

HOUSE BILL NO. HB0015

Insurance-surplus lines.

Sponsored by: Joint Corporations, Elections and Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to insurance; providing for regulation of
2 surplus lines; providing for independently procured
3 insurance; imposing a premium tax on such insurance;
4 providing definitions; repealing inconsistent provisions;
5 and providing for an effective date.

6

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

8

9 **Section 1.** W.S. 26-11-124 is created to read:

10

11 **26-11-124. Independently procured insurance; duty to**
12 **report and pay tax.**

13

14 (a) Each insured in this state who procures,
15 continues or renews insurance with a nonadmitted insurer on
16 properties, risks or exposures located or to be performed

1 in whole or in part in this state, other than insurance
2 procured through a surplus lines broker, shall, within
3 forty-five (45) days after the date the insurance was so
4 procured, continued or renewed, file a report with the
5 commissioner, upon forms prescribed by the commissioner,
6 showing the name and address of the insured or insureds,
7 name and address of the insurer, the subject of insurance,
8 a general description of the coverage, the amount of
9 premium currently charged and additional pertinent
10 information requested by the commissioner.

11

12 (b) At the time of filing the report required in
13 subsection (a) of this section, the insured is subject to
14 the same tax payment requirements as apply to a surplus
15 lines broker in W.S. 26-11-118.

16

17 (c) This section does not abrogate or modify, and
18 shall not be construed or deemed to abrogate or modify any
19 other provision of this chapter.

20

21 **Section 2.** W.S. 26-3-102(a)(iii), 26-9-201,
22 26-9-207(g), 26-9-230(a), 26-11-101, 26-11-102(a)(intro)
23 and by creating new subsections (b) and (c),
24 26-11-103(a)(iii), (iv)(A)(intro), by creating a new

1 subparagraph (C), (v) and by creating new paragraphs (viii)
2 through (xxi), 26-11-104(a)(intro), (ii), by creating new
3 paragraphs (iv) through (vi) and by creating new
4 subsections (b) and (c), 26-11-105, 26-11-106(a) and (b),
5 26-11-107(d) and by creating new subsections (e) through
6 (g), 26-11-108(a), (b)(intro), (c), (e) and by creating a
7 new subsection (f), 26-11-109, 26-11-110, 26-11-111,
8 26-11-112 by creating new subsections (f) through (n),
9 26-11-113(a)(intro) and by creating new paragraphs (iii)
10 through (ix), 26-11-116(a)(intro), (i), by creating new
11 paragraphs (x) through (xiii) and (b), 26-11-117(a),
12 (b)(intro), (ii), (iv), by creating new paragraphs (vi) and
13 (vii) and by creating new subsections (c) and (d),
14 26-11-118(c)(intro), (d) through (f) and by creating a new
15 subsection (h), 26-11-119, 26-11-120(a) and 26-11-122 are
16 amended to read:

17

18 **26-3-102. When certificate not required.**

19

20 (a) A certificate of authority is not required of an
21 insurer for:

22

23 (iii) Transactions pursuant to ~~surplus—lines~~
24 coverages lawfully written under chapter 11 of this code;

1

2 **26-9-201. Purpose and scope.**

3

4 This chapter governs the qualifications and procedures for
5 the licensing of insurance producers. This chapter does
6 not apply to excess and surplus lines brokers licensed
7 pursuant to W.S. 26-11-112 except as provided in W.S.
8 26-9-207(b), 26-9-207(c), ~~and 26-9-207(g)~~, 26-9-208 and
9 26-9-230 or as expressly provided in chapter 11 of this
10 code.

11

12 **26-9-207. License.**

13

14 (g) The commissioner may contract with
15 nongovernmental entities, including the National
16 Association of Insurance Commissioners or any affiliates or
17 subsidiaries that association oversees, to perform any
18 ministerial functions, including the collection of fees,
19 related to producer or surplus lines broker licensing that
20 the commissioner and the nongovernmental entity may deem
21 appropriate.

22

23 **26-9-230. Service of process on nonresident**
24 **producers.**

1

2 (a) Application for and acceptance of a license as a
3 nonresident insurance producer or surplus lines broker
4 constitutes irrevocable appointment of the commissioner as
5 the attorney of the licensee for the acceptance of service
6 of process issued in this state in any action or proceeding
7 against the licensee arising out of the licensing or any
8 transactions under the license.

