

HOUSE BILL NO. 631

INTRODUCED BY STAHL, TROPILA

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CONDITIONS PRECEDENT TO THE SALE OF
5 SURPLUS LINES INSURANCE TO PROVIDE THAT A POLICY MAY NOT BE PLACED WITH AN
6 UNAUTHORIZED INSURER UNLESS THE PREMIUM RATE QUOTED BY THE AUTHORIZED INSURER IS
7 AT LEAST 10 PERCENT HIGHER AND AT LEAST \$1,500 GREATER THAN THE PREMIUM RATE QUOTED
8 BY THE UNAUTHORIZED INSURER; REQUIRING THE UNAUTHORIZED INSURER TO BE A-RATED OR
9 BETTER; REQUIRING INFORMATION DISCLOSURE; AMENDING SECTIONS 2-9-211 AND 33-2-302, MCA;
10 AND PROVIDING AN EFFECTIVE DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 **Section 1.** Section 2-9-211, MCA, is amended to read:
15 **"2-9-211. Political subdivision insurance.** (1) All political subdivisions of the state may procure
16 insurance separately or jointly with other subdivisions and may elect to use a deductible or self-insurance plan,
17 wholly or in part. Political subdivisions that elect to procure insurance jointly (pooled fund) under this section may
18 obtain excess coverage from a surplus lines insurer without proceeding under the provisions of 33-2-302~~(2)~~(1)(b)
19 through ~~(4)~~ (1)(d). Political subdivisions that are not in a pooled fund may obtain excess coverage from a surplus
20 lines insurer without proceeding under the provisions of 33-2-302~~(2)~~(1)(b) through ~~(4)~~ (1)(d) only if the insurer
21 carries an A rating or better by a nationally recognized rating company or is a Lloyds of London underwriter.

22 (2) A political subdivision that elects to establish a deductible plan may establish a deductible reserve
23 separately or jointly with other subdivisions.

24 (3) A political subdivision that elects to establish a self-insurance plan may accumulate a self-insurance
25 reserve fund, separately or jointly with other subdivisions, sufficient to provide self-insurance for all liability
26 coverages that, in its discretion, the political subdivision considers should be self-insured. Payments into the
27 reserve fund must be made from local legislative appropriations for that purpose or from the proceeds of bonds
28 or notes authorized by subsection (5). Proceeds of the fund may be used only to pay claims under parts 1
29 through 3 of this chapter and for actual and necessary expenses required for the efficient administration of the
30 fund.

1 (4) Money in reserve funds established under this section not needed to meet expected expenditures
2 must be invested, and all proceeds of the investment must be credited to the fund.

3 (5) A political subdivision may issue and sell its bonds or notes for purposes of funding a self-insurance
4 or deductible reserve fund and costs incident to the reserve fund in an amount not exceeding 0.18% of the total
5 assessed value of taxable property, determined as provided in 15-8-111, within the political subdivision as of
6 the date of issuance. The bonds or notes must be authorized by resolution of the governing body, are payable
7 from the taxes authorized by 2-9-212, may be sold at public or private sale, do not constitute debt within the
8 meaning of any statutory debt limitation, and may contain other terms and provisions as the governing body
9 determines. Two or more political subdivisions may agree pursuant to an interlocal agreement to exercise their
10 respective borrowing powers under this section jointly and may authorize a joint board created pursuant to the
11 agreement to exercise powers on their behalf."
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13 **Section 2.** Section 33-2-302, MCA, is amended to read:

14 **"33-2-302. Conditions precedent to sale of surplus lines insurance.** (1) A producing insurance
15 producer may request a surplus lines insurance producer to place or a surplus lines insurance producer may
16 place a contract of insurance with an unauthorized insurer if:

17 ~~(1)~~(a) the insurer is an eligible surplus lines insurer;

18 ~~(2)~~(b) the line of insurance or the full amount of the line of insurance cannot be obtained from authorized
19 insurers or, in the case of a renewal, the line of insurance has not become available from an authorized insurer;

20 ~~(3)~~(c) the producing insurance producer makes a diligent effort to place the business with a minimum
21 of three insurers authorized and actually transacting that line of business in this state. If fewer than three insurers
22 are authorized and actually transacting the line of business in this state, diligent effort must be met by searching
23 this lesser market.

24 ~~(4)~~(d) the insurance is not procured for the purpose of securing:

25 ~~(a)~~(i) a lower premium rate than would be accepted by an authorized insurer unless the premium rate
26 quoted by the authorized insurer is at least 10% higher and at least \$1,500 greater than the premium rate quoted
27 by the unauthorized insurer; or

28 ~~(b)~~(ii) an advantage in terms of the insurance contract; and

29 ~~(5)~~(e) all other requirements of this part are met.

30 (2) A contract of insurance may not be placed with an unauthorized insurer under subsection (1)(d)(i)

1 unless the unauthorized insurer is the equivalent of A-rated or better and the unauthorized insurer or the surplus
2 lines insurance producer that placed the contract of insurance with the unauthorized insurer has provided the
3 insured with disclosure information in a form and content approved by the commissioner."

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5 NEW SECTION. **Section 3. Effective date.** [This act] is effective July 1, 2005.

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