

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 38.2-4809 of the Code of Virginia, relating to surplus lines broker taxes;*
 3 *certain insurance policies.*

4 [S 1269]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 38.2-4809 of the Code of Virginia is amended and reenacted as follows:**8 **§ 38.2-4809. Licensees to pay license taxes on insurers.**

9 A. 1. Every licensed surplus lines broker or any person required to be licensed as a surplus lines broker
 10 shall be subject to the annual taxes, license taxes, penalties, and other provisions of Article 1 (§ 58.1-2500 et
 11 seq.) of Chapter 25 of Title 58.1 on each policy of insurance procured by him during the preceding calendar
 12 year with an eligible nonadmitted insurer. For policies effective on or after July 1, 2011, such payments shall
 13 be made based on the direct gross premium income derived from policies for insureds whose home state is
 14 the Commonwealth.

15 2. Every surplus lines broker or any person required to be licensed as a surplus lines broker subject to the
 16 provisions of this chapter shall, on or before March 1 of 2012 and 2013 report under oath to the Commission,
 17 and on or before March 1 of each year thereafter, report under oath to the Department of Taxation, upon the
 18 prescribed form, the direct gross premium income derived from policies for insureds whose home state is the
 19 Commonwealth during the preceding year ending December 31.

20 3. Every surplus lines broker or any person required to be licensed as a surplus lines broker failing to file
 21 the report required by this section shall be fined \$50 for each day's failure to file the report.

22 4. Upon the failure of any such surplus lines broker or any person required to be licensed as a surplus lines
 23 broker to pay the premium license tax within the time required by this section, there shall be added to such
 24 tax a penalty of 10 percent of the amount of the tax and interest at a rate equal to the rate of interest
 25 established pursuant to § 58.1-15 for the period between the due date and the date of full payment. The
 26 Commission or Department of Taxation shall notify the surplus lines broker of all additional amounts owed,
 27 and the surplus lines broker shall pay such amounts within 30 days of the date of the notice.

28 5. Upon good cause shown, the Department of Taxation may accept late payment of the premium license
 29 tax exclusive of penalties; however, interest shall be paid on such tax as prescribed in this subsection.

30 6. If any person overestimates and overpays the annual taxes, the Department of Taxation shall refund the
 31 amount of the overpayment to the person. The overpayment shall be refunded out of the state treasury.

32 B. 1. Each licensed surplus lines broker or any person required to be licensed as a surplus lines broker
 33 whose annual premium license tax liability can reasonably be expected to exceed \$1,500 shall file a quarterly
 34 tax report with the Department of Taxation. Such report shall be in a form prescribed by the Department of
 35 Taxation. This report shall be filed no later than 30 calendar days after the end of each calendar quarter.
 36 Notwithstanding any provision to the contrary, each such person shall pay the premium license tax owed for
 37 the direct gross premiums adjusted for additional and returned premiums shown by each quarterly tax report
 38 when such report is filed with the Department of Taxation.

39 2. No surplus lines broker or any person required to be licensed as a surplus lines broker shall be subject
 40 to any penalty or interest pursuant to Title 58.1 as a result of the failure to timely file a quarterly tax report or
 41 make the related quarterly payment when the report is filed pursuant to subdivision 1.

42 C. In addition to other penalties provided by law, any licensed surplus lines broker or any person required
 43 to be licensed as a surplus lines broker who willfully fails or refuses to pay the full amount of the tax or
 44 assessment required by this chapter, either by himself or through his agents or employees, or who makes a
 45 false or fraudulent return with intent to evade the tax or assessment hereby levied, or who makes a false or
 46 fraudulent claim for refund shall be guilty of a Class 1 misdemeanor.

47 D. If any licensed surplus lines broker or any person required to be licensed as a surplus lines broker
 48 charges and collects from the insured the taxes and assessments required by this section and § 38.2-4809.1,
 49 such person shall be a fiduciary to this Commonwealth for any taxes and assessments owed to this
 50 Commonwealth under this chapter.

51 *E. Notwithstanding the provisions of this section and effective for calendar year 2025 and each calendar*
 52 *year thereafter, any surplus lines broker or any person required to be licensed as a surplus lines broker shall*
 53 *not be subject to the annual taxes, license taxes, penalties, and other provisions of Article 1 (§ 58.1-2500 et*
 54 *seq.) of Chapter 25 of Title 58.1 on any policy of insurance procured by such broker during the preceding*
 55 *calendar year on behalf of a commuter rail system jointly operated by the Northern Virginia Transportation*
 56 *Commission established pursuant to § 33.2-1904 and the Potomac and Rappahannock Transportation*

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57 *District established pursuant to the Transportation District Act (§ 33.2-1900 et seq.).*