

Senate Engrossed House Bill

**FILED**

**KEN BENNETT  
SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fiftieth Legislature  
First Regular Session  
2011

CHAPTER 136

# **HOUSE BILL 2112**

AN ACT

AMENDING SECTIONS 20-401, 20-401.07, 20-408, 20-411, 20-411.02, 20-413, 20-415 AND 20-416, ARIZONA REVISED STATUTES; AMENDING TITLE 20, CHAPTER 2, ARTICLE 5, ARIZONA REVISED STATUTES, BY ADDING SECTION 20-416.01; RELATING TO SURPLUS LINES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-401, Arizona Revised Statutes, is amended to  
3 read:

4 20-401. Definitions

5 In this article, unless the context otherwise requires:

6 1. "AFFILIATED" MEANS, WITH RESPECT TO AN INSURED, ANY ENTITY THAT  
7 CONTROLS, IS CONTROLLED BY OR IS UNDER COMMON CONTROL WITH THE INSURED. FOR  
8 THE PURPOSES OF THIS PARAGRAPH, "CONTROL" MEANS EITHER:

9 (a) DIRECTLY OR INDIRECTLY ACTING THROUGH ONE OR MORE OTHER PERSONS  
10 WHO OWN, CONTROL OR HAVE THE POWER TO VOTE TWENTY-FIVE PER CENT OR MORE OF  
11 ANY CLASS OF VOTING SECURITIES OF THE OTHER ENTITY.

12 (b) CONTROL IN ANY MANNER OVER THE ELECTION OF A MAJORITY OF THE  
13 DIRECTORS OR TRUSTEES OF THE OTHER ENTITY.

14 2. "AFFILIATED GROUP" MEANS ANY GROUP OF ENTITIES THAT ARE AFFILIATED.

15 3. "CLEARINGHOUSE" MEANS THE MECHANISM OR ENTITY ESTABLISHED PURSUANT  
16 TO A MULTISTATE AGREEMENT OR COMPACT FOR THE RECEIPT AND DISTRIBUTION OF  
17 PREMIUM TAXES AND TRANSACTION DATA RELATED TO THE SALE OF UNAUTHORIZED  
18 INSURANCE.

19 ~~1~~ 4. "Diligent effort" means having sought insurance for the same  
20 risk from at least three insurers authorized in this state to write the  
21 particular insurance coverage or type, class or kind of insurance.

22 ~~2~~ 5. "Foreign decree" means any decree or order in equity of a court  
23 located in a reciprocal state, including a court of the United States located  
24 therein, obtained by a qualified party against any insurer incorporated or  
25 authorized to do business in this state.

26 6. "HOME STATE" MEANS ONE OF THE FOLLOWING:

27 (a) THE STATE IN WHICH AN INSURED MAINTAINS ITS PRINCIPAL PLACE OF  
28 BUSINESS OR, IN THE CASE OF AN INDIVIDUAL, THE INDIVIDUAL'S PRINCIPAL PLACE  
29 OF RESIDENCE.

30 (b) IF ONE HUNDRED PER CENT OF THE INSURED RISK IS LOCATED OUT OF THE  
31 STATE THAT WOULD BE THE INSURED'S HOME STATE PURSUANT TO SUBDIVISION (a) OF  
32 THIS PARAGRAPH, THE STATE TO WHICH THE GREATEST PERCENTAGE OF THE INSURED'S  
33 TAXABLE PREMIUM IS ALLOCATED FOR THE INSURANCE CONTRACT IN QUESTION.

34 (c) IF MORE THAN ONE INSURED FROM AN AFFILIATED GROUP ARE NAMED  
35 INSUREDS ON A SINGLE NONADMITTED INSURANCE CONTRACT, THE STATE AS DETERMINED  
36 PURSUANT TO SUBDIVISION (a) OF THIS PARAGRAPH OF THE MEMBER OF THE AFFILIATED  
37 GROUP THAT HAS THE LARGEST PERCENTAGE OF PREMIUM ATTRIBUTED TO IT UNDER THE  
38 INSURANCE CONTRACT.

39 7. "MULTISTATE RISK" MEANS A RISK COVERED BY AN UNAUTHORIZED INSURER  
40 WITH INSURED EXPOSURES IN MORE THAN ONE STATE.

41 ~~3~~ 8. "Qualified party" means a state regulatory agency acting in its  
42 capacity to enforce the insurance laws of such state.

43 ~~4~~ 9. "Reciprocal state" means any state or territory of the United  
44 States the laws of which give to insurers organized under the laws of this  
45 state the same right to defend actions as that granted to foreign insurers

1 under the laws of this state and the laws of which contain procedures  
2 substantially similar to those specified in this article for the enforcement  
3 of decrees or orders in equity issued by courts located in other states or  
4 territory of the United States against any insurer incorporated or authorized  
5 to do business in such state or territory.

