

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

HOUSE BILL 262
RATIFIED BILL

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. 58-21-35(a) reads as rewritten:

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

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

SECTION 3. 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~~ to carry out the following functions:

- (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;~~ insurance.
- (2) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines ~~market;~~ 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;~~ Commissioner.
- (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.

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

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

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

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

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

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

...."

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

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

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

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

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

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

"§ 58-21-85. **Surplus lines tax.**

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

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

...."

SECTION 7. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 8th day of June, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Pat McCrory
Governor

Approved _____m. this _____ day of _____, 2015