2011 DRAFTING REQUEST

Bill

Received: **02/20/2012**

Received By: **pkahler**

Wanted: **As time permits**

Companion to LRB:

For: **Kevin Petersen (608) 266-3794**

By/Representing: **Jim Bowers**

May Contact:

Drafter: **pkahler**

Subject: **Insurance - other insurance**
Insurance - miscellaneous

Addl. Drafters: **tdodge**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Petersen@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Surplus lines insurance and insurance security fund

Instructions:

Assembly companion to SB 378

Drafting History:

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/?	pkahler	11/5f 2/20	2/20	2/20			-

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<END>

Please jacket "/1" for Assembly.
PJK

LR: I just did this on current version just for 2

State of Wisconsin
2011 - 2012 LEGISLATURE

CORRECTED COPY

LRB-~~2212/2~~ 4149/1
PJK&TJD:kjf:~~jf~~

Today

2011 SENATE BILL 378

January ~~12, 2012~~ – Introduced by Senator LASEE, cosponsored by Representative PETERSEN. Referred to Committee on Insurance and Housing.

Regen

AN ACT ***to repeal*** subchapter III (title) of chapter 618 [precedes 618.39] and 618.43 (1) (b); ***to renumber and amend*** 646.31 (4) (a); ***to amend*** 618.41 (6m), 618.41 (8) (a) (intro.), 618.41 (8) (c), 618.41 (9) (a), 618.43 (1) (a) (intro.), 618.43 (1) (a) 3., 618.43 (1) (d), 618.43 (6), 628.03 (1), 628.05 (1), 628.34 (1) (a), 631.01 (4m), 631.20 (1) (a), 631.20 (1) (c) 9., 631.20 (1m) (a) (intro.), 631.85, 632.32 (2) (ac), 632.32 (4) (a) (intro.), 632.32 (4) (bc), 632.32 (4) (d), 632.32 (4m) (a), 632.32 (4m) (e), 646.01 (2) (b), 646.31 (1) (intro.), 646.35 (1) (b) and 646.35 (6) (b); and ***to create*** subchapter III (title) of chapter 618 [precedes 618.40], 618.40, 618.41 (12), 618.416, 618.43 (1) (bc), 631.20 (7), 632.32 (2) (ab), 646.03 (4m) and 646.31 (4) (ag) of the statutes; **relating to:** surplus lines insurance, insurance security fund, automobile insurance, and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Surplus lines insurance

This bill makes a few changes related to surplus lines insurance, which is defined in the bill as insurance that is permitted to be placed through an agent or

broker with an insurer that is not authorized to do an insurance business in this state and that covers an insured for which this state is the home state, which is defined in the bill as: 1) the state in which the insured maintains its principal place of business; 2) the insured's principal residence if the insured is an individual; or 3) if 100 percent of the insured risk is outside this state, the state to which the greatest percentage of the insured's taxable premium for the insurance is allocated.

Current law contains some limitations on and requirements for the placement of insurance with, and the direct procurement of insurance from, an insurer that is not authorized to do an insurance business in this state. The bill specifies that certain of these requirements do not apply if this state is not the insured's home state and the placement complies with the laws of the insured's home state. The bill also specifies that an intermediary may not place surplus lines insurance with an insurer that is not authorized to do an insurance business in this state unless certain criteria are satisfied. If the insurer is domiciled in another United States jurisdiction, the insurer must be authorized to write the type of insurance in its domiciliary jurisdiction that the intermediary is placing, the insurer must have a specified level of capital and surplus or the commissioner of insurance (commissioner) must find the insurer's capital and surplus acceptable, and the insurer must provide to the commissioner a certified copy of its current annual statement that is filed and approved by the regulatory authority in the insurer's domicile. If the insurer is domiciled outside the United States, the insurer must be on the list maintained by the international insurers department of the National Association of Insurance Commissioners and must meet any additional requirements regarding the use of the list established by the commissioner by rule.

Under current law, the policyholder of surplus lines insurance generally must pay a 3 percent tax on gross premium. If a policy covers risks in more than one state including this state, the tax payable to this state is computed on the premium allocated to this state for the portion of the risk located in this state. Under the bill, that computation applies only for policies issued or renewed before July 21, 2011. For policies issued or renewed on or after that date, the tax is payable to this state only if this state is the home state of the insured, and it is computed on the entire premium, including premium attributable to risks outside of this state.

