

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

A Bill

ACT 118 OF 1993
SENATE BILL 38

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 INSURED 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."**

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

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

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

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

29 **SECTION 2. Section 23-65-307 of Arkansas Code is hereby amended to read as**
30 **follows:**

31 **"23-65-307. Endorsement of contract.**

32 **Every insurance contract procured and delivered as surplus line coverage pursuant to this**
33 **law shall be initiated by or bear the name of the surplus lines broker who procured it and shall**
34 **have stamped upon it the following:**

36 **This contract is registered and delivered as a surplus line coverage under the Surplus**

1 **Lines Insurance Law, and it may in some respects be different from contracts issued by**
2 **insurers in the admitted markets, and, accordingly, it may, depending upon the circumstances,**
3 **be more or less favorable to an insured than a contract from an admitted carrier might be."**
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5 **SECTION 3. All provisions of this act of a general and permanent nature are**
6 **amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision**
7 **Commission shall incorporate the same in the Code.**
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9 **SECTION 4. If any provision of this act or the application thereof to any person or**
10 **circumstance is held invalid, such invalidity shall not affect other provisions or applications of**
11 **the act which can be given effect without the invalid provision or application, and to this end**
12 **the provisions of this act are declared to be severable.**
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14 **SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.**
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16 **SECTION 6. It is hereby found and determined by the General Assembly that the**
17 **applicability of the common law and statutory law of this state relative to interpretation of**
18 **insurance contracts and penalties that may be enforced against insureds be clearly made**
19 **applicable to surplus lines insurers. Further, while it is crucially important to the state that**
20 **there be an active "surplus lines" insurance market, there have been many occasions when**
21 **insureds whose risks must be placed in this market do not recognize that the coverages are in**
22 **many instances less favorable than coverages available in the admitted market; and, although**
23 **there are instances where the coverage may be more favorable, it is important, nonetheless,**
24 **that insureds be made to recognize these distinctions. Further, the present law does not**
25 **require a meaningful disclosure in this regard, and the foregoing changes are necessary to both**
26 **clarify and change the law and should go into effect immediately. Therefore an emergency is**
27 **hereby declared to exist and this act being necessary for the public peace, health and safety**
28 **shall be in full force and effect from and after its passage and approval.**
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30 **APPROVED: 02/15/93**
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