Bill No.: _____
Requested: _____
Committee: _____

Drafted by: Departmental
Typed by: Manuel
Stored – 10/27/16
Proofread by _____
Checked by _____

By: **Leave Blank (By Request – Departmental – Maryland Insurance Administration)**

A BILL ENTITLED

AN ACT concerning

Insurance – Surplus Lines Insurers, Surplus Lines Brokers, and Reinsurers

FOR the purpose of altering the requirements an insurer must meet to be approved as a surplus lines insurer by the Maryland Insurance Commissioner; providing that a surplus lines insurer's approval expires on a certain date each year unless it is renewed in a certain manner; establishing requirements for the renewal of a surplus lines insurer's approval; clarifying that certain requirements to file a certain report and pay a certain tax apply only to each surplus lines broker that has transacted certain business in the State; establishing certain fees for initial approval as a surplus lines insurer and renewal of the approval; establishing certain fees for initial and continued eligibility as an accredited or certified reinsurer; repealing certain fees for filing certain annual statements; and generally relating to surplus lines insurers, surplus lines brokers, and reinsurers.

BY repealing
Article – Insurance
Section 2–112(a)(8)
Annotated Code of Maryland
(2011 Replacement Volume and 2016 Supplement)

BY adding to

EXPLANATION: **CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**
[Brackets] indicate matter deleted from existing law.

Article – Insurance
Section 2–112(a)(8) and (9)
Annotated Code of Maryland
(2011 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,
Article – Insurance
Section 2–112(a)(9), (10), and (11), 3–318, and 3–325
Annotated Code of Maryland
(2011 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Insurance

2–112.

(a) Fees for the following certificates, licenses, permits, and services shall be collected in advance by the Commissioner, and shall be paid by the appropriate persons, including health maintenance organizations, to the Commissioner:

[(8) fees for filing the annual statement by an unauthorized insurer applying for approval to become an accredited reinsurer, a certified reinsurer, or a surplus lines carrier.....$1,000]

(8) FEES FOR APPROVAL AS A SURPLUS LINES INSURER:

(I) FEE FOR INITIAL APPROVAL..... $1,000

(II) ANNUAL RENEWAL FEE $1,000

(9) FEES FOR ELIGIBILITY AS AN ACCREDITED OR CERTIFIED REINSURER:

(I) FEE FOR INITIAL ELIGIBILITY $1,000

(II) ANNUAL FEE FOR CONTINUED ELIGIBILITY $1,000

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1 [(9)] **(10)** fees for required filings, including form and rate filings, under
2 Title 11, Subtitles 2 through 4, Title 26, §§ 12–203, 13–110, 14–126, and 27–613 of this
3 article, and § 15–311.2 of the Transportation Article $125

4 [(10)] **(11)** service of legal process fee under §§ 3–318(d), 3–319(d), and
5 4–107 of this article and § 19–708(b)(12) of the Health – General Article $15

6 [(11)] **(12)** annual fee for registration of an obligor under § 15–311.2 of the
7 Transportation Article.....$25

8 3–318.

9 (a) The Commissioner may not approve an insurer as a surplus lines insurer
10 unless the insurer:

11 (1) is authorized in its domiciliary jurisdiction to write the type of
12 insurance it seeks to write;

13 (2) has capital and surplus, or their equivalent under the laws of its
14 domiciliary jurisdiction, equal to the greater of:

15 (i) the minimum capital and surplus required under the laws of its
16 domiciliary jurisdiction; and

17 (ii) $15,000,000; and

18 (3) files with the Commissioner [the information required under
19 subsection (c) of this section]**:**

20 **(I) A WRITTEN REQUEST FOR APPROVAL AS A SURPLUS LINES**
21 **INSURER TO WRITE THE TYPE OF INSURANCE THE INSURER SEEKS TO WRITE;**

22 **(II) A CERTIFIED COPY OF THE INSURER'S ANNUAL STATEMENT,**
23 **ON CONVENTION FORM, THAT SHOWS THE AMOUNT BY LINE OF SURPLUS LINES**
24 **BUSINESS WRITTEN ON RISKS LOCATED IN THE STATE DURING THE PERIOD**
25 **COVERED BY THE ANNUAL STATEMENT; AND**

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1 **(III) A CERTIFICATE OF COMPLIANCE ISSUED BY THE INSURANCE**
2 **DEPARTMENT OF THE INSURER'S STATE OF DOMICILE.**

3 (b) (1) For a foreign insurer, the requirements of subsection (a)(2) of this
4 section may be satisfied by the insurer's possessing less than the minimum capital and
5 surplus if the Commissioner makes an affirmative finding of acceptability.

