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HOUSE BILL 1027

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State of Washington

65th Legislature

2017 Regular Session

By Representatives Barkis, Vick, Stanford, Kirby, and Ryu; by request of Insurance Commissioner

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1 AN ACT Relating to surplus line broker licensing; and amending  
2 RCW 48.15.070 and 48.15.073.

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

4 **Sec. 1.** RCW 48.15.070 and 2010 c 18 s 1 are each amended to read  
5 as follows:

6 Any individual while a resident of this state, or any firm,  
7 corporation, or other business entity that has in its employ a  
8 qualified individual who is a resident of this state and who is  
9 authorized to exercise the powers of the firm or corporation, deemed  
10 by the commissioner to be competent and trustworthy, and while  
11 maintaining an office at a designated location in this state, may be  
12 licensed as a surplus line broker in accordance with this section.

13 (1) An applicant and a licensee for a resident surplus line  
14 broker license must have and maintain a license from the commissioner  
15 as a resident insurance producer with property and casualty lines of  
16 authority.

17 (2) Each applicant for a resident surplus line broker's license  
18 must pass the required examination and pay the required fee when  
19 applying for a license.

20 (3) If a nonresident that is licensed as a resident surplus line  
21 broker in another state moves to this state and wishes to become

1 licensed as a resident surplus line broker in this state, then the  
2 examination requirement is waived if the application is received by  
3 the commissioner within ninety days of the cancellation of the  
4 surplus line broker's resident license in the other state.

5 (4) Application to the commissioner for the license must be made  
6 on forms furnished by the commissioner. As part of, or in connection  
7 with, this application, the applicant must furnish information  
8 concerning his or her identity, including fingerprints for submission  
9 to the Washington state patrol, the federal bureau of investigation,  
10 and any governmental agency or entity authorized to receive this  
11 information for a state and national criminal history background  
12 check; personal history; experience; business records; purposes; and  
13 other pertinent information, as the commissioner may reasonably  
14 require. If in the process of verifying fingerprints, business  
15 records, or other information, the commissioner's office incurs fees  
16 or charges from another governmental agency or from a business firm,  
17 the amount of the fees or charges must be paid to the commissioner's  
18 office by the applicant.

19 ~~((+2))~~ (5) Every resident surplus line broker licensed under  
20 this chapter must maintain a bond in favor of the state of Washington  
21 in the penal sum of twenty thousand dollars, with authorized  
22 corporate sureties approved by the commissioner, conditioned that the  
23 licensee will conduct business under the license in accordance with  
24 the provisions of this chapter and that the licensee will promptly  
25 remit the taxes provided by RCW 48.15.120. The licensee must maintain  
26 such bond in force for as long as the license remains in effect.

27 ~~((+3))~~ (6) Every resident surplus line broker licensed under  
28 this chapter must maintain in force while so licensed a bond in favor  
29 of the people of the state of Washington or a named insured such that  
30 the people of the state are covered by the bond, executed by an  
31 authorized corporate surety approved by the commissioner, in the  
32 amount of two thousand five hundred dollars, or five percent of the  
33 premiums from placement of coverage with surplus line insurers in the  
34 previous calendar year, whichever is greater, but not to exceed one  
35 hundred thousand dollars total aggregate liability. The bond may be  
36 continuous in form, and total aggregate liability on the bond may be  
37 limited to the required amount of the bond. The bond must be  
38 contingent on the accounting by the resident surplus line broker to  
39 any person requesting the broker to obtain insurance, for moneys or  
40 premiums collected in connection therewith. A bond issued in

1 accordance with RCW 48.17.250 or with this subsection will satisfy  
2 the requirements of both RCW 48.17.250 and this subsection if the  
3 limit of liability is not less than the greater of the requirement of  
4 RCW 48.17.250 or the requirement of this subsection.

5 ~~((4))~~ (7) Authorized surplus line brokers of a business entity  
6 may meet the requirements of subsection ~~((3))~~ (6) of this section  
7 with a bond in the name of the business entity, continuous in form,  
8 and in the amount set forth in subsection ~~((3))~~ (6) of this  
9 section.

10 ~~((5))~~ (8) Surplus line brokers may meet the requirements of  
11 this section with a bond in the name of an association. The  
12 association must have been in existence for five years, have common  
13 membership, and have been formed for a purpose other than obtaining a  
14 bond. An individual surplus line broker remains responsible for  
15 assuring that a bond is in effect and is for the correct amount.

16 ~~((6))~~ (9) Members of an association may meet the requirements  
17 of subsection ~~((3))~~ (6) of this section with a bond in the name of  
18 the association that is continuous in form and in the amounts set  
19 forth in subsection ~~((3))~~ (6) of this section for each  
20 participating member.

21 ~~((7))~~ (10) The surety may cancel the bond and be released from  
22 further liability thereunder upon thirty days' written notice in  
23 advance to the principal. The cancellation does not affect any  
24 liability incurred or accrued under the bond before the termination  
25 of the thirty-day period.

26 ~~((8))~~ (11) Failure to have and maintain the bonds required  
27 under subsections ~~((2))~~ (5) and ~~((3))~~ (6) of this section is  
28 grounds for revocation of a license under RCW 48.15.140.

29 ~~((9))~~ (12) If a party injured under the terms of the bond  
30 required under subsection ~~((3))~~ (6) of this section requests the  
31 surplus line broker to provide the name of the surety and the bond  
32 number, the surplus line broker must provide the information within  
33 three working days after receiving the request.

