



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB4135

Introduced 1/30/2012, by Rep. Frank J. Mautino

SYNOPSIS AS INTRODUCED:

215 ILCS 5/35A-15
215 ILCS 5/445
215 ILCS 5/445a

from Ch. 73, par. 1057

Amends the Illinois Insurance Code. Includes within the meaning of a company action level event the filing of a risk-based capital (RBC) report by an insurer that indicates that the insurer, if a property and casualty insurer, has total adjusted capital that is greater than or equal to its company action level RBC, but less than the product of its authorized control level RBC and 3.0 and triggers the trend test determined in accordance with the trend test calculation included in the property and casualty RBC Instructions. In the provisions concerning surplus line insurance and domestic surplus line insurers, makes changes to current definitions and sets forth additional definitions. Sets forth requirements for licensed surplus line producers concerning the procurement of surplus line insurance. Deletes certain provisions concerning surplus line producer licensure and provides instead that the State shall participate in the national insurance producer database of the National Association of Insurance Commissioners, or any other equivalent uniform national database, for the licensure of surplus line producers and the renewal of such licenses. Sets forth surplus line tax rates for surplus line insurance policies and contracts. Provides that for the purposes of the federal Nonadmitted and Reinsurance Reform Act of 2010, a domestic surplus line insurer shall be considered a nonadmitted insurer, as the term is defined in that Act, with respect to risks insured in the State. Contains a severability provision. Effective immediately.

LRB097 15678 RPM 60820 b

1 AN ACT concerning insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 35A-15, 445, and 445a as follows:

6 (215 ILCS 5/35A-15)

7 Sec. 35A-15. Company action level event.

8 (a) A company action level event means any of the following
9 events:

10 (1) The filing of an RBC Report by an insurer that
11 indicates that:

12 (A) the insurer's total adjusted capital is
13 greater than or equal to its regulatory action level
14 RBC, but less than its company action level RBC; ~~or~~

15 (B) ~~the~~ the insurer, if a life, health, or life and
16 health insurer, has total adjusted capital that is
17 greater than or equal to its company action level RBC,
18 but less than the product of its authorized control
19 level RBC and 2.5 and has a negative trend; or ~~-~~

20 (C) the insurer, if a property and casualty
21 insurer, has total adjusted capital that is greater
22 than or equal to its company action level RBC, but less
23 than the product of its authorized control level RBC

1 and 3.0 and triggers the trend test determined in
2 accordance with the trend test calculation included in
3 the property and casualty RBC Instructions.

4 (2) The notification by the Director to the insurer of
5 an Adjusted RBC Report that indicates an event described in
6 paragraph (1), provided the insurer does not challenge the
7 Adjusted RBC Report under Section 35A-35.

8 (3) The notification by the Director to the insurer
9 that the Director has, after a hearing, rejected the
10 insurer's challenge under Section 35A-35 to an Adjusted RBC
11 Report that indicates the event described in paragraph (1).

12 (b) In the event of a company action level event, the
13 insurer shall prepare and submit to the Director an RBC Plan
14 that does all of the following:

15 (1) Identifies the conditions that contribute to the
16 company action level event.

17 (2) Contains proposed corrective actions that the
18 insurer intends to take and that are expected to result in
19 the elimination of the company action level event. A health
20 organization is not prohibited from proposing recognition
21 of a parental guarantee or a letter of credit to eliminate
22 the company action level event; however the Director shall,
23 at his discretion, determine whether or the extent to which
24 the proposed parental guarantee or letter of credit is an
25 acceptable part of a satisfactory RBC Plan or Revised RBC
26 Plan.

1 (3) Provides projections of the insurer's financial
2 results in the current year and at least the 4 succeeding
3 years, both in the absence of proposed corrective actions
4 and giving effect to the proposed corrective actions,
5 including projections of statutory operating income, net
6 income, capital, and surplus. The projections for both new
7 and renewal business may include separate projections for
8 each major line of business and separately identify each
9 significant income, expense, and benefit component.

10 (4) Identifies the key assumptions affecting the
11 insurer's projections and the sensitivity of the
12 projections to the assumptions.

