

ACT No. 386

2015 Regular Session

HOUSE BILL NO. 259

BY REPRESENTATIVE THIERRY

1 AN ACT

2 To amend and reenact R.S. 22:439 and 443(A)(introductory paragraph) and (2) through (4)
3 and to repeal Section 2 of Act No. 361 of the 2011 Regular Session of the
4 Legislature of Louisiana, relative to surplus lines of insurance; to decrease the tax
5 on annual gross premiums for surplus lines of insurance; to expand the surplus lines
6 tax base; to provide for the surplus lines tax report; to repeal the authority of the
7 commissioner to enter the Nonadmitted Insurance Multi-State Agreement; to except
8 certain educational institutions and political subdivisions from the tax on gross
9 premiums for surplus lines of insurance; to provide for submission of certain
10 information by certain insurers; to provide for effective dates; and to provide for
11 related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 22:439 and 443(A)(introductory paragraph) and (2) through (4) are
14 hereby amended and reenacted to read as follows:

15 §439. Tax on surplus lines

16 A.(1) There shall be a tax of four and eighty-five one hundredths of one
17 percent per annum on the gross premium for all surplus lines of insurance for which
18 Louisiana is the home state of the policyholder as defined in R.S. 22:46(8.1). The
19 commissioner shall collect the tax and deposit it with the state treasurer who shall
20 credit it to the state general fund.

21 (2) On or before March first, June first, September first, and December first
22 of each year, each surplus lines broker shall transmit to the commissioner of
23 insurance a surplus lines tax report for the prior calendar quarter for single-state,
24 Louisiana properties, risks, or exposures and remit the tax payable pursuant to this

1 ~~Subsection.~~ This report shall be in a manner and format prescribed by the
2 ~~commissioner of insurance and include any additional information as required by the~~
3 ~~commissioner. The reporting of transactions shall be as follows:~~ The commissioner
4 ~~shall prescribe the manner and form of the report, which shall include all of the~~
5 ~~following:~~

6 (a) ~~All new and renewal policies will be included in the report for the~~
7 ~~calendar quarter in which the effective date of the policy falls.~~

8 (b) ~~All other premium transactions will be included in the report for the~~
9 ~~calendar quarter in which the invoice falls.~~

10 (c) Any additional information required by the commissioner.

11 (2) ~~Along with the report required to be filed on the due dates provided in~~
12 ~~Paragraph (1) of this Subsection, each surplus lines broker shall remit to the~~
13 ~~commissioner of insurance a tax on the premiums on surplus lines insurance reported~~
14 ~~in the quarterly surplus lines tax report, at the rate of five percent per annum. Such~~
15 ~~tax when collected by the commissioner of insurance shall be paid to the state~~
16 ~~treasurer and be credited to the general fund.~~

17 (3) The commissioner shall not require a quarterly report for any quarter in
18 which a surplus lines broker has no surplus lines premium to report. The
19 commissioner shall require the filing of the report due on or before March first in
20 order to certify the reporting of all surplus lines business conducted during the
21 calendar year or the absence of any business during the calendar year.

22 B. ~~Every person placing insurance for single-state, Louisiana properties,~~
23 ~~risks, or exposures with an unauthorized insurer without going through a licensed~~
24 ~~Louisiana producer or surplus lines broker, except as provided in R.S. 22:432, shall~~
25 ~~transmit a report and remit the tax to the commissioner of insurance a tax of five~~
26 ~~percent of the gross premium, such tax to be paid at the same time and under the~~
27 ~~same conditions as that levied on surplus lines brokers under the provisions of~~
28 ~~pursuant to Subsection A of this Section. Such tax when collected by the~~
29 ~~commissioner of insurance shall be paid to the state treasurer and be credited to the~~
30 ~~general fund.~~

1 ~~C. There shall be a tax on all premiums paid for surplus lines insurance~~
2 ~~covering properties, risks, or exposures for more than one state and for which~~
3 ~~Louisiana is the home state of the insured. Surplus lines brokers and independently~~
4 ~~procuring insureds shall remit the tax to the commissioner who shall transfer it to the~~
5 ~~general fund less the amount due to other states pursuant to Subsection D of this~~
6 ~~Section. The state shall return to the insured, through the surplus lines broker, if any,~~
7 ~~the tax on any portion of the premium unearned at the termination of the insurance.~~
8 ~~The surplus lines licensee or broker shall not rebate, for any reason, any part of the~~
9 ~~tax.~~

10 ~~D. The tax required in Subsection C of this Section shall be on the gross~~
11 ~~premiums charged for any surplus lines insurance policy covering properties, risks,~~
12 ~~or exposures in more than one state and for which Louisiana is the home state of the~~
13 ~~insured. The surplus lines broker or independently procuring insured shall compute~~
14 ~~the sum payable based upon all of the following:~~