34 ~~((10))~~ (13) All records relating to the bonds required by this  
35 section must be kept available and open to the inspection of the  
36 commissioner at any business time.

37 ~~((11))~~ (14) A surplus line broker's license expires if not  
38 timely renewed. Surplus line broker licenses are valid for the time  
39 period established by the commissioner unless suspended or revoked at  
40 an earlier date.

1        ~~((12))~~ (15) Subject to the right of the commissioner to  
2 suspend, revoke, or refuse to renew any surplus line broker's license  
3 as provided in this title, the license may be renewed into another  
4 like period by filing with the commissioner by any means acceptable  
5 to the commissioner on or before the expiration date a request, by or  
6 on behalf of the licensee, for the renewal accompanied by payment of  
7 the renewal fee as specified in RCW 48.14.010.

8        ~~((13))~~ (16) If the request and fee for renewal of a surplus  
9 line broker's license are filed with the commissioner prior to  
10 expiration of the existing license, the licensee may continue to act  
11 under the license, unless sooner revoked or suspended, until the  
12 issuance of a renewal license, or until the expiration of fifteen  
13 days after the commissioner has refused to renew the license and has  
14 mailed notification of the refusal to the licensee. If the request  
15 and fee for the license are not received by the expiration date, the  
16 authority conferred by the license ends on the expiration date.

17        ~~((14))~~ (17) If the request for renewal of a surplus line  
18 broker's license and payment of the fee are not received by the  
19 commissioner prior to the expiration date, the applicant for renewal  
20 must pay to the commissioner in addition to the renewal fee, a  
21 surcharge as follows:

22        (a) For the first thirty days or part thereof of delinquency, the  
23 surcharge is fifty percent of the renewal fee; and

24        (b) For the next thirty days or part thereof of delinquency, the  
25 surcharge is one hundred percent of the renewal fee.

26        ~~((15))~~ (18) If the request for renewal of a surplus line  
27 broker's license and payment of the renewal fee are not received by  
28 the commissioner after sixty days but prior to twelve months after  
29 the expiration date, the application must be for reinstatement of the  
30 license and the applicant for reinstatement must pay to the  
31 commissioner the license fee and a surcharge of two hundred percent  
32 of the license fee.

33        ~~((16))~~ (19) Subsections ~~((14))~~ (17) and ~~((15))~~ (18) of this  
34 section do not exempt any person from any penalty provided by law for  
35 transacting business without a valid and subsisting license.

36        ~~((17))~~ (20) An individual surplus line broker who allows his or  
37 her license to lapse may, within twelve months after the expiration  
38 date, reinstate the same license without the necessity of passing a  
39 written examination.

1       ~~((18))~~ (21) For the purposes of this section, a "qualified  
2 individual" is a natural person who has met all the requirements that  
3 must be met by an individual surplus line broker.

4       ~~((19))~~ (22) The commissioner may require any documents  
5 reasonably necessary to verify the information contained in an  
6 application and may, from time to time, require any licensed surplus  
7 line broker to produce the information called for in an application  
8 for license.

9       **Sec. 2.** RCW 48.15.073 and 2010 c 18 s 2 are each amended to read  
10 as follows:

11       (1) The commissioner may license a nonresident person as a  
12 surplus line broker ~~((a person who is otherwise qualified under this  
13 code but))~~ who is not a resident of this state ~~((, if by the laws of  
14 the state or province of his or her residence or domicile a similar  
15 privilege is extended to residents of this state))~~ if the person's  
16 resident state issues nonresident surplus line broker licenses to  
17 residents of this state on the same basis.

18       (2) A ~~((person under subsection (1) of this section must meet the  
19 same qualifications as any other person seeking to be licensed as a  
20 surplus line broker under this chapter, except for residency, and is  
21 not required to submit fingerprints with the license application for  
22 a background check))~~ nonresident that holds a surplus line broker's  
23 license, or the equivalent, in the applicant's home state, and that  
24 license is in good standing is deemed qualified and meets the minimum  
25 standards of this state for licensing as a nonresident surplus line  
26 broker. ~~((A person granted))~~

27       (3) Once a person has been issued a nonresident surplus line  
28 broker's license by the commissioner, the licensee must fulfill all  
29 the same responsibilities as ~~((any other))~~ a resident surplus line  
30 broker, except for bonding, and is subject to the (a) commissioner's  
31 supervision as though resident in this state and (b) rules adopted  
32 under this chapter.

33       ~~((3))~~ (4) A nonresident surplus line broker's license expires  
34 if not timely renewed. A nonresident surplus line broker's license is  
35 valid for the time period established by the commissioner unless  
36 suspended or revoked at an earlier date. The request and fee for the  
37 renewal of the license is the same as the renewal and fee  
38 requirements for a resident surplus line broker licensed under RCW  
39 48.15.070.

1        (~~(4)~~) (5) Each licensed nonresident surplus line broker, by  
2 application for and issuance of a license, is deemed to have  
3 appointed the commissioner as the surplus line broker's attorney to  
4 receive service of legal process issued against the surplus line  
5 broker in this state upon causes of action arising within this state.  
6 Service upon the commissioner as attorney constitutes effective legal  
7 service upon the surplus line broker.

8        (a) The appointment of the commissioner as attorney is  
9 irrevocable, binds any successor in interest or to the assets or  
10 liabilities of the surplus line broker, and remains in effect for as  
11 long as there could be any cause of action against the surplus line  
12 broker arising out of the surplus line broker's insurance  
13 transactions in this state.

14        (b) Service of legal process must be accomplished and processed  
15 in the manner prescribed in RCW 48.02.200.

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