

# HOUSE BILL REPORT

## HB 2512

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### As Reported by House Committee On: Financial Institutions & Insurance

**Title:** An act relating to nonresident surplus line brokers and insurance producers.

**Brief Description:** Concerning nonresident surplus line brokers and insurance producers.

**Sponsors:** Representatives Bailey, Kirby and Morrell; by request of Insurance Commissioner.

#### **Brief History:**

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

Financial Institutions & Insurance: 1/14/10, 1/21/10 [DPS].

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

- Modifies licensing requirements for nonresident insurance producers and nonresident surplus lines brokers.

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### HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kirby, Chair; Kelley, Vice Chair; Bailey, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Hurst, McCoy, Nelson, Roach, Rodne, Santos and Simpson.

**Staff:** Jon Hedegard (786-7127).

#### **Background:**

The Insurance Commissioner (Commissioner) licenses and regulates insurance producers doing business in this state. An insurance producer is a person required to be licensed under the laws of the state to sell, solicit, or negotiate insurance.

#### Licensing of Insurance Producers.

Insurance producers must meet a number of licensing requirements, including:

- background checks, including fingerprints;
- pre-license education and testing;

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- continuing education;
- certain bond requirements for placing business with a company that has not appointed the producer; and
- fees.

#### Surplus Lines and Licensing of Surplus Line Brokers.

Under insurance statutes, if coverage cannot be purchased from an authorized insurer, the 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.

Licensing requirements regarding surplus line brokers include:

- background checks, including fingerprints;
- minimum bonding amounts of \$20,000 in the name of the state to ensure compliance with the law and payment of taxes, and \$100,000 in the name of the state or a named insured for liability;
- record-keeping; and
- reporting.

In 2007, 2008, and 2009 legislation was passed that altered the regulatory framework for insurance producers and surplus lines brokers. These bills were based largely on the National Association of Insurance Commissioner's Producer Licensing Model Act. Among the many modifications were changes to the categories of licenses, background checks, fees, and commissions. All of these bills took effect on July 1, 2009.

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#### **Summary of Substitute Bill:**

The Commissioner may license a qualified nonresident as a surplus lines broker if the nonresident lives in a state that offers reciprocal licensing to a Washington resident. The license is for the same duration and costs the same fees as a resident's license. The nonresident surplus lines broker is not required to submit fingerprints as a part of a background check and is not required to meet the same financial responsibility requirements.

The Commissioner must waive certain license requirements for nonresident insurance producers if the applicant has a valid license from their home state and that state offers reciprocal treatment for insurance producers from this state. The nonresident insurance producer is not required to submit fingerprints as a part of a background check and is not required to meet the same financial responsibility requirements.

Entities acting as nonresident title agents must designate an officer to be responsible for compliance with the state's insurance laws and rules.

Standards for service of process are created for legal actions against a nonresident producer or surplus lines broker who may be served by service of process on the Commissioner. The Commissioner may adopt rules to implement the service of process provisions.

**Substitute Bill Compared to Original Bill:**

The Commissioner is allowed to make a copy of the notice available instead of sending a copy. The copy must be sent or made available in a secure manner and with a verifiable receipt.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect on July 26, 2010.

**Staff Summary of Public Testimony:**

(In support) This is a clean-up of previous efforts to modernize the state's producer licensing laws. The bill increases uniformity and improves reciprocity. All insurance producers and surplus lines brokers are licensed by the state. Under the bill, the state would accept the background check and the financial requirements of a reciprocal state. This makes the regulation more uniform across the country. The state is one of very states that have not made this change. The service of process provisions seek to increase the speed of delivery and to lower the costs of service. Recently, concerns arose about security. The Commissioner is working with the stakeholder to resolve those concerns. This bill provides for greater reciprocity which will make it easier for licensees in this state to be licensed in other states. Regional producers will find it easier to work with regional purchasers. There are companies who simply receive service for insurers and other companies. The bill's service of process provisions raise a few concerns. Those concerns have been shared with the Commissioner and an agreement to resolve the concerns has been reached. One other state, Florida, has an electronic service system. It works very well. It saves time and money. It is secure and provides a verifiable receipt. If the bill is amended to require that an electronic system here must be secure and provide a verifiable receipt, the concerns would be resolved.

(Opposed) None.

**Persons Testifying:** Representative Bailey, prime sponsor; Drew Bouton and John Hamje, Office of the Insurance Commissioner; Bill Stauffacher, Independent Insurance Agents and Brokers of Washington; and Garth Jacobson, CT Corporation.

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