

1 ENGROSSED SENATE
2 BILL NO. 487

By: Quinn of the Senate

and

Faught of the House

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6 An Act relating to insurance; amending 36 O.S. 2011,
7 Sections 1102 and 1115, as last amended by Section 4,
8 Chapter 365, O.S.L. 2012 (36 O.S. Supp. 2014, Section
9 1115), which relates to surplus lines insurance;
10 modifying circumstances under which certain insurance
11 contracts are voidable; exempting certain flood
insurance policies from surplus lines premium tax;
providing that surplus lines licensee or broker not
required to make certain due diligence searches;
providing for codification; and providing an
effective date.

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

15 SECTION 1. AMENDATORY 36 O.S. 2011, Section 1102, is
16 amended to read as follows:

17 Section 1102. A contract of insurance effectuated by a surplus
18 lines insurer in violation of this Code shall be voidable except at
19 the instance of the ~~insurer~~ insured.

20 SECTION 2. AMENDATORY 36 O.S. 2011, Section 1115, as
21 last amended by Section 4, Chapter 365, O.S.L. 2012 (36 O.S. Supp.
22 2014, Section 1115), is amended to read as follows:

23 Section 1115. A. Where Oklahoma is the home state of the
24 insured, every person licensed pursuant to Section 1106 of this

1 title shall collect and pay as provided in this section a sum for
2 premium tax based on the total gross premiums charged in connection
3 with any broker-procured surplus lines insurance, less any return
4 premiums, for surplus lines insurance sold to the Oklahoma home-
5 state insureds by the surplus lines broker or licensee.

6 B. Where Oklahoma is the home state of the insured and the
7 insurance covers properties, risks or exposures located or to be
8 performed both in and out of Oklahoma, the sum payable to the
9 Oklahoma Insurance Commissioner shall be computed based on an amount
10 equal to six percent (6%) of the total gross premiums whether the
11 properties, risks or exposures are located or to be performed inside
12 or outside Oklahoma. Any such unearned gross premium credited by
13 the state to the surplus lines broker or licensee shall be returned
14 to the policyholder by the broker or licensee. The surplus lines
15 licensee or broker is prohibited from rebating, for any reason, any
16 part of the tax.

17 C. Where Oklahoma is the home state of the insured, gross
18 premiums charged for independently procured insurance, less any
19 return premiums, are subject to a premium tax at the rate of six
20 percent (6%) payable to the Oklahoma Insurance Commissioner, whether
21 the properties, risks or exposures are located or to be performed
22 inside or outside Oklahoma.

23 D. The Insurance Commissioner is authorized, in the exercise of
24 his or her sole discretion and judgment, to participate in the

1 Nonadmitted Insurance Multi-State Agreement or any other multistate
2 agreement or compact with the same function and purpose for the
3 function of collecting and disbursing to reciprocal states any funds
4 collected pursuant to the Unauthorized Insurers and Surplus Lines
5 Insurance Act applicable to other properties, risks or exposures
6 located or to be performed outside of Oklahoma. Until such time as
7 the Insurance Commissioner may, while not being required to, join
8 such multistate agreement or compact, premium taxes relating to
9 Oklahoma home-state insureds shall continue to be paid and accounted
10 for by nonadmitted insurers through their surplus lines licensees
11 and brokers as provided in subsections A through C of this section.

12 E. When the surplus lines coverage of an Oklahoma home-state
13 insured covers properties, risks or exposures located only in
14 Oklahoma, the surplus lines licensee or broker or self-procuring
15 insured shall pay the surplus lines premium tax payable on such
16 Oklahoma-only risks solely to the Oklahoma Insurance Commissioner.

17 F. Should the Insurance Commissioner exercise his or her sole
18 discretion and judgment and decide to join the Nonadmitted Insurance
19 Multi-State Agreement or any other multistate agreement or compact
20 with the same function and purpose, the Insurance Commissioner is
21 authorized in such event to establish a uniform, statewide rate of
22 taxation applicable to lines of nonadmitted insurance. This rate
23 shall encompass all existing rates of taxation, fees and assessments
24 imposed by this state, pursuant to subsections A through C of this

1 section and the Insurance Commissioner shall document the method by
2 which the statewide rate is calculated. The Insurance Commissioner
3 is authorized to receive any monies obtained as premium tax received
4 through any multistate agreement he or she may in the future in his
5 or her discretion choose to join and then disburse such funds as
6 provided by the Insurance Code and other applicable Oklahoma law.

7 G. Should the Insurance Commissioner exercise his or her sole
8 discretion and decide to join the Nonadmitted Insurance Multi-State
9 Agreement or any other multistate agreement or compact with the same
10 function and purpose, the Insurance Commissioner is authorized in
11 such circumstances to utilize or adopt any allocation schedule
12 included in the Nonadmitted Insurance Multi-State Agreement or any
13 other multistate agreement or compact the Insurance Commissioner may
14 enter in the exercise of his or her sole discretion and judgment
15 which schedule has the function and purpose of allocating risk and
16 computing the tax due on the portion of premium attributable to each
17 risk classification and to each state where properties, risks or
18 exposures are located.

19 H. Policies sold to federally recognized Indian tribes shall be
20 reported as provided in Section 1107 of this title; however, these
21 policies shall be exempt from the surplus line premium tax to the
22 extent that the Insurance Commissioner can identify that coverage is
23 for risks which are wholly owned by a tribe and located within
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1 Indian Country, as defined in Section 1151 of Title 18 of the United
2 States Code.

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

6 1. The portion of the premium charged for operations in other
7 states taxing the premium of an insured where Oklahoma is the home
8 state; or

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

12 J. Flood insurance policies where Oklahoma is the home state of
13 the insured and the insurance covers properties, risks, or exposures
14 located in Oklahoma shall be exempt from the surplus line premium
15 tax.

16 SECTION 3. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1106.2 of Title 36, unless there
18 is created a duplication in numbering, reads as follows:

19 A surplus lines licensee or broker is not required to make a due
20 diligence search to determine whether the full amount or type of
21 insurance can be obtained from admitted insurers when the surplus
22 lines licensee or broker is seeking to procure or place flood
23 insurance with a nonadmitted insurer.

24 SECTION 4. This act shall become effective November 1, 2015.

