

2015 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2187

2015 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

SB 2187
1/19/2015
Job Number 22092

- Subcommittee
 Conference Committee

Committee Clerk Signature

Eva Libelt

Explanation or reason for introduction of bill/resolution:

Relating to surplus lines insurance filings

Minutes:

Attachments

Chairman Klein: Called the hearing to order.

Rebecca Ternes, Deputy Insurance Commissioner North Dakota Insurance Department: Written Testimony Attached (1). (:49-4:53)

Senator Murphy: Asked if the producer in this case was the client.

Rebecca Ternes: No, producers are selling an insurance product, coverage to a client or a customer.

Chairman Klein: Producer is a nice name for an agent?

Rebecca Ternes: Yes.

Senator Murphy: It was the agent but not the company paying the tax?

Rebecca Ternes: Yes, we use agent and producer synonymously. She continues going over her written testimony (5:47-7:30).

Chairman Klein: Asked if we had a lot of producer's in-state or do a lot of these folks that represent these companies live out-of-state and we get the revenue?

Rebecca Ternes: The way we tax surplus lines is anyone who sells in the state has to file these reports, whether they reside in the state or out of the state. The majority do live out of state. Where the actual coverage is determines the tax issue.

Senator Sinner: Asked how much the annual premium that is paid and how much the tax is.

Rebecca Ternes: She didn't know how much the premium was but the tax rate for in-state is 1.75%, which is the same for all other lines except life insurance. The tax rate for out-of-state is according to what that home state is.

Senator Sinner: Why do we tax stuff placed out-of-state?

Rebecca Ternes: It is a federal law. The NRRRA, Non-admitted Reinsurance and Reform Act, law that was passed several years ago is what we try to implement.

Senator Burckhard: What is the tax revenue used for?

Rebecca Ternes: It goes directly to the general fund.

John H. Meetz, State Relations Manager for the National association of Professional Surplus Lines Offices, Ltd.: Written Testimony Attached (2). (14:00-15:52)

Chairman Klein: The tax rate isn't an issue; you are looking at uniformity and changing the verbiage a bit. Is this a uniform thing across the country?

John H. Meetz: North Dakota has one of the lower rates in the nation. We have not made it a legislative priority to go around trying to lower rates. The bigger priority is trying to find ways to create regulatory uniformity and that reduces the burden on both the regulator and brokers.

Senator Burckhard: Asked what a surplus line is?

John H. Meetz: Said he would back up and answer some previous questions. Home state refers to the state where the transaction is insuring the risk. (17:16-19:10)

Senator Sinner: We are talking about why North Dakota taxes insurance that is placed in others states; it is because it originated in North Dakota by a producer in North Dakota and the majority of the risk was in North Dakota?

John H. Meetz: Not necessarily a majority. The plurality would have been placed in North Dakota. There are other thresholds. (19:30-19:50)

Senator Sinner: What is the difference between a majority and a plurality?

John H. Meetz: He gave an example; 10 million of your insurer policy is in Minnesota, 10 million is in South Dakota and 12 million in North Dakota, that wouldn't be the majority but it would be the plurality. (19:35-21:10)

Chairman Klein: Said a lot of this discussion will center on the other bill. We are just talking here about the date and the change in the language.

Patrick J. Ward, Attorney for Property Causality Insurance Association of America: In support of this bill.

Chairman Klein: Asked for any support or opposition. He closed the hearing.

Senator Miller moved a do pass.

Senator Sinner seconded the motion.

Roll Call Vote: Yes-7 No-0 Absent-0

Senator Miller will carry the bill.

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2187**

Senate Industry, Business and Labor Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Senator Miller Seconded By Senator Sinner

Senators	Yes	No	Senators	Yes	No
Chairman Klein	x		Senator Murphy	x	
Vice Chairman Campbell	x		Senator Sinner	x	
Senator Burckhard	x				
Senator Miller	x				
Senator Poolman	x				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Miller

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2187: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2187 was placed on the Eleventh order on the calendar.

2015 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2187

2015 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Peace Garden Room, State Capitol

SB 2187
3/16/2015
24841

- Subcommittee
 Conference Committee

Ellen Litang

Explanation or reason for introduction of bill/resolution:

Surplus lines insurance filings provide a penalty, effective date and declare an emergency.

Minutes:

Attachments 1, 2

Chairman Keiser: Opens the hearing SB 2187.

Rebecca Ternes~Deputy Insurance Commissioner-North Dakota Insurance Department: (Attachment 1).

5:15

Chairman Keiser: What is the difference between the resident and a non-resident on surplus lines?

Ternes: A non-resident would not reside in the state. We have 45 insurers that do reside in North Dakota.

