

HOUSE BILL REPORT

HB 2211

As Reported by House Committee On:
Business & Financial Services

Title: An act relating to surplus lines.

Brief Description: Addressing surplus lines of insurance.

Sponsors: Representative Fagan.

Brief History:

Committee Activity:

Business & Financial Services: 1/17/14, 1/21/14 [DP].

Brief Summary of Bill

- Clarifies the premium tax required for surplus line property and casualty insurance for risks inside or outside of the United States.

HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

Majority Report: Do pass. Signed by 14 members: Representatives Kirby, Chair; Ryu, Vice Chair; Parker, Ranking Minority Member; Vick, Assistant Ranking Minority Member; Blake, Fagan, Hawkins, Hudgins, G. Hunt, Hurst, Kochmar, MacEwen, Santos and Stanford.

Staff: Linda Merelle (786-7092).

Background:

Surplus Lines Insurance.

Generally, an insurance company cannot engage in the business of insurance in the state unless the insurance company is authorized to do so by the Office of the Insurance Commissioner (OIC). "Surplus lines" insurance coverage is an exception. Surplus lines insurance is coverage that cannot be procured from authorized insurance companies. Often, surplus lines policies cover risks that do not fit normal underwriting patterns or fit standard insurance policies. Unlike insurance offered by an authorized insurer, surplus lines insurance is not subject to rate and policy form oversight.

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.

Under insurance statutes, if coverage cannot be purchased from an authorized insurer, the coverage may be purchased from an unauthorized insurer through a licensed surplus lines broker if: (1) a diligent effort is made to find the coverage from authorized insurers; and (2) the purpose for using an unauthorized insurer is something other than securing a lower premium rate than would be accepted by any authorized insurer.

The surplus lines broker must execute an affidavit setting forth the facts regarding the diligent effort and the purpose for using an unauthorized insurer when insurance is purchased from an unauthorized insurer. The affidavit must be filed with the OIC within 30 days after the purchase of the insurance.

Licensing requirements regarding surplus lines brokers include background checks, including fingerprints; minimum bonding amounts; record-keeping; and reporting.

Home State.

An insured's "home state," if the insured is a business, is the state where the insured maintains its headquarters. For an individual, it is his or her principal residence or, if all of the insured risk is located outside of Washington, the state to which the greatest percentage of the insured's taxable premium is allocated.

Surplus Lines Premium Tax.

A surplus lines broker must pay a tax of 2 percent on the premiums for surplus lines insurance transacted by the broker. The tax is credited to the General Fund. If a surplus lines policy covers risks or exposures that are only partially located in this state, the tax is computed upon the proportion of the risks or exposures located in this state.

For property and casualty insurance, if this state is the insured's home state, the tax is computed upon the entire premium without regard to whether the policy covers risks or exposures that are located in this state. For all other lines of insurance, the tax is computed upon the proportion of the premium that is properly allocable to the risks or exposures located in this state.

Summary of Bill:

The tax on the premiums for surplus line property and casualty insurance must be computed upon the entire premium where the risks or exposures covered are located inside the United States or its territories. The tax must be computed upon the entire premium, regardless of whether the risks or exposures are located in Washington. If the surplus line insurance covers risks or exposures located outside of the U.S. and its territories, no tax is due or payable for the portion of the premium properly allocated to risks and exposures located outside the U.S. and its territories.

Appropriation: None.

Fiscal Note: Not requested.

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

Staff Summary of Public Testimony:

(In support) This bill is purely a clarification of the insurance code. The first section of the bill modernizes the current statute and requires every surplus line policy to have a disclaimer stamp. The Washington Guarantee Trust Fund law does not apply. In July 2011, the Dodd-Frank Act (Act) went into place. Prior to the Act, Washington only collected tax on the portion of an exposure that was located in Washington. Under Dodd-Frank, everything was combined, and the home state was able to collect taxes on exposures within the U.S., not just Washington. The Act made no mention of foreign exposure. The premium tax was never intended to apply to foreign jurisdictions because taxes are already paid there.

(Opposed) None

Persons Testifying: Representative Fagan, prime sponsor; Robert Hope, Surplus Lines Association of Washington.

Persons Signed In To Testify But Not Testifying: None.