ACT No. 193

HOUSE BILL NO. 214

BY REPRESENTATIVE PIERRE

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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1	(17.1) Surprus 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 as
26	provided for in R.S. 22:436.1.
27	* * *
28	§436.1. Domestic surplus lines insurer
29	A. The commissioner may designate a domestic insurer as a domestic
30	surplus lines insurer upon its application, which shall include, as a minimum, an

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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. The commissioner shall not approve an application until all outstanding fees
4	and assessments owed pursuant to this Title are paid in full or satisfaction
5	arrangements for their payment are established with the commissioner.
6	B. A domestic surplus lines insurer shall:
7	(1) Be limited in its authority in this state to providing surplus lines
8	insurance.
9	(2) Be authorized to write any type of insurance in this state that may be
10	placed with a surplus lines insurer pursuant to this Subpart.
11	(3) Be subject to the requirements of this Title applicable to domestic
12	insurers except as follows:
13	(a) Part IV of Chapter 3 of this Title relative to taxes and exemptions.
14	(b) Subpart O of Part IV of Chapter 4 of this Title relative to ratemaking
15	procedures and organizations except as required pursuant to R.S. 22:1456(B)(2)
16	relative to public carrier vehicles.
17	(c) Chapter 10 of this Title relative to guaranty funds.
18	(4) Report to the commissioner all surplus lines business placed in this state
19	in the manner required of an approved unauthorized insurer.
20	C. A domestic surplus lines insurer may write insurance in other jurisdictions
21	with the approval of the commissioner.
22	* * *
23	§438. Acknowledgment of applicant for insurance
24	A. Any licensed surplus lines broker that procures a personal lines policy
25	with an approved unauthorized insurer or eligible unauthorized a surplus lines
26	insurer shall obtain from the applicant for insurance no later than the date of binding
27	coverage, an acknowledgment on a standardized form promulgated by the
28	commissioner of insurance which shall be maintained by the licensed surplus lines
29	broker. The acknowledgment shall verify that:
30	* * *

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

carrier vehicles, as defined by R.S. 45:200.2(2), shall be subject to the provisions of this Subpart.

25

26 §1661. Definitions

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24

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

29

1	(6) "Insurer" means any type of insurer, whether authorized or approved
2	unauthorized, to conduct conducting business in this state.
3	* * *
	SPEAKER OF THE HOUSE OF REPRESENTATIVES
	DDECIDENT OF THE CENIATE
	PRESIDENT OF THE SENATE
	GOVERNOR OF THE STATE OF LOUISIANA

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APPROVED: _____