

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

INSURANCE/SURPLUS LINE: Provides relative to regulation of surplus lines insurance

DIGEST

Pierre

HB No. 543

Proposed law provides relative to the regulation of surplus lines insurance (property and casualty insurance coverage procured from insurers that do not have acknowledgments of authority to sell insurance in this state), as follows:

- (1) Present law provides that the placement of insurance coverage with a surplus lines insurer (otherwise referred to as an approved unauthorized insurer or a non-admitted insurer) through a surplus lines broker may occur only if such coverage is not available from an authorized insurer (otherwise known as an admitted insurer).

Proposed law removes the requirement that insurance not be available from an authorized insurer, thus authorizing placement of insurance with a surplus lines insurer without regard to the availability of authorized insurance.

- (2) Present law provides extensive eligibility requirements for surplus lines insurers, including specific capital, surplus, bond, and deposit requirements.

Proposed law deletes many of these eligibility requirements in order to conform to the federal Nonadmitted and Reinsurance Reform Act (NRRA) of 2010 which preempts numerous state laws and regulations regarding surplus lines insurance. Establishes new minimum capital and surplus requirements that conform to the NRRA for foreign surplus lines insurers, specifically requiring that they have either the minimum capital and surplus required in this state or \$15 million. Gives the commissioner of insurance the discretion to approve a surplus lines insurer with a smaller capital and surplus but at least \$4.5 million upon a finding that the insurer is acceptable after considering factors listed in proposed law. Further provides that alien insurers that are on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners (NAIC) or that meet the requirements for foreign insurers may be approved by the commissioner. Retains requirements for surplus lines brokers to submit reports and information requested by the commissioner of insurance. Retains the ability to procure certain high-dollar commercial policies from unauthorized insurers not on the approved list when the commissioner approves of the specific transaction.

- (3) Present law requires that a list of surplus lines insurers be maintained by the commissioner.

Proposed law retains this requirement but makes changes in the filing requirements for such insurers. Makes such filing requirements less administratively burdensome by eliminating certification of documents available through online systems for regulators accessible to the Department of Insurance. Deletes provisions for mandatory removal from the list for failure to timely file an annual statement. Consolidates the causes for removal from the approved list and makes removal discretionary with the commissioner.

- (4) Present law requires a submitting producer (agent) to submit an affidavit to the surplus lines broker prior to obtaining surplus lines coverage affirming that the applicant for insurance is not able to obtain authorized personal lines insurance after diligent efforts by the producer. Also prescribes the content of the affidavit,

including that in the event of insolvency of the surplus lines insurer, losses shall not be paid by the La. Insurance Guaranty Assn.

Proposed law eliminates the requirement for an affidavit for personal lines policies, including the requirement that the applicant for insurance is not able to obtain authorized personal lines insurance after diligent efforts by the producer. Instead requires that a producer obtain written permission from the applicant for insurance, on a form approved by the commissioner, prior to obtaining surplus lines coverage. Retains contents of the certificate, but adds including a statement that the applicant of insurance expressly authorizes the procurement of surplus lines insurance coverage.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 22:46(2) and (17), 431, 432, 433, 435, 436, 438, and 439(F); adds R.S. 22:46(7.1) and (8.1))

Summary of Amendments Adopted by House

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

1. Limited requirement for a certificate to personal lines policies.
2. Changed references to "policyholder" to "applicant for insurance" in portion of proposed law relative to the certificate for personal lines policies.
3. Added exemption for contingent liability insurance in a rent with option-to purchase program.

House Floor Amendments to the engrossed bill.

1. Makes technical changes.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Insurance to the reengrossed bill

1. Defines "eligible unauthorized insurer" and "home state".
2. Makes technical changes.
3. Requires the commissioner of insurance to maintain a list of approved unauthorized insurers.
4. Deletes provisions that make the Subpart inapplicable to contingent liability insurance in a rent with option-to purchase program.