

Consumer Counselor

Insurance Information for Michigan Consumers

Surplus Lines Policies

Your insurance agent has placed the insurance you requested in the “surplus lines market” with one or more surplus lines insurance companies (insurers). Surplus lines insurers are not *licensed* in the state, and, therefore, the state has limited regulatory authority. The surplus lines market is an insurance marketplace that was established for the purpose of insuring unique or hard to place risks e.g., sporting events, medical malpractice, pollution, and vacant buildings. Some of the regulations or laws that apply to surplus lines insurance policies and surplus lines insurance companies differ from those that govern coverage obtained from insurance companies licensed by the state. In order for you to better understand the surplus lines market and the rights you have in a surplus lines transaction, the following material is provided.

What Is a Surplus Lines Policy?

A surplus lines policy is a policy placed by a surplus lines agent or broker with an insurer that is not *licensed or admitted* in this state, making it an unauthorized insurer. However, the unauthorized insurer may be recognized as *eligible* to provide liability insurance protection to citizens of this state. The Department of Insurance and Financial Services (DIFS) no longer lists the eligible unauthorized surplus lines insurers that it has approved on its website due to the passage of the federal Non-admitted Reinsurance Reform Act (NRRA) of 2010, which allows an insurer to conduct business in the U.S. if the insurer is domiciled in a U.S. jurisdiction or listed on the NAIC Quarterly Listing of Alien Insurers.

Why Am I Getting Coverage From a Surplus Lines Insurer?

Your agent may have been unable to obtain the coverage you requested from insurance companies admitted in this state, but was able to obtain the coverage from an eligible surplus lines insurance company. The reason for your agent’s action is that the risk or property for which you sought insurance coverage may be unique or have certain high risk characteristics causing admitted insurers to decline to write the policy or was cost prohibitive. In circumstances where admitted insurers will not write the risk, it is legal and acceptable for a surplus lines agent to obtain the coverage from a surplus lines insurer under specific conditions outlined in Chapter 19 of the Michigan Insurance Code.

Since the Surplus Lines Insurer Is Unlicensed or “Non-admitted,” How Is the Transaction Regulated?

Surplus lines transactions are regulated by state laws which require that surplus lines policies be placed only by specially licensed agents. These agents are called surplus lines agents, and they are authorized to transact business with certain unlicensed or non-admitted insurers that meet financial and other eligibility standards established in the insurance code. Your agent may have worked with a licensed surplus lines agent or broker in securing your policy if your agent does not hold a surplus lines license. You can check on the status of your agent’s licenses on the DIFS website.

Is My Surplus Lines Policy Covered by the State Guaranty or Insolvency Fund?

There is NO guaranty fund coverage for surplus lines policies. The guaranty fund only covers policies of licensed insurers.



How Is the Rate or Price of a Surplus Lines Policy Determined?

The rate or premium charged for a surplus lines policy is determined by the surplus lines insurer depending upon the coverage, policy limits, exclusions, deductibles or other similar customary policy provisions. Surplus lines insurers do not file their premium rates with the state for review or approval. The total cost of the policy will include:

- the insurer's premium charge.
- state surplus lines taxes, plus regulatory fee (which is a 2.5% calculation on the premium charged only).
- state approved agent fees (which is determined annually by the Director and posted as a Bulletin to the DIFS website).
- other fees charged by vendors to inspect the property if required.
- agent commissions incurred in selling and delivering the policy to you.

Does a Surplus Lines Policy Contain Standard Policy Language?

The policies of surplus lines insurers are not reviewed or approved by the state. A surplus lines insurer can modify, and often does modify, standard policy language to decrease or increase coverage depending upon the desire of the insured and the extent to which the insurer is willing to offer coverage.

Michigan law requires the following information be printed, typed, or stamped in red ink in 10-point type on each surplus lines policy, cover note, or other document that indicates a surplus lines policy: *"This insurance has been placed with an insurer that is not licensed by the state of Michigan. In case of insolvency, payment of claims may not be guaranteed." This notification shall not be concealed in any manner.*

Can My Policy Be Renewed or Extended?

Your surplus lines policy may or may not be renewed or extended when the policy expires. An extension of the policy coverage will be dependent upon the continued unavailability of the coverage from insurers licensed in this state and the willingness of the surplus lines insurer to continue to accept the risk. Since a surplus lines policy is not subject to the same notice requirements as a policy issued by a licensed insurer, notice of a premium increase for a new policy term or the company's intent not to extend the policy at the same terms and conditions might not be provided until close to the date the policy expires. A minimum amount of premium may be required by the insurer even if the policy is canceled within 30 days, which is called a flat rate cancellation. Therefore, you should keep in contact with your agent, particularly as the expiration of the policy term nears, to ascertain the status of the policy and to assure continuity of coverage.

