

Applicants applying for a Surplus Lines Producer license must read all rules regarding the Surplus Lines Laws and Regulations for the State of Illinois. Failure to comply with these regulations may result in fines and penalty fees. Please read the Surplus Lines Laws and Regulations for the State of Illinois listed below:

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

Sec. 445. Surplus line.

(1) Definitions. For the purposes of this Section: "Affiliate" means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured. For the purpose of this definition, an entity has control over another entity if:

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

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

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

"Authorized insurer" means an insurer that holds a certificate of authority issued by the Director but, for the purposes of this Section, does not include a domestic surplus line insurer as defined in Section 445a or any residual market mechanism.

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

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

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

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

(I) The person possesses a net worth in excess of \$20,000,000 [effective 1/1/15, this amount is \$22,040,000], as such amount is adjusted pursuant to the provision in this definition concerning percentage change.

(II) The person generates annual revenues in excess of \$50,000,000 [effective 1/1/15, this amount is \$55,100,000], as such amount is adjusted pursuant to the provision in this definition concerning percentage change.

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

(IV) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least \$30,000,000 [effective 1/1/15, this amount is \$33,060,000], as such amount is adjusted pursuant to the provision in this definition concerning percentage change.

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

Effective on January 1, 2015 and each fifth January 1 occurring thereafter, the amounts in subitems (I), (II), and

(IV) of item (C) of this definition shall be adjusted to reflect the percentage change for such 5-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"Home state" means the following:

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

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

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

(B) If more than one insured from an affiliated group are named insureds on a single surplus line insurance contract, then "home State" means the home State, as determined pursuant to item (A) of this definition, of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract. If more than one insured from a group that is not affiliated are named insureds on a single surplus line insurance contract, then:

(I) if individual group members pay 100% of the premium for the insurance from their own funds, "home state" means the home state, as determined pursuant to item (A) of this definition, of each individual group member; each individual group

member's coverage under the surplus line insurance contract shall be treated as a separate surplus line contract for the purposes of this Section;

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

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

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

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

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

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

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

(C) With regard to the person:

(I) the person has:

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

(b) the following:

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

(ii) alternatively has:

(AA) a designation as a Chartered Property and Casualty Underwriter (in this subparagraph

(ii) referred to as "CPCU") issued by the American Institute for CPCU/Insurance Institute of America;

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

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

(DD) a designation as a RIMS Fellow (RF) issued by the Global Risk Management Institute; or

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

(II) the person has:

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

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

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

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

"Residual market mechanism" means an association, organization, or other entity described in Article XXXIII of this Code or Section 7-501 of the Illinois Vehicle Code or any similar association, organization, or other entity.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam,

the Northern Mariana Islands, the Virgin Islands, and American Samoa.

"Surplus line insurance" means insurance on a risk:

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

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

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

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

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

(1.5) Procuring surplus line insurance; surplus line insurer requirements.

(a) Insurance producers may procure surplus line insurance only if licensed as a surplus line producer under this Section.

(b) Licensed surplus line producers may procure surplus line insurance from an unauthorized insurer domiciled in the United States only if the insurer:

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

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

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

Where an unauthorized insurer does not meet the standards set forth in (ii) and (iii) above, a surplus line producer may, if necessary, procure insurance from that insurer only if prior written warning of such fact

or condition is given to the insured by the insurance producer or surplus line producer.

(c) Licensed surplus line producers may procure surplus line insurance from an unauthorized insurer domiciled outside of the United States only if the insurer meets the standards for unauthorized insurers domiciled in the United States in paragraph (b) of this subsection (1.5) or is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC. The Director shall make the Quarterly Listing of Alien Insurers available to surplus line producers without charge.

(d) Insurance producers shall not procure from an unauthorized insurer an insurance policy:

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

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

(iii) that insures any Illinois personal lines risk, as defined in subsection (a), (b), or (c) of Section 143.13 of this Code, that is eligible for residual market mechanism coverage, unless the insured or prospective insured requests limits of liability greater than the limits provided by the residual market mechanism. In the course of making a diligent effort to procure insurance from authorized insurers, an insurance producer shall not be required to submit a risk to a residual market mechanism when the risk is not eligible for coverage or exceeds the limits available in the residual market mechanism.