The bill specifies that the licensing requirements for intermediaries in this state do not apply to a person who solely procures insurance that may be placed directly or through a broker with an insurer that is not authorized to do an insurance business in this state and that is not surplus lines insurance; that the requirements related to filing insurance forms with the commissioner for approval do not apply to a surplus lines insurance form, except for a form for rustproofing warranty insurance; and that the provision relating to insurance policies containing provisions for independent appraisal and compulsory arbitration, subject to the requirements for form filing and approval, does not apply to surplus lines insurance.

Auto insurance

Under current law, the auto insurance provisions relating to required coverage and minimum limits apply to all liabilty insurance policies that insure with respect to any owned motor vehicle registered or principally garaged in this state. The bill

liability ← cps. change already made on corrected copy

eliminates the condition that the requirements apply only if an owned motor vehicle is insured so that, unless a specific exemption applies, the coverage and minimum limit requirements apply to any policy that insures with respect to any motor vehicle.

The bill makes a few modifications to the auto insurance provisions that, under Act 14, go into effect on November 1, 2011. Act 14 provided a definition for a "commercial liability policy" as a policy that provides coverage for the insured's general liability arising out of business or commercial activities and that includes as one component coverage for the insured's liability arising out of the ownership, maintenance, or use of a motor vehicle. Under Act 14, commercial liability policies are not subject to the requirement for motor vehicle insurance policies that they must include uninsured motorist coverage and medical payments coverage, unless the insured rejects medical payments coverage, or the requirement that an insurer must notify the insured of the availability of underinsured motorist coverage. The bill does all of the following:

1. Specifies that a commercial liability policy is not subject to these requirements if the coverage provided under the policy for the insured's liability arising out of the maintenance or use of a motor vehicle is limited to nonowned motor vehicles.

2. Provides that if a policy that is exempt from the requirements does, however, provide uninsured or underinsured motorist coverage or medical payments coverage, that coverage must have at least the limits that are required under the statutes for those coverages. (For uninsured motorist coverage, the minimum limits are $25,000 per person and $50,000 per accident; for underinsured motorist coverage, the minimum limits are $50,000 per person and $100,000 per accident; and for medical payments coverage, the minimum limit is $1,000 per person.)

3. Excludes commercial automobile liability policies from the definition of commercial liability policies so that commercial automobile liability policies are subject to the same requirements as motor vehicle insurance policies and defines a "commercial automobile liability policy" as a policy that is intended principally to provide primary coverage for the insured's liability arising out of the ownership, maintenance, or use of a motor vehicle in the insured's business or other commercial activities.

4. Clarifies that only one named insured is required to reject medical payments coverage for the rejection to be effective.

Insurance security fund

Under current law, the state maintains an insurance security fund to protect insured parties from excessive delay and loss in the event an insurer is liquidated and to provide for the continuation of protection under certain policies and contracts in the event of a liquidation of an insurer. Insurers, with some exceptions, are required to contribute moneys to the insurance security fund. Current law also specifies that, with some exceptions, the maximum obligation of the insurance security fund on any single risk, loss, or life is $300,000.

In addition to making other changes to the insurance security fund, this bill specifies that retained asset accounts are covered by the insurance security fund. A retained asset account is any mechanism in which the settlement of proceeds payable

under a life insurance policy is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer under a written supplementary contract not involving annuity benefits. The bill specifies that a retained asset account is a type of supplementary contract for which an insured may make a claim for payment against the fund. The bill also specifies that retained asset accounts are eligible for continuation protections as are certain other policies and contracts. The bill defines, for the purposes of the maximum fund obligation, "disability insurance" as comprehensive health insurance and major medical health insurance. The bill clarifies that the maximum obligation applies regardless of the number of policies or contracts. The bill also sets the maximum aggregate liability of the fund for a single risk, loss, or life with respect to benefits for property insurance, liability insurance, and disability insurance at $500,000, while the maximum for other insurance policy or contract types remains at $300,000.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** Subchapter III (title) of chapter 618 [precedes 618.39] of the
2 statutes is repealed.