6 (2) The finding shall be based on the following or similar factors:

7 (i) quality of management;

8 (ii) capital and surplus of any parent company;

9 (iii) company underwriting profit and investment income trends;

10 (iv) market availability; and

11 (v) company record and reputation of the foreign insurer in the
12 industry.

13 (3) The Commissioner may not make an affirmative finding of acceptability
14 if the foreign insurer's capital and surplus is less than $4,500,000.

15 [(c) An insurer that seeks approval under subsection (a) of this section shall file
16 each year with the Commissioner:

17 (1) a written request for approval as a surplus lines insurer to write the
18 type of insurance it seeks to write;

19 (2) a certified copy of its annual statement, on convention form, that shows
20 the amount by line of surplus lines business written on risks located in the State during
21 the period covered by the annual statement; and

22 (3) a certificate of compliance issued by the insurance department of the
23 insurer's state of domicile.]

24 **(C) A SURPLUS LINES INSURER'S APPROVAL EXPIRES ON JUNE 30 EACH**
25 **YEAR UNLESS THE APPROVAL IS RENEWED AS PROVIDED IN THIS SECTION.**

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1 **(D) (1) BEFORE AN APPROVAL EXPIRES, AN INSURER MAY RENEW THE**
2 **APPROVAL FOR A 1–YEAR TERM IF THE INSURER:**

3 **(I) FILES WITH THE COMMISSIONER, IN ACCORDANCE WITH**
4 **THE PROCEDURES ESTABLISHED BY THE COMMISSIONER, AN APPLICATION FOR**
5 **RENEWAL OF APPROVAL AS A SURPLUS LINES INSURER;**

6 **(II) PAYS TO THE COMMISSIONER THE APPLICABLE FEE**
7 **REQUIRED BY § 2–112 OF THIS ARTICLE; AND**

8 **(III) SUBMITS TO THE COMMISSIONER ANY ADDITIONAL**
9 **INFORMATION OR DOCUMENTATION THAT THE COMMISSIONER REQUIRES,**
10 **INCLUDING ANY INFORMATION OR DOCUMENTATION NECESSARY TO DETERMINE**
11 **WHETHER THE INSURER MEETS THE REQUIREMENTS OF SUBSECTIONS (A) AND (B)**
12 **OF THIS SECTION.**

13 **(2) THE APPLICATION FOR RENEWAL OF APPROVAL AS A SURPLUS**
14 **LINES INSURER SHALL BE SIGNED BY AN OFFICER OF THE INSURER CERTIFYING**
15 **THAT, TO THE BEST KNOWLEDGE AND BELIEF OF THE OFFICER, THE INSURER IS IN**
16 **COMPLIANCE WITH ALL STATUTES AND REGULATIONS OF THE INSURER'S**
17 **DOMICILIARY JURISDICTION.**

18 **[**(d)**] (E)** An unauthorized insurer shall appoint in writing the Commissioner as
19 agent for the acceptance of service of process.

20 3–325.

21 (a) On or before March 15 and September 15 of each year, or at another interval
22 that the Commissioner directs, each surplus lines broker **THAT HAS TRANSACTED**
23 **SURPLUS LINES BUSINESS IN THE STATE DURING THE REPORTING PERIOD** shall:

24 (1) file with the Commissioner a report, on a form the Commissioner
25 prescribes, on business subject to tax during the preceding half calendar year or other
26 interval that the Commissioner directs; and

27 (2) pay to the Commissioner the total amount of tax stated in the report.

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1 (b) By regulation, the Commissioner shall determine the required content and
2 filing deadlines of the report.

3 (c) Each report shall be open to public inspection.

4 (d) A qualified surplus lines broker may credit any examination expense paid or
5 assessed under § 2–208 of this article against the premium receipts tax due to the State.

6 (e) With respect to surplus lines premium receipts tax due to the State, a surplus
7 lines broker is subject to the provisions of Title 6, Subtitle 1 of this article relating to
8 penalties, interest, audits, assessments, limitations, appeals, and refunds.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2017.

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