

End of Session Report
June 2011

You may agree or disagree with the results, but the General Assembly finished the 2011 session with passage of several big ticket issues including workers compensation reform, a huge gaming expansion package, electric utility smart grid modernization, a budget that appears to spend less in FY 2012 than it did in FY 2011 and, of course, new congressional and state legislative district maps that relegate republicans into permanent minority status for the next ten years.

While workers' compensation dominated the insurance agenda, there were many other issues affecting insurance producers and insurers debated this session and the results were fairly positive. Issues that passed and will be on the Governor's desk shortly include: Our agent & broker/employer/insurer coalition bill stating Illinois' intent to establish a Health Benefit Exchange, legislation authorizing webinars as an accepted form of continuing education, a bill mandating arbitration for all automobile physical damage claims under \$2,500 and legislation establishing several consumer protections from disreputable contractors who show up at the homes of consumers who have suffered damage from tornadoes and strong storms.

Defeating bad bills is often more meaningful than passing any particular piece of legislation and this year, agents and brokers were full of wins in the defeat category. Issues killed include: municipal licensure and registration for agents & brokers, several bills establishing state sanctioned and operated markets for annuities and IRAs, health purchasing co-ops, rate regulation of health insurance, mandated benefits and bills prematurely implementing federal PPACA provisions.

Workers' Compensation Reform

See the attached document for a summary of the key provisions in the workers' compensation bill.

Below is a status of all significant insurance related legislation:

Producer

Passed

Webinars – Support -HB 1287 Osmond (Sullivan), which would authorize the use of webinars as an approved form of CE.

Limited Licenses for Cell Phone Insurance –Neutral- HB 1284 (Monique Davis) creates a new limited lines license for cell phone retailers to sell or offer coverage for portable electronic devices. While generally opposed to new limited lines licensure categories, the DOI, IIA of IL and NAIFAIL worked on the bill to remove our opposition as the legislation was sponsored by House Insurance Committee Chair Monique Davis.

Health Benefit Exchange Intent –Support - SB 1555 Haine (Mautino) represents the business/insurer/agent and broker coalition effort to establish a Health Benefit Exchange as required under the PPACA. A legislative study committee is created and must have a report completed by September 30, 2011.

Senior Designations – Neutral - SB 1607 (Jacobs) would adopt the National Association of Insurance Commissioners Model Act on the use of senior-specific certification or professional designations in connection with the solicitation, sale or purchase of a life insurance or annuity product. The model act was supported by both NAIFA and IABA at the NAIC.

Did Not Pass

Local Licensure – Oppose – HB 1323 (Riley) would permit municipalities to license and regulate all kinds of businesses, including insurance agents and agencies.

Illinois Automatic IRA Program – Oppose – HB 1672 (Burns) creates a mandatory IRA program for employees of small (10 or less) employers to be administered by the State Treasurer. HB 1672 was not called on 3rd Reading due to opposition from NAIFAIL, IIA of IL, NFIB, IRMA and the Treasurer's Office.

School District Deferred Comp Plan – Oppose – SB 1826 (Schoenberg) would authorize the State Comptroller to administer a deferred compensation plan for school districts and community colleges. Introduced on behalf of TIIA-CREFF and supported by Comptroller Topinka, SB 1826 failed on a vote of 19-30-5 in the Senate due to an intensive lobbying effort by NAIFAIL, IIA of IL and the Illinois Life Insurance Council.

Surplus Lines – Oppose -SB 1244 (Haine) Addresses some state issues regarding the new federal Nonadmitted and Reinsurance Reform Act (NRRRA). The bill, as introduced, would have implemented the NAIC approach (NIMA) regarding allocation of surplus lines premium tax. The Nonadmitted Insurance MultiState Agreement or NIMA is supported by the Illinois Department of Insurance, but opposed by most of the affected entities in the surplus lines market including: IIA of IL, NAPSLO, CNA and AIG. Senator Haine expressed reservations regarding the NIMA compact and additional meetings will be held over the summer with possible action in the veto session.

Securities – HB 3232 (Howard) Provides that upon registration of an investment adviser representative, the applicant shall file evidence setting forth that such investment adviser representative has in effect fidelity insurance and insurance or other equivalent protection for each client's cash or securities held by the investment adviser representative, and an undertaking that the investment adviser representative will continually maintain such fidelity insurance and insurance or other protection during the period of registration or re-registration. Provides that

such fidelity insurance and insurance or other protection shall be in a form and amount reasonably prescribed by the Secretary of State by rule or regulation.

