

SENATE BILL REPORT

SB 5042

As Passed Senate, March 5, 2007

Title: An act relating to insurance.

Brief Description: Regulating the business of insurance.

Sponsors: Senators Berkey and Shin; by request of Insurance Commissioner.

Brief History:

Committee Activity: Financial Institutions & Insurance: 1/16/07, 1/17/07 [DP].

Passed Senate: 3/05/07, 45-0.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Benton, Ranking Minority Member; Franklin, Hatfield, Parlette, Prentice and Schoesler.

Staff: Diane Smith (786-7410)

Background: The Office of Insurance Commissioner (OIC) regulates all insurance business in Washington. From time to time statutes delineating this authority are revealed to be out of date, duplicative, inoperable, or otherwise in need of amendment. This includes the statutes concerning home heating fuel service contracts. The annual \$25 renewal fee for the registration of these providers with OIC is deposited into the insurance commissioner's regulatory account. All other fees collected by OIC are deposited into the state general fund.

A responsibility of OIC is to determine the financial condition of insurers. Part of that inquiry includes understanding what assets the insurer has available for paying for losses and claims. In this context, interest due and accrued on mortgage loans owned by the insurer is counted as assets of the insurer unless the interest on the loan is in default, or the taxes are unpaid, for more than 18 months. In that case, the interest on the loan is not counted as an asset. Likewise, if data processing and accounting systems cost more than \$25,000, amortized over no more than 10 years, these systems are counted as assets.

When two health insurance policies cover one person's particular health care event, the benefits owing to the insured person must be coordinated between the insurers. The National Association of Insurance Commissioners (NAIC) has model language, varying from Washington law, accomplishing this coordination.

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.

In-state fraternal benefit societies must provide NAIC-approved annual statements of their financial condition to OIC.

Ocean marine and foreign trade insurances are defined in the chapter of law concerning fees and taxes. There is another chapter of law containing definitions of most basic types of insurance.

To be counted as an asset owned by the insurer, an investment in a first mortgage of residential real estate may not exceed 80 percent of the market value of the real property.

There is a 65 percent limitation on the portion of an insurer's assets that can be in real estate. Whether mortgage-backed securities qualifying under the secondary mortgage market enhancement act of 1984 count toward this 65 percent limitation was a problem in a recent receivership conducted by the OIC.

NAIC has an office called the securities valuation office (SVO) that makes a daily credit quality assessment and valuation of securities owned by state-regulated insurance companies. An insurer may invest in corporate obligations that meet tests concerning the quality of the obligation. Notwithstanding these quality-assurance requirements, an insurer may invest in obligations rated by SVO.

A trustee group life insurance policy involves the provision of group life insurance to employees. The premiums for these policies are paid by the employer, or unions, or the insured persons, or a combination of these potential payors. If the insured persons pay all or part of the premiums, at least 75 percent of the insured persons, excluding the uninsurable, must agree to this scheme. The policy must cover at least 50 persons at the date of issuance.

There are 15 reasons for OIC to ask a court for an order to rehabilitate an insurer. Rehabilitation involves the OIC taking possession of the property of an insurer and conducting the insurer's business for it while, taking steps to remove the causes and conditions that have made this action necessary. The general rule is that the statute of limitations for the rehabilitator to institute an action on behalf of the insurer upon a cause of action that has not been barred by another statute of limitations, is one year.

Unclaimed funds from the liquidation of an insurer are deposited with the State Treasurer.

Health insurance is guaranteed to be renewable according to certain standards. Some statutory language is unclear in light of this general rule.

Due to an inadvertent mistake in the legislative process during the last legislative session, incorrect language was enacted that should have clarified the lack of entitlement to underinsured motorist coverage by a person who intends to cause an event rather, than intends to cause the damage, for which the coverage is sought.

Summary of Bill: The \$25 annual renewal fee for providers of home heating fuel service contracts is deposited into the state general fund.

The length of time that interest may be in default or taxes unpaid before the interest on the mortgage to which they apply is not counted as an asset, is shortened to 180 days, or about six months. The amortization period allowed for data processing and accounting systems allowable as assets is shortened to three years

NAIC Model language is substituted for coordination of health insurance benefits.

A new filing requirement is added not only for in-state, but also for foreign and alien fraternal benefit societies. They must file annual statements with NAIC in electronic form.

The definitions of ocean marine and foreign trade insurances are moved from the chapter of law concerning fees and taxes to the chapter of law concerning insuring powers where other types of insurance are defined.

It is clarified that to be counted as an asset owned by the insurer, an investment in a first mortgage of residential real estate must not exceed 80 percent of the market value of the real property.

It is clarified that mortgage-backed securities qualifying under the secondary mortgage market enhancement act of 1984 are counted toward the 65 percent limitation applying to the amount of an insurer's assets that may be held in real estate.

It is clarified that the quality-assurance requirements do apply to SVO-rated obligations in which insurers invest.

The participation requirements for a trustee group life insurance policy are increased. The insured persons who pay all or part of the premiums, must all agree to the scheme, including the uninsurable. The number of persons the policy must cover at the date of issuance is decreased from 50 to 20.

The statute of limitations for a rehabilitator to institute an action on behalf of the insurer is the latter of two years or two years from the discovery of the injury from which the cause of action arises. It is clarified that actions brought against the insurer's directors, officers, or employees for the benefit of the insured or the general public are not subject to limitation. The same limitations apply to actions by liquidators.

Rather than being deposited with the State Treasurer, unclaimed funds from a liquidation of an insurer are deposited with the Department of Revenue.

Language that presupposes that a health insurance policy might be discontinued in the process of conversion, is stricken.

The inadvertent mistake that occurred during the last legislative session is corrected.

Duplicative requirements for unallocated liability loss expense in workers' compensation are repealed.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a technical-only bill that the OIC and the insurance industry agree to present as needed. It is a purely technical, modernizing, updating and tuning-up that can occur on a yearly basis as the need is noticed by those

working with these very complex statutes on a daily basis. The broad title is of concern to all interested parties so that the expeditious movement of this bill through the legislative process is greatly appreciated. Any section found objectionable to the stakeholders is removed. All agree that no amendments are to be allowed.

Persons Testifying: PRO: Mary Clogston, Legislative Liaison for the OIC; Mel Sorenson for the insurance industry.