HOUSE BILL REPORT
SHB 1197

As Passed House:
March 3, 2005

Title: An act relating to insurance.

Brief Description: Regulating insurance, generally.

Sponsors: By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Roach and Kirby; by request of Insurance Commissioner).

Brief History:
Committee Activity:
Financial Institutions & Insurance: 1/27/05, 2/3/05 [DPS].
Floor Activity:
Passed House: 3/3/05, 97-0.

Brief Summary of Substitute Bill

- Conforms Medicare Supplement provisions to changes in federal law.
- Changes minimum capital and surplus requirements for title insurers.
- Allows the Insurance Commissioner to adopt rules exempting commercial property casualty forms from filing requirements.
- Allows the Insurance Commissioner to adopt rules allowing agents to place business with an insurer prior to notifying the Commissioner of the appointment.
- Makes numerous updates, clarifications, and technical changes to the Insurance Code.

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Kirby, Chair; Ericks, Vice Chair; Roach, Ranking Minority Member; Tom, Assistant Ranking Minority Member; Newhouse, Santos, Schual-Berke, Serben, Simpson and Williams.

Staff: Jon Hedegard (786-7127).

Background:

The Insurance Commissioner (Commissioner) is authorized to regulate all insurance business in Washington, including certification of various types of insurers, approval of rate and form contracts, licensing of agents and brokers, collection of premium taxes, and responding to consumer complaints.

Title Insurance Reserve Requirements:
A title insurance company must obtain a certificate of authority from the Office of the Insurance Commissioner (OIC) to conduct business in Washington. The certificate will not be issued unless the title insurer makes a guaranty fund deposit with the OIC. The amount required to be deposited is based on the size of the largest county in which the insurer is authorized to transact business. The amount ranges from $10,000 for a county with a population under 15,000 up to $200,000 for a county with a population over 500,000. Title insurers are also required to keep a reserve fund. The amount is determined by applying the rate of 25 cents for each $1,000 of net increase of insurance it has in force at the end of the year. This must continue or resume as needed to maintain the special reserve fund at an amount equal to not less than the required guaranty fund deposit. The reserve fund is held by the insurer as an additional guaranty fund, and is used only for the payment of losses after the insurer's liquid resources have been exhausted.

Medicare Supplement:
Medicare Supplement products are designed to fill in the "gaps" where Medicare does not provide coverage. Medicare Supplement products are filed for review by the Insurance Commissioner. The products are subject to state and federal requirements, including the Health Insurance Portability and Accountability Act (HIPAA) and the Medicare Modernization Act of 2003.

Regulation of commercial property casualty forms:
Generally, commercial property casualty rates and forms must be filed with the Insurance Commissioner within 30 days of issuance. The Commissioner has, by rule, exempted certain commercial property casualty rates from filing but is precluded from doing so with forms.

Appointment of agents:
Agents must be appointed by an insurer before they can place business with the insurer.

Group life insurance:
There is a limitation in a group life insurance contract that an employee may purchase a life insurance policy on a spouse or child in an amount not to exceed 50 percent of the insurance on the life of the employee.

Insurer Anti-Fraud Plans:
Insurers must file an anti-fraud plan with the Insurance Commissioner. Annually, insurers must provide a summary report on actions taken under its anti-fraud plan to prevent and combat insurance fraud. The anti-fraud plans and summary of the insurer's anti-fraud activities are proprietary. They are not public records, are not subject to public examination, and are not discoverable or admissible in civil litigation. An insurer that fails to follow the anti-fraud plan is subject to a civil penalty of up to $10,000 for each violation.

Managing general agent:
A managing general agent is a person who manages all or part of the business of an insurer. An insurer's employee may not be a managing general agent. A managing general agent must be licensed by the Commissioner, designated as a managing general agent, and appointed by the insurer.