Property & Casualty

Passed

Storm Chasers – Support – HB 3034 (Williams) amends the Home Repair & Remodeling Act to establish several consumer protections from unscrupulous contractors who show up in the wake of tornados and strong storms. The bill only applies when a claim is being made on an insurance policy. HB 3034 passed the House without opposition after negotiations with IAMIC and several insurers and the Illinois Homebuilders Association.

Libraries – Treasurer’s Bond - HB 179 (Reitz) - Provides that, as an alternative to a personal bond on the treasurer of the library, system, or district, the board may require the treasurer to secure an insurance policy or other insurance instrument with coverage for negligent or intentional acts by library, system, or district employees. Contains provisions concerning the required amount of coverage. Provides that the cost of the coverage shall be borne by the library, system, or district. Effective January 1, 2012.

Seat Belt Requirements - HB 219 (Beaubien) Provides that every driver and passenger (rather than every driver, front seat passengers, and certain passengers under the age of 19) of a motor vehicle operated on a street or highway of this State must wear a properly adjusted safety belt, with specified exceptions.

Currency Exchange Surety Bond - HB 159 (Davis). Requires that the community currency exchange retain an annual surety bond of \$50,000 (rather than \$10,000) or the community currency exchange may be covered by a blanket bond in a principal aggregate sum of not less than \$3,000,000 as of May 1, 2012, and not less than \$4,000,000 as of May 1, 2014.

Volunteer Drivers - HB 1378 (Lyons)- Provides that an insurer may not refuse to issue vehicle insurance to a person solely because the applicant is a volunteer driver and may not impose a surcharge or otherwise increase the rate for a vehicle policy solely on the basis that the named insured or any member of the insured's household or a person who customarily operates the insured's vehicle is a volunteer driver. Provides that the provision concerning volunteer driver protection shall not prohibit an insurer from taking any actions upon factors other than the volunteer status of the insured driver. Effective immediately.

Uninsured Motor Vehicle Fines - HB 2267 (Sommer) Amends the Illinois Vehicle Code. Provides that a person convicted of a third or subsequent charge of operation of an uninsured

motor vehicle shall be required to pay a fine of \$1,000. Provides that if a person is convicted of the offense of operation of a motor vehicle causing bodily harm and has 2 or more previous convictions of operation of an uninsured motor vehicle or operation of an uninsured motor vehicle causing bodily harm, a fine of \$2,500, in addition to any sentence of incarceration, must be imposed.

Mandatory Arbitration – Support – SB 152 (Haine) was introduced on behalf of the DOI and aimed at several non-standard auto insurer claims practices. SB 152 would mandate all insurers arbitrate and settle automobile physical damage claims in accordance with the Nationwide Inter-Company Arbitration Agreement unless parties agree to another forum. The bill passed the Senate with a \$10,000 threshold, but under an agreement with the House Sponsor Rep. Saviano, the threshold was reduced to \$2,500 in the House. A threshold of \$2,500, under which insurers must arbitrate, and above which insurers may still file in court, may have little effect on non-standard insurer claim practices as most physical damage claims today will be above the threshold.

Currency Exchange Bond - SB 87 (Collins) - Requires that the community currency exchange retain a annual surety bond of \$50,000 (rather than \$10,000) or the community currency exchange may be covered by a blanket bond in a principal aggregate sum of not less than \$10,000,000 (rather than \$2,000,000). Aggregates the amount of a blanket bond to \$3,000,000 as of May 1, 2012, and not less than \$4,000,000 as of May 1, 2014 (instead of \$4,000,000). Effective January 1, 2012.

Low Speed Vehicles - SB 1641 (Sullivan) - Amends the Illinois Vehicle Code. Removes reference to neighborhood vehicles from the definition of "non-highway vehicle". Provides that a unit of local government may authorize the operation of low-speed vehicles on streets that have a speed limit of more than 30 miles per hour but not greater than 35 miles per hour, provided that it first considers the volume, speed, and character of traffic on the street and whether low-speed vehicles may travel safely on that street. Provides that if a street is under the jurisdiction of more than one unit of government, each unit of government must agree to allow low-speed vehicles on that street. Provides that upon authorization of low-speed vehicles on a street, appropriate signs shall be posted. Removes signs or decal requirements for low-speed vehicles. Effective immediately.

School Bus Insurance Requirements - SB 1669 (Holmes) Amends the Illinois Vehicle Code. Provides that certain vehicles, including vehicles used for purposes requiring a school bus driver permit, must carry minimum personal injury liability insurance in the amount of \$1,000,000 for one person in any one accident and \$5,000,000 for 2 or more person injured by reason of the operation of the vehicle in any one accident.

