



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3783

Introduced 2/14/2020, by Sen. Michael E. Hastings

SYNOPSIS AS INTRODUCED:

215 ILCS 5/445	from Ch. 73, par. 1057
215 ILCS 5/445.1	from Ch. 73, par. 1057.1
215 ILCS 5/445.2	from Ch. 73, par. 1057.2
215 ILCS 5/445.3	from Ch. 73, par. 1057.3

Amends the Illinois Insurance Code. Adds provisions concerning making diligent efforts to procure surplus line insurance contracts through authorized insurers, including for master policy insurance contracts and program business. Makes changes to provisions concerning reports on surplus line insurance and fire insurance that must be filed by licensed surplus line producers with the Director of Insurance. Changes the date by which a surplus line producer shall file a report on all fire insurance procured from unauthorized insurers and submitted to the Surplus Line Association of Illinois to February 1 (rather than March 31) of each year. Adds provisions concerning submission and recording of premium-bearing endorsements. Provides that an individual officer or partner must be a licensed surplus line producer to represent a member of the Surplus Line Association of Illinois in the exercise of association affairs. Makes other changes. Defines terms. Effective January 1, 2021.

LRB101 19584 BMS 69060 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Sections 445, 445.1, 445.2, and 445.3 as follows:

6 (215 ILCS 5/445) (from Ch. 73, par. 1057)

7 Sec. 445. Surplus line.

8 (1) Definitions. For the purposes of this Section:

9 "Affiliate" means, with respect to an insured, any entity
10 that controls, is controlled by, or is under common control
11 with the insured. For the purpose of this definition, an entity
12 has control over another entity if:

13 (A) the entity directly or indirectly or acting through
14 one or more other persons owns, controls, or has the power
15 to vote 25% or more of any class of voting securities of
16 the other entity; or

17 (B) the entity controls in any manner the election of a
18 majority of the directors or trustees of the other entity.

19 "Affiliated group" means any group of entities that are all
20 affiliated.

21 "Authorized insurer" means an insurer that holds a
22 certificate of authority issued by the Director but, for the
23 purposes of this Section, does not include a domestic surplus

1 line insurer as defined in Section 445a or any residual market
2 mechanism.

3 "Exempt commercial purchaser" means any person purchasing
4 commercial insurance that, at the time of placement, meets the
5 following requirements:

6 (A) The person employs or retains a qualified risk
7 manager to negotiate insurance coverage.

8 (B) The person has paid aggregate nationwide
9 commercial property and casualty insurance premiums in
10 excess of \$100,000 in the immediately preceding 12 months.

11 (C) The person meets at least one of the following
12 criteria:

13 (I) The person possesses a net worth in excess of
14 \$20,000,000, as such amount is adjusted pursuant to the
15 provision in this definition concerning percentage
16 change.

17 (II) The person generates annual revenues in
18 excess of \$50,000,000, as such amount is adjusted
19 pursuant to the provision in this definition
20 concerning percentage change.

21 (III) The person employs more than 500 full-time or
22 full-time equivalent employees per individual insured
23 or is a member of an affiliated group employing more
24 than 1,000 employees in the aggregate.

25 (IV) The person is a not-for-profit organization
26 or public entity generating annual budgeted

1 expenditures of at least \$30,000,000, as such amount is
2 adjusted pursuant to the provision in this definition
3 concerning percentage change.

4 (V) The person is a municipality with a population
5 in excess of 50,000 persons.

6 Effective on January 1, 2015 and each fifth January 1
7 occurring thereafter, the amounts in subitems (I), (II), and
8 (IV) of item (C) of this definition shall be adjusted to
9 reflect the percentage change for such 5-year period in the
10 Consumer Price Index for All Urban Consumers published by the
11 Bureau of Labor Statistics of the Department of Labor.

12 "Home state" means the following:

13 (A) With respect to an insured, except as provided in
14 item (B) of this definition:

15 (I) the state in which an insured maintains its
16 principal place of business or, in the case of an
17 individual, the individual's principal residence; or

18 (II) if 100% of the insured risk is located out of
19 the state referred to in subitem (I), the state to
20 which the greatest percentage of the insured's taxable
21 premium for that insurance contract is allocated.