3 **SECTION 2.** Subchapter III (title) of chapter 618 [precedes 618.40] of the
4 statutes is created to read:

5 **CHAPTER 618**

6 SUBCHAPTER III

7 PERMISSIBLE BUSINESS BY

8 UNAUTHORIZED INSURERS

9 **SECTION 3.** 618.40 of the statutes is created to read:

10 **618.40 Definitions.** In this subchapter, unless the context requires otherwise:

11 **(1)** "Affiliated group" means all persons that control, are controlled by, or are
12 under common control with, an insured.

1 **(2)** "Authorized insurer" means an insurer that is licensed, or authorized, to
2 transact the business of insurance under the law of the home state.

3 **(3)** "Control" means, with respect to a person having control over another
4 person, that the person does any of the following:

5 (a) Directly or indirectly, or acting through one or more other persons, owns,
6 controls, or has the power to vote 25 percent or more of any class of voting securities
7 of a person.

8 (b) Controls in any manner the election of a majority of the directors or trustees
9 of a person.

10 **(4)** (a) Except as provided in par. (b), "home state" means, with respect to an
11 insured, one of the following:

12 1. The state in which the insured maintains its principal place of business or,
13 in the case of an insured who is an individual, the individual's principal residence.

14 2. If 100 percent of the insured risk is located outside of the state referred to
15 in subd. 1., the state to which the greatest percentage of the insured's taxable
16 premium for that insurance contract is allocated.

17 (b) If more than one insured from an affiliated group are named insureds on
18 a single surplus lines insurance contract, "home state" means the state, as
19 determined under par. (a), of the member of the affiliated group that has the largest
20 percentage of premium attributed to it under the insurance contract.

21 **(5)** "Premium tax" means, with respect to unauthorized insurance, any tax, fee,
22 assessment, or other charge imposed by this state directly or indirectly based on any
23 payment made as consideration for an insurance contract for such insurance,
24 including premium deposits, assessments, registration fees, and any other
25 compensation given in consideration for a contract of insurance.

1 **(6)** "Principal place of business" means, with respect to determining the home
2 state of an insured, the state where the insured maintains its headquarters and
3 where the insured's high-level officers direct, control, and coordinate the business
4 activities of the insured.

5 **(7)** "Principal residence" means, with respect to determining the home state of
6 an insured who is an individual, the state where the individual resides for the
7 greatest number of days during a calendar year.

8 **(8)** "State" includes any state of the United States, the District of Columbia,
9 the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the Virgin
10 Islands, and American Samoa.

11 **(9)** "Surplus lines broker" means a person that is licensed in a state to sell,
12 solicit, or negotiate insurance on properties, risks, or exposures located or to be
13 performed in that state with unauthorized insurers.

14 **(10)** "Surplus lines insurance" means any insurance to which all of the
15 following apply:

16 (a) This state is the home state of the insured.

17 (b) The insurance is permitted under this subchapter to be placed through a
18 surplus lines agent or broker with an unauthorized insurer eligible to accept the
19 insurance.

20 **(11)** "Unauthorized insurance" means any insurance permitted in a state to be
21 placed directly or through a surplus lines broker with an unauthorized insurer
22 eligible to accept such insurance.

23 **SECTION 4.** 618.41 (6m) of the statutes is amended to read:

24 618.41 **(6m)** RUSTPROOFING WARRANTIES INSURANCE. An insurer issuing a policy
25 of insurance <u>under this section</u> to cover a warranty, as defined in s. 100.205 (1) (g),

shall comply with s. 632.18 and the policy shall be on a form approved by the commissioner under s. 631.20.

SECTION 5. 618.41 (8) (a) (intro.) of the statutes is amended to read:

618.41 **(8)** (a) *Responsibility.* (intro.) An agent or broker~~, or any other person who offers liability insurance coverage under a group policy,~~ may not place insurance under this section with, ~~or~~ and a person who offers liability insurance coverage under a group policy may not solicit the purchase of coverage under a group policy issued by, an unauthorized insurer if all of the following exist:

SECTION 6. 618.41 (8) (c) of the statutes is amended to read:

618.41 **(8)** (c) *Financially sound.* To be financially sound for purposes of par. (a) 1., an insurer must be able to satisfy standards comparable to those applied under the laws of this state to authorized insurers, unless this state is the insured's home state, in which case s. 618.416 applies.

