

HOUSE BILL REPORT

SB 5042

As Passed House:

April 4, 2007

Title: An act relating to insurance.

Brief Description: Regulating the business of insurance.

Sponsors: By Senators Berkey and Shin; by request of Insurance Commissioner.

Brief History:

Committee Activity:

Insurance, Financial Services & Consumer Protection: 3/15/07, 3/27/07 [DP].

Floor Activity:

Passed House: 4/4/07, 95-0.

Brief Summary of Bill

- Modifies a number of provisions related to assets and investments of insurers.
- Alters language so that underinsured motorist coverage is not available if the covered person intended to cause the event for which a claim is made.
- Changes the certain statute of limitation provisions regarding claims made on behalf of an insurer by a rehabilitator or liquidator.
- Modifies group life insurance provisions where the group policyholders are trustees of a fund that was established by an employer, unions, or a combination of employers and unions.

HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION

Majority Report: Do pass. Signed by 8 members: Representatives Kirby, Chair; Kelley, Vice Chair; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst, Rodne, Santos and Simpson.

Staff: Jon Hedegard (786-7127).

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.

Background:

The Office of the Insurance Commissioner (OIC) regulates insurance in this state.

Home Heating Fuel Service Contracts

In 2006, the Legislature passed legislation specific to home heating fuel contracts. The contract providers must be registered. The registration must be renewed annually on July 1 of each year. If not renewed, the registration expires on July 31 of that year. The fee for renewal is \$25. The fee is deposited into the Insurance Commissioner's Regulatory Account.

Accounting for Assets and Liabilities

The OIC reviews the assets and liabilities of insurers to determine their financial condition. In that review, the OIC counts the interest due and accrued on mortgage loans owned by the insurer as assets of an insurer. The interest on the loan is not counted as an asset if, for more than 18 months, either the loan is in default or property taxes on the secured land are unpaid.

Electronic data processing and accounting systems are counted as assets if:

- the systems cost more than \$25,000; and
- the costs are amortized over no more than 10 years.

Existing law established standards for the required loss reserves and distribution of unallocated liability loss expense payments. Parallel standards exist for the required loss reserves for workers' compensation insurance. Separate standards are also established for the distribution of unallocated workers' compensation loss expense payments.

Coordination of Benefits

The coordination of benefits is a process in which health carriers determine the amount payable by each insurer when the claimant is covered under two or more group health plans. Carriers are not required to coordinate, but if they do, the laws and rules must be followed. The current statutory language varies from the model language adopted by the National Association of Insurance Commissioners (NAIC). The existing statute states that a carrier may not reduce or refuse to pay benefits solely because of the existence of another policy. The statute also provides that cost-sharing arrangements are not calculated into the amount that is coordinated.

Annual Statements of Fraternal Benefit Societies

Domestic, foreign, and alien fraternal benefit societies are required to file annual statements regarding their financial condition with the NAIC and the OIC.

Ocean Marine and Trade Insurance

Ocean marine and foreign trade insurance is defined in Chapter 48.14 RCW. Chapter 48.14 generally addresses fees and taxes. Ocean marine and trade insurance is defined as including only the following coverages:

- "(1) insurances upon vessels, crafts, hulls and of interests therein or with relation thereto;
- (2) insurance of marine builders' risks, marine war risks, and contracts of marine protection and indemnity insurance;

- (3) insurance of freights and disbursements pertaining to a subject of insurance coming within this definition; and
- (4) insurance of personal property and interests therein, in course of exportation from or importation into any country, or in course of transportation coastwise, including transportation by land, water or air from point of origin to final destination, in respect to, appertaining to, or in connection with, any and all risks or perils of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, storage, transshipment or reshipment incident thereto."

By its terms, the definition does not apply for the purposes of Chapter 48.19 RCW, the chapter addressing rates. Chapter 48.19 RCW does not actually use the phrase "ocean marine and trade insurance" but this type of insurance seems to be exempted from the scope of the chapter "as defined by ruling of the commissioner." Chapter 48.18 RCW, the insurance contract chapter, specifically does not apply to ocean marine and trade insurance.

Investments by Insurers

An investment in a first mortgage of residential real estate may not exceed 80 percent of the market value of the real property to qualify as an asset owned by the insurer.

Insurers are prohibited from having more than 65 percent of their assets in real estate.

An insurer may invest in corporate bonds. Some bonds are rated by the securities valuation office (SVO) of the NAIC. The SVO makes a daily credit quality assessment and valuation of securities owned by insurance companies. Bonds that are not rated by the SVO are subject to certain qualifications.

Group Life Insurance

A group life insurance policy may be sold through group policyholders that are trustees of a fund established by employers, unions, or a combination of employers or unions. The premiums for these life insurance policies must be paid by the employer, the union, the insured persons, or some combination of these potential payors. If the insured persons are required to pay all or part of the premiums, then at least 75 percent of the insured persons must elect to have the coverage. The group policy must cover at least 50 persons in order to be issued.

Mergers, Rehabilitation, Liquidation, Supervision

If funds are unclaimed after the liquidation of an insurer, those funds are deposited with the State Treasurer. The funds shall be paid without interest to the person entitled to them after the person establishes that he or she is entitled to the funds. After six years, the funds are deemed to be abandoned.

