

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6251

61st Legislature
2010 Regular Session

Passed by the Senate February 16, 2010
YEAS 46 NAYS 0

President of the Senate

Passed by the House February 28, 2010
YEAS 96 NAYS 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6251** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6251

Passed Legislature - 2010 Regular Session

State of Washington 61st Legislature 2010 Regular Session

By Senate Financial Institutions, Housing & Insurance (originally sponsored by Senator Benton; by request of Insurance Commissioner)

READ FIRST TIME 01/22/10.

1 AN ACT Relating to nonresident surplus line brokers and insurance
2 producers; amending RCW 48.15.070, 48.15.073, 48.17.173, and 48.17.250;
3 adding a new section to chapter 48.02 RCW; and providing an effective
4 date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 48.15.070 and 2009 c 162 s 3 are each amended to read
7 as follows:

8 Any individual while a resident of this state, or any firm (~~or~~
9 ~~any~~), corporation, or other business entity that has in its employ a
10 qualified individual who is a resident of this state and who is
11 authorized to exercise the powers of the firm or corporation, deemed by
12 the commissioner to be competent and trustworthy, and while maintaining
13 an office at a designated location in this state, may be licensed as a
14 surplus line broker in accordance with this section.

15 (1) Application to the commissioner for the license (~~shall~~) must
16 be made on forms furnished by the commissioner. As part of, or in
17 connection with, this application, the applicant (~~shall~~) must furnish
18 information concerning his or her identity, including fingerprints for
19 submission to the Washington state patrol, the federal bureau of

1 investigation, and any governmental agency or entity authorized to
2 receive this information for a state and national criminal history
3 background check; personal history; experience; business records;
4 purposes; and other pertinent information, as the commissioner may
5 reasonably require. If in the process of verifying fingerprints,
6 business records, or other information, the commissioner's office
7 incurs fees or charges from another governmental agency or from a
8 business firm, the amount of the fees or charges (~~shall~~) must be paid
9 to the commissioner's office by the applicant.

10 (2) Every resident surplus line broker licensed under this chapter
11 must maintain a bond in favor of the state of Washington in the penal
12 sum of twenty thousand dollars, with authorized corporate sureties
13 approved by the commissioner, conditioned that the licensee will
14 conduct business under the license in accordance with the provisions of
15 this chapter and that the licensee will promptly remit the taxes
16 provided by RCW 48.15.120. The licensee (~~shall~~) must maintain such
17 bond in force for as long as the license remains in effect.

18 (3) Every resident surplus line broker licensed under this chapter
19 must maintain in force while so licensed a bond in favor of the people
20 of the state of Washington or a named insured such that the people of
21 the state are covered by the bond, executed by an authorized corporate
22 surety approved by the commissioner, in the amount of two thousand five
23 hundred dollars, or five percent of the premiums from placement of
24 coverage with surplus line insurers in the previous calendar year,
25 whichever is greater, but not to exceed one hundred thousand dollars
26 total aggregate liability. The bond may be continuous in form, and
27 total aggregate liability on the bond may be limited to the required
28 amount of the bond. The bond (~~shall~~) must be contingent on the
29 accounting by the resident surplus line broker to any person requesting
30 the broker to obtain insurance, for moneys or premiums collected in
31 connection therewith. A bond issued in accordance with RCW 48.17.250
32 or with this subsection will satisfy the requirements of both RCW
33 48.17.250 and this subsection if the limit of liability is not less
34 than the greater of the requirement of RCW 48.17.250 or the requirement
35 of this subsection.

36 (4) Authorized surplus line brokers of a business entity may meet
37 the requirements of subsection (3) of this section with a bond in the

1 name of the business entity, continuous in form, and in the amount set
2 forth in subsection (3) of this section.

3 (5) Surplus line brokers may meet the requirements of this section
4 with a bond in the name of an association. The association must have
5 been in existence for five years, have common membership, and have been
6 formed for a purpose other than obtaining a bond. An individual
7 surplus line broker remains responsible for assuring that a bond is in
8 effect and is for the correct amount.

9 (6) Members of an association may meet the requirements of
10 subsection (3) of this section with a bond in the name of the
11 association that is continuous in form and in the amounts set forth in
12 subsection (3) of this section for each participating member.