22 (B) If more than one insured from an affiliated group
23 are named insureds on a single surplus line insurance
24 contract, then "home state" means the home state, as
25 determined pursuant to item (A) of this definition, of the
26 member of the affiliated group that has the largest

1 percentage of premium attributed to it under such insurance
2 contract.

3 If more than one insured from a group that is not
4 affiliated are named insureds on a single surplus line
5 insurance contract, then:

6 (I) if individual group members pay 100% of the
7 premium for the insurance from their own funds, "home
8 state" means the home state, as determined pursuant to
9 item (A) of this definition, of each individual group
10 member; each individual group member's coverage under
11 the surplus line insurance contract shall be treated as
12 a separate surplus line contract for the purposes of
13 this Section;

14 (II) otherwise, "home state" means the home state,
15 as determined pursuant to item (A) of this definition,
16 of the group.

17 Nothing in this definition shall be construed to alter the
18 terms of the surplus line insurance contract.

19 "Master policy" means a surplus line insurance contract
20 with a single set of general contractual terms that are
21 designed to apply on a group basis to multiple insureds who may
22 or may not be affiliated and who may be added to or removed
23 from the contract throughout the course of the contract period.
24 A master policy may include certain provisions that vary for
25 each insured depending on the insured's characteristics and the
26 coverage sought.

1 "Multi-State risk" means a risk with insured exposures in
2 more than one State.

3 "NAIC" means the National Association of Insurance
4 Commissioners or any successor entity.

5 "Personal lines insurance" means insurance as defined in
6 subsection (a), (b), or (c) of Section 143.13 of this Code.

7 "Premium" means any amount designated as premium on the
8 declarations page or elsewhere in a policy and on any
9 endorsement, but does not include taxes, the Surplus Line
10 Association of Illinois recording fee, or any other fee.

11 "Program business" means a clearly defined group of
12 insurance contracts procured by a licensed surplus line
13 producer from an unauthorized insurer, under a single agreement
14 between the producer and insurer, for insureds with the same or
15 similar characteristics and containing the same or similar
16 contract terms.

17 "Qualified risk manager" means, with respect to a
18 policyholder of commercial insurance, a person who meets all of
19 the following requirements:

20 (A) The person is an employee of, or third-party
21 consultant retained by, the commercial policyholder.

22 (B) The person provides skilled services in loss
23 prevention, loss reduction, or risk and insurance coverage
24 analysis, and purchase of insurance.

25 (C) With regard to the person:

26 (I) the person has:

1 (a) a bachelor's degree or higher from an
2 accredited college or university in risk
3 management, business administration, finance,
4 economics, or any other field determined by the
5 Director or his designee to demonstrate minimum
6 competence in risk management; and

7 (b) the following:

8 (i) three years of experience in risk
9 financing, claims administration, loss
10 prevention, risk and insurance analysis, or
11 purchasing commercial lines of insurance; or

12 (ii) alternatively has:

13 (AA) a designation as a Chartered
14 Property and Casualty Underwriter (in this
15 subparagraph (ii) referred to as "CPCU")
16 issued by the American Institute for
17 CPCU/Insurance Institute of America;

18 (BB) a designation as an Associate in
19 Risk Management (ARM) issued by the
20 American Institute for CPCU/Insurance
21 Institute of America;

22 (CC) a designation as Certified Risk
23 Manager (CRM) issued by the National
24 Alliance for Insurance Education &
25 Research;

26 (DD) a designation as a RIMS Fellow

1 (RF) issued by the Global Risk Management
2 Institute; or

3 (EE) any other designation,
4 certification, or license determined by
5 the Director or his designee to
6 demonstrate minimum competency in risk
7 management;

8 (II) the person has:

9 (a) at least 7 years of experience in risk
10 financing, claims administration, loss prevention,
11 risk and insurance coverage analysis, or
12 purchasing commercial lines of insurance; and

13 (b) has any one of the designations specified
14 in subparagraph (ii) of paragraph (b);

15 (III) the person has at least 10 years of
16 experience in risk financing, claims administration,
17 loss prevention, risk and insurance coverage analysis,
18 or purchasing commercial lines of insurance; or

19 (IV) the person has a graduate degree from an
20 accredited college or university in risk management,
21 business administration, finance, economics, or any
22 other field determined by the Director or his or her
23 designee to demonstrate minimum competence in risk
24 management.

