

2025 Regular Session

HOUSE BILL NO. 561

BY REPRESENTATIVE FIRMENT

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

INSURANCE/SURPLUS LINE: Provides policy provisions and exceptions relative to surplus lines insurance

1 AN ACT

2 To amend and reenact R.S. 22:433(A) and (B)(2) and 868(D) and to enact R.S. 9:2778(D),
3 relative to insurance policy provisions; to provide for certain notices and exceptions
4 relative to surplus lines insurers; to provide for legislative intent; to provide for
5 application and effectiveness; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 9:2778(D) is hereby enacted to read as follows:

8 §2778. Public contracts; certain provisions invalid; exceptions

9 * * *

10 D. The provisions of this Section do not apply to arbitration agreements with
11 a surplus lines insurer.

12 Section 2. R.S. 22:433(A) and (B)(2) and 868(D) are hereby amended and reenacted
13 to read as follows:

14 §433. Endorsement of contract

15 A. Each surplus lines insurance policy or contract procured and delivered
16 pursuant to this Subpart shall have the following notice:

17 _____

18 NOTICE

19 **This insurance policy is delivered as surplus lines coverage under the Louisiana**
20 **Insurance Code, but is NOT subject to certain provisions of the Louisiana Insurance**

1 Code, including but not limited to provisions of rate and form approval by the
2 Department of Insurance.

3 **In the event of insolvency of the company issuing this contract, the policyholder**
4 **or claimant is not covered by the Louisiana Insurance Guaranty Association or the**
5 **Louisiana Life and Health Insurance Guaranty Association, which guarantees only**
6 **specific types of policies issued by insurance companies authorized to do business in**
7 **Louisiana.**

8 **This surplus lines policy has been procured by the following licensed Louisiana**
9 **surplus lines broker:**

10 **Signature of Licensed Louisiana Surplus Lines Broker**
11 **or Authorized Representative**

12 **Printed Name of Licensed Louisiana Surplus Lines Broker**

13 B. The notice required pursuant to Subsection A of this Section shall be:

14 * * *

15 (2) Printed or stamped on the policy or contract in bold and in not less than
16 ~~ten-point type~~ fourteen-point font.

17 * * *

18 §868. Limiting actions; jurisdiction; venue; exceptions

19 * * *

20 D. The provisions of Subsection A of this Section ~~shall not prohibit a forum~~
21 ~~or venue selection clause in a policy form that is not subject to approval by the~~
22 ~~Department of Insurance~~ and R.S. 9:2778 do not apply to surplus lines insurers.

23 Section 3. In addition to clarifying the notice required to be provided with every
24 insurance policy issued by a surplus lines insurer, the enactment of this Act is intended by
25 the Legislature of Louisiana to reaffirm that no provision of the Louisiana Revised Statutes
26 or Louisiana Civil Code is meant to limit or prohibit a surplus lines insurer from including
27 an arbitration clause, agreement, or endorsement in a form used for its policy or contract of
28 insurance. This Act is intended to clarify the original intent of existing law and shall not be

1 interpreted as a substantive change in the law. R.S. 22:446, which has been substantively
2 similar since its enactment by Act 189 of the 2010 Regular Session, expressly exempts
3 surplus lines insurers that sell property and casualty insurance from form approval by the
4 commissioner of insurance. The only exception to this general freedom of forms is in R.S.
5 9:2778, which prohibits only those arbitration clauses in public contracts that require the
6 proceeding to be brought in a forum or jurisdiction outside of the state; however, nothing in
7 R.S. 9:2778 prohibits arbitration clauses in public contracts where the proceedings occur
8 inside of the state. As such, the Legislature of Louisiana has expressly provided surplus
9 lines insurers with freedom from all form requirements of the Louisiana Insurance Code,
10 Title 22 of the Louisiana Revised Statutes of 1950, which includes but is not limited to forms
11 with arbitration clauses, agreements, or endorsements. It is, therefore, intended by the
12 Legislature of Louisiana with the enactment of this Act to reaffirm that surplus lines insurers
13 are authorized to freely negotiate and include arbitration clauses, agreements, and
14 endorsements in their policies and contracts of insurance, and any such arbitration clause,
15 agreement, or endorsement shall be as binding and enforceable on the parties subject to the
16 policy as any other contractual obligation.

17 Section 4. The provisions of R.S. 22:433(A) and (B)(2), as amended and reenacted
18 by Section 2 of this Act, shall become effective on August 1, 2025, and apply to policies
19 issued or renewed on or after January 1, 2026.

20 Section 5. This Section and the provisions of Section 1 of this Act and R.S.
21 22:868(D), as amended and reenacted by Section 2 of this Act, and Sections 3 and 4 of this
22 Act shall become effective upon signature by the governor or, if not signed by the governor,
23 upon expiration of the time for bills to become law without signature by the governor, as
24 provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the
25 governor and subsequently approved by the legislature, this Act shall become effective on
26 the day following such approval.

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 561 Original

2025 Regular Session

Firmment

Abstract: Provides with respect to exceptions relative to surplus lines insurance.

Present law generally provides for public contracts involving the state of La. or its political subdivisions. Further provides circumstances that would invalidate such public contracts, including but not limited to arbitration proceedings in foreign jurisdictions.

Proposed law retains present law but exempts arbitration agreements with a surplus lines insurer from present law application.

Present law requires certain notification regarding surplus lines coverage and applies the La. Insurance Code (Code) to such coverage. Requires the notice to be in bold print of at least 10-point font.

Proposed law exempts surplus lines insurers from certain provisions of the Code, including but not limited to provisions of rate and form approval by the La. Dept. of Insurance, and increases the minimum font size for the notice from 10-point to 14-point. Otherwise retains present law.

Present law generally prohibits insurance contracts that deprive courts in the state of La. of the jurisdiction or venue of action against an insurer.

Proposed law retains present law but exempts surplus lines insurers from present law application.

Proposed law expresses legislative intent through uncodified language to clarify existing law with respect to exceptions applicable to surplus lines insurers.

Provisions of present and proposed law (R.S. 22:433(A) and (B)(2)) become effective on Aug. 1, 2025, and apply to policies issued or renewed on or after Jan. 1, 2026.

Proposed law (R.S. 9:2778(D) and R.S. 22:868(D)) becomes effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:433(A) and (B)(2) and 868(D); Adds R.S. 9:2778(D))