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

(e) Licensed surplus line producers may procure surplus line insurance from an unauthorized insurer for an exempt commercial purchaser without making the required diligent effort to procure the insurance from authorized insurers if:

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

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

(2) Surplus line producer; license. Any licensed producer who is a resident of this State, or any nonresident who qualifies under Section 500-40, may be licensed as a surplus line producer upon payment of an annual license fee of \$400. A surplus line producer so licensed shall keep a separate account of the business transacted thereunder for 7 years from the policy effective date which shall be open at all times to the inspection of the Director or his representative.

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

(3) Taxes and reports.

(a) Surplus line tax and penalty for late payment.

The surplus line tax rate for a surplus line insurance policy or contract is determined as follows:

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

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

A surplus line producer shall file with the Director on or before February 1 and August 1 of each year a report in the form prescribed by the Director on all surplus line insurance procured from unauthorized insurers and submitted to the Surplus Line Association of Illinois during the preceding 6 month period ending December 31 or June 30 respectively, and on the filing of such report shall pay to the Director for the use and

benefit of the State a sum equal to the surplus line tax rate multiplied by the gross premiums less returned premiums upon all surplus line insurance submitted to the Surplus Line Association of Illinois during the preceding 6 months. Any surplus line producer who fails to pay the full amount due under this subsection is liable, in addition to the amount due, for such late fee, penalty, and interest charges as are provided for under Section 412 of this Code. The Director, through the Attorney General, may institute an action in the name of the People of the State of Illinois, in any court of competent jurisdiction, for the recovery of the amount of such taxes, late fees, interest, and penalties due, and prosecute the same to final judgment, and take such steps as are necessary to collect the same.

(b) Fire Marshal Tax. Each surplus line producer shall file with the Director on or before March 31 of each year a report in the form prescribed by the Director on all fire insurance procured from unauthorized insurers and submitted to the Surplus Line Association of Illinois subject to tax under Section 12 of the Fire Investigation Act and shall pay to the Director the fire marshal tax required thereunder.

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

(4) (Blank).

(5) Submission of documents to Surplus Line Association of Illinois. A surplus line producer shall submit every insurance contract issued under his or her license to the Surplus Line Association of Illinois for recording and countersignature. The submission and countersignature may be effected through electronic means. The submission shall set forth:

- (a) the name of the insured;
- (b) the description and location of the insured property or risk;
- (c) the amount insured;
- (d) the gross premiums charged or returned;
- (e) the name of the unauthorized insurer from whom coverage has been procured;
- (f) the kind or kinds of insurance procured; and



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

Proposals, endorsements, and other documents which are incidental to the insurance but which do not affect the premium charged are exempted from filing and countersignature. The submission of insuring contracts to the Surplus Line Association of Illinois constitutes a certification by the surplus line producer or by the insurance producer who presented the risk to the surplus line producer for placement as a surplus line risk that after diligent effort the required insurance could not be procured from authorized insurers and that such procurement was otherwise in accordance with the surplus line law.

(6) Countersignature required. It shall be unlawful for an insurance producer to deliver any unauthorized insurer contract unless such insurance contract is countersigned by the Surplus Line Association of Illinois.

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

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

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

(10) Service of process upon Director. Insurance contracts delivered under this Section from unauthorized insurers, other than domestic surplus line insurers as defined in Section 445a, shall contain a provision designating the Director and his successors in office the true and lawful attorney of the insurer upon whom may be served all lawful process in any action, suit or proceeding

arising out of such insurance. Service of process made upon the Director to be valid hereunder must state the name of the insured, the name of the unauthorized insurer and identify the contract of insurance. The Director at his option is authorized to forward a copy of the process to the Surplus Line Association of Illinois for delivery to the unauthorized insurer or the Director may deliver the process to the unauthorized insurer by other means which he considers to be reasonably prompt and certain.

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

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

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

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

TITLE 50: INSURANCE CHAPTER I:  
DEPARTMENT OF INSURANCE  
SUBCHAPTER gg: FINAL PROVISIONS

PART 2701 SURPLUS LINE BUSINESS REQUIREMENTS

Section

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2701.ILLUSTRATION A	Written Warning to Insureds

AUTHORITY: Implementing Section 445 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/445 and 401].