13 (7) The surety may cancel the bond and be released from further
14 liability thereunder upon thirty days' written notice in advance to the
15 principal. The cancellation does not affect any liability incurred or
16 accrued under the bond before the termination of the thirty-day period.

17 (8) Failure to have and maintain the bonds required under
18 subsections (2) and (3) of this section is grounds for revocation of a
19 license under RCW 48.15.140.

20 (9) If a party injured under the terms of the bond required under
21 subsection (3) of this section requests the surplus line broker to
22 provide the name of the surety and the bond number, the surplus line
23 broker must provide the information within three working days after
24 receiving the request.

25 (10) All records relating to the bonds required by this section
26 must be kept available and open to the inspection of the commissioner
27 at any business time.

28 (11) A surplus line broker's license expires if not timely renewed.
29 Surplus line broker licenses are valid for the time period established
30 by the commissioner unless suspended or revoked at an earlier date.

31 (12) Subject to the right of the commissioner to suspend, revoke,
32 or refuse to renew any surplus line broker's license as provided in
33 this title, the license may be renewed into another like period by
34 filing with the commissioner by any means acceptable to the
35 commissioner on or before the expiration date a request, by or on
36 behalf of the licensee, for the renewal accompanied by payment of the
37 renewal fee as specified in RCW 48.14.010.

1 (13) If the request and fee for renewal of a surplus line broker's
2 license are filed with the commissioner prior to expiration of the
3 existing license, the licensee may continue to act under the license,
4 unless sooner revoked or suspended, until the issuance of a renewal
5 license, or until the expiration of fifteen days after the commissioner
6 has refused to renew the license and has mailed notification of the
7 refusal to the licensee. If the request and fee for the license are
8 not received by the expiration date, the authority conferred by the
9 license ends on the expiration date.

10 (14) If the request for renewal of a surplus line broker's license
11 and payment of the fee are not received by the commissioner prior to
12 the expiration date, the applicant for renewal (~~shall~~) must pay to
13 the commissioner in addition to the renewal fee, a surcharge as
14 follows:

15 (a) For the first thirty days or part thereof of delinquency, the
16 surcharge is fifty percent of the renewal fee; and

17 (b) For the next thirty days or part thereof of delinquency, the
18 surcharge is one hundred percent of the renewal fee.

19 (15) If the request for renewal of a surplus line broker's license
20 and payment of the renewal fee are not received by the commissioner
21 after sixty days but prior to twelve months after the expiration date,
22 the application (~~shall~~) must be for reinstatement of the license and
23 the applicant for reinstatement (~~shall~~) must pay to the commissioner
24 the license fee and a surcharge of two hundred percent of the license
25 fee.

26 (16) Subsections (14) and (15) of this section do not exempt any
27 person from any penalty provided by law for transacting business
28 without a valid and subsisting license.

29 (17) An individual surplus line broker who allows his or her
30 license to lapse may, within twelve months after the expiration date,
31 reinstate the same license without the necessity of passing a written
32 examination.

33 (18) For the purposes of this section, a "qualified individual" is
34 a natural person who has met all the requirements that must be met by
35 an individual surplus line broker.

36 (19) The commissioner may require any documents reasonably
37 necessary to verify the information contained in an application and

1 may, from time to time, require any licensed surplus line broker to
2 produce the information called for in an application for license.

3 **Sec. 2.** RCW 48.15.073 and 2009 c 162 s 4 are each amended to read
4 as follows:

5 (1) The commissioner may license as a surplus line broker a person
6 who is otherwise qualified under this code but who is not a resident of
7 this state, if by the laws of the state or province of his or her
8 residence or domicile a similar privilege is extended to residents of
9 this state.

10 (2) A person under subsection (1) of this section must meet the
11 same qualifications(~~(, other than residency,)~~) as any other person
12 seeking to be licensed as a surplus line broker under this chapter,
13 except for residency, and is not required to submit fingerprints with
14 the license application for a background check. A person granted a
15 nonresident surplus line broker's license must (~~have~~) fulfill all the
16 same responsibilities as any other surplus line broker, except for
17 bonding, and is subject to the (a) commissioner's supervision as though
18 resident in this state and (b) rules adopted under this chapter.

19 (3) A nonresident surplus line broker's license(~~(: (a) Expires and~~
20 ~~(b) is subject to)~~) expires if not timely renewed. A nonresident
21 surplus line broker's license is valid for the time period established
22 by the commissioner unless suspended or revoked at an earlier date.
23 The request and fee for the renewal of the license is the same as the
24 renewal and fee requirements for ((renewal as)) a resident surplus line
25 broker licensed under RCW 48.15.070.