6 10. "SINGLE-STATE RISK" MEANS A RISK WITH INSURED EXPOSURES IN ONLY ONE  
7 STATE.

8 11. "UNAUTHORIZED INSURANCE" OR "NONADMITTED INSURANCE" MEANS ANY  
9 INSURANCE PERMITTED TO BE PLACED DIRECTLY OR THROUGH A SURPLUS LINES BROKER  
10 WITH AN INSURER WHO IS NOT LICENSED TO TRANSACT INSURANCE IN THIS STATE.

11 Sec. 2. Section 20-401.07, Arizona Revised Statutes, is amended to  
12 read:

13 20-401.07. Premium receipts tax on industrial insureds  
14 contracting with unauthorized insurer; definitions

15 A. Every industrial insured under a contract procured from an  
16 unauthorized insurer shall pay to the director ~~before March 1 next succeeding~~  
17 ~~the calendar year in which the insurance was so effectuated, continued or~~  
18 ~~renewed~~ FOR COVERAGE ON ARIZONA SINGLE-STATE RISKS OR TO THE CLEARINGHOUSE  
19 FOR COVERAGE ON MULTISTATE RISKS ON OR BEFORE THE DATES PRESCRIBED BY IN  
20 SECTION 20-415 a premium receipts tax of three per cent of the gross  
21 premiums, less premiums returned on account of cancellation or reduction of  
22 premium, ~~charged for insurance on subjects resident, located or to be~~  
23 ~~performed in this state.~~ Such insurance PROCURED BY AN INSURED WHOSE HOME  
24 STATE IS ARIZONA, whether procured through negotiation or an application, in  
25 whole or in part occurring or made within or outside of this state, or for  
26 which premiums in whole or in part are remitted directly or indirectly from  
27 within or outside of this state, shall be deemed to be insurance effectuated  
28 or continued in this state. ~~If a contract covers risks or exposures only~~  
29 ~~partly in this state, the tax payable shall be computed on the portions of~~  
30 ~~the premium that are properly allocable to the risks or exposures located in~~  
31 ~~this state. Proration of premium taxes due from an industrial insured under~~  
32 ~~a contract procured from an unauthorized insurer having property in states~~  
33 ~~other than Arizona shall be determined by rules adopted by the director using~~  
34 ~~the following criteria where applicable:~~

- 35 1. ~~Percentage of physical assets in Arizona.~~
- 36 2. ~~Percentage of employee payroll in Arizona.~~
- 37 3. ~~Percentage of sales in Arizona.~~
- 38 4. ~~Percentage of taxable income reportable in Arizona.~~

39 B. BEGINNING JANUARY 1, 2015 AND EVERY FIVE YEARS THEREAFTER, THE  
40 AMOUNTS LISTED IN SUBSECTION C, PARAGRAPH 1, SUBDIVISIONS (a) AND (e) SHALL  
41 BE ADJUSTED TO REFLECT THE PERCENTAGE CHANGE FOR THE FIVE-YEAR PERIOD IN THE  
42 CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS PUBLISHED BY THE BUREAU OF LABOR  
43 STATISTICS OF THE UNITED STATES DEPARTMENT OF LABOR.

1 B. C. For THE purposes of this section:

2 1. "Industrial insured" means an insured WHOSE HOME STATE IS ARIZONA,  
3 that applies for or procures any insurance that is subject to article 4.1 of  
4 this chapter through the use of a QUALIFIED risk manager, THAT HAS AGGREGATE  
5 ANNUAL GROSS PREMIUMS FOR INSURANCE ON ALL PROPERTY AND CASUALTY RISKS THAT  
6 ARE SUBJECT TO ARTICLE 4.1 OF THIS CHAPTER TOTALING AT LEAST ONE HUNDRED  
7 THOUSAND DOLLARS AS OF THE INSURED'S PRECEDING FISCAL YEAR END and that meets  
8 ~~at least two~~ ONE of the following criteria:

9 ~~(a) Has aggregate annual gross premiums for insurance on all property~~  
10 ~~and casualty risks that are subject to article 4.1 of this chapter totaling~~  
11 ~~at least one hundred thousand dollars as of the preceding fiscal year end of~~  
12 ~~the industrial insured.~~

13 ~~(b) (a) Possesses a net worth of over ten TWENTY million dollars as~~  
14 ~~of the preceding fiscal year end of the industrial insured as verified by a~~  
15 ~~certified public accountant.~~

16 ~~(c) (b) Has net revenues or sales exceeding twenty-five FIFTY million~~  
17 ~~dollars as of the preceding fiscal year end of the industrial insured as~~  
18 ~~verified by a certified public accountant.~~

19 ~~(d) (c) Has more than eighty FIVE HUNDRED full-time employees or~~  
20 ~~equivalent per individual company or one hundred full-time employees or~~  
21 ~~equivalent per holding company system as of the date the policy is issued IS~~  
22 ~~A MEMBER OF AN AFFILIATED GROUP EMPLOYING MORE THAN ONE THOUSAND EMPLOYEES IN~~  
23 ~~THE AGGREGATE.~~

