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## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

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<b>2017 Senate Bill 77</b>	<b>Senate Amendment 1</b>
<i>Memo published: March 22, 2017</i>	<i>Contact: Anna Henning, Senior Staff Attorney</i>

### **2017 SENATE BILL 77**

2017 Senate Bill 77 authorizes domestic insurance corporations to provide surplus lines insurance in Wisconsin, subject to certain requirements. Specifically, the bill requires the Wisconsin Commissioner of Insurance to issue a certificate permitting an insurer domiciled in Wisconsin to provide surplus lines insurance, if the insurer satisfies all of the following requirements:

- The insurer's board of directors has adopted a resolution requesting to be certified as a domestic surplus lines insurer.
- The insurer is eligible to provide surplus lines insurance in a state other than this state.
- The insurer has capital and surplus of no less than \$15 million.

The bill specifies that a certified domestic surplus lines insurer shall be considered a nonadmitted insurer for purposes of federal law. The bill also provides that insurance transacted by a domestic surplus lines insurer is subject to the same taxation as applies to nonadmitted insurers.

In addition, the bill specifies that policies issued by domestic surplus lines insurers are not subject to the Wisconsin Insurance Security Fund.

### **SENATE AMENDMENT 1**

Senate Amendment 1 makes various changes relating to the application of other laws, the treatment of past policies, and coverage requirements for building contractors. Key changes are summarized below.

### Application of General Regulations to Domestic Surplus Lines Insurers

**The bill** specifies that a surplus lines insurance policy issued by a domestic insurer is only subject to the requirements of the surplus lines insurance statute, in the same manner as a surplus line insurance policy issued by a nondomestic insurer. In addition, the bill specifies that domestic surplus lines insurers are subject to certain prohibitions relating to unfair marketing practices. The bill does not specify whether a domestic surplus lines insurer is subject to other laws regulating domestic insurance corporations.

**The amendment** clarifies that, although a surplus lines insurance **policy** issued by a domestic insurer is only subject to the requirements of the surplus lines insurance statute, a domestic surplus lines **insurer** is subject to statutory requirements generally applicable to domestic insurance corporations.

### Treatment of Past Policies

**The bill** prohibits a domestic surplus lines insurer from offering insurance other than surplus lines insurance.

**The amendment** retains that prohibition and also specifically prohibits a domestic surplus lines insurer from applying to issue policies other than as a domestic surplus lines insurer. In addition, the amendment adds a new criterion for obtaining a certificate to provide domestic surplus lines insurance. Specifically, the amendment requires an insurer who has issued insurance policies as a domestic insurer to provide a plan for the insurer's proposed treatment of those policies in the insurer's application for the certificate.

### Coverage Requirements for Certain Building Contractors

**Current law** requires a contractor to obtain an annual certificate of financial responsibility from the Department of Safety and Professional Services before obtaining a building permit for a one- or two-family dwelling. One option for satisfying the financial responsibility requirement is proof of a policy of general liability insurance insuring the applicant in the amount of at least \$250,000 per occurrence. **The bill** does not include any provisions relating to that requirement.

**The amendment** modifies the proof of responsibility requirement to allow the insurance policy to be provided by an insurer that is eligible to provide insurance as a surplus lines insurer in one or more states.

### BILL HISTORY

Senator Lasee offered Senate Amendment 1 on February 28, 2017. On March 13, 2017, the Senate Committee on Insurance, Housing, and Trade voted to recommend the adoption of the amendment and the passage of the bill, as amended, on votes of Ayes, 5; Noes, 0.

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