26 (4) Each licensed nonresident surplus line broker (~~shall~~
27 ~~appoint~~), by application for and issuance of a license, is deemed to
28 have appointed the commissioner as the surplus line broker's attorney
29 to receive service of legal process issued against the surplus line
30 broker in this state upon causes of action arising within this state.
31 Service upon the commissioner as attorney constitutes effective legal
32 service upon the surplus line broker.

33 (a) The appointment of the commissioner as attorney is irrevocable,
34 binds any successor in interest or to the assets or liabilities of the
35 surplus line broker, and remains in effect for as long as there could
36 be any cause of action against the surplus line broker arising out of
37 the surplus line broker's insurance transactions in this state.

1 (b) (~~Duplicate copies of legal process against a surplus line~~
2 ~~broker shall be served upon the commissioner either by a person~~
3 ~~competent to serve a summons, or through registered mail. At the time~~
4 ~~of service the plaintiff shall pay to the commissioner ten dollars,~~
5 ~~taxable as costs in the action.~~

6 ~~(c) Upon receiving service, the commissioner shall immediately send~~
7 ~~one of the copies of the process, by registered mail with return~~
8 ~~receipt requested, to the defendant surplus line broker at the surplus~~
9 ~~line broker's last address of record with the commissioner.~~

10 ~~(d) The commissioner shall keep a record of the day and hour of~~
11 ~~service upon the commissioner of all legal process. Proceedings may~~
12 ~~not be had against the defendant surplus line broker and the defendant~~
13 ~~is not required to appear, plead, or answer until the expiration of~~
14 ~~forty days after the date of service upon the commissioner.)~~ Service
15 of legal process must be accomplished and processed in the manner
16 prescribed in section 5 of this act.

17 **Sec. 3.** RCW 48.17.173 and 2009 c 162 s 20 are each amended to read
18 as follows:

19 (1) Unless denied licensure under RCW 48.17.530, a nonresident
20 person (~~shall~~) must receive a nonresident producer license for the
21 line or lines of authority under RCW 48.17.170 which is substantially
22 equivalent to the line or lines of authority granted to the nonresident
23 person in the person's home state if:

24 (a) The person is currently licensed as a resident and in good
25 standing in the person's home state;

26 (b) The person has submitted the proper request for licensure and
27 has paid the fees required by RCW 48.14.010;

28 (c) The person has submitted or transmitted to the commissioner a
29 completed uniform application;

30 (d) The person's home state awards nonresident producer licenses to
31 residents of this state on the same basis; and

32 (e) A business entity, it has designated an individual licensed
33 insurance producer responsible for the business entity's compliance
34 with the insurance laws and rules of this state.

35 (2) An individual, as part of the request for licensure, (~~shall~~)
36 must furnish information concerning the individual's identity(~~or~~
37 ~~including fingerprints~~) for submission to the Washington state patrol,

1 the federal bureau of investigation, and any governmental agency or
2 entity authorized to receive this information for a state and national
3 criminal history background check. If, in the process of verifying
4 ~~((fingerprints,))~~ business records~~((,))~~ or other information, the
5 commissioner's office incurs fees or charges from another governmental
6 agency or from a business firm, the amount of the fees or charges
7 ~~((shall))~~ must be paid to the commissioner's office by the applicant.

8 (3) A nonresident business entity acting as a title insurance agent
9 is required to obtain a title insurance agent license. Application
10 ~~((shall))~~ must be made to the commissioner on the uniform business
11 entity application, and the individual submitting the application
12 ~~((shall))~~ must declare under penalty of refusal, suspension, or
13 revocation of the license that the statements made in the application
14 are true, correct, and complete to the best of the individual's
15 knowledge and belief. Before approving the application, the
16 commissioner must find that the business entity:

17 (a) Has paid the fees set forth in RCW 48.14.010;

18 (b) Maintains a lawfully established place of business in its home
19 state and holds a corresponding license issued by the state of its
20 principal place of business, and has complied with the laws of this
21 state governing the admission of foreign corporations;

22 (c) Is empowered to be a title agent under a members' agreement, if
23 a limited liability company, or by its articles of incorporation;

24 (d) Is appointed as an agent by one or more authorized title
25 insurance companies; ~~((and))~~

26 (e) Has complied with RCW 48.29.155 and 48.29.160; and

27 (f) Has designated an individual officer of the title insurance
28 agent to be responsible for the business entity's compliance with the
29 insurance laws and rules of this state.

