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Conference Engrossed

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
First Regular Session  
2005

# HOUSE BILL 2190

AN ACT

AMENDING SECTIONS 20-167, 20-407, 20-408 AND 20-411, ARIZONA REVISED STATUTES; RELATING TO SURPLUS LINES BROKERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-167, Arizona Revised Statutes, is amended to  
3 read:

4 20-167. Fees

5 A. The director shall collect in advance the following fees, as  
6 adjusted pursuant to subsection F of this section, which are nonrefundable on  
7 payment:

	Not Less Than:	Not More Than:
9 1. For filing charter documents:		
10 (a) Original charter documents,		
11 articles of incorporation,		
12 bylaws, or record of		
13 organization of insurers,		
14 or certified copies thereof,		
15 required to be filed with		
16 the director and not also		
17 subject to filing in the		
18 office of the corporation		
19 commission	\$ 40.00	\$ 115.00
20 (b) Amended charter documents	15.00	45.00
21 (c) No charge or fee shall be		
22 required for filing with		
23 the director any of such		
24 documents also required		
25 by law to be filed in the		
26 office of the corporation		
27 commission		
28 2. Certificate of authority:		
29 (a) Issuance:		
30 Fraternal benefit societies	\$ 15.00	\$ 45.00
31 Medical or hospital service		
32 corporations, health care		
33 services organizations or		
34 prepaid dental plan		
35 organizations	40.00	115.00
36 Mechanical		
37 reimbursement reinsurers	150.00	450.00
38 All other insurers	100.00	295.00
39 (b) Renewal:		
40 Fraternal benefit societies	15.00	45.00
41 Medical or hospital service		
42 corporations, health care		
43 services organizations or		
44 prepaid dental plan		
45 organizations	40.00	115.00
46 Domestic stock life insurers,		

1	domestic stock disability		
2	insurers or domestic stock		
3	life and disability insurers	750.00	2,250.00
4	Domestic life reinsurers,		
5	domestic disability		
6	reinsurers or domestic		
7	life and disability		
8	reinsurers	2,250.00	5,500.00
9	Mechanical reimbursement		
10	reinsurers	2,250.00	5,500.00
11	All other insurers	70.00	205.00
12	3. Certificate of registration as an		
13	administrator or application for		
14	renewal under section 20-485.12	\$ 100.00	\$ 295.00
15	4. Authority to solicit applications		
16	for and issue policies by means		
17	of mechanical vending machines	\$ 30.00	\$ 90.00
18	5. Service company permit	\$ 150.00	\$ 450.00
19	6. Application for motor vehicle		
20	service contract program approval	\$ 150.00	\$ 450.00
21	7. Life care contract application		
22	or annual report	\$ 225.00	\$ 675.00
23	8. Filing annual statement	\$ 150.00	\$ 450.00
24	9. Annual statement filing for		
25	exempt insurer transacting life		
26	insurance, disability insurance		
27	or annuity business pursuant to		
28	section 20-401.05	\$ 65.00	\$ 100.00
29	10. Licenses and examinations:		
30	(a) Licenses:		
31	Surplus lines broker's license,		
32	quadrennially	\$600.00	<del>\$1,800.00</del>
33			\$1,000.00
34	All other licenses,		
35	quadrennially	60.00	180.00
36	(b) Examinations for license:		
37	Examination on laws and one kind		
38	of insurance	8.00	25.00
39	Examination on laws and two or		
40	more kinds of insurance	15.00	45.00
41	11. Miscellaneous:		
42	Fee accompanying service of		
43	process upon director	\$ 8.00	\$ 25.00
44	Certificate of director,		
45	under seal	1.50	5.00
46	Copy of document filed in		



1 H. Captive insurers shall pay certificate of authority issuance and  
2 renewal fees as prescribed by the director.

3 I. For the purposes of subsection G of this section, "stamping fee"  
4 means a reasonable filing fee charged by a contractor for any transaction  
5 prescribed in chapter 2, article 5 of this title, including the acceptance or  
6 maintenance of the reports required by section 20-408.

7 Sec. 2. Section 20-407, Arizona Revised Statutes, is amended to read:  
8 20-407. Surplus lines; brokers

9 A. Any portion or all of an insurance coverage designated in this  
10 article as "surplus lines" may be procured from unauthorized insurers subject  
11 to the following conditions:

12 1. The insurance is procured through a ~~licensed~~ surplus lines broker  
13 LICENSED IN THIS STATE, referred to in this article as the "broker".