9

10

CHAPTER 11

11

NONADMITTED INSURANCE

12

13 **26-11-101. Short title.**

14

15 This chapter constitutes and may be cited as the "~~Surplus~~
16 ~~Line-Nonadmitted Insurance~~ Law".

17

18 **26-11-102. Home state regulation of nonadmitted**
19 **insurance; exemptions.**

20

21 (a) This chapter does not apply to reinsurance or to
22 the following insurances when placed by licensed agents or
23 surplus line brokers of this state or when procured
24 directly by an insured from a nonadmitted insurer:

1

2 (b) The placement of nonadmitted insurance shall be
3 subject to the statutory and regulatory requirements solely
4 of the insured's home state.

5

6 (c) This section shall not be construed to preempt
7 any state law, rule or regulation that restricts the
8 placement of workers' compensation insurance or excess
9 insurance for self-funded workers' compensation plans with
10 a nonadmitted insurer.

11

12 **26-11-103. Definitions.**

13

14 (a) As used in this chapter:

15

16 (iii) "Export" means to place ~~in an unauthorized~~
17 ~~insurer under this surplus line law insurance covering a~~
18 ~~subject of insurance resident, located or to be performed~~
19 ~~in Wyoming~~ surplus lines insurance with a nonadmitted
20 insurer;

21

22 (iv) "Home state" means as follows:

23

1 (A) Except as provided in ~~subparagraph~~
2 subparagraphs (B) and (C) of this paragraph, "home state"
3 means, with respect to an insured:

4
5 (C) When a group policyholder pays one
6 hundred percent (100%) of the premium from its own funds,
7 the term "home state" means the home state, as determined
8 pursuant to subparagraph (A) of this paragraph, of the
9 group policyholder. When a group policyholder does not pay
10 one hundred percent (100%) of the premium from its own
11 funds, the term "home state" means the home state, as
12 determined pursuant to subparagraph (A) of this paragraph,
13 of the group member.

14
15 (v) "Nonadmitted insurance" means any property
16 and casualty insurance ~~not licensed to do the business of~~
17 ~~insurance in this state~~ permitted to be placed directly or
18 through a surplus lines broker with a nonadmitted insurer
19 eligible to accept the insurance;

20
21 (viii) "Affiliate" means with respect to an
22 insured, any entity that controls, is controlled by or is
23 under common control with the insured;

24

1 (ix) "Affiliated group" means any group of
2 entities that are all affiliated;

3
4 (x) "Business entity" means a corporation,
5 association, partnership, limited liability company,
6 limited liability partnership or any other legal entity;

7
8 (xi) "Control" means an entity has "control"
9 over another entity if:

10
11 (A) The entity directly or indirectly or
12 acting through one (1) or more other persons owns, controls
13 or has the power to vote twenty-five percent (25%) or more
14 of any class of voting securities of the entity; or

15
16 (B) The entity controls in any manner the
17 election of a majority of directors or trustees of the
18 other entity.

19
20 (xii) "Independently procured insurance" means
21 insurance procured directly by an insured from an eligible
22 nonadmitted insurer;

23

1 (xiii) "Kind of insurance" means one (1) of the
2 types of insurance required to be reported in the annual
3 statement which is filed with the commissioner by admitted
4 insurers;

5
6 (xiv) "Nonadmitted insurer" means with respect
7 to a state, an insurer not licensed to engage in the
8 business of insurance in the state, but does not include a
9 risk retention group as that term is defined in section
10 2(a)(4) of the Liability Risk Retention Act of 1986, 15
11 U.S.C. 3901(a)(4);

12
13 (xv) "Premium tax" means with respect to surplus
14 lines or independently procured insurance coverage, any
15 tax, fee, assessment or other charge imposed by a
16 government entity directly or indirectly based on any
17 payment made as consideration for an insurance contract for
18 such insurance, including premium deposits, assessments,
19 registration fees and any other compensation given in
20 consideration for a contract of insurance;

21
22 (xvi) "Principal place of business" means with
23 respect to determining the home state of the insured:

24

1 (A) The state where the insured maintains
2 its headquarters and where the insured's high-level
3 officers direct, control and coordinate the business'
4 activities;

5
6 (B) If the insured's high-level officers
7 direct, control and coordinate the business' activities in
8 more than one (1) state, the state in which the greatest
9 percentage of the insured's taxable premium for that
10 insurance contract is allocated; or

11
12 (C) If the insured maintains its
13 headquarters or the insured's high-level officers direct,
14 control and coordinate the business activities outside of
15 any state, the state to which the greatest percentage of
16 the insured's taxable premium for that insurance contract
17 is allocated.

