

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Senator Beebe**

# A Bill

**SENATE BILL**

## For An Act To Be Entitled

8 "AN ACT TO AMEND THE SURPLUS LINES INSURANCE LAW TO  
9 REQUIRE THAT CLEAR DISCLOSURES BE MADE TO THE INSUREDS WHO  
10 CAN ONLY OBTAIN COVERAGE IN THIS MARKET; TO CLARIFY THAT  
11 THE COMMON LAW OF INSURANCE APPLIES TO SURPLUS LINES  
12 INSURERS; AND FOR OTHER PURPOSES."

## Subtitle

15 "PERTAINING TO SURPLUS LINES INSURERS."

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19 SECTION 1. Section 23-65-303 of Arkansas Code is hereby amended to read  
20 as follows:

21 "23-65-303. Insurer not admitted.

22 The permission granted in this law to place any insurance in a  
23 nonadmitted insurer shall not be deemed or construed to authorize that insurer  
24 to otherwise transact an insurance business in this state; further, this  
25 limited permission shall not be deemed or construed so as to exempt non-  
26 admitted insurers from the principles of the common law of insurance or from  
27 the same statutory and common law penalties which may attach in favor of  
28 insureds in the event of disputes or litigation between insureds and admitted  
29 insurers."

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31 SECTION 2. Section 23-65-307 of Arkansas Code is hereby amended to read  
32 as follows:

33 "23-65-307. Endorsement of contract.

34 Every insurance contract procured and delivered as surplus line coverage  
35 pursuant to this law shall be initiated by or bear the name of the surplus

1 lines broker who procured it and shall have stamped upon it the following:

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3       This contract is registered and delivered as a surplus line coverage  
4 under the Surplus Lines Insurance Law, and it may in some respects be  
5 different from contracts issued by insurers in the admitted markets, and,  
6 accordingly, it may, depending upon the circumstances, be more or less  
7 favorable to an insured than a contract from an admitted carrier might be."

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9       SECTION 3. All provisions of this act of a general and permanent nature  
10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
11 Revision Commission shall incorporate the same in the Code.

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13       SECTION 4. If any provision of this act or the application thereof to  
14 any person or circumstance is held invalid, such invalidity shall not affect  
15 other provisions or applications of the act which can be given effect without  
16 the invalid provision or application, and to this end the provisions of this  
17 act are declared to be severable.

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19       SECTION 5. All laws and parts of laws in conflict with this act are  
20 hereby repealed.

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22       SECTION 6. It is hereby found and determined by the General Assembly  
23 that the applicability of the common law and statutory law of this state  
24 relative to interpretation of insurance contracts and penalties that may be  
25 enforced against insureds be clearly made applicable to surplus lines  
26 insurers. Further, while it is crucially important to the state that there be  
27 an active "surplus lines" insurance market, there have been many occasions  
28 when insureds whose risks must be placed in this market do not recognize that  
29 the coverages are in many instances less favorable than coverages available in  
30 the admitted market; and, although there are instances where the coverage may  
31 be more favorable, it is important, nonetheless, that insureds be made to  
32 recognize these distinctions. Further, the present law does not require a  
33 meaningful disclosure in this regard, and the foregoing changes are necessary  
34 to both clarify and change the law and should go into effect immediately.  
35 Therefore an emergency is hereby declared to exist and this act being

1 necessary for the public peace, health and safety shall be in full force and  
2 effect from and after its passage and approval.