HLS 15RS-857 ENGROSSED

2015 Regular Session

HOUSE BILL NO. 259

1

BY REPRESENTATIVE THIERRY

TAX/INSURANCE PREMIUM: Levies a tax on the annual gross premiums for surplus lines of insurance

AN ACT

2 To amend and reenact R.S. 22:439 and 443(A)(introductory paragraph) and (2) through (4) 3 and to repeal Section 2 of Act No. 361 of the 2011 Regular Session of the 4 Legislature of Louisiana, relative to surplus lines of insurance; to decrease the tax 5 on annual gross premiums for surplus lines of insurance; to expand the surplus lines 6 tax base; to provide for the surplus lines tax report; to repeal the authority of the 7 commissioner to enter the Nonadmitted Insurance Multi-State Agreement; to except 8 certain educational programs and entities from the tax on gross premiums for surplus 9 lines of insurance; to provide for submission of certain information by certain 10 insurers; to provide for an effective date; and to provide for related matters. 11 Be it enacted by the Legislature of Louisiana: 12 Section 1. R.S. 22:439 and 443(A)(introductory paragraph) and (2) through (4) are 13 hereby amended and reenacted to read as follows: 14 §439. Tax on surplus lines 15 A.(1) There shall be a tax of four and eighty-five one hundredths of one 16 percent per annum on the gross premium for all surplus lines of insurance for which 17 Louisiana is the home state of the policyholder as defined in R.S. 22:46(8.1). The 18 commissioner shall collect the tax and deposit it with the state treasurer who shall 19 credit it to the state general fund. 20 (2) On or before March first, June first, September first, and December first 21 of each year, each surplus lines broker shall transmit to the commissioner of 22 insurance a surplus lines tax report for the prior calendar quarter for single-state,

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1 Louisiana properties, risks, or exposures and remit the tax payable pursuant to this 2 This report shall be in a manner and format prescribed by the 3 commissioner of insurance and include any additional information as required by the 4 commissioner. The reporting of transactions shall be as follows: The commissioner shall prescribe the manner and form of the report, which shall include all of the 5 6 following: 7 (a) All new and renewal policies will be included in the report for the 8 calendar quarter in which the effective date of the policy falls. 9 (b) All other premium transactions will be included in the report for the 10 calendar quarter in which the invoice falls. 11 (c) Any additional information required by the commissioner. 12 (2) Along with the report required to be filed on the due dates provided in 13 Paragraph (1) of this Subsection, each surplus lines broker shall remit to the 14 commissioner of insurance a tax on the premiums on surplus lines insurance reported 15 in the quarterly surplus lines tax report, at the rate of five percent per annum. Such 16 tax when collected by the commissioner of insurance shall be paid to the state 17 treasurer and be credited to the general fund. 18 (3) The commissioner shall not require a quarterly report for any quarter in 19 which a surplus lines broker has no surplus lines premium to report. The 20 commissioner shall require the filing of the report due on or before March first in 21 order to certify the reporting of all surplus lines business conducted during the 22 calendar year or the absence of any business during the calendar year. 23 B. Every person placing insurance for single-state, Louisiana properties, 24 risks, or exposures with an unauthorized insurer without going through a licensed 25 Louisiana producer or surplus lines broker, except as provided in R.S. 22:432, shall

transmit a report and remit the tax to the commissioner of insurance a tax of five

