

As Introduced

136th General Assembly

Regular Session

2025-2026

H. B. No. 792

Representatives Thomas, J., Thomas, D.

To amend section 3905.33 and to enact section 1
3905.333 of the Revised Code regarding surplus 2
lines insurers. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 3905.33 be amended and section 4
3905.333 of the Revised Code be enacted to read as follows: 5

Sec. 3905.33. (A) No person licensed under section 3905.30 6
of the Revised Code shall solicit, procure an application for, 7
bind, issue, renew, or deliver a policy with any insurer that is 8
not eligible to write insurance on an unauthorized basis in this 9
state. 10

Pursuant to the "Nonadmitted and Reinsurance Reform Act of 11
2010," 15 U.S.C. 8201 et seq., 124 Stat. 1589, or any successor 12
or replacement law, where this state is the home state of the 13
insured, an insurer shall be considered eligible to write 14
insurance on an unauthorized basis in this state if any of the 15
following are true: 16

(1) The insurer meets the requirements and criteria in 17
sections 5A(2) and 5C(2) (a) of the nonadmitted insurance model 18
act adopted by the national association of insurance 19
commissioners, or alternative nationwide uniform eligibility 20

requirements adopted by this state through participation in a 21
compact or other nationwide system pursuant to 15 U.S.C. 8201 et 22
seq., 124 Stat. 1589. 23

(2) For unauthorized insurance placed with, or procured 24
from an unauthorized insurer domiciled outside the United 25
States, the insurer is listed on the quarterly listing of alien 26
insurers maintained by the international insurers department of 27
the national association of insurance commissioners. 28

(3) The insurer has been designated as a domestic surplus 29
lines insurer pursuant to section 3905.332 of the Revised Code. 30

(B) (1) ~~No~~ Except as provided in section 3905.333 of the 31
Revised Code, no surplus lines broker shall solicit, procure, 32
place, or renew any insurance with an unauthorized insurer 33
unless an agent or the surplus lines broker has complied with 34
the due diligence requirements of this section and is unable to 35
procure the requested insurance from an authorized insurer. 36

Due diligence requires an agent to ~~contact at least five~~ 37
~~of~~ thoroughly examine if coverage can be placed with the 38
authorized insurers the agent represents, ~~or as many insurers as~~ 39
~~the agent represents,~~ that customarily write the kind of 40
insurance required by the insured. Due diligence is presumed if 41
~~declinations are~~ a declination is received from each an 42
authorized insurer contacted. If any authorized insurer fails to 43
respond within ten days after the initial contact, the agent may 44
assume the insurer has declined to accept the risk. 45

(2) Due diligence shall only be performed by an agent 46
licensed in this state that holds an active property and 47
casualty insurance agent license. 48

(3) An insurance agent or surplus lines broker is exempt 49

from the due diligence requirements of this section if the agent 50
or surplus lines broker is procuring insurance from a risk 51
purchasing group or risk retention group as provided in Chapter 52
3960. of the Revised Code. 53

(4) An insurance agent or surplus lines broker is exempt 54
from the due diligence requirements of this section if the agent 55
or surplus lines broker is seeking to procure or place 56
unauthorized insurance for a person that qualifies as an exempt 57
commercial purchaser under section 3905.331 of the Revised Code 58
and both of the following are true: 59

(a) The surplus lines broker procuring or placing the 60
surplus lines insurance has disclosed to the exempt commercial 61
purchaser that the insurance may or may not be available from 62
the authorized market that may provide greater protection with 63
more regulatory oversight. 64

(b) After receipt of the disclosure required under 65
division (B)(4)(a) of this section, the exempt commercial 66
purchaser has requested in writing that the insurance agent or 67
broker procure or place the insurance from an unauthorized 68
insurer. 69

(C) Except when exempt from due diligence requirements 70
under division (B) of this section, an insurance agent who 71
procures or places insurance through a surplus lines broker 72
shall obtain a signed statement from the insured acknowledging 73
that the insurance policy is to be placed with a company or 74
insurer not authorized to do business in this state and 75
acknowledging that, in the event of the insolvency of the 76
insurer, the insured is not entitled to any benefits or proceeds 77
from the Ohio insurance guaranty association. The statement must 78
be on a form prescribed by the superintendent and need not be 79

notarized. The agent shall submit the original signed statement 80
to the surplus lines broker within thirty days after the 81
effective date of the policy. If no other agent is involved, the 82
surplus lines broker shall obtain the statement from the 83
insured. 84

The surplus lines broker shall maintain the original 85
signed statement or a copy of the statement, and the originating 86
agent shall keep a copy of the statement, for at least five 87
years after the effective date of the policy to which the 88
statement pertains. A copy of the signed statement shall be 89
given to the insured at the time the insurance is bound or a 90
policy is delivered. 91

(D) For the purpose of carrying out the "Nonadmitted and 92
Reinsurance Reform Act of 2010," 124 Stat. 1589, 15 U.S.C. 8201 93
et seq., or any successor or replacement law, the superintendent 94
shall conduct a fiscal analysis of the impact of entering into a 95
multistate agreement or compact for determining eligibility for 96
placement of unauthorized insurance and for payment, reporting, 97
collection, and allocation of the tax on unauthorized insurance. 98
If the fiscal analysis indicates that entering into a multistate 99
agreement or compact is advantageous to this state, the 100
superintendent may enter into the surplus lines insurance 101
multistate compliance compact adopted by the national conference 102
of insurance legislators and known as "SLIMPACT," as amended on 103
December 21, 2010, and including any subsequent amendment; or, 104
if it is in this state's financial best interest, the 105
superintendent shall request that the general assembly authorize 106
the superintendent to enter into a different multistate 107
agreement or compact. 108

(E) The superintendent may adopt rules in accordance with 109

Chapter 119. of the Revised Code to carry out the purposes of 110
sections 3905.30 to 3905.38 of the Revised Code. 111

Sec. 3905.333. (A) As used in this section, "export list" 112
means a list determined and published by the superintendent of 113
insurance of coverages and classes for which no general market 114
exists with an admitted insurer. 115

(B) (1) The superintendent of insurance shall create and 116
maintain an insurance export list. 117

(2) The superintendent shall review the list on a periodic 118
basis, determined by the superintendent, and may, at the 119
superintendent's sole discretion, revise the list as needed. 120

(C) The superintendent shall consider all of the following 121
when creating and revising the export list: 122

(1) Current marketplace conditions; 123

(2) Information from admitted and surplus lines insurers 124
operating in this state; 125

(3) Information from other sources, including insurance 126
producers and consumers; 127

(4) Any other information deemed relevant by the 128
superintendent. 129

(D) (1) Any person may request, in writing, that the 130
superintendent add or remove coverage or a class of insurance 131
from the export list. 132

(2) Any person making such a request shall provide 133
evidence of the market conditions that support the request. 134

(3) The superintendent, at the superintendent's sole 135
discretion, may include such coverage or class of insurance on 136

<u>the export list.</u>	137
<u>(E) Notwithstanding division (B) of section 3905.33 of the</u>	138
<u>Revised Code, a surplus lines broker may solicit, procure,</u>	139
<u>place, or renew any insurance with an unauthorized insurer</u>	140
<u>without completing due diligence for any insurance coverage or</u>	141
<u>class included on the export list.</u>	142
<u>(F) The superintendent and the department of insurance,</u>	143
<u>including any employee or agent of the department, bears no</u>	144
<u>liability with regard to actions authorized under this section.</u>	145
Section 2. That existing section 3905.33 of the Revised	146
Code is hereby repealed.	147