25 "Residual market mechanism" means an association,
26 organization, or other entity described in Article XXXIII of

1 this Code or Section 7-501 of the Illinois Vehicle Code or any
2 similar association, organization, or other entity.

3 "State" means any state of the United States, the District
4 of Columbia, the Commonwealth of Puerto Rico, Guam, the
5 Northern Mariana Islands, the Virgin Islands, and American
6 Samoa.

7 "Surplus line insurance" means insurance on a risk:

8 (A) of the kinds specified in Classes 2 and 3 of
9 Section 4 of this Code; and

10 (B) that is procured from an unauthorized insurer after
11 the insurance producer representing the insured or the
12 surplus line producer is unable, after diligent effort, to
13 procure the insurance from authorized insurers; and

14 (C) where Illinois is the home state of the insured,
15 for policies effective, renewed or extended on July 21,
16 2011 or later and for multiyear policies upon the policy
17 anniversary that falls on or after July 21, 2011; and

18 (D) that is located in Illinois, for policies effective
19 prior to July 21, 2011.

20 "Taxable premium" means a premium for any risk that is
21 located in or attributed to any state.

22 "Unauthorized insurer" means an insurer that does not hold
23 a valid certificate of authority issued by the Director but,
24 for the purposes of this Section, shall also include a domestic
25 surplus line insurer as defined in Section 445a.

26 (1.5) Procuring surplus line insurance; surplus line

1 insurer requirements.

2 (a) License required. Insurance producers may procure
3 surplus line insurance only if licensed as a surplus line
4 producer under this Section.

5 (b) Domestic and foreign insurer eligibility. Licensed
6 surplus line producers may procure surplus line insurance
7 from an unauthorized insurer domiciled in any state ~~the~~
8 ~~United States~~ only if the insurer:

9 (i) is permitted in its domiciliary jurisdiction
10 to write the type of insurance involved; and

11 (ii) has, based upon information available to the
12 surplus line producer, a policyholders surplus of not
13 less than \$15,000,000 determined in accordance with
14 the laws of its domiciliary jurisdiction; and

15 (iii) has standards of solvency and management
16 that are adequate for the protection of policyholders.

17 Where an unauthorized insurer does not meet the
18 standards set forth in (ii) and (iii) above, a surplus line
19 producer may, if necessary, procure insurance from that
20 insurer only if prior written warning of such fact or
21 condition is given to the insured by the insurance producer
22 or surplus line producer.

23 (c) Alien insurer eligibility. Licensed surplus line
24 producers may procure surplus line insurance from an
25 unauthorized insurer not domiciled in any state ~~outside of~~
26 ~~the United States~~ only if the insurer meets the standards

1 for unauthorized insurers domiciled in any state ~~the United~~
2 ~~States~~ in paragraph (b) of this subsection (1.5) or is
3 listed on the Quarterly Listing of Alien Insurers
4 maintained by the International Insurers Department of the
5 NAIC at the time of procurement. The Director shall make
6 the Quarterly Listing of Alien Insurers available to
7 surplus line producers without charge.

8 (d) Prohibited transactions. Insurance producers shall
9 not procure from an unauthorized insurer an insurance
10 policy:

11 (i) that is designed to satisfy the proof of
12 financial responsibility and insurance requirements in
13 any Illinois law where the law requires that the proof
14 of insurance is issued by an authorized insurer or
15 residual market mechanism;

16 (ii) that covers the risk of accidental injury to
17 employees arising out of and in the course of
18 employment according to the provisions of the Workers'
19 Compensation Act; or

20 (iii) that insures any Illinois personal lines
21 risk, ~~as defined in subsection (a), (b), or (c) of~~
22 ~~Section 143.13 of this Code,~~ that is eligible for
23 residual market mechanism coverage, unless the insured
24 or prospective insured requests limits of liability
25 greater than the limits provided by the residual market
26 mechanism. In the course of making a diligent effort to

1 procure insurance from authorized insurers, an
2 insurance producer shall not be required to submit a
3 risk to a residual market mechanism when the risk is
4 not eligible for coverage or exceeds the limits
5 available in the residual market mechanism.

