

**2013 HOUSE INDUSTRY, BUSINESS AND LABOR**

**HB 1181**

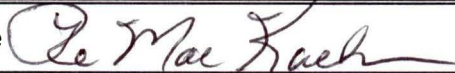
# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Industry, Business and Labor Committee Peace Garden Room, State Capitol

HB 1181  
January 30, 2013  
Job #17955

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Domestic surplus lines insurers

### Minutes:

Attachments #1 & 2

Hearing opened.

**Pat Ward, Attorney with Zuger Kirmis & Smith:** Refer to written testimony, attachment 1.

**Representative M. Nelson:** (2:57) You mentioned a clause that prevents them from selling, yet I don't see anything struck out.

**Pat Ward:** We are putting in a new section. Surplus lines companies are not allowed to write within the state they are domesticated. There are another six states that have done this.

**Representative Kreun:** (3:49) Please give an example of surplus lines.

**Pat Ward:** It means specialty coverage that is unique and does not fall within the normal lines, such as auto or small business commercial.

**Chairman Keiser:** It is everything else that isn't covered in a normal type of insurance policy.

### Support:

**John Svoboda, SVP and Regulatory Officer for the QBE North America group of companies, QBENA:** (5:00) Refer to written testimony, attachment 2.

**Chairman Keiser:** (9:00) Please explain surplus lines.

**John Svoboda:** With surplus lines you have the admitted market or licensed carriers. They write most of the coverages that are needed. Every once in a while, you have unique risks that the admitted market does not cover. Examples include long-haul trucking or

construction risks. They are products and services that the admitted insurance market does not provide. If the admitted license carriers do provide that coverage, the surplus lines market cannot provide it. You cannot use price as a guideline. If an admitted license carrier is willing to offer the product for \$100, even if the surplus lines market would be willing to offer it for \$80 you can't do that. The admitted line has guarantee fund protection which the surplus lines market does not.

**Representative Ruby:** (10:51) What was the reasoning behind preventing domestic insurers from providing insurance in their home state?

**John Svoboda:** You are either admitted and licensed or you are surplus lines. If you are domiciled in a state, that makes you an admitted licensed carrier.

**Chairman Keiser:** The insurance department is here. Perhaps they can add to that.

**Representative Kasper:** (13:00) Why did you domicile in North Dakota? Do you have a home office in North Dakota?

**John Svoboda:** I was not with the QBE group when they were formed. I'm comfortable saying the reason we were domiciled in North Dakota was because North Dakota at that time had the least amount of surplus lines exposure. We do not have an office here. Our primary administrative offices are out of New York and Wisconsin.

**Opposition:** None

**Neutral:** None

**Chairman Keiser:** Would the insurance dept. come up and tell us why we need to add this section to the code?

**Ed Moody, Chief Examiner, North Dakota Insurance Dept.:** (14:40) The department is neutral in the bill. We have four other insurers who are surplus lines and might take advantage of this should it pass. It directly came about as part the Dodd-Frank Bill. This would allow North Dakota to be competitive with the other states.

**Chairman Keiser:** (15:00) If QBE were domestic domiciled here they could not write here without this?

**Ed Moody:** They could write admitted lines but not surplus lines. The Dodd-Frank Bill is supposed to eliminate this problem.

Hearing closed.

Motion to do pass made by Representative Vigesaa and seconded by Representative N. Johnson.

**Chairman Keiser:** The surplus lines industry is really an interesting industry. When you hear the term "Lloyds of London", they are a surplus line writer. They have covered the

Hope Diamond, etc. In North Dakota with the oil development there is a lot of potential the other lines will not be able to cover.

**A Roll Call vote was taken: Yes 14, No 0, Absent 1.** (Rep. Amerman)

Chairman Keiser: We have to add an amendment

**Motion to reconsider:** Representative Ruby, Seconded by N. Johnson

**Voice Vote.** Motion passed.

**Motion to amend.** Representative Kreun. Seconded by Representative Boschee

**Voice Vote.** Motion passed.

**Motion for Do Pass as amended.** Representative Ruby. Seconded by Representative N. Johnson.

**A Roll Call vote was taken: Yes 14, No 0, Absent 1.** (Rep. Amerman)

**Do Pass as amended carries.**

**Representative Kreun is the carrier.**

13.0408.02001  
Title.03000

Adopted by the Industry, Business and Labor  
Committee

January 30, 2013

1/30/13  
TD

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1181

Page 2, line 7, replace the first underscored comma with "and"

Page 2, line 7, remove ", and tax"

