HOUSE BILL NO. HB0242

Insurance-surplus lines.

Sponsored by: Representative(s) Illoway and Senator(s) Case

A BILL

for

AN ACT relating to insurance; providing for interstate cooperation in regulation of surplus lines; providing for computation of tax on surplus lines; providing definitions; repealing inconsistent provisions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 26-11-123 is created to read:

26-11-123. Interstate insurance regulatory cooperation.

To carry out the purposes of the Nonadmitted and Reinsurance Reform Act of 2010, 15 U.S.C. 8201 et seq., the commissioner may participate in a nonadmitted insurance multistate agreement or compact for the purposes of collecting, allocating and disbursing premium taxes attributable to the placement of nonadmitted insurance, providing for uniform methods of allocation and reporting among nonadmitted insurance risk classifications, sharing information among states relating to nonadmitted insurance premium taxes and providing for the determination of recommended uniform eligibility standards for nonadmitted insurers.

Section 2. W.S. 26-11-103(a), 26-11-112 by creating a new subsection (e) and 26-11-118 by creating new subsections (c) through (g) are amended to read:

26-11-103. Definitions.

(a) As used in this chapter:

(i) "Admitted insurer" means an insurer licensed to engage in the business of insurance in this state;

~~(i)~~ (ii) "Broker" means a surplus line broker licensed as such under this chapter;

~~(ii)~~(iii) "Export" means to place in an unauthorized insurer under this surplus line law insurance covering a subject of insurance resident, located or to be performed in Wyoming;

(iv) "Home state" means as follows:

(A) Except as provided in subparagraph (B) of this paragraph, "home state" means, with respect to an insured:

(I) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

(II) If one hundred percent (100%) of the insured risk is located out of the state referred to in subdivision (I) of this subparagraph, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(B) If more than one (1) insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term "home state" means the home state, as determined pursuant to subparagraph (A) of this paragraph, of the member of the affiliated group that has the largest percentage of premium attributed to it under the insurance contract.

(v) "Nonadmitted insurance" means any property and casualty insurance not licensed to do the business of insurance in this state;

(vi) "Reciprocal state" means a state that has:

(A) Entered into a nonadmitted insurance compact; or

(B) Otherwise adopted the allocation schedule and reporting forms prescribed by a multistate agreement for nonadmitted insurance.

~~(iii)~~(vii) "Recognized financial institution" means an institution that is organized or licensed under the laws of the United States or any state and is insured by the federal deposit insurance corporation.

26-11-112. Surplus line broker's license; authority for issuance; application; fee; applicable law.

(e) For insureds whose home state is Wyoming, a person shall not procure a contract of surplus lines insurance for the insured with a nonadmitted insurer unless the person possesses a current surplus lines insurance license issued by the commissioner.

26-11-118. Tax on surplus lines.

(c) In addition to the full amount of gross premiums charged by the insurer for the insurance, every surplus lines producer shall collect and pay to the commissioner a sum equal to three percent (3%) of the gross premiums charged, assessments, membership fees, subscriber fees, policy fees and service fees less any return premiums, for surplus lines insurance provided by the surplus lines producer. Where the insurance covers properties, risks or exposures located or to be performed both in and out of Wyoming, the sum payable shall be computed based on:

(i) An amount equal to three percent (3%) on that portion of the gross premiums allocated to this state; plus

(ii) An amount equal to the portion of the premiums allocated to other states or territories on the basis of the tax rates and fees applicable to other properties, risks or exposures located or to be performed outside of Wyoming; less

(iii) The amount of gross premiums allocated to this state and returned to the insured.

(d) The tax on any portion of the premium unearned at termination of insurance having been credited by the state to the surplus lines producer shall be returned to the policyholder directly by the surplus lines producer. The surplus lines producer is prohibited from rebating, for any reason, any part of the tax.

(e) Annually, on or before March 1, each surplus lines broker shall pay the premium tax due for the policies written during the preceding calendar year as shown by his annual statement filed with the commissioner.

(f) If a surplus lines policy procured through a surplus lines producer covers properties, risks or exposures only partially located or to be performed in Wyoming, the tax due shall be computed on the portions of the premiums which are attributable to the properties, risks or exposures located or to be performed in this state. In determining the amount of premiums taxable in Wyoming, all premiums written, procured or received in Wyoming shall be considered written on properties, risks or exposures located or to be performed in Wyoming, except premiums which are properly allocated or apportioned and reported as taxable premiums of a reciprocal state.

(g) The commissioner may participate in a multistate compact, reciprocal agreement or clearinghouse with other states for the purpose of collecting, allocating and disbursing any funds collected pursuant to subsection (c) of this section. To the extent that other states where portions of the properties, risks or exposures reside have failed to enter into a compact or reciprocal allocation procedure with Wyoming, the net premium tax collected shall be retained by this state.

Section 3. W.S. 26-11-118(a) and (b) is repealed.

Section 4. This act is effective July 1, 2011.

(END)