(A) of this section and without any suspension or refusal to renew
15 authorized under subdivision (1)(b)(ii)(B) of this section.

16 (2) Every insurance company holding a certificate of authority to
17 transact the business of insurance in this state shall participate in the
18 National Association of Insurance Commissioners Insurance Regulatory
19 Information System, including the payment of all fees and charges of such
20 system, except as exempted by the director. Each participating insurance
21 company shall file with the National Association of Insurance
22 Commissioners on or before March 1 of each year a copy of its annual
23 financial statement along with any additional filings required by the
24 director for the immediately preceding year. The financial statement so
25 filed shall be in the same format and scope as that required by
26 subsection (1) of this section and shall include a signed jurat page and
27 actuarial certification except as exempted by the director. Each
28 participating insurance company shall file with the National Association
29 of Insurance Commissioners any amendments and addendums to the financial
30 statement and annual and quarterly financial statement information in
31 computer readable format as required by the Insurance Regulatory

1 Information System.

2 Sec. 2. Section 44-3,127, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 44-3,127 ~~The All money collected by the~~ Department of Insurance
5 shall remit all money collected as a fine or penalty shall be paid to the
6 State Treasurer for distribution in accordance with Article VII, section
7 5, of the Constitution of Nebraska who shall deposit such money in the
8 ~~permanent school fund.~~

9 Sec. 3. Section 44-32,119, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 44-32,119 (1) Upon receipt of an application for issuance of a
12 certificate of authority, the Director of Insurance shall forthwith
13 transmit copies of such application and accompanying documents to the
14 Department of Health and Human Services.

15 (2) The Department of Health and Human Services shall determine
16 whether the applicant has complied with sections 44-32,126 to 44-32,128
17 with respect to health care services to be furnished.

18 (3) Within forty-five days of receipt of the application for
19 issuance of a certificate of authority, the Department of Health and
20 Human Services shall certify to the Director of Insurance that the
21 proposed health maintenance organization meets the requirements of such
22 sections or notify the Director of Insurance that the health maintenance
23 organization does not meet such requirements and specify in what respects
24 it is deficient.

25 (4) This section shall not apply to an application from an applicant
26 that only provides health care benefits pursuant to Title 42, Chapter 7,
27 Subchapter XVIII, Part C or D, of the United States Code, commonly known
28 as Medicare Parts C and D. If a certificate of authority was originally
29 issued to a health maintenance organization only authorizing the
30 provision of health care benefits through Medicare Part C or D and such
31 health maintenance organization expands its operations after receiving

1 such certificate of authority, the expansion shall be treated as a new
2 application to the Department of Insurance and transmitted to the
3 Department of Health and Human Services for review pursuant to this
4 section.

5 Sec. 4. Section 44-3902, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 44-3902 For purposes of sections 44-3901 to 44-3908, unless the
8 context otherwise requires:

9 (1) Active participation means either (a) attendance at formal
10 meetings of a professional insurance association where a formal business
11 program is presented, (b) service on the board of directors or a formal
12 committee of a professional insurance association and involvement in the
13 activities of such board or committee, or (c) participation in industry,
14 regulatory, or legislative meetings held by or on behalf of a
15 professional insurance association;

16 (2) Department means the Department of Insurance;

17 (3) Director means the Director of Insurance;

18 (4) Licensee means a natural person who is licensed by the
19 department as a resident insurance producer or consultant;

20 (5) Professional insurance association means a state or national
21 membership organization that offers courses, lectures, seminars, or other
22 instructional programs certified by the director as approved continuing
23 education activities pursuant to section 44-3905, is organized as an
24 association or corporation for the express purpose of promoting the
25 interests of insurance licensees in this state or nationally, and is
26 based on paid membership renewable annually or biennially for a
27 membership fee; and

28 (6) Two-year period means (a) the period commencing on the date of
29 licensing and ending on the date of expiration of the licensee's first
30 license effective for not less than two years and (b) each succeeding
31 twenty-four-month period beginning on the date of expiration of the

1 licensee's first license regardless of the time period such license is in
2 effect.

3 Sec. 5. Section 44-3903, Revised Statutes Cumulative Supplement,
4 2020, is amended to read:

5 44-3903 Sections 44-3901 to 44-3908 shall not apply to the following
6 persons:

7 (1) Licensees for whom an examination is not required under the laws
8 of this state;

9 (2) Licensees who sell or consult only in the areas of credit life
10 insurance and credit accident and health insurance;

11 (3) Licensees who sell or consult only in the area of travel
12 insurance;

13 (4) Licensees who sell or consult only in the area of self-service
14 storage facility insurance pursuant to section 44-4069; ~~and~~

15 (5) Licensees holding such limited or restricted licenses as the
16 director may exempt; and -

17 (6) Licensees in their first license period if that first license
18 expires less than one year after the date of licensing.

19 Sec. 6. Section 44-5814, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 44-5814 (1) Each third-party administrator shall file an annual
22 report for the preceding calendar year with the director on or before
23 March 1 of each year or within such extension of time therefor as the
24 director for good cause may grant. The annual report shall be in the form
25 and contain such matters as the director prescribes and shall be verified
26 by at least two officers of the third-party administrator.

27 (2) The annual report shall include the complete names and addresses
28 of all insurers with which the third-party administrator had a written
29 agreement during the preceding fiscal year.

30 (3) At the time of filing its annual report, the third-party
31 administrator shall pay to the director a filing fee of two hundred

1 dollars.

2 (4)(a) Within seven business days after the failure of a third-party
3 administrator to comply with the requirements of this section, the
4 director shall notify the third-party administrator of such failure.

5 (b) Subject to subdivision (4)(c) of this section, if a third-party
6 administrator fails to comply with the requirements of this section and
7 any rules and regulations adopted and promulgated under this section and
8 any orders issued under this section:

9 (i) Such third-party administrator shall pay a fine of ~~forfeit~~ fifty
10 dollars for each day thereafter such failure continues and the third-
11 party administrator continues to transact any business of insurance; and

12 (ii) In addition to the fine ~~forfeiture~~ required under subdivision
13 (4)(b)(i) of this section, the director may suspend the certificate of
14 authority of the third-party administrator until it has complied with the
15 requirements of this section, any rules and regulations adopted and
16 promulgated under this section, and any orders issued under this section.
17 The director shall remit all ~~All~~ such fines ~~forfeitures~~ ~~collected by the~~
18 ~~director shall be remitted~~ to the State Treasurer for distribution in
19 accordance with Article VII, section 5, of the Constitution of Nebraska
20 ~~credit to the permanent school fund.~~

21 (c) For good and sufficient cause shown, the director may grant a
22 reasonable extension of time not to exceed thirty days within which the
23 annual report may be filed as required under this section without the
24 fine ~~forfeiture~~ required under subdivision (4)(b)(i) of this section and
25 without any suspension authorized under subdivision (4)(b)(ii) of this
26 section.

27 Sec. 7. Original sections 44-322, 44-3,127, 44-32,119, and 44-5814,
28 Reissue Revised Statutes of Nebraska, and sections 44-3902 and 44-3903,
29 Revised Statutes Cumulative Supplement, 2020, are repealed.