

2009 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1141

2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1141

House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Hearing Date: January 12, 2009

Recorder Job Number: 6845

Committee Clerk Signature *Ellen Heland*

Chairman Keiser: Open the hearing on HB 1141 relating to fees charged for issuing & renewing a surplus lines insurance producer's or insurance consultant's license.

Rebecca Ternes~Deputy Commissioner, North Dakota Insurance Department. See attachment.

Representative Amerman: Is it the same price for resident and non-resident?

Ternes: Yes.

Chairman Keiser: What is cost for the department to license and renewel?

Ternes: I can't answer that with a dollar amount. It's much more costly to manage these licenses than others.

Chairman Keiser: Surplus line people more difficult license?

Ternes: Training most times comes from the company.

Representative Clark: If there is a cost involved, why not a two year license?

Ternes: I'm not sure why is annual, there is premium taxes on an annual basis.

Vice Chairman Kasper: What type of insurance products sold under this license?

Ternes: Unique items, for example large boats.

Chairman Keiser: In the oil industry out west, do we much surplus activity out there?

Ternes: Likely so.

Representative Wald: Very common, its odd ball items like fireworks stand. Places where you can't go to like Dakota Fire or State Farm.

Ken Olson~Professional Insurance Agents Association of North Dakota. We support the bill.

Chairman Keiser: Are you speaking for all the license agents in the surplus lines?

Olson: Yes, our association supports this bill.

Evan Mandigo~Represent the Independent Insurance Agents of North Dakota. We support HB 1141.

Representative Ruby: Are there any figure or estimation of percentage of policies that will go up?

Mandigo: I don't think it will make any difference.

Anyone in opposition of HB 1141? Seeing none we will close the hearing on HB 1141.
What are the wishes of the committee?

Vice Chairman Kasper: Do Pass.

Representative N Johnson: Second.

Committee Roll Call was taken with 13 yeas, 0 no, & 0 absent to pass HB 1141 and the carrier is Vice Chairman Kasper.

FISCAL NOTE
Requested by Legislative Council
01/05/2009

REVISION

Bill/Resolution No.: HB 1141

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$25,848		\$98,580		\$98,580
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill provides for an increase in the licensing and renewal fees charged to surplus lines insurance producers and consultants.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The change in fee structure will result in an additional \$72,732 in revenue collected each biennium. This revenue is deposited into the Insurance Regulatory Trust fund.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The current fee structure for surplus lines producers and consultants is \$10 for the initial license and \$10 for each annual renewal. Under this bill the initial fee would increase to \$100 and the subsequent annual renewal fees would increase to \$25.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This bill would have no effect on expenditures.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

This bill would have no effect on appropriations.

Name:	Larry J. Martin	Agency:	Insurance Department
Phone Number:	328-2930	Date Prepared:	01/05/2009

FISCAL NOTE
Requested by Legislative Council
12/23/2008

Bill/Resolution No.: HB 1141

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2007-2009 Biennium		2009-2011 Biennium		2011-2013 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$24,720		\$91,100		\$91,100
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2007-2009 Biennium			2009-2011 Biennium			2011-2013 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill provides for an increase in the licensing and renewal fees charged to surplus lines insurance producers. The change in fee structure will result in an additional \$70,380 in revenue collected each biennium. This revenue is deposited into the Insurance Regulatory Trust fund.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The current fee structure for surplus lines producers is \$10 for the initial license and \$10 for each annual renewal. Under this bill the initial fee would increase to \$100 and the subsequent annual renewal fees would increase to \$25.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

See above explanation.

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This bill would have no effect on expenditures.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

This bill would have no effect on appropriations.

Name:	Larry J. Martin	Agency:	Insurance Department
Phone Number:	328-2930	Date Prepared:	12/29/2008

Date: Jan 12 - 2009
Roll Call Vote # 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1141

House House, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ As Amended

Motion Made By Rep Kasper Seconded By Rep. Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Representative Amerman	✓	
Vice Chairman	✓		Representative Boe	✓	
Representative Clark	✓		Representative Gruchalla	✓	
Representative N Johnson	✓		Representative Schneider	✓	
Representative Nottestad	✓		Representative Thorpe	✓	
Representative Ruby	✓				
Representative Sukut	✓				
Representative Vigesaa	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Kasper

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1141: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1141 was
placed on the Eleventh order on the calendar.

2009 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1141

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1141

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Hearing Date: March 2, 2009

Recorder Job Number: 9919

Committee Clerk Signature

Minutes:

Troy Schuchard

Chairman Klein: Opened the hearing on HB 1141, all members present.

Rebecca L. Ternes: Deputy Insurance Commissioner for North Dakota testified in favor of HB 1141. (See attachment #1)

Senator Nodland: Are there different education requirements?

Peggy Brentinal: Representing the Agent Licensing Division testified that the surplus line producers also have to have a regular producer license that all the other producers do.

Resident consultants, which we have 0 in North Dakota, are also required to do the same continuing education.

Senator Nodland: So they just will pay a larger fee? We are not requiring more education, just a larger fee?