Did Not Pass

Increased Minimum Auto Liability Limits – One bill, HB 231 (Leitch), was defeated in the House Insurance Committee, and another, HB 3064 (Lang), passed out of committee, but was never called for a vote on the House floor. SB 954 would increase the proof of financial responsibility limits (SR 22) for those individuals who have had their licenses revoked from the current 20-40-15 (identical to the minimum liability limits) to 50-100-40. SB 954 passed the Senate and out of the House Judiciary committee.

Crash Tax – Oppose – HB 1360 (Franks) would require all auto policies to provide coverage for any fees charged for emergency response services provided by fire protection districts. HB 1360 failed to advance out of the House Insurance Committee. HB 1981 (Jefferson) would authorize municipalities to charge non-residents fees for emergency services rendered by the municipality. HB 1981 passed the House by the bare minimum number of votes, 60-51, but failed to pass out of the Senate Local Government Committee.

Vehicle Fire Risk Premium – HB 1306 (Moffitt) Amends the Fire Investigation Act. Provides that the amount annually assessed by the Department of Insurance on every fire insurance company and entity doing any form of fire insurance business in the State of Illinois may not exceed 1% of the gross fire, sprinkler leakage, riot, civil commotion, explosion, and motor vehicle risk premium receipts (rather than motor vehicle fire risk premium receipts) of the company or entity from business done in the State.

Intergovernmental Pools – Notification Requirements - HB 1865 (Verschoore) Amends the Intergovernmental Cooperation Act. Prohibits a joint insurance pool or other intergovernmental cooperative from requiring a public agency member to provide notice of the member's intent to withdraw from the pool or cooperative more than 30 days before the date upon which the member withdraws. Provides that if a public agency member of a joint insurance pool or intergovernmental cooperative withdraws for the sole reason of seeking competitive pricing and then seeks to rejoin the pool or intergovernmental cooperative within 60 days after withdrawing, the member shall be allowed to rejoin the pool or intergovernmental cooperative without penalty and without being required to pay higher premiums. Requires the head of any joint insurance pool or other intergovernmental cooperative to be a licensed insurance producer in the State of Illinois. Prohibits, after the effective date of the amendatory Act, a joint insurance pool or other intergovernmental cooperative from entering into any contract for insurance coverage that exceeds one year in duration.

Foreclosure Notification - HB 3335 (Nekritz) & HB 1293 (Lang) amends the Code of Civil Procedure and provides that the mortgagee, judgment creditor, or other lien holder shall furnish the confirmation order to the last-known insurer of a residential building in writing by first-class mail after the mortgagee, judgment creditor, or lien holder becomes the mortgagee-in-possession. It also provides that the failure to send or receive a copy of the order does not affect the rights of the mortgagee or purchaser or affect the foreclosure proceedings. Effective January 1, 2012.

Health

Passed

HB 224 (Flowers) Amends the Health Carrier External Review Act in the provision concerning standard external review. Provides that whenever a request is eligible for external review (1) the health carrier shall, within 2 (instead of 5) business days, request the Director of Insurance to assign an independent review organization (now, from the list of approved independent review organizations compiled and maintained by the Director) and (2) within 3 business days after receiving the health carrier's request, the Director shall assign, on a rotating basis, an independent review organization from the list of approved independent review organizations compiled and maintained by the Director. Includes the health carrier among those to be notified in writing by the Director of the request's eligibility and acceptance for external review. Effective July 1, 2011.

HB 1191(Harris) Amends the Illinois Insurance Code. Provides that no group policy of accident and health insurance shall exclude coverage for any routine patient care administered to an insured who is a qualified individual participating in a qualified clinical cancer trial, if the policy covers that same routine patient care of insureds not enrolled in a qualified clinical cancer trial. Effective January 1, 2012.

HB 1193 Amends the Illinois Insurance Code. In the provision concerning recoupment, provides that no recoupment or offset may be requested or withheld from future payments 18 months or more after the original payment. Provides for exceptions for cases in which there has been a formal adjudication of fraud or the provider has already been paid in full. Provides that nothing in the provision concerning recoupments shall be construed to preclude insurers or certain organizations from resolving coordination of benefits between or among each other without recouping payment from the provider beyond the 18 month time limit. Makes changes concerning the information that shall be displayed on the remittance advice or written document containing the insurer's demand for recoupment or offset.

