

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 262
Committee Substitute Favorable 4/22/15

Short Title: Surplus Lines Amendments.

(Public)

Sponsors:

Referred to:

March 18, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE THE SURPLUS LINES ACT BY INCLUDING ALIEN
3 INSURERS IN THE DEFINITION OF AN ELIGIBLE SURPLUS LINES INSURER, BY
4 REPEALING COUNTERSIGNING REQUIREMENTS, AND BY PROVIDING
5 GREATER FLEXIBILITY FOR THE MANNER OF COLLECTION AND REFUND OF
6 THE SURPLUS LINES TAX.

7 The General Assembly of North Carolina enacts:

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

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

12 **SECTION 2.** G.S. 58-21-35(a) reads as rewritten:

13 "(a) Within 30 days after the placing of any surplus lines insurance, the surplus lines
14 licensee shall file with the Commissioner or the stamping office, as appropriate, a report in a
15 format prescribed by the Commissioner regarding the insurance and including the following
16 information:

- 17 (1) The name of the insured.
- 18 (2) The identity of the insurer or insurers.
- 19 (3) A description of the subject and location of the risk.
- 20 (4) The amount of premium charged for the insurance.
- 21 (5) The amount of premium tax for the insurance.
- 22 (6) The policy period.
- 23 (7) The policy number.
- 24 (7a) An acknowledged statement that the surplus lines licensee has complied with
25 G.S. 58-21-15 or G.S. 58-21-16, whichever is applicable.
- 26 (8) The name, address, telephone number, facsimile telephone number, and
27 electronic mail address of the licensee, as applicable.
- 28 (9) Any other relevant information the Commissioner may reasonably require."

29 **SECTION 3.** G.S. 58-21-40 reads as rewritten:

30 **"§ 58-21-40. Surplus lines regulatory support organization.**

31 (a) A surplus lines regulatory support organization of surplus lines licensees shall be
32 formed ~~to~~ to carry out the following functions:

- 33 (1) Facilitate and encourage compliance by resident and nonresident surplus
34 lines licensees with the laws of this State and the rules and regulations of the
35 Commissioner relative to surplus lines ~~insurance;~~ insurance.



- 1 (2) Communicate with organizations of admitted insurers with respect to the
 2 proper use of the surplus lines ~~market;~~market.
- 3 (3) Receive and disseminate to surplus lines licensees information about surplus
 4 lines insurance, including, without limitation, new electronic filing
 5 procedures approved by the Commissioner, changes in the list of eligible
 6 surplus lines insurers, and modifications in coverages, procedures, and
 7 requirements as may be requested by the ~~Commissioner;~~ and Commissioner.
- 8 (4) ~~Countersign nonresident produced surplus lines coverages and remit~~
 9 ~~premium taxes for those coverages under G.S. 58-21-70 by means~~
 10 ~~satisfactory to the Commissioner; and charge the nonresident surplus lines~~
 11 ~~licensee a fee for the certification and countersignature as approved by the~~
 12 ~~Commissioner.~~ Establish a stamping office to process all surplus lines
 13 insurance and remit premium taxes for those coverages under G.S. 58-21-85
 14 by means satisfactory to the Commissioner, and charge surplus lines
 15 licensees a fee for such processing.

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

19 **SECTION 4.** G.S. 58-21-65(c) reads as rewritten:

20 **"§ 58-21-65. Licensing of surplus lines licensee.**

21 ...
 22 (c) Corporations shall be eligible to be ~~resident~~ surplus lines licensees, upon the
 23 following conditions:

- 24 (1) The corporate licensee shall list individuals within the corporation who have
 25 satisfied all requirements of this Article to become surplus lines licensees;
 26 and
- 27 (2) Only those individuals listed on the corporate license and who are surplus
 28 lines licensees shall transact surplus lines business.

29 ...
 30 (e) Any person who does not renew a surplus lines license and applies for another
 31 surplus lines license more than two years after the expiration date of the previous license shall
 32 be required to satisfy every condition in this section, including the written exam, before the
 33 Commissioner issues another surplus lines license to that person. ~~Nonresident surplus lines~~
 34 ~~licensees shall be licensed in accordance with Article 33 of this Chapter.~~

35"

36 **SECTION 5.** G.S. 58-21-70 reads as rewritten:

37 **"§ 58-21-70. Surplus lines licensees may accept business from other agents or ~~brokers;~~**
 38 **~~countersignatures required; remittance of premium tax.~~brokers.**

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

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

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

49 **SECTION 6.** G.S. 58-21-85 reads as rewritten:

50 **"§ 58-21-85. Surplus lines tax.**

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

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

15"

16 **SECTION 7.** This act is effective when it becomes law.