SECTION 7. 618.41 (9) (a) of the statutes is amended to read:

618.41 **(9)** (a) *Required information.* Every new or renewal insurance policy procured and delivered under this section shall bear the name and address of the insurance agent or broker who procured it and~~, except for ocean marine insurance,~~ shall have stamped or affixed upon it the following: "This insurance contract is with an insurer which has not obtained a certificate of authority to transact a regular insurance business in the state of Wisconsin, and is issued and delivered as a surplus line coverage pursuant to s. 618.41 of the Wisconsin Statutes. Section 618.43 (1), Wisconsin Statutes, requires payment by the policyholder of 3 percent tax on gross premium." ~~Every ocean marine insurance policy shall have stamped or affixed upon it the above statement except that the tax shall be one-half of one percent on gross premium.~~

1 **SECTION 8.** 618.41 (12) of the statutes is created to read:

2 618.41 **(12)** APPLICATION WHEN THIS STATE IS NOT THE INSURED'S HOME STATE. The
3 placement of insurance under this section is not subject to subs. (4), (7m), (8), (9), or
4 (10) if this state is not the insured's home state and the placement complies with the
5 laws of the insured's home state.

6 **SECTION 9.** 618.416 of the statutes is created to read:

7 **618.416 Qualification for placement of surplus lines insurance with an**
8 **unauthorized insurer.** An intermediary may not place surplus lines insurance
9 under s. 618.41 with an unauthorized insurer if this state is the home state of the
10 proposed insured, unless at the time of placement all of the following apply to the
11 unauthorized insurer:

12 **(1)** If the unauthorized insurer is domiciled in a United States jurisdiction, the
13 insurer satisfies all of the following:

14 (a) In its domiciliary jurisdiction, the unauthorized insurer is authorized to
15 write the type of insurance to be placed with the insurer.

16 (b) Either the unauthorized insurer has capital and surplus or its equivalent
17 under the laws of its domiciliary jurisdiction that equals the greater of either the
18 minimum capital and surplus requirements under the laws of this state or
19 $15,000,000 or the commissioner affirmatively finds that the unauthorized insurer's
20 capital and surplus are acceptable. The commissioner's finding shall be based on
21 factors that include quality of management, capital and surplus of any parent
22 company, company underwriting profit and investment income trends, market
23 availability, and company record and reputation within the industry. In no event
24 may the commissioner find that the unauthorized insurer's capital and surplus are

acceptable if the unauthorized insurer's capital and surplus are less than $4,500,000.

(c) The unauthorized insurer provides to the commissioner, no more than 6 months after the close of the period reported on, a certified copy of its current annual statement that is filed and approved by the regulatory authority in the unauthorized insurer's domicile and certified by an accounting or auditing firm licensed in the jurisdiction of the unauthorized insurer's domicile.

(2) If the unauthorized insurer is an alien insurer, the insurer is listed on the quarterly listing of alien insurers maintained by the international insurers department of the National Association of Insurance Commissioners and meets additional requirements regarding the use of the list established by rule of the commissioner.

SECTION 10. 618.43 (1) (a) (intro.) of the statutes is amended to read:

618.43 **(1)** (a) (intro.) ~~Except as provided in~~ Subject to par. ~~(b)~~ (bc), insurers, agents, brokers, and policyholders are liable, as provided in sub. (2), for a premium tax of ~~3%~~ 3 percent of gross premiums charged for insurance, excluding annuities, if any of the following ~~are~~ is satisfied:

SECTION 11. 618.43 (1) (a) 3. of the statutes is amended to read:

618.43 **(1)** (a) 3. The insurance is transacted by an unauthorized insurer for a risk purchasing group ~~for coverage of risks which reside or are otherwise located in this state~~.

SECTION 12. 618.43 (1) (b) of the statutes is repealed.

SECTION 13. 618.43 (1) (bc) of the statutes is created to read:

618.43 **(1)** (bc) Notwithstanding any other provision of this section, with respect to premiums charged on policies issued or renewed on or after July 21, 2011,

for insurance to which par. (a) applies, the tax under par. (a) is required only if the home state of the insured is this state, and it shall be levied on the entire gross premium charged, including premium attributable to those portions of the risk located outside of this state.