13 (5) Identifies the quality of, and problems associated
14 with, the insurer's business including, but not limited to,
15 its assets, anticipated business growth and associated
16 surplus strain, extraordinary exposure to risk, mix of
17 business, and use of reinsurance, if any, in each case.

18 (c) The insurer shall submit the RBC Plan to the Director
19 within 45 days after the company action level event occurs or
20 within 45 days after the Director notifies the insurer that the
21 Director has, after a hearing, rejected its challenge under
22 Section 35A-35 to an Adjusted RBC Report.

23 (d) Within 60 days after an insurer submits an RBC Plan to
24 the Director, the Director shall notify the insurer whether the
25 RBC Plan shall be implemented or is, in the judgment of the
26 Director, unsatisfactory. If the Director determines the RBC

1 Plan is unsatisfactory, the notification to the insurer shall
2 set forth the reasons for the determination and may set forth
3 proposed revisions that will render the RBC Plan satisfactory
4 in the judgment of the Director. Upon notification from the
5 Director, the insurer shall prepare a Revised RBC Plan, which
6 may incorporate by reference any revisions proposed by the
7 Director. The insurer shall submit the Revised RBC Plan to the
8 Director within 45 days after the Director notifies the insurer
9 that the RBC Plan is unsatisfactory or within 45 days after the
10 Director notifies the insurer that the Director has, after a
11 hearing, rejected its challenge under Section 35A-35 to the
12 determination that the RBC Plan is unsatisfactory.

13 (e) In the event the Director notifies an insurer that its
14 RBC Plan or Revised RBC Plan is unsatisfactory, the Director
15 may, at the Director's discretion and subject to the insurer's
16 right to a hearing under Section 35A-35, specify in the
17 notification that the notification constitutes a regulatory
18 action level event.

19 (f) Every domestic insurer that files an RBC Plan or
20 Revised RBC Plan with the Director shall file a copy of the RBC
21 Plan or Revised RBC Plan with the chief insurance regulatory
22 official in any state in which the insurer is authorized to do
23 business if that state has a law substantially similar to the
24 confidentiality provisions in subsection (a) of Section 35A-50
25 and if that official requests in writing a copy of the plan.
26 The insurer shall file a copy of the RBC Plan or Revised RBC

1 Plan in that state no later than the later of 15 days after
2 receiving the written request for the copy or the date on which
3 the RBC Plan or Revised RBC Plan is filed under subsection (c)
4 or (d) of this Section.

5 (Source: P.A. 91-549, eff. 8-14-99.)

6 (215 ILCS 5/445) (from Ch. 73, par. 1057)

7 Sec. 445. Surplus line.

8 (1) Definitions. For the purposes of this Section: ~~Surplus~~
9 ~~line defined; surplus line insurer requirements. "Surplus line~~
10 ~~insurance" means insurance on an Illinois risk of the kinds~~
11 ~~specified in Classes 2 and 3 of Section 4 of this Code procured~~
12 ~~from an unauthorized insurer after the insurance producer~~
13 ~~representing the insured or the surplus line producer is~~
14 ~~unable, after diligent effort, to procure said insurance from~~
15 ~~authorized insurers.~~

16 "Affiliate" means, with respect to an insured, any entity
17 that controls, is controlled by, or is under common control
18 with the insured. For the purpose of this definition, an entity
19 has control over another entity if:

20 (A) the entity directly or indirectly or acting through
21 one or more other persons owns, controls, or has the power
22 to vote 25% or more of any class of voting securities of
23 the other entity; or

24 (B) the entity controls in any manner the election of a
25 majority of the directors or trustees of the other entity.

1 "Affiliated group" means any group of entities that are all
2 affiliated.

3 "Authorized insurer" means an insurer that holds a
4 certificate of authority issued by the Director but, for the
5 purposes of this Section, does not include a domestic surplus
6 line insurer as defined in Section 445a or any residual market
7 mechanism.

8 "Exempt commercial purchaser" means any person purchasing
9 commercial insurance that, at the time of placement, meets the
10 following requirements:

11 (A) The person employs or retains a qualified risk
12 manager to negotiate insurance coverage.