SOURCE: Filed July 11, 1958; codified at 7 Ill. Reg. 897; amended at 12 Ill. Reg. 11754, effective July 1, 1988; amended at 20 Ill. Reg. 5846, effective April 9, 1996; amended at 40 Ill. Reg. 216, effective December 21, 2015; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 2, 2004; transferred from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-4 on June 1, 2009; recodified from 50 Ill. Adm. Code 2801 to 50 Ill. Adm. Code 2701 at 42 Ill. Reg. 16453.

### Section 2701.10 Policies or Contracts of Insurance

Policies or contracts of insurance may not be placed with insurers not authorized to do business in Illinois other than through surplus line producers licensed pursuant to Section 445 of the Illinois Insurance Code (the Code) [215 ILCS 5/445].

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

### Section 2701.20 License Expiration

A surplus line producer license issued pursuant to Section 445 of the Illinois Insurance Code shall expire twelve (12) calendar months after its issuance unless the license is renewed as permitted by Section 2701.100 of this Part.

(Source: Amended at 12 Ill. Reg. 11754, effective July 1, 1988)

### Section 2701.30 Unauthorized Insurers

- a) Procurement of Insurance by a Surplus Line Producer
  - 1) A surplus line producer may procure insurance from an unauthorized insurer domiciled in the United States:
    - A) that, based upon information available to the surplus line producer, has a policyholders' surplus of not less than \$15,000,000 determined in accordance with accounting rules set forth in the Illinois Insurance Code that are applicable to authorized insurers; and
    - B) that has standards of solvency and management that are adequate for the protection of policyholders; and
    - C) that is permitted in its domiciliary jurisdiction to write the type of insurance involved. (Section 445(1.5)(b) of the Code)
  - 2) A surplus line producer may procure insurance from an unauthorized insurer domiciled outside of the United States only if the insurer meets the standards for unauthorized insurers domiciled in the United States as set forth in subsection (a)(1), or if the insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners.
- b) Information available to the surplus line producer at the time of procurement includes financial information published by the unauthorized insurer, the financial information and quarterly listing of alien insurers published by the International Insurers Department of the National Association of Insurance Commissioners and information published by Best's Insurance Reports or other independent market reporting agencies.
- c) In determining whether the standards of solvency and management of an unauthorized insurer at the time of procurement meet requirements necessary for the protection of policyholders, the surplus line producer shall consider the financial condition of the insurer, the ready acceptance of

the insurer in responsible commercial markets, the general reputation of the insurer, and the insurer's past and current performance of its obligations.

- d) When an unauthorized insurer does not meet the standards set forth in subsection (a)(1) or a surplus line producer is unable to verify those facts, the surplus line producer may procure insurance from that insurer only if prior written warning of the fact or condition is given to the insured by the insurance producer or surplus line producer. Evidence of the warning and its delivery shall be maintained by the insurance producer and surplus line producer, together with the evidence of coverage. The written warning shall be in a form substantially similar to the sample warning set forth in Illustration A.
- e) If the Director at any time determines that the further assumption of risks might be hazardous to the policyholders of an unauthorized insurer, the Director shall order the Surplus Line Association of Illinois not to countersign insurance contracts evidencing insurance in that insurer. The Director's determination will be made by examining the criteria contained in the Illinois Insurance Code for authorized insurers. The Director shall also direct all surplus line producers to cease procuring insurance from that insurer.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

#### **Section 2701.40 Maintenance of Funds in Illinois**

Nothing contained in this Part shall be construed to prohibit an unauthorized insurer from maintaining funds in Illinois to service its business.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

#### **Section 2701.50 Procurement of Policies or Contracts**

- a) The surplus line producer must exert diligent effort to procure the policies or contracts required by the insureds from insurers that are authorized to transact business in Illinois (Section 445 of the Code). Diligent effort by the surplus line producer shall be deemed to have been exercised if the surplus line producer or the referring insurance producer submits a risk to three or more authorized insurers that are engaged in writing in Illinois the type of coverage sought, or if there are no insurers actually engaged in writing that coverage, the risk shall be submitted to insurers that, in the surplus line producer's or the insurance producer's professional judgment, are the most likely to accept the risk.
- b) Submission of insuring contracts to the Surplus Line Association of Illinois constitutes a certification by the surplus line producer or by the insurance producer who presented the risk to the surplus line producer for placement as a surplus line risk that after diligent effort the required insurance could not be procured from insurers that are authorized to transact business in this State and that the procurement was otherwise in accordance with the surplus line law.
- c) Licensed surplus line producers may procure surplus line insurance from an unauthorized insurer for an exempt commercial purchaser, as that term is defined in Section 445, without making the required diligent effort to procure the insurance from authorized insurers if:

