

SENATE BILL REPORT

ESHB 2560

As of February 22, 2010

Title: An act relating to forming joint underwriting associations.

Brief Description: Forming joint underwriting associations.

Sponsors: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Orwall, Upthegrove, Quall, Simpson, Nelson and Morrell; by request of Insurance Commissioner).

Brief History: Passed House: 2/12/10, 66-30.

Committee Activity: Financial Institutions, Housing & Insurance: 2/23/10.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Diane Smith (786-7410)

Background: Casualty insurance includes the following: vehicle insurance; liability insurance for death, injury, or disability of persons and associated medical insurance and funeral benefits; workers' compensation; insurance for losses caused by property crimes; insurance for damage to personal effects; insurance for liability for damage to property caused by boiler explosions; insurance against damage to property caused by water leaks; credit insurance; and insurance against any other kind of loss, damage, or liability.

Property insurance is insurance against loss of, or damage to, real or personal property from any cause, including losses from consequential damage.

Overall, premium rates for insurance must not be excessive, inadequate, or unfairly discriminatory. In addition, premium rates must meet specific criteria, such as being based upon loss experience, operating expenses, and investment income, among other criteria.

The Washington Insurance Guaranty Association pays claims in excess of \$100 but less than \$300,000 of policyholders when the policyholder's insurance company becomes insolvent and the claim otherwise qualifies.

The federal government offers flood insurance. Coverage for flood damage in excess of the maximum coverage the federal government offers is called excess flood insurance.

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.

A market assistance plan (MAP) is a voluntary mechanism whereby casualty insurers provide casualty insurance for a class of insurance that the Insurance Commissioner (commissioner) designates. The commissioner must establish a MAP when persons are not able to purchase casualty insurance in an adequate amount from either the admitted or nonadmitted market. A MAP must have at least 25 insurers that are willing to participate. If the quota of 25 is not reached voluntarily, then the commissioner can require casualty insurers to participate as a condition of continuing to do business in this state.

Summary of Bill: For purposes of this joint underwriting association and MAP, insurance does not include personal insurance or surety insurance.

If the commissioner first convenes a MAP and finds either that business interruption or excess flood insurance is not available in the area protected by a U.S. Army Corps of Engineers dam in a county with a population over one million people, or that there are so few insurers selling it that a competitive market does not exist, then the commissioner has the authority to establish a nonprofit underwriting association (association). The standard for availability is four or more insurers offering coverage. A seven-member governing board is appointed to administer the association.

If an association is established, a person in the area protected by a U.S. Army Corps of Engineers dam in a county with a population over one million people and who is unable to obtain excess flood insurance because it is unavailable in the voluntary market or because the market is not competitive, may apply to the association for insurance. The rates charged to the association's policyholders are set according to existing law. Those premiums fund the association. Premiums must be used to pay claims and expenses of the association.

If there are costs above the amount of premiums, the association may assess its member-insurers. Any assessment not paid within 30 days accrues interest at the maximum rate and may be collected by the association in a civil action, with the recovery including attorneys' fees if the association prevails. The commissioner may also revoke the insurer's certificate of authority, refer enforcement of the matter to the prosecutor, and levy a fine of up to \$10,000.

All insurers with a certificate of authority to write either casualty or property insurance, or both, exclusive of personal insurance and surety insurance, must be members of the association. The term of the association is five years unless the Legislature authorizes its continued operation. The statutory authority for the association ends on December 31, 2016.

The maximum liability of the association is \$250 million. The maximum dollar value of coverage of any one policy cannot exceed \$5 million.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.