

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 CONFERENCE COMMITTEE SUBSTITUTE

4 FOR ENGROSSED

5 SENATE BILL 1873

By: Sparks of the Senate

and

Blackwell of the House

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9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to surplus lines insurance; amending  
11 36 O.S. 2011, Section 1106, as last amended by  
12 Section 2, Chapter 365, O.S.L. 2012 (36 O.S. Supp.  
13 2013, Section 1106), which relates to surplus lines  
14 insurers; modifying certain requirements permitting  
15 procurement of insurance through surplus lines  
16 brokers; amending 36 O.S. 2011, Section 1109, as  
17 amended by Section 12, Chapter 45, O.S.L. 2012 (36  
18 O.S. Supp. 2013, Section 1109), which relates to  
19 notice of limitation of coverage; authorizing  
20 Commissioner to promulgate rules to establish  
21 additional disclosure requirements; providing an  
22 emergency.

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

24 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1106, as  
last amended by Section 2, Chapter 365, O.S.L. 2012 (36 O.S. Supp.  
2013, Section 1106), is amended to read as follows:

Section 1106. If insurance required to protect the interest of  
the insured for the amount of insurance, coverage terms and solvency

1 requirements of the insured cannot be procured from admitted  
2 insurers after ~~direct inquiry to authorized insurers~~ in the market  
3 available to the insurance producer, then insurance may be procured  
4 from surplus lines insurers subject to the following conditions:

5 1. The surplus lines insurer shall meet the requirements of the  
6 Unauthorized Insurers and Surplus Lines Insurance Act and the  
7 following conditions:

8 a. the insurer has capital and surplus or its equivalent  
9 under the laws of its domiciliary jurisdiction which  
10 equals the greater of:

11 (1) the minimum capital and surplus requirements  
12 under the laws of this state for nonadmitted  
13 insurers, or

14 (2) Fifteen Million Dollars (\$15,000,000.00),

15 b. the requirements of subparagraph a of this paragraph  
16 may be satisfied by an insurer's possessing less than  
17 the minimum capital and surplus upon an affirmative  
18 finding of acceptability by the Insurance  
19 Commissioner. The finding shall be based upon such  
20 factors as quality of management, capital and surplus  
21 of any parent company, company underwriting profit and  
22 investment income trends, market availability and  
23 company record and reputation within the industry. In  
24 no event shall the Insurance Commissioner make an

1 affirmative finding of acceptability when the  
2 nonadmitted insurer's capital and surplus is less than  
3 Four Million Five Hundred Thousand Dollars  
4 (\$4,500,000.00), and

5 c. the insurer, if an alien insurer, is listed on the  
6 National Association of Insurance Commissioners  
7 Nonadmitted Insurers Quarterly Listing; and

8 2. The insurance shall be procured through a licensed surplus  
9 lines licensee or broker licensed in the insurer's home state. An  
10 Oklahoma surplus lines license is required only where Oklahoma is  
11 the home state of the insurer.

12 For the purposes of carrying out the provisions of the  
13 Nonadmitted and Reinsurance Reform Act of 2010, the Insurance  
14 Commissioner is authorized to utilize the national insurance  
15 producer database of the National Association of Insurance  
16 Commissioners, or any other equivalent uniform national database,  
17 for the licensure of an individual or entity as a surplus lines  
18 licensee or broker and for renewal of such license.

19 SECTION 2. AMENDATORY 36 O.S. 2011, Section 1109, as  
20 amended by Section 12, Chapter 45, O.S.L. 2012 (36 O.S. Supp. 2013,  
21 Section 1109), is amended to read as follows:

22 Section 1109. A. Insurance contracts procured as surplus line  
23 coverage from surplus lines insurers in accordance with this article  
24 shall be fully valid and enforceable as to all parties, and shall be

1 given recognition in all matters and respects to the same effect as  
2 like contracts issued by admitted insurers.

3 B. Insurance contracts procured as surplus line coverage shall  
4 contain in bold-face type notification stamped by the surplus lines  
5 licensee or broker or surplus lines insurer on the declaration page  
6 of the policy that the contracts are not subject to the protection  
7 of any guaranty association in the event of liquidation or  
8 receivership of the surplus lines insurer. The Commissioner is  
9 hereby authorized to promulgate rules to establish further  
10 disclosure requirements for the purpose of protecting consumers of  
11 surplus line coverage.

12 SECTION 3. It being immediately necessary for the preservation  
13 of the public peace, health and safety, an emergency is hereby  
14 declared to exist, by reason whereof this act shall take effect and  
15 be in full force from and after its passage and approval.

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