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SENATE BILL 6527

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State of Washington 57th Legislature

2002 Regular Session

By Senators Keiser, Winsley, Deccio, Gardner and Rasmussen; by request of Insurance Commissioner

Read first time 01/21/2002. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to the process of applying for a license or  
2 solicitation permit from the insurance commissioner; amending RCW  
3 48.06.040, 48.17.090, 48.15.070, 48.56.030, and 48.102.015; and  
4 declaring an emergency.

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

6 **Sec. 1.** RCW 48.06.040 and 1967 c 150 s 6 are each amended to read  
7 as follows:

8 To apply for a solicitation permit the person shall:

9 (1) File with the commissioner a request (~~((therefor))~~) showing((~~(7)~~)):

10 (a) Name, type, and purpose of insurer, corporation, or syndicate  
11 proposed to be formed;

12 (b) Names, addresses, fingerprints for submission to the Washington  
13 state patrol, the federal bureau of investigation, and any governmental  
14 agency or entity authorized to receive this information for a state and  
15 national criminal history background check, and business records of  
16 each person associated or to be associated in the formation of the  
17 proposed insurer, corporation, or syndicate;

18 (c) Full disclosure of the terms of all understandings and  
19 agreements existing or proposed among persons so associated relative to

1 the proposed insurer, corporation, or syndicate, or the formation  
2 thereof;

3 (d) The plan according to which solicitations are to be made; and

4 (e) ~~((such))~~ Additional information as the commissioner may  
5 reasonably require.

6 (2) File with the commissioner~~((7))~~:

7 (a) Original and copies in triplicate of proposed articles of  
8 incorporation, or syndicate agreement; or, if the proposed insurer is  
9 a reciprocal, original and duplicate of the proposed subscribers'  
10 agreement and attorney in fact agreement;

11 (b) Original and duplicate copy of any proposed bylaws;

12 (c) Copy of any security proposed to be issued and copy of  
13 application or subscription agreement ~~((therefor))~~ for that security;

14 (d) Copy of any insurance contract proposed to be offered and copy  
15 of application ~~((therefor))~~ for that contract;

16 (e) Copy of any prospectus, advertising, or literature proposed to  
17 be used; and

18 (f) Copy of proposed form of any escrow agreement required.

19 (3) Deposit with the commissioner the fees required by law to be  
20 paid for the application including fees associated with the state and  
21 national criminal history background check, for filing of the articles  
22 of incorporation of an insurer, for filing the subscribers' agreement  
23 and attorney in fact agreement if the proposed insurer is a reciprocal,  
24 for the solicitation permit, if granted, and for filing articles of  
25 incorporation with the secretary of state.

26 **Sec. 2.** RCW 48.17.090 and 2001 c 56 s 1 are each amended to read  
27 as follows:

28 (1) Application for ~~((any such))~~ a license to be an agent, broker,  
29 solicitor, or adjuster shall be made to the commissioner upon forms  
30 ~~((as prescribed and))~~ furnished by the commissioner. As a part of or  
31 in connection with any such application, the applicant shall furnish  
32 information concerning his or her identity, including fingerprints for  
33 submission to the Washington state patrol, the federal bureau of  
34 investigation, and any governmental agency or entity authorized to  
35 receive this information for a state and national criminal history  
36 background check, personal history, experience, business record,  
37 purposes, and other pertinent facts, as the commissioner may reasonably  
38 require.

1 (2) Persons resident in the United States but not in Washington may  
2 apply for such a license on a form prepared by the national association  
3 of insurance commissioners or others, if those forms are approved by  
4 the commissioner by rule. An applicant shall also furnish any other  
5 information required to be submitted but not provided for in that form.

6 (3) Any person willfully misrepresenting any fact required to be  
7 disclosed in any such application shall be liable to penalties as  
8 provided by this code.

9 (4) If in the process of verifying fingerprints under subsection  
10 (1) of this section, business records, or other information the  
11 commissioner's office incurs fees or charges from another governmental  
12 agency or from a business firm, the amount of such fees or charges  
13 shall be paid to the commissioner's office by the applicant (~~and shall~~  
14 ~~be considered the recovery of a previous expenditure~~)).

15 **Sec. 3.** RCW 48.15.070 and 1994 c 131 s 3 are each amended to read  
16 as follows:

17 Any individual while a resident of this state, or any firm or any  
18 corporation that has in its employ a qualified individual who is a  
19 resident of this state and who is authorized to exercise the powers of  
20 the firm or corporation, deemed by the commissioner to be competent and  
21 trustworthy, and while maintaining an office at a designated location  
22 in this state, may be licensed as a surplus line broker in accordance  
23 with this section.

