

SENATE BILL REPORT

SB 6307

As of January 15, 1996

Title: An act relating to unauthorized insurers.

Brief Description: Assuring that unauthorized insurers have adequate surety before filing pleadings in certain legal proceedings.

Sponsors: Senators Prentice, Winsley, Swecker, Franklin, Schow, Sheldon, Rasmussen, Bauer, Fraser, Oke and Fairley.

Brief History:

Committee Activity: Financial Institutions & Housing, 1/16/96.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & HOUSING

Staff: Katie Healy (786-7403)

Background: An insurer must be authorized by the Insurance Commissioner before it can transact insurance business in this state. However, if certain insurance coverages cannot be obtained from authorized insurers, unauthorized insurers may provide such coverages subject to specific statutory decisions. This type of insurance is designated as surplus lines. Brokers for surplus lines shall not knowingly place insurance with financially unsound surplus line insurers. The surplus line broker is required to ascertain the financial condition of the unauthorized insurer and maintain written evidence of its financial condition before placing insurance with that insurer.

When a complaint is filed in Washington against an out-of-state unauthorized insurer, the insurer has 40 days in which to file its answer to the complaint.

Concern has been expressed that unauthorized insurers can obtain a finding from their home courts declaring them insolvent or bankrupt before the policyholder can obtain a judgment holding the insurer liable in a Washington court.

Summary of Bill: Before an unauthorized insurer files a pleading in response to an action initiated against it, the insurer must do one of two things. It must either seek to become an authorized insurer in this state, or it must post a bond to secure the payment of a final judgment that may be entered against it. The court may allow the bond to be dispensed with if the insurer can show it maintains in the United States sufficient security to satisfy any final judgment against it. In addition, the insurer must agree to pay a final judgment without requiring legal action on the judgment in the jurisdiction where the security is located.

The court may also allow a postponement of the action if necessary to allow the unauthorized insurer to obtain a bond or to seek to become an authorized insurer.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.