

ASSEMBLY, No. 1266

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

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SYNOPSIS

Decreases the premium receipts tax for surplus lines insurance coverage.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the taxation of surplus lines of insurance and
2 amending P.L.1960, c.32.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 25 of P.L.1960, c.32 (C.17:22-6.59) is amended to
8 read as follows:

9 25. The premiums charged for surplus lines coverages are
10 subject to a premium receipts tax of **【5%】** 3% of all gross
11 premiums less any return premiums charged for such insurance.
12 The surplus lines agent shall collect from the insured, either directly
13 or through the originating broker, the amount of the tax, in addition
14 to the full amount of the gross premium charged by the insurer for
15 the insurance; provided, however, that the tax on any unearned
16 portion of the premium shall be returned to the policyholder by the
17 surplus lines agent. The surplus lines agent is prohibited from
18 absorbing such tax, or, as an inducement for insurance or for any
19 other reason, rebating all or any part of such tax or of his
20 commission.

21 The surplus lines agent shall forward to the commissioner
22 together with his quarterly report submitted pursuant to section 24
23 of P.L.1960, c.32 (C.17:22-6.58) a check in the amount of the
24 premium receipts tax due for that period made out to "the State of
25 New Jersey," except that where the policies cover fire insurance on
26 property in any municipality or portion of a township, or fire
27 district in this State, which now has or may hereafter have, a duly
28 incorporated firemen's relief association, **【3% of】** the premium
29 receipts tax covering such insurance shall be paid to the treasurer of
30 the New Jersey State Firemen's Association **【and the remaining 2%**
31 of the premium receipts tax shall be forwarded to the
32 commissioner**】**.

33 The tax imposed hereunder, if delinquent, shall be subject to the
34 provisions of R.S.54:49-3 and R.S.54:49-4.

35 The check covering taxes paid under the provisions of this act
36 shall be forwarded by the commissioner to the Director of the
37 Division of Taxation and that portion of the premiums representing
38 fire insurance shall be distributed by him in the amount now or
39 hereafter provided by law as to taxes collected by him from fire
40 insurance companies of other states and foreign countries. The
41 commissioner shall ascertain and report to the Director of the
42 Division of Taxation all facts necessary to enable the director to
43 ascertain, fix and collect the amount of the tax to be paid by each
44 licensee subject thereto under this act.

45 If a surplus lines policy covers risks or exposures in this State

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 and other states, where this State is the home state, as defined in
2 section 7 of P.L.1960, c.32 (C.17:22-6.41), the tax payable pursuant
3 to this section shall be based on the total United States premium for
4 the applicable policy.

5 This section does not apply as to insurance of or with respect to
6 insurance of risks of the State Government or its agencies, or of any
7 county or municipality or of any agency thereof.
8 (cf: P.L.2011, c.119, s.2.)
9

10 2. Section 30 of P.L.1960, c.32 (C.17:22-6.64) is amended to
11 read as follows:

12 30. Every insured who in this State procures or causes to be
13 procured or continues or renews insurance with an unauthorized
14 foreign or alien insurer, or any insured or self-insurer who procures
15 or continues excess loss, catastrophe or other insurance, upon a
16 subject of insurance resident, located or to be performed within this
17 State, other than insurance procured through a surplus lines agent
18 pursuant to the surplus lines law of this State or exempted from tax
19 under section 25 of P.L.1960, c.32 (C.17:22-6.59), shall within 30
20 days after the date such insurance was so procured, continued, or
21 renewed, file a report of the same with the commissioner in writing
22 and upon forms designated by the commissioner and furnished to
23 such an insured upon request. The report shall show the name and
24 address of the insured or insureds, name and address of the insurer,
25 the subject of the insurance, a general description of the coverage,
26 the amount of premium currently charged therefor, and such
27 additional pertinent information as is reasonably requested by the
28 commissioner.

29 Any insurance in an unauthorized insurer procured through
30 negotiations or an application, in whole or in part occurring or made
31 within or from within this State, or for which premiums in whole or
32 in part are remitted directly or indirectly from within this State,
33 shall be deemed to be insurance procured, or continued or renewed
34 in this State within the intent of this section.

35 There is hereby levied upon the obligation, chose in action, or
36 right represented by the premium charged for such insurance, a tax
37 at the rate of ~~5%~~ 3% of the gross amount of such premium less
38 any return premiums charged for such insurance. Within 30 days
39 after the insurance was so procured, continued or renewed, and
40 coincidentally with the filing with the commissioner of the report
41 provided for in this section, the insured shall pay the amount of the
42 tax to the commissioner, who, after reviewing the above report,
43 shall turn over the amount of the tax to the Director of the Division
44 of Taxation along with a summary of the facts necessary to enable
45 the director to ascertain and fix the proper amount of the tax, except
46 that where the policies cover fire insurance on property in any
47 municipality or portion of a township, or fire district in this State,
48 which now has or may hereafter have, a duly incorporated firemen's

1 relief association, **【3% of】** the premium receipts tax covering such
2 insurance shall be paid to the treasurer of the New Jersey State
3 Firemen's Association **【and the remaining 2% of the premium**
4 **receipts tax shall be forwarded to the commissioner】**.

5 If the insured fails to withhold from the premium the amount of
6 tax herein levied, the insured shall be liable for the amount thereof
7 and shall pay the same to the commissioner within the time
8 specified in this section.

9 If a surplus lines policy covers risks or exposures in this State
10 and other states, where this State is the home state, as defined in
11 section 7 of P.L.1960, c.32 (C.17:22-6.41), the tax payable pursuant
12 to this section shall be based on the total United States premium for
13 the applicable policy.

14 The tax imposed hereunder if delinquent shall be subject to the
15 provisions of R.S.54:49-3 and R.S.54:49-4.

16 The tax shall be collectible from the insured by civil action
17 brought by the commissioner.

18 The amount of taxes paid to the Director of the Division of
19 Taxation under the provisions of this section on premiums for fire
20 insurance shall be distributed by him in the manner now or hereafter
21 provided by law as to taxes collected by him from fire insurance
22 companies of other states and foreign countries.

23 This section does not abrogate or modify, and shall not be
24 construed or deemed to abrogate or modify, any provision of
25 section 3 of P.L.1960, c.32 (C.17:22-6.37), representing or aiding
26 unauthorized insurer prohibited; section 4 of P.L.1960, c.32
27 (C.17:22-6.38), penalty for representing unauthorized insurer; or
28 section 5 of P.L.1960, c.32 (C.17:22-6.39), suits by unauthorized
29 insurers prohibited; or any other provision of this Title.

30 This section does not apply as to life or disability insurances.
31 (cf: P.L.2011, c.119, s.3)

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33 3. This act shall take effect on January 1, 2013.

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STATEMENT

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38 This bill decreases the premium receipts tax for surplus lines
39 coverage, whether procured directly by the insured or through a
40 surplus lines agent, from 5% to 3%. This decrease represents a
41 reduction in this tax to the same level at which it existed prior to the
42 enactment of P.L.2009, c.75.

43 Additionally, in response to this decrease, the bill clarifies that of
44 the 3% premium receipts tax paid, all of it shall be paid to the
45 treasurer of the New Jersey State Firemen's Association in the case
46 of any surplus lines policies that cover fire insurance on property
47 located in a municipality or fire district with a duly incorporated
48 firemen's relief association. This is merely a continuation of the

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- 1 current law's deduction, and accounts for the bill's elimination of
- 2 the additional 2% tax on such policies, which under P.L.2009, c.75
- 3 was forwarded to the Commissioner of Banking and Insurance.