18
19 (xvii) "Principal place of residence" means with
20 respect to determining the home state of the insured:

21
22 (A) The state where the insured resides for
23 the greatest number of days during a calendar year; or

24

1 (B) If the insured's principal residence is
2 located outside any state, the state to which the greatest
3 percentage of the insured's taxable premium for that
4 insurance contract is allocated.

5
6 (xvii) "Qualified risk manager" means with
7 respect to a policyholder of commercial insurance, a person
8 who meets all of the requirements set forth by department
9 rule and regulation, which requirements shall be in
10 compliance with the Nonadmitted and Reinsurance Reform Act
11 of 2010;

12
13 (xix) "Surplus lines broker" means an individual
14 or business entity which is licensed in a state to sell,
15 solicit or negotiate insurance on properties, risks or
16 exposures located or to be performed in a state with
17 nonadmitted insurers;

18
19 (xx) "Type of insurance" means coverage afforded
20 under the particular policy that is being placed;

21
22 (xxi) "Wet marine and transportation insurance"
23 means:

24

1 (A) Insurance upon vessels, crafts, hulls
2 and other interests in them or with relation to them;

3

4 (B) Insurance of marine builder's risks,
5 marine war risks and contracts of marine protection and
6 indemnity insurance;

7

8 (C) Insurance of freight and disbursements
9 pertaining to a subject of insurance within the scope of
10 this subsection; and

11

12 (D) Insurance of personal property and
13 interests therein, in the course of exportation from or
14 importation into any country, or in the course of
15 transportation coastwise or on inland waters, including
16 transportation by land, water or air from point of origin
17 to final destination, in connection with any and all risks
18 or perils of navigation, transit or transportation, and
19 while being prepared for and while awaiting shipment, and
20 during any incidental delays, transshipment or reshipment,
21 provided, however, that insurance of personal property and
22 interests therein shall not be considered wet marine and
23 transportation insurance if the property has:

24

1 (I) Been transported solely by land;

2

3 (II) Reached its final destination as
4 specified in the bill of lading or other shipping document;
5 or

6

7 (III) The insured no longer has an
8 insurable interest in the property.

9

10 **26-11-104. Conditions for export.**

11

12 (a) If certain insurance coverages cannot be procured
13 from authorized insurers, those coverages, designated in
14 this chapter as "surplus lines", may be procured from
15 ~~unauthorized~~ nonadmitted insurers, subject to the following
16 conditions:

17

18 (ii) The full amount of insurance required is
19 not procurable, after diligent effort has been made to do
20 so, from among the insurers authorized to transact and
21 actually writing that kind and class of insurance in this
22 state, and the amount of insurance exported shall be only
23 the excess over the amount procurable from authorized
24 insurers. The surplus lines broker shall verify that a

1 properly conducted diligent effort search was performed and
2 documented as prescribed by the commissioner;

3
4 (iv) The insurer is an eligible nonadmitted
5 insurer;

6
7 (v) The insurer is authorized to write the kind
8 of insurance in its domiciliary jurisdiction;

9
10 (vi) All other requirements of this chapter are
11 met.

12
13 (b) A surplus lines broker is not required to make a
14 diligent effort search to determine whether the full amount
15 or type of insurance can be obtained from admitted insurers
16 when the broker is seeking to procure or place nonadmitted
17 insurance for an exempt commercial purchaser provided:

18
19 (i) The broker procuring or placing the surplus
20 lines insurance has disclosed to the exempt commercial
21 purchaser that such insurance may or may not be available
22 from the admitted market that may provide greater
23 protection with more regulatory oversight; and

24

1 (ii) The exempt commercial purchaser has
2 subsequently requested in writing for the broker to procure
3 or place such insurance from a nonadmitted insurer.

4
5 (c) For purposes of this section, the term "exempt
6 commercial purchaser" means any person purchasing
7 commercial insurance that, at the time of placement, meets
8 the following requirements:

9
10 (i) The person employs or retains a qualified
11 risk manager to negotiate insurance coverage;

12
13 (ii) The person has paid aggregate nationwide
14 commercial property and casualty insurance premiums in
15 excess of one hundred thousand dollars (\$100,000.00) in the
16 immediately preceding twelve (12) months;

17
18 (iii) The person meets at least one (1) of the
19 following criteria:

20
21 (A) The person possesses a net worth in
22 excess of twenty million dollars (\$20,000,000.00) as
23 adjusted pursuant to paragraph (iv) of this subsection;