percent of the gross premium, such tax to be paid at the same time and under the

same conditions as that levied on surplus lines brokers under the provisions of

pursuant to Subsection A of this Section. Such tax when collected by the

2 general fund. 3 C. There shall be a tax on all premiums paid for surplus lines insurance 4 covering properties, risks, or exposures for more than one state and for which Louisiana is the home state of the insured. Surplus lines brokers and independently 5 6 procuring insureds shall remit the tax to the commissioner who shall transfer it to the general fund less the amount due to other states pursuant to Subsection D of this 7 Section. The state shall return to the insured, through the surplus lines broker, if any, 8 9 the tax on any portion of the premium unearned at the termination of the insurance. The surplus lines licensee or broker shall not rebate, for any reason, any part of the 10 11 tax. 12 D. The tax required in Subsection C of this Section shall be on the gross 13 premiums charged for any surplus lines insurance policy covering properties, risks, 14 or exposures in more than one state and for which Louisiana is the home state of the 15 insured. The surplus lines broker or independently procuring insured shall compute 16 the sum payable based upon all of the following: 17 (1) An amount equal to five percent on that portion of the gross premiums allocated to this state. 18 19 (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, 20 21 risks, or exposures located or to be performed in other states and territories that 22 participate in a reciprocal allocation procedure as authorized herein. 23 (3) Less the amount of gross premiums allocated to this state and returned 24 to the insured. 25 (4) Less the net premium tax collected on properties, risks, or exposures 26 allocable to states or territories that do not participate in a reciprocal allocation 27 procedure with this state. 28 E. Each surplus lines broker and insured independently procuring surplus 29 lines insurance covering properties, risks, or exposures in more than one state for

commissioner of insurance shall be paid to the state treasurer and be credited to the

which L	ouisiana is the home state of the insured shall transmit to the commissioner
of insur	ance a surplus lines tax report for the prior calendar quarter not later than on
the date	es designated by the commissioner. The commissioner shall prescribe the
form an	d content of the report, which shall conform to any interstate agreement or
compac	t for the receipt, allocation, and distribution of surplus lines premium taxes.
}	F. The home state of the insured for purposes of this Section shall be as
defined	in R.S. 22:46(8.1).
•	G.(1) The commissioner shall on behalf of the state of Louisiana enter into
the Non	admitted Insurance Multi-State Agreement or other cooperative compacts or
agreeme	ents with other states for any of the following:
t	(a) The receipt, allocation, and disbursement among the participating,
compac	ting, or contracting states of premium taxes attributable to the placement of
surplus	lines insurance.
((b) A uniform method of allocating and reporting among surplus lines
insuranc	ce risk classifications.
t	(c) Sharing information among states relating to surplus lines insurance
premiur	n taxes.
((d) Such other purposes that are necessary and proper to maintain the state's
revenue	s from surplus lines insurance premium taxes and to comply with the
Nonadn	nitted and Reinsurance Reform Act of 2010 (15 U.S.C. 8206, et seq.).
t	(2) Such compact or agreement shall be in writing and filed with the
commis	sioner prior to its taking effect.
((3) Such compact or agreement may provide for any of the following:
•	(a) The use of a clearinghouse to perform functions required under the
agreeme	ent.
•	(b) The use of an allocation schedule to allocate risk and compute the tax due
on the p	portion of premium attributable to each risk classification and to each state
where p	roperties, risks, or exposures are located.

1	(c) Any other provisions that will facilitate the administration of the compact
2	or agreement.
3	(4) The commissioner may, as required by the terms of the compact or
4	agreement, forward to officers of another state or to an agreed clearinghouse any
5	information in the commissioner's possession relative to nonadmitted insurance.
6	(5) The commissioner may promulgate rules and regulations for the
7	administration and enforcement of any such compact or agreement, including the
8	assessment of a clearinghouse transaction fee.
9	H. C. The tax imposed on surplus lines pursuant to this Section shall not
10	apply to the purchase of excess insurance obtained by an interlocal risk management
11	agency pursuant to R.S. 33:1359 or 1485 R.S. 13:5575 or R.S. 33:1359.
12	D. The tax imposed pursuant to this Section shall not apply to the purchase
13	of insurance by a college, university, school, institution, or program that is under the
14	supervision or management of a system board of supervisors provided for in R.S.
15	17:3215 through 3217.1.
16	* * *
17	§443. Exemptions
18	A. The provisions of R.S. 22:432 through 442, 444, and 1910 controlling the
19	placing of insurance with unauthorized insurers shall not apply to reinsurance or to
20	the following insurances when so placed by licensed surplus lines brokers of this
21	state, except that a tax on the portion of the premiums received from ocean marine
22	and foreign trade coverages which is properly allocable to the risks or exposures
23	located in this state during the preceding calendar quarter shall be due on the dates
24	and in a manner as provided in R.S. 22:439 at the rate of five four and eighty-five
25	one hundredths of one percent, such tax when collected by the commissioner of
26	insurance shall be paid to the state treasurer and to be credited to the state general
27	fund, and such licensed surplus lines broker placing ocean marine insurance shall be
28	subject to the provisions of R.S. 22:435, notwithstanding the provisions of R.S.

