

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE HEALTH INSURANCE LAW
(2003 REVISION) TO MAKE PROVISION FOR THE IMPOSITION OF
ADMINISTRATIVE FINES; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

THE HEALTH INSURANCE (AMENDMENT) BILL, 2005

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend Health Insurance Law (2003 Revision) for the purpose of enabling the imposition of administrative fines.

Clause 1 of the Bill provides the short title of the legislation.

Clause 2 defines the terms “inspector” and “Superintendent” for the purposes of the legislation.

Clause 3 confers upon the Superintendent of Health Insurance responsibility for the administration of the principal Law.

Clause 4 enables the Government to agree to effect a contract of health insurance with an approved insurer on behalf of any person approved by the Governor in Cabinet.

Clauses 5 and 6 make provision for the imposition by the Health Insurance Commission of administrative fines for the breach of specified provisions of the principal Law.

THE HEALTH INSURANCE (AMENDMENT) BILL, 2005

ARRANGEMENT OF CLAUSES

1. Short title.
2. Amendment of section 2 of the Health Insurance Law (2003 Revision) – definitions.
3. Insertion of section 2A – administration of this Law.
4. Amendment of section 3 – compulsory health insurance.
5. Amendment of section 11A - reporting to the Commission.
6. Insertion of section 18A-administrative fines.

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**A BILL FOR A LAW TO AMEND THE HEALTH INSURANCE LAW
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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Health Insurance (Amendment) Law, 2005. Short title

2. The Health Insurance Law (2003 Revision), in this Law referred to as the “principal Law”, is amended in section 2 by inserting the following definitions in their appropriate alphabetical places - Amendment of section 2 of the Health Insurance Law (2003 Revision) – definitions

““inspector” means a person appointed, pursuant to regulations made under section 19(1)(e), as inspector for the purposes of this Law;

“Superintendent” means the person appointed under section 6(1) of the Health Insurance Commission Law, 2003, to serve as Superintendent of Health Insurance;”.

3. The principal Law is amended by inserting after section 2 the following section - Insertion of section 2A – administration of this Law

“Administration of this Law 2A. The Superintendent shall be responsible for the administration of this Law.”.

administration of this Law.”.

Amendment of section 3
– compulsory health
insurance

4. The principal Law is amended in section 3 by repealing subsection (4) and substituting the following subsection -

- “ (4) Government may, on written application to it by or on behalf of -
- (a) a seaman fifty-five years of age or older, his unemployed spouse and children;
 - (b) a widow of a seaman;
 - (c) a veteran, his unemployed spouse and children;
 - (d) a widow of a veteran; or
 - (e) any other person approved by the Governor in Cabinet,

where that person is not covered by a contract of health insurance, agree to effect a contract of health insurance with an approved insurer on behalf of such person on such terms and conditions as are specified in regulations made by the Governor in Cabinet in respect thereof.”.

Amendment of section
11A - reporting to the
Commission

5. The principal Law is amended in section 11A by repealing subsection (3).

Insertion of section
18A-administrative fines

6. The principal Law is amended by inserting after section 18 the following section -

“Administrative fines

18A. (1) Where the Commission is satisfied that there are reasonable grounds for believing that a person -

- (a) may have failed to comply with or contravened section 3(1), 3(2), 9(1), 11A(1) or 11A(2); or
- (b) may have failed to comply with the requirement to extend the cover under a standard health insurance contract as provided in section 12(2),

the Commission shall –

- (i) notify the person in writing, stating the nature of such suspected failure to comply or contravention and of the Commission’s intention to make a determination in respect of any such suspected failure to comply or contravention; and

- (ii) provide to the person documents, if any, in support of the suspected failure or contravention.

(2) A notice under subsection (1) shall be sent by post and shall be deemed to have been communicated to the person at the time it would have been received in the ordinary course of post.

(3) A person notified in accordance with subsection (1) may, within twenty-one days of the date of the notice, provide to the Commission a written response in respect of any such suspected failure to comply or such contravention and shall also provide any other documentation which the person wishes the Commission to consider in making any determination in relation to any suspected failure to comply or contravention.

(4) A person, in any response submitted to the Commission as specified in subsection (3), may request that the Commission hear the person in person or through a representative and, if so requested, the Commission may in its discretion allow such request.

(5) Any document which any such person wishes the Commission to consider at a hearing shall be submitted within the time permitted in subsection (3).

(6) Where a person, notified as specified in subsection (1), makes no submission as specified in subsection (3) in respect of a suspected failure to comply or contravention, then the person shall be considered by the Commission to have no evidence to refute the allegation of failure to comply or the contravention.

(7) Where the Commission has decided to hold a hearing it shall hold such hearing within twenty-one days next following the twenty-one day period set out in subsection (3) and, subject to subsection (8), in accordance with such procedure as it may determine.

(8) At every hearing under this section where the person or his representative is present, the person or his

representative shall be given an opportunity to address the Commission.

(9) After any hearing under this section the Commission shall set out its findings in writing and shall make a determination in regard to any suspected failure to comply or contravention as specified in subsection (1); and where the Commission determines that a person has failed to comply with or contravened a prescribed requirement, the Commission, may consider the nature, circumstances and any actual or potential consequences of each and any such failure to comply or contravention by the person as well as any prior determinations in respect of that person by the Commission, and may issue a warning or impose a fine not exceeding ten thousand dollars and a further fine not exceeding one hundred dollars for each day or part of a day during which the failure to comply or contravention has continued, in respect of each such failure to comply or contravention.

(10) The Commission shall notify any such person of its findings and determinations and any fine or warning within twenty-one days of its determination and following the period provided for an appeal as specified in subsection (11), may cause its findings and any warning and the quantum of any fine imposed to be published in any manner and in its discretion.

(11) An appeal against a determination of the Commission made under subsection (9) shall be made to a court of summary jurisdiction within twenty-one days next following the date of the notification made under subsection (10).

(12) A fine imposed by the Commission shall be paid in full by the person fined, following the period provided for an appeal as specified in subsection (11) and, where there is a failure to pay the fine, the fine may be recovered by the Commission in a court of summary jurisdiction as a debt from that person.

(13) Representatives appearing on behalf of a person

are not required to be persons having legal qualifications.

(14) The power to impose fines under this section is in addition to or an alternative to any other penalty or remedy provided under this Law.”.

Passed by the Legislative Assembly the day of , 2005.

Speaker.

Clerk of the Legislative Assembly.