

SENATE BILL REPORT

SHB 1257

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, March 16, 2011

Title: An act relating to adopting the investments of insurers model act.

Brief Description: Adopting the investments of insurers model act.

Sponsors: House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Kirby and Kelley; by request of Insurance Commissioner).

Brief History: Passed House: 3/05/11, 98-0.

Committee Activity: Financial Institutions, Housing & Insurance: 3/15/11, 3/16/11 [DPA].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass as amended.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton, Ranking Minority Member; Fain, Keiser and Litzow.

Staff: Edward Redmond (786-7471)

Background: The Office of Insurance Commissioner (OIC) is authorized to regulate insurance in Washington. This includes licensing of agents and brokers, approval of insurance rate and form filings, collection of premium taxes, responding to consumer complaints, oversight of investments and financial solvency.

The Washington Insurance Investments Act, first adopted in 1947, establishes the framework for investments by domestic insurers. To protect against insolvency through overtly risky investment practices, the OIC is authorized, under this Act, to set general limits and restrictions on the type of securities an insurer can invest in and the type of loans it can make. Such investments include public and corporate obligations, derivatives, and mortgage bonds. An insurer is also required to maintain signed, written records of its investments authorized by an officer of the insurer or by the chair of such committee.

The National Association of Insurance Commissioners (NAIC) is the organization of insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Formed in 1871, the NAIC provides a forum for the development of uniform policy when uniformity is appropriate. In 1998, the NAIC developed and published The Investment of

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Insurers Model Act (Model Act) to protect and further the interest of insureds, creditors, and the general public.

There are two versions of the Model Act: the defined limitations version (which places a cap on the amount of corporate assets an insurer can direct in a particular investment) and the defined standards version. Under the defined standards version, the Model Act sets minimum financial security benchmarks and minimum asset requirements that insurers must meet in order to be classified as solvent. This version of the Model Act, concurrently, seeks to provide sufficient autonomy to an insurer by allowing broad discretion in the formation of its investment policy.

Summary of Bill (Recommended Amendments): The Washington Investment Act is repealed and the Model Act, Defined Standards Version, is adopted in substantial part. The commissioner is authorized to enact rules that target specific investment practices and classes of insurance in lieu of general regulations that affect the insurance industry as a whole. Certain investment practices are prohibited. Such practices include use of a derivative instrument for any purposes other than hedging or income generation; investment in real property for speculative, gaming, or mineral exploration purposes; or investments in securities issued by any insolvent corporation.

Insurers must establish and follow a written investment policy, which must be reviewed and approved annually by the insurer's board of directors. Such investment policy is considered confidential and not subject to public record or subpoena. In determining whether an investment portfolio or investment policy is prudent, the commissioner will consider factors including, but not limited to: general economic conditions, the possible effect of inflation or deflation, and the extent of diversification of the insurer's investments. The commissioner may, after determining that an insurer's investment practices do not meet the minimum standards of the Model Act, order the insurer to make changes necessary to comply with such standards.

An insurer may request an administrative hearing if it has been aggrieved by the commissioner with regards to compliance under the Model Act or rules adopted under the Model Act.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Amendments): Technical amendment to clarify that the minimum financial security benchmark is only to be used for the regulation of insurer investments.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 1, 2012.

Staff Summary of Public Testimony on Substitute House Bill: PRO: The bill modernizes the chapter of the Insurance Act that was written in 1947; there has been much development in the world of finance since that time. This bill is drafted after the NAIC Model Act, which goes through a lengthy vetting process before it is adopted. The stakeholder process for this particular bill took 18 months and it was a collaborative process that involved many stakeholder meetings. The outcome of that lengthy process is the bill before the committee. The bill will create conditions in which insurers can increase their return on investments, and thereby benefit the domestic insurance industry. Additionally, it will give OIC flexibility in the regulation of investments and will increase the prospect for insurer solvency, which is beneficial to all residence of the state. Symetra Financial is in support of this bill. The bill strikes the proper balance of protecting the consumer and providing insurers the flexibility to increase investment returns for its investors and customers. Washington Insurers supports the bill. The stakeholder meetings that started two years ago has resulted in this bill, which is an improvement over current law.

CON: This bill is anti-competitive against any new or smaller companies from the standpoint that it gives the Commissioner broad and sweeping powers that are vague and lacking in specificity. If the bill is enacted in its current form, the company may consider relocating outside of the state, which would likely adversely impact the tax revenues that are generated by the company. It would also deter any future companies from locating its business in the state. As written, section 3 of the bill is too broad and vague. Future insurance commissioners and the courts may not agree with the current Commissioner's interpretation that the section only applies to investments. An amendment has been offered to clarify that the bill only addresses the regulation of insurers' investments.

Persons Testifying: PRO: Representative Stanford, prime sponsor; Drew Bouton, Jim Odiorne, OIC; Jeffrey Laurence, Symetra Financial; Jean Leonard, Washington Insurers.

CON: April Golenor, Stan Fleming, Puget Sound Health Partners.