Renumber accordingly

Date: 1-30-2013

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1181**

**House Industry, Business, and Labor Committee**

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider  Consent Calendar

Motion Made By Vigesaa Seconded By Johnson

| Representatives          | Yes | No | Representatives       | Yes | No |
|--------------------------|-----|----|-----------------------|-----|----|
| Chairman George Keiser   | ✓   |    | Rep. Bill Amerman     |     | ✓  |
| Vice Chairman Gary Sukut | ✓   |    | Rep. Joshua Boschee   | ✓   |    |
| Rep. Thomas Beadle       | ✓   |    | Rep. Edmund Gruchalla | ✓   |    |
| Rep. Rick Becker         | ✓   |    | Rep. Marvin Nelson    | ✓   |    |
| Rep. Robert Frantsvog    | ✓   |    |                       |     |    |
| Rep. Nancy Johnson       | ✓   |    |                       |     |    |
| Rep. Jim Kasper          | ✓   |    |                       |     |    |
| Rep. Curtiss Kreun       | ✓   |    |                       |     |    |
| Rep. Scott Louser        | ✓   |    |                       |     |    |
| Rep. Dan Ruby            | ✓   |    |                       |     |    |
| Rep. Don Vigesaa         | ✓   |    |                       |     |    |
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Total Yes 14 No 0

Absent 1

Floor Assignment Kreun

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

Date: 1-30-2013an

Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1181**

**House Industry, Business, and Labor Committee**

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider  Consent Calendar

Motion Made By Ruby Seconded By Johnson

| Representatives          | Yes | No | Representatives       | Yes | No |
|--------------------------|-----|----|-----------------------|-----|----|
| Chairman George Keiser   |     |    | Rep. Bill Amerman     |     |    |
| Vice Chairman Gary Sukut |     |    | Rep. Joshua Boschee   |     |    |
| Rep. Thomas Beadle       |     |    | Rep. Edmund Gruchalla |     |    |
| Rep. Rick Becker         |     |    | Rep. Marvin Nelson    |     |    |
| Rep. Robert Frantsvog    |     |    |                       |     |    |
| Rep. Nancy Johnson       |     |    |                       |     |    |
| Rep. Jim Kasper          |     |    |                       |     |    |
| Rep. Curtiss Kreun       |     |    |                       |     |    |
| Rep. Scott Louser        |     |    |                       |     |    |
| Rep. Dan Ruby            |     |    |                       |     |    |
| Rep. Don Vigesaa         |     |    |                       |     |    |
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Total Yes 2 No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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



Date: 1-30-2013am

Roll Call Vote #: 3

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1181**

**House Industry, Business, and Labor Committee**

Legislative Council Amendment Number 13-0408-02001

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider  Consent Calendar

Motion Made By Kreun Seconded By Boschee

| Representatives          | Yes | No | Representatives       | Yes | No |
|--------------------------|-----|----|-----------------------|-----|----|
| Chairman George Keiser   |     |    | Rep. Bill Amerman     |     |    |
| Vice Chairman Gary Sukut |     |    | Rep. Joshua Boschee   |     |    |
| Rep. Thomas Beadle       |     |    | Rep. Edmund Gruchalla |     |    |
| Rep. Rick Becker         |     |    | Rep. Marvin Nelson    |     |    |
| Rep. Robert Frantsvog    |     |    |                       |     |    |
| Rep. Nancy Johnson       |     |    |                       |     |    |
| Rep. Jim Kasper          |     |    |                       |     |    |
| Rep. Curtiss Kreun       |     |    |                       |     |    |
| Rep. Scott Louser        |     |    |                       |     |    |
| Rep. Dan Ruby            |     |    |                       |     |    |
| Rep. Don Vigesaa         |     |    |                       |     |    |
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Total Yes \_\_\_\_\_ No \_\_\_\_\_  
Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

page 2, line 7



Date: 1-30-2013

Roll Call Vote #: 4

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1181**

**House Industry, Business, and Labor Committee**

Legislative Council Amendment Number B.0408.02001

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider  Consent Calendar

Motion Made By Ruby Seconded By Johnson

| Representatives          | Yes | No | Representatives       | Yes | No |
|--------------------------|-----|----|-----------------------|-----|----|
| Chairman George Keiser   | ✓   |    | Rep. Bill Amerman     |     | nb |
| Vice Chairman Gary Sukut | ✓   |    | Rep. Joshua Boschee   | ✓   |    |
| Rep. Thomas Beadle       | ✓   |    | Rep. Edmund Gruchalla | ✓   |    |
| Rep. Rick Becker         | ✓   |    | Rep. Marvin Nelson    | ✓   |    |
| Rep. Robert Frantsvog    | ✓   |    |                       |     |    |
| Rep. Nancy Johnson       | ✓   |    |                       |     |    |
| Rep. Jim Kasper          | ✓   |    |                       |     |    |
| Rep. Curtiss Kreun       | ✓   |    |                       |     |    |
| Rep. Scott Louser        | ✓   |    |                       |     |    |
| Rep. Dan Ruby            | ✓   |    |                       |     |    |
| Rep. Don Vigesaa         | ✓   |    |                       |     |    |
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Total Yes 14 No 0

Absent 1

Floor Assignment Kreun

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

**REPORT OF STANDING COMMITTEE**

**HB 1181: Industry, Business and Labor Committee (Rep. Keiser, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1181 was placed  
on the Sixth order on the calendar.

