**South Carolina General Assembly**

121st Session, 2015-2016

**A137, R141, H4660**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Sandifer and Gambrell

Document Path: l:\council\bills\agm\18828ab16.docx

Companion/Similar bill(s): 976

Introduced in the House on January 13, 2016

Introduced in the Senate on January 28, 2016

Last Amended on January 26, 2016

Passed by the General Assembly on February 11, 2016

Governor's Action: March 2, 2016, Signed

Summary: Insurance

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/13/2016 House Introduced and read first time ([House Journal‑page 14](file:///h:\HJ%20Archive\2016\01-13-16.docx))

1/13/2016 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 14](file:///h:\HJ%20Archive\2016\01-13-16.docx))

1/21/2016 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 2](file:///h:\HJ%20Archive\2016\01-21-16.docx))

1/26/2016 House Amended ([House Journal‑page 25](file:///h:\HJ%20Archive\2016\01-26-16.docx))

1/26/2016 House Read second time ([House Journal‑page 25](file:///h:\HJ%20Archive\2016\01-26-16.docx))

1/26/2016 House Roll call Yeas‑102 Nays‑1 ([House Journal‑page 26](file:///h:\HJ%20Archive\2016\01-26-16.docx))

1/27/2016 House Read third time and sent to Senate ([House Journal‑page 16](file:///h:\HJ%20Archive\2016\01-27-16.docx))

1/28/2016 Senate Introduced and read first time ([Senate Journal‑page 10](file:///h:\SJ%20Archive\2016\01-28-16.docx))

1/28/2016 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 10](file:///h:\SJ%20Archive\2016\01-28-16.docx))

2/9/2016 Senate Recalled from Committee on **Banking and Insurance** ([Senate Journal‑page 5](file:///h:\SJ%20Archive\2016\02-09-16.docx))

2/10/2016 Senate Read second time ([Senate Journal‑page 20](file:///h:\SJ%20Archive\2016\02-10-16.docx))

2/10/2016 Senate Roll call Ayes‑37 Nays‑0 ([Senate Journal‑page 20](file:///h:\SJ%20Archive\2016\02-10-16.docx))

2/11/2016 Senate Read third time and enrolled ([Senate Journal‑page 8](file:///h:\SJ%20Archive\2016\02-11-16.docx))

2/25/2016 Ratified R 141

3/2/2016 Signed By Governor

3/4/2016 Effective date 03/02/16

3/7/2016 Act No. 137

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=4660&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[1/13/2016](file:///p:\pprever\2015-16\4660_20160113.docx)

[1/21/2016](file:///p:\pprever\2015-16\4660_20160121.docx)

[1/26/2016](file:///p:\pprever\2015-16\4660_20160126.docx)

[2/9/2016](file:///p:\pprever\2015-16\4660_20160209.docx)

(A137, R141, H4660)

**AN ACT** **TO AMEND SECTION 38‑43‑50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LIMITED LINE AND SPECIAL PRODUCER LICENSURE, SO AS TO PROVIDE THAT A LICENSED PROPERTY CASUALTY INSURANCE PRODUCER MAY PLACE SURPLUS LINES INSURANCE THROUGH A LICENSED INSURANCE BROKER WITHOUT BEING APPOINTED BY THE SURPLUS LINES INSURER; AND TO AMEND SECTION 38‑1‑20, RELATING TO DEFINITIONS CONCERNING THE INSURANCE LAW OF THIS STATE, AND SECTION 38‑45‑10, RELATING TO DEFINITIONS CONCERNING INSURANCE BROKERS AND SURPLUS PROPERTY LINES INSURANCE, BOTH SO AS TO MAKE CONFORMING CHANGES TO RELATED TERMS.**

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

**Property and casualty licensees exemption**

SECTION 1. Section 38‑43‑50 of the 1976 Code is amended to read:

“Section 38‑43‑50. (A) All applicants for a limited lines or special producer’s license must be vouched for by an official or a licensed representative of the insurer for which the applicant proposes to act, who shall certify whether the applicant has been appointed a producer to represent it and that it has duly investigated the character and record of the applicant and has satisfied itself that he is trustworthy and qualified to act as its producer and intends to hold himself out in good faith as an insurance producer. When a contract of a producer is canceled by the insurer represented, that insurer shall notify the department of the cancellation within thirty days stating the cause of the termination. The records furnished by insurers are for the use of the department solely and not for public inspection.

