ORIGINAL

2015 Regular Session

HOUSE BILL NO. 214

BY REPRESENTATIVE PIERRE

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

INSURANCE/SURPLUS LINE: Provides relative to the creation of domestic surplus lines insurers

1	AN ACT
2	To amend and reenact R.S. 22:46(introductory paragraph) and (17), 432, 434,
3	438(A)(introductory paragraph) and (2) and (B), 446, 1456(B)(2), and 1661(6) and
4	to enact R.S. 22:46(17.1), 435(B)(3), and 436.1, relative to the creation of domestic
5	surplus line insurers; to provide for the creation of domestic surplus lines insurers;
6	to provide for definitions; to provide for regulation of domestic surplus lines insurers
7	by the commissioner of insurance; to provide for exemptions from form and rate
8	filing for domestic surplus lines insurers; and to provide for related matters.
9	Be it enacted by the Legislature of Louisiana:
10	Section 1. R.S. 22:46(introductory paragraph) and (17), 432, 434,
11	438(A)(introductory paragraph) and (2) and (B), 446, 1456(B)(2), and 1661(6) are hereby
12	amended and reenacted and R.S. 22:46(17.1), 435(B)(3), and 436.1 are hereby enacted to
13	read as follows:
14	§46. General definitions
15	In this Code, unless the context otherwise requires, the following definitions
16	shall be are applicable:
17	* * *
18	(17) "Surplus lines insurance" means any property and casualty insurance
19	in this state on property, risk, or exposure located or to be performed in this state,
20	permitted to be placed through a licensed surplus lines broker with an approved
21	unauthorized insurer or eligible unauthorized a surplus lines insurer.

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

1	(17.1) "Surplus lines insurer" means an approved unauthorized insurer or		
2	eligible unauthorized insurer, as defined in this Section, or a domestic surplus lines		
3	insurer as provided in R.S. 22:436.1.		
4	* * *		
5	§432. Surplus lines insurance; from unauthorized insurers procurement		
6	Surplus lines insurance, as defined in R.S. 22:46(17) R.S. 22:46, may be		
7	procured from approved unauthorized insurers or eligible unauthorized insurers,		
8	provided that the insurance is as defined in R.S. 22:46(2) and (7.1) and sometimes		
9	referred to in this Title as "surplus lines insurers". It a "surplus lines insurer", as		
10	defined in R.S. 22:46, and shall be procured through a licensed surplus lines brokers		
11	broker. and It may be procured without regard to the availability of coverage from		
12	authorized insurers.		
13	* * *		
14	§434. Surplus lines insurance valid		
15	Insurance contracts procured as surplus lines coverage from approved		
16	unauthorized insurers in accordance with this Subpart shall be fully valid and		
17	enforceable as to all parties, and shall be given recognition in all matters and respects		
18	to the same effect as like contracts issued by authorized insurers.		
19	§435. Solvency and eligibility requirements		
20	* * *		
21	B. A surplus lines broker shall not place coverage with a surplus lines		
22	insurer, unless, at the time of placement, the surplus lines broker has determined that		
23	the surplus lines insurer qualifies under one of the following Paragraphs:		
24	* * *		
25	(3) If it is a domestic insurer, it is a domestic surplus lines insurer.		
26	* * *		
27	§436.1. Domestic surplus lines insurer		
28	A. The commissioner may designate a domestic insurer as a domestic		
29	surplus lines insurer upon its application, which shall include, as a minimum, an		

1	authorizing resolution of the board of directors and evidence to the commissioner's
2	satisfaction that the insurer has capital and surplus of not less than fifteen million
3	dollars.
4	B. A domestic surplus lines insurer shall:
5	(1) Be limited in its authority in this state to providing surplus lines
6	insurance.
7	(2) Be subject to the requirements of this Title applicable to a domestic
8	insurer except as otherwise provided for surplus lines insurance.
9	(3) Be exempt from the Louisiana Insurance Guaranty Association Law.
10	(4) Report to the commissioner all surplus lines business placed in this state
11	in the manner required of an approved unauthorized insurer.
12	C. A domestic surplus lines insurer may write insurance in other
13	jurisdictions.
14	* * *
15	§438. Acknowledgment of applicant for insurance
16	A. Any licensed surplus lines broker that procures a personal lines policy
17	with an approved unauthorized insurer or eligible unauthorized a surplus lines
18	insurer shall obtain from the applicant for insurance no later than the date of binding
19	coverage, an acknowledgment on a standardized form promulgated by the
20	commissioner of insurance which shall be maintained by the licensed surplus lines
21	broker. The acknowledgment shall verify that:
22	* * *
23	(2) The insurance may be placed with an approved unauthorized insurer or
24	eligible unauthorized a surplus lines insurer.
25	* * *
26	B. As long as the personal lines policy continues to be renewed by the same
27	approved unauthorized insurer or eligible unauthorized surplus lines insurer, there
28	shall not be a need for new acknowledgments at each renewal. At renewal, if the
29	personal lines policy is placed with a different approved unauthorized insurer or

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1	eligible unauthorized surplus lines insurer, then a new acknowledgment shall be				
2	obtained in the manner outlined in Subsection A of this Section.				
3	* * *				
4	§446. Surplus lines insurance delivered by approved unauthorized insurers;				
5	exemption from form and rate filing and approval				
6	Approved unauthorized Surplus lines insurers delivering surplus lines				
7	insurance in this state shall not be required to file or seek approval of their forms and				
8	rates.				
9	* * *				
10	§1456. Scope of rate regulation				
11	* * *				
12	В.				
13	* * *				
14	(2) Notwithstanding any other law to the contrary, any authorized insurer or				
15	approved unauthorized surplus lines insurer providing liability coverage for public				
16	carrier vehicles, as defined by R.S. 45:200.2(2), shall be subject to the provisions of				
17	this Subpart.				
18	* * *				
19	§1661. Definitions				
20	As used in this Part, unless the context requires otherwise, the following				
21	definitions shall be applicable:				
22	* * *				
23	(6) "Insurer" means any type of insurer, whether authorized or approved				
24	unauthorized, to conduct conducting business in this state.				
25	* * *				

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 214 Original	2015 Regular Session	Pierre
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Abstract: Provides for the creation of a new category of "domestic surplus lines insurer". A domestic surplus lines insurer shall be domiciled and sell surplus lines insurance in La.

<u>Present law</u> requires that insurers selling surplus lines insurance be unauthorized insurers that meet the requirements of <u>present law</u> (R.S. 22:435), and can neither be domiciled in nor hold a certificate of authority from the state of La.

<u>Proposed law</u> provides that a domestic insurer, by a resolution of its board of directors and with the written approval of the commissioner, may sell surplus lines insurance in La, as approved or eligible unauthorized insurers do under <u>present law</u>. <u>Proposed law</u> further provides that a domestic surplus lines insurer would be limited to the sale in La of surplus lines insurance.

<u>Proposed law</u> provides that a domestic surplus lines insurer will be subject to the surplus lines premium tax, but would be exempt from the requirements of rate and form filing and approval, and also exempt from the requirements and protections of the La Insurance Guaranty Association Law.

<u>Proposed law</u> removes references to "approved unauthorized insurers" and adds a third category of domestic surplus lines insurer that constitutes "surplus lines insurers".

(Amends R.S. 22:46(intro. para.) and (17), 432, 434, 438(A)(intro. para.) and (2) and (B), 446, 1456(B)(2), and 1661(6); Adds R.S. 22:46(17.1), 435(B)(3), and 436.1)