



HOUSE BILL 563

Insurance – Surplus Lines Brokers – Policy Fees

Position: Favorable

Dear Chairman Wilson and Members of the House Economic Matters Committee,

Thank you for the opportunity to provide testimony in support of HB563. My name is John Meetz and I am the Senior State Relations Manager for the Wholesale & Specialty Insurance Association (“WSIA”). WSIA is the trade association for the surplus lines industry.

Often called the “safety valve” of the insurance industry, surplus lines insurers fill the need for coverage in the marketplace by insuring those risks that are declined by the standard underwriting and pricing processes of admitted insurance carriers. With the ability to accommodate a wide variety of risks, the wholesale, specialty and surplus lines market acts as an effective supplement to the admitted market. The surplus lines market plays an important role in providing insurance for hard-to-place, unique or high capacity (i.e., high limit) risks. Surplus lines insurers are able to cover unique and hard-to-place risks because, as non-admitted insurers, they are exempt from rate and form which allows them to react to market changes and accommodate the unique needs of insureds who are unable to obtain coverage from admitted carriers. This results in cost-effective solutions for consumers that are not “one size fits all,” but are skillfully tailored to meet specific needs for non-standard risks.

HB 563, with the sponsors amendments, would allow a surplus lines brokers to either charge a commercial insured a flat of up to \$250 fee or 10% of the surplus lines premium, whichever is greater. It has been over 20 years since the maximum fees charged were changed in Maryland. To give further context, 45 states have no monetary restrictions on fees that may be charged by surplus lines brokers. Please see the attached document providing more detail.

This legislation would allow surplus lines brokers to charge a fee that is proportionate to the work required when binding these hard-to-place risks, but still be reasonably related to the cost of underwriting, issuing, processing and servicing the policy. Additionally, HB 563 would codify the current understanding that for commercial exempt policies, a surplus lines broker may charge a reasonable policy fee.

We respectfully urge a favorable report on HB 563 with the sponsors amendments.

Sincerely,

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MARYLAND POLICY FEES

What is a Policy Fee?

- The policy fee is designed to cover services performed as part of securing a surplus lines policy from a nonadmitted carrier that are unique to the surplus lines transaction.
- Maryland Insurance Code § 27-216-(d) prohibits surplus lines policy fees in excess of \$100 for personal lines and in excess of \$250 for commercial lines.

Why is a Policy Fee Charged?

In situations involving complex risk, a wholesale or surplus lines broker is often engaged to seek out and craft effective insurance solutions in the nonadmitted market. The surplus lines broker performs traditional agent duties and manages additional tasks that are unique to surplus lines transactions, including but not limited to:

- Property inspections
- Risk selection analyses
- Capturing and modeling additional catastrophe data
- Premium tax reporting and filing
- Quarterly affidavits that include diligent effort reporting requirements
- Regular required audits (compliance, reconciliation, etc.)

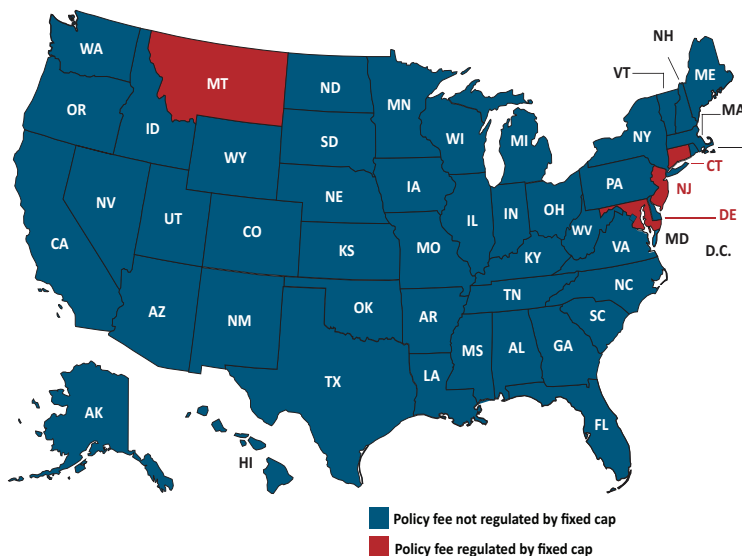
Maryland Policy Fee History

1997 - Maryland authorizes policy fee up to \$75 to compensate brokers for their additional work involved in placing a surplus lines insurance

2001 - Fee cap increased to \$100 for personal lines policies and \$250 for commercial lines policies

How Maryland Policy Fees Compare

Maryland is one of only four states that caps surplus lines policy fees.



WHAT IS SURPLUS LINES INSURANCE?

Often called the “safety valve” of the insurance industry, surplus lines - or nonadmitted insurance - fills the need for coverage in the marketplace by insuring those risks that the standard - or admitted - market cannot or will not accept.

Surplus lines brokers can provide hard-to-place risks because they have freedom from rate and form filing, unlike the admitted market.

HOW DOES MARYLAND COMPARE?

Since Michigan eliminated its commercial fee cap in 2020, Maryland has one of the most restrictive broker fee caps on commercial surplus lines policies in the nation. Florida also recently eliminated their \$35 cap on both personal and commercial lines policies.

In addition to Maryland, Connecticut, Montana and New Jersey also possess static fee caps and Michigan maintains a cap on personal lines policies of \$100 or 10%, whichever is greater. The other 45 states have no monetary restrictions on fees that may be charged by surplus lines brokers.

Important Takeaways

Maryland is one of only a few states that continues to set a cap on surplus lines policy fees. This is especially a problem for commercial lines policies where insureds are likely to be sophisticated customers fully capable of negotiating terms and price of their insurance contracts, including surplus lines policy fees. Our proposal will allow the free market to dictate the fee but still be reasonably related to the cost of underwriting, issuing, processing and servicing the policy as well as clearly disclosed to the potential policyholders.



HB0563/323921/1

AMENDMENTS
PREPARED
BY THE
DEPT. OF LEGISLATIVE
SERVICES

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BY: Delegate Carey
(To be offered in the Economic Matters Committee)

AMENDMENTS TO HOUSE BILL 563
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 3, strike “repealing” and substitute “authorizing a surplus lines broker that holds a certificate of qualification under certain provisions of law to charge a reasonable policy fee on a policy issued by a surplus lines insurer to an exempt commercial policy holder; altering”.

AMENDMENT NO. 2

On page 2, in line 1, after “(1)” insert “NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE MAY CHARGE A REASONABLE POLICY FEE ON A POLICY ISSUED BY A SURPLUS LINES INSURER TO AN EXEMPT COMMERCIAL POLICYHOLDER AS DEFINED IN § 11-206 OF THIS ARTICLE.”

(2)”;

in lines 3, 9, and 13, in each instance, strike the bracket; in lines 7 and 13, in each instance, after “\$250” insert “OR 10% OF THE POLICY PREMIUM, WHICHEVER IS GREATER,”; and in lines 10, 16, 19, and 27, strike “(2)”, “(3)”, “(4)”, and “(5)”, respectively, and substitute “(3)”, “(4)”, “(5)”, and “(6)”, respectively.

On page 3, in lines 1, 7, and 14, strike “(6)”, “(7)”, and “(8)”, respectively, and substitute “(7)”, “(8)”, and “(9)”, respectively.