

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 309
94TH GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organizations and Elections, March 1, 2007, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

Senate Committee Substitute adopted March 13, 2007.

Taken up March 13, 2007. Read 3rd time and placed upon its final passage; bill passed.

TERRY L. SPIELER, Secretary.

1539S.02P

AN ACT

To repeal sections 384.025, 384.031, 384.051, 384.057, and 384.062, RSMo, and to enact in lieu thereof four new sections relating to surplus lines insurance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 384.025, 384.031, 384.051, 384.057, and 384.062, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 384.025, 384.051, 384.057, and 384.062, to read as follows:

384.025. 1. If at any time the director has reason to believe that an eligible surplus lines insurer:

- (1) Is in unsound financial condition;
 - (2) Is no longer eligible under section 384.021;
 - (3) Has willfully violated the laws of this state; or
 - (4) Does not make reasonably prompt payment of just losses and claims in this state or elsewhere;
- the director may declare it ineligible.

2. The director shall promptly [mail] **publish** notice of all such declarations [to each surplus lines licensee] **in any public electronic format**.

384.051. 1. Every insured in this state who procures or causes to be procured or continues or renews insurance in any surplus lines insurer, or any self-insurer in this state who so procures or continues with, any surplus lines

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

4 insurer, excess of loss, catastrophe or other insurance, upon a subject of insurance
5 resident, located or to be performed within this state, other than insurance
6 procured through a surplus lines broker pursuant to sections 384.011 to 384.071,
7 shall before March second of the year next succeeding the year in which the
8 insurance was so procured, continued or renewed, file a written report of the
9 same with the director on forms prescribed by the director and furnished to such
10 an insured upon request. The report shall show:

- 11 (1) The name and address of the insured or insureds;
- 12 (2) The name and address of the insurer or insurers;
- 13 (3) The subject of the insurance;
- 14 (4) A general description of the coverage;
- 15 (5) The amount of premium currently charged therefor;
- 16 (6) Such additional pertinent information as may be reasonably requested
17 by the director.

18 2. If any such insurance covers also a subject of insurance resident,
19 located or to be performed outside this state, for the purposes of this section, a
20 proper pro rata portion of the entire premium payable for all such insurance shall
21 be allocated as to the subjects of insurance resident, located or to be performed
22 in this state.

23 3. Any insurance in a surplus lines insurer procured through negotiations
24 or an application in whole or in part occurring or made within or from within this
25 state, or for which premiums in whole or in part are remitted directly or
26 indirectly from within this state, shall be deemed to be insurance procured or
27 continued or renewed in this state within the intent of subsection 1 of this
28 section.

29 4. For the general support of the government of this state there is levied
30 upon the insured **or self-insurer** who procures insurance pursuant to
31 subsections 1 and 3 of this section a tax at the rate of five percent of the net
32 amount of the premium in respect of risks located in this state. Before April
33 sixteenth of the year next succeeding the year in which the insurance was so
34 procured, continued or renewed, the insured shall remit to the [director]
35 **department of revenue** the amount of the tax. [The director before June first
36 of each year shall certify and transmit to the director of revenue the sums so
37 collected.] **The department of revenue shall notify the director of the**
38 **sums collected from each insured or self-insurer.**

384.057. 1. Before March second of each year, each surplus lines broker

2 shall report under oath to the director on forms prescribed by him or her a
3 statement showing, **with respect to the year ending the immediately**
4 **preceding December thirty-first:**

5 (1) The gross amounts charged for surplus lines insurance with respect
6 to risks located within this state, exclusive of sums collected for the payment of
7 federal, state or local taxes;

8 (2) The amount of net premiums with respect to the insurance. For the
9 purpose of this section, "net premiums" means the gross amount of charges for
10 surplus lines insurance with respect to risks located within this state, exclusive
11 of sums collected for the payment of federal, state and local taxes, less returned
12 premiums.

13 **2. Within forty-five days after the end of each calendar quarter**
14 **ending March thirty-first, June thirtieth, September thirtieth, and**
15 **December thirty-first each surplus lines broker shall report under oath**
16 **to the director on forms prescribed by him or her a statement showing,**
17 **with respect to each respective calendar quarter:**

18 (1) The gross amounts charged for surplus lines insurance with
19 respect to risks located within this state, exclusive of sums collected for
20 the payment of federal, state, or local taxes;

21 (2) The amount of net premiums with respect to the
22 insurance. For the purpose of this section, "net premiums" means the
23 gross amount of charges for surplus lines insurance with respect to
24 risks located within this state, exclusive of sums collected for the
25 payment of federal, state, and local taxes, less returned premiums.

384.062. 1. If [the tax collectible] any tax, penalty, or interest
2 payable by a surplus lines licensee under the provisions of sections 384.011 to
3 384.071 [has been collected and] is not paid within the time prescribed, the same
4 shall be recoverable in a suit brought by the director against the surplus lines
5 licensee.

6 2. All taxes, penalties, and interest or delinquent taxes levied pursuant
7 to this chapter shall be paid to the [director] **department of revenue**, who shall
8 [obtain such taxes, penalties and interest by civil action against the insured or
9 the surplus lines licensee, and the director shall remit such taxes when collected
10 to the director of revenue] **notify the director of the sums collected from**
11 **each surplus lines licensee.** All checks and drafts remitted for the payment
12 of such taxes, penalties and interest shall be made payable to the director of

13 revenue.

14 3. Taxes collected pursuant to this chapter are taxes collected by the
15 director of revenue within the meaning of section 139.031, RSMo.

[384.031. Within thirty days after the placing of any
2 surplus lines insurance, each surplus lines licensee shall file with
3 the director a written report, on a form prescribed by the director,
4 which shall be kept confidential, regarding the insurance with the
5 director, including the following:

- 6 (1) The name and address of the insured;
7 (2) The identity of the insurer or insurers;
8 (3) A description of the subject and location of the risk;
9 (4) The amount of premium charged for the insurance; and
10 (5) Such other pertinent information as the director may
11 reasonably require.]

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Bill

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