

HOUSE BILL REPORT

SHB 3060

As Passed House:
February 13, 2010

Title: An act relating to surplus line coverage.

Brief Description: Modifying surplus line coverage provisions.

Sponsors: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Simpson and Kirby).

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/26/10, 1/28/10 [DPS].

Floor Activity:

Passed House: 2/13/10, 95-0.

Brief Summary of Substitute Bill

- Allows certain documents required of a surplus lines broker to be completed in electronic, digital, or other format or form as designated by the Insurance Commissioner.
- Requires an oath from a surplus lines broker. If the oath is violated, the surplus lines broker has committed perjury.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Hurst, McCoy, Nelson, Roach, Rodne, Santos and Simpson.

Staff: Jon Hedegard (786-7127).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Under insurance statutes, if coverage cannot be purchased from an authorized insurer, the coverage may be purchased from an unauthorized insurer through a licensed surplus lines broker only if:

- a diligent effort is made to find the coverage from authorized insurers; and
- the purpose for using an unauthorized insurer is something other than securing a lower premium rate than would be accepted by any authorized insurer.

The surplus lines broker must execute an affidavit setting forth the facts regarding the diligent effort and the purpose for using an unauthorized insurer when insurance is purchased from an unauthorized insurer. The affidavit must be filed with the Insurance Commissioner (Commissioner) within 30 days after the purchase of the insurance.

Licensing requirements regarding surplus line brokers include:

- background checks, including fingerprints;
- minimum bonding amounts;
- record-keeping; and
- reporting.

Chapter 9A.72 RCW addresses perjury and interference with official proceedings. Penalties for the violation of an oath under chapter 9A.72 RCW can range from a gross misdemeanor to a Class B felony.

Summary of Substitute Bill:

The word "affidavit" is replaced by "declaration." The declaration may be in electronic, digital, or other format or form as designated by the Commissioner. There is specific language that is required in the declaration requiring the surplus lines broker to "certify (or declare) under penalty of perjury" that the information is true and correct.

A declaration constitutes an oath required or authorized by law under chapter 9A.72 RCW. If the oath is violated because the information is not true and correct, the surplus lines broker has committed perjury.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill improves the existing processes. A surplus lines broker will be able to file more quickly and cheaply. The Commissioner will receive the information in a more timely and useful manner. The affidavit is a notarized document. That does not easily translate to an electronic filing so the word "declaration" is used instead, and the penalties for providing false information are made explicit.

(In support with amendment) This bill will allow surplus lines brokers to do some of their required administrative work electronically. This will move some current procedures into the 21st century. They will not have to provide a hard copy of documents to the Commissioner. The bill is technical in nature. The word "affidavit" is changed to "declaration." It does not change the responsibilities of a surplus lines broker. The surplus lines brokers worked with the Commissioner on the bill. There is still a penalty for providing false information to the Commissioner. That penalty may never have been used. The bill is aligned with the recent desires to modernize producer and surplus lines broker licensing. There is one reference that was missed that will need to be corrected. The whole purpose of the bill is to allow surplus lines brokers to report electronically.

(Opposed) None.

Persons Testifying: (In support) Representative Simpson, prime sponsor; and Drew Bouton, Office of the Insurance Commissioner.

(In support with amendment) Robert Hope, Surplus Line Association of Washington.

Persons Signed In To Testify But Not Testifying: None.