

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 10
SENATE BILL 1004

AN ACT

AMENDING SECTIONS 20-408, 20-416 AND 20-417, ARIZONA REVISED STATUTES;
RELATING TO SURPLUS LINES INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 20-408, Arizona Revised Statutes, is amended to
3 read:

4 20-408. Report of broker; civil penalty

5 A. A broker procuring surplus lines insurance on behalf of an
6 insured whose home state is Arizona shall file with the director on or
7 before the date specified in section 20-415, subsection B a verified
8 report setting forth facts from which it may be determined whether the
9 requirements of section 20-407 have been met. The report shall also
10 contain or be accompanied by the following:

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

13 2. The number of the policy issued.

14 3. The name and ~~address~~ THE CITY, STATE AND ZIP CODE of the
15 insured.

16 4. The premium, including taxable policy fees.

17 5. The identity of the specific surplus lines coverage written.

18 6. The policy effective dates that shall not be open to public
19 inspection.

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

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

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

27 E. The director may impose and collect a civil penalty of not more
28 than ~~twenty-five dollars~~ \$25 against a broker for each day the report
29 prescribed in subsection A of this section is late.

30 F. In addition to the requirements of subsection A, paragraph 5 of
31 this section, if the insurance coverage is not a recognized surplus line
32 pursuant to section 20-409, a surplus lines broker shall maintain evidence
33 of compliance with the requirements of section 20-407, subsection A for
34 the duration of the insurance policy and for a period of six years after
35 the expiration of the policy.

36 Sec. 2. Section 20-416, Arizona Revised Statutes, is amended to
37 read:

38 20-416. Tax on surplus lines

39 A. On or before the due date prescribed in section 20-415, each
40 surplus lines broker shall remit to the state treasurer through the
41 director a tax on the premiums, exclusive of sums collected to cover
42 federal and state taxes, examination fees and stamping fees collected
43 pursuant to section 20-167, on surplus lines insurance covering Arizona
44 single-state risks subject to tax transacted by the broker during the

1 preceding reporting period, as shown by the statement of surplus lines
2 business filed with the director.

3 B. On or before the due date prescribed in section 20-415, each
4 surplus lines broker shall remit to the clearinghouse responsible for
5 administering the compact or multistate agreement entered into by the
6 director pursuant to section 20-416.01 a tax on the premiums, exclusive of
7 the sums collected to cover federal and state taxes, examination fees and
8 stamping fees collected pursuant to section 20-167, on surplus lines
9 insurance covering multistate risks subject to tax for insureds whose home
10 state is Arizona transacted by the broker during the preceding reporting
11 period, as shown by the statement of surplus lines business filed with the
12 clearinghouse.

13 C. The tax required by subsections A and B of this section is at
14 the rate of three percent of the gross premiums, including policy fees
15 other than stamping fees prescribed in section 20-167, and shall not be
16 applied to premiums returned on account of cancellation or reduction of
17 premium and shall not be applied to gross premiums and returned premiums
18 on business exempted from surplus lines provisions under section 20-420.
19 The surplus lines broker shall collect the tax from the insured in
20 addition to the full amount of the gross premium charged by the insurer
21 for the insurance. The surplus lines broker shall return the tax on any
22 portion of the premium unearned at the termination of the insurance policy
23 to the policyholder. The surplus lines broker is prohibited from
24 absorbing the tax and from rebating, for any reason, any part of the tax
25 or commission.

26 D. Notwithstanding section 20-415 and subsection A of this section,
27 if a surplus lines broker fails to timely renew the license held by the
28 broker to transact surplus lines insurance and the broker's license is
29 revoked by order of the director or the director accepts the consent to
30 voluntary termination of the license, the broker shall file a statement of
31 surplus lines business from the end of the last reporting period covered
32 by the statement filed by the broker through the date the license was last
33 valid and shall remit all outstanding surplus lines taxes to the director.
34 The broker shall file the statement of surplus lines business and shall
35 remit any outstanding surplus lines taxes within thirty days after the
36 nonrenewal, revocation or voluntary termination of the license.

37 E. Except as provided in subsection F of this section, for the
38 purpose of determining the surplus lines tax, the total premium charged
39 for surplus lines insurance placed in a single transaction with one
40 underwriter or group of underwriters, whether in one or more policies,
41 shall be allocated to this state in the proportion as the total premium on
42 the insured properties or operations in this state, computed on the
43 exposure in this state on the basis of any single standard rating method
44 in use in all states or countries where the insurance applies, bears to
45 the total premium so computed in all the states or countries.

1 F. The surplus lines tax on insurance on motor transit operations
2 conducted between this and other states is payable on the total premium
3 charged on all surplus lines insurance less the portion of the premium
4 determined as provided in subsection E of this section charged for
5 operations in other states taxing the premium of an insured maintaining
6 its headquarters office in this state or the premium for operations
7 outside of this state of an insured maintaining its headquarters office
8 outside of this state and a branch office in this state.

9 G. Such tax shall be apportioned in the manner provided by section
10 20-224, subsection D.

11 H. All surplus lines taxes collected on Arizona single-state risks
12 pursuant to this section and section 20-416.01 are monies that belong to
13 this state and constitute a debt to this state. All surplus lines tax on
14 coverage procured for an insured whose home state is Arizona that would
15 otherwise be payable to another state as the other state's portion of a
16 multistate risk shall constitute monies of this state and a debt to this
17 state if the other state has not entered into a compact or multistate
18 agreement to which Arizona is a party to effectuate the nonadmitted and
19 reinsurance reform act of 2010 (15 United States Code section 8201).

20 I. FROM AND AFTER DECEMBER 31, 2019, THE DIRECTOR MAY REQUIRE THAT
21 REPORTS AND PAYMENTS UNDER THIS SECTION AND SECTIONS 20-408, 20-416.01 AND
22 20-417 BE SUBMITTED ELECTRONICALLY. IF THE DIRECTOR REQUIRES ELECTRONIC
23 SUBMISSION, THE DIRECTOR SHALL INCLUDE ON THE DEPARTMENT'S OFFICIAL
24 WEBSITE A LIST OF ONE OR MORE ACCEPTABLE THIRD-PARTY SERVICES THROUGH
25 WHICH A SURPLUS LINES BROKER MUST SUBMIT THE REPORTS AND PAYMENTS.

26 Sec. 3. Section 20-417, Arizona Revised Statutes, is amended to
27 read:

28 20-417. Failure to remit tax; civil penalty; exception

29 A. If any surplus lines broker fails to remit the surplus lines tax
30 provided for by section 20-416, the broker is liable for a civil penalty
31 of not ~~to exceed twenty-five dollars~~ MORE THAN \$25 for each additional day
32 of delinquency. The director ~~shall~~ MAY collect the tax by distraint and
33 ~~shall~~ MAY recover the civil penalty by an action in the name of this state
34 against the insured, ~~AND~~ the surplus lines broker ~~and the surety on the~~
35 ~~bond filed pursuant to section 20-411~~. All civil penalties are payable
36 into the general fund of this state.

37 B. IF THE DIRECTOR REQUIRES THE SURPLUS LINES TAX TO BE PAID
38 ELECTRONICALLY THROUGH A DESIGNATED THIRD-PARTY SERVICE PURSUANT TO
39 SECTION 20-416, A PENALTY DOES NOT ACCRUE FOR ANY PAYMENT OF TAX OR
40 INTEREST THAT IS LATE DUE TO DELAYS CAUSED BY THE THIRD-PARTY SERVICE.

APPROVED BY THE GOVERNOR MARCH 22, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 22, 2019.