Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Business & Financial Services Committee

HB 1308

Brief Description: Addressing surplus lines of insurance.

Sponsors: Representatives Vick, Kirby, Parker and Stanford.

Brief Summary of Bill

- Clarifies the premium tax required for surplus lines property and casualty insurance for risks inside and outside of the United States.

Hearing Date: 1/28/15

Staff: Linda Merelle (786-7092).

Background:

Surplus Lines Insurance.

Generally, an insurance company cannot engage in the business of insurance in the state unless the insurance company is authorized to do so by the Office of the Insurance Commissioner (OIC). "Surplus lines" insurance coverage is an exception. Surplus lines insurance is coverage that cannot be procured from authorized insurance companies. Often, surplus lines policies cover risks that do not fit normal underwriting patterns or fit standard insurance policies. Unlike insurance offered by an authorized insurer, surplus lines insurance is not subject to rate and policy form oversight.

Under insurance statutes, if coverage cannot be purchased from an authorized insurer, the coverage may be purchased from an unauthorized insurer through a licensed surplus lines broker if: a diligent effort is made to find the coverage from authorized insurers; and the purpose for using an unauthorized insurer is something other than securing a lower premium rate than would be accepted by any authorized insurer.

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.

The surplus lines broker must execute an affidavit setting forth the facts regarding the diligent effort and the purpose for using an unauthorized insurer when insurance is purchased from an unauthorized insurer. The affidavit must be filed with the OIC within 30 days after the purchase of the insurance.

Licensing requirements regarding surplus lines brokers include background checks, including fingerprints; minimum bonding amounts; record-keeping; and reporting. Because a surplus lines insurer is not an authorized insurance company, the Washington Insurance Guaranty Association, which pays claims as a result of the insolvency of an authorized insurer, does not cover claims of insureds of a surplus lines insurer.

Home State.

An insured's "home state," if the insured is a business, is the state where the insured maintains its headquarters. For an individual, it is his or her principal residence or, if all of the insured risk is located outside of Washington, the state to which the greatest percentage of the insured's taxable premium is allocated.

Surplus Lines Premium Tax.

A surplus lines broker must pay a tax of 2 percent on the premiums for surplus lines insurance transacted by the broker. The tax is credited to the General Fund. If a surplus lines policy covers risks or exposures that are only partially located in this state, the tax is computed upon the proportion of the risks or exposures located in this state.

For property and casualty insurance, if this state is the insured's home state, the tax is computed upon the entire premium without regard to whether the policy covers risks or exposures that are located in this state. For all other lines of insurance, the tax is computed upon the proportion of the premium that is properly allocable to the risks or exposures located in this state.

Summary of Bill:

The tax on the premiums for surplus lines property and casualty insurance must be computed upon the entire premium where the risks or exposures covered are located inside the United States or its territories. The tax must be computed upon the entire premium, regardless of whether the risks or exposures are located in Washington.

If the surplus lines insurance covers risks or exposures located outside of the United States and its territories, no tax is due or payable for the portion of the premium properly allocated to risks and exposures located outside the United States and its territories.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.