Rebecca L. Ternes: That is correct. It is the same fee that all other producers pay currently.

Senator Andrist: Is there any thought that you have a thousand of these people and they are not producing and they are just keeping their license current? Do you anticipate that with the increased fee, some of these people will decline to renew?

Rebecca L. Ternes: That is true and in developing the fiscal note, we wondered if we should have it as high because of the expectation that some would drop off and not renew.

Senator Behm: What do you mean by surplus line producers?

Rebecca L. Ternes: These are lines of insurance that you cannot get from your regular insurance agent, for example...Lloyds of London.

Senator Horne: Can you give a specific example?

Rebecca L. Ternes: If a super model wants to insure her legs or a hand model and their hands. Typically that your State Farm or American Family Insurance just will not touch for various reasons.

Senator Potter: Is there been any consideration for charging different fees for resident and out-of-state people?

Rebecca L. Ternes: I suppose we could, uniformity says we wouldn't. It is just easier for us to charge the same fee for both.

Evan Manigo: Executive Director of Association of Independent Insurance Agents and we whole heartedly support the change in the fee structure set forth in HB 1141.

Steve Bechler: Executive Director of North Dakota Professional Insurance Agents and we support HB 1141 for the uniformity standards. If your going to have agents out there that are doing things and are held to a higher standard they should be paying the same as the rest of the agent.

Senator Nodland: I know an agent and he is selling property and casualty and a new younger agent selling surplus lines. I am concerned about the education. Your saying the responsibility is so much more, but no more education because it is specialized type stuff, i.e. trail rides, oil field specialty, or even an antique car.

Steve Bechler: The coverage itself doesn't change, it is the type of risk that you are dealing with. The people who sell those surplus lines are going to gear their continuing education

towards the type of business they are selling. So they will do more education that deals specifically with the higher risk.

Senator Nodland: So there is education geared for this surplus line.

Steve Bechler: If you are dealing with those higher risk items and competing in the open market, the agents are going to have advanced degrees and designations because that is the only way to compete with the other guy who is already selling these products.

Senator Wanzek: Would excess blanket liability over a farm policy be considered a surplus line?

Steve Bechler: Not normally, no. That is a standard market. Surplus lines are policies that you cannot find normally in a standard market. These are the high risk items that you are not able to get coverage through your standard means of insurance.

Senator Horne: The way I would get to a surplus line carrier is if I have an unusual activity or event and I go to State Farm. They would look and decide whether they can or not. Then they refer me to a surplus line carrier. Do they turn you loose, recommend somebody, or what?

Steve Bechler: That would depend on the agent. If they have somebody they know specializes then they may refer you to that person. If they have no idea, they might suggest other avenues such as independent agents or larger agencies. A lot of times you might check with a broker in Minneapolis if there isn't anything locally.

Norbert Mayer: Representing North Dakota Association of Insurance and Financial Advisors testified in support of HB 1141.

Chairman Klein: Closed the hearing on HB 1141.

Senator Wanzek: Made a motion for Do Pass on HB 1141.

Senator Andrist: Seconded

Chairman Klein: Motion for a Do Pass is recommended 6-1, Senator Nodland will carry. Bill is re-referred to Appropriations Committee.

Date: 3/2/09
Roll Call Vote #: 1

Senate

Industry, Business and Labor

Legislative Council Amendment Number _____

Motion Made By Senator Wanzek Seconded By Senator Andrist

[illegible]

Absent ☐

Floor Assignment Senator Nodland

Bill is re-referred

REPORT OF STANDING COMMITTEE

HB 1141: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS and BE REREFERRED to the Appropriations Committee (6 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1141 was rereferred to the Appropriations Committee.

2009 SENATE APPROPRIATIONS

HB 1141

2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1141

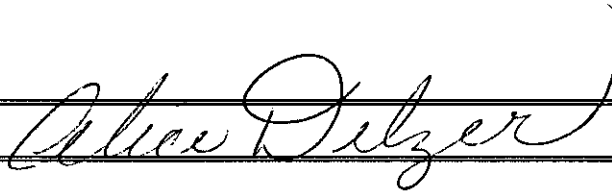
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 03-11-09

Recorder Job Number: 10650

Committee Clerk Signature



Minutes:

Chairman Holmberg called the committee back to order in reference to HB 1141 in regards to relating to fees charged for issuing and renewing a surplus lines insurance producer's or insurance consultant's license

Rebecca Ternes, Deputy Commissioner, North Dakota Insurance Department testified in favor of HB 1141 and provided written testimony # 1(02.41)

Senator Fischer From my part of the country we use flood insurance. An agent doesn't need a special license to sell flood insurance. But would he need to go to a specialty company if you have a 2 million dollar home or ½ million dollar home?

Rebecca Ternes I am going to let an expert answer that. With regards to surplus lines brokers or agents they have to hold a P and C license and they have to circuit all the readily market before they can go out.

Senator Christmann Would there be somebody or some situation that falls under this, where someone has this license to do a transaction in some kind of charitable way and just jacking up the price on them and make money on it or is there no such problem?