6 Where there is an insurance policy issued by an
7 authorized insurer or residual market mechanism insuring a
8 risk described in item (i), (ii), or (iii) above, nothing
9 in this paragraph shall be construed to prohibit a surplus
10 line producer from procuring from an unauthorized insurer a
11 policy insuring the risk on an excess or umbrella basis
12 where the excess or umbrella policy is written over one or
13 more underlying policies.

14 (e) Exempt commercial purchaser diligent effort.
15 Licensed surplus line producers may procure surplus line
16 insurance from an unauthorized insurer for an exempt
17 commercial purchaser without making the required diligent
18 effort to procure the insurance from authorized insurers
19 if:

20 (i) the producer has disclosed to the exempt
21 commercial purchaser that such insurance may or may not
22 be available from authorized insurers that may provide
23 greater protection with more regulatory oversight; and

24 (ii) the exempt commercial purchaser has
25 subsequently in writing requested the producer to
26 procure such insurance from an unauthorized insurer.

1 (f) Wholesale transaction diligent effort. A licensed
2 surplus line producer may procure a surplus line insurance
3 contract, other than a personal line insurance contract,
4 from an unauthorized insurer without making the required
5 diligent effort to procure the insurance from authorized
6 insurers if the risk was referred to the surplus line
7 producer by an Illinois-licensed insurance producer who is
8 not affiliated with the surplus line producer.

9 (g) Master policy diligent effort. For master policy
10 insurance contracts, a licensed surplus line producer may
11 make the required diligent effort to procure the insurance
12 from authorized insurers annually for the master policy
13 rather than individually for each insured that is added
14 during the policy period.

15 (h) Program business diligent effort. For program
16 business, a licensed surplus line producer may make the
17 required diligent effort to procure the insurance from
18 authorized insurers annually for the program rather than
19 individually for each contract.

20 (2) Surplus line producer; license. Any licensed producer
21 who is a resident of this State, or any nonresident who
22 qualifies under Section 500-40, may be licensed as a surplus
23 line producer upon payment of an annual license fee of \$400.

24 A surplus line producer so licensed shall keep a separate
25 account of the business transacted thereunder for 7 years from
26 the policy effective date which shall be open at all times to

1 the inspection of the Director or his representative.

2 No later than July 21, 2012, the State of Illinois shall
3 participate in the national insurance producer database of the
4 NAIC, or any other equivalent uniform national database, for
5 the licensure of surplus line producers and the renewal of such
6 licenses.

7 (3) Taxes and reports.

8 (a) Surplus line tax and penalty for late payment. The
9 surplus line tax rate for a surplus line insurance policy
10 or contract is determined as follows:

11 (i) 3% for policies or contracts with an effective
12 date prior to July 1, 2003;

13 (ii) 3.5% for policies or contracts with an
14 effective date of July 1, 2003 or later.

15 A surplus line producer shall file with the Director on
16 or before February 1 and August 1 of each year a report in
17 the form prescribed by the Director on all surplus line
18 insurance procured from unauthorized insurers and
19 submitted to the Surplus Line Association of Illinois
20 during the preceding 6 month period ending December 31 or
21 June 30 respectively, and on the filing of such report
22 shall pay to the Director for the use and benefit of the
23 State a sum equal to the surplus line tax rate multiplied
24 by the gross taxable premiums less returned taxable
25 premiums upon all surplus line insurance submitted to the
26 Surplus Line Association of Illinois during the preceding 6

1 months. However, if no insurance was procured from
2 unauthorized insurers and submitted to the Surplus Line
3 Association of Illinois during the period, no report shall
4 be required.