24 ~~(d) IS A MUNICIPALITY WITH A POPULATION OF MORE THAN FIFTY THOUSAND~~  
25 ~~PERSONS.~~

26 ~~(e) IS A NONPROFIT ORGANIZATION OR PUBLIC ENTITY GENERATING ANNUAL~~  
27 ~~BUDGETED EXPENDITURES OF AT LEAST THIRTY MILLION DOLLARS.~~

28 2. ~~"Risk manager" means a full-time employee of the industrial insured~~  
29 ~~or a third party consultant who is retained by the industrial insured, who~~  
30 ~~provides skilled services in loss prevention, loss reduction, risk and~~  
31 ~~insurance coverage analysis and the purchase of insurance and who possesses~~  
32 ~~at least one of the following qualifications:~~

33 ~~(a) A baccalaureate or higher degree in risk management that is issued~~  
34 ~~by an accredited college or university.~~

35 ~~(b) A designation as a chartered property and casualty underwriter~~  
36 ~~that is issued by an insurance institute.~~

37 ~~(c) A designation as a certified insurance counselor that is issued by~~  
38 ~~a society of certified insurance counselors.~~

39 ~~(d) A designation as an associate in risk management that is issued by~~  
40 ~~an insurance institute.~~

41 ~~(e) A designation as a certified risk manager that is issued by a~~  
42 ~~national alliance for insurance education and research.~~

43 ~~(f) A designation as a fellow in risk management that is issued by a~~  
44 ~~global risk management institute.~~

1           ~~(g) Any other similar qualification that, before the employee or~~  
2 ~~consultant applies for or procures any insurance that is subject to article~~  
3 ~~4.1 of this chapter, the director determines is sufficient, other than a~~  
4 ~~license as an insurance producer pursuant to article 3 of this chapter.~~

5           2. "QUALIFIED RISK MANAGER" HAS THE SAME MEANING PRESCRIBED IN THE  
6 NONADMITTED AND REINSURANCE REFORM ACT OF 2010 (15 UNITED STATES CODE  
7 SECTION 8206).

8           Sec. 3. Section 20-408, Arizona Revised Statutes, is amended to read:  
9           20-408. Report of broker; civil penalty

10           A. ~~Within sixty days after procuring any surplus lines insurance, the~~  
11 ~~broker procuring the coverage~~ A BROKER PROCURING SURPLUS LINES INSURANCE ON  
12 BEHALF OF AN INSURED WHOSE HOME STATE IS ARIZONA shall execute and file with  
13 the director ON OR BEFORE THE DATE SPECIFIED IN SECTION 20-415, SUBSECTION B  
14 a verified report setting forth facts from which it may be determined whether  
15 the requirements of section 20-407 have been met. The report shall also  
16 contain or be accompanied by the following:

17           1. The name of the insurer and the identification number assigned to  
18 it by the national association of insurance commissioners.

19           2. The number of the policy issued.

20           3. The name and address of the insured.

21           4. The premium, including taxable policy fees.

22           5. The identity of the specific recognized surplus lines coverage  
23 written.

24           ~~6.~~ OR if the insurance coverage is not a recognized surplus line  
25 pursuant to section 20-409, an affidavit executed by the surplus lines broker  
26 attesting to compliance with the requirements of section 20-407, subsection A  
27 and confirming that evidence of compliance will be maintained in the broker's  
28 file for the duration of the insurance policy and for a period of six years  
29 after the expiration of the policy.

30           ~~7.~~ 6. The policy effective dates that shall not be open to public  
31 inspection.

32           B. The director shall prescribe the required report form.

33           C. The director may direct a broker to file the broker's report  
34 required by this section with a voluntary domestic organization of surplus  
35 lines brokers with which the director has contracted to accept reports  
36 pursuant to section 20-167.

37           D. A broker may collect from the insured the stamping fee prescribed  
38 in section 20-167.

39           E. The director may impose and collect a civil penalty of not more  
40 than twenty-five dollars against a broker for each day the report prescribed  
41 in subsection A of this section is late.

1           Sec. 4. Section 20-411, Arizona Revised Statutes, is amended to read:

2           20-411. Licensing of surplus lines broker; examination

3           A. A person shall not act as a surplus lines broker in this state ON  
4 BEHALF OF AN INSURED WHOSE HOME STATE IS ARIZONA unless the person has a  
5 current surplus lines broker license issued by the director.

6           B. Any individual who is a resident of this state and who is licensed  
7 as a resident insurance producer authorized for property or casualty  
8 insurance in this state may also be licensed as a resident surplus lines  
9 broker if the director determines that the insurance producer is competent  
10 and trustworthy. The director shall prescribe and furnish application forms.