15 ~~(1) An amount equal to five percent on that portion of the gross premiums~~
16 ~~allocated to this state.~~

17 ~~(2) Plus an amount equal to the portion of the premiums allocated to other~~
18 ~~states or territories on the basis of the tax rates and fees applicable to properties,~~
19 ~~risks, or exposures located or to be performed in other states and territories that~~
20 ~~participate in a reciprocal allocation procedure as authorized herein.~~

21 ~~(3) Less the amount of gross premiums allocated to this state and returned~~
22 ~~to the insured.~~

23 ~~(4) Less the net premium tax collected on properties, risks, or exposures~~
24 ~~allocable to states or territories that do not participate in a reciprocal allocation~~
25 ~~procedure with this state.~~

26 ~~E. Each surplus lines broker and insured independently procuring surplus~~
27 ~~lines insurance covering properties, risks, or exposures in more than one state for~~
28 ~~which Louisiana is the home state of the insured shall transmit to the commissioner~~
29 ~~of insurance a surplus lines tax report for the prior calendar quarter not later than on~~
30 ~~the dates designated by the commissioner. The commissioner shall prescribe the~~

1 form and content of the report, which shall conform to any interstate agreement or
 2 compact for the receipt, allocation, and distribution of surplus lines premium taxes.

3 F. ~~The home state of the insured for purposes of this Section shall be as~~
 4 ~~defined in R.S. 22:46(8.1).~~

5 G.(1) ~~The commissioner shall on behalf of the state of Louisiana enter into~~
 6 ~~the Nonadmitted Insurance Multi-State Agreement or other cooperative compacts or~~
 7 ~~agreements with other states for any of the following:~~

8 (a) ~~The receipt, allocation, and disbursement among the participating,~~
 9 ~~compacting, or contracting states of premium taxes attributable to the placement of~~
 10 ~~surplus lines insurance.~~

11 (b) ~~A uniform method of allocating and reporting among surplus lines~~
 12 ~~insurance risk classifications.~~

13 (c) ~~Sharing information among states relating to surplus lines insurance~~
 14 ~~premium taxes.~~

15 (d) ~~Such other purposes that are necessary and proper to maintain the state's~~
 16 ~~revenues from surplus lines insurance premium taxes and to comply with the~~
 17 ~~Nonadmitted and Reinsurance Reform Act of 2010 (15 U.S.C. 8206, et seq.).~~

18 (2) ~~Such compact or agreement shall be in writing and filed with the~~
 19 ~~commissioner prior to its taking effect.~~

20 (3) ~~Such compact or agreement may provide for any of the following:~~

21 (a) ~~The use of a clearinghouse to perform functions required under the~~
 22 ~~agreement.~~

23 (b) ~~The use of an allocation schedule to allocate risk and compute the tax due~~
 24 ~~on the portion of premium attributable to each risk classification and to each state~~
 25 ~~where properties, risks, or exposures are located.~~

26 (c) ~~Any other provisions that will facilitate the administration of the compact~~
 27 ~~or agreement.~~

28 (4) ~~The commissioner may, as required by the terms of the compact or~~
 29 ~~agreement, forward to officers of another state or to an agreed clearinghouse any~~
 30 ~~information in the commissioner's possession relative to nonadmitted insurance.~~

1 latest financial statements of any such insurers are available at its office for
2 inspection as follows:

3 * * *

4 (2) ~~Insurance on subjects located, resident, or to be performed wholly outside~~
5 ~~of this state, or on vehicles or aircraft owned and principally garaged outside of this~~
6 ~~state.~~

7 (3) Insurance on property or operation of railroads engaged in interstate
8 commerce.

9 (4) (3) Insurance of aircraft owned or operated by manufacturers of aircraft,
10 or of aircraft operated in scheduled interstate flight, or cargo of such aircraft, or
11 against liability, other than worker's compensation and employer's liability, arising
12 out of the ownership, maintenance, or use of such aircraft.

13 * * *

14 Section 2. Section 2 of Act No. 361 of the 2011 Regular Session of the Legislature
15 of Louisiana is hereby repealed in its entirety.

16 Section 3. Withdrawal from the Nonadmitted Insurance Multi-state Agreement shall
17 be effective on and after October 1, 2015.

18 Section 4.(A) Except as provided for in Subsection (B) of this Section, the
19 provisions of this Act shall become effective on October 1, 2015.

20 (B) R.S. 22:439(C) and (D) as amended and reenacted by this Act shall become
21 effective on July 1, 2015.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____