SECTION 14. 618.43 (1) (d) of the statutes is amended to read:

618.43 **(1)** (d) Any insurance business transacted in violation of the law is subject to a premium tax of ~~5%~~ 5 percent of gross premiums charged for the insurance~~, except that for ocean marine insurance the tax is 2% of gross premiums charged for the insurance~~.

SECTION 15. 618.43 (6) of the statutes is amended to read:

618.43 **(6)** ALLOCATION OF TAX. ~~If~~ With respect to gross premiums charged on policies issued or renewed before July 21, 2011, if a policy covers risks that are only partially located in this state, the premium shall be reasonably allocated among the states on the basis of risk locations in computing the tax, except that all premiums received in this state or charged on policies written or negotiated in this state shall be taxable in full under this section, with a credit for any tax actually paid in another state to the extent of a reasonable allocation on the basis of risk locations.

SECTION 16. 628.03 (1) of the statutes is amended to read:

628.03 **(1)** GENERAL. No natural person may perform, offer to perform, or advertise any service as an intermediary in this state, unless the natural person obtains a license under s. 628.04 or 628.09, and no person may utilize the services of another as an intermediary if the person knows or should know that the other does not have a license as required by law. The licensing requirements of this subsection do not apply to a person who solely procures unauthorized insurance, as defined in s. 618.40 (12), that is not surplus lines insurance, as defined in s. 618.40 (11).

(11) (10)

1 **SECTION 17.** 628.05 (1) of the statutes is amended to read:

2 628.05 **(1)** GENERAL EXEMPTION. Except as otherwise provided in sub. (2), or by
3 rule promulgated by the commissioner, persons engaged in soliciting insurance
4 exclusively for town mutuals are not subject to the licensing requirements of s.
5 628.03 (1).

6 **SECTION 18.** 628.34 (1) (a) of the statutes is amended to read:

7 628.34 **(1)** (a) *Conduct forbidden.* No person who is or should be licensed under
8 chs. 600 to 646, no employee or agent of any such person, no person whose primary
9 interest is as a competitor of a person licensed under chs. 600 to 646, and no person
10 on behalf of any of the foregoing persons may make or cause to be made any
11 communication relating to an insurance contract, the insurance business, any
12 insurer, or any intermediary ~~which~~ that contains false or misleading information,
13 including information that is misleading because of incompleteness. Filing a report
14 and, with intent to deceive a person examining it, making a false entry in a record
15 or willfully refraining from making a proper entry, are "communications" within the
16 meaning of this paragraph. No intermediary or insurer may use any business name,
17 slogan, emblem, or related device that is misleading or likely to cause the
18 intermediary or insurer to be mistaken for another insurer or intermediary already
19 in business. No intermediary may provide a misleading certificate of insurance.

20 **SECTION 19.** 631.01 (4m) of the statutes is amended to read:

21 631.01 **(4m)** RUSTPROOFING WARRANTIES INSURANCE. An insurer issuing a policy
22 of insurance to cover a warranty, as defined in s. 100.205 (1) (g), shall comply with
23 s. 632.18 and the policy shall be on a form approved by the commissioner under s.
24 631.20.

25 **SECTION 20.** 631.20 (1) (a) of the statutes is amended to read:

631.20 **(1)** (a) No form subject to s. 631.01 (1), except as exempted under par. (c), sub. (1g), or s. 631.01 (2) ~~to~~, (3), (4), or (5) or by rule under par. (b), may be used unless it has been filed with and approved by the commissioner and unless the insurer certifies that the form complies with chs. 600 to 655 and rules promulgated under chs. 600 to 655. It is deemed approved if it is not disapproved within 30 days after filing, or within a 30-day extension of that period ordered by the commissioner prior to the expiration of the first 30 days.

SECTION 21. 631.20 (1) (c) 9. of the statutes is amended to read:

631.20 **(1)** (c) 9. A form ~~subject to s. 618.41 (6m)~~ for a policy of insurance to cover a warranty, as defined in s. 100.205 (1) (g).

