



## Division of Insurance Company Regulation

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### NOTICE TO ALL SURPLUS LINES PRODUCERS

#### **General Information**

All current year Appendix 1 and Appendix 3's are submitted online through the DCI Surplus Lines Web Portal. The address is <https://apps.dci.mo.gov/surpluslinesfilings/login.aspx>. There is a User Guide located under the Account Sign In that will guide users through the online system for account creation, account management and submission of filings.

At this time, we are requesting all producers or their account representative to please verify that all information in their account is current. It is very pertinent that this information is correct. If producers are no longer with your agency, please remove them. If email addresses change, please update them. Producers should notify the Department when changing agencies by contacting [surpluslines@insurance.mo.gov](mailto:surpluslines@insurance.mo.gov).

For those brokers with 'No Business' filings or only a few filings at a time, the File Appendix 1 tab and File Appendix 3 tab are available for your convenience. Using these tabs decreases the chances of rejected filings.

There is an Upload Appendix File tab available to upload your Appendix 1 or Appendix 3 file for those brokers with numerous filings. The file must be in the specified order and be a semi-colon delimited text file. Before uploading your data, be sure to verify the file meets both conditions. Files not in the correct format will not be uploaded into the database or accepted as a submitted filing. Excel files will not be accepted. Using the excel templates provided on our web site, you will be able to create a formatted text file with a click of the "Create text file" button at the top of the template. Some producers already have their systems creating semi-colon delimited text files for submission and will be able to continue submitting those files through the data upload center. The Web Portal will be the only way to submit your current tax year filings. Once a tax year is closed, any audits and prior year filings will need to be emailed for verification and loading.

When filing prior year items that have been missed, you will use the Appendix 1 and Appendix 3 templates and email them to [surpluslines@insurance.mo.gov](mailto:surpluslines@insurance.mo.gov) to be loaded.

Only the insured's Home State may require a surplus lines broker to be licensed to sell, solicit or negotiate non-admitted insurance with respect to a particular placement. If



Missouri is the insured's Home State, the surplus lines broker must be licensed in Missouri.

**Section 384.057, RSMo**

1. Before March second of each year, each surplus lines broker shall report under oath to the director on forms prescribed by him or her a statement showing, with respect to the year ending the immediately preceding December thirty-first for nonadmitted insurance where the home state of the insured is this state:

(1) The gross amounts charged for surplus lines insurance, exclusive of sums collected for the payment of federal, state or local taxes;

(2) The amount of net premiums with respect to the insurance. For the purpose of this section, "net premiums" means the gross amount of charges for surplus lines insurance, exclusive of sums collected for the payment of federal, state and local taxes, less returned premiums.

2. No later than within forty-five days after the end of each calendar quarter ending March thirty-first, June thirtieth, September thirtieth, and December thirty-first each surplus lines broker shall report under oath to the director on forms prescribed by him or her a statement showing, with respect to each respective calendar quarter for nonadmitted insurance where the home state of the insured is this state:

(1) The gross amounts charged for surplus lines insurance, exclusive of sums collected for the payment of federal, state, or local taxes;

(2) The amount of net premiums with respect to the insurance. For the purpose of this section, "net premiums" means the gross amount of charges for surplus lines insurance, exclusive of sums collected for the payment of federal, state, and local taxes, less returned premiums.

**20 CSR 200-6.300**

Regulation 20 CSR 200-6.300 defines the standards for fees and taxes:

(1) For purposes of determining net premiums, as that term is used in sections 384.051, 384.057 and 384.059, RSMo, the gross amount of charges for surplus lines insurance shall include any fee charged to the insured and paid to the surplus lines insurer or surplus lines licensee for the placement of the surplus lines insurance. Notwithstanding the provisions of section (4) of this rule, any compensation received by the surplus lines licensee will be considered premium for purposes of the premium tax imposed by sections 384.051 and 384.059, RSMo...

### **Appendix 1 Information**

You may file your Appendix 1's any time during the quarter; you do not have to wait until the quarter ends. You can submit filings daily, weekly, monthly, or quarterly. When filing endorsements and cancellations; use the endorsement/cancellation effective date, not the original policy effective date. Invoice dates are used for audits.