- 1) the producer has disclosed to the exempt commercial purchaser that the insurance may or may not be available from authorized insurers that may provide greater protection with more regulatory oversight; and
- 2) the exempt commercial purchaser has subsequently, in writing, requested the producer to procure that insurance from an unauthorized insurer. (Section 445(1.5)(e) of the Code)

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

#### **Section 2701.60 Record of Efforts to Procure Policies or Contracts**

The surplus line producer must maintain, with the copy of the insurance that was placed, a record of the diligent effort, which must state the name of the authorized insurers and the individuals contacted at each insurer who declined the risk. If the diligent effort was made by the insurance producer, the surplus line producer must maintain a written record signed by the insurance producer that the insurance producer made the diligent effort, and the insurance producer must maintain a record that states the name of the authorized insurers and the individuals contacted at each insurer who declined the risk.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

#### **Section 2701.70 Declinations of Artificial Coverage not Acceptable**

- a) Declinations by authorized insurers for the following reasons do not qualify insurance to be placed under the surplus line law:
  - 1) Artificial division of one coverage into two or more proposed contracts;
  - 2) Differential in premium or rate quoted between an authorized insurer and an unauthorized insurer.
- b) Declinations by authorized insurers for the following reasons do qualify insurance to be placed under the surplus line law:
  - 1) Underwriting reason pertaining to the risk or the class;
  - 2) Size of the risk;
  - 3) Coverage is not available except in combination with other coverage not required by the insured;
  - 4) Required coverage is not acceptable in part to the authorized insurer although part of the coverage is acceptable, and the unauthorized insurer will accept only the entire risk and not solely the rejected portion; and
  - 5) Authorized insurers will accept less than the amount of coverage required and the entire amount and not just part of that amount will be accepted by unauthorized insurers.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

**Section 2701.80 Surplus Line Association of Illinois**

- a) All surplus line insurance must be submitted to the Surplus Line Association if Illinois is the insured's home state, as that term is defined in Section 445. The Surplus Line Association will process and countersign the insurance policies or contracts, keep records of the business written and report to the surplus line producers and to the Director pursuant to Sections 445 and 445.1 of the Code. The Surplus Line Association shall report to the Director and, at the discretion of the Director, to the surplus line producers:
- 1) by July 15 each year, the business processed by each surplus line producer during the six month period ending June 30; and
  - 2) by January 15 each year, the business processed by each surplus line producer during the six month period ending December 31 of the previous year.
- b) The Surplus Line Association is authorized to charge a fee to cover its cost of operations. The fee is payable by the surplus line producer based on the same gross premiums that are subject to the surplus line tax. The fee schedule is subject to the Director's approval. The Director's approval of the fee schedule shall be determined from the annual audited financial report submitted to the Director by the Surplus Line Association.
- c) The Surplus Line Association shall maintain records of surplus line insurance submitted by surplus line producers for a period of 10 years.
- d) The Association shall annually provide for an independent financial audit of the books and records of the Association by a certified public accountant and shall provide a copy of the audit report to the Director. (Section 445.4 of the Code)

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

**Section 2701.90 Separate Records and Accounts**

Each surplus line producer must keep separate accounts and records of the business transacted under its surplus line license for 7 years from the policy effective date, and these separate accounts and records shall be open at all times to inspection by the Illinois Director of Insurance or his or her designee.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

**Section 2701.100 License Rejection or Renewal Refusal**

Application for a surplus line producer license shall be rejected, or renewal thereof refused, for failure:

- a) to pay the tax required by Section 445 of the Illinois Insurance Code and by Section 12 of the Fire Investigation Act [425 ILCS 25/12]; or
- b) to pay the annual license fee to the Director of Insurance pursuant to Section 445(2) of the Code; or

