

FIRST REGULAR SESSION

# HOUSE BILL NO. 559

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE RICHARD.

Read 1<sup>st</sup> time February 26, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1952L.011

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### AN ACT

To repeal sections 384.043, 384.062, and 384.065, RSMo, and to enact in lieu thereof three new sections relating to surplus lines insurance.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 384.043, 384.062, and 384.065, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 384.043, 384.062, and 384.065, to read as follows:

384.043. 1. No [agent or broker] **insurance producer** shall procure any contract of surplus lines insurance with any nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the director.

2. The director shall issue a surplus lines license to any qualified holder of a current resident or nonresident property and casualty **insurance producer** license but only when the licensee has:

- (1) Remitted the one hundred dollar initial fee to the director;
- (2) Submitted a completed license application on a form supplied by the director; **and**
- (3) Passed a qualifying examination approved by the director, except that all holders of a license prior to July 1, 1987, shall be deemed to have passed such an examination[]; and
- (4) Filed with the director, and maintains during the term of the license, in force and unimpaired, a bond in favor of this state in the penal sum of one hundred thousand dollars or in a sum equal to the tax liability for the previous tax year, whichever is smaller, aggregate liability, with corporate sureties approved by the director. The bond shall be conditioned that the surplus lines licensee will conduct business in accordance with the provisions of sections 384.011 to

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law. Matter in boldface type in the above law is proposed language.**

16 384.071 and will promptly remit the taxes as provided by law. No bond shall be terminated  
17 unless at least thirty days' prior written notice is given to the licensee and director].

18 3. Each surplus lines license shall be renewed annually on the anniversary date of  
19 issuance and continue in effect until refused, revoked or suspended by the director in accordance  
20 with section 384.065; except that if the annual renewal fee for the license is not paid on or before  
21 the anniversary date, the license terminates. The annual renewal fee is fifty dollars.

384.062. 1. If the tax collectible by a surplus lines licensee under the provisions of  
2 sections 384.011 to 384.071 has been collected and is not paid within the time prescribed, the  
3 same shall be recoverable in a suit brought by the director against the surplus lines licensee [and  
4 the surety on the bond filed under section 384.043].

5 2. All taxes, penalties, and interest or delinquent taxes levied pursuant to this chapter  
6 shall be paid to the director, who shall obtain such taxes, penalties and interest by civil action  
7 against the insured or the surplus lines licensee [and his bond], and the director shall remit such  
8 taxes when collected to the director of revenue. All checks and drafts remitted for the payment  
9 of such taxes, penalties and interest shall be made payable to the director of revenue.

10 3. Taxes collected pursuant to this chapter are taxes collected by the director of revenue  
11 within the meaning of section 139.031, RSMo.

384.065. The director may suspend, revoke, or refuse to renew the license of a surplus  
2 lines licensee after notice and hearing as provided under the applicable provisions of this state's  
3 laws upon any one or more of the following grounds:

4 (1) Removal of the resident surplus lines licensee's office from this state;

5 (2) Removal of the resident surplus lines licensee's office accounts and records from this  
6 state during the period during which such accounts and records are required to be maintained  
7 under section 384.059;

8 (3) Closing of the surplus lines licensee's office for a period of more than thirty business  
9 days, unless permission is granted by the director;

10 (4) Failure to make and file required reports;

11 (5) Failure to transmit required tax on surplus lines premiums;

12 (6) [Failure to maintain required bond;

13 (7)] Violation of any provision of [this act] **sections 384.011 to 384.071**; or

14 [(8)] (7) For any cause for which an insurance license could be denied, revoked,  
15 suspended or renewal refused under section 375.141, RSMo.