SECTION 22. 631.20 (1m) (a) (intro.) of the statutes is amended to read:

631.20 **(1m)** (a) (intro.) Except as exempted under sub. (1g) or s. 631.01 (2) ~~to~~, (3), (4), or (5) or by a rule promulgated by the commissioner, an insurer may not, on or after August 1, 2008, use a form that is exempt from sub. (1) (a) under sub. (1) (c) unless the insurer does all of the following:

SECTION 23. 631.20 (7) of the statutes is created to read:

631.20 **(7)** SURPLUS LINES INSURANCE. Except as provided in sub. (1) (c) 9. and s. 618.41 (6m), this section does not apply to a surplus lines insurance form issued under s. 618.41 before, on, or after the effective date of this subsection .... [LRB inserts date].

SECTION 24. 631.85 of the statutes is amended to read:

631.85 Appraisal or arbitration. An insurance policy may contain ~~provision~~ provisions for independent appraisal and compulsory arbitration, subject to the provisions of s. 631.20. If an approved policy provides for application to a court of record for the appointment of a disinterested appraiser, arbitrator, or umpire, any

1 court of record of this state except the court of appeals or the supreme court may be
2 requested to make an appointment. Upon appropriate request, the court shall make
3 the appointment promptly. This section does not apply to a surplus lines insurance
4 form issued under s. 618.41 before, on, or after the effective date of this section ....
5 [LRB inserts date].

6 **SECTION 25.** 632.32 (2) (ab) of the statutes is created to read:

7 632.32 **(2)** (ab) "Commercial automobile liability policy" means a liability
8 insurance policy that is intended principally to provide primary coverage for the
9 insured's liability arising out of the ownership, maintenance, or use of a motor
10 vehicle in the insured's business or other commercial activities.

11 **SECTION 26.** 632.32 (2) (ac) of the statutes, as created by 2011 Wisconsin Act
12 14, is amended to read:

13 632.32 **(2)** (ac) "Commercial liability policy" means any form of liability
14 insurance policy, including a commercial or business package policy or a policy
15 written on farm and agricultural operations, that is intended principally to provide
16 primary coverage for the insured's general liability arising out of its business or other
17 commercial activities, and that includes coverage for the insured's liability arising
18 out of the ownership, maintenance, or use of a motor vehicle as only one component
19 of the policy or as coverage that is only incidental to the principal purpose of the
20 policy. "Commercial liability policy" does not include a worker's compensation policy
21 or a commercial automobile liability policy.

22 **SECTION 27.** 632.32 (4) (a) (intro.) of the statutes is amended to read:

23 632.32 **(4)** (a) (intro.) Except as provided in par. (d), every policy of insurance
24 subject to this section that insures with respect to any ~~owned~~ motor vehicle
25 registered or principally garaged in this state against loss resulting from liability

imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall contain therein or supplemental thereto provisions for all of the following coverages:

SECTION 28. 632.32 (4) (bc) of the statutes, as affected by 2011 Wisconsin Act 14, is amended to read:

632.32 **(4)** (bc) Notwithstanding par. (a) 2., the named insured may reject medical payments coverage. If ~~the~~ one named insured rejects the coverage, the coverage need not be provided in a subsequent renewal policy issued by the same insurer unless ~~the~~ a named insured under the policy requests it in writing.

SECTION 29. 632.32 (4) (d) of the statutes, as affected by 2011 Wisconsin Act 14, is amended to read:

632.32 **(4)** (d) This subsection does not apply to a commercial liability ~~policies~~ policy if the coverage it provides for the insured's liability arising out of the maintenance or use of a motor vehicle is limited to coverage for motor vehicles that are not owned motor vehicles, or to an umbrella or excess liability ~~policies~~ policy. If a commercial liability policy or an umbrella or excess liability policy provides medical payments coverage or uninsured motorist coverage, however, the coverage must have limits of at least those specified in par. (a).

SECTION 30. 632.32 (4m) (a) of the statutes, as created by 2011 Wisconsin Act 14, is amended to read:

632.32 **(4m)** (a) Except as provided in par. (e), an insurer writing policies that insure with respect to a motor vehicle registered or principally garaged in this state against loss resulting from liability imposed by law for bodily injury or death suffered by a person arising out of the ownership, maintenance, or use of a motor vehicle shall provide to one named insured under each such insurance policy that goes into effect

after November 1, 2011, that is written by the insurer and that does not include underinsured motorist coverage written notice of the availability of underinsured motorist coverage, including a brief description of the coverage. An insurer is required to provide the notice required under this paragraph only one time and in conjunction with the delivery of the policy.