24 (1) Application to the commissioner for the license shall be made  
25 on forms furnished by the commissioner. As part of, or in connection  
26 with, this application, the applicant shall furnish information  
27 concerning his or her identity, including fingerprints for submission  
28 to the Washington state patrol, the federal bureau of investigation,  
29 and any governmental agency or entity authorized to receive this  
30 information for a state and national criminal history background check;  
31 personal history; experience; business records; purposes; and other  
32 pertinent information, as the commissioner may reasonably require.

33 (2) The license shall expire if not timely renewed. Surplus line  
34 brokers licenses shall be valid for the time period established by the  
35 (~~commission~~) commissioner unless suspended or revoked at an earlier  
36 date.

37 (3) Prior to issuance of license the applicant shall file with the  
38 commissioner a bond in favor of the state of Washington in the penal

1 sum of twenty thousand dollars, with authorized corporate sureties  
2 approved by the commissioner, conditioned that he or she will conduct  
3 business under the license in accordance with the provisions of this  
4 chapter and that he or she will promptly remit the taxes provided by  
5 RCW 48.15.120. The licensee shall maintain such bond in force for as  
6 long as the license remains in effect.

7 (4) Every applicant for a surplus line broker's license or for the  
8 renewal of a surplus line broker's license shall file with the  
9 application or request for renewal a bond in favor of the people of the  
10 state of Washington, executed by an authorized corporate surety  
11 approved by the commissioner, in the amount of one hundred thousand  
12 dollars and shall be the bonding requirement for new licensees. The  
13 licensee shall maintain such bond in force while so licensed. The bond  
14 may be continuous in form, and total aggregate liability on the bond  
15 may be limited to the amount stated in the bond. The bond shall be  
16 contingent on the accounting by the surplus line broker to any person  
17 requesting such broker to obtain insurance, for moneys or premiums  
18 collected in connection therewith. A bond issued in accordance with  
19 RCW 48.17.250 or with this subsection will satisfy the requirements of  
20 both RCW 48.17.250 and this subsection if the limit of liability is not  
21 less than the greater of the requirement of RCW 48.17.250 or the  
22 requirement of this subsection.

23 (5) Any bond issued pursuant to subsection (3) or (4) of this  
24 section shall remain in force until the surety is released from  
25 liability by the commissioner, or until the bond is canceled by the  
26 surety. Without prejudice to any liability accrued prior to such  
27 cancellation, the surety may cancel the bond upon thirty days' advance  
28 notice in writing filed with the commissioner.

29 (6) If in the process of verifying fingerprints under subsection  
30 (1) of this section, business records, or other information the  
31 commissioner's office incurs fees or charges from another governmental  
32 agency or from a business firm, the amount of the fees or charges shall  
33 be paid to the commissioner's office by the applicant.

34 (7) For the purposes of this section, a "qualified individual" is  
35 a natural person who has met all the requirements that must be met by  
36 an individual surplus line broker.

37 **Sec. 4.** RCW 48.56.030 and 1969 ex.s. c 190 s 3 are each amended to  
38 read as follows:

1 (1) No person shall engage in the business of financing insurance  
2 premiums in the state without first having obtained a license as a  
3 premium finance company from the commissioner. Any person who shall  
4 engage in the business of financing insurance premiums in the state  
5 without obtaining a license as provided hereunder shall, upon  
6 conviction, be guilty of a misdemeanor and shall be subject to the  
7 penalties provided in this chapter.

8 (2)(a) Application to the commissioner for the license shall be  
9 made on forms furnished by the commissioner. As part of, or in  
10 connection with, this application, the applicant and, at the  
11 commissioner's discretion, any or all stockholders, directors,  
12 partners, officers, and employees of the business shall furnish  
13 information concerning his or her identity, including fingerprints for  
14 submission to the Washington state patrol, the federal bureau of  
15 investigation, and any governmental agency or entity authorized to  
16 receive this information for a state and national criminal history  
17 background check; personal history; experience; business records;  
18 purposes; and other pertinent information, as the commissioner may  
19 reasonably require.

20 (b) The annual license fee shall be one hundred dollars. Licenses  
21 may be renewed from year to year as of the first day of May of each  
22 year upon payment of the fee of one hundred dollars. The fee for  
23 (~~said~~) the license shall be paid to the insurance commissioner.

24 (3) The person to whom the license or the renewal (~~thereof~~) may  
25 be issued shall file sworn answers, subject to the penalties of  
26 perjury, to such interrogatories as the commissioner may require. The  
27 commissioner shall have authority, at any time, to require the  
28 applicant (~~fully~~) to disclose fully the identity of all stockholders,  
29 directors, partners, officers, and employees and (~~he~~) may, in his or  
30 her discretion, refuse to issue or renew a license in the name of any  
31 firm, partnership, or corporation if he (~~is not satisfied~~) or she  
32 finds that any officer, employee, stockholder, or partner (~~thereof~~)  
33 who may materially influence the applicant's conduct (~~meets~~) does not  
34 meet the standards of this chapter.

