

HOUSE BILL REPORT

HB 2817

As Passed Legislature

Title: An act relating to insurance investments in limited liability companies formed to develop real property.

Brief Description: Regulating insurance investments in limited liability companies formed to develop real property.

Sponsors: By Representatives Hatfield and Newhouse.

Brief History:

Committee Activity:

Financial Institutions & Insurance: 1/28/04, 2/4/04 [DP].

Floor Activity:

Passed House: 2/14/04, 95-0.

Passed Senate: 3/4/04, 43-1.

Passed Legislature.

Brief Summary of Bill

- Authorizes insurers to participate in a limited liability company for the purpose of developing its real estate.
- Limits the investment to 4 percent of the insurance company's assets.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass. Signed by 11 members: Representatives Schual-Berke, Chair; Simpson, G., Vice Chair; Benson, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Cairnes, Carrell, Cooper, Hatfield, Roach, Santos and Simpson, D.

Staff: Carrie Tellefson (786-7127).

Background:

Insurers may invest its funds only as specifically authorized in the insurance code. With the exception of real estate and mortgage loans, all investments must be interest bearing or interest accruing or dividend or income paying. An insurer may invest in securities,

real property, mortgage loans, bonds, and other investments, subject to certain limitations.

An insurer may own and invest in its home office and branch office buildings an aggregate amount not exceeding 10 percent of its assets, unless approved by the Commissioner. An insurer may own real property acquired in satisfaction of a loan, mortgage, lien, judgement or other debt previously owed to the insurer. An insurer may invest in the aggregate, no more than 3 percent of its assets in the following real property: required for corporate offices; received as a gift or devise; acquired in exchange for other real property; acquired through a lawful merger or consolidation with another insurer; or, with approval of the Commissioner, real property purchased to protect or enhance the value of the insurer's other real property.

An insurer may loan or invest, in the aggregate, no more than 10 percent of its assets or 50 percent of its surplus less capital and other liabilities (whichever is less). A mutual insurer may loan or invest, in the aggregate, no more than 10 percent of its assets or 50 percent of its surplus over and above the minimum required surplus amount (whichever is less).

An insurer may not invest more than 1 percent of its assets in any one investment.

A Limited Liability Company (LLC) is a relatively new business structure allowed by state statute. The LLCs are desirable because, similar to a corporation, owners have limited personal liability for the LLC's debts and actions. The LLCs are formed by one or more individuals or entities through a special written agreement. The agreement details the organization of the LLC, including provisions for management, assignability of interests, and distribution of profits or losses.

The LLCs were created decades after the insurance code was adopted.

Summary of Bill:

An insurer may invest in a limited liability company in order to develop its real property so long as the investment does not amount to more than 4 percent of its assets.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The OIC supports this bill. These are the kinds of investments that OIC does not let them make. National models allow for this. The statute requires 1 percent limit on any one investment. In today's marketplace, it should be more.

PEMCO was founded by teachers in 1946 as a credit union. They moved to Eastlake in Seattle and now they are off of I-5. They originally acquired the property with the idea that they may expand. A lot has changed in the neighborhood over the years and property values have significantly increased.

This bill allows insurers to develop their real estate using an LLC. A 1 percent limitation is currently in place. It would change to a 4 percent cap under the bill. An LLC gives them a lot of flexibility to decide how much they want to invest. They are an insurance company, not a real estate development company. That's why they want to be part of an LLC to develop this property. This bill gives them the option to do this.

Testimony Against: None.

Persons Testifying: Jim Bricker and Steve Ricco, PEMCO Financial Services; Bill Daley, Office of the Insurance Commissioner; and Jean Leonard, Washington Insurers.

Persons Signed In To Testify But Not Testifying: None.