

Senate Bill 381

By: Senators Thompson of the 14th, Shafer of the 48th, Williams of the 27th, Harbin of the 16th, Martin of the 9th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 5 of Title 33 of the Official Code of Georgia Annotated,
2 relating to surplus line insurance, so as to provide that a nonadmitted insurer domiciled in
3 this state will be deemed a domestic surplus lines insurer if certain criteria are met; to provide
4 a definition; to provide for criteria; to provide for tax assessment; to provide for certain
5 protection exceptions; to provide for financial and solvency requirements; to provide for
6 exemptions; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 5 of Title 33 of the Official Code of Georgia Annotated, relating to
10 surplus line insurance, is amended in Code Section 33-5-20.1, relating to definitions relative
11 to surplus line insurance, by revising paragraph (1) and adding a new paragraph to read as
12 follows:

13 "33-5-20.1.

14 As used in this article, the term:

15 (1) 'Domestic surplus lines insurer' means a nonadmitted insurer that is domiciled in this
16 state with which a surplus lines broker may place surplus lines insurance;

17 ~~(1.1)~~ (1.1) 'Exempt commercial purchaser' means any person purchasing commercial
18 insurance that, at the time of placement, meets the following requirements:

19 (A) The person employs or retains a qualified risk manager to negotiate insurance
20 coverage;

21 (B) The person has paid aggregate nation-wide commercial property and casualty
22 insurance premiums in excess of \$100,000.00 in the immediately preceding 12 months;
23 and

24 (C)(i) The person meets at least one of the following criteria:

25 (I) The person possesses a net worth in excess of \$20 million as such amount is
26 adjusted pursuant to division (ii) of this subparagraph; or

- 27 (II) The person generates annual revenues in excess of \$50 million as such amount
 28 is adjusted pursuant to division (ii) of this subparagraph; or
- 29 (III) The person employs more than 500 full-time or full-time equivalent employees
 30 per individual insured or is a member of an affiliated group employing more
 31 than 1,000 employees in the aggregate;
- 32 (IV) The person is a not for profit organization or public entity generating annual
 33 budgeted expenditures of at least \$30 million as such amount is adjusted pursuant
 34 to division (ii) of this subparagraph; or
- 35 (V) The person is a municipality with a population in excess of 50,000.
- 36 (ii) Effective on January 1, 2016, and every five years on January 1 thereafter, the
 37 amounts in subdivisions (I), (II), and (IV) of division (i) of this subparagraph shall be
 38 adjusted to reflect the percentage change for such five-year period in the Consumer
 39 Price Index for All Urban Consumers as reported by the Bureau of Labor Statistics
 40 of the United States Department of Labor."

41 **SECTION 2.**

42 Said article is further amended by adding a new Code section to read as follows:

43 "33-5-20.2.

44 (a) A nonadmitted insurer that is domiciled in this state shall be deemed a domestic surplus
 45 lines insurer if all of the following criteria are satisfied:

46 (1) The insurer shall possess a policyholder surplus of at least \$15 million;

47 (2) The insurer is an eligible surplus lines insurer in at least one jurisdiction other than
 48 this state;

49 (3) The board of directors of the insurer has passed a resolution seeking to be a domestic
 50 surplus lines insurer in this state; and

51 (4) The Commissioner has issued a certificate of authority or otherwise provided written
 52 approval for the insurer to be a domestic surplus lines insurer.

53 (b) For the purposes of the federal Nonadmitted and Reinsurance Reform Act of 2010, 15
 54 U.S.C Section 8201, et seq, a domestic surplus lines insurer shall be considered a
 55 nonadmitted insurer with respect to risks insured in this state.

56 (c) A domestic surplus lines insurer shall be deemed an eligible surplus lines insurer and
 57 authorized to write any kind of insurance that a nonadmitted insurer not domiciled in this
 58 state is eligible to write.

59 (d) Notwithstanding any other statute, the policies issued in this state by a domestic
 60 surplus lines insurer shall be subject to taxes assessed upon surplus lines policies issued by
 61 nonadmitted insurers, including the surplus lines premium tax, but will not be subject to
 62 other taxes levied upon admitted insurers, whether domestic or foreign.

63 (e) Policies issued by a domestic surplus lines insurer are not subject to the protections or
64 other provisions of the Georgia Insurers Insolvency Pool created by Chapter 36 of this title
65 or the Georgia Life and Health Insurance Guaranty Association created by Chapter 38 of
66 this title.

67 (f) All financial and solvency requirements imposed by this state's laws upon domestic
68 admitted insurers shall apply to domestic surplus lines insurers unless domestic surplus
69 lines insurers are otherwise specifically exempted.

70 (g) Policies issued by a domestic surplus lines insurer shall be exempt from all statutory
71 requirements relating to insurance rating plans, policy forms, policy cancellation and
72 nonrenewal, and premiums charged to insureds in the same manner and to the same extent
73 as a nonadmitted insurer domiciled in another state."

74 **SECTION 3.**

75 All laws and parts of laws in conflict with this Act are repealed.