

2015 Regular Session

HOUSE BILL NO. 259

BY REPRESENTATIVE THIERRY

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

1 AN ACT

2 To amend and reenact R.S. 22:439 and to repeal Section 2 of Act No. 361 of the 2011  
3 Regular Session of the Legislature of Louisiana, relative to surplus lines of  
4 insurance; to decrease the tax on annual gross premiums for surplus lines of  
5 insurance; to expand the surplus lines tax base; to provide for the surplus lines tax  
6 report; to repeal the authority of the commissioner to enter the Nonadmitted  
7 Insurance Multi-State Agreement; to provide for an effective date; and to provide for  
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 22:439 is hereby amended and reenacted to read as follows:

11 §439. Tax on surplus lines

12 A.(1) There shall be a tax of four and eighty-five one hundredths of one  
13 percent per annum on the gross premium for all surplus lines of insurance for which  
14 Louisiana is the home state of the policyholder as defined in R.S. 22:46(8.1). The  
15 commissioner shall collect the tax and deposit it with the state treasurer who shall  
16 credit it to the state general fund.

17 (2) On or before March first, June first, September first, and December first  
18 of each year, each surplus lines broker shall transmit to the commissioner of  
19 insurance a surplus lines tax report for the prior calendar quarter for single-state,  
20 Louisiana properties, risks, or exposures and remit with it the tax payable pursuant  
21 to this Subsection. ~~This report shall be in a manner and format prescribed by the~~

1 commissioner of insurance and include any additional information as required by the  
2 commissioner. ~~The reporting of transactions shall be as follows:~~ The commissioner  
3 shall prescribe the manner and form of the report, which shall include all of the  
4 following:

5 (a) All new and renewal policies ~~will be included in the report~~ for the  
6 calendar quarter in which the effective date of the policy falls.

7 (b) All other premium transactions ~~will be included in the report~~ for the  
8 calendar quarter in which the invoice falls.

9 (c) Any additional information required by the commissioner.

10 ~~(2) Along with the report required to be filed on the due dates provided in~~  
11 ~~Paragraph (1) of this Subsection, each surplus lines broker shall remit to the~~  
12 ~~commissioner of insurance a tax on the premiums on surplus lines insurance reported~~  
13 ~~in the quarterly surplus lines tax report, at the rate of five percent per annum. Such~~  
14 ~~tax when collected by the commissioner of insurance shall be paid to the state~~  
15 ~~treasurer and be credited to the general fund.~~

16 (3) The commissioner shall not require a quarterly report for any quarter in  
17 which a surplus lines broker has no surplus lines premium to report. The  
18 commissioner shall require the filing of the report due on or before March first in  
19 order to certify the reporting of all surplus lines business conducted during the  
20 calendar year or the absence of any business during the calendar year.

21 B. Every person placing insurance ~~for single-state, Louisiana properties,~~  
22 ~~risks, or exposures with an unauthorized insurer without going through a licensed~~  
23 ~~Louisiana producer or surplus lines broker, except as provided in R.S. 22:432, shall~~  
24 transmit a report and remit the tax to the commissioner of insurance ~~a tax of five~~  
25 ~~percent of the gross premium, such tax to be paid at the same time and under the~~  
26 ~~same conditions as that levied on surplus lines brokers under the provisions of~~  
27 pursuant to Subsection A of this Section. ~~Such tax when collected by the~~  
28 ~~commissioner of insurance shall be paid to the state treasurer and be credited to the~~  
29 ~~general fund.~~

1           ~~C. There shall be a tax on all premiums paid for surplus lines insurance~~  
2           ~~covering properties, risks, or exposures for more than one state and for which~~  
3           ~~Louisiana is the home state of the insured. Surplus lines brokers and independently~~  
4           ~~procuring insureds shall remit the tax to the commissioner who shall transfer it to the~~  
5           ~~general fund less the amount due to other states pursuant to Subsection D of this~~  
6           ~~Section. The state shall return to the insured, through the surplus lines broker, if any,~~  
7           ~~the tax on any portion of the premium unearned at the termination of the insurance.~~  
8           ~~The surplus lines licensee or broker shall not rebate, for any reason, any part of the~~  
9           ~~tax.~~

10           ~~D. The tax required in Subsection C of this Section shall be on the gross~~  
11           ~~premiums charged for any surplus lines insurance policy covering properties, risks,~~  
12           ~~or exposures in more than one state and for which Louisiana is the home state of the~~  
13           ~~insured. The surplus lines broker or independently procuring insured shall compute~~  
14           ~~the sum payable based upon all of the following:~~

15           ~~(1) An amount equal to five percent on that portion of the gross premiums~~  
16           ~~allocated to this state.~~