Page 2, line 7, replace the first underscored comma with "and"

Page 2, line 7, remove ", and tax"

Renumber accordingly

**2013 SENATE INDUSTRY, BUSINESS AND LABOR**

**HB 1181**

# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Industry, Business and Labor Committee Roosevelt Park Room, State Capitol

HB 1181  
March 12, 2013  
Job Number 19742

Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Relating to domestic surplus lines insurers

### Minutes:

Testimony Attached

Chairman Klein: Opened the hearing.

Representative Keiser: Introduced the bill. (:10-3:00)

Patrick Ward, Attorney with Zuger Kirmis & Smith Law Firm: Written Testimony Attached (1) and letter from John Svoboda, SVP, Regulatory Officer for QBE North America (2). (3:20-6:25)

Senator Laffen: Asked why there would be laws on the books that say you can be here but can't sell here.

Patrick Ward: Said he doesn't know the history of that but apparently that is the way they originally set that up.

Senator Andrist: Commented that he had said there was an increase in demand because of the oil activities. What types of policies would they be able to sell that qualify as surplus lines?

Patrick Ward: Said it is a very good question and the letter he provided from John Svoboda addresses some of those types of things that would be provided. (7:10-7:55)

Senator Andrist: Asked if they were to assume that a good definition of surplus lines is insurance that standard policies won't cover.

Patrick Ward: Said yes that is exactly what the definition would be.

Edward Moody, Director of Insurance Companies Licensing and Examinations in the Insurance Department: Said that throughout history it was required that a company be licensed, which means as an admitted carrier you can't be writing surplus lines in that state. (9:05-10:10)

Senate Industry, Business and Labor Committee  
HB 1181  
March 12, 2013  
Page 2

Chairman Klein: Closed the hearing.

Senator Andrist: Moved a do pass.

Senator Unruh: Seconded the motion.

Roll Call Vote: Yes -7 No - 0 Absent - 0

Floor Assignment: Senator Andrist

**2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1181**

Senate Industry, Business, and Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Andrist Seconded By Senator Unruh

| Senators             | Yes | No | Senator        | Yes | No |
|----------------------|-----|----|----------------|-----|----|
| Chairman Klein       | x   |    | Senator Murphy | x   |    |
| Vice Chairman Laffen | x   |    | Senator Sinner | x   |    |
| Senator Andrist      | x   |    |                |     |    |
| Senator Sorvaag      | x   |    |                |     |    |
| Senator Unruh        | x   |    |                |     |    |
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Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Andrist

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

**REPORT OF STANDING COMMITTEE**

**HB 1181, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).** Engrossed HB 1181 was placed on the Fourteenth order on the calendar.



**2013 TESTIMONY**

**HB 1181**

HB 1181  
1-30-2013

①

January 30, 2013  
House Industry, Business and Labor

**TESTIMONY OF PATRICK WARD IN SUPPORT OF HB 1181**  
**RELATING TO SURPLUS LINES INSURERS**

Chairman Keiser and Members of the HOUSE IBL Committee. Good morning.

My name is Patrick Ward. I'm an attorney here in Bismarck with the law firm of Zuger Kirmis & Smith. I represent the Property and Casualty Insurance Association of America in support of this bill.

I did prepare this bill draft with the assistance of PCI and QBE Insurance Group. I would like to introduce to you John Svoboda, a Senior Vice President and Regulatory Officer for QBE of North America.

The reason I asked Representative Keiser to sponsor this bill was because QBE operates a North Dakota domestic surplus lines insurer. Because of a provision in existing North Dakota law, QBE is unable to write surplus lines insurance here in North Dakota. The demand for surplus lines insurance because of the oil boom and all of the construction activity resulting from the boom has been significant.

HB 1181 is designed to provide that a North Dakota domestic insurer, like QBE, would be permitted to write those necessary and important types of coverage for the unique businesses now thriving in North Dakota.

