

State of Arizona
Senate
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Second Regular Session
1996

FILED

Jane Dee Hull
Secretary of State

CHAPTER 72

SENATE BILL 1268

AN ACT

AMENDING SECTION 20-413, ARIZONA REVISED STATUTES; RELATING TO UNAUTHORIZED INSURERS.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 20-413, Arizona Revised Statutes, is amended to read:

20-413. Placing of surplus lines coverage with insolvent or unauthorized insurer; list of unauthorized insurers

A. A surplus ~~line~~ LINES broker shall not knowingly place any ~~such~~ SURPLUS LINES coverage ~~in~~ WITH an insurer, ~~or in any~~ insurance exchange OR ~~in which any~~ syndicate ~~thereof~~ OF AN INSURANCE EXCHANGE THAT DOES NOT MEET THE MINIMUM CAPITAL AND SURPLUS REQUIREMENTS OF THIS SECTION OR ~~is, or is~~ declared ~~to be~~ by the director, TO BE in an unsound financial condition, improperly managed or unreliable in insurance transactions. A SURPLUS LINES BROKER MAY PLACE SURPLUS LINES COVERAGE WITH A SYNDICATE OF AN INSURANCE EXCHANGE EVEN IF ANOTHER SYNDICATE OF THE INSURANCE EXCHANGE IS DECLARED BY THE DIRECTOR TO BE IN AN UNSOUND FINANCIAL CONDITION, IMPROPERLY MANAGED OR UNRELIABLE IN INSURANCE TRANSACTIONS, AS LONG AS THAT SYNDICATE DOES NOT PARTICIPATE IN INSURING THE RISK AND UNLESS THE DECLARATION OF THE DIRECTOR SPECIFIES THAT THE INSURANCE EXCHANGE SHALL NOT ACCEPT SURPLUS LINES PLACEMENTS.

~~B. As to foreign insurers other than title insurers or insurance exchanges authorized to transact insurance on either an admitted or surplus line basis in at least one state, prior to placing insurance with any unauthorized insurer, the broker shall ascertain the financial condition of~~

1 ~~the insurer and shall deliver to the director a current certificate in proper~~
2 ~~form of the public official or officials having supervision over insurers in~~
3 ~~any other state of the United States to the effect that the insurer possesses~~
4 ~~the same amount of capital and surplus as required of authorized insurers~~
5 ~~under section 20 210 transacting the same kinds of insurance and maintains~~
6 ~~a deposit in the same amount in public custody in the state in trust for the~~
7 ~~purpose, among other purposes, of protecting all the insurer's policyholders~~
8 ~~or all its policyholders and creditors in this state.~~

9 B. BEFORE PLACING INSURANCE WITH AN UNAUTHORIZED FOREIGN INSURER
10 AUTHORIZED TO TRANSACT INSURANCE ON AN ADMITTED OR SURPLUS LINES BASIS IN AT
11 LEAST ONE OTHER STATE, THE SURPLUS LINES BROKER SHALL DETERMINE THE FINANCIAL
12 CONDITION OF THE FOREIGN INSURER AND SHALL DELIVER TO THE DIRECTOR A CURRENT
13 CERTIFICATE IN PROPER FORM. THE CERTIFICATE SHALL SET FORTH THE NAMES OF THE
14 PUBLIC OFFICIAL OR OFFICIALS THAT HAVE SUPERVISION OVER THE FOREIGN INSURER
15 IN ANY OTHER STATE AND SHALL CERTIFY THAT THE FOREIGN INSURER POSSESSES A
16 MINIMUM CAPITAL AND SURPLUS OF AT LEAST FIVE MILLION DOLLARS AND MAINTAINS
17 A DEPOSIT OF AT LEAST TWO MILLION FIVE HUNDRED THOUSAND DOLLARS IN PUBLIC
18 CUSTODY IN TRUST, IN PART, FOR THE PURPOSE OF PROTECTING ALL OF THE FOREIGN
19 INSURER'S POLICYHOLDERS.

20 C. As to alien insurers other than title insurers, prior to placing
21 insurance with any unauthorized insurer, the broker shall submit to the
22 director evidence of the financial responsibility of the insurer. Evidence
23 satisfactory to the director that the insurer maintains and will continue to
24 maintain within the United States in public depositories or trust
25 institutions approved by the director assets in the amount of ~~one~~ TWO million
26 five hundred thousand dollars constitutes prima facie evidence of such
27 responsibility. If the director determines from evidence available to him
28 that the public interest reasonably requires that a larger deposit be made
29 and maintained by any company, then the director may make such requirement
30 and until complied with no broker may place any insurance with such company.

