**South Carolina General Assembly**

120th Session, 2013-2014

**A66, R79, S460**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Hayes

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Introduced in the Senate on February 28, 2013

Introduced in the House on April 9, 2013

Last Amended on June 4, 2013

Passed by the General Assembly on June 6, 2013

Governor's Action: June 13, 2013, Signed

Summary: Insurance

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

2/28/2013 Senate Introduced and read first time ([Senate Journal‑page 5](file:///h:\SJ%20Archive\2013\02-28-13.docx))

2/28/2013 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 5](file:///h:\SJ%20Archive\2013\02-28-13.docx))

3/20/2013 Senate Committee report: Favorable **Banking and Insurance** ([Senate Journal‑page 14](file:///h:\SJ%20Archive\2013\03-20-13.docx))

3/21/2013 Senate Read second time ([Senate Journal‑page 31](file:///h:\SJ%20Archive\2013\03-21-13.docx))

3/21/2013 Senate Roll call Ayes‑39 Nays‑1 ([Senate Journal‑page 31](file:///h:\SJ%20Archive\2013\03-21-13.docx))

4/9/2013 Senate Read third time and sent to House ([Senate Journal‑page 17](file:///h:\SJ%20Archive\2013\04-09-13.docx))

4/9/2013 House Introduced and read first time ([House Journal‑page 56](file:///h:\HJ%20Archive\2013\04-09-13.docx))

4/9/2013 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 56](file:///h:\HJ%20Archive\2013\04-09-13.docx))

5/16/2013 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 4](file:///h:\HJ%20Archive\2013\05-16-13.docx))

5/21/2013 House Amended ([House Journal‑page 44](file:///h:\HJ%20Archive\2013\05-21-13.docx))

5/21/2013 House Read second time ([House Journal‑page 44](file:///h:\HJ%20Archive\2013\05-21-13.docx))

5/21/2013 House Roll call Yeas‑115 Nays‑0 ([House Journal‑page 45](file:///h:\HJ%20Archive\2013\05-21-13.docx))

5/22/2013 House Read third time and returned to Senate with amendments ([House Journal‑page 21](file:///h:\HJ%20Archive\2013\05-22-13.docx))

6/4/2013 Senate House amendment amended ([Senate Journal‑page 140](file:///h:\SJ%20Archive\2013\06-04-13.docx))

6/4/2013 Senate Roll call Ayes‑42 Nays‑1 ([Senate Journal‑page 140](file:///h:\SJ%20Archive\2013\06-04-13.docx))

6/4/2013 Senate Returned to House with amendments ([Senate Journal‑page 140](file:///h:\SJ%20Archive\2013\06-04-13.docx))

6/6/2013 House Concurred in Senate amendment and enrolled ([House Journal‑page 27](file:///h:\HJ%20Archive\2013\06-06-13.docx))

6/6/2013 House Roll call Yeas‑98 Nays‑0 ([House Journal‑page 27](file:///h:\HJ%20Archive\2013\06-06-13.docx))

6/11/2013 Ratified R 79

6/13/2013 Signed By Governor

6/20/2013 Effective date 06/13/13

6/24/2013 Act No. 66

**VERSIONS OF THIS BILL**

[2/28/2013](file:///p:\pprever\2013-14\460_20130228.docx)

[3/20/2013](file:///p:\pprever\2013-14\460_20130320.docx)

[5/16/2013](file:///p:\pprever\2013-14\460_20130516.docx)

[5/21/2013](file:///p:\pprever\2013-14\460_20130521.docx)

[6/4/2013](file:///p:\pprever\2013-14\460_20130604.docx)

(A66, R79, S460)

**AN ACT TO AMEND SECTION 38‑45‑90, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DUTIES OF BROKERS PLACING BUSINESS WITH NONADMITTED INSURERS, SO AS TO REVISE THE PROOF THAT THE DIRECTOR OF THE DEPARTMENT OF INSURANCE MAY REQUIRE FROM A BROKER SEEKING TO PLACE BUSINESS WITH A NONADMITTED INSURER, TO PROVIDE A NECESSARY DEFINITION, AND TO IMPOSE CERTAIN DUE DILIGENCE REQUIREMENTS ON THE BROKER.**

Be it enacted by the General Assembly of the State of South Carolina:

**Duties of surplus lines brokers**

SECTION 1. Section 38‑45‑90 of the 1976 Code, as last amended by Act 283 of 2012, is further amended to read:

“Section 38‑45‑90. (A) At the request of a licensed resident broker, the director or his designee may approve certain nonadmitted insurers as eligible surplus lines insurers to write business on risks located in this State that one or more insurers licensed in this State to write that line of business in this State have declined to write. The director or his designee may require the broker to submit, on behalf of the insurer, documents necessary to satisfy him that the insurer is licensed in his domiciliary state, that meets at least the minimum capital and surplus requirements of this State, and that its operation is not hazardous to the policyholders. The director or his designee may require the broker or the insurer to file additional documents at any time to maintain the insurer’s status as an eligible surplus lines insurer. For the purposes of this section, ‘domiciliary state’ means the state or jurisdiction in which an insurer is incorporated or organized. The director or his designee may withdraw his approval at any time the insurer fails to meet any of the requirements. While the insurer maintains his status as an eligible surplus lines insurer, a duly licensed broker, under the terms of this chapter, may place business with the insurer. An insurance broker shall exercise due care in the placing of insurance, except as provided in subsection (B). Each broker transacting business in the State during a calendar year shall file annually with the department within thirty days after December thirty‑first a detailed report of this business. The report must be in the form the director or his designee prescribes. The broker’s books, papers, and accounts must be open at all times to the inspection of the director or his designee.

(B) A surplus lines broker is not required to search with due diligence to determine whether the full amount or type of insurance can be obtained from an admitted insurer when the broker is seeking to procure or place nonadmitted insurance for an exempt commercial purchaser provided the:

(1) broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that the insurance may or may not be available from the admitted market and that insurance obtained from the admitted market may provide greater protection with more regulatory oversight; and

(2) exempt commercial purchaser has subsequently requested in writing for the broker to procure or place such insurance from a nonadmitted insurer.”

**Time effective**

SECTION 2. This act takes effect upon approval by the Governor.

Ratified the 11th day of June, 2013.

Approved the 13th day of June, 2013.

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