

SENATE BILL REPORT

SB 5416

As of February 9, 2009

Title: An act relating to business continuity plans for domestic insurers.

Brief Description: Expanding the scope of business continuity plans for domestic insurers.

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

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/03/09.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Diane Smith (786-7410)

Background: The insurance code provides that domestic insurers and fraternal benefit societies may adopt by emergency bylaw provisions for their continued operation during national emergencies. This may also include a provision for alternate locations of the principal office and for succession in the event of the death or incapacity of officers. If a domestic insurer fails to make these provisions, then the code provides a mandatory mechanism by which these insurers continue to operate when a national emergency occurs.

An insurer is defined as every person engaged in the business of making contracts of insurance, other than a fraternal benefit society, including reciprocal or interinsurance exchanges. Insurers do not include self-insurance by hospital, local governmental, or commercial fishing insurance pools.

An issuer is defined as an insurer, fraternal benefit society, certified health plan, health maintenance organization, and health care service contractor.

Summary of Bill: Those entities currently defined as issuers are domestic "insurers" for purposes of contingency plans for emergencies. They are allowed to adopt their own provisions for continued operation during state and local, as well as national, emergencies. If they fail to do so, and a state, local, or national emergency occurs, then the existing code provisions apply to their operations during these emergencies.

All domestic insurers must create and maintain a written business continuity plan. This plan must address how the insurer will meet its existing obligations. It must address the insurer's

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relationships with affiliates, third party service providers, the National Association of Insurance Commissioners, and the Insurance Commissioner.

This plan must be kept current, reviewed, and tested annually. A member of senior management must be designated as responsible for the annual test and review.

A plan must have a minimum of ten enumerated elements. These elements are flexible. If an insurer does not include all ten, the rationale for not including any element must be documented.

The roles of senior management must be clearly described and include their responsibilities associated with disaster recovery plans.

Policy holders must be provided with a written disclosure at the issuance of the policy, posted on the insurer's website, if applicable, and mailed upon request. This disclosure must address the possibility of a future significant business disruption and how the insurer plans to respond to events of varying scope.

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: PRO: This bill is needed because the Insurance Commissioner examined health care insurers and found that they did not tend to have these business continuity plans. Property and casualty insurers do have the plans.

OTHER: Clarification is requested because of the mailing requirement. There are other ways to approach notification of the policy holders.

Persons Testifying: PRO: Drew Bouton, Office of Insurance Commissioner.

OTHER: Mel Sorenson, Property Casualty Insurers Association.