24

1 (B) The person generates annual revenues in
2 excess of fifty million dollars (\$50,000,000.00) as
3 adjusted pursuant to paragraph (iv) of this subsection;
4

5 (C) The person employs more than five
6 hundred (500) full-time or full-time equivalent employees
7 per individual insured or is a member of an affiliated
8 group employing more than one thousand (1,000) employees in
9 the aggregate;
10

11 (D) The person is a not-for-profit
12 organization or public entity generating annual budgeted
13 expenditures of at least thirty million dollars
14 (\$30,000,000.00) as adjusted pursuant to paragraph (iv) of
15 this subsection;
16

17 (E) The person is a municipality with a
18 population in excess of fifty thousand (50,000)
19 individuals.
20

21 (iv) Effective on January 1, 2015 and every five
22 (5) years thereafter, the amounts in subparagraphs (A), (B)
23 and (D) of paragraph (iii) of this subsection shall be
24 adjusted to reflect the percentage change for such five (5)

1 year period in the consumer price index for all urban
2 consumers published by the bureau of labor statistics of
3 the United States department of labor.

4
5 **26-11-105. Surplus lines transaction report.**

6
7 (a) ~~At the time of effecting~~ Within forty-five (45)
8 days after placing any surplus line insurance ~~the~~ for an
9 insured whose home state is this state, each surplus lines
10 broker shall execute ~~an affidavit in a form the~~
11 ~~commissioner prescribes or accepts, setting forth facts~~
12 ~~from which it can be determined whether the insurance is~~
13 ~~eligible for export under W.S. 26-11-104. The broker shall~~
14 ~~file this affidavit with the commissioner within thirty~~
15 ~~(30) days after the insurance is effected.~~ and file a
16 report regarding the insurance coverage which shall be kept
17 confidential by the commissioner, including the following:

18
19 (i) The name and address of the insured;

20
21 (ii) The identity of the insurer or insurers;

22
23 (iii) A description of the subject and location
24 of the risk;

1

2

(iv) The amount of premium charged for the insurance;

3

4

5

(v) Tax allocation information detailing the portion of the premium attributable to properties, risks or exposures located in each state; and

6

7

8

9

(vi) Any other information as may be required by the commissioner.

10

11

12

(b) The report shall be on forms prescribed by the commissioner.

13

14

15

26-11-106. Open lines for export.

16

17

(a) The commissioner, by order, may declare eligible for export generally and without compliance with W.S. ~~26-11-104(a)(i) and 26-11-105~~ 26-11-104(a)(ii) and (iii),

18

19

20

any class of insurance coverage or risk for which he finds, after a hearing of which notice is given to each insurer

21

22

authorized to transact those classes in this state, that there is not a reasonable or adequate market among

23

authorized insurers either as to acceptance of the risk,

24

1 contract terms, premium or premium rate. The order shall
2 continue in effect during the existence of the conditions
3 upon which predicated, but subject to the commissioner's
4 earlier termination.

5
6 (b) The broker shall file with or as directed by the
7 commissioner a ~~memorandum~~report as to each coverage he
8 places in ~~an unauthorized~~a nonadmitted insurer, in such
9 form and context as the commissioner requires for the
10 identification of the coverage and determination of the tax
11 payable to the state.~~relative thereto.~~

12

13 **26-11-107. Requirements for eligible nonadmitted**
14 **insurers; publication of eligible insurers.**

15

16 (d) The commissioner from time to time may publish a
17 list of all surplus lines insurers he deems eligible
18 currently and shall mail a copy of the list to each broker
19 at his office last of record with the commissioner. This
20 subsection does not obligate the commissioner to determine
21 the actual financial condition or claims practices of any
22 ~~unauthorized~~nonadmitted insurer. The status of
23 eligibility, if granted by the commissioner, indicates only
24 that the insurer appears to be sound financially and to

1 have satisfactory claims practices, and that the
2 commissioner has no credible evidence to the contrary.
3 While any such list is in effect the broker shall restrict
4 to the insurers listed all surplus line business he places.

5

6 (e) A surplus lines broker shall not place coverage
7 with a nonadmitted insurer unless, at the time of
8 placement, the surplus lines broker has determined that the
9 nonadmitted insurer is eligible under this section.

