



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Yosef Schiff

H.B. 749

132nd General Assembly
(As Introduced)

Reps. LaTourette, Holmes, Lang, Lipps

BILL SUMMARY

- Authorizes domestic insurers to offer surplus lines insurance products as domestic surplus lines insurers.
 - Exempts domestic surplus lines insurers from most insurance laws.
 - Allows surplus lines brokers to obtain coverage for a person from a domestic surplus lines insurer.
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CONTENT AND OPERATION

Background

The bill authorizes a domestic insurer to be designated as a domestic surplus lines insurer,¹ thereby allowing it to offer surplus lines insurance products. Under current law, domestic insurers must meet the various requirements of the Ohio insurance laws in order to transact the business of insurance in Ohio. The requirements are such that domestic insurers might not offer certain high-risk products because those products do not comply with existing regulations. These high-risk products are known as surplus lines products. By definition, they are products that a person seeks but cannot find within Ohio because of the risk associated with the product, but can find elsewhere.² If the person could find such a product in Ohio, then it would not be a surplus lines product because it would not be so high-risk as to not comply with existing regulations.

¹ R.C. 3905.332.

² R.C. 3905.33(B).

The bill authorizes a domestic insurer to offer these high-risk products by exempting such an insurer from many of the Ohio insurance laws. The bill does this by defining such an insurer as an *unauthorized* insurer, or an insurer that, although offering a product to an Ohio resident and coming under the jurisdiction of Ohio courts, is not regulated under the Ohio insurance laws.³

Conditions

Under the bill, in order to become a domestic surplus lines insurer, all of the following conditions must be met:

- The domestic insurer must possess minimum capital and surplus of at least \$15 million;
- The domestic insurer must seek to become a domestic surplus lines insurer pursuant to a resolution adopted by its board of directors; and
- The Superintendent of Insurance must authorize the designation of the insurer as a domestic surplus lines insurer in writing.⁴

Taxes

Under the bill, a person who obtains a surplus lines product from a domestic surplus lines insurer is subject to a tax of 5% of the gross premium, if any, after a deduction for return premium, if any.⁵

Under the bill, a domestic surplus lines insurer is not subject to the annual franchise tax on the privilege of being an insurance company.⁶

Exemptions from specific insurance laws

The bill exempts domestic surplus lines insurers from the provisions of the Ohio Insurance Guaranty Association Act, which provides a mechanism for the payment of covered claims under certain insurance policies and protects claimants and

³ R.C. 3901.17, not in the bill; R.C. 3905.33(A)(3) and 3905.332(C), (D), (E), and (G); *Akron Co. v. Fidelity General Ins. Co.*, 229 F. Supp. 397, 400 (1964).

⁴ R.C. 3905.332(B).

⁵ R.C. 3905.332(F); R.C. 3905.36, not in the bill.

⁶ R.C. 3905.332(F); R.C. 5725.18, not in the bill.



policyholders from the effects of an insurer's insolvency. In particular, the bill exempts domestic surplus lines insurers from the protection of the Association's accounts.⁷

The bill exempts domestic surplus lines insurers in the same manner as surplus lines policies issued by nondomestic insurers from all statutory requirements relating to the following:

- Insurance rating and rating plans;
- Policy forms; and
- Policy cancellation and renewal.⁸

The bill subjects domestic surplus lines insurers to all financial, reserve, and solvency requirements under the Ohio insurance laws from which the insurers are not specifically exempted.⁹

Licensed surplus lines brokers

The bill allows licensed surplus lines brokers to obtain insurance from a domestic surplus lines insurer.¹⁰ It also prohibits any person who is not so licensed from obtaining liability insurance from a domestic surplus lines insurer on behalf of a purchasing group located in Ohio.¹¹

HISTORY

ACTION	DATE
Introduced	10-24-18

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⁷ R.C. 3905.332(H) and 3955.05(S).

⁸ R.C. 3905.332(I).

⁹ R.C. 3905.332(J).

¹⁰ R.C. 3905.30(C).

¹¹ R.C. 3960.11(D).