13 (B) The person has paid aggregate nationwide
14 commercial property and casualty insurance premiums in
15 excess of \$100,000 in the immediately preceding 12 months.

16 (C) The person meets at least one of the following
17 criteria:

18 (I) The person possesses a net worth in excess of
19 \$20,000,000, as such amount is adjusted pursuant to the
20 provision in this definition concerning percentage
21 change.

22 (II) The person generates annual revenues in
23 excess of \$50,000,000, as such amount is adjusted
24 pursuant to the provision in this definition
25 concerning percentage change.

26 (III) The person employs more than 500 full-time or

1 full-time equivalent employees per individual insured
2 or is a member of an affiliated group employing more
3 than 1,000 employees in the aggregate.

4 (IV) The person is a not-for-profit organization
5 or public entity generating annual budgeted
6 expenditures of at least \$30,000,000, as such amount is
7 adjusted pursuant to the provision in this definition
8 concerning percentage change.

9 (V) The person is a municipality with a population
10 in excess of 50,000 persons.

11 Effective on January 1, 2015 and each fifth January 1
12 occurring thereafter, the amounts in subitems (I), (II), and
13 (IV) of item (C) of this definition shall be adjusted to
14 reflect the percentage change for such 5-year period in the
15 Consumer Price Index for All Urban Consumers published by the
16 Bureau of Labor Statistics of the Department of Labor.

17 "Home state" means the following:

18 (A) With respect to an insured, except as provided in
19 item (B) of this definition:

20 (I) the State in which an insured maintains its
21 principal place of business or, in the case of an
22 individual, the individual's principal residence; or

23 (II) if 100% of the insured risk is located out of
24 the State referred to in subitem (I), the State to
25 which the greatest percentage of the insured's taxable
26 premium for that insurance contract is allocated.

1 (B) If more than one insured from an affiliated group
2 are named insureds on a single surplus line insurance
3 contract, then "home State" means the home State, as
4 determined pursuant to item (A) of this definition, of the
5 member of the affiliated group that has the largest
6 percentage of premium attributed to it under such insurance
7 contract.

8 "Multi-State risk" means a risk with insured exposures in
9 more than one State.

10 "NAIC" means the National Association of Insurance
11 Commissioners or any successor entity.

12 "Qualified risk manager" means, with respect to a
13 policyholder of commercial insurance, a person who meets all of
14 the following requirements:

15 (A) The person is an employee of, or third-party
16 consultant retained by, the commercial policyholder.

17 (B) The person provides skilled services in loss
18 prevention, loss reduction, or risk and insurance coverage
19 analysis, and purchase of insurance.

20 (C) With regard to the person:

21 (I) the person has:

22 (a) a bachelor's degree or higher from an
23 accredited college or university in risk
24 management, business administration, finance,
25 economics, or any other field determined by the
26 Director or his designee to demonstrate minimum

1 competence in risk management; and

2 (b) the following:

3 (i) three years of experience in risk
4 financing, claims administration, loss
5 prevention, risk and insurance analysis, or
6 purchasing commercial lines of insurance; or

7 (ii) alternatively has:

8 (AA) a designation as a Chartered
9 Property and Casualty Underwriter (in this
10 subparagraph (ii) referred to as "CPCU")
11 issued by the American Institute for
12 CPCU/Insurance Institute of America;

13 (BB) a designation as an Associate in
14 Risk Management (ARM) issued by the
15 American Institute for CPCU/Insurance
16 Institute of America;

17 (CC) a designation as Certified Risk
18 Manager (CRM) issued by the National
19 Alliance for Insurance Education &
20 Research;

21 (DD) a designation as a RIMS Fellow
22 (RF) issued by the Global Risk Management
23 Institute; or

24 (EE) any other designation,
25 certification, or license determined by
26 the Director or his designee to

1 demonstrate minimum competency in risk
2 management;

3 (II) the person has:

4 (a) at least 7 years of experience in risk
5 financing, claims administration, loss prevention,
6 risk and insurance coverage analysis, or
7 purchasing commercial lines of insurance; and

8 (b) has any one of the designations specified
9 in subparagraph (ii) of paragraph (b);

10 (III) the person has at least 10 years of
11 experience in risk financing, claims administration,
12 loss prevention, risk and insurance coverage analysis,
13 or purchasing commercial lines of insurance; or

14 (IV) the person has a graduate degree from an
15 accredited college or university in risk management,
16 business administration, finance, economics, or any
17 other field determined by the Director or his or her
18 designee to demonstrate minimum competence in risk
19 management.

