



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-0671/1
AJM:jld&kjf

2017 SENATE BILL 77

February 23, 2017 - Introduced by Senators LASEE, BEWLEY, CRAIG, OLSEN and L. TAYLOR, cosponsored by Representatives STEFFEN, ALLEN, BERCEAU, DOYLE, DUCHOW, GANNON, GENRICH, HORLACHER, KESSLER, KOOYENGA, MURPHY, NYGREN and SKOWRONSKI. Referred to Committee on Insurance, Housing and Trade.

1 **AN ACT to amend** 618.41 (5); and **to create** 618.40 (3m), 618.41 (9) (c), 618.41
2 (13) and 646.01 (1) (b) 20. of the statutes; **relating to:** surplus lines insurance
3 policies issued by domestic insurers.

Analysis by the Legislative Reference Bureau

This bill allows an insurer that is domiciled in this state to provide surplus lines insurance in this state if the insurer meets certain requirements. Under current law, only an unauthorized insurer that is not domiciled in this state may provide surplus lines insurance in this state, subject to certain requirements and limitations. Under this bill, an insurer domiciled in this state may apply to the commissioner of insurance for a certificate allowing the insurer to provide surplus lines insurance in this state as a domestic surplus lines insurer. In order to receive the certificate, the insurer must have a resolution to become a domestic surplus lines insurer adopted by its board of directors; have at least \$15,000,000 in capital and surplus; and be eligible to provide surplus lines insurance in at least one other state. The bill specifies that an insurance policy issued by a domestic surplus lines insurer is not protected by the Wisconsin insurance security fund and is subject to the same taxation under current law as a surplus lines insurance policy. The bill also specifies that a domestic surplus lines insurer may only offer surplus lines insurance.

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For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 618.40 (3m) of the statutes is created to read:

2 618.40 **(3m)** “Domestic surplus lines insurer” means an insurer that has a
3 certificate to do business as a domestic surplus lines insurer under s. 618.41 (13).

4 **SECTION 2.** 618.41 (5) of the statutes is amended to read:

5 618.41 **(5)** TRADE PRACTICES. With respect to contracts made under this section,
6 nondomestic insurers and domestic surplus lines insurers are subject to s. 628.34
7 and rules promulgated thereunder.

8 **SECTION 3.** 618.41 (9) (c) of the statutes is created to read:

9 618.41 **(9)** (c) *Surplus lines policies issued by domestic surplus lines insurers.*
10 Notwithstanding par. (a), every new or renewal insurance policy procured and
11 delivered under this section by a domestic surplus lines insurer shall bear the name
12 and address of the insurance agent or broker who procured it and shall have stamped
13 or affixed upon it the following: “This insurance contract is issued and delivered as
14 a surplus line coverage pursuant to s. 618.41 of the Wisconsin Statutes. Section
15 618.43 (1), Wisconsin Statutes, requires payment by the policyholder of 3 percent tax
16 on gross premium. If the insurer that issued and delivered this policy becomes
17 insolvent, insureds or claimants will not be eligible for Wisconsin Insurance Security
18 Fund protection under chapter 646 of the Wisconsin Statutes.”

19 **SECTION 4.** 618.41 (13) of the statutes is created to read:

20 618.41 **(13)** DOMESTIC SURPLUS LINES INSURERS. (a) An insurer domiciled in this
21 state may submit to the commissioner an application for a certificate that permits

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1 the insurer to provide surplus lines insurance as a domestic surplus lines insurer.

2 The commissioner shall issue the certificate to the insurer if the insurer satisfies all
3 of the following requirements:

4 1. The insurer's board of directors has adopted a resolution requesting to be
5 certified as a domestic surplus lines insurer.

6 2. The insurer is eligible to provide surplus lines insurance in a state other than
7 this state.

8 3. The insurer has capital and surplus of no less than \$15,000,000.

9 (b) A surplus lines insurance policy issued in this state by a domestic surplus
10 lines insurer is only subject to the requirements of this section in the same manner
11 as a surplus lines insurance policy issued by a nondomestic unauthorized insurer.

12 (c) A domestic surplus lines insurer shall be considered a nonadmitted insurer
13 as defined in 15 USC 8206 with respect to surplus lines insurance the domestic
14 surplus lines insurer issues in this state.

15 (d) Insurance transacted by a domestic surplus lines insurer under this section
16 is subject to taxation as specified under s. 618.43.

17 (e) A surplus lines insurance policy issued in this state by a domestic surplus
18 lines insurer under this section is not subject to the Wisconsin insurance security
19 fund under ch. 646.

20 (f) No domestic surplus lines insurer may offer insurance other than under this
21 section.

22 **SECTION 5.** 646.01 (1) (b) 20. of the statutes is created to read:

23 646.01 (1) (b) 20. A surplus lines insurance policy written by a domestic surplus
24 lines insurer under s. 618.41 (1).

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(END)