

A Consumer's Guide to Surplus Lines Insurance

Traditional insurance markets consisting of North Carolina licensed (“admitted”) companies are not always available for every risk. The surplus lines market is an insurance marketplace that is established for the purpose of insuring unique or hard to place risks. Some of the rules that apply to surplus lines placements and surplus lines companies differ from those that govern coverage obtained from licensed insurance companies.

The North Carolina Department of Insurance (NCDOI) hopes this guide will help you understand this frequently misunderstood market, its purposes and its limitations. Please read this guide carefully, and should you have any questions after reading the material, do not hesitate to ask your agent. If you want more information, please call our Consumer Services Division at 1-800-546-5664.

What is surplus lines insurance?

Surplus lines insurance is coverage that is unavailable through admitted carriers but can legally be placed with eligible non-admitted companies. These surplus lines companies may be located in other states or countries.

Your agent may work with a licensed surplus lines broker in securing your policy.

Only licensed surplus lines brokers can place coverage with these insurers. A broker must pass a special examination to qualify for a surplus lines license.

By law, a broker can place a risk with a surplus lines company only after making a “diligent effort” to find an admitted carrier to issue the policy. If you are not satisfied with the results of the search, keep shopping for a licensed company, perhaps with another agent.

The surplus lines broker must notify the insured in writing that:

1. The insurer with which the coverage has been placed is not licensed by this state and is not subject to its supervision; and
2. In the event of the insolvency of the surplus lines insurer, losses will not be paid by any State insurance guaranty or solvency fund.

What is an unauthorized insurer?

It is an illegal insurance operation. Specifically, it is a company, agent or other business that sells or attempts to sell insurance in North Carolina when it is not licensed, eligible or registered to do so. These fraudulent operations, often claiming to be licensed in another country, sometimes deceive customers by claiming to be eligible surplus lines carriers. Unlike legitimate surplus lines companies, they have not established eligibility by demonstrating financial soundness and meeting other consumer protection requirements.

What kinds of insurance are written in the surplus lines market?

Surplus lines business consists primarily of property and casualty coverages. These include commercial general liability insurance, fire insurance, mobile home policies, automobile physical damage coverage, medical malpractice policies and the like.

Most surplus lines policies are sold to businesses. A small percentage of the surplus lines market consists of individual consumers who cannot secure residential property or automobile physical damage coverage with an admitted insurer.

Why am I getting coverage from a surplus lines insurer?

Your agent was unable to obtain the coverage you requested among the companies licensed in North Carolina, but was able to provide the coverage from an eligible surplus lines company.

The reason for your broker's action is that the risk or property for which you sought coverage may be unique or have certain risk characteristics that prevented your agent from placing the coverage with licensed carriers.

Since the surplus lines insurer is unlicensed (or "not admitted"), how is the policy regulated?

Since the surplus lines insurer is unlicensed, the policies are regulated by state laws which require surplus lines coverage to be obtained by specially licensed surplus lines agents or brokers who are authorized to transact business with non-admitted insurers that meet financial and other criteria. These insurers are known as surplus lines insurers.

What are the minimum financial requirements for surplus lines insurers?

Companies attempting to become eligible surplus lines insurers must have at least \$15 million in combined capital and surplus to conduct business in North Carolina. (Capital and surplus are a company's financial cushion against unexpected claims.)

In addition, an alien insurer – one based in a foreign country – must have a trust fund of at least \$5.4 million in either a national bank or a member of the Federal Reserve System to protect its U.S. policyholders.

Is my surplus lines policy protected by the Insurance Guaranty Association?

There is no protection for surplus lines policies. The Insurance Guaranty Association only covers policies of licensed insurers. This means that if the surplus lines insurer has financial difficulties, claims against your policy might go unpaid.

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 insurer depending upon coverage, policy limits, exclusions, deductibles or other similar policy provisions.

As unlicensed carriers, surplus lines insurers do not file their rates or premiums with the NCDOI for review. The total cost of the policy will include the insurer's premium charge, state surplus lines taxes plus broker fees and commissions incurred in selling and delivering the policy to you.

Does a surplus lines policy contain standard policy language?

The policies of surplus lines companies are not reviewed or approved by the NCDOI. A surplus lines company 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 company is willing to offer coverage.

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 coverage may depend upon the availability of the coverage from insurers licensed in North Carolina and the willingness of the insurance company to continue to accept the risk.

Since a surplus lines policy is not subject to the same notice requirements as a policy issued by an admitted carrier, 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 may not be provided until or around the date the policy expires.

Therefore, it is necessary for you to keep in contact with your broker, particularly as the expiration of the policy term nears, to learn the status of the policy and to assure continuity of coverage.

How to Reach Us

You can reach the North Carolina Department of Insurance, Consumer Services Division at:

800-546-5664 Toll free inside North Carolina
919-807-6750 Locally or outside of North Carolina
919-715-0319 TDD (Telephone Device for Deaf Caller)
919-733-0085 Fax

You can find additional information including our complaint form on the North Carolina Department of Insurance Web site at www.ncdoi.com.

The address for the North Carolina Department of Insurance, Consumer Services Division is:

Consumer Services Division
North Carolina Department of Insurance
1201 Mail Service Center
Raleigh, NC 27699-1201