

THE FLORIDA SENATE
2011 SUMMARY OF LEGISLATION PASSED
Committee on Banking and Insurance

CS/CS/CS/SB 1816 — Surplus Lines Insurance

by Budget Committee, Budget Subcommittee on Finance and Tax, Banking and Insurance Committee and Senators Fasano and Richter (CS/CS HB1227 by Finance and Tax Committee, Insurance and Banking Subcommittee and Rep. Hager)

Surplus lines insurance is an alternative type of insurance coverage by which consumers can buy property-liability insurance from unauthorized (non-admitted) insurers when they are unable to purchase needed coverage from admitted insurers. The premiums charged for surplus line coverages are subject to a 5 percent tax on premiums and a service fee of up to 0.3 percent. The Nonadmitted and Reinsurance Reform Act of 2010 (NRAA) was included within the Federal Dodd-Frank Wall Street Reform and Consumer Protection Act. The NRAA (ss. 15 USC-8201-8206) limits regulatory authority over nonadmitted (surplus lines insurance to the home state of the insured (policyholder). Under the NRAA, Florida will no longer have jurisdiction to collect taxes and fees on surplus lines policies that cover risks over Florida and other states unless Florida is the home state of the insured, potentially resulting in significant loss of tax revenue. However, the NRAA authorizes states to enter into agreements with one another for home states to collect taxes on multi-state risks and then allocate tax revenue to the state where the insured risks are located.

Senate Bill 1816 applies the surplus lines tax to the entire premium of a surplus lines policy covering risks over multiple states when Florida is the home state of the insured as defined in the NRAA. The bill also authorizes the Department of Financial Services (DFS) and the Office of Insurance Regulation (OIR) to enter into cooperative reciprocal agreements with other states to collect and allocate nonadmitted surplus lines insurance taxes for multi-state risks pursuant to the NRAA. The bill authorizes the creation of a clearinghouse to receive the surplus lines premium tax collected by the home state of the insured and disburse the appropriate tax amount to the states where the risks are located. The clearinghouse is also authorized to collect a service fee of 0.3 percent of the gross premium. The tax rate collected on a multi-state surplus lines policy is limited to the tax rate where the insured risk is located. The Legislature is authorized to review any such agreement and may instruct the Chief Financial Officer to withdraw from an agreement if it determines that the agreement is not in the best interest of the state. The DFS must issue a report to the President of the Senate and Speaker of the House of Representatives about the terms and conditions of the agreement.

The bill also creates requirements governing the reporting and payment of surplus lines premium tax revenue and fees for policies covering multi-state risks. Surplus lines agents and insureds that do not use a surplus lines agent to procure coverage, have 45 days after the end of the calendar quarter to file and affidavit describing transactions handled during the last quarter and pay the required premium tax and fees.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 116-0