11           C. Each individual applicant for an original license as a resident  
12 surplus lines broker or for renewal of a resident surplus lines broker  
13 license who has not previously taken and passed a surplus lines broker  
14 license examination in this state shall take and pass to the director's  
15 satisfaction a written examination given by or under the supervision of the  
16 director. The examination shall reasonably test the applicant's knowledge of  
17 surplus lines insurance and the legal responsibilities of a surplus lines  
18 broker.

19           D. The director may issue a resident surplus lines broker license to  
20 any business entity that is licensed as a resident property or casualty  
21 insurance producer in this state and that satisfies all of the requirements  
22 prescribed by section 20-285, subsections C and D.

23           E. At least one individual in each office or place where surplus lines  
24 insurance is transacted in this state shall be licensed pursuant to this  
25 title as either an insurance producer authorized for property or casualty  
26 insurance or a managing general agent for property or casualty insurance, and  
27 shall be licensed pursuant to this article as a surplus lines broker.

28           F. The license prescribed in this section shall expire and be subject  
29 to renewal coincidental to, and in the same manner as, other insurance  
30 license authority as prescribed in section 20-289. The director shall charge  
31 the surplus lines broker license fee prescribed in section 20-167, except  
32 that, from and after June 30, 2005, a licensee adding surplus lines broker  
33 authority to an existing insurance license shall be charged one-half the  
34 surplus lines broker license fee if less than two years remain in the term of  
35 the existing insurance license as of the date the director receives the  
36 application to add surplus lines broker authority to the existing insurance  
37 license.

38           G. To the extent not inconsistent with this article, section 20-281,  
39 section 20-283, subsection B, paragraph 6, section 20-286, subsection C and  
40 sections 20-287, 20-289, 20-291, 20-292, 20-295, 20-296, 20-297, 20-298,  
41 20-299, 20-300, 20-301 and 20-302 apply to surplus lines brokers.

42           H. FOR THE PURPOSES OF IMPLEMENTING THE NONADMITTED AND REINSURANCE  
43 REFORM ACT OF 2010 (15 UNITED STATES CODE SECTION 8201) THE DIRECTOR SHALL  
44 PARTICIPATE IN THE NATIONAL INSURANCE PRODUCER DATABASE OF THE NATIONAL  
45 ASSOCIATION OF INSURANCE COMMISSIONERS OR ANY OTHER EQUIVALENT NATIONAL

1 DATABASE FOR THE LICENSURE AND LICENSE RENEWAL OF SURPLUS LINES BROKERS ON  
2 AND AFTER JULY 21, 2012.

3 Sec. 5. Section 20-411.02, Arizona Revised Statutes, is amended to  
4 read:

5 20-411.02. Nonresident surplus lines broker; remittance of tax  
6 on insurance procured out of state

7 A. The director shall license a nonresident person as a surplus lines  
8 broker in accordance with section 20-287.

9 B. Except as otherwise provided, a nonresident surplus lines broker is  
10 subject to this title as if the broker were licensed as a resident.

11 C. A license from this state is not required for a nonresident who  
12 procures surplus lines insurance in another state in which the nonresident is  
13 licensed solely because of the allocation of premium to this state to  
14 determine the surplus lines tax due to this state pursuant to section 20-416,  
15 subsection C- E. The nonresident shall remit the tax according to this  
16 article. The director shall prescribe the form of any reports or statements  
17 that are necessary for the nonresident to remit the tax.

18 Sec. 6. Section 20-413, Arizona Revised Statutes, is amended to read:

19 20-413. Placing of surplus lines coverage; endorsement by  
20 broker; list of unauthorized insurers; removal from  
21 list; definition

22 A. A surplus lines broker shall not knowingly place any surplus lines  
23 coverage ON BEHALF OF AN INSURED WHOSE HOME STATE IS ARIZONA with an  
24 unauthorized insurer, Lloyd's association, insurance exchange or syndicate of  
25 an insurance exchange that does not meet the minimum financial requirements  
26 of this section or that is declared by the director to be in a hazardous  
27 financial condition, improperly managed or unreliable in insurance  
28 transactions. A surplus lines broker may place surplus lines coverage with a  
29 syndicate of an unauthorized insurance exchange even if another syndicate of  
30 the insurance exchange is declared by the director to be in a hazardous  
31 financial condition, improperly managed or unreliable in insurance  
32 transactions, as long as that syndicate does not participate in insuring the  
33 risk and unless the declaration of the director specifies that the insurance  
34 exchange shall not accept surplus lines placements.

35 B. An unauthorized foreign insurer authorized to transact insurance on  
36 an admitted or surplus lines basis in at least one other state shall possess  
37 a minimum capital and surplus of ~~at least five million dollars and shall~~  
38 ~~maintain a deposit of at least two million five hundred thousand dollars in~~  
39 ~~public custody in trust, in part, for the purpose of protecting all of the~~  
40 ~~foreign insurer's policyholders~~ THAT EQUALS THE GREATER OF EITHER THE MINIMUM  
41 CAPITAL AND SURPLUS REQUIREMENTS IMPOSED BY ARTICLE 1 OF THIS CHAPTER OR  
42 FIFTEEN MILLION DOLLARS.