I did submit this bill draft to the Insurance Department for comments and suggestions prior to the session. We did work out this draft with the assistance and consent of the Insurance Department. One item in the bill at page 2, line 7,

has been brought to my attention since then which may need to be amended. We would like you to consider removing the word "tax" from page 2, line 7. The reason we would like to strike that word is to ensure that North Dakota domestic surplus lines writers are not subject to any additional taxes that other surplus lines writers are not subject to such as premium taxes.

I would urge a DO PASS with that adjustment of HB 1181. I would like to try to answer any questions you may have, but I think you would be better off directing them to Mr. Svoboda.

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HB 1181  
1-30-13

#2

North Dakota HOUSE BILL 1181

a Bill to create and enact a section relating to surplus lines insurers

My name is John Svoboda and I am the SVP, Regulatory Officer for the QBE North America ("QBENA") group of companies. The QBENA group of companies are owned by QBE Insurance Group Limited ("QBE"). QBE Insurance Group Limited is Australia's largest international general insurance and reinsurance group and one of the top 20 insurers and reinsurers worldwide, as measured by net earned premium, with operations in all key insurance markets. QBE is publicly traded on the Australian Stock Exchange ("ASX") with a Group head office based in Sydney. It has operations in 52 countries, with over 16,000 employees worldwide. QBE is comprised primarily of insurance companies, insurance holding companies and some agencies. All of QBE's products and services are insurance or insurance-related. Insurance is the only thing we do.

The QBENA group of companies includes 19 insurance companies domiciled in 6 different states and several wholly-owned agencies. The QBENA companies write in excess of \$6 billion per year and offer a wide range of property and casualty products, primarily in the property, auto and agricultural lines of business. NAU Country, a QBE company, is the 3<sup>rd</sup> largest writer of MPCII/ crop hail insurance in the US and writes over 23% of the crop business in North Dakota, having written \$234 million in 2012.

QBE Specialty Insurance Company ("QBESIC"), a North Dakota domiciled insurer formed in 2002, is QBENA's only surplus lines writer. QBESIC is an eligible surplus lines insurer in all states and DC, with the exception of North Dakota. In 2012, QBESIC wrote a total of \$1.021 billion in surplus lines premium, with the following volume in the states contiguous to North Dakota:

Montana \$108 k

Wyoming \$54 k

South Dakota \$138 k

Minnesota \$1,433 k

Total surplus lines volume written in North Dakota for the year 2011 was in excess of \$33 million.

As a domiciled insurer in the state of North Dakota, QBESIC is currently unable to write on a surplus lines basis in North Dakota and therefore supports the adoption of HB 1181. HB 1181 would allow a North Dakota domestic insurer, meeting certain financial and other criteria, to write on a surplus lines basis. This would expand the number of insurers able to write on a surplus lines basis in North Dakota and would also allow North Dakota surplus lines insured's to be protected by a North Dakota domiciled insurer, if they so choose. To date, six other states have seen the benefits of this and have passed similar legislation, with legislation pending in New York.

QBESIC is interested in obtaining a surplus lines license in North Dakota as we have some business opportunities that would dictate a need for surplus lines. In the past, we have lost national accounts with property exposures in North Dakota because the insured's did not want to have multiple policies/insurers.

Also, with the development of the shale oil industry, there has been a significant influx of population into this state. While we do not anticipate writing the drillers themselves, there is a wide variety of service industries that are developing around this industry to support its growth.

Hotels are being built and restaurants being added to feed the people as well as other residential projects. We have some Program Administrator clients who serve these industries and surplus lines eligibility would enable them to move quickly into this market. We have one in particular that does light construction and another new business prospect who does site and land improvement work.

We are also growing our non-Cat property book with some of our large surplus lines partners.

They have had to turn down risks in North Dakota as we currently do not have the ability/eligibility to meet their needs. Having surplus lines capabilities here would support our growth plans in the upper Midwest, which is out of the hurricane and earthquake zones.

Passage of HB 1181 would also expand the business prospects of our wholly-owned agencies.



(1)

March 12, 2013  
Senate Industry, Business and Labor

**TESTIMONY OF PATRICK WARD IN SUPPORT OF ENGROSSED HB 1181**  
**RELATING TO SURPLUS LINES INSURERS**

Chairman Klein and Members of the Senate IBL Committee. Good morning.

My name is Patrick Ward. I'm an attorney here in Bismarck with the law firm of Zuger Kirmis & Smith. I represent the Property and Casualty Insurance Association of America in support of this bill.

I did prepare this bill draft with the assistance of PCI and QBE Insurance Group. I would like to provide you with a letter from John Svoboda, a Senior Vice President and Regulatory Officer for QBE of North America.