17           ~~(2) Plus an amount equal to the portion of the premiums allocated to other~~  
18           ~~states or territories on the basis of the tax rates and fees applicable to properties,~~  
19           ~~risks, or exposures located or to be performed in other states and territories that~~  
20           ~~participate in a reciprocal allocation procedure as authorized herein.~~

21           ~~(3) Less the amount of gross premiums allocated to this state and returned~~  
22           ~~to the insured.~~

23           ~~(4) Less the net premium tax collected on properties, risks, or exposures~~  
24           ~~allocable to states or territories that do not participate in a reciprocal allocation~~  
25           ~~procedure with this state.~~

26           ~~E. Each surplus lines broker and insured independently procuring surplus~~  
27           ~~lines insurance covering properties, risks, or exposures in more than one state for~~  
28           ~~which Louisiana is the home state of the insured shall transmit to the commissioner~~  
29           ~~of insurance a surplus lines tax report for the prior calendar quarter not later than on~~

1 ~~the dates designated by the commissioner. The commissioner shall prescribe the~~  
2 ~~form and content of the report, which shall conform to any interstate agreement or~~  
3 ~~compact for the receipt, allocation, and distribution of surplus lines premium taxes.~~

4 ~~F. The home state of the insured for purposes of this Section shall be as~~  
5 ~~defined in R.S. 22:46(8.1).~~

6 ~~G.(1) The commissioner shall on behalf of the state of Louisiana enter into~~  
7 ~~the Nonadmitted Insurance Multi-State Agreement or other cooperative compacts or~~  
8 ~~agreements with other states for any of the following:~~

9 ~~(a) The receipt, allocation, and disbursement among the participating,~~  
10 ~~compacting, or contracting states of premium taxes attributable to the placement of~~  
11 ~~surplus lines insurance.~~

12 ~~(b) A uniform method of allocating and reporting among surplus lines~~  
13 ~~insurance risk classifications.~~

14 ~~(c) Sharing information among states relating to surplus lines insurance~~  
15 ~~premium taxes.~~

16 ~~(d) Such other purposes that are necessary and proper to maintain the state's~~  
17 ~~revenues from surplus lines insurance premium taxes and to comply with the~~  
18 ~~Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. 8206, et seq.).~~

19 ~~(2) Such compact or agreement shall be in writing and filed with the~~  
20 ~~commissioner prior to its taking effect.~~

21 ~~(3) Such compact or agreement may provide for any of the following:~~

22 ~~(a) The use of a clearinghouse to perform functions required under the~~  
23 ~~agreement.~~

24 ~~(b) The use of an allocation schedule to allocate risk and compute the tax due~~  
25 ~~on the portion of premium attributable to each risk classification and to each state~~  
26 ~~where properties, risks, or exposures are located.~~

27 ~~(c) Any other provisions that will facilitate the administration of the compact~~  
28 ~~or agreement.~~

1           ~~(4) The commissioner may, as required by the terms of the compact or~~  
2           ~~agreement, forward to officers of another state or to an agreed clearinghouse any~~  
3           ~~information in the commissioner's possession relative to nonadmitted insurance.~~

4           ~~(5) The commissioner may promulgate rules and regulations for the~~  
5           ~~administration and enforcement of any such compact or agreement, including the~~  
6           ~~assessment of a clearinghouse transaction fee.~~

7           H: (C) The tax imposed on surplus lines pursuant to this Section shall not  
8           apply to the purchase of excess insurance obtained by an interlocal risk management  
9           agency pursuant to ~~R.S. 33:1359 or 1485~~ R.S. 13:5575 or R.S. 33:1359.

10          Section 2. Section 2 of Act No. 361 of the 2011 Regular Session of the Legislature  
11          of Louisiana is hereby repealed in its entirety.

12          Section 3. Withdrawal from the Nonadmitted Insurance Multi-state Agreement shall  
13          be effective on and after July 1, 2015.

14          Section 4. This Act shall become effective upon signature by the governor or, if not  
15          signed by the governor, upon expiration of the time for bills to become law without signature  
16          by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
17          vetoed by the governor and subsequently approved by the legislature, this Act shall become  
18          effective on the day following such approval.

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#### 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)]

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HB 259 Original

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; and repeals requirement that the commissioner of insurance enter into the Nonadmitted Insurance Multi-State Agreement.

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

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

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

Proposed law 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.

Present law 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.

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

Present law provides that a portion of surplus lines premiums not allocable to this state shall not be subject to tax by the state.

Proposed law 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.

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

(Amends R.S. 22:439; Repeals §2 of Act No. 361 of 2011 R.S.)