(Attachment 2): Written testimony from John Meetz~State Relations Manager from Kansas City, MO, who was unable to attend.

Chairman Keiser: Anyone else here to testify in support of SB 2187, opposition, neutral? Closes the hearing on SB 2187, what are the wishes of the committee?

Vice Chairman Sukut: Moves a Do Pass.

Representative Hanson: Seconded.

Roll call was taken on SB 2187, for a Do Pass with 13 yes, 0 no, 2 absent and Representative Lefor will carry the bill.

Date: Mar 16, 2015

Roll Call Vote: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2187

House Industry, Business & Labor Committee

Subcommittee Conference Committee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations

Other Actions: Reconsider _____

Motion Made By Rep Sukut Seconded By Rep Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	X		Representative Lefor	X	
Vice Chairman Sukut	X		Representative Louser	X	
Representative Beadle	X		Representative Ruby	X	
Representative Becker	X		Representative Amerman	X	
Representative Devlin	X		Representative Boschee	X	
Representative Frantsvog	Ab		Representative Hanson	X	
Representative Kasper	X		Representative M Nelson	X	
Representative Laning	Ab				

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Lefor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2187: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING).
SB 2187 was placed on the Fourteenth order on the calendar.

2015 TESTIMONY

SB 2187

SENATE BILL NO. 2187

Presented by: Rebecca Ternes
Deputy Insurance Commissioner
North Dakota Insurance Department

Before: Senate Industry, Business and Labor Committee
Senator Jerry Klein, Chairman

Date: January 19, 2015

TESTIMONY

Good morning, Chairman Klein and committee members. My name is Rebecca Ternes and I am the Deputy Commissioner at the North Dakota Insurance Department. I appear before you in support of Senate Bill No. 2187.

The bill before you changes the filing deadlines for surplus lines producers and it clarifies the existing penalty for not filing by the deadline. The language also clarifies the names of the forms and reports that are required in the surplus lines market.

Surplus lines insurance is considered non-admitted insurance. Admitted insurance companies such as State Farm, Nodak Mutual, and American Family, are subject to licensing and taxation; to filing requirements for policies, forms and rates; to financial reporting and oversight; and they have the protection of the North Dakota Guaranty Funds in the event of failure.

There also exists the non-admitted, or surplus lines market, in which companies like Lloyds of London and Lexington transact business. All states acknowledge and permit the operation of a surplus lines market for the sole purpose of providing an insurance outlet for unusual, unique or hazardous risks that the admitted companies will not insure. Non-admitted companies are not subject to the same level of regulatory oversight and protections, for instance, there are no policy, form, or rate filing requirements and policyholders do not have Guaranty Fund protection. In the case of

non-admitted insurance, insurance producers (agents) must remit the premium tax. This bill is directed solely at the non-admitted market.

In fiscal year 2014, the Department collected \$1,768,083.28 in surplus lines premium tax. That is a 90 percent increase from fiscal year 2010. The growth is likely due to the oil industry coverage. We currently have 1,156 licensed non-resident surplus lines producers and 45 residents for a total of 1,201. In 2010, we had 1,228.

Currently the admitted companies have an annual filing deadline by which they have to submit their annual statements and final premium tax payment for the year before. It is March 1.

Surplus lines producers currently must file their annual tax statement by April 1 and pay their premium taxes by May 1. Sections 1 and 2 of this bill change the deadlines for both of these actions to March 1, just like admitted companies. We hope by making the two different dates coincide, it will be less confusing for the producers and provide efficiency in our Department.

The Department is also currently developing an online placement and tax tracking program so surplus lines producers can more easily and without paper, track and report their insurance placements and taxes due.

The language in Section 2 already included a \$25 per day penalty for not filing documents on time. The added language clarifies that the penalty applies to all of the documents and reports that need to be filed within 60 days and that the Commissioner may waive any or all of the penalty should he feel the reason for the delay is excusable.

The Insurance Department worked closely with the surplus lines agent community to ensure their concerns related to the names of the reports, the ability for the waiver of the penalty and the time when the 60 days begins were addressed.

I would be happy to answer any questions and would ask for your support for Senate Bill No. 2187. Thank you.



National Association of Professional Surplus Lines Offices, Ltd.

4131 N. Mulberry Dr., Ste. 200
Kansas City, MO 64116
816.741.3910
F 816.741.5409

January 19, 2015

The Honorable Senator Jerry Klein
House Committee on Industry, Business and Labor
600 East Boulevard
Bismarck, ND 58505-0360

**Re: Testimony on SB 2187 – Surplus Lines Premium Tax Simplification
SUPPORT**

Chairman Klein and Members of the Senate Industry, Business and Labor Committee:

On behalf of the National Association of Professional Surplus Lines Offices (NAPSLO)¹ we thank the North Dakota Insurance Department for introducing SB 2187 and Chairman Klein and the IB&L committee for hearing this bill.