22:1902, 1903, and 1906, and must show on any document issued by or delivered by

1	them evidencing such insurance, all of the insurers and must clearly stamp on any
2	such documents that on the demand of the policyholder or his representative the
3	latest financial statements of any such insurers are available at its office for
4	inspection as follows:
5	* * *
6	(2) Insurance on subjects located, resident, or to be performed wholly outside
7	of this state, or on vehicles or aircraft owned and principally garaged outside of this
8	state.
9	(3) Insurance on property or operation of railroads engaged in interstate
10	commerce.
11	(4) (3) Insurance of aircraft owned or operated by manufacturers of aircraft
12	or of aircraft operated in scheduled interstate flight, or cargo of such aircraft, or
13	against liability, other than worker's compensation and employer's liability, arising
14	out of the ownership, maintenance, or use of such aircraft.
15	* * *
16	Section 2. Section 2 of Act No. 361 of the 2011 Regular Session of the Legislature
17	of Louisiana is hereby repealed in its entirety.
18	Section 3. Withdrawal from the Nonadmitted Insurance Multi-state Agreement shall
19	be effective on and after July 1, 2015.
20	Section 4. The provisions of this Act shall become effective on July 1, 2015.

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 259 Engrossed

2015 Regular Session

Thierry

Abstract: Reduces the tax rate on the gross premium of surplus lines of insurance. Expands the surplus lines tax base to include non-Louisiana premiums; excepts certain educational entities from the tax on the gross premium of surplus lines of insurance; and repeals requirement that the commissioner of insurance enter into the Nonadmitted Insurance Multi-State Agreement.

<u>Present law</u> authorizes the levy of a tax at the rate of 5% per annum on the premiums on surplus lines insurance reported quarterly in the surplus lines tax report. Further requires the

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tax to be collected by the commissioner of insurance and remitted to the state treasurer for deposit into the state general fund.

<u>Proposed law</u> reduces the rate of the tax <u>from</u> 5% per annum on the premiums on surplus lines of insurance <u>to</u> 4.85% on the gross premiums on surplus lines of insurance for which La. is the home state of the policyholder.

<u>Present law</u> provides for the manner and format of the quarterly surplus lines tax report required to be submitted to the commissioner of insurance.

<u>Proposed law</u> requires that surplus lines brokers only file surplus lines tax reports for those quarters in which they place single-state surplus lines business. Requires all surplus lines brokers to file an annual report certifying the reporting of all business placed during the calendar year on or before March 1 of the following year.

<u>Present law</u> requires the commissioner of insurance to join the Nonadmitted Insurance Multi-State Agreement or other cooperative compacts or agreements with other states for the purpose of allocating surplus lines premiums on multistate policies and tax revenues.

<u>Proposed law</u> repeals the requirement of the commissioner to enter the Nonadmitted Insurance Multi-State Agreement.

<u>Present law</u> provides that a portion of surplus lines premiums not allocable to this state shall be exempt from the surplus lines tax.

<u>Proposed law</u> provides that the entire surplus lines premium of a surplus lines policy of which La. is the home state of the policyholder shall be subject to the surplus lines tax.

<u>Proposed law</u> excepts educational programs provided for in <u>present law</u> from the tax on gross premiums for surplus lines of insurance.

<u>Present law</u> exempts certain insurance from the requirements of <u>present law</u> relative to surplus lines insurance from unauthorized insurers.

<u>Proposed law</u> retains <u>present law</u> but reduces the rate of the tax <u>from</u> 5% per annum on the premiums on surplus lines of insurance <u>to</u> 4.85% and eliminates the exemption for insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside of this state.

Effective July 1, 2015.

(Amends R.S. 22:439 and 443(A)(intro. para.) and (2)-(4); Repeals §2 of Act No. 361 of 2011 R.S.)

Summary of Amendments Adopted by House

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

- 1. Except certain educational programs and entities provided for in <u>present law</u> from the tax on gross premiums for surplus lines of insurance.
- 2. Eliminate the exemption provided for in <u>present law</u>, relative to surplus lines insurance from unauthorized insurers, for insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside.
- 3. Change effective date from upon signature of the governor to July 1, 2015.

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