

# Chapter 284-15 WAC

## SURPLUS LINE INSURANCE

### WAC

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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| 284-15-100 | Surplus lines limited broker. [Statutory Authority: RCW 48.02.060 and 48.92.140. 93-19-008 (Order R 93-12), § 284-15-100, filed 9/1/93, effective 10/2/93.] Repealed by 08-14-169 (Matter No. R 2008-04), filed 7/2/08, effective 8/2/08. Statutory Authority: RCW 48.02.060, 48.15.040(4), 48.15.073(2), and 48.15.160(2). |
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**WAC 284-15-010 Brokers—Surplus line brokers—Qualifications and examination.** (1) Each applicant for a resident surplus line broker's license must take and pass the required examination and pay the required fee prior to acting as a surplus line broker. The examination will test an applicant's qualifications and competence in all areas of surplus line insurance. Current information about testing procedures and examination dates is available on the commissioner's web site at: [www.insurance.wa.gov](http://www.insurance.wa.gov).

(2) Before the commissioner can issue a surplus line broker's license, the applicant must be licensed in this state as an insurance producer with both property and casualty lines of authority. This requirement may be satisfied if the licenses are issued simultaneously.

(3) The commissioner deems that a nonresident person holding a surplus line broker's license, or the equivalent, in the applicant's home state is qualified, competent and trustworthy and, therefore, meets the minimum standards of this state for holding a surplus line broker's license. For that reason, the commissioner will waive the Washington surplus line broker's examination for a person who has and maintains a current resident surplus line broker's license, or the equivalent, in the applicant's home state.

[Statutory Authority: RCW 48.02.060, 48.17.005. 09-02-073 (Matter No. R 2008-06), § 284-15-010, filed 1/6/09, effective 7/1/09. Statutory Authority: RCW 48.02.060, 48.15.040(4), 48.15.073(2), and 48.15.160(2). 08-14-169 (Matter No. R 2008-04), § 284-15-010, filed 7/2/08, effective 8/2/08. Statutory Authority: RCW 48.02.060. 81-03-082 (Order R 81-1), § 284-15-010, filed 1/21/81.]

**WAC 284-15-020 Surplus line broker—Solvent insurer required.** (1) A surplus line broker must not knowingly place surplus line insurance with financially unsound insurers. Foreign and alien insurers must meet or exceed the

minimum financial conditions required by RCW 48.15.090 and WAC 284-15-090.

(2) A surplus line broker must substantiate the financial condition of an unauthorized insurer before placing insurance with the insurer. The broker must also maintain evidence of the financial condition of the insurer for at least five years.

(a) If a surplus line broker places insurance with an alien unauthorized insurer shown on the National Association of Insurance Commissioners (NAIC) Quarterly Listing of Alien Insurers dated within three months after placement of the risk, it will be deemed that the insurer meets the financial requirements of RCW 48.15.090 and WAC 284-15-090 and that the financial condition of the insurer is adequately documented.

(b) If a surplus line broker places insurance with an alien unauthorized insurer that is not shown on the NAIC Quarterly Listing of Alien Insurers, the broker must maintain information for at least five years adequate to show that the requirements of subsection (1) of this section have been met or exceeded. This documentation shall include at least the following:

(i) A copy of the unauthorized insurer's most recent available annual financial statement, in English with United States dollar equivalents;

(ii) Any other information obtained by the broker that verifies the financial condition of the alien unauthorized insurer; and

(iii) The current NAIC annual statement or its equivalent on file for any alien unauthorized insurer used.

[Statutory Authority: RCW 48.02.060, 48.15.040(4), 48.15.073(2), and 48.15.160(2). 08-14-169 (Matter No. R 2008-04), § 284-15-020, filed 7/2/08, effective 8/2/08. Statutory Authority: RCW 48.02.060. 81-03-082 (Order R 81-1), § 284-15-020, filed 1/21/81.]

