

HB 424 – AS INTRODUCED

2011 SESSION

11-0802

01/04

HOUSE BILL 424

AN ACT relative to surplus lines tax collection.

SPONSORS: Rep. Headd, Rock 3

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill enables premium taxes for nonadmitted insurance, including surplus line insurance, to be collected and disbursed. This bill also allows a foreign insurance company to be designated as a surplus line insurer under certain circumstances.

Explanation: Matter added to current law appears in *bold italics*.

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

11-0802

01/04

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT relative to surplus lines tax collection.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Section; Foreign Insurance Companies; Annual Statement. Amend RSA 405 by inserting after section 29 the following new section:

405:29-a Annual Statement; Tax; Insurance Transactions on Multi-State Risks. For each licensed producer of unlicensed surplus lines companies reporting multi-state transactions, the provisions of RSA 405-B shall apply.

2 New Section; Unauthorized Insurance; Premium Taxes. Amend RSA 406-B by inserting after section 11 the

following new section:

406-B:11-a Unauthorized Insurance Premium Tax; Insurance Transactions on Multi-State Risks. For lawfully procured insurance premiums in unlicensed insurance companies reporting multi-state risks, the provisions of RSA 405-B shall apply.

3 New Section; Unauthorized Insurance; Lawfully Procured Insurance in Unlicensed Companies. Amend RSA 406-B by inserting after section 16 the following new section:

406-B:16-a Lawfully Procured Insurance in Unlicensed Companies; Insurance Transactions on Multi-State Risks. For premiums on unlicensed insurance procured by industrial insurers with tax liability for multi-state risks, the provisions of RSA 405-B shall apply.

4 New Section; Unauthorized Insurance; Independently Procured Insurance. Amend RSA 406-B by inserting after section 17 the following new section:

406-B:17-a Independently Procured Insurance; Insurance Transactions on Multi-State Risks. For premiums on unlicensed insurance independently procured with tax liability for multi-state risks, the provisions of RSA 405-B shall apply.

5 New Chapter; Nonadmitted Insurance, Multi-State Risks Premium Collection and Disbursement. Amend RSA by inserting after chapter 405-A the following new chapter:

CHAPTER 405-B

NONADMITTED INSURANCE,

MULTI-STATE RISKS PREMIUM COLLECTION AND DISBURSEMENT

405-B:1 Purpose. The purpose of this chapter is to enable the collection and disbursement of premium taxes for nonadmitted insurance, including surplus lines insurance, necessitated by the passage of the Nonadmitted and Reinsurance Reform Act of 2010 (NRRA), which was incorporated intact into the Dodd-Frank Wall Street Reform and Consumer Protection Act, H.R. 4173.

405-B:2 Definitions. In this chapter:

I. "Commissioner" means the insurance commissioner.

II. "Home state" means, except as provided in subparagraph (b), with respect to an insured:

(a) 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

(b) If 100 percent of the insured risk is located out of the state referred to in subparagraph (a), the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

III. "Multi-state risk" means a risk covered by a nonadmitted insurer with insured exposures in more than one state.

405-B:3 Cooperative or Reciprocal Agreements. For the purposes of carrying out the provisions of the Nonadmitted and Reinsurance Reform Act of 2010, the commissioner is authorized to enter into a cooperative or reciprocal agreement, or compact with another state in order to facilitate the collection, allocation, and disbursement of premium taxes attributable to the placement of nonadmitted insurance, provide for uniform methods of allocation and reporting among nonadmitted insurance risk classifications, and share information among states relating to nonadmitted insurance premium taxes.

405-B:4 Single Home State Rate; Surplus Lines.

I. Every person who procures or causes to be procured or continues or renews insurance with a surplus lines company shall collect and pay to the commissioner a sum based on the total gross premiums charged, less any return premiums, for surplus insurance provided by the licensee pursuant to the license.

II. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on:

- (a) An amount equal to 3 percent on that portion of the gross premiums allocated to this state, plus
- (b) 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 properties, risks or exposures located or to be performed outside this state, less
- (c) The amount of gross premiums allocated to this state and returned to the insured.

405-B:5 Single Home State Rate; Independently Procured Under RSA 406-B:16.

I. Every insured who procures or causes to be procured or continues or renews insurance with any unlicensed insurer pursuant to RSA 406-B:16 shall collect and pay to the commissioner a sum based on the total gross premiums charged, less any return premiums, for independently procured insurance.

II. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on:

- (a) An amount equal to 3 percent on the portion of the gross premiums allocated to this state, plus
- (b) 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 properties, risks or exposures located or to be performed outside this state, less
- (c) The amount of gross premiums allocated to this state and returned to the insured.

405-B:6 Single Home State Rate; Independently Procured Under RSA 406-B:17.

I. Every insured who procures or causes to be procured or continues or renews insurance with any unlicensed insurer pursuant to RSA 406-B:17 shall collect and pay to the commissioner a sum based on the total gross premiums charged, less any return premiums, for independently procured insurance.

II. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on:

- (a) An amount equal to 4 percent on such insurance other than marine insurance and a premium tax of 2 percent

of gross premium charged for such marine insurance, the portion of the gross premiums allocated to this state,
plus

- (b) 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 properties, risks or exposures located or to be performed outside this state, less
- (c) The amount of gross premiums allocated to this state and returned to the insured.

405-B:7 Clearinghouse Participation. The commissioner is authorized to participate in the clearinghouse established through the agreement or compact for the purpose of collecting and disbursing to reciprocal states any funds collected pursuant to RSA 405-B:4, RSA 405-B:5, and RSA 405-B:6 on properties, risks or exposures located or to be performed outside of this state. To the extent that other states where portions of the properties, risks or exposures reside have failed to enter into an agreement, compact or reciprocal allocation procedure with this state, the net premium tax collected shall be retained by this state.

405-B:8 Allocation Schedule. The commissioner is authorized to utilize or adopt the allocation schedule included in the agreement or compact for the purpose of allocating risk and computing the tax due on the portion of premium attributable to each risk classification and to each state where properties, risks or exposures are located.

6 New Paragraph; Foreign Insurance Companies; Designation as a Domestic Surplus Line Insurer. Amend RSA 405:24 by inserting after paragraph II the following new paragraph:

III. A domestic insurer possessing policyholder surplus of at least \$15,000,000 may, pursuant to a resolution by its board of directors, and with the approval of the commissioner, be designated as a domestic surplus line insurer. The authority of a domestic surplus line insurer shall be limited to providing insurance covering risks in this state procured from a surplus line producer in accordance with this section.

7 Effective Date. This act shall take effect 60 days after its passage.