

# SENATE BILL REPORT

## EHB 1568

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As of March 23, 2009

**Title:** An act relating to persons selling, soliciting, or negotiating insurance.

**Brief Description:** Regulating persons selling, soliciting, or negotiating insurance.

**Sponsors:** Representatives Bailey, Kirby, Rodne, Roach, Kelley and Simpson; by request of Insurance Commissioner.

**Brief History:** Passed House: 2/23/09, 96-0.

**Committee Activity:** Financial Institutions, Housing & Insurance: 3/18/09.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

**Staff:** Diane Smith (786-7410)

**Background:** Effective July 1, 2009, the terms "insurance agent" and "insurance broker" are merged into the term "insurance producer." Legislation effecting this change was enacted in 2007 and was partially perfected in 2008. The status of surplus lines brokers within the upcoming producer-licensing scheme is unclear.

There are some risks that are not covered by insurers that are authorized by the Office of Insurance Commissioner (OIC) to transact the business of insurance in this state. These risks could be unusual risks, quite hazardous activities, or catastrophic occurrences, for example.

While an unauthorized insurer may not otherwise solicit or transact insurance business in this state, there is the exception of surplus lines insurance. If certain requirements are met and memorialized by affidavit, then insurance coverage for risks not otherwise subject to coverage by authorized insurers may be procured from surplus line brokers. These brokers represent insurance companies like Lloyds of London.

Currently, both surplus line brokers who are residents of this state and those who are not must be licensed as either resident or nonresident. Resident surplus line brokers must maintain a \$20,000 penal bond and a \$100,000 surety bond.

When producers, title insurance agents, and adjusters do not request renewal of their licenses before the licenses expire, the OIC may consider the request to renew as an application for a new license.

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*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.*

Provisions for the application process, fees, bonding, and other matters as they affect title insurance agents are not included in the legislation becoming effective on July 1, 2009.

**Summary of Bill:** It is clarified that the term "insurance producer" does not include licensed surplus line brokers. Changes are made conforming existing sections of law to this clarification.

Resident surplus line brokers must maintain a minimum surety bond of \$2,500 and up to a maximum of \$100,000 based on 5 percent of the premiums placed in the previous year. Provisions are made for various contingencies regarding the bonding requirements. Detailed provisions are also made for licensing. The licensing and fee requirements for nonresident surplus line brokers are the same.

A surplus line broker dealing directly with the insured must make the same disclosures to the insured as must the insurance producer. The surplus line broker is subject to the same prohibitions and immunities as is the insurance producer. Surplus line brokers receive funds representing premiums that belong to another, in a fiduciary capacity.

The OIC is given the option of additional enforcement actions. The OIC may place the surplus line broker on probation or levy the same civil penalty of up to \$1,000 as is allowed to be assessed against insurance producers. The failure to request renewal before the expiration of the producer's title insurance agent's or adjuster's license results in the license expiring on its expiration date.

It is clarified that insurance adjusters must be licensed.

The application made by a resident business entity to act as an insurance producer must be signed under penalty of perjury. The OIC's authority to waive the continuing education requirement for insurance producers is removed.

Provisions are made for the application process, fees, bonding, and other matters concerning licensing of title insurance agents.

**Appropriation:** None.

**Fiscal Note:** Available.

[OFM requested ten-year cost projection pursuant to I-960.]

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2009.

**Staff Summary of Public Testimony:** PRO: This is the same bill as heard in committee previously. It expands on reform legislation last session to modernize insurance law consistent with the National Association of Insurance Commissioners Model Act. The Surplus Line Association endorses this bill wholeheartedly.

**Persons Testifying:** PRO: Drew Bouton, OIC; Tom Parker, Surplus Line Association.