

H.B. 52

INSURANCE CODE AMENDMENTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 2

JANUARY 28, 2009 11:25 AM

Representative **James A. Dunnigan** proposes the following amendments:

1. *Page 1, Line 1:*

1 INSURANCE CODE AND RELATED AMENDMENTS

2. *Page 1, Line 11:*

11 This bill modifies the Insurance Code and related provisions .

3. *Page 1, Line 21:*

21 • clarifying insider directors;
= ▶ addresses single risk limitations;

4. *Page 2, Lines 47 through 49:*

47 lieu of an examination for a captive insurance company; ~~{-and-}~~
▶ provides for the sharing of information with the Insurance Department related to professional employer organizations; and
48 ▶ makes technical and conforming amendments, including repealing outdated
49 language.

5. *Page 3, Line 59:*

59 31A-8-215, as last amended by Laws of Utah 2004, Chapter 90
31A-20-108, as last amended by Laws of Utah 2008, Chapter 257

6. *Page 3, Lines 87 through 88:*

87 31A-37a-402, as enacted by Laws of Utah 2008, Chapter 302
35A-4-312, as last amended by Laws of Utah 2008, Chapters 58 and 382
88 63G-2-302, as last amended by Laws of Utah 2008, Chapter 91 and renumbered and

7. *Page 45, Line 1382:*

1382 through (ix) shall be read: "corporate reorganizations under Section 31A-8-216."
Section 5. Section 31A-20-108 is amended to read:
31A-20-108. Single risk limitation.

- (1) This section applies to all lines of insurance, including ocean marine and reinsurance, except:
 - (a) title insurance;
 - (b) workers' compensation insurance;
 - (c) occupational disease insurance; ~~{-and-}~~
 - (d) employers' liability insurance ; and
 - (e) health insurance .

(2) (a) Except as provided under Subsections (3) and (4) and under Section 31A-20-109, an insurer authorized to do an insurance business in Utah may not expose itself to loss on a single risk in an amount exceeding 10% of its capital and surplus.

(b) The commissioner may adopt rules to calculate surplus under this section.

(c) An insurer may deduct the portion of a risk reinsured by a reinsurance contract worthy of a reserve credit under Sections 31A-17-404 through 31A-17-404.4 in determining the limitation of risk under this section.

(3) (a) The commissioner may adopt rules, after hearings held with notice provided under Section 31A-2-303, to specify the maximum exposure to which an assessable mutual may subject itself.

(b) The rules described in Subsection (3)(a) may provide for classifications of insurance and insurers to preserve the solidity of insurers.

(4) As used in this section, a "single risk" includes all losses reasonably expected as a result of the same event.

(5) A company transacting fidelity or surety insurance may expose itself to a risk or hazard in excess of the amount prescribed in Subsection (2), if the commissioner, after considering all the facts and circumstances, approves the risk.

8. *Page 105, Line 3238:*

3238 company.

Section 33. Section 35A-4-312 is amended to read:

35A-4-312. Records.

(1) (a) An employing unit shall keep true and accurate work records containing any information the department may prescribe by rule.

(b) A record shall be open to inspection and subject to being copied by the division or its authorized representatives at a reasonable time and as often as may be necessary.

(c) An employing unit shall make a record available in the state for three years after the calendar year in which the services are rendered.

(2) The division may require from an employing unit a sworn or unsworn report with respect to a person employed by the employing unit that the division considers necessary for the effective administration of this chapter.

(3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106, information obtained under this chapter or obtained from an individual may not be published or open to public inspection in any manner revealing the employing unit's or individual's identity.

(4) (a) The information obtained by the division under this section may not be used in court or admitted into evidence in an action or proceeding, except:

(i) in an action or proceeding arising out of this chapter;

(ii) if the Labor Commission enters into a written agreement with the division under Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

(A) Title 34, Chapter 23, Employment of Minors;

(B) Title 34, Chapter 28, Payment of Wages;

(C) Title 34, Chapter 40, Utah Minimum Wage Act; or

(D) Title 34A, Utah Labor Code; or

(iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and Section 63G-2-207.

(b) The information obtained by the division under this section shall be disclosed to:

(i) a party to an unemployment insurance hearing before an administrative law judge of the department or a review by the Workforce Appeals Board to the extent necessary for the proper presentation of the party's case; or

(ii) an employer, upon request in writing for any information concerning a claim for a benefit with respect to a former employee of the employer.

(5) The information obtained by the division under this section may be disclosed to:

(a) an employee of the department in the performance of the employee's duties in administering this chapter or other programs of the department;

(b) an employee of the Labor Commission for the purpose of carrying out the programs administered by the Labor Commission;

(c) an employee of the Department of Commerce for the purpose of carrying out the programs administered by the Department of Commerce;

(d) an employee of the governor's office or another state governmental agency administratively responsible for statewide economic development, to the extent necessary for economic development policy analysis and formulation;

(e) an employee of another governmental agency that is specifically identified and authorized by federal or state law to receive the information for the purposes stated in the law authorizing the employee of the agency to receive the information;

(f) an employee of a governmental agency or workers' compensation insurer to the extent the information will aid in:

(i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

(A) a workers' compensation program; or

(B) public assistance funds; or

(ii) the recovery of overpayments of workers' compensation or public assistance funds;

(g) an employee of a law enforcement agency to the extent the disclosure is necessary to avoid a significant risk to public safety or in aid of a felony criminal investigation;

(h) an employee of the State Tax Commission or the Internal Revenue Service for the purposes of:

(i) audit verification or simplification;

- (ii) state or federal tax compliance;
 - (iii) verification of a code or classification of the:
 - (A) 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
 - (B) 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and
 - (iv) statistics;
 - (i) an employee or contractor of the department or an educational institution, or other governmental entity engaged in workforce investment and development activities under the Workforce Investment Act of 1998 for the purpose of:
 - (i) coordinating services with the department;
 - (ii) evaluating the effectiveness of those activities; and
 - (iii) measuring performance;
 - (j) an employee of the Governor's Office of Economic Development, for the purpose of periodically publishing in the Directory of Business and Industry, the name, address, telephone number, number of employees by range, code or classification of an employer, and type of ownership of Utah employers;
 - (k) the public for any purpose following a written waiver by all interested parties of their rights to nondisclosure; ~~{or}~~
 - (l) an individual whose wage data is submitted to the department by an employer, so long as no information other than the individual's wage data and the identity of the employer who submitted the information is provided to the individual ; or
 - (m) an employee of the Insurance Department for the purpose of administering Title 31A, Chapter 40, Professional Employer Organization Licensing Act** .
- (6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5), with the exception of Subsections (5)(a) and (g), shall be made only if:
- (a) the division determines that the disclosure will not have a negative effect on:
 - (i) the willingness of employers to report wage and employment information; or
 - (ii) the willingness of individuals to file claims for unemployment benefits; and
 - (b) the agency enters into a written agreement with the division in accordance with rules made by the department.
- (7) (a) The employees of a division of the department other than the Workforce Development and Information Division and the Unemployment Insurance Division or an agency receiving private information from the division under this chapter are subject to the same requirements of privacy and confidentiality and to the same penalties for misuse or improper disclosure of the information as employees of the division.
- (b) Use of private information obtained from the department by a person, or for a purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).

Renumber remaining sections accordingly.