

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE

Senate Bill 461  
Finance

(Senators Feldman and Hershey)

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Insurance - Surplus Lines - Disability Insurance

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This bill authorizes certain kinds of disability insurance to be purchased from a nonadmitted insurer in the State as a surplus line if the insurance coverage being sought is in excess of coverage available from, or is unavailable from, admitted insurers in the State that write that particular kind and class of insurance.

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Fiscal Summary

**State Effect:** General fund revenues increase minimally to the extent that the bill results in additional individuals purchasing disability insurance that would otherwise have been unobtainable, due to the 2% tax collected on all insurance premiums paid in the State. Expenditures are not affected.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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Analysis

**Bill Summary:** The bill only authorizes surplus lines for disability insurance that provide for lost income, revenue, or other proceeds in the event of an illness, accident, or injury that impairs the insured's ability to work or generate income. The bill does not authorize surplus lines for disability insurance that pays for medical expenses, dismemberment, or accidental death.

The surplus lines disability insurance authorized by the bill must meet the requirements specified for surplus lines by Insurance Law, including the requirement that a diligent

search is made among admitted insurers that write the particular kind and class of insurance being sought, before the surplus lines disability insurance may be purchased.

**Current Law/Background:** Disability insurance is the industry name for an optional type of insurance that provides benefits in the event that an injured person is unable to work or otherwise obtain income. Generally, the insurance is designed to replace 45% to 65% of an injured person's gross income.

Title 6 of the Insurance Article imposes a 2% premium tax on each authorized insurance company, surplus lines broker, or unauthorized insurance company that sells, or an individual who independently procures, any type of insurance coverage upon a risk that is located in the State. Revenues generally accrue to the general fund.

An "admitted insurer" means an insurer that is authorized to engage in the business of insurance in the State. A "nonadmitted insurer" means an insurer that is not authorized to engage in the business of insurance in the State. Insurance may only be purchased from an unadmitted insurer as a surplus line if the following conditions are met:

- If the insurance is purchased through a broker, the broker must be qualified.
- A diligent search must be made among the authorized insurers that are writing the particular kind and class of insurance in the State to see if the insurance being sought is already available. The diligent search is considered complete if the insured, surplus lines broker, or insurer obtains declinations of a risk from three authorized insurers that write the particular kind and class of insurance being sought. A diligent search may not be required under other specified conditions.
- Unless otherwise specified, the amount of insurance purchased from an unauthorized insurer through a surplus line may only be the excess over the amount that can be purchased from authorized insurers.
- For insurance against liability of persons, a surplus line may only be purchased if the coverage cannot be obtained from three or more admitted insurers.
- Surplus lines insurance may not be procured (1) solely to obtain a lower premium rate than would be accepted by an authorized insurer; (2) solely to obtain more favorable terms in the insurance contract; or (3) to replace coverage on residential property which is insured by an authorized insurer and for which a renewal offer has been made on substantially the same terms and conditions as the current coverage.

- The insured and surplus lines insurer must comply with other applicable provisions of Insurance Law.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** HB 565 (Delegates Bromwell and Kipke) - Health and Government Operations.

**Information Source(s):** Department of Health and Mental Hygiene, Maryland Insurance Administration, National Association of Health Underwriters, Department of Legislative Services

**Fiscal Note History:** First Reader - February 26, 2015  
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