HLS 15RS-669 ENGROSSED

2015 Regular Session

HOUSE BILL NO. 214

1

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

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,

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

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

1	§436.1. Domestic surplus lines insurer
2	A. The commissioner may designate a domestic insurer as a domestic
3	surplus lines insurer upon its application, which shall include, as a minimum, an
4	authorizing resolution of the board of directors and evidence to the commissioner's
5	satisfaction that the insurer has capital and surplus of not less than fifteen million
6	dollars.
7	B. A domestic surplus lines insurer shall:
8	(1) Be limited in its authority in this state to providing surplus lines
9	insurance.
10	(2) Be authorized to write any type of insurance in this state that may be
11	placed with a surplus lines insurer pursuant to this Subpart.
12	(3) Be subject to the requirements of this Title applicable to domestic
13	insurers except as follows:
14	(a) Part IV of Chapter 3 relative to taxes and exemptions.
15	(b) Subpart O of Part IV of Chapter 4 relative to ratemaking procedures and
16	organizations except as required pursuant to:
17	(i) R.S. 22:1456(B)(2) relative to public carriers vehicles.
18	(ii) R.S. 22:1476 relative to assessments against insurers.
19	(c) Chapter 10 relative to guaranty funds.
20	(4) Report to the commissioner all surplus lines business placed in this state
21	in the manner required of an approved unauthorized insurer.
22	C. A domestic surplus lines insurer may write insurance in other
23	jurisdictions.
24	* * *
25	§438. Acknowledgment of applicant for insurance
26	A. Any licensed surplus lines broker that procures a personal lines policy
27	with an approved unauthorized insurer or eligible unauthorized a surplus lines
28	insurer shall obtain from the applicant for insurance no later than the date of binding
29	coverage, an acknowledgment on a standardized form promulgated by the

1	commissioner of insurance which shall be maintained by the licensed surplus lines
2	broker. The acknowledgment shall verify that:
3	* * *
4	(2) The insurance may be placed with an approved unauthorized insurer or
5	eligible unauthorized a surplus lines insurer.
6	* * *
7	B. As long as the personal lines policy continues to be renewed by the same
8	approved unauthorized insurer or eligible unauthorized surplus lines insurer, there
9	shall not be a need for new acknowledgments at each renewal. At renewal, if the
10	personal lines policy is placed with a different approved unauthorized insurer or
11	eligible unauthorized surplus lines insurer, then a new acknowledgment shall be
12	obtained in the manner outlined in Subsection A of this Section.
13	* * *
14	§446. Surplus lines insurance delivered by approved unauthorized insurers;
15	exemption from form and rate filing and approval
16	Approved unauthorized Surplus lines insurers delivering surplus lines
17	insurance in this state shall not be required to file or seek approval of their forms and
18	rates.
19	* * *
20	§1456. Scope of rate regulation
21	* * *
22	В.
23	* * *
24	(2) Notwithstanding any other law to the contrary, any authorized insurer or
25	approved unauthorized surplus lines insurer providing liability coverage for public
26	carrier vehicles, as defined by R.S. 45:200.2(2), shall be subject to the provisions of
27	this Subpart.
28	* * *

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As used in this Part, unless the context requires otherwise, the following definitions shall be applicable:

* * *

(6) "Insurer" means any type of insurer, whether authorized or approved unauthorized, to conduct conducting business in this state.

* * *

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 Engrossed

2015 Regular Session

Pierre

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".

<u>Proposed law</u> provides that a domestic surplus lines insurer will be authorized to write any type of insurance in La. that may be placed with a surplus lines carrier.

<u>Present law</u> exempts unauthorized insurers writing surplus lines insurance in La. from certain taxes, ratemaking procedures, and LIGA. <u>Proposed law</u> extends the exemptions to domestic 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)

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Summary of Amendments Adopted by House

The Committee Amendments Proposed by <u>House Committee on Insurance</u> to the <u>original</u> bill:

- 1. Authorize domestic surplus lines insurers to write any type of insurance in this state that may be placed with a surplus lines insurer.
- 2. Exempt domestic surplus lines insurers from provisions of the Insurance Code regarding property and casualty lines of insurance and from ratemaking procedures, other than for public carriers and assessments of insurers.
- 3. Make technical changes.