

TESTIMONY ON HB 2679

Before the House Revenue Committee

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Representing: Surplus Line Association of Oregon

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Co-Chairs and members of the Committee, I am Jim Markee, today representing the Surplus Line Association of Oregon in support of HB 2679, and the 2679-2 proposed amendments. These amendments are the product of extensive work by our association and the Insurance Division, working together, to bring Oregon statutes into alignment with new federal provisions created by the Dodd-Frank bill, recently enacted by Congress. The federal provisions become effective in July of this year, so it is important that we align our statutes to these provisions in this session of the legislature.

The federal provisions regarding surplus lines insurance that are contained in the Dodd-Frank bill will change the way in which multi-state policies are taxed. Under present law, when a multi-state surplus lines insurance policy is written, the insurance producer (formerly called insurance agent), figures out what percentage of liability to assign to each state, and the appropriate percentage of premium to be charged for each state's liability. Each state's premium tax is then calculated by the insurance producer, and sent to each state. Under the Dodd-Frank provisions, only the home state of the insured can tax the policy. This means that the entire policy for liability in all states with corresponding liability will be taxed by the home state. The Dodd-Frank bill contemplates that all fifty states will sign a uniform interstate agreement under which they will agree to forward each state's tax to the respective states when they are the home state and have taxed a multi-state policy. This fundamental change requires that Oregon have statutory authority to tax the entirety of these policies, and that they have the authority to enter into the prescribed interstate agreements. The proposed amendments to HB 2679 give Oregon that authority. Additionally, the amendments provide a streamlining of the method of taxation, in which the two separate taxes presently collected on these policies, are combined into one number, which is revenue neutral, but much less complicated. The tax will be calculated at 2.3% of premium, with 2% accruing to the general fund, and .3% accruing to the fire marshal's office. Under the current law, premium is taxed at 2% plus an amount for the fire marshal's office which is calculated under a complicated formula based on varying percentages of various types of coverage. The new method of taxation will result in the same amount of money to the general fund and the fire marshal, but under a much simplified and streamlined method of collection.

The proposed amendments to HB 2679 additionally make some related changes to Oregon statutes that are somewhat technical, but necessary. Currently, Oregon lacks the statutory authority to collect a premium tax on "independently procured" surplus lines policies. These are policies that are purchased directly from a surplus lines insurance company without benefit of an insurance producer. Allowing these policies to go untaxed represents a loss of revenue to the state of Oregon. The proposed amendments grant Oregon statutory authority

to collect the premium tax on these policies, and sets out criteria for in-house or retained insurance consultants who may place such insurance in the surplus lines market, as prescribed by the new federal provisions.

The proposed amendments also make changes in the "diligent search" requirement which are required by the Dodd-Frank bill. The Dodd-Frank bill prohibits states from requiring a diligent search to determine if the insurance is available in the admitted market for certain large corporate policies. Most states have similar exemptions to the diligent search requirement for large policies, but most state's exemptions are broader than the federal requirement. The proposed amendments adopt an exemption to the diligent search requirement that is slightly broader than the federal requirement, but somewhat stricter than many other states.

The proposed amendments provide for increased capital and surplus requirements of surplus lines insurers in Oregon as well. This provision will maintain and enhance the high standards that Oregon requires of Surplus Line insurers who do business in Oregon.

It has been our pleasure to work so closely with the Insurance Division on these amendments. We believe that HB 2679 with the -2 amendments will bring Oregon into alignment with the new federal provisions concerning surplus line insurance, and is good policy. We very much appreciate the work of the Insurance Division and their attitude of inclusion throughout this process.

Thanks for the opportunity to present this testimony. I will be happy to answer any questions you may have.