14 2. The insurance coverage is a recognized surplus line pursuant to  
15 section 20-409 or the insurance coverage is not procurable, after diligent  
16 effort has been made to procure coverage or the coverage has been procured to  
17 the full extent the insurers are willing to insure, and the placing of  
18 insurance with an unauthorized insurer is not for the purpose of securing  
19 advantages either as to premium rate or terms of the insurance contract.

20 B. Subsection A, paragraph 2 of this section does not apply to the  
21 sale of insurance coverage to an industrial insured as defined in section  
22 20-401.07. At the inception of each new policy and at the time of each  
23 renewal, but not less than annually during the term of the policy, each  
24 industrial insured that purchases a policy as provided in this section shall  
25 certify to the broker on a form prescribed by the director that the insured  
26 meets the definition of industrial insured prescribed in section 20-401.07.  
27 The broker shall maintain the certification in the broker's files. The  
28 insurance is surplus lines insurance and is subject to the applicable  
29 provisions of this article that relate to surplus lines insurance.

30 C. NOTHING IN THIS SECTION PROHIBITS A RESIDENT OR NONRESIDENT  
31 INSURANCE PRODUCER OR MANAGING GENERAL AGENT LICENSED IN THIS STATE FOR  
32 PROPERTY OR CASUALTY INSURANCE FROM OBTAINING SURPLUS LINES INSURANCE FOR  
33 POLICYHOLDERS THROUGH A SURPLUS LINES BROKER IF THE INSURANCE PRODUCER OR  
34 MANAGING GENERAL AGENT USES A SURPLUS LINES BROKER LICENSED IN THIS STATE FOR  
35 THE TRANSACTION OF THE INSURANCE WITH THE SURPLUS LINES INSURER. THE SURPLUS  
36 LINES BROKER IS RESPONSIBLE FOR COMPLIANCE WITH THE APPLICABLE PROVISIONS OF  
37 THIS ARTICLE. THE INSURANCE PRODUCER OR MANAGING GENERAL AGENT MAY PAY A FEE  
38 OR SHARE A COMMISSION WITH A SURPLUS LINES BROKER WHO PROCURES THE SURPLUS  
39 COVERAGE ON BEHALF OF THE INSURANCE PRODUCER. FOR THE PURPOSES OF THIS  
40 SUBSECTION, "TRANSACTION" MEANS THE ACTS LISTED IN SECTION 20-106,  
41 SUBSECTION A.

42 D. FOR THE TRANSACTION OF SURPLUS LINES INSURANCE, A SURPLUS LINES  
43 BROKER LICENSED IN THIS STATE SHALL NOT RECEIVE A FEE, COMMISSION, BROKERAGE  
44 OR OTHER VALUABLE CONSIDERATION FROM ANY PERSON WHO IS NOT LICENSED IN THIS  
45 STATE AS ANY OF THE FOLLOWING:

1           1. AN INSURANCE PRODUCER PURSUANT TO CHAPTER 2, ARTICLE 3 OF THIS  
2 TITLE.

3           2. A MANAGING GENERAL AGENT PURSUANT TO CHAPTER 2, ARTICLE 3.1 OF THIS  
4 TITLE.

5           3. A SURPLUS LINES BROKER PURSUANT TO SECTION 20-411, 20-411.01 OR  
6 20-411.02.

7           Sec. 3. Section 20-408, Arizona Revised Statutes, is amended to read:  
8 20-408. Report of broker; civil penalty

9           A. Within sixty days after procuring any surplus lines insurance, the  
10 broker PROCURING THE COVERAGE shall execute and file with the director a  
11 verified report setting forth facts from which it may be determined whether  
12 the requirements of section 20-407 have been met. The report shall also  
13 contain or be accompanied by the following:

14           1. The name of the insurer and the identification number assigned to  
15 it by the national association of insurance commissioners.

16           2. The number of the policy issued.

17           3. The name and address of the insured.

18           4. The premium, including taxable policy fees.

19           5. The identity of the specific recognized surplus lines coverage  
20 written.

21           6. If the insurance coverage is not a recognized surplus line pursuant  
22 to section 20-409, an affidavit executed by the surplus lines broker  
23 attesting to compliance with the requirements of section 20-407, subsection A  
24 and confirming that evidence of compliance will be maintained in the broker's  
25 file for the duration of the insurance policy and for a period of six years  
26 after the expiration of the policy.

