

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,

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 a licensed surplus lines brokers  
13 broker. ~~and~~ It 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 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 B.

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 \* \* \*

1 §1661. Definitions

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

4 \* \* \*

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

7 \* \* \*

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 Reengrossed

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.

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

Proposed law 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 present law. Proposed law further provides that a domestic surplus lines insurer would be limited to the sale in La. of surplus lines insurance.

Proposed law 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.

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

Proposed law 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.

Present law exempts unauthorized insurers writing surplus lines insurance in La. from certain taxes, ratemaking procedures, and LIGA. Proposed law 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)

Summary of Amendments Adopted by House

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