20 "Residual market mechanism" means an association,
21 organization, or other entity described in Article XXXIII of
22 this Code or Section 7-501 of the Illinois Vehicle Code or any
23 similar association, organization, or other entity.

24 "State" means any State of the United States, the District
25 of Columbia, the Commonwealth of Puerto Rico, Guam, the
26 Northern Mariana Islands, the Virgin Islands, and American

1 Samoa.

2 "Surplus line insurance" means insurance on a risk:

3 (A) of the kinds specified in Classes 2 and 3 of
4 Section 4 of this Code; and

5 (B) that is procured from an unauthorized insurer after
6 the insurance producer representing the insured or the
7 surplus line producer is unable, after diligent effort, to
8 procure the insurance from authorized insurers; and

9 (C) where Illinois is the home state of the insured,
10 for policies effective, renewed or extended on July 21,
11 2011 or later and for multiyear policies upon the policy
12 anniversary that falls on or after July 21, 2011; and

13 (D) that is located in Illinois, for policies effective
14 prior to July 21, 2011.

15 "Unauthorized insurer" means an insurer that does not hold
16 a valid certificate of authority issued by the Director but,
17 for the purposes of this Section, shall also include a domestic
18 surplus line insurer as defined in Section 445a.

19 (1.5) Procuring surplus line insurance; surplus line
20 insurer requirements.

21 (a) Insurance producers may procure surplus line insurance
22 only if licensed as a surplus line producer under this Section.

23 (b) Licensed surplus line producers ~~and~~ may procure surplus
24 line ~~that~~ insurance ~~only~~ from an unauthorized insurer domiciled
25 in the United States only if the insurer:

26 (i) is permitted in its domiciliary jurisdiction to

1 write the type of insurance involved; and

2 (ii) has, ~~(a) that~~ based upon information available to
3 the surplus line producer, ~~has~~ a policyholders surplus of
4 not less than \$15,000,000 determined in accordance with ~~the~~
5 laws of its domiciliary jurisdiction ~~accounting rules that~~
6 ~~are applicable to authorized insurers; and~~

7 (iii) ~~(b) that~~ has standards of solvency and management
8 that are adequate for the protection of policyholders. ~~7 and~~

9 Where ~~(c) where~~ an unauthorized insurer does not meet the
10 standards set forth in ~~(ii) (a)~~ and ~~(iii) (b)~~ above, a surplus
11 line producer may, if necessary, procure insurance from that
12 insurer only if prior written warning of such fact or condition
13 is given to the insured by the insurance producer or surplus
14 line producer.

15 (c) Licensed surplus line producers may procure surplus
16 line insurance from an unauthorized insurer domiciled outside
17 of the United States only if the insurer is listed on the
18 Quarterly Listing of Alien Insurers maintained by the
19 International Insurers Department of the NAIC. The Director
20 shall make the Quarterly Listing of Alien Insurers available to
21 surplus line producers without charge.

22 (d) Insurance producers shall not procure from an
23 unauthorized insurer an insurance policy:

24 (i) that is designed to satisfy the proof of financial
25 responsibility and insurance requirements in any Illinois
26 law where the law requires that the proof of insurance is

1 issued by an authorized insurer or residual market
2 mechanism;

3 (ii) that covers the risk of accidental injury to
4 employees arising out of and in the course of employment
5 according to the provisions of the Workers' Compensation
6 Act; or

7 (iii) that insures any Illinois personal lines risk, as
8 defined in subsection (a), (b), or (c) of Section 143.13 of
9 this Code, that is eligible for residual market mechanism
10 coverage, unless the insured or prospective insured
11 requests limits of liability greater than the limits
12 provided by the residual market mechanism. In the course of
13 making a diligent effort to procure insurance from
14 authorized insurers, an insurance producer shall not be
15 required to submit a risk to a residual market mechanism
16 when the risk is not eligible for coverage or exceeds the
17 limits available in the residual market mechanism.