27           7. The policy effective dates that shall not be open to public  
28 inspection.

29           B. The director shall prescribe the required report form.

30           C. The director may direct a broker to file the broker's report  
31 required by this section with a voluntary domestic organization of surplus  
32 lines brokers with which the director has contracted to accept reports  
33 pursuant to section 20-167.

34           D. A broker may collect from the insured the stamping fee prescribed  
35 in section 20-167.

36           E. The director may impose and collect a civil penalty of not more  
37 than twenty-five dollars against a broker for each day the report prescribed  
38 in subsection A of this section is late.

39           Sec. 4. Section 20-411, Arizona Revised Statutes, is amended to read:  
40 20-411. Licensing of surplus lines broker; examination

41           A. A person shall not act as a surplus lines broker in this state  
42 unless the person has a current surplus lines broker license issued by the  
43 director.

44           B. Any individual who is a resident of this state and who is licensed  
45 as a resident insurance producer authorized for property or casualty  
46 insurance in this state may also be licensed as a resident surplus lines

1 broker if the director determines that the insurance producer is competent  
2 and trustworthy. The director shall prescribe and furnish application forms.

3 C. Each individual applicant for an original license as a resident  
4 surplus lines broker or for renewal of a resident surplus lines broker  
5 license who has not previously taken and passed a surplus lines broker  
6 license examination in this state shall take and pass to the director's  
7 satisfaction a written examination given by or under the supervision of the  
8 director. The examination shall reasonably test the applicant's knowledge of  
9 surplus lines insurance and the legal responsibilities of a surplus lines  
10 broker.

11 D. The director may issue a resident surplus lines broker license to  
12 any business entity that is licensed as a resident property or casualty  
13 insurance producer in this state and that satisfies all of the requirements  
14 prescribed by section 20-285, subsections D and E.

15 E. At least one individual in each office or place where surplus lines  
16 insurance is transacted in this state shall be licensed **PURSUANT TO THIS**  
17 **TITLE** as **EITHER** an insurance producer authorized for property or casualty  
18 insurance ~~under this title and shall have passed the examination required by~~  
19 ~~this section~~ **OR A MANAGING GENERAL AGENT FOR PROPERTY OR CASUALTY INSURANCE,**  
20 **AND SHALL BE LICENSED PURSUANT TO THIS ARTICLE AS A SURPLUS LINES BROKER.**

21 F. The license prescribed in this section ~~expires and is subject to~~  
22 ~~renewal~~ **SHALL EXPIRE AND BE SUBJECT TO RENEWAL COINCIDENTAL TO, AND IN THE**  
23 **SAME MANNER AS, OTHER INSURANCE LICENSE AUTHORITY** as prescribed in section  
24 20-289. The director shall charge the surplus lines broker license fee  
25 prescribed in section 20-167, **EXCEPT THAT, FROM AND AFTER JUNE 30, 2005, A**  
26 **LICENSEE ADDING SURPLUS LINES BROKER AUTHORITY TO AN EXISTING INSURANCE**  
27 **LICENSE SHALL BE CHARGED ONE-HALF THE SURPLUS LINES BROKER LICENSE FEE IF**  
28 **LESS THAN TWO YEARS REMAIN IN THE TERM OF THE EXISTING INSURANCE LICENSE AS**  
29 **OF THE DATE THE DIRECTOR RECEIVES THE APPLICATION TO ADD SURPLUS LINES BROKER**  
30 **AUTHORITY TO THE EXISTING INSURANCE LICENSE.**

31 G. To the extent not inconsistent with this article, section 20-281,  
32 section 20-283, subsection B, paragraph 6, section 20-286, subsection C and  
33 sections 20-287, 20-289, 20-291, 20-292, 20-295, 20-296, 20-297, 20-298,  
34 20-299, 20-300, 20-301 and 20-302 apply to surplus lines brokers.

35 Sec. 5. Revision of surplus lines broker's license fee

36 Notwithstanding section 20-167, subsection F, Arizona Revised Statutes,  
37 effective July 1, 2005, the director of the department of insurance shall  
38 revise the quadrennial surplus lines broker's license fee to one thousand  
39 dollars.

40 Sec. 6. Retroactivity

41 Sections 20-167 and 20-411, Arizona Revised Statutes, as amended by  
42 this act, apply, and section 5 of this act is effective, retroactively to  
43 from and after June 30, 2005.