
SENATE BILL 5809

State of Washington

55th Legislature

1997 Regular Session

By Senators Fraser, Hale, Winsley and Prentice

Read first time 02/13/97. Referred to Committee on Financial Institutions, Insurance & Housing.

1 AN ACT Relating to the financial condition of unauthorized
2 insurers; amending RCW 48.15.090; and providing an effective date.

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

4 **Sec. 1.** RCW 48.15.090 and 1994 c 86 s 2 are each amended to read
5 as follows:

6 (1) A surplus line broker shall not knowingly place surplus line
7 insurance with insurers unsound financially. The surplus line broker
8 shall ascertain the financial condition of the unauthorized insurer,
9 and maintain written evidence thereof, before placing insurance
10 therewith. The surplus line broker shall not so insure with:

11 (a) Any foreign insurer having less than six million dollars of
12 capital and surplus or substantially equivalent capital funds, of which
13 not less than one million five hundred thousand dollars is capital; or

14 (b) Any alien insurer having less than six million dollars of
15 capital and surplus or substantially equivalent capital funds. By
16 January 1, 1992, this requirement shall be increased to twelve million
17 five hundred thousand dollars. By January 1, 1993, this requirement
18 shall be further increased to fifteen million dollars.

1 Such alien insurers must have in force in the United States an
2 irrevocable trust (~~(account)~~) fund, in a qualified United States
3 financial institution, on behalf of United States policyholders of not
4 less than (~~(two)~~) five million (~~(five)~~) four hundred thousand dollars
5 and consisting of cash, securities, letters of credit, or of
6 investments of substantially the same character and quality as those
7 which are eligible investments for the capital and statutory reserves
8 of admitted insurers authorized to write like kinds of insurance in
9 this state.

10 There must be on file with the commissioner a copy of the trust,
11 certified by the trustee, evidencing a subsisting trust fund deposit
12 having an expiration date which at no time shall be less than five
13 years after the date of creation of the trust. Such trust fund shall
14 be included in the calculation of the insurer's capital and surplus or
15 its equivalents; or

16 (c) Any group including incorporated and individual insurers
17 maintaining a trust fund of less than fifty million dollars as security
18 to the full amount thereof for all policyholders in the United States
19 of each member of the group, and such trust shall likewise comply with
20 the terms and conditions established in (b) of this subsection for an
21 alien insurer; or

22 (d) Any insurance exchange created by the laws of an individual
23 state, maintaining capital and surplus, or substantially equivalent
24 capital funds of less than fifty million dollars in the aggregate. For
25 insurance exchanges which maintain funds for the protection of all
26 insurance exchange policyholders, each individual syndicate shall
27 maintain minimum capital and surplus, or the substantial equivalent
28 thereof, of not less than six million dollars. In the event the
29 insurance exchange does not maintain funds for the protection of all
30 insurance exchange policyholders, each individual syndicate shall meet
31 the minimum capital and surplus requirements of (a) of this subsection.

32 (2) The commissioner may, by rule:

33 (a) Increase the financial requirements under subsection (1) of
34 this section by not more than one million dollars in any twelve-month
35 period, but in no case may the requirements exceed fifteen million
36 dollars; or

37 (b) Prescribe the terms under which the foregoing financial
38 requirements may be waived in circumstances where insurance cannot be
39 otherwise procured on risks located in this state.

1 (3) For any violation of this section the surplus line broker may
2 be fined not less than one hundred dollars or more than five thousand
3 dollars, and in addition to or in lieu thereof the surplus line
4 broker's license may be revoked, suspended, or nonrenewed.

5 NEW SECTION. **Sec. 2.** This act takes effect June 1, 1998.

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