18 Where there is an insurance policy issued by an authorized
19 insurer or residual market mechanism insuring a risk described
20 in item (i), (ii), or (iii) above, nothing in this paragraph
21 shall be construed to prohibit a surplus line producer from
22 procuring from an unauthorized insurer a policy insuring the
23 risk on an excess or umbrella basis where the excess or
24 umbrella policy is written over one or more underlying
25 policies.

26 (e) Licensed surplus line producers may procure surplus

1 line insurance from an unauthorized insurer for an exempt
2 commercial purchaser without making the required diligent
3 effort to procure the insurance from authorized insurers if:

4 (i) the producer has disclosed to the exempt commercial
5 purchaser that such insurance may or may not be available
6 from authorized insurers that may provide greater
7 protection with more regulatory oversight; and

8 (ii) the exempt commercial purchaser has subsequently
9 in writing requested the producer to procure such insurance
10 from an unauthorized insurer.

11 (2) Surplus line producer; license. Any licensed producer
12 who is a resident of this State, or any nonresident who
13 qualifies under Section 500-40, may be licensed as a surplus
14 line producer upon: ~~(a) completing a prelicensing course of~~
15 ~~study. The course provided for by this Section shall be~~
16 ~~conducted under rules and regulations prescribed by the~~
17 ~~Director. The Director may administer the course or may make~~
18 ~~arrangements, including contracting with an outside~~
19 ~~educational service, for administering the course and~~
20 ~~collecting the non-refundable application fee provided for in~~
21 ~~this subsection. Any charges assessed by the Director or the~~
22 ~~educational service for administering the course shall be paid~~
23 ~~directly by the individual applicants. Each applicant required~~
24 ~~to take the course shall enclose with the application a~~
25 ~~non-refundable \$20 application fee payable to the Director plus~~
26 ~~a separate course administration fee. An applicant who fails to~~

1 ~~appear for the course as scheduled, or appears but fails to~~
2 ~~complete the course, shall not be entitled to any refund, and~~
3 ~~shall be required to submit a new request to attend the course~~
4 ~~together with all the requisite fees before being rescheduled~~
5 ~~for another course at a later date; and (b) payment of an~~
6 ~~annual license fee of \$400; and (c) procurement of the surety~~
7 ~~bond required in subsection (4) of this Section.~~

8 A surplus line producer so licensed shall keep a separate
9 account of the business transacted thereunder which shall be
10 open at all times to the inspection of the Director or his
11 representative.

12 No later than July 21, 2012, the State of Illinois shall
13 participate in the national insurance producer database of the
14 NAIC, or any other equivalent uniform national database, for
15 the licensure of surplus line producers and the renewal of such
16 licenses.

17 ~~The prelicensing course of study requirement in (a) above~~
18 ~~shall not apply to insurance producers who were licensed under~~
19 ~~the Illinois surplus line law on or before January 1, 2002.~~

20 (3) Taxes and reports.

21 (a) Surplus line tax and penalty for late payment.

22 The surplus line tax rate for a surplus line insurance
23 policy or contract is determined as follows:

24 (i) 3% for policies or contracts with an effective
25 date prior to July 1, 2003;

26 (ii) 3.5% for policies or contracts with an

1 effective date of July 1, 2003 or later.

2 A surplus line producer shall file with the Director on
3 or before February 1 and August 1 of each year a report in
4 the form prescribed by the Director on all surplus line
5 insurance procured from unauthorized insurers during the
6 preceding 6 month period ending December 31 or June 30
7 respectively, and on the filing of such report shall pay to
8 the Director for the use and benefit of the State a sum
9 equal to the surplus line tax rate multiplied by ~~3.5%~~ of
10 the gross premiums less returned premiums upon all surplus
11 line insurance submitted to the Surplus Line Association of
12 Illinois ~~procured or cancelled~~ during the preceding 6
13 months.