The OIC may apply for a court order to allow the Insurance Commissioner to rehabilitate a domestic insurer for a number of different reasons, generally concerning solvency, refusal to comply with statutes or order, illegal activity, or at the request of officers or stockholders. The OIC takes possession of the insurer in rehabilitation and manages the business affairs of the insurer. Ultimately, an insurer may emerge with new management, may be sold, may be merged with another insurer, or may be liquidated. The general statute of limitations for a rehabilitator to institute an action on behalf of the insurer upon a cause of action is one year.

The general statute of limitations for a liquidator to institute an action on behalf of the insurer upon a cause of action is two years.

Conversion Health Plans

As a general rule, health care plans are guaranteed to be renewable.

Subject to a few exceptions, a group health policy must offer a covered individual the ability to obtain a conversion health care plan upon the termination of the individual's eligibility for coverage under the group contract.

Individuals applying for individual health coverage are required to complete a health care questionnaire unless one of the following conditions apply: (1) they are insured in Washington but are moving to a county where their current health plan is not offered; (2) they are switching coverage because their provider is no longer in their existing carrier's network and is in the network of a prospective insurer; (3) they have exhausted federal Employee Retirement Income Security Act (ERISA) continuation coverage; (4) they do not qualify for ERISA coverage solely because of the size of their employer; or (5) they have been informed by their carrier that their conversion plan is being discontinued.

Underinsured Motor Vehicle Coverage

An "underinsured motor vehicle" is defined as a vehicle in which the party legally responsible (by virtue of ownership, maintenance, or use) for the bodily injury or property damage has either no insurance coverage or insufficient coverage to cover the full amount of the damage costs to which the injured party is legally entitled. Automobile insurance must include coverage for damages resulting from underinsured motor vehicles. An insurer must provide coverage for insureds who are legally entitled to recover damages for bodily injury, death, or property damage from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles.

In 2006, the Legislature adopted statutory changes to underinsured motor vehicle coverage as it applies to incidents that were intentionally caused by a third party but were unexpected and unintended from the standpoint of the covered person. This does not apply when a covered person intended to cause the damage for which coverage is sought.

Summary of Bill:

Home Heating Fuel Service Contracts

The registration renewal fee for home heating fuel service providers is deposited in the General Fund. If not renewed, the registration expires on June 30.

Accounting for Assets and Liabilities

The amount of time it takes before interest on a mortgage loan is not counted as an asset is shortened to 180 days regarding a loan in default or when related property taxes are delinquent.

The amortization period allowed for qualified data processing and accounting systems to be counted as assets is shortened to three years.

Separate requirements for unallocated liability loss expenses and loss reserves for workers' compensation insurance are repealed. The standards applicable to other lines of insurance apply to workers' compensation insurance.

Coordination of Benefits

The language prohibiting the reduction or refusal to pay benefits because of the existence of benefits under another health policy is removed.

Cost-sharing arrangements are calculated into the amount that is coordinated.

Annual Statements of Fraternal Benefit Societies

Foreign, and alien fraternal benefit societies are exempted from the requirement of filing their annual statement with the OIC. These insurers must file annual statements regarding their financial condition with the NAIC and the OIC.

Ocean Marine and Trade Insurance

The definition of "ocean marine and foreign trade insurance" is repealed in Chapter 48.14 RCW. A definition with the exact same language is created in Chapter 48.11 RCW. Chapter 48.11 RCW addresses insuring powers of entities.

Investments by Insurers

An investment in a first mortgage of residential real estate shall not exceed 80 percent of the market value of the real property to qualify as an asset owned by the insurer. Language perceived to be permissive is clarified.

Insurers are prohibited from having more than 65 percent of their assets in real estate. It is clarified that mortgage-backed securities qualifying under the Secondary Mortgage Market Enhancement Act of 1984 are counted toward the 65 percent limitation applying to the amount of an insurer's assets that may be held in real estate.

Insurers' investments in corporate bonds are all subject to the same qualifications, whether or not they are rated by the SVO.

Group Life Insurance

All insured persons who are required to pay all or part of the premiums must agree to the coverage. At least 20 persons must be covered by the group policy at the date of issuance.

Mergers, Rehabilitation, Liquidation, Supervision

Unclaimed funds from a liquidation of an insurer are deposited with the Department of Revenue instead of the State Treasurer.

The statute of limitations for a rehabilitator or liquidator to institute an action on behalf of the insurer is the latter of two years or two years from the discovery of the injury from which the cause of action arises. Actions brought against an insurer's former directors, officers, or

employees brought by a rehabilitator or liquidator for the benefit of the insureds or the general public are not subject to limitation.

Conversion Health Plans

The exception from the individual health care questionnaire regarding the discontinuation of a conversion plan is removed.

Underinsured Motor Vehicle Coverage

Language is modified so coverage is not available if the covered person intended to cause the event for which a claim is made.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This bill was developed with stakeholders. The items are technical or are intended to clean up issues. We'd like to thank the stakeholders and legislators. The title is fairly broad. Industry has agreed that it will not amend the bill.

(Opposed) None.

Persons Testifying: Mary Clogston, Office of the Insurance Commissioner; and Mel Sorensen, Washington Association of Health Underwriters, National Association of Independent Financial Advisors, Property Casualty Insurers Association, American Council of Life Insurers, and Professional Insurance Agents.

Persons Signed In To Testify But Not Testifying: None.