43 C. An unauthorized alien insurer other than a title insurer shall  
44 possess minimum capital and surplus of at least fifteen million dollars and  
45 shall maintain within the United States in public depositories or trust

1 institutions approved by the director assets in the amount of two million  
2 five hundred thousand dollars. The director may require the unauthorized  
3 alien insurer to maintain a larger deposit if the director determines that  
4 the public interest reasonably requires a larger deposit. A broker shall not  
5 knowingly place any insurance with the unauthorized alien insurer until the  
6 insurer complies with the director's requirement to maintain a larger  
7 deposit. NOTWITHSTANDING THE REQUIREMENTS OF THIS SUBSECTION, A SURPLUS  
8 LINES BROKER MAY PLACE INSURANCE WITH AN ALIEN INSURER THAT IS LISTED ON THE  
9 QUARTERLY LISTING OF ALIEN INSURERS MAINTAINED BY THE NATIONAL ASSOCIATION OF  
10 INSURANCE COMMISSIONERS INTERNATIONAL INSURERS DEPARTMENT.

11 D. Any unauthorized Lloyd's association or any similar association of  
12 individual or incorporated insurers under a common administration shall  
13 maintain a trust fund in the United States of at least one hundred million  
14 dollars as joint and several security for all United States policyholders of  
15 any member of the association. The director may require the association to  
16 maintain a larger fund if the director determines that the public interest  
17 reasonably requires a larger fund. A broker shall not knowingly place any  
18 insurance with the association until the association complies with the  
19 director's requirement to maintain a larger fund.

20 E. An unauthorized insurance exchange authorized to transact insurance  
21 on an admitted or surplus lines basis in at least one other state shall  
22 possess minimum aggregate capital and surplus of at least fifty million  
23 dollars. Each syndicate of the insurance exchange with which a risk is to be  
24 placed shall possess minimum aggregate capital and surplus of at least four  
25 million dollars until December 31, 1996. Beginning January 1, 1997 each  
26 syndicate with which a risk is to be placed shall possess minimum capital and  
27 surplus of at least five million dollars. The insurance exchange shall  
28 maintain a deposit of at least two million five hundred thousand dollars in  
29 public custody in trust, in part, for the purpose of protecting all of the  
30 policyholders of the insurance exchange. Each syndicate of an insurance  
31 exchange qualified to transact surplus lines insurance in this state shall  
32 file with the director on or before June 1 an annual statement for the  
33 preceding year in a form prescribed by the national association of insurance  
34 commissioners. The annual statement is in addition to any other document  
35 required of the insurance exchange by the director.

36 F. If the surplus lines broker delivers a certificate in a form  
37 prescribed by the director, it is prima facie evidence of the insurer's  
38 compliance with the financial requirements of this section. The certificate  
39 shall state the names of the public officials or other persons who have  
40 supervision over the insurer in any other state and shall certify the amount  
41 of capital and surplus that the insurer possesses and the amount of the trust  
42 deposit that the insurer maintains, as determined from the records and  
43 knowledge of the public officials or other persons, together with any  
44 supporting documentation that the director requires. The certifying surplus  
45 lines broker of an alien insurer may deliver other evidence acceptable to the

1 director to establish that the alien insurer meets the financial requirements  
2 of this section. The certifying surplus lines broker may withdraw the  
3 certificate by providing written notice of intent to withdraw to the director  
4 and the affected insurer. The withdrawal is not effective until forty-five  
5 days after delivery of the notice to all parties. The withdrawal is not  
6 grounds for removal from the list pursuant to subsection H if, before the  
7 withdrawal becomes effective, another licensed surplus lines broker delivers  
8 to the director a replacement certificate based on the qualifying  
9 documentation already on file with the department.

10 G. The director may periodically publish a list of unauthorized  
11 insurers that may write surplus lines insurance in this state established on  
12 the basis of documentation provided to the director pursuant to this section.  
13 The director may mail a copy of the list to each licensed surplus lines  
14 broker at the last address on the records of the department. This subsection  
15 is not deemed to require the director to determine the actual financial  
16 condition or claims practices of any unauthorized insurer, and the appearance  
17 of an unauthorized insurer on the list indicates only that the insurer  
18 appears to be financially sound and to have satisfactory claims practices. A  
19 broker shall restrict all surplus lines business placed by the broker with  
20 an unauthorized insurer to those insurers qualified with the director as  
21 provided in this section.

22 H. The director may refuse to add an insurer to the list established  
23 pursuant to subsection G or may remove an insurer from that list if the  
24 director believes that the insurer:

- 25 1. Is in a hazardous financial condition.
- 26 2. No longer meets the requirements of this article.
- 27 3. Does not have the endorsement of a surplus lines broker pursuant to  
28 subsection F.
- 29 4. Does not comply with all applicable provisions of this title.
- 30 5. Is improperly managed.
- 31 6. Is unreliable in insurance transactions.