The reason I asked Representative Keiser and Senators Andrist and Klein to sponsor this bill was because QBE operates a North Dakota domestic surplus lines insurer. Because of a provision in existing North Dakota law, QBE is unable to write surplus lines insurance here in North Dakota. The demand for surplus lines insurance because of the oil boom and all of the construction activity resulting from the boom has been significant.

HB 1181 is designed to provide that a North Dakota domestic insurer, like QBE, would be permitted to write those necessary and important types of coverage for the unique businesses now thriving in North Dakota.

I did submit this bill draft to the Insurance Department for comments and suggestions prior to the session. We did work out this draft with the assistance and consent of the Insurance Department. One item in the bill at page 2, line 7,

1

was brought to my attention which needed to be amended. That is why the bill you see is Engrossed. The reason we made that change was to ensure that North Dakota domestic surplus lines writers are not subject to any additional taxes that other surplus lines writers are not subject to.

I would urge a DO PASS of Engrossed HB 1181. I will try to answer any questions you may have.

P:\PWARD\Legislative 2013\Testimony on SB 1181.doc



QBE North America  
Wall Street Plaza  
88 Pine Street  
New York, NY 10005  
Phone: 212.422.1212  
[www.qbeamericas.com](http://www.qbeamericas.com)

March 12, 2013

To: Chairman Klein and members of the Senate Industry, Business and Labor Committee:  
Re: HB No. 1181

My name is John Svoboda and I am the SVP, Regulatory Officer for the QBE North America ("QBENA") group of companies. The QBENA group of companies are owned by QBE Insurance Group Limited ("QBE"). QBE Insurance Group Limited is Australia's largest international general insurance and reinsurance group and one of the top 20 insurers and reinsurers worldwide, as measured by net earned premium, with operations in all key insurance markets. QBE is publicly traded on the Australian Stock Exchange ("ASX") with a Group head office based in Sydney. It has operations in 52 countries, with over 16,000 employees worldwide. QBE is comprised primarily of insurance companies, insurance holding companies and some agencies. All of QBE's products and services are insurance or insurance-related. Insurance is the only thing we do.

The QBENA group of companies includes 19 insurance companies domiciled in 6 different states and several wholly-owned agencies. The QBENA companies write in excess of \$ 6 billion per year and offer a wide range of property and casualty products, primarily in the property, auto and agricultural lines of business. NAU Country, a QBE company, is the 3rd largest writer of MPC/I/ crop hail insurance in the US and writes over 23% of the crop business in North Dakota, having written \$ 234 million in 2012.

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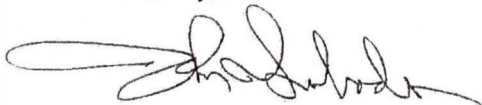
As a domiciled insurer in the state of North Dakota, QBESIC is currently unable to write on a surplus lines basis in North Dakota and therefore supports the adoption of HB No. 1181. HB No. 1181 would allow a North Dakota domestic insurer, meeting certain financial and other criteria, to write on a surplus lines basis. This would expand the number of insurers able to write on a surplus lines basis in North Dakota and would also allow North Dakota surplus lines insured's to be protected by a North Dakota domiciled insurer, if they so choose. To date, six other states have seen the benefits of this and have passed similar legislation, with legislation pending in New York. QBESIC is interested in obtaining a surplus lines license in North Dakota as we have some

business opportunities that would dictate a need for surplus lines. In the past, we have lost national accounts with property exposures in North Dakota because the insured's did not want to have multiple policies/insurers.

Also, with the development of the shale oil industry, there has been a significant influx of population into this state. While we do not anticipate writing the drillers themselves, there is a wide variety of service industries that are developing around this industry to support its growth. Hotels are being built and restaurants being added to feed the people as well as other residential projects. We have some Program Administrator clients who serve these industries and surplus lines eligibility would enable them to move quickly into this market. We have one in particular that does light construction and another new business prospect who does site and land improvement work. We are also growing our non-Cat property book with some of our large surplus lines partners. They have had to turn down risks in North Dakota as we currently do not have the ability/eligibility to meet their needs. Having surplus lines capabilities here would support our growth plans in the upper Midwest, which is out of the hurricane and earthquake zones. Passage of HB No. 1181 would also expand the business prospects of our wholly-owned agencies.

Thank you for your time and consideration.

Sincerely,



John Svoboda  
SVP, Regulatory Officer  
Legal  
QBE North America

Direct: 212.805.9851  
Mobile: 917.407.4686  
Email: [john.svoboda@us.qbe.com](mailto:john.svoboda@us.qbe.com)  
Web: [www.qbena.com](http://www.qbena.com)