10

11 (f) A nonadmitted insurer eligible to place surplus
12 lines insurance or independently procured insurance shall:

13

14 (i) Be authorized to write the kind of insurance
15 in its domiciliary jurisdiction;

16

17 (ii) Have established satisfactory evidence of
18 good repute and financial integrity; and

19

20 (iii) Be qualified under one (1) of the
21 following subparagraphs:

22

1 (A) Have capital and surplus or its
2 equivalent under the laws of its domiciliary jurisdiction
3 which equals the greater of:

4
5 (I) The minimum capital and surplus
6 requirements under the law of this state; or

7
8 (II) Fifteen million dollars
9 (\$15,000,000.00).

10
11 (B) The requirements of subparagraph (A) of
12 this paragraph may be satisfied by an insurer's possessing
13 less than the minimum capital and surplus upon an
14 affirmative finding of acceptability by the commissioner.
15 The finding shall be based upon such factors as quality of
16 management, capital and surplus of any parent company,
17 company underwriting profit and investment income trends,
18 market availability and company record and reputation
19 within the industry. In no event shall the commissioner
20 make an affirmative finding of acceptability when the
21 nonadmitted insurer's capital and surplus is less than four
22 million five hundred thousand dollars (\$4,500,000.00);

23

1 (iv) For an insurer not domiciled in the United
2 States or its territories, the insurer is listed on the
3 quarterly listing of alien insurers maintained by the NAIC
4 international insurers department.

5
6 (g) The commissioner is authorized to enter into a
7 cooperative agreement or interstate agreement or compact to
8 establish additional and alternative nationwide uniform
9 eligibility requirements that shall be applicable to
10 nonadmitted insurers domiciled in another state or
11 territory of the United States.

12
13 **26-11-108. Evidence of surplus lines insurance.**

14
15 (a) Upon placing ~~a surplus line coverage lines~~
16 insurance coverage, the surplus lines broker shall promptly
17 issue and deliver to the insured or the producer the
18 policy, or if the policy is not then available, a
19 certificate as described in subsection (f) of this section,
20 cover note, binder or other evidence of the insurance.
21 ~~consisting either of the policy as issued by the insurer,~~
22 ~~or, if the policy is not then available, the surplus line~~
23 ~~broker's certificate.~~ The certificate described in
24 subsection (f) of this section, cover note, binder or other

1 evidence of insurance shall be executed by the broker and
2 shall show the description and location of the subject of
3 the insurance, ~~coverage~~ coverages including any material
4 limitations other than those in standard forms, ~~conditions~~
5 ~~and term~~ a general description of the coverages of the
6 insurance, the premium and rate charged, taxes to be
7 collected from the insured, ~~and~~ the name and address of the
8 insured and surplus lines insurer. ~~If more than one (1)~~
9 ~~insurer assumes the direct risk, the certificate shall~~
10 ~~state the name and address of each insurer and the~~ or
11 insurers and the proportion of the entire ~~direct~~ risk ~~each~~
12 ~~assumes~~ assumed by each and the name and license number of
13 the surplus lines broker.

14
15 (b) No broker shall issue or deliver any ~~certificate~~
16 ~~or any cover note~~ evidence of insurance or purport to
17 insure or represent that insurance will be or has been
18 ~~granted~~ written by any ~~unauthorized~~ nonadmitted insurer,
19 unless ~~he~~ the broker has:

20
21 (c) If after the issuance and delivery of any
22 ~~certificate~~ evidence of insurance there is any change as to
23 the insurer's identity, or the proportion of the ~~direct~~
24 risk ~~an~~ assumed by any insurer ~~assumes as stated in the~~

1 ~~broker's original certificate, or in any other material~~
2 ~~respect~~ change in coverage as ~~to~~ stated in the surplus
3 lines broker's original evidence of insurance ~~evidenced by~~
4 ~~the certificate~~ or in any other material as to the
5 insurance coverage so evidenced, the surplus lines broker
6 shall promptly issue and deliver to the insured ~~a~~ or the
7 original producer an appropriate substitute ~~certificate~~
8 for, or endorsement of the original document, accurately
9 showing the current status of the coverage and the insurers
10 responsible ~~thereunder~~ for the coverage.

11

12 (e) Any surplus ~~line~~ lines broker who knowingly or
13 negligently issues a false certificate or other evidence of
14 insurance, or who fails promptly to notify the insured of
15 any material change with respect to the insurance by
16 delivery to the insured of a substitute certificate, cover
17 note, binder or other evidence of insurance as provided in
18 subsection (c) of this section, upon conviction, is subject
19 to the penalty provided by W.S. 26-1-107 or to any greater
20 applicable penalty otherwise provided by law.