32 I. In addition to any other penalty provided by law, if a surplus  
33 lines broker's license is revoked for a violation of this section, the  
34 director shall not license the broker again within a period of two years  
35 thereafter.

36 J. For the purposes of subsections F, G and H, "insurer" means an  
37 unauthorized insurer, Lloyd's association, insurance exchange or syndicate of  
38 an insurance exchange.

39 Sec. 7. Section 20-415, Arizona Revised Statutes, is amended to read:  
40 20-415. Statement of surplus lines insurance business  
41 transacted by broker; reporting periods

42 A. ~~Beginning January 1, 1998,~~ Each surplus lines broker shall file  
43 semiannually with the director a ~~notarized~~ statement of all surplus lines  
44 insurance business COVERING ARIZONA SINGLE-STATE RISKS transacted by the

1 broker during the period for which the statement is being filed. The  
2 statement shall be on a form prescribed by the director and shall show:

- 3 1. Gross amount of each kind of insurance transacted.
- 4 2. Aggregate gross premiums charged.
- 5 3. Aggregate of return premiums paid to insureds.
- 6 4. Aggregate of net premiums.
- 7 5. Such additional information as may reasonably be required by the  
8 director.

9 B. The statement REQUIRED BY SUBSECTION A OF THIS SECTION is due on or  
10 before ~~March~~ FEBRUARY 15 of each year for the preceding July through  
11 December and on or before ~~September~~ AUGUST 15 of each year for the  
12 preceding January through June FOR BUSINESS COVERING ARIZONA SINGLE-STATE  
13 RISKS.

14 C. EACH SURPLUS LINES BROKER SHALL FILE QUARTERLY, WITH THE  
15 CLEARINGHOUSE RESPONSIBLE FOR ADMINISTERING THE COMPACT OR MULTISTATE  
16 AGREEMENT ENTERED INTO BY THE DIRECTOR PURSUANT TO SECTION 20-416.01, A  
17 NOTARIZED STATEMENT OF ALL SURPLUS LINES INSURANCE BUSINESS COVERING  
18 MULTISTATE RISKS TRANSACTED BY THE BROKER ON BEHALF OF INSURED WHOSE HOME  
19 STATE IS ARIZONA DURING THE CALENDAR QUARTER FOR WHICH THE STATEMENT IS BEING  
20 FILED. THE STATEMENT SHALL BE ON A FORM PRESCRIBED BY THE CLEARINGHOUSE AND  
21 SHALL INCLUDE ALL INFORMATION REQUIRED BY THE CLEARINGHOUSE.

22 D. THE STATEMENT REQUIRED BY SUBSECTION C OF THIS SECTION IS DUE ON OR  
23 BEFORE FEBRUARY 15 FOR THE QUARTER ENDING THE PRECEDING DECEMBER 31, MAY 15  
24 FOR THE QUARTER ENDING THE PRECEDING MARCH 31, AUGUST 15 FOR THE QUARTER  
25 ENDING THE PRECEDING JUNE 30 AND NOVEMBER 15 FOR THE QUARTER ENDING THE  
26 PRECEDING SEPTEMBER 30.

27 Sec. 8. Section 20-416, Arizona Revised Statutes, is amended to read:

28 20-416. Tax on surplus lines

29 A. On or before the due date prescribed in section 20-415, each  
30 surplus lines broker shall remit to the state treasurer through the director  
31 a tax on the premiums, exclusive of sums collected to cover federal and state  
32 taxes, examination fees and stamping fees collected pursuant to section  
33 20-167, on surplus lines insurance COVERING ARIZONA SINGLE-STATE RISKS  
34 subject to tax transacted by the broker during the preceding reporting  
35 period, as shown by the statement of surplus lines business filed with the  
36 director.

37 B. ON OR BEFORE THE DUE DATE PRESCRIBED IN SECTION 20-415, EACH  
38 SURPLUS LINES BROKER SHALL REMIT TO THE CLEARINGHOUSE RESPONSIBLE FOR  
39 ADMINISTERING THE COMPACT OR MULTISTATE AGREEMENT ENTERED INTO BY THE  
40 DIRECTOR PURSUANT TO SECTION 20-416.01 A TAX ON THE PREMIUMS, EXCLUSIVE OF  
41 THE SUMS COLLECTED TO COVER FEDERAL AND STATE TAXES, EXAMINATION FEES AND  
42 STAMPING FEES COLLECTED PURSUANT TO SECTION 20-167, ON SURPLUS LINES  
43 INSURANCE COVERING MULTISTATE RISKS SUBJECT TO TAX FOR INSURED WHOSE HOME  
44 STATE IS ARIZONA TRANSACTED BY THE BROKER DURING THE PRECEDING REPORTING

