

SENATE BILL REPORT

SB 5725

As Reported by Senate Committee On:
Financial Institutions & Insurance, February 18, 2015

Title: An act relating to surplus lines.

Brief Description: Addressing surplus lines of insurance.

Sponsors: Senator Benton.

Brief History:

Committee Activity: Financial Institutions & Insurance: 2/12/15, 2/18/15 [DP].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass.

Signed by Senators Benton, Chair; Angel, Vice Chair; Mullet, Ranking Minority Member; Darneille, Fain, Hobbs, Pedersen and Roach.

Staff: Susan Jones (786-7404)

Background: Surplus Line Insurance. Generally, insurance companies may not engage in the insurance business in Washington unless authorized to do so by the Office of the Insurance Commissioner (OIC). Surplus line insurance coverage is an exception. Surplus line insurance is coverage that cannot be procured from authorized insurance companies; often covering risks that do not fit normal underwriting patterns or fit standard insurance policies. Unlike insurance offered by an authorized insurer, surplus line insurance is not subject to rate and policy form oversight. There are licensing and bonding requirements for surplus line brokers. Because a surplus line 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 line insurer.

Surplus Line Procurement. If coverage cannot be procured from an authorized insurer, the surplus line coverage may be purchased from an unauthorized insurer through a licensed surplus line broker under certain circumstances and if a diligent effort had been made to find the coverage from a majority of authorized insurers. The purpose for using an unauthorized insurer may not be to secure a lower premium rate than would be accepted by any authorized insurer or to secure any other competitive advantage. The surplus line broker must execute a

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.

certificate regarding the diligent efforts and file the certificate with OIC within 60 days after the insurance is procured.

Surplus Line Premium Tax. A surplus line broker must pay a tax of 2 percent on the premiums for surplus line insurance transacted by the broker. The tax is credited to the general fund. For property and casualty insurance other than industrial insurance, if this state is the insured's home state, the tax payable must be computed on 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, if a surplus line policy covers risks or exposures only partially in this state, the tax payable must be computed on the proportion of the premium that is properly allocable to the risks or exposures located in this state.

Home State. An insured's home state is as follows:

- the state where an insured maintains its principal place of business;
- the principal residence for an individual; or
- the state to which the greatest percentage of the insured's taxable premium is allocated for that insurance contract if all of the insured risk is located outside of Washington.

Summary of Bill: The bill revises the stamp on the surplus line insurance policy.

The tax on the premiums for surplus line 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 line 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.

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: The surplus line policy now requires a stamp that the policy is not covered by the Washington Guaranty Fund law. The bill clarifies and modernizes that stamp. The second piece is related to the Dodd Frank Act. This clarifies that Washington State does not charge or collect tax on any foreign exposure that exists on the policy.

Persons Testifying: PRO: Tom Parker, Surplus Line Assn.