21

22 (f) As soon as reasonably possible after the
23 placement of the insurance, the surplus lines broker shall
24 deliver a copy of the policy or, if not available, a

1 certificate of insurance to the insured or producer to
2 replace any evidence of insurance previously issued. Each
3 certificate or policy of insurance shall contain or have
4 attached a complete record of all policy insuring
5 agreements, conditions, exclusions, clauses, endorsements
6 or any other material facts that would regularly be
7 included in the policy.

8
9 **26-11-109. Endorsement of contract; duty to notify**
10 **insured.**

11
12 (a) Any insurance contract procured and delivered as
13 a surplus ~~line~~lines coverage pursuant to this chapter
14 shall have stamped or printed upon it, ~~initialed by or~~
15 ~~bearing the name~~in at least ten (10) point bold type font,
16 the name and address of the surplus line broker who
17 procured ~~it~~the coverage, and the following: "This
18 insurance contract is issued pursuant to the Wyoming
19 Insurance Laws by an insurer neither licensed by nor under
20 the jurisdiction of the Wyoming Insurance Department. In
21 the event of insolvency of the surplus lines insurer,
22 losses will not be paid by the Wyoming Insurance Guaranty
23 Association."

24

1 (b) No contract of insurance placed by a surplus
2 lines broker under this chapter shall be binding upon the
3 insured and no premium charged shall be due and payable
4 until the surplus lines broker shall have notified the
5 insured in writing, in a form acceptable to the
6 commissioner, a copy of which shall be maintained by the
7 surplus lines broker with the records of the contract and
8 available for possible examination, that:

9
10 (i) The insurer with which the surplus lines
11 broker places the insurance is not licensed by this state
12 and is not subject to its supervision; and

13
14 (ii) In the event of the insolvency of the
15 surplus lines insurer, losses will not be paid by the state
16 insurance guaranty association.

17
18 (c) Nothing herein contained shall nullify any
19 agreement by any insurer to provide insurance.

20
21 **26-11-110. Enforceability and validity of nonadmitted**
22 **insurance.**

23

1 Insurance contracts procured ~~as surplus line coverage~~ from
2 unauthorized insurers in accordance with this chapter are
3 fully valid and enforceable as to all parties and shall be
4 given recognition in all matters and respects to the same
5 effect as like contracts issued by authorized insurers.

6

7 **26-11-111. Liability of insurer as to losses and**
8 **unearned premiums; applicability of section to insurers.**

9

10 (a) As to a surplus line risk which is assumed by ~~an~~
11 ~~unauthorized~~ a nonadmitted insurer pursuant to this
12 chapter, and if the premium thereon is received by the
13 surplus line broker who placed the insurance, in all
14 questions thereafter arising under the coverage as between
15 the insurer and the insured the insurer is deemed to have
16 received the premium due to it for that coverage. The
17 insurer is liable to the insured for losses covered by the
18 insurance and for unearned premiums which are payable to
19 the insured upon cancellation of the insurance, whether or
20 not the broker is indebted to the insurer with respect to
21 the insurance or for any other cause.

22

1 (b) Each ~~unauthorized~~nonadmitted insurer assuming a
2 surplus line risk under this chapter subjects itself to the
3 terms of this section.

4
5 **26-11-112. Surplus lines broker's license; authority**
6 **for issuance; application; fee; applicable law.**

7
8 (f) The commissioner may issue a resident surplus
9 lines broker license to a qualified holder of a current
10 property and casualty producer license if:

11
12 (i) The person has paid the fees set forth in
13 W.S. 26-4-101(a);

14
15 (ii) The person has submitted or transmitted to
16 the commissioner a completed uniform application;

17
18 (iii) The individual has taken and passed a
19 written examination in a form prescribed by the
20 commissioner; and

21
22 (iv) The person has established and continues to
23 maintain an office in this state.

24

1 (g) A nonresident person shall receive a nonresident
2 surplus lines broker license pursuant to the requirements
3 of W.S. 26-9-208.

4
5 (h) A business entity acting as a surplus lines
6 broker is required to obtain a surplus lines broker
7 license. In addition to the requirements for licensure set
8 forth in subsections (f) and (g) of this section; before
9 approving the application the commissioner shall find that
10 the business entity has designated a licensed surplus lines
11 broker responsible for the business entity's compliance
12 with the insurance laws, rules and regulations of this
13 state.

14
15 (j) The commissioner may require any documents
16 reasonably necessary to verify the information contained in
17 an application.

