

SENATE BILL REPORT

EHB 1566

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, March 25, 2009

Title: An act relating to granting the insurance commissioner certain authority when the governor declares a state of emergency.

Brief Description: Granting the insurance commissioner certain authority when the governor declares a state of emergency.

Sponsors: Representatives Kirby, Williams and Simpson; by request of Insurance Commissioner.

Brief History: Passed House: 3/03/09, 97-0.

Committee Activity: Financial Institutions, Housing & Insurance: 3/18/09, 3/25/09 [DPA].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass as amended.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin, McDermott, Parlette and Schoesler.

Staff: Diane Smith (786-7410)

Background: The Governor has the authority to proclaim a state of emergency in the area of the state affected by a riot, energy emergency, public disorder, or disaster. Other than prohibiting specific activities that may be undertaken by the general public, the Governor's emergency powers include prohibiting activities that the Governor believes should be prohibited to help preserve and maintain life, health, property, or the public peace.

The Governor has authority to waive or suspend statutory obligations or limitations for certain, limited executive functions during and in the areas affected by a proclamation of emergency. These statutory obligations or limitations do not include any within the jurisdiction of the Office of Insurance Commissioner (OIC).

OIC has the authority to immediately change the way it administers the insurance code, within statutory intent, by issuing an emergency rule as provided in the Administrative Procedure Act (APA). An emergency rule is effective upon filing with the Code Reviser and

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expires after 120 days. There is no provision for petitioning the Governor for immediate repeal of an emergency rule adopted by the OIC.

Summary of Bill (Recommended Amendments): OIC has the authority to issue an order addressing four matters related to insurance policies issued in this state when the Governor declares a state of emergency. Those four matters are reporting requirements for claims; grace periods; postponement of cancellations and renewals; and medical coverage to ensure access to care.

OIC's order must state by line of insurance the specific geographic area to which it applies and the date the order begins and the date the order ends. The order's maximum duration is 90 days, comprised of an initial 60-day term plus one 30-day term if warranted. However, the OIC's order is not effective after the related state of emergency is terminated by proclamation of the Governor.

OIC has rule-making authority to establish criteria for its orders and may adopt emergency rules for specific proclamations of a state of emergency by the Governor. This rule-making authority does not limit or affect the rule-making authority otherwise granted by law to OIC.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Amendments): The change made by the striking amendment limits the maximum duration of an OIC emergency order to 90 days.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Engrossed House Bill: PRO: This authority is not anticipated to be used frivolously or in a broad manner. It is intended only for large scale dislocations. It is based on language from Oregon.

CON: Clearly, the intentions of the bill are good and with the officials in office, no possible complications could occur. However, words on paper matter and there is a potential for application in a manner not intended by the drafters. There is no deadline until the Governor terminates her or his proclamation. Proclamations concerning moths and Katrina are still ongoing, along with many others.

Persons Testifying: PRO: Drew Bouton , OIC.

CON: Steve Gano, Premera Blue Cross.