31 D. BEFORE PLACING INSURANCE WITH AN UNAUTHORIZED INSURANCE EXCHANGE
32 AUTHORIZED TO TRANSACT INSURANCE ON AN ADMITTED OR SURPLUS LINES BASIS IN AT
33 LEAST ONE OTHER STATE, THE SURPLUS LINES BROKER SHALL DETERMINE THE FINANCIAL
34 CONDITION OF THE INSURANCE EXCHANGE AND SHALL DELIVER TO THE DIRECTOR A
35 CURRENT CERTIFICATE IN PROPER FORM. THE CERTIFICATE SHALL SET FORTH THE
36 NAMES OF THE PUBLIC OFFICIAL OR OFFICIALS THAT HAVE SUPERVISION OVER THE
37 INSURANCE EXCHANGE IN ANY OTHER STATE AND SHALL CERTIFY THE AMOUNT OF CAPITAL
38 AND SURPLUS THAT THE INSURANCE EXCHANGE OR SYNDICATE WITH WHICH A RISK IS TO
39 BE PLACED POSSESSES AND THE AMOUNT OF THE DEPOSIT IN TRUST THAT THE EXCHANGE
40 POSSESSES. EACH INSURANCE EXCHANGE SHALL MAINTAIN A MINIMUM CAPITAL AND
41 SURPLUS OF AT LEAST FIFTY MILLION DOLLARS. EACH SYNDICATE OF THE INSURANCE
42 EXCHANGE WITH WHICH A RISK IS TO BE PLACED SHALL MAINTAIN A MINIMUM CAPITAL
43 AND SURPLUS OF AT LEAST FOUR MILLION DOLLARS UNTIL DECEMBER 31, 1996.
44 BEGINNING JANUARY 1, 1997 EACH SYNDICATE WITH WHICH A RISK IS TO BE PLACED

1 SHALL MAINTAIN A MINIMUM CAPITAL AND SURPLUS OF AT LEAST FIVE MILLION
2 DOLLARS. THE INSURANCE EXCHANGE SHALL MAINTAIN A DEPOSIT OF TWO MILLION FIVE
3 HUNDRED THOUSAND DOLLARS IN PUBLIC CUSTODY IN TRUST, IN PART, FOR THE PURPOSE
4 OF PROTECTING ALL OF THE POLICYHOLDERS OF THE INSURANCE EXCHANGE. EACH
5 SYNDICATE OF AN INSURANCE EXCHANGE AUTHORIZED TO TRANSACT SURPLUS LINES
6 INSURANCE IN THIS STATE SHALL FILE WITH THE DIRECTOR ON OR BEFORE MARCH 1 AN
7 ANNUAL STATEMENT FOR THE PRECEDING YEAR IN A FORM PRESCRIBED BY THE NATIONAL
8 ASSOCIATION OF INSURANCE COMMISSIONERS. THE ANNUAL STATEMENT IS IN ADDITION
9 TO ANY OTHER DOCUMENT REQUIRED OF THE INSURANCE EXCHANGE BY THE DIRECTOR.
10 NOTHING IN THIS SUBSECTION REQUIRES THE DIRECTOR TO DETERMINE THE ACTUAL
11 FINANCIAL CONDITION OR CLAIMS PRACTICES OF A SYNDICATE OF AN INSURANCE
12 EXCHANGE.

13 ~~D.~~ E. The director may periodically publish a list of unauthorized
14 insurers ~~which~~ AND INSURANCE EXCHANGES THAT write surplus ~~line~~ LINES
15 insurance established on the basis of documentation provided to the director
16 pursuant to subsections B, ~~and C of this section~~ AND D and such other
17 information as he may reasonably require. The director may mail a copy of
18 the list to each licensed surplus ~~line~~ LINES broker at the last address on
19 the records of the department. This subsection is not deemed to require the
20 director to determine the actual financial condition or claims practices of
21 any unauthorized insurer OR INSURANCE EXCHANGE, and the appearance of an
22 unauthorized insurer OR INSURANCE EXCHANGE upon the list indicates only that
23 the insurer OR INSURANCE EXCHANGE appears to be financially sound and to have
24 satisfactory claims practices and that the director has no credible evidence
25 to the contrary. The broker shall restrict all surplus ~~line~~ LINES business
26 placed by him with an unauthorized insurer OR INSURANCE EXCHANGE to those
27 insurers AND INSURANCE EXCHANGES qualified with the director as provided in
28 this section.

29 ~~E.~~ F. For a violation of this section, in addition to any other
30 penalty provided by law, the director shall revoke the broker's license and
31 shall not license the broker again within a period of two years thereafter.

32 ~~F.~~ G. Mexican insurers placing vehicle insurance coverages in Mexico
33 only through licensed Arizona surplus ~~line~~ LINES brokers are exempt from THE
34 deposit requirements ~~set forth~~ PRESCRIBED in subsections B, ~~and C of this~~
35 ~~section~~ AND D.

36 ~~G.~~ H. For purposes of subsections A, B, C and ~~D of this section~~ E,
37 "insurer" shall mean MEANS either AN unauthorized insurer or insurance
38 exchange.

APPROVED BY THE GOVERNOR APRIL 1, 1996

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 2, 1996