NAPSLO strongly supports uniformity in tax payment and filing dates. NAPSLO members spend significant resources to comply with varying state requirements for tax payments and filings. Increased cost of compliance adds additional costs to policyholders under their policies. We have reviewed payment and filing dates across the country and March 1 is one of the most common dates so we strongly support a move to a March 1 date for these requirements. This further simplifies the regulatory process for our members and provides clarity, uniformity and a significant reduction in regulatory burden. Therefore, we strongly support this revision and thank the Department of Insurance for their work to bring this legislation before you.

We would once again like to thank Chairman Klein for his leadership on efforts toward national uniformity related to surplus lines regulation and taxation. We would also like to thank him and the entire Senate Committee on Industry, Business and Labor for the opportunity to submit testimony on SB 2187 and we would urge your support for this bill.

Sincerely,

Keri A. Kish
Director of Government Relations

John H. Meetz
State Relations Manager

¹ NAPSLO is the national professional trade association representing the surplus lines industry and the wholesale insurance distribution system. NAPSLO's membership consists of approximately 400 brokerage member firms, 100 company member firms and 200 associate member firms, all of whom operate over 1,500 offices representing approximately 15,000 to 20,000 individual brokers, insurance company professionals, underwriters and other insurance professionals in the 50 states and the District of Columbia. NAPSLO is unique in that both surplus lines brokers and surplus lines companies are full members of the association; thus NAPSLO represents and speaks for the surplus lines wholesale marketplace.

SENATE BILL NO. 2187

Presented by: Rebecca Ternes
Deputy Insurance Commissioner
North Dakota Insurance Department

Before: House Industry, Business and Labor Committee
Representative George Keiser, Chairman

Date: March 16, 2015

TESTIMONY

Good morning, Chairman Keiser and committee members. My name is Rebecca Ternes and I am the Deputy Commissioner at the North Dakota Insurance Department. I appear before you in support of Senate Bill No. 2187.

The bill before you changes the filing deadlines for surplus lines producers and it clarifies the existing penalty for not filing by the deadline. The language also clarifies the names of the forms and reports that are required in the surplus lines market.

Surplus lines insurance is considered non-admitted insurance. Admitted insurance companies such as State Farm, Nodak Mutual, and American Family, are subject to licensing and taxation; to filing requirements for policies, forms and rates; to financial reporting and oversight; and they have the protection of the North Dakota Guaranty Funds in the event of failure.

There also exists the non-admitted, or surplus lines market, in which companies like Lloyds of London and Lexington transact business. All states acknowledge and permit the operation of a surplus lines market for the sole purpose of providing an insurance outlet for unusual, unique or hazardous risks that the admitted companies will not insure. Non-admitted companies are not subject to the same level of regulatory oversight and protections, for instance, there are no policy, form, or rate filing requirements and policyholders do not have Guaranty Fund protection. In the case of

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The Insurance Department worked closely with the surplus lines agent community to ensure their concerns related to the names of the reports, the ability for the waiver of the penalty and the time when the 60 days begins were addressed.

I would be happy to answer any questions and would ask for your support for Senate Bill No. 2187. Thank you.



National Association of Professional Surplus Lines Offices, Ltd.

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SB 2187
Mar 16, 2015

March 2, 2015

The Honorable Representative George Keiser
House Committee on Industry, Business and Labor
600 East Boulevard
Bismarck, ND 58505-0360

Re: **Testimony on SB 2187 – Surplus Lines Tax Filing SUPPORT**

Chairman Keiser and Members of the House Industry, Business and Labor Committee:

On behalf of the National Association of Professional Surplus Lines Offices (NAPSLO)¹ we thank the North Dakota Insurance Department for introducing SB 2187 and Chairman Keiser and the IB&L committee for hearing this bill.

NAPSLO strongly supports uniformity in tax payment and filing dates. NAPSLO members spend significant resources to comply with varying state requirements for tax payments and filings. Increased cost of compliance adds additional costs to policyholders under their policies. We have reviewed payment and filing dates across the country and March 1 is one of the most common dates so we strongly support a move to a March 1 date for these requirements. This further simplifies the tax filing process for our members and provides clarity, uniformity and a significant reduction in regulatory burden. Therefore, we strongly support this revision and thank the Department of Insurance for their work to bring this legislation before you.

We would once again like to thank Chairman Keiser for his leadership on efforts toward national uniformity related to surplus lines regulation and taxation. We would also like to thank him and the entire House Committee on Industry, Business and Labor for the opportunity to submit testimony on SB 2187 and we would urge your support for this bill.

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