

# HOUSE BILL REPORT

## SHB 1027

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### As Passed Legislature

**Title:** An act relating to surplus line broker licensing.

**Brief Description:** Addressing surplus line broker licensing.

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

#### **Brief History:**

##### **Committee Activity:**

Business & Financial Services: 1/10/17, 1/11/17 [DPS].

##### **Floor Activity:**

Passed House: 2/2/17, 98-0.

Passed Senate: 3/31/17, 46-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Modifies licensing requirements for resident and nonresident surplus line insurance brokers.

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### HOUSE COMMITTEE ON BUSINESS & FINANCIAL SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Reeves, Vice Chair; Vick, Ranking Minority Member; J. Walsh, Assistant Ranking Minority Member; Barkis, Bergquist, Blake, Jenkin, McCabe, Santos and Stanford.

**Staff:** Peter Clodfelter (786-7127).

#### **Background:**

##### Surplus Line Insurance.

Generally, only insurers authorized by the Office of the Insurance Commissioner (OIC) may solicit or transact insurance business in the state. An exception to that requirement exists for

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surplus line insurance. Often, surplus line policies cover risks that do not fit normal underwriting patterns or fit standard insurance policies.

If coverage cannot be purchased from an authorized insurer, then surplus line coverage may be purchased from an unauthorized insurer only if:

- the purchaser procures the insurance through a licensed surplus line broker;
- 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.

A surplus line broker procuring insurance for certain commercial purchasers of insurance is exempt from the diligent effort requirement, provided that disclosure and other requirements are met.

#### Surplus Line Broker License.

*Resident Surplus Line Broker License.* If an individual is a state resident, or if a business entity employs a qualified state resident who is authorized to exercise the powers of the business entity, and the individual or business entity is deemed competent and trustworthy by the OIC and maintains an office at a designated location in the state, then the individual or business entity may be licensed as a resident surplus line broker.

An applicant for a resident surplus line broker license must meet an examination requirement and furnish information to the OIC, including:

- the applicant's identity, including fingerprints for submission to state and federal law enforcement and other government agencies for purposes of a background check;
- personal history;
- experience;
- business records;
- purposes; and
- other pertinent information that the OIC may reasonably require.

The OIC may recover certain costs of verifying an applicant's eligibility for a license from the applicant. Once licensed, every resident surplus line broker must maintain bonds, one bond in favor of the state and another bond in favor of the residents of the state. The OIC is delegated authority to adopt rules to regulate surplus line brokers.

*Nonresident Surplus Line Broker License.* If a person is not a state resident, the OIC may license the person as a surplus line broker if the person is qualified and the person's resident state reciprocates by issuing licenses to residents of this state on the same basis. To be eligible for a nonresident surplus line broker license, such a nonresident person must generally meet the same qualifications as a resident applicant for a surplus line broker license, except for residency, and the nonresident person is not required to submit fingerprints with the license application for a background check.

Once a nonresident person is issued a surplus line broker license, the nonresident person must fulfill all the same responsibilities as a resident surplus line broker, except for bonding, and is subject to the OIC's supervision and rules. Additionally, the OIC is deemed the licensed nonresident surplus line broker's attorney to receive service of legal process.

The OIC's implementing rules provide that a nonresident applicant holding a surplus line broker license, or the equivalent, in the applicant's home state, is deemed qualified, competent, and trustworthy, and meets the minimum licensing standards of this state. Accordingly, the OIC waives the Washington examination requirement for such a nonresident applicant with a current resident surplus line broker license, or the equivalent, in the applicant's home state.

**Summary of Substitute Bill:**

Surplus Line Broker License.

*Resident Surplus Line Broker License.* An applicant for a resident surplus line broker license and a licensee must have and maintain a license from the OIC as a resident insurance producer with property and casualty lines of authority.

Each applicant for a resident surplus line broker license must pass the required examination and pay the required fee when applying for a license.

If a nonresident that is licensed as a resident surplus line broker in another state moves to this state and wishes to become licensed as a resident surplus line broker in this state, then the examination requirement is waived if the application is received by the OIC within 90 days of the cancellation of the surplus line broker's resident license in the other state.

*Nonresident Surplus Line Broker License.* A nonresident that holds a surplus line broker license, or the equivalent, in the applicant's home state that is in good standing, is deemed qualified and meets the minimum standards of this state for licensing as a nonresident surplus line broker.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on January 1, 2018.

**Staff Summary of Public Testimony:**

(In support) The bill cleans up the surplus line broker licensing statute, including with respect to reciprocity with other states, and is straightforward. The bill incorporates existing OIC rules into statute.

(Opposed) None.

**Persons Testifying:** Representative Barkis, prime sponsor; and Lonnie Johns-Brown, Office of the Insurance Commissioner.

**Persons Signed In To Testify But Not Testifying:** None.