

ACT No. 193

2015 Regular Session

HOUSE BILL NO. 214

BY REPRESENTATIVE PIERRE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

AN ACT

To amend and reenact R.S. 22:46(introductory paragraph) and (17), 432, 434, 438(A)(introductory paragraph) and (2) and (B), 446, 1456(B)(2), and 1661(6) and to enact R.S. 22:46(17.1), 435(B)(3), and 436.1, relative to the creation of domestic surplus line insurers; to provide for the creation of domestic surplus lines insurers; to provide for definitions; to provide for regulation of domestic surplus lines insurers by the commissioner of insurance; to provide for exemptions from form and rate filing for domestic surplus lines insurers; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:46(introductory paragraph) and (17), 432, 434, 438(A)(introductory paragraph) and (2) and (B), 446, 1456(B)(2), and 1661(6) are hereby amended and reenacted and R.S. 22:46(17.1), 435(B)(3), and 436.1 are hereby enacted to read as follows:

§46. General definitions

In this Code, unless the context otherwise requires, the following definitions ~~shall be~~ are applicable:

* * *

(17) "Surplus lines insurance" means any property and casualty insurance in this state on property, risk, or exposure located or to be performed in this state, permitted to be placed through a licensed surplus lines broker with ~~an approved~~ unauthorized insurer or eligible unauthorized a surplus lines insurer.

1 (17.1) "Surplus 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

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 * * *

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 * * *

11 §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 B.

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

25 * * *

26 §1661. Definitions

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

29 * * *

