

ENGROSSED HOUSE
BILL NO. 1400

By: Kinnamon of the House
and
Haney of the Senate

An Act relating to insurance; amending 36 O.S. 1991, Section 1115, as amended by Section 40, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1998, Section 1115), which relates to the surplus line tax; exempting certain policies from the surplus line tax; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 1991, Section 1115, as amended by Section 40, Chapter 418, O.S.L. 1997 (36 O.S. Supp. 1998, Section 1115), is amended to read as follows:

Section 1115. A. On or before the end of each month following each calendar quarter, each surplus line broker shall remit to the State Treasurer through the Insurance Commissioner a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by the broker for the period covered by the report. Such tax shall be at the rate of six percent (6%) of the gross premiums less premiums returned on account of cancellation or reduction of premium, and shall exclude gross premiums and returned premiums upon business exempted from surplus line provisions pursuant to Section 1119 of this title.

B. Except as provided in subsection C of this section, for the purpose of determining the surplus line tax, the total premium charged for surplus line insurance placed in a single transaction with one underwriter or group of underwriters, whether in one or more policies, shall be allocated to this state in such proportion

as the total premium on the insured properties or operations in this state, computed on the exposure in this state on the basis of any single standard rating method in use in all states or countries where such insurance applies, bears to the total premium so computed in all such states or countries. Policies sold to federally recognized Indian tribes shall be reported as provided in Section 1107 of this title; however, such policies shall be exempt from the surplus line tax to the extent that the Insurance Commissioner can identify that coverage is for risks which are wholly owned by a tribe and located within Indian Country, as defined in Section 1151 of Title 18 of the United States Code.

C. The surplus line tax on insurance on motor transit operations conducted between this and other states shall be paid on the total premium charged on all surplus line insurance less:

1. The portion of the premium determined as provided in subsection B of this section charged for operations in other states taxing such premium of an insured maintaining its headquarters office in this state; or

2. The premium for operations outside of this state of an insured maintaining its headquarters office outside of this state and branch office in this state.

D. 1. Every person, association, or legal entity procuring or accepting any insurance coverage from an unauthorized insurer, upon, covering, or relating to a subject of insurance resident or having a situs in the this state, or any such insurance coverage which is to be performed in whole or part in this state, except such coverages as are lawfully obtained through a licensed surplus line broker in this state, shall report, within thirty (30) days next succeeding the issuance of evidence of coverage, the purchase of such coverages of insurance to the Insurance Commissioner, on forms prescribed by the Commissioner, and at the same time shall remit to the Insurance Commissioner a tax in the amount of six percent (6%) of the annual

premium agreed to be paid, or paid, for such insurance. Such insurance coverages, providing for the payment of retrospective premiums, or coverages on which the premiums are not determinable at the time of issuance, shall be reported to the Insurance Commissioner, by the insured, within thirty (30) days next succeeding the date such coverages are issued and the tax payable on such coverages shall be remitted, by the insured, to the Insurance Commissioner within thirty (30) days next succeeding the date such premiums can be determined. The tax on renewal premiums shall be paid by the insured in accordance with this section, in like manner as provided for payment of the original premium tax, within thirty (30) days next succeeding the date such premiums can be determined.

2. The taxes imposed by the provisions of this section on surplus lines shall be paid into the State Treasury and deposited to the General Revenue Fund of this state.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 8th day of March, 1999.

Speaker of the House of
Representatives

Passed the Senate the ____ day of _____, 1999.

President of the Senate