Rebecca Ternes I don't think there is a problem. Surplus lines licensees originally had to be residents of the state. When they had to be residents we had about 40 of them. In 2000 we changed that so that anyone can hold a surplus line. These fees are very nominal. All of the

associations are in support of the bill. If there is money to be made, people will get their license. The other unique thing about surplus lines licensee is they do have a higher responsibility in our market. They have to report premium taxes and so for us they are more work as well in the agency. (5.19)

Steve Becker, Executive Director, North Dakota Professional Insurance Agents

Association On behalf of the association we don't have any problems with the fees going up and just being uniform across all lines. To answer Senator Fischer's question, in that case if there was not an admitted carrier, someone who has an admitted status for the state of North Dakota, yes, you could probably go through a surplus line carrier and find that type of coverage. Normally you are going to find things like fireworks manufacturers, some of the oil rig coverage's out in western North Dakota, things that a normal, everyday company does not have the resources or the desire to cover, you would end up going to a surplus lines carrier because you can. It's normally commercial type coverage.

Senator Mathern Does this bill, to your understanding, also going forward permit all of those changes or does it just change it this time, make it the same this time.

Steve Becker It is my understanding the changes are going forward. It will be the same for everybody.

SENATOR CHRISTMANN MOVED A DO PASS. SECONDED BY SENATOR GRINDBERG.

Discussion followed.

A ROLL CALL VOTE WAS TAKEN ON A DO PASS ON HB 1141 WITH 14 YES, 0 NAYS, 0 ABSENT. SENATOR NODLAND FROM IBL WILL CARRY THE BILL.

Chairman Holmberg closed the hearing on HB 1141.

Date: 3/11/09
Roll Call Vote #: 1

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1141

Senate Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☒ Do Pass ☐ Do Not Pass ☐ Amended

Motion Made By Christmann Seconded By Grindberg

Representatives	Yes	No	Representatives	Yes	No
Senator Fischer	✓		Senator Warner	✓	
Senator Christmann	✓		Senator Robinson	✓	
Senator Krebsbach	✓		Senator Krauter	✓	
Senator Bowman	✓		Senator Lindaas	✓	
Senator Kilzer	✓		Senator Mathern	✓	
Senator Grindberg	✓		Senator Seymour	✓	
Senator Wardner	✓				
Chairman Holmberg	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment IBL. Sen Rodland

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 11, 2009 9:34 a.m.

Module No: SR-44-4539
Carrier: Nodland
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1141: Appropriations Committee (Sen. Holmberg, Chairman) recommends **DO PASS**
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1141 was placed on the
Fourteenth order on the calendar.

2009 TESTIMONY

HB 1141

HOUSE BILL NO. 1141

Presented by: Rebecca L. Ternes
Deputy Commissioner
North Dakota Insurance Department

Before: House Industry, Business and Labor Committee
Representative George Keiser, Chairman

Date: January 12, 2009

TESTIMONY

Good afternoon, Chairman Keiser and IBL Committee members. For the record, my name is Rebecca Ternes. I am the North Dakota Deputy Insurance Commissioner.

You have before you House Bill No. 1141 which relates to the fees charged to surplus lines insurance producers and insurance consultants.

Surplus lines are those lines of insurance that are not available from an admitted company in the regular market. Often they are unique and infrequently placed coverages. Insurance consultants are professionals that get paid to assist insurance buyers in choosing insurance. Consultants cannot also hold a producer license.

Surplus lines insurance licensees and consultants currently pay \$10 to apply and \$10 to renew or continue their license every year. These fees were set in 1975 and 1985, respectively. Most other states charge well over \$100 for initial licenses and to renew. This bill will increase application fees to \$100 and renewal fees to \$25, similar to the fees for other lines.

The \$10 fees were set when there was also a requirement to be a resident of North Dakota to sell surplus lines in North Dakota. That requirement no longer exists so the

number of surplus lines licensees has grown from 45 in the year 2000, to around 1,000 today.

46 of today's surplus lines licensees are residents of North Dakota. 719 of them are nonresident individuals. This also includes 8 resident business entities and 240 nonresident business entities. Many of these licensees report zero business written each year. There are approximately 50 insurance consultants licensed in North Dakota, none of which are residents.

It is important to note that surplus lines producers are required in North Dakota to carry a separate license and renew annually versus biennially because they are different from regular property and casualty or life and health producers. They have higher levels of responsibility. Surplus lines licensees are required to pay premium taxes and to ensure that an adequate search of the regular admitted markets has been completed for the client.

I have discussed this bill with the North Dakota Professional Insurance Agents (PIA), the North Dakota Independent Insurance Agents (Big I) and the North Dakota Association of Insurance and Financial Advisors (NDAIFA). These associations are supportive of this bill.

Mr. Chairman, members of the committee, I am happy to answer any questions and urge a vote of "do pass" on House Bill No. 1141. Thank you.

*Same 2 pages
given to Senate
I'll approve*