

2021 Regular Session

HOUSE BILL NO. 462

BY REPRESENTATIVE HUVAL

INSURANCE/SURPLUS LINE: Provides relative to the tax on surplus lines and unauthorized insurance

1 AN ACT

2 To amend and reenact R.S. 22:439(A)(1), (2)(introductory paragraph), and (3) and (B) and
3 440 and to enact R.S. 22:439(E), relative to the tax on surplus lines and unauthorized
4 insurance; to provide for a tax on the direct placement of unauthorized insurance; to
5 provide for direct placement tax reports; to provide for a penalty for the failure to
6 pay the tax or to file the required report; to provide for the waiver of the penalty; to
7 provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:439(A)(1), (2)(introductory paragraph), and (3) and (B) and 440
10 are hereby amended and reenacted and R.S. 22:439(E) is hereby enacted to read as follows:

11 §439. Tax on surplus lines and unauthorized insurance

12 A.(1) There shall be a tax of four and eighty-five one hundredths of one
13 percent per annum on the gross premium without regard to the location of the
14 covered property, risk, or exposure for all ~~surplus lines of insurance~~ placed through
15 a Louisiana licensed surplus lines broker with a surplus lines insurer or other
16 unauthorized insurer and for which Louisiana is the home state of the policyholder
17 as defined in R.S. 22:46(8.1). ~~The commissioner shall collect the tax and deposit it~~
18 ~~with the state treasurer who shall credit it to the state general fund.~~

19 (2) On or before March first, June first, September first, and December first
20 of each year, each surplus lines broker shall transmit to the commissioner a surplus

1 lines tax report and remit the tax payable pursuant to this Subsection. The
2 commissioner shall prescribe the manner and form of the surplus lines tax report,
3 which shall include all of the following:

4 * * *

5 (3) The commissioner shall not require a quarterly report for any quarter in
6 which a surplus lines broker has no surplus lines or other unauthorized insurance
7 premium to report. The commissioner shall require the filing of the report due on
8 or before March first in order to certify the reporting of all surplus lines and other
9 unauthorized insurance business conducted during the calendar year or the absence
10 of any business during the calendar year.

11 B. ~~Every person placing insurance without a licensed Louisiana producer or~~
12 ~~surplus lines broker shall transmit a report and remit the tax to the commissioner~~
13 ~~pursuant to Subsection A of this Section.~~

14 (1) There shall be a tax of four and eighty-five one hundredths of one percent
15 per annum on one hundred percent of the gross premium without regard to the
16 location of the covered property, risk, or exposure for all insurance placed directly
17 by the policyholder with a surplus lines insurer or other unauthorized insurer and for
18 which Louisiana is the home state of the policyholder as defined in R.S. 22:46(8.1).

19 (2) Each policyholder directly placing insurance shall transmit a direct
20 placement tax report to the commissioner and remit the tax payable pursuant to this
21 Subsection within thirty days of the transaction. The commissioner shall prescribe
22 the manner and form of the direct placement tax report.

23 * * *

24 E. The commissioner shall collect the tax imposed by this Section and
25 deposit it with the state treasurer who shall credit it to the state general fund.

26 §440. Penalty for failure to file ~~statement~~ report or remit tax

27 A. In case of any failure of a ~~surplus lines broker~~ to make a report required
28 or to make payment of the tax ~~provided~~ imposed by R.S. 22:439, a penalty of ten

1 percent ~~shall be added to~~ of the amount of tax due, ~~and shall be paid to the~~
2 commissioner ~~of insurance along~~ with the tax due, ~~unless.~~

3 B. The commissioner may waive the payment of the penalty if all of the
4 following occur:

5 (1) There is satisfactory evidence to his satisfaction is submitted to him to
6 show that ~~such~~ the failure to report or pay pursuant to R.S. 22:439 was due to ~~some~~
7 an unforeseen or unavoidable reason other than mere neglect.

8 (2) If the The delinquency be is for no more than thirty days after the due
9 date of the report required by or ~~after the due date~~ for the payment of taxes as
10 ~~provided~~ the tax imposed by R.S. 22:439, ~~neglect will be presumed and the ten~~
11 ~~percent shall be added without any discretion on the part of the commissioner of~~
12 ~~insurance.~~

13 C. After the lapse of thirty days, until the report is filed and the delinquent
14 tax paid, the commissioner ~~of insurance~~ may suspend or revoke the license of the
15 delinquent surplus lines broker to do business in this state.

16 D. Any ~~fine~~ penalty collected by the commissioner ~~of insurance hereunder~~
17 pursuant to this Section shall be paid to the state treasurer and credited to the general
18 fund.

19 Section 2. This Act shall become effective July 1, 2021.

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 462 Engrossed

2021 Regular Session

Huval

Abstract: Provides relative to the tax on surplus lines and unauthorized insurance and reporting requirements.

Present law imposes a tax of four and eighty-five one hundredths of one percent per annum on the gross premium of surplus lines of insurance for La. home state policyholders.

Proposed law expands the imposition of the tax in present law to insurance placed through and directly by La. licensed surplus lines brokers and unauthorized insurers regardless of the covered property, risk, or exposure.

Present law exempts surplus line brokers who are not in possession of any surplus lines from the quarterly surplus line reporting requirement.

Proposed law retains present law and requires surplus line brokers to not have other unauthorized insurance premiums to report to be exempted from the quarterly surplus line reporting requirement.

Present law provides that every person placing insurance without a licensed La. producer or surplus lines broker shall transmit a report and remit the tax to the commissioner.

Proposed law repeals present law and provides that each policyholder directly placing insurance shall transmit a direct placement tax report to the commissioner and remit the tax payable within 30 days.

Proposed law provides that the commissioner shall prescribe the manner and form of the direct placement tax report.

Present law provides that after the lapse of 30 days, until the report is filed and the delinquent tax paid, the commissioner may revoke the license of the delinquent surplus lines broker to do business in this state.

Proposed law retains present law and affords the commissioner discretion to suspend or revoke the license of the delinquent surplus lines broker.

Proposed law makes technical changes.

Effective July 1, 2021.

(Amends R.S. 22:439(A)(1),(2)(intro. para.), and (3) and (B) and 440; Adds R.S. 22:439(E))