

SENATE BILL REPORT

SHB 1266

As Reported by Senate Committee On:
Business, Financial Services, Gaming & Trade, March 14, 2023

Title: An act relating to the use of email by the office of the insurance commissioner when communicating with licensees.

Brief Description: Concerning email communication by the office of the insurance commissioner.

Sponsors: House Committee on Consumer Protection & Business (originally sponsored by Representatives Santos, Corry and Reeves).

Brief History: Passed House: 2/28/23, 97-0.

Committee Activity: Business, Financial Services, Gaming & Trade: 3/09/23, 3/14/23 [DP].

Brief Summary of Bill

- Establishes new procedures the Office of the Insurance Commissioner must follow to communicate with licensees by email.
- Creates a process by which licensees may petition and obtain a refund of fines incurred for prior failures to respond to an email from the Office of the Insurance Commissioner.

SENATE COMMITTEE ON BUSINESS, FINANCIAL SERVICES, GAMING & TRADE

Majority Report: Do pass.

Signed by Senators Stanford, Chair; Frame, Vice Chair; Dozier, Ranking Member; Boehnke, Gildon, Hasegawa, Lovick, MacEwen and Mullet.

Staff: Kellee Gunn (786-7429)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Background: Office of the Insurance Commissioner. The Office of the Insurance Commissioner (OIC) provides oversight to the insurance industry in Washington through insurance producer and insurance company licensing. The OIC also reviews and approves the insurance products that carriers and insurers sell, making sure policies conform to state laws and regulations.

Required Timely Response by Licensees. Every insurance licensee in this state must reply promptly in writing to an inquiry of the OIC related to the business of insurance. A timely response is one that is received by the OIC within 15 business days from receipt. Failure by a licensee to make a timely response constitutes a violation which may result in a fine or other disciplinary action against their license.

Summary of Bill: Required Mail to Licensee. Any written communication, including notification of investigation, audit and findings resulting from an audit, which directly affects a person's license must be sent by mail from the OIC to the person's last address of record.

Email Correspondence Between the Office of the Insurance Commissioner and Licensees. Every licensee shall provide the OIC with a current email address and inform the OIC of a change of email address within 30 days.

The OIC may send a written communication by email to the licensee's email address if:

- the communication is not otherwise required to be sent to the person's mailing address;
- the person has consented to receive communication from the OIC by email; and
- the email from the OIC does not require a response or, if a response is required, the certain requirements regarding timely response are met prior to the commissioner sending an email.

Email communication sent to an applicant prior to the issuance of a license, and auto-generated system emails regarding a license application or license renewal process, are excluded from these requirements.

Every insurance producer, title insurance agent, adjuster, surplus line broker, or other person licensed by the OIC must timely respond in writing to an inquiry of the OIC sent to a person's email address.

When an email requires a response, the OIC must send at least two separate emails with a subject line stating: "Response required" and prominently display in large font that failure to respond to the email is a violation of state law and may result in certain penalties including fines and license revocation. Additional requirements are set forth for the OIC if the email is undeliverable.

A licensee is in violation of not responding to the email after a third and final written

inquiry by certified mail has been delivered to the person's last known mailing address and the OIC fails to receive a response in 15 business days.

Refunds for Licensees Affected by an Email-Based Violation. An email-based violation is one that resulted in a licensee's failure to provide a timely response to the OIC.

The OIC shall develop and implement a process for a licensee, who was penalized for an email-based violation as it existed prior to July 1, 2023, to petition for the removal of any disciplinary investigations and orders in the public disciplinary record. Upon receipt of the petition, the OIC shall immediately remove the disciplinary investigations and orders affecting the licensee's public disciplinary record and send notice to both the National Insurance Producer Registry with a request to expunge the record of an administrative action. The affected licensee must receive, by certified mail, a copy of the commissioner's notice to the Registry.

The OIC shall refund any fines collected by any licensee who was penalized by the failure to provide a timely response to an email.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2023.

Staff Summary of Public Testimony: PRO: This bill comes from a result of a constituent casework. One of my constituents had received a letter in the mail from the OIC informing him that his license, which he has held for 30 years, was being rescinded. He had allegedly received an email from the OIC, and he did not respond. The first communication he received from the OIC was that one regarding his license being revoked. This measure lays out clear procedures for the OIC to follow if a license is at risk. Many insurance licensees have been affected by this. If someone is not able to practice and apply their craft, how will they support their families?

I have been licensed for over 35 years. My license was revoked, and OIC refused to stop the matter. I had to pay an attorney, to assist in getting my license reinstated. It was incredibly costly in both time and money. I never initially received the OIC's email with the survey. The procedure needs to be fairer and include a registered letter.

This problem has been faced by about 340 agents because of this survey. The survey asked if they charge fees. It did not include language that not responding would affect their license. The circumstances of going through an administrative law judge can cost a person thousands of dollars. Actions against an insurance producer's license can affect their ability

to work with a company, their livelihood. The OIC is in support of this legislation and is incredibly sorry for the issues Karl, and others, faced. The OIC periodically conducts compliance audits, which is what brought about this issue. When the survey was sent out, it was not clear whether the survey was optional or required. In the summer of 2022, the survey language was changed. And the OIC has now implemented a requirement of sending a letter by certified mail. This bill codifies the changes already made and establishes clear authority for refunding fines and expunging records that were negatively affected by this issue.

Persons Testifying: PRO: Representative Sharon Tomiko Santos, Prime Sponsor; Bryon Welch, Office of the Insurance Commissioner; Karl Robinson, Robinson Group, Inc.; Bill Stauffacher, Independent Insurance Agents and Brokers of Washington.

Persons Signed In To Testify But Not Testifying: No one.