HB 1530 (Lang) Expands the mental health parity mandate to include substance use disorders. Provides that Illinois' mental health parity mandate shall be consistent with federal regulations issued by the U.S. Department of Health and Human Services.

HB 1577 (Mautino) Non-participating (network) health care provider reimbursement.

HB 1825 (Williams) Amends the Illinois Insurance Code. Provides that accident and health insurance policies that provide coverage for prescribed orally-administered cancer medications and intravenously administered or injected cancer medications shall ensure that the applicable financial requirements and treatment limitations are no more restrictive than the financial

requirements and treatment limitations applied to intravenously administered or injected cancer medications that are covered by the policy. Provides that an insurer cannot achieve compliance with the coverage mandate by increasing financial requirements or imposing more restrictive treatment limitations on prescribed orally-administered cancer medications or intravenously administered or injected cancer medications covered under the policy.

HB 3039 (Lilly) Provides that an insurer providing group or individual policies of accident and health insurance or a managed care plan shall develop and implement a process to communicate with their adult enrollees on an annual basis regarding the importance and value of early detection and proactive management of cardiovascular disease. Further amends the Illinois Insurance Code to provide that the provision concerning cardiovascular disease do not apply to short-term travel, disability income, long-term care, accident only, or limited or specified disease policies. Effective immediately.

HB 3405 Amends the Comprehensive Health Insurance Plan Act in the provision concerning definitions. Provides that as it pertains to Medicare, the effective date is 24 months after the entitlement date as approved by the Social Security Administration, except when eligibility is made retroactive to a prior date. Provides that in such circumstances, the effective date of Medicare is the date on the Notice of Award letter issued by the Social Security Administration. Effective immediately.

HB 3441(Mautino) Amends the Comprehensive Health Insurance Plan Act to provide that the Comprehensive Health Insurance Board at its option may extend the term of a plan administrator contract for a period not to exceed 3 years. Effective immediately.

SB 673 (Steans) Amends the Illinois Insurance Code. Provides that on or after the effective date of the amendatory Act, every insurer that amends, delivers, issues, or renews group accident and health policies providing coverage for hospital or medical treatment or services on an expense-incurred basis **shall offer**, for an additional premium and subject to the insurer's standard of insurability, optional coverage or optional reimbursement of up to \$500 annually for a tobacco use cessation program for a person enrolled in the plan who is 18 years of age or older.

Did Not Pass

HB 1501(Harris) Sets forth provisions concerning the filing of premium rates with respect to health insurance coverage offered by a health insurance issuer and premium rate changes. Provides that in addition to filing premium rates, a company shall notify the Director of Insurance whenever a policy form has been closed for sale. Sets forth provisions concerning health insurance premium rates and prior approval of the Director. Contains provisions concerning appeal and requests for actuarial reasoning and data. Makes changes to the provision concerning group accident and health insurance. Amends the Health Maintenance Organization Act. Sets forth provisions concerning premium rates and filing and prior approval. Requires that the schedule of base rates for a group or individual contract or evidence of coverage to be used in

conjunction with the contract or evidence of coverage be filed with the Director. Further amends the Act to comport with the provisions of the Illinois Insurance Code concerning health insurance premium rates and prior approval. Effective on January 1, 2012

Health Benefit Purchasing Cooperatives – HB 3236 May (Schoenberg) would authorize the creation of two separate entities; Health Care Cooperatives, which are risk bearing entities (mutual insurers) eligible for federal grant money under the PPACA and Health Benefit Purchasing Cooperatives, which would establish a framework for small employers to collectively purchase health insurance.

HB 3236 was introduced on behalf of the Department of Insurance and is supported by the Chicago Land Chamber of Commerce. The bill is opposed by most insurers, insurance trade associations, and our agent/broker coalition on the basis that the Federal Department of Health and Human Services has yet to develop or issue necessary guidance and regulations for co-ops. There has been some discussion about amending out the risk-bearing entities and moving forward with the purchasing cooperatives only. The Health Benefit Purchasing Cooperatives language is modeled after Wisconsin's law, which has been marginally successful at best. Our agent/broker coalition does not oppose the creation of Health Benefit Purchasing Co-ops as long as they abide by all federal and state laws and are granted no special treatment.

SB 1313 (Schoenberg) Amends the Comprehensive Health Insurance Plan (CHIP) to eliminate the General Revenue Funding for the Section 7 pool (individual) and replace it with an assessment on all health insurers in Illinois similar to the Section 15 assessment.

Dozens of mandated benefits, too numerous to mention, also did not pass.