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# OHIO LEGISLATIVE SERVICE COMMISSION

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H.B. 792  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Reps. J. Thomas and D. Thomas

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### SUMMARY

- Amends the due diligence requirements for insurance agents seeking to place risks with surplus lines insurers.
- Requires the Superintendent of Insurance to create an export list for the purpose of identifying those risks that are commonly placed with surplus insurers and exempting them from due diligence requirements imposed on surplus lines insurance.

### DETAILED ANALYSIS

#### Overview

The bill amends the law related to surplus lines insurance and insurers. Surplus lines insurers are those insurers who are not licensed to operate in Ohio, but who are given authority to cover risks in Ohio in certain circumstances. Because these insurers are not licensed to operate in this state, they are not required to comply with requirements imposed on insurers that are required to be licensed, such as standardized policy requirements, capital/risk ratios, and paying into their respective guaranty fund. This allows surplus lines insurers to cover risks that other insurers cannot or will not insure because they are too risky, unique, or specialized.

#### Due diligence

Current law, changed in part by the bill, requires insurance agents, prior to attempting to place a risk with a surplus lines insurer, to attempt to place the risk with an admitted insurer that the insurance agent represents. Under current law, insurance agents are required to try to place the risk with at least five admitted insurers that the agent represents. This is referred to as “due diligence.” An agent is presumed to have completed the agent’s due diligence requirement if the agent has received a declination from each contacted admitted insurer. If an admitted insurer fails to reply within ten days of being contacted, the insurer is presumed to have declined to cover the risk.

The bill modifies this requirement, specifying that, instead of contacting at least five admitted insurers, an agent must “thoroughly examine if coverage can be placed” with the admitted insurers the agent represents that customarily write the kind of insurance required by the person seeking insurance.<sup>1</sup>

## Export list

The bill provides for an “export list” for surplus lines insurance products. Under the bill, an export list consists of coverages and classes for which no general market exists with an admitted insurer. The list represents standard risks (1) that are regularly placed with surplus lines insurers and (2) that the bill permits insurance agents to place with a surplus lines insurer without complying with the due diligence requirements. The bill requires the Ohio Superintendent of Insurance (ODI) to create and maintain this insurance export list. The Superintendent must review the list on a periodic basis, determined by the Superintendent and may, at the Superintendent’s sole discretion, revise the list as needed.<sup>2</sup>

The Superintendent must consider all of the following when creating and revising the export list:

- Current marketplace conditions;
- Information from admitted and surplus lines insurers operating in Ohio;
- Information from other sources, including insurance producers and consumers;
- Any other information deemed relevant by the Superintendent.<sup>3</sup>

Any person may request, in writing, that the Superintendent add or remove coverage or a class of insurance from the export list. Any person making such a request is required to provide evidence of the market conditions that support the request. The Superintendent, at the Superintendent’s sole discretion, may include such coverage or class of insurance on the export list. The bill specifies that the Superintendent, ODI, and any employee or agent of ODI, bears no liability with regard to actions authorized by the bill in relation to the export list.<sup>4</sup>

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## HISTORY

Action	Date
Introduced	03-25-26

ANHB0792IN-136/sb

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<sup>1</sup> R.C. 3905.33(B).

<sup>2</sup> R.C. 3905.333(A), (B), and (E).

<sup>3</sup> R.C. 3905.333(C).

<sup>4</sup> R.C. 3905.333(D) and (F).