Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015

SENATE BILL NO. 2187
(Senator Klein)
(Representative Keiser)

AN ACT to amend and reenact sections 26.1-44-06.1 and 26.1-44-08 of the North Dakota Century Code, relating to surplus lines insurance filings; to provide a penalty; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 26.1-44-06.1 of the North Dakota Century Code is amended and reenacted as follows:

26.1-44-06.1. Reports ~~- Summary of exported business~~.

1. If the insured's home state is this state, ~~on or~~ before ~~April first~~March second of each year, each surplus lines producer shall file with the commissioner on forms prescribed by the commissioner ~~a verified report~~an annual tax statement of all surplus lines insurance transacted during the preceding calendar year, including:

   ~~1.~~a. Aggregate gross premiums written;

   ~~2.~~b. Aggregate return premiums;

   ~~3.~~c. Amount of aggregate tax remitted to this state; and

   ~~4.~~d. Amount of aggregate tax due or remitted to each other state for which an allocation is made pursuant to section 26.1-44-03.1.

2. ~~A verified report~~An annual tax statement is not required to be filed when a surplus lines producer has transacted no surplus lines insurance during the preceding calendar year.

SECTION 2. AMENDMENT. Section 26.1-44-08 of the North Dakota Century Code is amended and reenacted as follows:

26.1-44-08. Civil penalty for failure to file ~~statement~~report of placement and affidavit, file annual tax statement, and pay tax - Action for recovery - Revocation of license - Conditions prerequisite to reissuance - Hearing procedure and judicial review.

1. ~~Every~~A surplus lines producer ~~who fails~~is liable for a fine of twenty-five dollars for each day of delinquency if the producer:

   a. Fails or refuses to file the report of placement or affidavit within sixty days as required under section 26.1-44-02;

   b. Fails or refuses to file the endorsement, audit, or cancellation within sixty days after any change to the initial placement which changes the insurance premium amount, except a surplus lines producer that is able to provide written proof of the date the producer obtained knowledge of the change to the initial placement which changes the insurance premium amount has sixty days from the date the producer obtained knowledge of this change;

   c. Fails or refuses to make and file the ~~verified report~~annual tax statement required ~~by~~under section 26.1-44-06.1~~, and~~; or

d. Fails or refuses to pay the taxes required to be paid ~~prior to~~before the ~~first~~second day of ~~May~~March after such tax is due~~, is liable for a fine of twenty-five dollars for each day of delinquency~~.

2. The tax and fine may be recovered in an action to be instituted by the commissioner in the name of the state, the attorney general representing the commissioner, in any court of competent jurisdiction, and the fine, when so collected, must be paid to the state treasurer and placed to the credit of the general fund. The commissioner, if satisfied that the delay in filing the ~~verified report~~annual tax statement, report of placement, endorsement, audit cancellation, or affidavit and the payment of the tax was excusable, may waive all or any part of the fine. The commissioner may revoke or suspend the surplus lines producer's license if any surplus lines producer fails to make and file the ~~verified report~~annual tax statement and pay the taxes, or refuses to allow the commissioner to inspect and examine the producer's records of the business transacted by the producer pursuant to this chapter, or fails to keep the records in the manner required by the commissioner, or falsifies the affidavit referred to in section 26.1-44-02.

3. If the license of a surplus lines producer is revoked, whether by the action of the commissioner or by judicial proceedings, another license may not be issued to that surplus lines producer until two years have elapsed from the effective date of the revocation, nor until all taxes and fines are paid, nor until the commissioner is satisfied that full compliance with this chapter will be had.

SECTION 3. EFFECTIVE DATE. This Act becomes effective June 1, 2015.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2187 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 46 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 88 Nays 0 Absent 6

Speaker of the House

Chief Clerk of the House

Received by the Governor at 2:44 P.M. on March 24, 2015.

Approved at 1:35 P.M. on March 26, 2015.

Governor

Filed in this office this 26th day of March, 2015,

at 3:04 o'clock P M.

Secretary of State