14 Any surplus line producer who fails to pay the full
15 amount due under this subsection is liable, in addition to
16 the amount due, for such penalty and interest charges as
17 are provided for under Section 412 of this Code. The
18 Director, through the Attorney General, may institute an
19 action in the name of the People of the State of Illinois,
20 in any court of competent jurisdiction, for the recovery of
21 the amount of such taxes and penalties due, and prosecute
22 the same to final judgment, and take such steps as are
23 necessary to collect the same.

24 (b) Fire Marshal Tax.

25 Each surplus line producer shall file with the Director
26 on or before March 31 of each year a report in the form

1 prescribed by the Director on all fire insurance procured
2 from unauthorized insurers and submitted to the Surplus
3 Line Association of Illinois subject to tax under Section
4 12 of the Fire Investigation Act and shall pay to the
5 Director the fire marshal tax required thereunder.

6 (c) Taxes and fees charged to insured. The taxes
7 imposed under this subsection and the countersigning fees
8 charged by the Surplus Line Association of Illinois may be
9 charged to and collected from surplus line insureds.

10 (4) (Blank). ~~Bond. Each surplus line producer, as a~~
11 ~~condition to receiving a surplus line producer's license, shall~~
12 ~~execute and deliver to the Director a surety bond to the People~~
13 ~~of the State in the penal sum of \$20,000, with a surety which~~
14 ~~is authorized to transact business in this State, conditioned~~
15 ~~that the surplus line producer will pay to the Director the~~
16 ~~tax, interest and penalties levied under subsection (3) of this~~
17 ~~Section.~~

18 (5) Submission of documents to Surplus Line Association of
19 Illinois. A surplus line producer shall submit every insurance
20 contract issued under his or her license to the Surplus Line
21 Association of Illinois for recording and countersignature.
22 The submission and countersignature may be effected through
23 electronic means. The submission shall set forth:

24 (a) the name of the insured;

25 (b) the description and location of the insured
26 property or risk;

- 1 (c) the amount insured;
- 2 (d) the gross premiums charged or returned;
- 3 (e) the name of the unauthorized insurer from whom
4 coverage has been procured;
- 5 (f) the kind or kinds of insurance procured; and
- 6 (g) amount of premium subject to tax required by
7 Section 12 of the Fire Investigation Act.

8 Proposals, endorsements, and other documents which are
9 incidental to the insurance but which do not affect the premium
10 charged are exempted from filing and countersignature.

11 The submission of insuring contracts to the Surplus Line
12 Association of Illinois constitutes a certification by the
13 surplus line producer or by the insurance producer who
14 presented the risk to the surplus line producer for placement
15 as a surplus line risk that after diligent effort the required
16 insurance could not be procured from authorized insurers and
17 that such procurement was otherwise in accordance with the
18 surplus line law.

19 (6) Countersignature required. It shall be unlawful for an
20 insurance producer to deliver any unauthorized insurer
21 contract unless such insurance contract is countersigned by the
22 Surplus Line Association of Illinois.

23 (7) Inspection of records. A surplus line producer shall
24 maintain separate records of the business transacted under his
25 or her license, including complete copies of surplus line
26 insurance contracts maintained on paper or by electronic means,

1 which records shall be open at all times for inspection by the
2 Director and by the Surplus Line Association of Illinois.

3 (8) Violations and penalties. The Director may suspend or
4 revoke or refuse to renew a surplus line producer license for
5 any violation of this Code. In addition to or in lieu of
6 suspension or revocation, the Director may subject a surplus
7 line producer to a civil penalty of up to \$2,000 for each cause
8 for suspension or revocation. Such penalty is enforceable under
9 subsection (5) of Section 403A of this Code.

10 (9) Director may declare insurer ineligible. If the
11 Director determines that the further assumption of risks might
12 be hazardous to the policyholders of an unauthorized insurer,
13 the Director may order the Surplus Line Association of Illinois
14 not to countersign insurance contracts evidencing insurance in
15 such insurer and order surplus line producers to cease
16 procuring insurance from such insurer.

