

HCS HB 773 -- REGULATION OF SURPLUS LINES INSURANCE

SPONSOR: Nance (Gosen)

COMMITTEE ACTION: Voted "do pass" by the Committee on Insurance Policy by a vote of 11 to 0.

This substitute changes the laws regarding the regulation of surplus lines insurance to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA) to bring about uniformity in the licensing of surplus lines insurance professionals, the standards under which surplus lines insurance may be sold, and the taxes that can be collected from the sale of surplus lines insurance. In its main provisions, the substitute:

(1) Specifies that surplus lines insurance may be placed by a surplus lines licensee if the insurer is authorized to write the type of insurance in its domiciliary jurisdiction;

(2) Changes the requirements and qualifications for a nonadmitted insurer to furnish coverage. A surplus lines licensee must not place coverage with a nonadmitted insurer unless the licensee determines that the nonadmitted insurer:

(a) Meets the capital and surplus requirements of Missouri or \$15 million. The Director of the Department of Insurance, Financial Institutions and Professional Registration may waive the financial requirements if the nonadmitted insurer's capital and surplus is at least \$4.5 million and upon an affirmative finding of acceptability by the department director; and

(b) Appears on the most recent list of eligible surplus lines insurers published by the department director or on the most recent quarterly listing of alien insurers maintained by the international insurers department of the National Association of Insurance Commissioners (NAIC);

(3) Specifies that a surplus lines licensee seeking to procure or place nonadmitted insurance in Missouri for an exempt commercial purchaser cannot be required to satisfy any requirement to make a due diligence search to determine whether the full amount or type of insurance sought by the exempt commercial purchaser can be obtained from nonadmitted insurers if:

(a) The surplus lines licensee procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that the insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and

(b) The exempt commercial purchaser has subsequently requested in writing the surplus lines licensee to procure or place the insurance from a nonadmitted insurer;

(4) Changes the licensing requirements for an insurance producer in the surplus lines insurance market. Beginning on or before July 1, 2012, the department director must participate in the national insurance producer database of the NAIC or any other equivalent uniform national database for the licensure of surplus lines licensees and the renewal of the licenses. A person selling, soliciting, or negotiating nonadmitted insurance with respect to an insured must be required to obtain or possess a current surplus lines insurance license issued by the department director only if this state is the insured's home state;

(5) Requires every insured or self-insurer whose home state is Missouri who procures surplus lines insurance, other than through a surplus lines broker, to file a report before March 2 with the department director describing the names of the insureds, the subject of the insurance, and other prescribed information. Currently, this is required for every insured in this state;

(6) Specifies that only the home state of the insured will have the authority to tax and regulate the placement of these policies, regardless of where risks or portions of the risk are located;

(7) Imposes a 5% tax on the entire gross premium for nonadmitted or surplus lines insurance policies for which the home state of the insured is Missouri. Currently, it is based on the net premium; and

(8) Specifies that the placement of nonadmitted insurance must be subject to the statutory and regulatory requirements of Missouri law only if this state is the insured's home state. A surplus lines broker is required to be licensed as a surplus lines licensee under the provisions of Chapter 384, RSMo, only if this state is the insured's home state.

The substitute contains an emergency clause.

FISCAL NOTE: Estimated Net Income on General Revenue Fund of Unknown, expected to exceed \$100,000 in FY 2012, FY 2013, and FY 2014. No impact on Other State Funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the bill helps individuals with specific insurance needs to be able to purchase insurance outside the state. The provisions of the bill are mandated by federal law to adopt definitional changes to regulate surplus lines

insurance and to allow us to continue to collect taxes. If we don't pass these provisions, the state will lose \$12 million. Currently, the state collects taxes on premiums regardless of where the insurer is located.

Testifying for the bill were Representative Gosen; Department of Insurance, Financial Institutions and Professional Registration; and Missouri Insurance Coalition.

OPPONENTS: There was no opposition voiced to the committee.