35 (4) This section shall not apply to any savings and loan  
36 association, bank, trust company, (~~small loan company,~~) consumer loan  
37 company, industrial loan company or credit union authorized to do  
38 business in this state but RCW 48.56.080 through 48.56.130 and any  
39 rules (~~promulgated~~) adopted by the commissioner pertaining to such

1 sections shall be applicable to such organizations, if otherwise  
2 eligible, under all premium finance transactions wherein an insurance  
3 policy, other than a life or disability insurance policy, or any rights  
4 thereunder is made the security or collateral for the repayment of the  
5 debt, however, neither this section nor the provisions of this chapter  
6 shall be applicable to the inclusion of insurance in a retail  
7 installment transaction or to insurance purchased in connection with a  
8 real estate transaction, mortgage, deed of trust, or other security  
9 instrument or an insurance company authorized to do business in this  
10 state unless the insurance company elects to become a licensee.

11 (5) If in the process of verifying fingerprints under subsection  
12 (2) of this section, business records, or other information the  
13 commissioner's office incurs fees or charges from another governmental  
14 agency or from a business firm, the amount of the fees or charges shall  
15 be paid to the commissioner's office by the applicant.

16 **Sec. 5.** RCW 48.102.015 and 1995 c 161 s 3 are each amended to read  
17 as follows:

18 (1) The commissioner may suspend, revoke, or refuse to issue or  
19 renew the license of any viatical settlement broker or viatical  
20 settlement provider if the commissioner finds that:

21 (a) There was any misrepresentation, intentional or otherwise, in  
22 the application for the license or for renewal of a license;

23 (b) The applicant for, or holder of any such license, is or has  
24 been subject to a final administrative action for being, or is  
25 otherwise shown to be, untrustworthy or incompetent to act as either a  
26 viatical settlement broker or a viatical settlement provider;

27 (c) The applicant for, or holder of any such license, demonstrates  
28 a pattern of unreasonable payments to viators;

29 (d) The applicant for, or holder of any such license, has been  
30 convicted of a felony or of any criminal misdemeanor of which criminal  
31 fraud is an element; or

32 (e) The applicant for, or holder of any such license, has violated  
33 any provision of this title.

34 (2) The commissioner may (~~from time to time~~) require an applicant  
35 or the holder of any license issued under this chapter to supply  
36 current information on the identity or capacity of stockholders,  
37 partners, officers, and employees, including but not limited to the  
38 following: Fingerprints, personal history, business experience,

1 business records, and any other information which the commissioner may  
2 require. If required, the applicant or licensee shall furnish his or  
3 her fingerprints for submission to the Washington state patrol, the  
4 federal bureau of investigation, and any governmental agency or entity  
5 authorized to receive this information for a state and national  
6 criminal history background check.

7 (3) Before the commissioner suspends or revokes any license issued  
8 under this chapter, (~~or refuses to issue any such license,~~) the  
9 commissioner shall conduct a hearing, if the applicant or licensee  
10 requests this in writing. The hearing shall be in accordance with  
11 chapters 34.05 and 48.04 RCW.

12 (4) After a hearing or with the consent of any party licensed under  
13 this chapter and in addition to or in lieu of the suspension,  
14 revocation, or refusal to renew any license under this chapter, the  
15 commissioner may levy a fine upon the viatical settlement provider in  
16 an amount not more than ten thousand dollars, for each violation of  
17 this chapter. The order levying the fine shall specify the period  
18 within which the fine shall be fully paid, and that period shall not be  
19 less than fifteen nor more than thirty days from the date of the order.  
20 Upon failure to pay the fine when due, the commissioner may revoke the  
21 license if not already revoked, and the fine may be recovered in a  
22 civil action brought in behalf of the commissioner by the attorney  
23 general. Any fine so collected shall be deposited into the general  
24 fund.

25 (5) If in the process of verifying fingerprints under subsection  
26 (2) of this section, business records, or other information the  
27 commissioner's office incurs fees or charges from another governmental  
28 agency or from a business firm, the amount of the fees or charges shall  
29 be paid to the commissioner's office by the applicant or licensee.

30 NEW SECTION. **Sec. 6.** This act is necessary for the immediate  
31 preservation of the public peace, health, or safety, or support of the  
32 state government and its existing public institutions, and takes effect  
33 immediately.

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