1 PERIOD, AS SHOWN BY THE STATEMENT OF SURPLUS LINES BUSINESS FILED WITH THE  
2 CLEARINGHOUSE.

3 C. The tax REQUIRED BY SUBSECTIONS A AND B OF THIS SECTION is at the  
4 rate of three per cent of the gross premiums, including policy fees other  
5 than stamping fees prescribed in section 20-167, ~~less~~ AND SHALL NOT BE  
6 APPLIED TO premiums returned on account of cancellation or reduction of  
7 premium and shall ~~exclude~~ NOT BE APPLIED TO gross premiums and returned  
8 premiums ~~upon~~ ON business exempted from surplus lines provisions under  
9 section 20-420. The surplus lines broker shall collect the tax from the  
10 insured in addition to the full amount of the gross premium charged by the  
11 insurer for the insurance. The surplus lines broker shall return the tax on  
12 any portion of the premium unearned at the termination of the insurance  
13 policy to the policyholder. The surplus lines broker is prohibited from  
14 absorbing the tax and from rebating, for any reason, any part of the tax or  
15 commission.

16 ~~B-~~ D. Notwithstanding section 20-415 and subsection A of this  
17 section, if a surplus lines broker fails to timely renew the license held by  
18 the broker to transact surplus lines insurance and the broker's license is  
19 revoked by order of the director or the director accepts the consent to  
20 voluntary termination of the license, the broker shall file a statement of  
21 surplus lines business from the end of the last reporting period covered by  
22 the statement filed by the broker through the date the license was last valid  
23 and shall remit all outstanding surplus lines taxes to the director. The  
24 broker shall file the statement of surplus lines business and shall remit any  
25 outstanding surplus lines taxes within thirty days after the nonrenewal,  
26 revocation or voluntary termination of the license.

27 ~~C-~~ E. Except as provided in subsection ~~D-~~ F of this section, for the  
28 purpose of determining the surplus lines tax, the total premium charged for  
29 surplus lines insurance placed in a single transaction with one underwriter  
30 or group of underwriters, whether in one or more policies, shall be allocated  
31 to this state in the proportion as the total premium on the insured  
32 properties or operations in this state, computed on the exposure in this  
33 state on the basis of any single standard rating method in use in all states  
34 or countries where the insurance applies, bears to the total premium so  
35 computed in all the states or countries.

36 ~~D-~~ F. The surplus lines tax on insurance on motor transit operations  
37 conducted between this and other states is payable on the total premium  
38 charged on all surplus lines insurance less the portion of the premium  
39 determined as provided in subsection ~~C-~~ E of this section charged for  
40 operations in other states taxing the premium of an insured maintaining its  
41 headquarters office in this state or the premium for operations outside of  
42 this state of an insured maintaining its headquarters office outside of this  
43 state and a branch office in this state.

44 ~~E-~~ G. Such tax shall be apportioned in the manner provided by section  
45 20-224, subsection C.

1 F. H. All surplus lines taxes collected ON ARIZONA SINGLE-STATE RISKS  
2 pursuant to this section AND SECTION 20-416.01 are monies that belong to this  
3 state and constitute a debt to this state. ALL SURPLUS LINES TAX ON COVERAGE  
4 PROCURED FOR AN INSURED WHOSE HOME STATE IS ARIZONA THAT WOULD OTHERWISE BE  
5 PAYABLE TO ANOTHER STATE AS THE OTHER STATE'S PORTION OF A MULTISTATE RISK  
6 SHALL CONSTITUTE MONIES OF THIS STATE AND A DEBT TO THIS STATE IF THE OTHER  
7 STATE HAS NOT ENTERED INTO A COMPACT OR MULTISTATE AGREEMENT TO WHICH ARIZONA  
8 IS A PARTY TO EFFECTUATE THE NONADMITTED AND REINSURANCE REFORM ACT OF 2010  
9 (15 UNITED STATES CODE SECTION 8201).

10 Sec. 9. Title 20, chapter 2, article 5, Arizona Revised Statutes, is  
11 amended by adding section 20-416.01, to read:

12 20-416.01. Collection and payment of tax on surplus lines;  
13 multistate agreement

14 A. IN ACCORDANCE WITH THE NONADMITTED AND REINSURANCE REFORM ACT OF  
15 2010, THE DIRECTOR MAY ENTER INTO A COMPACT OR MULTISTATE AGREEMENT TO  
16 PROVIDE FOR THE REPORTING, PAYMENT, COLLECTION AND ALLOCATION OF TAXES  
17 IMPOSED PURSUANT TO SECTIONS 20-401.07 AND 20-416 ON UNAUTHORIZED SURPLUS  
18 LINES INSURANCE COVERING MULTISTATE RISKS IF, AFTER A HEARING CONDUCTED  
19 PURSUANT TO SECTION 20-161, IT IS DETERMINED THAT ENTERING INTO A COMPACT OR  
20 MULTISTATE AGREEMENT IS IN THE BEST INTERESTS OF THIS STATE. IN DETERMINING  
21 WHETHER ENTERING INTO A COMPACT OR MULTISTATE AGREEMENT IS IN THE BEST  
22 INTERESTS OF THIS STATE, THE FOLLOWING FACTORS SHALL BE CONSIDERED:

