DIGEST

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Anders HB No. 469

Abstract: Retains the 5% surplus lines insurance premium tax now levied on surplus lines policies covering risks solely in this state. Also authorizes the taxation of surplus lines policies covering multistate risks, in conformance with federal law and a multistate agreement, which the commissioner of insurance may enter on behalf of the state, that allocates such tax revenues among the states.

Present law requires each surplus lines broker to quarterly transmit a surplus lines tax report to the commissioner of insurance and remit to the commissioner of insurance a 5% tax on the premiums on that surplus lines insurance. Requires that such tax be paid to the state treasurer and credited to the general fund.

Proposed law provides that the current report and tax remain only on single-state, La. properties, risks, and exposures. Otherwise retains present law.

Present law requires every person placing insurance with an unauthorized insurer without going through a licensed producer or surplus lines broker to also remit to the commissioner a 5% tax on the gross premiums at the same time and under the same conditions as that levied on surplus lines brokers by present law.

Proposed law provides that present law applies only to such persons placing insurance for single-state, La. properties, risks, and exposures. Otherwise retains present law.

Present law provides that if a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is allocable to the risks or exposures located in this state.

Proposed law instead provides that there shall be a tax on all premiums paid for surplus lines insurance covering properties, risks, or exposures for more than one state and for which La. is the home state of the insured. Provides that surplus lines brokers and independently procuring insureds shall remit the tax to the commissioner who shall transfer it to the general fund less the amount due to other states as provided in proposed law. Further requires the state to return to the insured, through the surplus lines broker, if any, the tax on any portion of the premium unearned at the termination of the insurance. Prohibits the surplus lines licensee or broker from rebating any part of the tax.

Proposed law requires that the tax so required shall be on the gross premiums charged for any

surplus lines insurance policy covering properties, risks, or exposures in more than one state and for which La. is the home state of the insured. Also requires the surplus lines broker or independently procuring insured to compute the sum payable based upon all of the following:

(1) An amount equal to 5% on that portion of the gross premiums allocated to this state.

(2) Plus an amount equal to the portion of the premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks, or exposures located or to be performed in other states and territories that participate in a reciprocal allocation procedure as authorized in proposed law.

(3) Less the amount of gross premiums allocated to this state and returned to the insured.

(4) Less the net premium tax collected on properties, risks, or exposures allocable to states or territories that do not participate in a reciprocal allocation procedure with this state.

Proposed law further requires each surplus lines broker and insured independently procuring surplus lines insurance covering properties, risks, or exposures in more than one state for which La. is the home state of the insured to transmit to the commissioner of insurance a quarterly surplus lines tax report not later than on the dates designated by the commissioner. Authorizes the commissioner to prescribe the form and content of the report, which shall conform to any interstate agreement or compact for the receipt, allocation, and distribution of surplus lines premium taxes.

Proposed law defines the home state of the insured for purposes of proposed law as that defined in the federal Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. 8206(6)).

Proposed law authorizes the commissioner, on behalf of the state, to enter into the Nonadmitted Insurance Multi-State Agreement or other cooperative compacts or agreements with other states for any of the following:

(1) The receipt, allocation, and disbursement among the participating, compacting, or contracting states of premium taxes attributable to the placement of surplus lines insurance.

(2) A uniform method of allocating and reporting among surplus lines insurance risk classifications.

(3) Sharing information among states relating to surplus lines insurance premium taxes.

(4) Such other purposes that are necessary and proper to maintain the state's revenues from surplus lines insurance premium taxes and to comply with the Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. 8206, et seq.).

Proposed law requires that any such compact or agreement shall be in writing and filed with the

commissioner prior to its taking effect and may provide for any of the following:

(1) The use of a clearinghouse to perform functions required under the compact or agreement.

(2) The use of an allocation schedule to allocate risk and compute the tax due on the portion of premium attributable to each risk classification and to each state where properties, risks, or exposures are located.

(3) Any other provisions that will facilitate the administration of the compact or agreement.

Proposed law authorizes the commissioner to, as required by the terms of the compact or agreement, forward to officers of another state or to an agreed clearinghouse any information in the commissioner's possession relative to nonadmitted insurance. Further authorizes the commissioner to promulgate rules and regulations for the administration and enforcement of any such compact or agreement, including the assessment of a clearinghouse transaction fee.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:439)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Insurance to the original bill.

1. Clarifies that the surplus lines premium tax remitted by surplus lines brokers and independently procuring insureds to the commissioner shall be less the amount due to other states as provided in proposed law.

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the engrossed bill.

1. Makes technical changes to clarify citations to federal law and to make references to compacts or agreements entered into by the commissioner of insurance consistent.