5 Any surplus line producer who fails to pay the full
6 amount due under this subsection is liable, in addition to
7 the amount due, for such late fee, penalty, and interest
8 charges as are provided for under Section 412 of this Code.
9 The Director, through the Attorney General, may institute
10 an action in the name of the People of the State of
11 Illinois, in any court of competent jurisdiction, for the
12 recovery of the amount of such taxes, late fees, interest,
13 and penalties due, and prosecute the same to final
14 judgment, and take such steps as are necessary to collect
15 the same.

16 (b) Fire Marshal Tax. Each surplus line producer shall
17 file with the Director on or before February 1 ~~March 31~~ of
18 each year a report in the form prescribed by the Director
19 on all fire insurance procured from unauthorized insurers
20 and submitted to the Surplus Line Association of Illinois
21 during the previous year that is subject to tax under
22 Section 12 of the Fire Investigation Act and shall pay to
23 the Director the fire marshal tax required thereunder.
24 However, if no fire insurance subject to the tax was
25 procured from unauthorized insurers and submitted to the
26 Surplus Line Association of Illinois during that year, no

1 report shall be required.

2 (c) Taxes and fees charged to insured. The taxes
3 imposed under this subsection and the recording
4 ~~countersigning~~ fees charged by the Surplus Line
5 Association of Illinois may be charged to and collected
6 from surplus line insureds.

7 (4) (Blank).

8 (5) Submission of documents to Surplus Line Association of
9 Illinois. A surplus line producer shall submit every insurance
10 contract and premium-bearing endorsement issued under his or
11 her license to the Surplus Line Association of Illinois for
12 recording ~~and countersignature~~. The submission and recording
13 ~~countersignature~~ may be effected through electronic means. The
14 submission shall set forth:

15 (a) the name of the insured;

16 (b) the description and location of the insured
17 property or risk;

18 (c) (blank); ~~the amount insured;~~

19 (d) the gross premiums charged or returned;

20 (e) the name of the unauthorized insurer from whom
21 coverage has been procured;

22 (f) the kind or kinds of insurance procured; and

23 (g) amount of premium subject to tax required by
24 Section 12 of the Fire Investigation Act.

25 Proposals, endorsements, and other documents which are
26 incidental to the insurance but which do not affect the premium

1 charged are exempted from the submission and recording
2 requirements ~~filing and countersignature~~.

3 The submission of insuring contracts to the Surplus Line
4 Association of Illinois constitutes a certification by the
5 surplus line producer or by the referring insurance producer
6 that the contracts were procured ~~who presented the risk to the~~
7 ~~surplus line producer for placement as a surplus line risk that~~
8 ~~after diligent effort the required insurance could not be~~
9 ~~procured from authorized insurers and that such procurement was~~
10 ~~otherwise~~ in accordance with the surplus line law and, where
11 required, the surplus line producer or referring insurance
12 producer made a diligent effort to procure the required
13 insurance from authorized insurers.

14 (6) Evidence of recording ~~Countersignature~~ required. It
15 shall be unlawful for an insurance producer to deliver any
16 unauthorized insurer contract or premium-bearing endorsement
17 unless it contains evidence of recording ~~such insurance~~
18 ~~contract is countersigned~~ by the Surplus Line Association of
19 Illinois.

20 (7) Inspection of records. A surplus line producer shall
21 maintain separate records of the business transacted under his
22 or her license for 7 years from the policy effective date,
23 including complete copies of surplus line insurance contracts
24 maintained on paper or by electronic means, which records shall
25 be open at all times for inspection by the Director and by the
26 Surplus Line Association of Illinois.

1 (8) Violations and penalties. The Director may suspend or
2 revoke or refuse to renew a surplus line producer license for
3 any violation of this Code. In addition to or in lieu of
4 suspension or revocation, the Director may subject a surplus
5 line producer to a civil penalty of up to \$2,000 for each cause
6 for suspension or revocation. Such penalty is enforceable under
7 subsection (5) of Section 403A of this Code.

8 When a surplus line producer has made a documented good
9 faith determination of the home state for a surplus line
10 insurance contract and has paid the surplus line taxes to a
11 state other than Illinois, if the Director determines that the
12 producer's good faith determination was incorrect and the home
13 state is Illinois, the surplus line producer can, at the
14 discretion of the Director, be required to submit the contract
15 to the Surplus Line Association of Illinois and pay applicable
16 taxes and recording fees, but there shall be no penalty,
17 interest, or late fee assessed.