- c) to pay the fee due the Surplus Line Association; or
- d) to exert diligent effort to secure the business required by an insured from duly authorized insurers; or
- e) to procure surplus line policies or contracts or coverage from insurers that have at least \$15,000,000 in policyholders surplus and have the standards of solvency or management necessary for the protection of policyholders; or
- f) to process all surplus line business on Illinois risks through the Surplus Line Association; or
- g) to maintain records and accounts pursuant to Section 445 of the Code; or
- h) to maintain membership in the Surplus Line Association of Illinois; or
- i) to comply with the requirements of the Illinois Insurance Code or 50 Ill. Adm. Code. (Source:

Amended at 40 Ill. Reg. 216, effective December 21, 2015)

#### Section 2701.110 Service of Process

- a) Service of process relating to any surplus line insurance that the Surplus Line Association receives from the Director shall be delivered to the surplus line producer for delivery to the unauthorized insurer. The surplus line producer shall promptly forward any such process by the fastest, most reliable means to the unauthorized insurer or its designated representative for service of process.
- b) Any unauthorized insurer that elects to do so may file a written request with the Surplus Line Association that service of process be forwarded directly to the insurer. The Surplus Line Association shall forward a copy of the process directly to the insurer and to the surplus line producer.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

#### Section 2701.120 Required Surplus Line Policy Notice

- a) Each policy or contract for insurance procured from an unauthorized insurer, other than a domestic surplus line insurer, in conformity with Section 445 of the Code shall have stamped or imprinted on the first page, in not less than 12-pt. bold face type, the following legend:

**"Notice to Policyholder"**

**"This contract is issued, pursuant to Section 445 of the Illinois Insurance Code by a company not authorized and licensed to transact business in Illinois and as such is not covered by the Illinois Insurance Guaranty Fund."**



- b) Each policy or contract for insurance procured from a domestic surplus line insurer in conformity with Section 445 of the Code shall have stamped or imprinted on the first page, in not less than 12-pt. bold face type, the following legend:

**"Notice to Policyholder"**

**"This contract is issued by a domestic surplus line insurer, as defined in Section 445a of the Illinois Insurance Code, pursuant to Section 445 of the Code and, as such, is not covered by the Illinois Insurance Guaranty Fund."**

(Section 445(10.5) of the Code)

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

### **Section 2701.130 Taxes**

- a) The surplus line producer shall pay to the Director as a surplus line tax a sum equal to the gross premiums less returned premiums multiplied by the surplus line tax rate set forth in Section 445 of the Code upon all surplus line insurance. The payment is due on or before February 1 of each year for the business processed through the Surplus Line Association during the six month period ending December 31 of the previous year and on August 1 of each year for the six month period ending June 30. The Surplus Line Association will report to each surplus line producer and to the Director the business processed during each six month period.
- b) The surplus line producer shall pay to the Director as a Fire Marshal Tax a sum equal to 1% of the gross premiums less returned premiums on all surplus line insurance subject to the tax required by Section 12 of the Fire Investigation Act [425 ILCS 25]. The payment is due in the month of March for the business processed through the Surplus Line Association for the preceding calendar year. The Surplus Line Association, prior to March 1, will report to each surplus line producer and to the Director the business subject to this Fire Marshal Tax processed during each calendar year.
- c) The surplus line tax and the Fire Marshal tax, when applicable, shall be due and payable on all surplus line business processed by the surplus line producer through the Surplus Line Association.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

### **Section 2701.140 Classes not Subject to Surplus Line Law**

Sections 445 and 445.5 inclusive of the Illinois Insurance Code do not apply to insurance of property and operations of railroads or aircraft engaged in interstate or foreign commerce, insurance of vessels, crafts or hulls, cargoes, marine builders risks, marine protection and indemnity, or other risks including strikes and war risks insured under ocean or wet marine forms of policies. Surplus line producers should not submit the above types of insurance to the Surplus Line Association for processing.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2701. ILLUSTRATION A Written Warning to Insureds

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: (Name of Unauthorized Insurer)  
(Type of Coverage)

In accordance with Section 445 of the Illinois Insurance Code, I hereby provide you with a written WARNING that the above-captioned unauthorized insurer with which I propose to place the captioned coverage does not, or I am unable to verify that it does (checked as applicable):

- \_\_\_\_\_ Have a policyholder surplus of \$15,000,000 or more;
- \_\_\_\_\_ Meet minimal standards of solvency and management that are adequate for your protection.

Sincerely,

\_\_\_\_\_

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)