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Chapter No. 309
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SENATE BILL NO. 2628

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2628

AN ACT TO AMEND SECTION 83-21-23, MISSISSIPPI CODE OF 1972, TO REQUIRE A SURPLUS LINES INSURANCE PRODUCER TO EXECUTE A FORM PROMULGATED BY THE COMMISSIONER OF INSURANCE SETTING FORTH FACTS AS TO WHY INSURANCE WAS NOT PLACED IN THE ADMITTED MARKET; TO REQUIRE THE SURPLUS LINES INSURANCE PRODUCER TO RETAIN SUCH FORM AND MAKE IT AVAILABLE TO THE COMMISSIONER UPON REQUEST; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 83-21-23, Mississippi Code of 1972, is amended as follows:

83-21-23. (1) When any policy of insurance or certificate of insurance is procured under the authority of such license, there shall be executed by the surplus lines insurance producer a form setting forth facts in complete detail as to what was done to place such kind of insurance and showing that such surplus lines insurance producer therein was unable, after diligent effort, to procure from a licensed company or companies the full amount of insurance required to protect the property, liability, or risk desired to be insured * * *. This form shall be maintained on file with the surplus lines insurance producer and may be subject to review by the Commissioner of Insurance at any time if the commissioner deems such request advisable.

The Commissioner of Insurance may promulgate rules and regulations and establish appropriate fees for the implementation of Sections 83-21-17 through 83-21-31.

(2) (a) A surplus lines insurance producer is not required to make a due diligence search to determine whether the full amount or type of insurance can be obtained from admitted insurers when the surplus lines insurance producer is seeking to procure or

place nonadmitted insurance for an exempt commercial purchaser provided:

(i) The surplus lines insurance producer procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and

(ii) The exempt commercial purchaser has subsequently requested in writing for the surplus lines insurance producer to procure or place such insurance from a nonadmitted insurer.

(b) The term "exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

(i) The person employs or retains a qualified risk manager, as defined in Section 527(13) of the Nonadmitted and Reinsurance Reform Act of 2010, to negotiate insurance coverage.

(ii) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of One Hundred Thousand Dollars ($100,000.00) in the immediately preceding twelve (12) months.

(iii) 1. The person meets at least one (1) of the following criteria:

a. The person possesses a net worth in excess of Twenty Million Dollars ($20,000,000.00) as such amount is adjusted according to item 2 of this subparagraph (iii).

b. The person generates annual revenues in excess of Fifty Million Dollars ($50,000,000.00) as such amount is adjusted according to item 2 of this subparagraph (iii).

c. The person employs more than five hundred (500) full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand (1,000) employees in the aggregate.

d. The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least Thirty Million Dollars ($30,000,000.00) as such amount is adjusted according to item 2 of this subparagraph (iii).

e. The person is a municipality with a population in excess of fifty thousand (50,000) persons.

2. Effective on January 1, 2015, and every five (5) years thereafter, the amounts in items 1a, 1b and 1d of this subparagraph (iii) shall be adjusted to reflect the percentage change for such five-year period in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics of the United States Department of Labor.

SECTION 2. This act shall take effect and be in force from and after July 1, 2012.

PASSED BY THE SENATE
March 7, 2012

Tate Reeves
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 21, 2012

Philip Gunn
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant
GOVERNOR

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