(B) When appointing a producer, the insurer shall certify on a form prescribed by the director whether the applicant has been appointed a producer to represent it and that it has duly investigated the character and record of the applicant and has satisfied itself that he is trustworthy and qualified to act as its producer and intends to hold himself out in good faith as an insurance producer. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

(C) To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the director or his designee, a notice of appointment within fifteen days from the date the agency contract is executed or the first insurance application is submitted. An insurer also may elect to appoint a producer to all or some insurers within the insurer’s holding company system or group by the filing of a single appointment request. Each appointment must be accompanied by an appointment fee paid by the insurer as prescribed in Section 38‑43‑80.

(D) Upon receipt of the notice of appointment, the director or his designee shall verify within a reasonable time not to exceed thirty days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the insurance director or his designee shall notify the insurer within five days of its determination.

(E) When placing surplus lines insurance through a licensed insurance broker, a producer licensed for property and casualty insurance is not required to be appointed by the surplus lines insurer.

(F) An insurer shall remit a renewal appointment fee in the amount set forth in Section 38‑43‑80.”

**Insurance terminology, conforming changes**

SECTION 2. Section 38‑1‑20(21) and (56) of the 1976 Code is amended to read:

“(21) ‘Eligible surplus lines insurer’ means a nonadmitted insurer with which a licensed broker, or a licensed producer as provided in Section 38‑45‑10(8)(b)(ii), may place surplus lines insurance.

(56) ‘Surplus lines insurance’ means insurance in this State of risks located or to be performed in this State, permitted to be placed through a licensed broker, or a licensed broker as provided in Section 38‑45‑10(8)(b)(ii), with a nonadmitted insurer eligible to accept the insurance, other than reinsurance, wet marine and transportation insurance, insurance independently procured, and life and health insurance and annuities. Excess and stop‑loss insurance coverage upon group life, accident, and health insurance or upon a self‑insured’s life, accident, and health benefits program may be approved as surplus lines insurance.”

**Insurance terminology, conforming changes**

SECTION 3. Section 38‑45‑10(8) and (10) of the 1976 Code is amended to read:

“(8)(a) ‘Insurance broker’ means a property and casualty insurance producer licensed by the director or his designee who:

(i) sells, solicits, or negotiates insurance on behalf of an insured;

(ii) takes or transmits other than for himself an application for insurance or a policy of insurance to or from an insured;

(iii) advertises or otherwise gives notice that he receives or transmits a surplus lines application or policy;

(iv) receives or delivers a policy of surplus lines insurance for an insured on behalf of a surplus lines insurer;

(v) receives, collects, or transmits a premium of surplus lines insurance; or

(vi) performs another act in the making of a surplus lines insurance contract for or with an insured.

(b) An insurance broker’s license is not required of:

(i) a broker’s office employee acting within the confines of the broker’s office, under the direction and supervision of the licensed broker and within the scope of the broker’s license, in the acceptance of request for insurance and payment of premiums and the performance of clerical, stenographic, and similar office duties; or

(ii) a producer licensed for property and casualty insurance who places surplus lines insurance through a licensed insurance broker.

(c) An insurance broker, or an insurance producer as provided in subitem (b)(ii), may place that insurance either with an eligible surplus lines insurer or with a licensed insurance producer appointed by an insurance carrier licensed in this State.

(10) ‘Surplus lines insurance’ means any property and casualty insurance permitted to be placed directly or through a surplus lines broker, or an insurance producer as provided in subitem (b)(ii), with a surplus lines insurer eligible to accept the insurance as defined in Section 38‑1‑20(56).”

**Time effective**

SECTION 4. This act takes effect upon approval by the Governor.

Ratified the 25th day of February, 2016.

Approved the 2nd day of March, 2016.

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