Taxes and Health Care Service Contractors (HCSCs), Health Maintenance Organizations (HMOs), and Multiple Employer Welfare Arrangements (MEWAs):
HCSCs, HMOs, and MEWAs are required to prepay taxes based on a specific formula that factors in premiums and prepayment of health services. Payments are due in specified percentages at specified times in a calendar year.

Garnishment exemption for benefits paid on annuity contracts:
Two hundred and fifty dollars in annuity benefits are exempt from possible wage garnishments under current law.

Service contractors:
Application fees, renewal fees, and filings fees are deposited in the Insurance Commissioner's regulatory account.

Publication of insurance laws:
The Insurance Commissioner may publish the insurance code "and supplements thereto, and related statutes." The Insurance Commissioner may charge a reasonable fee to cover expenses. Funds received from the sales are considered a recovery of previous expenditure for appropriation purposes and are deposited into the general fund.

Summary of Substitute Bill:

Title Insurance:
The definition of title insurance is clarified throughout the code to reflect that it is insurance for owners of "real property." The minimum capital and surplus requirements for title insurers is established at $2 million for basic surplus and $2 million for additional surplus. Title insurers must maintain reserves sufficient to cover all known and unknown liabilities. The insurer must calculate an adjusted statutory unearned premium reserve as of the effective date of this section. The adjusted statutory unearned premium reserve must be released from the reserve and restored to net profits over a period not to exceed 10 years. A supplemental reserve is established as necessary to cover the company's liabilities with respect to all losses, claims, and loss adjustment expenses. The supplemental reserve will be phased in through December 31, 2008. Domestic title insurers must keep invested funds in an amount not less than the reserve requirements specified above.

Medicare Supplement:
Defines "creditable coverage" to be consistent with the federal HIPAA standard. Addresses changes reflected in the Medicare Modernization Act of 2003 concerning prescription drug

benefits. Addresses federal portability concerns and accounts for Medicare Supplement Plans K and L.

Regulation of commercial property casualty forms:
The Commissioner may, by rule, exempt commercial property casualty forms from filing requirements.

Appointment of agents:
The Insurance Commissioner may, by rule, allow agents to place business for up to 30 days before notifying the Commissioner of the appointment by the insurer.

Group life insurance:
Removes the limitation in a group life insurance contract that an employee may purchase a life insurance policy on a spouse or child in an amount not to exceed 50 percent of the insurance on the life of the employee.

Anti-fraud plans:
Exempts insurers with gross written premiums of less than $1,000 per year from filing an anti-fraud plan. Provides that the annual summary report must be filed by March 31 of each year and includes penalties if filing is not timely.

Taxes and Health Care Service Contractors (HCSCs), Health Maintenance Organizations (HMOs), and Multiple Employer Welfare Arrangements (MEWAs):
When a HCSC, HMO, or MEWA transfer a contract to another HCSC, HMO, or MEWA , the tax obligation is also transferred.

Managing general agents:
Clarifies that a managing general agent must hold funds collected for an insurer in a fiduciary capacity in a Federal Deposit Insurance Corporation (FDIC) insured financial institution.

Publication of insurance laws:
The Insurance Commissioner's ability to publish Title 284 WAC and insurance-related technical assistance advisories is clarified. Funds received from the sales may be deposited into the Commissioner's regulatory account.

Garnishment exemption for benefits paid on annuity contracts:
With respect to annuity benefits, the amount that is exempt from wage garnishment is increased from $250 to $2,500.

Service contractors:
Application fees, renewal fees, and filing fees are deposited in the general fund instead of the Insurance Commissioner's regulatory account.

Other:
Various technical changes to correct and repeal outdated statutory references.

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: There was a version of this bill last year. We discussed the issues with our stakeholders and have committed to withdraw any sections that raise concerns. The title of the bill is very broad. The title has to be broad to cover the subjects in the bill. We have committed to industry that we will not amend the bill without the consent of all parties. They have assured us that they also will not amend the bill without the consent of all parties.

Testimony Against: None.

Persons Testifying: Mary Clogston, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.