- 23 1. THE IMPACT ON THE STATE'S GROSS RECEIPT OF PREMIUM TAXES, IF ANY.
- 24 2. THE REGULATORY BURDEN AND COSTS PLACED ON INSURANCE COMPANIES,  
25 SURPLUS LINES BROKERS AND INSURANCE AGENTS DOING BUSINESS IN THIS STATE.
- 26 3. THE COST IMPACT ON INSUREDS RESULTING FROM ANY REGULATORY  
27 REQUIREMENTS ATTRIBUTABLE TO A COMPACT OR MULTISTATE AGREEMENT, IF ANY.
- 28 4. OTHER FACTORS AS MAY BE RAISED BY THE DIRECTOR OR ANY OTHER  
29 INTERESTED PARTY.

30 B. TAXES IMPOSED PURSUANT TO SECTIONS 20-401.07 AND 20-416 ON  
31 UNAUTHORIZED INSURANCE COVERING ARIZONA SINGLE-STATE RISKS SHALL NOT BE  
32 COVERED BY OR PAYABLE THROUGH ANY COMPACT OR MULTISTATE AGREEMENT ENTERED  
33 INTO BY THE DIRECTOR PURSUANT TO SUBSECTION A OF THIS SECTION.

34 C. IF A CLEARINGHOUSE IS NOT ESTABLISHED OR OTHERWISE IN OPERATION OR  
35 IF THE DIRECTOR DOES NOT ENTER INTO A MULTISTATE AGREEMENT OR COMPACT  
36 PURSUANT TO SUBSECTION A OF THIS SECTION, ANY STATEMENTS AND TAXES OTHERWISE  
37 PAYABLE TO A CLEARINGHOUSE PURSUANT TO THIS ARTICLE SHALL BE FILED WITH THE  
38 DIRECTOR OR WITH A VOLUNTARY DOMESTIC ORGANIZATION OF SURPLUS LINES BROKERS  
39 WITH WHICH THE DIRECTOR HAS CONTRACTED TO ACCEPT REPORTS PURSUANT TO SECTION  
40 20-167.

41 D. THE DIRECTOR MAY ADOPT REASONABLE RULES TO EFFECTUATE ANY PROVISION  
42 OF THE NONADMITTED AND REINSURANCE REFORM ACT OF 2010 (15 UNITED STATES CODE  
43 SECTION 8201).

APPROVED BY THE GOVERNOR APRIL 18, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 18, 2011.

Passed the House February 17, 20 11

Passed the Senate April 6, 20 11

by the following vote: 60 Ayes,

by the following vote: 29 Ayes,

0 Nays, 0 Not Voting

0 Nays, 1 Not Voting

[Signature]  
Speaker of the House  
Pro Tempore

[Signature]  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

           day of           , 20    

at            o'clock            M.

            
Secretary to the Governor

Approved this            day of

at            o'clock            M.

            
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this            day of           , 20    

at            o'clock            M.

            
Secretary of State

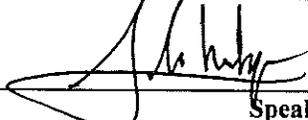
H.B. 2112

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

April 11, 2011,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

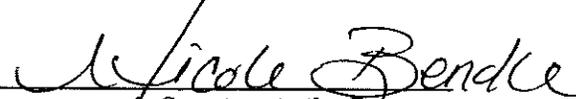
  
Speaker of the House  
Cheryl Laube Pro Tempore  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

12 day of April, 2011,

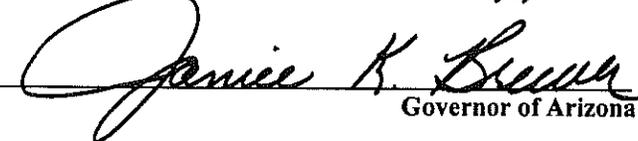
at 8:21 o'clock A.M.

  
Secretary to the Governor

Approved this 18th day of

April, 2011,

at 11:00 o'clock A.M.

  
Governor of Arizona

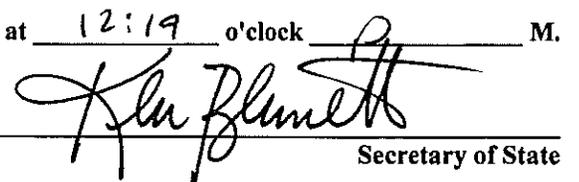
H.B. 2112

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 18th day of April, 2011,

at 12:19 o'clock P.M.

  
Secretary of State