30 ~~((The commissioner shall waive any license application~~
31 ~~requirements for a nonresident license applicant with a valid license~~
32 ~~from the applicant's home state, except the requirements imposed by~~
33 ~~this section, if the applicant's home state awards nonresident licenses~~
34 ~~to residents of this state on the same basis.)) If the nonresident
35 insurance producer applicant (a) has a valid license from the
36 applicant's home state and (b) the applicant's home state awards
37 nonresident insurance producer licenses to residents of this state on~~

1 the same basis, the commissioner must waive any license application
2 requirements, except those imposed under this section.

3 (5) A nonresident insurance producer's satisfaction of the
4 nonresident insurance producer's home state's continuing education
5 requirements for licensed insurance producers (~~shall~~) constitutes
6 satisfaction of this state's continuing education requirements if the
7 nonresident producer's home state recognizes the satisfaction of its
8 continuing education requirements imposed upon producers from this
9 state on the same basis.

10 (~~(6) (The commissioner shall waive the requirement for providing~~
11 ~~fingerprints for submission to the Washington state patrol, the federal~~
12 ~~bureau of investigation, and any governmental agency or entity~~
13 ~~authorized to receive this information for a state and national~~
14 ~~criminal history background check, if the person possesses a valid~~
15 ~~insurance producer's or surplus line broker's license from the person's~~
16 ~~home state and the person's home state requires submission of~~
17 ~~information concerning a person's identity, including fingerprints for~~
18 ~~the licensure of its resident insurance producers or surplus line~~
19 ~~brokers, respectively.~~

20 (~~7~~)) The commissioner may verify the nonresident insurance
21 producer's licensing status through the producer database maintained by
22 the NAIC, its affiliates, or subsidiaries.

23 (~~(8)~~) (7) A nonresident insurance producer who moves from one
24 state to another state or a resident producer who moves from this state
25 to another state (~~shall~~) must file a change of address and provide
26 certification from the new resident state within thirty days of the
27 change of legal residence. No fee or license application is required.

28 (~~(9)~~) (8) A person licensed as a limited line credit insurance or
29 other type of limited lines insurance producer in the person's home
30 state and who complies with the requirements of subsection (1) of this
31 section (~~shall~~) must receive a nonresident limited lines insurance
32 producer license, under subsection (1) of this section, granting the
33 same scope of authority as granted under the license issued by the
34 insurance producer's home state. For the purpose of this subsection,
35 "limited lines insurance" is any authority granted by the home state
36 which restricts the authority of the license to the lines set out in
37 RCW 48.17.170(1) (g) or (h).

1 ~~((10))~~ (9) Each licensed nonresident insurance producer or title
2 insurance agent ~~((shall appoint))~~, by application for and issuance of
3 a license, is deemed to have appointed the commissioner as the
4 insurance producer's or title insurance agent's attorney to receive
5 service of legal process issued against the insurance producer or title
6 insurance agent in this state upon causes of action arising within this
7 state. Service upon the commissioner as attorney ~~((shall))~~ constitutes
8 effective legal service upon the insurance producer or title insurance
9 agent.

10 (a) The appointment ~~((shall be))~~ of the commissioner as attorney is
11 irrevocable, binds any successor in interest or to the assets or
12 liabilities of the insurance producer or title insurance agent, and
13 remains in effect for as long as there could be any cause of action
14 against the insurance producer or title insurance agent arising out of
15 the insurance producer's or title insurance agent's insurance
16 transactions in this state.