18 (9) Director may declare insurer ineligible. If the
19 Director determines that the further assumption of risks might
20 be hazardous to the policyholders of an unauthorized insurer,
21 the Director may order the Surplus Line Association of Illinois
22 not to accept and record ~~countersign~~ insurance contracts
23 evidencing insurance in such insurer and order surplus line
24 producers to cease procuring insurance from such insurer.

25 (10) Service of process upon Director. Insurance contracts
26 delivered under this Section from unauthorized insurers, other

1 than domestic surplus line insurers as defined in Section 445a,
2 shall contain a provision designating the Director and his
3 successors in office the true and lawful attorney of the
4 insurer upon whom may be served all lawful process in any
5 action, suit or proceeding arising out of such insurance.
6 Service of process made upon the Director to be valid hereunder
7 must state the name of the insured, the name of the
8 unauthorized insurer and identify the contract of insurance.
9 The Director at his option is authorized to forward a copy of
10 the process to the Surplus Line Association of Illinois for
11 delivery to the unauthorized insurer or the Director may
12 deliver the process to the unauthorized insurer by other means
13 which he considers to be reasonably prompt and certain.

14 (10.5) Required notice to policyholder. Insurance
15 contracts delivered under this Section from unauthorized
16 insurers, other than domestic surplus line insurers as defined
17 in Section 445a, shall have stamped or imprinted on the first
18 page thereof in not less than 12-pt. bold face type the
19 following legend: "Notice to Policyholder: This contract is
20 issued, pursuant to Section 445 of the Illinois Insurance Code,
21 by a company not authorized and licensed to transact business
22 in Illinois and as such is not covered by the Illinois
23 Insurance Guaranty Fund." Insurance contracts delivered under
24 this Section from domestic surplus line insurers as defined in
25 Section 445a shall have stamped or imprinted on the first page
26 thereof in not less than 12-pt. bold face type the following

1 legend: "Notice to Policyholder: This contract is issued by a
2 domestic surplus line insurer, as defined in Section 445a of
3 the Illinois Insurance Code, pursuant to Section 445, and as
4 such is not covered by the Illinois Insurance Guaranty Fund."

5 (11) Marine, aviation, and transportation. The Illinois
6 Surplus Line law does not apply to insurance of property and
7 operations of railroads or aircraft engaged in interstate or
8 foreign commerce, insurance of vessels, crafts or hulls,
9 cargoes, marine builder's risks, marine protection and
10 indemnity, or other risks including strikes and war risks
11 insured under ocean or wet marine forms of policies.

12 (12) Applicability of Illinois Insurance Code. Surplus
13 line insurance procured under this Section, including
14 insurance procured from a domestic surplus line insurer, is not
15 subject to the provisions of the Illinois Insurance Code other
16 than Sections 123, 123.1, 401, 401.1, 402, 403, 403A, 408, 412,
17 445, 445a, 445.1, 445.2, 445.3, 445.4, and all of the
18 provisions of Article XXXI to the extent that the provisions of
19 Article XXXI are not inconsistent with the terms of this Act.

20 (Source: P.A. 97-955, eff. 8-14-12; 98-978, eff. 1-1-15.)

21 (215 ILCS 5/445.1) (from Ch. 73, par. 1057.1)

22 Sec. 445.1. Surplus Line Association of Illinois. There is
23 hereby created a non-profit association to be known as the
24 Surplus Line Association of Illinois. All surplus line
25 producers shall be and must remain individual members or part

1 of a firm membership of the Association as a condition of their
2 holding a license as a surplus line producer in this State. The
3 Association must perform its functions under the plan of
4 operation established and approved under Section 445.3 and must
5 exercise its powers through a board of directors established
6 under Section 445.2 of this Code. The Association shall be
7 supervised by the Director and is subject to the applicable
8 provisions of the Illinois Insurance Code. The Association
9 shall be authorized and have the duty to:

