

2018 Regular Session

HOUSE BILL NO. 247

BY REPRESENTATIVE HUVAL

INSURANCE/SURPLUS LINE: Provides relative to types of coverage available under surplus lines insurance

1 AN ACT

2 To amend and reenact R.S. 22:46(introductory paragraph), (17) and (17.1), 433(A),
3 438(A)(3), 446, 1542(introductory paragraph) and (18), and 1547(I), relative to
4 surplus lines insurance; to define surplus lines insurance, surplus lines insurer, and
5 surplus lines broker; to require the filing of forms and rates of surplus lines insurers
6 in certain circumstances; to provide surplus lines broker licensure requirements; to
7 provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 22:46(introductory paragraph), (17) and (17.1), 433(A), 438(A)(3),
10 446, 1542(introductory paragraph) and (18), and 1547(I) are hereby amended and reenacted
11 to read as follows:

12 §46. General definitions

13 In this Code, unless the context otherwise requires, the following definitions
14 ~~are applicable~~ apply:

15 * * *

16 (17) "Surplus lines insurance" means any property and casualty or health and
17 accident insurance in this state on property, risk, or exposure located or to be
18 performed in this state, permitted to be placed through a licensed surplus lines broker
19 with 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. "Surplus lines insurer" shall not include a
4 health maintenance organization.

5 * * *

6 §433. Endorsement of contract

7 A. Each surplus lines insurance policy or contract procured and delivered as
8 ~~surplus lines coverage~~ pursuant to this Subpart shall have the following notice:
9

10 **NOTICE**

11 **This insurance policy is delivered as surplus lines coverage under the**
12 **Louisiana Insurance Code.**

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

18 **This surplus lines policy has been procured by the following licensed**
19 **Louisiana surplus lines broker:**

20 **Signature of Licensed Louisiana Surplus Lines Broker**

21 **or Authorized Representative**

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

23 * * *

24 §438. Acknowledgment of applicant for insurance

25 A. Any licensed surplus lines broker that procures a personal lines policy
26 with a surplus lines insurer shall obtain from the applicant for insurance no later than
27 the date of binding coverage, an acknowledgment on a standardized form

1 promulgated by the commissioner of insurance which shall be maintained by the
2 licensed surplus lines broker. The acknowledgment shall verify that:

3 * * *

4 (3) In the event of insolvency of the insurer, losses shall not be paid by the
5 Louisiana Insurance Guaranty Association or the Louisiana Life and Health
6 Insurance Guaranty Association.

7 * * *

8 §446. Surplus lines insurance; exemption from form and rate filing and approval
9 ~~Surplus lines insurers shall not be required to file or seek approval of their~~
10 ~~forms and rates.~~

11 A. The commissioner shall not require surplus lines insurers to file or seek
12 approval of their forms and rates for property and casualty insurance except as
13 provided in R.S. 22:1456(B)(2) relative to public carrier vehicles.

14 B. The commissioner may require surplus lines insurers to file their forms
15 and rates for health and accident insurance, other than health stop loss and limited
16 benefit policies, when necessary to comply with federal laws or regulations.

17 * * *

18 §1542. Definitions

19 As used in this Subpart, unless the context requires otherwise, the following
20 definitions ~~shall be applicable~~ apply:

21 * * *

22 (18) "Surplus lines broker" shall mean an insurance producer who solicits,
23 negotiates, or procures a ~~property and casualty policy with an insurance company not~~
24 ~~licensed to transact business in the state which cannot be procured from insurers~~
25 ~~licensed to do business in this state.~~ a surplus lines insurer. All transactions entered
26 into under such license shall be subject to R.S. 22:431 et seq.

27 * * *

28 §1547. License

29 * * *

1 I. Any licensed ~~property and casualty~~ insurance producer maintaining an
2 office at a designated location in this state and having at least two years experience
3 in the insurance business with an insurer or as an insurance producer may be licensed
4 as a surplus lines broker as follows:

5 (1) The applicant ~~must~~ shall submit an application to the commissioner ~~of~~
6 ~~insurance~~ for the license on forms approved by the commissioner.

7 (2) The applicant ~~must~~ shall submit the required license fee, as authorized
8 by R.S. 22:821, for each license year during any part of which the license is in effect.
9 The license shall remain in force until the biannual renewal date.

10 (3) The applicant shall pass an examination approved by the commissioner
11 ~~of insurance~~.

12 * * *

13 Section 2. This Act shall become effective on January 1, 2019.

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 247 Original

2018 Regular Session

Huval

Abstract: Adds health and accident insurance to types of coverage comprising surplus lines insurance.

Present law defines surplus lines insurance as 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 a surplus lines insurer.

Proposed law retains present law and expands the definition to include health and accident insurance.

Present law defines surplus lines insurer as an approved unauthorized insurer or eligible unauthorized insurer, or a domestic surplus lines insurer.

Proposed law retains present law and excludes health maintenance organizations from the definition.

Present law requires notification that there is no guaranty fund coverage for surplus lines policies.

Proposed law retains present law and adds to the required notice a statement that there is no life and health guaranty fund coverage for surplus lines health and accident policies.

Present law exempts surplus lines insurers from the requirement to file rates and forms with the commissioner of insurance.

Proposed law retains present law but adds an exception for public carrier vehicles.

Proposed law permits the commissioner of insurance to require the filing of rates and forms for health and accident policies other than health stop loss and limited benefit policies.

Present law defines a surplus lines broker as an insurance producer who solicits, negotiates, or procures a property and casualty policy with an insurance company not licensed to transact business in La. which cannot be procured from insurers licensed to do business in La.

Proposed law eliminates the references to property and casualty to expand the definition to all types of coverage available through surplus lines insurance.

Effective Jan. 1, 2019.

(Amends R.S. 22:46(intro. para.), (17) and (17.1), 433(A), 438(A)(3), 446, 1542(intro. para.) and (18), and 1547(I))