17 ~~(b) ((Duplicate copies of such legal process against such insurance~~
18 ~~producer or title insurance agent shall be served upon the commissioner~~
19 ~~either by a person competent to serve a summons, or through registered~~
20 ~~mail. At the time of such service the plaintiff shall pay to the~~
21 ~~commissioner ten dollars, taxable as costs in the action.~~

22 ~~(c) Upon receiving such service, the commissioner shall forthwith~~
23 ~~send one of the copies of the process, by registered mail with return~~
24 ~~receipt requested, to the defendant insurance producer or title~~
25 ~~insurance agent at the insurance producer's or title insurance agent's~~
26 ~~last address of record with the commissioner.~~

27 ~~(d) The commissioner shall keep a record of the day and hour of~~
28 ~~service upon the commissioner of all such legal process. No~~
29 ~~proceedings shall be had against the defendant insurance producer or~~
30 ~~title insurance agent, and the defendant shall not be required to~~
31 ~~appear, plead, or answer until the expiration of forty days after the~~
32 ~~date of service upon the commissioner.~~

33 ~~((11))~~ Service of legal process must be accomplished and processed
34 in the manner prescribed in section 5 of this act.

35 (10) The commissioner may require any documents reasonably
36 necessary to verify the information contained in an application and
37 may, from time to time, require any licensed insurance producer or

1 title insurance agent to produce the information called for in an
2 application for license.

3 **Sec. 4.** RCW 48.17.250 and 2009 c 162 s 21 are each amended to read
4 as follows:

5 (1) Every resident insurance producer licensed under this chapter
6 on or after July 1, 2009, who places insurance either directly or
7 indirectly with an insurer with which the insurance producer is not
8 appointed as an agent must maintain in force while so licensed a bond
9 in favor of the people of the state of Washington or a named insured
10 such that the people of Washington are covered by the bond, executed by
11 an authorized corporate surety approved by the commissioner, in the
12 amount of two thousand five hundred dollars, or five percent of the
13 premiums brokered in the previous calendar year, whichever is greater,
14 but not to exceed one hundred thousand dollars total aggregate
15 liability. The bond may be continuous in form, and total aggregate
16 liability on the bond may be limited to the required amount of the
17 bond. The bond (~~(shall)~~) must be contingent on the accounting by the
18 resident insurance producer to any person requesting the resident
19 insurance producer to obtain insurance, for moneys or premiums
20 collected in connection therewith.

21 (2) Authorized insurance producers of a business entity may meet
22 the requirements of this section with a bond in the name of the
23 business entity, continuous in form, and in the amounts set forth in
24 subsection (1) of this section. Insurance producers may meet the
25 requirements of this section with a bond in the name of an association.
26 The association must have been in existence for five years, have common
27 membership, and have been formed for a purpose other than obtaining a
28 bond. An individual insurance producer remains responsible for
29 assuring that a bond is in effect and is for the correct amount.

30 (3) The surety may cancel the bond and be released from further
31 liability thereunder upon thirty days' written notice in advance to the
32 principal. The cancellation does not affect any liability incurred or
33 accrued under the bond before the termination of the thirty-day period.

34 (4) The insurance producer's license may be revoked if the
35 insurance producer acts without a bond that is required under this
36 section.

1 (5) If a party injured under the terms of the bond requests the
2 insurance producer to provide the name of the surety and the bond
3 number, the insurance producer must provide the information within
4 three working days after receiving the request.

5 (6) Members of an association may meet the requirements of this
6 section with a bond in the name of the association that is continuous
7 in form and in the amounts set forth in subsection (1) of this section
8 for each participating member.

9 (7) All records relating to the bond required by this section
10 (~~shall~~) must be kept available and open to the inspection of the
11 commissioner at any business time.

12 NEW SECTION. Sec. 5. A new section is added to chapter 48.02 RCW
13 to read as follows:

14 (1) Legal process against a person (a) for whom the commissioner
15 has been appointed attorney for service of process, or (b) who may be
16 served by service of process upon the commissioner, must be served upon
17 the commissioner either by a person competent to serve a summons or by
18 registered mail. At the time of service, the plaintiff must pay to the
19 commissioner ten dollars, taxable as costs in the action.

20 (2) As soon as practicable, the commissioner must send or make
21 available a copy of the process to the person on whose behalf he or she
22 has been served by mail, electronic means, or other means reasonably
23 calculated to give notice. The copy must be sent or made available in
24 a manner that is secure and with a receipt that is verifiable.

25 (3) The commissioner must keep a record of the day and hour of
26 service upon him or her of all legal process.

27 (4) Proceedings must not be had against the person, and the person
28 must not be required to appear, plead, or answer until the expiration
29 of forty days after the date of service upon the commissioner.

30 (5) The commissioner may adopt rules to implement this section.

31 NEW SECTION. Sec. 6. This act takes effect July 26, 2010.

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