SECTION 31. 632.32 (4m) (e) of the statutes, as created by 2011 Wisconsin Act 14, is amended to read:

632.32 **(4m)** (e) This subsection does not apply to a commercial liability ~~policies~~ policy if the coverage it provides for the insured's liability arising out of the maintenance or use of a motor vehicle is limited to coverage for motor vehicles that are not owned motor vehicles, or to an umbrella or excess liability ~~policies~~ policy. If a commercial liability policy or an umbrella or excess liability policy provides underinsured motorist coverage, however, the coverage must have limits of at least those specified in par. (d).

SECTION 32. 646.01 (2) (b) of the statutes is amended to read:

646.01 **(2)** (b) To provide where appropriate for the continuation of protection under policies and ~~supplemental~~ supplementary contracts of life insurance, disability insurance and annuities.

SECTION 33. 646.03 (4m) of the statutes is created to read:

646.03 **(4m)** "Retained asset account" means any mechanism in which the settlement of proceeds payable under a life insurance policy is accomplished by the insurer or an entity acting on behalf of the insurer depositing the proceeds into an account with check or draft writing privileges, where those proceeds are retained by the insurer, under a written supplementary contract not involving annuity benefits.

SECTION 34. 646.31 (1) (intro.) of the statutes is amended to read:

646.31 **(1)** CONDITIONS OF ELIGIBILITY. (intro.) A claim is not eligible for payment from the fund unless it is an unpaid claim for a loss insured under the policy or annuity, or an unpaid claim under a supplementary contract providing for a retained asset account, and all of the following conditions are met:

SECTION 35. 646.31 (4) (a) of the statutes is renumbered 646.31 (4) (ap) and amended to read:

646.31 **(4)** (ap) Except in regard to worker's compensation insurance and except as provided in par. (b), the obligation of the fund on a single risk, loss, or life, regardless of the number of policies or contracts, may not exceed $300,000, ~~regardless of the number of policies or contracts~~ except that the aggregate liability of the fund for a single risk, loss, or life with respect to benefits for property insurance, liability insurance, and disability insurance, regardless of the number of those policies, may not exceed $500,000.

SECTION 36. 646.31 (4) (ag) of the statutes is created to read:

646.31 **(4)** (ag) For purposes of this subsection, "disability insurance" means comprehensive health insurance policies and major medical health insurance policies. "Disability insurance" does not include hospital indemnity; loss of time; accidental benefits; limited or specified benefit or other ancillary coverages; disability income insurance coverage; long-term care insurance coverage; insurance coverage that is supplemental to another insurance policy or program, including Medicare supplement insurance; or similar types of policies.

SECTION 37. 646.35 (1) (b) of the statutes is amended to read:

646.35 **(1)** (b) Life insurance and supplementary contracts providing for retained asset accounts.

SECTION 38. 646.35 (6) (b) of the statutes is amended to read:

646.35 **(6)** (b) In the case of a disability insurance policy that is neither guaranteed renewable nor noncancelable, the fund is not obligated to continue the policy in force beyond ~~the time required under s. 645.43~~ 30 days after the date the order of liquidation is entered, or 30 days after the date established in the liquidation order of another state, but may continue the coverage under any disability insurance policy for up to 180 days after the date of the liquidation order.

SECTION 39. Initial applicability.

(1) OCEAN MARINE INSURANCE TAX RATE. The treatment of sections 618.41 (9) (a) and 618.43 (1) (a) (intro.) (with respect to the tax rate exception for ocean marine insurance), (b), and (d) of the statutes first applies to surplus lines ocean marine insurance issued or renewed on the effective date of this subsection.

SECTION 40. Effective dates. This act takes effect on the day after publication, except as follows:

(1) AUTO INSURANCE PROVISIONS. The treatment of section 632.32 (2) (ab) and (ac), (4) (a) (intro.), (bc), and (d), and (4m) (a) and (e) of the statutes takes effect on November 1, 2011, or on the day after publication, whichever is later.

(END)

Parisi, Lori

From: Bowers2, Jim
Sent: Monday, February 20, 2012 2:29 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-4149/1 Topic: Surplus lines insurance and insurance security fund

Please Jacket LRB 11-4149/1 for the ASSEMBLY. We also need it numbered as soon as possible as it is going to be heard this Thursday. It is a committee bill and companion to SB 378