

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 262

Short Title: Surplus Lines Amendments. (Public)

Sponsors: Representatives Pendleton, Tine, and Setzer (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Insurance.

March 18, 2015

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE SURPLUS LINES ACT BY INCLUDING ALIEN INSURERS IN THE DEFINITION OF AN ELIGIBLE SURPLUS LINES INSURER, BY REPEALING COUNTERSIGNING REQUIREMENTS, AND BY PROVIDING GREATER FLEXIBILITY FOR THE MANNER OF COLLECTION AND REFUND OF THE SURPLUS LINES TAX.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-21-10(3) reads as rewritten:

"(3) "Eligible surplus lines insurer" means an alien insurer as defined in G.S. 58-21-17 or a nonadmitted insurer with which a surplus lines licensee may place surplus lines insurance under G.S. 58-21-20."

SECTION 2. G.S. 58-21-40 reads as rewritten:

"§ 58-21-40. Surplus lines regulatory support organization.

(a) A surplus lines regulatory support organization of surplus lines licensees shall be formed to:

- (1) Facilitate and encourage compliance by resident and nonresident surplus lines licensees with the laws of this State and the rules and regulations of the Commissioner relative to surplus lines insurance;
- (2) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market;
- (3) Receive and disseminate to surplus lines licensees information about surplus lines insurance, including, without limitation, new electronic filing procedures approved by the Commissioner, changes in the list of eligible surplus lines insurers, and modifications in coverages, procedures, and requirements as may be requested by the Commissioner; and
- (4) ~~Countersign nonresident produced surplus lines coverages and remit premium taxes for those coverages under G.S. 58-21-70 by means satisfactory to the Commissioner; and charge the nonresident surplus lines licensee a fee for the certification and countersignature as approved by the Commissioner.~~ Establish a stamping office to process all surplus lines insurance and remit premium taxes for those coverages under G.S. 58-21-85 by means satisfactory to the Commissioner, and charge surplus lines licensees a fee for such processing.

(b) The regulatory support organization shall file with the Commissioner:



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- 1 (1) A copy of its constitution, articles of agreement or association, or certificate
2 of incorporation;
- 3 (2) A copy of its bylaws and rules governing its activities;
- 4 (3) An annually updated list of resident and nonresident licensees;
- 5 (4) The name and address of a resident of this State upon whom notices or
6 orders of the Commissioner or processes issued at his direction may be
7 served; and
- 8 (5) An agreement that the Commissioner may examine the regulatory support
9 organization in accordance with subsection (c) of this section.

10 (c) The Commissioner may, at times deemed appropriate, make or cause to be made an
11 examination of each regulatory support organization; in which case the provisions of
12 G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-180, 58-2-185,
13 58-2-190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the regulatory support
14 organization or any surplus lines licensee, whether resident or nonresident, to be in violation of
15 this Article, the Commissioner may issue an order requiring the discontinuance of the violation.

16 (d) Each resident surplus lines licensee shall maintain active membership in a
17 regulatory support organization as a condition of continued licensure under this Article."

18 **SECTION 3.** G.S. 58-21-70 reads as rewritten:

19 "**§ 58-21-70. Surplus lines licensees may accept business from other agents or brokers;
20 countersignatures required; remittance of premium tax.**

21 (a) A surplus lines licensee may originate surplus lines insurance or accept such
22 insurance from any other duly licensed agent or broker, and the surplus lines licensee may
23 compensate such agent or broker therefor.

24 ~~(b) Every report filed by a nonresident licensee under G.S. 58-21-35(a) shall, before
25 being filed with the Commissioner, be countersigned by a resident licensee or by a regulatory
26 support organization. The resident licensee or regulatory support organization may charge the
27 nonresident licensee a countersignature fee.~~

28 ~~(c) Every resident licensee and regulatory support organization that countersigns a
29 report under subsection (b) of this section is responsible for remitting the premium tax for the
30 coverage, as specified in G.S. 58-21-85, to the Commissioner."~~

31 **SECTION 4.** G.S. 58-21-85 reads as rewritten:

32 "**§ 58-21-85. Surplus lines tax.**

33 (a) Gross premiums charged, less any return premiums, for surplus lines insurance on
34 insureds for whom North Carolina is the home state are subject to a premium receipts tax of
35 five percent (5%), which shall be collected ~~by the surplus lines licensee as specified in a~~
36 manner approved by the Commissioner, in addition to the full amount of the gross premium
37 charged by the insurer for the insurance. The tax on any portion of the premium unearned at
38 termination of insurance having been credited by the State to the licensee shall be returned to
39 the policyholder ~~directly by the surplus lines licensee or through the producing broker, if~~
40 ~~any directly~~. The surplus lines licensee is prohibited from absorbing such tax and from rebating
41 for any reason, any part of such tax. To the extent that other states in which portions of the
42 properties, risks, or exposures reside have failed to enter into a compact or reciprocal allocation
43 procedure with this State, the premium tax collected shall be retained by this State.

44 ~~(b) At the same time that he files his quarterly report as set forth in G.S. 58-21-80, each~~
45 ~~surplus lines licensee shall pay the premium receipts tax due for the period covered by the~~
46 ~~report.~~

47"

48 **SECTION 5.** This act is effective when it becomes law.