18
19 (k) The commissioner shall waive any requirements for
20 a nonresident surplus lines license applicant with a valid
21 license from his home state, except the requirements
22 imposed by this section, if the applicant's home state
23 awards nonresident surplus lines licenses to residents of
24 this state on the same basis.

1

2 (m) A business entity surplus lines broker license
3 shall expire on March 31 in the second year following the
4 issuance or renewal of the license, and an application for
5 renewal shall be filed on or before the license expiration
6 date upon payment of the continuation fee and compliance
7 with other provisions of this section.

8

9 (n) The license and licensee are subject to chapter 9
10 of this title as provided in W.S. 26-9-201.

11

12 **26-11-113. Surplus lines broker's license; suspension**
13 **or revocation; grounds; procedure.**

14

15 (a) The commissioner may, after appropriate notice
16 and opportunity for hearing pursuant to the Wyoming
17 Administrative Procedure Act and in accordance with W.S.
18 26-2-125 through 26-2-129, place on probation, suspend, ~~or~~
19 revoke or refuse to issue or renew any surplus ~~line~~lines
20 broker's license or other license issued under this title,
21 or may levy a civil penalty in accordance with W.S.
22 26-1-107 or any combination of actions for any one (1) or
23 more of the following causes:

24

1 (iii) Removal of the resident surplus lines
2 broker's office from this state;

3

4 (iv) Removal of the resident surplus lines
5 broker's office accounts and records from this state during
6 the period during which the accounts and records are
7 required to be maintained under W.S. 26-11-116;

8

9 (v) Failure to make and file required reports
10 when due;

11

12 (vi) Failure to remit the tax on surplus lines
13 premiums as provided in this chapter;

14

15 (vii) Failure to maintain a bond as required by
16 W.S. 26-11-114;

17

18 (viii) Violation of any provision of this
19 chapter; or

20

21 (ix) For any cause for which an insurance
22 license could be denied, revoked, suspended or renewal
23 refused under chapter 9 of this title.

24

1 **26-11-116. Records of broker; contents; examination.**

2

3 (a) Each surplus lines broker shall keep in his
4 office a full and true record of each surplus ~~line coverage~~
5 ~~he procures, including a copy of each daily report, if any,~~
6 lines insurance contract placed by or through the broker
7 for which this state is the home state of the insured,
8 including a copy of ~~each~~ the policy, certificate, cover
9 note or other evidence of insurance ~~he issues and any~~
10 showing each of the following applicable items:

11

12 (i) Amount of the insurance, risks and perils
13 insured;

14

15 (x) Amount of tax and other sums to be collected
16 from the insured;

17

18 (xi) Allocation of taxes by state as referred to
19 in W.S. 26-11-118;

20

21 (xii) Identity of the producer, any confirming
22 correspondence from the insurer or its representative, and
23 the application; and

24

1 (xiii) Any other information the commissioner
2 requires.

3
4 (b) The record of each contract shall be kept open at
5 all reasonable times to examination by the commissioner ~~at~~
6 ~~all times within~~ without notice for a period of not less
7 than five (5) years ~~after issuance of the coverage to which~~
8 ~~it relates~~ following termination of the contract. In lieu
9 of maintaining offices in this state, each nonresident
10 surplus lines broker shall make available to the
11 commissioner any and all records that the commissioner
12 deems necessary for examination.

13
14 **26-11-117. Annual report; summary of exported**
15 **business.**

16
17 (a) Each surplus lines broker, annually, on or before
18 March 1, shall file with the commissioner a verified
19 ~~statement~~ report of all surplus line insurance he
20 transacted during the preceding calendar year.

21
22 (b) The ~~statement~~ report shall be on forms the
23 commissioner prescribes ~~and furnishes~~ and shall show:

24

1 (ii) Aggregate gross premiums ~~charged~~written;

2

3 (iv) Aggregate of net premiums;~~and~~

4

5 (vi) Amount of aggregate tax remitted to this
6 state; and

7

8 (vii) Amount of aggregate tax due or remitted to
9 each other state for which an allocation is made pursuant
10 to W.S. 26-11-118.

11

12 (c) More frequent reporting and tax payment may be
13 required by participation in a multistate compact,
14 reciprocal agreement or clearinghouse pursuant to W.S.
15 26-11-123.

16

17 (d) The report shall include the surplus lines
18 broker's affidavit as to the diligent effort to place
19 coverages with admitted insurers and the results thereof.