10 (1) receive ~~and~~⁷ record ~~and countersign~~ all surplus
11 line insurance contracts that ~~which~~ surplus line producers
12 are required to file with the Association under subsection
13 (5) of Section 445;

14 (2) prepare monthly reports for the Director on surplus
15 line insurance procured by its members during the preceding
16 month in such form and providing such information as the
17 Director may prescribe;

18 (3) prepare and deliver to the Director and, at the
19 discretion of the Director, to each licensee the reports of
20 surplus line business prescribed in subsection (3) of
21 Section 445;

22 (4) assess its members for costs of operations in
23 accordance with a schedule adopted by the Board of
24 Directors of the Association and approved by the Director;

25 (5) employ and retain such persons as are necessary to
26 carry out the duties of the Association;

1 (6) borrow money as necessary to effect the purposes of
2 the Association;

3 (7) enter contracts as necessary to effect the purposes
4 of the Association;

5 (8) perform such other acts as will facilitate and
6 encourage compliance by its members with the surplus line
7 law of this State and rules promulgated thereunder; and

8 (9) provide such other services to its members as are
9 incidental or related to the purposes of the Association.

10 Nothing in this Act shall be construed as giving the
11 Association any discretionary authority to enforce this Act or
12 to withhold or decline acceptance and recording
13 ~~countersignature~~ of insurance contracts that ~~which~~ meet the
14 requirements of subsection (5) of Section 445.

15 (Source: P.A. 98-978, eff. 1-1-15.)

16 (215 ILCS 5/445.2) (from Ch. 73, par. 1057.2)

17 Sec. 445.2. Board of Directors. The Association shall
18 function through a Board of Directors elected by the
19 Association members, and officers who shall be elected by the
20 Board of Directors.

21 The Board of Directors of the Association shall consist of
22 not less than 5 nor more than 9 persons serving terms as
23 established in the plan of operation. The plan of operation
24 shall provide for the election of a Board of Directors by the
25 members of the Association from its membership. The plan of

1 operation shall fix the manner of voting and may weigh each
2 member's vote to reflect the annual surplus line insurance
3 premium written by the member. Members employed by the same or
4 affiliated employers may consolidate their premiums written
5 and delegate an individual officer or partner who is a licensed
6 surplus line producer to represent the member in the exercise
7 of Association affairs, including service on the Association
8 Board of Directors, submission of surplus line insurance
9 contracts, and reporting and payments of taxes. ~~The Director~~
10 ~~shall appoint an interim Board of Directors for the sole~~
11 ~~purpose of conducting an election of Directors. If no Board of~~
12 ~~Directors is elected within 90 days after the effective date of~~
13 ~~this amendatory Act of 1984, the Director shall appoint the~~
14 ~~initial members of the Board of Directors.~~

15 The Board of Directors shall elect such officers as may be
16 provided in the plan of operation.

17 (Source: P.A. 83-1300.)

18 (215 ILCS 5/445.3) (from Ch. 73, par. 1057.3)

19 Sec. 445.3. Plan of Operation.

20 (1) The Association shall submit to the Director a plan of
21 operation and any amendments thereto to provide operating
22 procedures for the administration of the Association. The plan
23 of operation and any amendments thereto shall become effective
24 upon approval in writing by the Director.

25 (2) (Blank). ~~If the Association fails to submit a suitable~~

1 ~~plan of operation within 180 days following the effective date~~
2 ~~of this amendatory Act of 1984, or if at any time thereafter~~
3 ~~the Association fails to submit required amendments to the plan~~
4 ~~of operation, the Director shall, after notice and hearing~~
5 ~~pursuant to Sections 401, 402 and 403 of this Code, adopt and~~
6 ~~promulgate such rules as are necessary or advisable to~~
7 ~~effectuate the provisions of this Act. Such rules shall~~
8 ~~continue in force until modified by the Director or superseded~~
9 ~~by a plan of operation submitted by the Association and~~
10 ~~approved by the Director.~~

11 (3) All Association members must comply with the plan of
12 operation.

13 (Source: P.A. 83-1300.)

14 Section 99. Effective date. This Act takes effect January
15 1, 2021.