If you held a Surplus Lines license any time during the quarter, you are required to submit the Appendix 1 form for that quarter. If no business was procured, you need to file a No Business filing. To clarify how the quarter is determined: our system determines the quarter using the effective date or endorsement date of the policy, not the date of the email.

### **Appendix 3 Information**

Section 384.057, RSMo requires that before March 2 of each year each Surplus Lines Producer shall file with the Director the Surplus Lines tax report known as the Appendix 3 form. If you held a Surplus Lines license anytime during the tax year, you are required to submit the Appendix 3 form. If no business was placed, you are required to file a No Business Appendix 3.

Violation of Section 384.057, RSMo is a level three violation under section 374.049, RSMo. A level three violation subjects you to a fine of up to \$5,000.00 per day for each day you fail to file such document(s), up to a maximum fine of \$100,000.00.

Desk reconciliations are conducted on all Appendix 3 Tax Report submissions. If discrepancies are discovered, you will receive notification of what items submitted need verified and corrected.

### **Standards for Placement of Coverage**

Per Section 384.017(2), RSMo, surplus lines insurance may be placed only if "[t]he full amount or kind of insurance is not obtainable from admitted insurers who are actually transacting in this state the class of insurance required by the insured. Insurance shall be deemed obtainable within the meaning of this section if there is available a market with admitted insurers that can supply the insured's requirements both as to type of coverage and as to quality of service." The phrase "type of coverage" refers to "hazards covered and limits of coverage." The phrase "quality of security and service" refers to "the rating by a recognized financial service."

A surplus lines broker seeking to procure or place non-admitted insurance on behalf of an "exempt commercial purchaser" is not required to perform a diligent search if: 1) the broker has disclosed to the exempt commercial purchaser that insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and 2) the exempt commercial purchaser has subsequently requested in writing for the broker to procure or place such insurance from a non-admitted insurer. "Exempt commercial purchaser" is defined in Section 384.015(6), RSMo.

Per Section 384.036 6, RSMo, “[e]very evidence of insurance negotiated, placed or procured under the provisions of sections 384.011 to 384.071 issued by the surplus lines licensee shall, on the face of the policy or declaration page of the policy, bear the name of the licensee and the following legend in 10-point type: **‘This is evidence of insurance procured and developed under the Missouri Surplus Lines Laws. It is NOT covered by the Missouri Insurance Guaranty Association. This insurer is not licensed by the state of Missouri and is not subject to its supervision.’**”

The [List of Eligible Surplus Lines Insurers](#) is updated nightly. The listing contains up-to-date information regarding additions, deletions, and name changes.

### **Tax Information**

Section 384.061.1, RSMo Notwithstanding any other provision of this chapter or regulation implementing a provision of this chapter, the five percent tax on net premiums imposed by sections 384.051 and 384.059 shall be levied upon and only upon the entire gross premium for non-admitted or surplus lines insurance policies for which the home state of the insured is Missouri. Fees are considered premium and subject to tax except pursuant to a signed producer service agreement as permitted by 20 CSR 700-1.100.

Do not wait for a desk reconciliation letter from the Department to remit your tax. This may cause you to incur penalties and interest.

Make check or money order payable to “Missouri Department of Revenue”. If you pay by check, you authorize the Department of Revenue to process the check electronically. Any check returned unpaid may be presented again electronically. The [Surplus Lines Tax Remittance Form](#) (Form S) is submitted with tax payment due to the Missouri Department of Revenue at P. O. Box 898, Jefferson City, MO 65105-0898 by April 15<sup>th</sup>. The United States postmark date is acceptable for timely payment.

Section 384.054, RSMo “Any tax, which is delinquent in payment, shall be subject to a penalty of one percent of the tax per diem up to ten percent of the tax. Any delinquent tax shall bear interest at the rate determined under section 32.065, RSMo, from the time such tax is due.”

If you have questions, please contact us by e-mail at [surpluslines@insurance.mo.gov](mailto:surpluslines@insurance.mo.gov).