20

21 **26-11-118. Tax on surplus lines.**

22

23 (c) In addition to the full amount of gross premiums
24 charged by the insurer for the insurance, every surplus

1 lines ~~producer~~broker shall collect and pay to the
2 commissioner a sum equal to three percent (3%) of the gross
3 premiums charged, ~~assessments, membership fees, subscriber~~
4 ~~fees, policy fees and service fees~~ less any return
5 premiums, for surplus lines insurance provided by the
6 surplus lines ~~producer~~broker. Where the insurance covers
7 properties, risks or exposures located or to be performed
8 both in and out of Wyoming, the sum payable shall be
9 computed based on:

10

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

17

18 (e) Annually, on or before March 1, each surplus
19 lines broker shall pay the premium tax due for the policies
20 written during the preceding calendar year as shown by his
21 annual ~~statement~~report filed with the commissioner unless
22 more frequent reporting and payment is required by
23 participation in a multistate compact, reciprocal agreement
24 or clearinghouse pursuant to subsection (g) of this

1 section. The surplus lines broker shall pay interest on
2 the amount of any delinquent tax due, at the rate of nine
3 percent (9%) per year, compounded annually, beginning the
4 day the amount becomes delinquent.

5
6 (f) If a surplus lines policy procured through a
7 surplus lines ~~producer~~-broker covers properties, risks or
8 exposures only partially located or to be performed in
9 Wyoming, the tax due shall be computed on the portions of
10 the premiums which are attributable to the properties,
11 risks or exposures located or to be performed in this
12 state. In determining the amount of premiums taxable in
13 Wyoming, all premiums written, procured or received in
14 Wyoming shall be considered written on properties, risks or
15 exposures located or to be performed in Wyoming, except
16 premiums which are properly allocated or apportioned and
17 reported as taxable premiums of a reciprocal state.

18
19 (h) The commissioner is authorized to utilize the
20 allocation schedule included in the nonadmitted insurance
21 multistate agreement for the purpose of allocating risk and
22 computing the tax due on the portion of premium
23 attributable to each risk classification and to each state
24 where properties, risks or exposures are located.

1

2 26-11-119. Failure to file report or pay tax;
3 penalty.

4

5 ~~If~~ Any licensed surplus lines broker or insured who
6 independently procures insurance, who fails to file ~~his~~
7 ~~annual statement, or fails to remit the tax provided by~~
8 ~~W.S. 26-11-118, prior to April 1 after the tax is due, and~~
9 ~~if in the commissioner's opinion the failure is without~~
10 ~~just cause, the broker is liable for a twenty five dollar~~
11 ~~(\$25.00) fine~~ a report in the form and within the time
12 required or provided for in W.S. 26-11-117 or 26-11-124 may
13 be fined up to twenty-five dollars (\$25.00) per day for
14 each day ~~of~~ the delinquency ~~commencing with April 1~~
15 continues, beginning the day after the report was due until
16 the date the report is received. ~~The tax may be collected~~
17 ~~by distraint, or the tax and fine may be recovered by an~~
18 ~~action the commissioner institutes in any court of~~
19 ~~competent jurisdiction.~~ The surplus lines broker or
20 insured who independently procures insurance shall pay
21 interest on the amount of any delinquent tax due as
22 required by W.S. 26-11-118(e).

23

1 **26-11-120. Service of process against nonadmitted**
2 **insurer.**

3

4 (a) ~~An unauthorized~~ A nonadmitted insurer shall be
5 sued, upon any cause of action arising in this state under
6 any contract it issues as a ~~surplus line~~ nonadmitted
7 insurance contract pursuant to this chapter, in the
8 district court of the county in which the cause of action
9 arises.

10

11 **26-11-122. Disclosure to commissioner of insurance**
12 **placed with nonadmitted insurer.**

13

14 Any person for whom insurance is placed with an
15 ~~unauthorized~~ nonadmitted insurer, upon the commissioner's
16 order, shall produce for his examination all policies and
17 other documents evidencing the insurance and shall disclose
18 to the commissioner the amount of gross premiums paid or
19 agreed to be paid for the insurance. If the person refuses
20 to obey the commissioner's order, he is subject to the
21 penalties provided by W.S. 26-1-107 for each refusal.

22

1 **Section 3.** W.S. 26-11-107(a) and (b), 26-11-108(d),
2 26-11-112(a) through (d), 26-11-113(a)(i) and (ii) and
3 26-11-116(a)(ix) are repealed.

4

5 **Section 4.** This act is effective immediately upon
6 completion of all acts necessary for a bill to become law
7 as provided by Article 4, Section 8 of the Wyoming
8 Constitution.

9

10

(END)