17 (10) Service of process upon Director. Insurance contracts
18 delivered under this Section from unauthorized insurers, other
19 than domestic surplus line insurers as defined in Section 445a,
20 shall contain a provision designating the Director and his
21 successors in office the true and lawful attorney of the
22 insurer upon whom may be served all lawful process in any
23 action, suit or proceeding arising out of such insurance.
24 Service of process made upon the Director to be valid hereunder
25 must state the name of the insured, the name of the
26 unauthorized insurer and identify the contract of insurance.

1 The Director at his option is authorized to forward a copy of
2 the process to the Surplus Line Association of Illinois for
3 delivery to the unauthorized insurer or the Director may
4 deliver the process to the unauthorized insurer by other means
5 which he considers to be reasonably prompt and certain.

6 (10.5) Insurance contracts delivered under this Section
7 from unauthorized insurers, other than domestic surplus line
8 insurers as defined in Section 445a, shall have stamped or
9 imprinted on the first page thereof in not less than 12-pt.
10 bold face type the following legend: "Notice to Policyholder:
11 This contract is issued, pursuant to Section 445 of the
12 Illinois Insurance Code, by a company not authorized and
13 licensed to transact business in Illinois and as such is not
14 covered by the Illinois Insurance Guaranty Fund." Insurance
15 contracts delivered under this Section from domestic surplus
16 line insurers as defined in Section 445a shall have stamped or
17 imprinted on the first page thereof in not less than 12-pt.
18 bold face type the following legend: "Notice to Policyholder:
19 This contract is issued by a domestic surplus line insurer, as
20 defined in Section 445a of the Illinois Insurance Code,
21 pursuant to Section 445, and as such is not covered by the
22 Illinois Insurance Guaranty Fund."

23 (11) The Illinois Surplus Line law does not apply to
24 insurance of property and operations of railroads or aircraft
25 engaged in interstate or foreign commerce, insurance of
26 vessels, crafts or hulls, cargoes, marine builder's risks,

1 marine protection and indemnity, or other risks including
2 strikes and war risks insured under ocean or wet marine forms
3 of policies.

4 (12) Surplus line insurance procured under this Section,
5 including insurance procured from a domestic surplus line
6 insurer, is not subject to the provisions of the Illinois
7 Insurance Code other than Sections 123, 123.1, 401, 401.1, 402,
8 403, 403A, 408, 412, 445, 445.1, 445.2, 445.3, 445.4, and all
9 of the provisions of Article XXXI to the extent that the
10 provisions of Article XXXI are not inconsistent with the terms
11 of this Act.

12 (Source: P.A. 92-386, eff. 1-1-02; 93-29, eff. 6-20-03; 93-32,
13 eff. 7-1-03; 93-876, eff. 8-6-04.)

14 (215 ILCS 5/445a)

15 Sec. 445a. Domestic surplus line insurer.

16 (a) A domestic insurer possessing policyholder surplus of
17 at least \$15,000,000 may pursuant to a resolution by its board
18 of directors, and with the written approval of the Director, be
19 designated as a "domestic surplus line insurer".

20 (b) A domestic surplus line insurer may ~~only~~ insure in this
21 State an Illinois risk only if procured from a surplus line
22 producer pursuant to Section 445 of this Code.

23 (c) A domestic surplus line insurer must agree not to issue
24 a policy designed to satisfy the financial responsibility
25 requirements of the Illinois Vehicle Code, the Workers'

1 Compensation Act, or the Workers' Occupational Diseases Act. A
2 domestic surplus line insurer is not subject to the provisions
3 of Articles XXXIII, XXXIII 1/2, XXXIV, XXXVIII A, Section 468,
4 or Section 478.1 of this Code.

5 (d) For the purposes of the federal Nonadmitted and
6 Reinsurance Reform Act of 2010 (15 USC 8201 et seq.), a
7 domestic surplus line insurer shall be considered a nonadmitted
8 insurer, as the term is defined in the Act, with respect to
9 risks insured in this State.

10 (Source: P.A. 90-794, eff. 8-14-98.)

11 Section 97. Severability. The provisions of this Act are
12 severable under Section 1.31 of the Statute on Statutes.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.