
SUBSTITUTE SENATE BILL 6715

State of Washington

61st Legislature

2010 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senator Berkey)

READ FIRST TIME 01/28/10.

1 AN ACT Relating to surplus line coverage; and amending RCW
2 48.15.040 and 48.19.410.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.15.040 and 1983 1st ex.s. c 32 s 4 are each amended
5 to read as follows:

6 If certain insurance coverages cannot be procured from authorized
7 insurers, such coverages, hereinafter designated as "surplus lines,"
8 may be procured from unauthorized insurers subject to the following
9 conditions:

10 (1) The insurance must be procured through a licensed surplus line
11 broker.

12 (2) The insurance must not be procurable, after diligent effort has
13 been made to do so from among a majority of the insurers authorized to
14 transact that kind of insurance in this state.

15 (3) Coverage (~~shall~~) must not be procured from an unauthorized
16 insurer for the purpose of securing a lower premium rate than would be
17 accepted by any authorized insurer nor to secure any other competitive
18 advantage.

1 (4) The commissioner may by (~~regulation~~) rule establish the
2 degree of effort required to comply with subsections (2) and (3) of
3 this section.

4 (5) At the time of the procuring of any such insurance (~~an~~
5 ~~affidavit~~) a declaration setting forth the facts referred to in
6 subsections (2) and (3) of this section must be executed by the surplus
7 line broker. Such (~~affidavit~~) declaration (~~shall~~) must be (~~filed~~
8 ~~with~~) submitted to the commissioner within thirty days after the
9 insurance is procured. The declaration may be in electronic, digital,
10 or other format or form as designated by the commissioner. The
11 declaration must include the following certification:

12 "I certify (or declare) under penalty of perjury that the
13 foregoing is true and correct."

14

15 Date and Place(Signature)

16 (6) A declaration submitted under this section constitutes an oath
17 required or authorized by law under chapter 9A.72 RCW.

18 **Sec. 2.** RCW 48.19.410 and 2009 c 549 s 7095 are each amended to
19 read as follows:

20 (1) The commissioner may permit the organization and operation of
21 examining bureaus for the examination of policies, daily reports,
22 binders, renewal certificates, endorsements, and other evidences of
23 insurance or of the cancellation thereof, for the purpose of
24 ascertaining that lawful rates are being charged.

25 (2) A bureau shall examine documents with regard to such kinds of
26 insurance as the commissioner may, after hearing, reasonably require to
27 be submitted for examination. A bureau may examine documents as to
28 such other kinds of insurance as the issuing insurers may voluntarily
29 submit for examination. Upon request of the commissioner, a bureau
30 shall also examine (~~affidavits~~) declarations filed pursuant to RCW
31 48.15.040, surplus lines contracts and related documents, and shall
32 make recommendations to the commissioner to assist the commissioner in
33 determining whether surplus lines have been procured in accordance with
34 chapter 48.15 RCW and rules issued thereunder.

35 (3) No bureau shall operate unless licensed by the commissioner as

1 to the kinds of insurance as to which it is permitted so to examine.
2 To qualify for a license a bureau shall:

3 (a) Be owned in trust for the benefit of all the insurers regularly
4 using its services, under a trust agreement approved by the
5 commissioner.

6 (b) Make its services available without discrimination to all
7 authorized insurers applying therefor, subject to such reasonable rules
8 and regulations as to the obligations of insurers using its services,
9 as to the conduct of its affairs, and as to the correction of errors
10 and omissions in documents examined by it as are approved by the
11 commissioner.

12 (c) Have no manager or other employee who is an employee of an
13 insurer other than to the extent that he or she is an employee of the
14 bureau owned by insurers through such trust agreement.

15 (d) Pay to the commissioner a fee of ten dollars for issuance of
16 its license.

17 (4) Such license shall be of indefinite duration and shall remain
18 in force until revoked by the commissioner or terminated at the request
19 of the bureau. The commissioner may revoke the license, after hearing,

20 (a) if the bureau is no longer qualified therefor;

21 (b) if the bureau fails to comply with a proper order of the
22 commissioner;

23 (c) if the bureau violates or knowingly participates in the
24 violation of any provision of this code.

25 (5) Any person aggrieved by any rule, regulation, act or omission
26 of a bureau may appeal to the commissioner therefrom. The commissioner
27 shall hold a hearing upon such appeal, and shall make such order upon
28 the hearing as he or she deems to be proper.

29 (6) Every such bureau operating in this state shall be subject to
30 the supervision of the commissioner, and the commissioner shall examine
31 it as provided in chapter 48.03 RCW of this code.

32 (7) Every examining bureau shall keep adequate records of the
33 outstanding errors and omissions found in coverages examined by it and
34 of its receipts and disbursements, and shall hold as confidential all
35 information contained in documents submitted to it for examination.

36 (8) The commissioner shall not license an additional bureau for the
37 examination of documents relative to a kind of insurance if such
38 documents are being examined by a then existing licensed bureau. Any

1 examining bureau operating in this state immediately prior to the
2 effective date of this code under any law of this state repealed as of
3 such date, shall have prior right to apply for and secure a license
4 under this section.

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