

2025 Regular Session

HOUSE BILL NO. 561

BY REPRESENTATIVE FIRMENT

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/SURPLUS LINE: Provides policy provisions and exceptions relative to surplus lines insurance

1 AN ACT

2 To amend and reenact R.S. 22:433(A) and (B)(2) and 868(D), relative to insurance policy
3 provisions; to provide for certain notices and exceptions relative to surplus lines
4 insurers; to provide for legislative intent; to provide for application and
5 effectiveness; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 22:433(A) and (B)(2) and 868(D) are hereby amended and reenacted
8 to read as follows:

9 §433. Endorsement of contract

10 A. Each surplus lines insurance policy or contract procured and delivered
11 pursuant to this Subpart shall have the following notice:

12 _____

13 NOTICE

14 **This insurance policy is delivered as surplus lines coverage under the Louisiana**
15 **Insurance Code, but is NOT subject to certain provisions of the Louisiana Insurance**
16 **Code, including but not limited to provisions of rate and form approval by the**
17 **Department of Insurance.**

18 **In the event of insolvency of the company issuing this contract, the policyholder**
19 **or claimant is not covered by the Louisiana Insurance Guaranty Association or the**
20 **Louisiana Life and Health Insurance Guaranty Association, which guarantees only**

1 specific types of policies issued by insurance companies authorized to do business in
2 Louisiana.

3 This surplus lines policy has been procured by the following licensed Louisiana
4 surplus lines broker:

5 Signature of Licensed Louisiana Surplus Lines Broker
6 or Authorized Representative

7 Printed Name of Licensed Louisiana Surplus Lines Broker

8 B. The notice required pursuant to Subsection A of this Section shall be:

9 * * *

10 (2) Printed or stamped on the policy or contract in bold and in not less than
11 ~~ten-point type~~ fourteen-point font.

12 * * *

13 §868. Limiting actions; jurisdiction; venue; exceptions

14 * * *

15 D. ~~The~~ Except as provided in R.S. 9:2778, the provisions of Subsection A
16 of this Section ~~shall not prohibit a forum or venue selection clause in a policy form~~
17 ~~that is not subject to approval by the Department of Insurance~~ do not apply to surplus
18 lines insurers.

19 Section 2. In addition to clarifying the notice required to be provided with every
20 insurance policy issued by a surplus lines insurer, the enactment of this Act is intended by
21 the Legislature of Louisiana to reaffirm that no provision of the Louisiana Revised Statutes
22 of 1950 or Louisiana Civil Code is meant to limit or prohibit a surplus lines insurer from
23 including an arbitration clause, agreement, or endorsement in a form used for its policy or
24 contract of insurance, except for the prohibition provided for in R.S. 9:2778. This Act is
25 intended to clarify the original intent of existing law and shall not be interpreted as a
26 substantive change in the law. R.S. 22:446, which has been substantively similar since its
27 enactment by Act 189 of the 2010 Regular Session, expressly exempts surplus lines insurers
28 that sell property and casualty insurance from form approval by the commissioner of

1 insurance. The only exception to this general freedom of forms is in R.S. 9:2778. As such,
2 the Legislature of Louisiana has expressly provided surplus lines insurers with freedom from
3 all form requirements of the Louisiana Insurance Code, Title 22 of the Louisiana Revised
4 Statutes of 1950, which includes but is not limited to forms with arbitration clauses,
5 agreements, or endorsements, except as provided for in R.S. 9:2778. It is, therefore,
6 intended by the Legislature of Louisiana with the enactment of this Act to reaffirm that
7 surplus lines insurers are authorized to freely negotiate and include arbitration clauses,
8 agreements, and endorsements in their policies and contracts of insurance, and any such
9 arbitration clause, agreement, or endorsement shall be as binding and enforceable on the
10 parties subject to the policy as any other contractual obligation, except as provided for in
11 R.S. 9:2778.

12 Section 3. The provisions of R.S. 22:433(A) and (B)(2), as amended and reenacted
13 by Section 1 of this Act, shall become effective on August 1, 2025, and apply to policies
14 issued or renewed on or after January 1, 2026.

15 Section 4. This Section and R.S. 22:868(D), as amended and reenacted by Section
16 1 of this Act, and Sections 2 and 3 of this Act shall become effective upon signature by the
17 governor or, if not signed by the governor, upon expiration of the time for bills to become
18 law without signature by the governor, as provided by Article III, Section 18 of the
19 Constitution of Louisiana. If vetoed by the governor and subsequently approved by the
20 legislature, this Act shall become effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 561 Reengrossed

2025 Regular Session

Firmment

Abstract: Provides for application of law and exceptions regarding arbitration clauses and their applicability to surplus lines insurers.

Present law (R.S. 9:2778) provides for public contracts involving the state or its political subdivisions and prohibits provisions requiring the application of foreign law, jurisdiction, or arbitration proceedings outside of La. Proposed law retains present law.

Present law (R.S. 22:433(A) and (B)(2)) requires that surplus lines insurance policies include a notice regarding the nonapplicability of certain protections under the La. Insurance Code, and further requires the notice to be printed in bold font of at least 10-point type.

Proposed law increases the minimum font size for the notice from 10-point to 14-point and clarifies in the notice that certain provisions of the La. Insurance Code do not apply to surplus lines insurers.

Present law (R.S. 22:868(A)) generally prohibits insurance contracts that deprive courts in the state of La. of the jurisdiction or venue of action against an insurer.

Proposed law exempts surplus lines insurers from the provisions of present law but retains the applicability of R.S. 9:2778 to surplus lines insurers.

Proposed law expresses legislative intent through uncodified language to clarify existing law with respect to exceptions applicable to surplus lines insurers.

Provisions of present and proposed law (R.S. 22:433(A) and (B)(2)) become effective on Aug. 1, 2025, and apply to policies issued or renewed on or after Jan. 1, 2026.

Proposed law (R.S. 22:868(D)) becomes effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:433(A) and (B)(2) and 868(D))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Remove R.S. 9:2778(D), which exempted surplus lines insurers from the prohibition on including arbitration clauses in public contracts.
2. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Reference present law (R.S. 9:2778) regarding disputes arising under public contracts and specify the applicability of present law to surplus lines insurers.