**WAC 284-15-030 Surplus line brokers' form to be filed—Contract stamp to be used.** (1) RCW 48.15.040 requires that a surplus line broker execute an affidavit at the time of procuring insurance from an unauthorized insurer, and to file such affidavit with the commissioner within thirty days after the insurance is procured. The form for filing such affidavit shall be in substantially the following form, and may include additional information to satisfy requirements of the Surplus Line Association of Washington:

|                           |                                    |
|---------------------------|------------------------------------|
| Policy or Certificate No: | Premium, including any policy fee: |
|---------------------------|------------------------------------|

1. Name and license number of filing Surplus Line Broker:
2. Name and address of producing agent or broker (if any):
3. Name(s) of unauthorized insurer(s):

- 4. Name and address of insured:
- 5. Brief statement of coverages (common trade terms may be used, e.g. "furrier's block"):

STATE OF WASHINGTON }  
 COUNTY } SS. SURPLUS LINE  
 } BROKER'S  
 } AFFIDAVIT

I have procured insurance from an unauthorized insurer or insurers, in accordance with the laws and regulations of the state of Washington under my Surplus Line Broker's license. Details of such transaction are set forth above.

Such insurance could not be procured, after diligent effort was made to do so from among a majority of the insurers authorized to transact that kind of insurance in this state, and placing the insurance in such unauthorized insurer(s) was not done for the purpose of securing a lower premium rate than would be accepted by any authorized insurer.

I certify that I am duly authorized to place this coverage on behalf of the insured, that the risk has been duly accepted by the insurer(s), and that I ascertained the financial condition of the unauthorized insurer(s) before placing the insurance therewith.

.....  
 (Signature of Surplus Line Broker)  
 Subscribed and sworn to before me this ..... day of  
 ....., 20...  
 .....  
 Notary Public in and for the State of  
 Washington, residing at .....

(2) Every insurance contract, including those evidenced by a binder, procured and delivered as a surplus line coverage pursuant to chapter 48.15 RCW shall have a conspicuous statement stamped upon its face, which shall be initialed by or bear the name of the surplus line broker who procured it, as follows:

"This contract is registered and delivered as a surplus line coverage under the insurance code of the state of Washington, enacted in 1947. It is not issued by a company regulated by the Washington state insurance commissioner and is not protected by any Washington state guaranty fund law."

[Statutory Authority: RCW 48.02.060, 06-12-077 (Matter No. R 2006-04), § 284-15-030, filed 6/6/06, effective 7/7/06; 81-03-082 (Order R 81-1), § 284-15-030, filed 1/21/81.]

**WAC 284-15-040 Form for surplus line insurer to designate person to receive legal process.** (1) RCW 48.15-150 permits service of legal process against an unauthorized insurer to be made upon the commissioner. The commissioner will mail the documents of process to the insurer at its principal place of business last known to the commissioner, or to a person designated by the insurer for that purpose in the most recent document filed with the commissioner on a form prescribed by the commissioner. If an unauthorized insurer elects to designate a person to receive legal process from the commissioner, the designation must be in writing and filed with the commissioner in substantially the form set forth on the commissioner's web site at: [www.insurance.wa.gov](http://www.insurance.wa.gov).

(2) The person designated by the insurer to receive legal process may be an individual, firm or corporation.

(3) The process documents will be forwarded by the commissioner to the person designated in the most recent notice filed with the commissioner.

(4) As specified in RCW 48.15.150, each policy issued by an unauthorized insurer as a surplus line contract must designate the commissioner as the person upon whom service of process may be made.

[Statutory Authority: RCW 48.02.060, 48.15.040(4), 48.15.073(2), and 48.15.160(2). 08-14-169 (Matter No. R 2008-04), § 284-15-040, filed 7/2/08, effective 8/2/08. Statutory Authority: RCW 48.02.060, 06-12-077 (Matter No. R 2006-04), § 284-15-040, filed 6/6/06, effective 7/7/06; 81-03-082 (Order R 81-1), § 284-15-040, filed 1/21/81.]

**WAC 284-15-050 Surplus line—Waiver of financial requirements.** The commissioner may waive the financial requirements specified in RCW 48.15.090 and WAC 284-15-090 in circumstances where insurance cannot be otherwise procured on risks located in this state. Except as set forth in subsection (5) of this section, at least the following information must be submitted when a surplus line broker requests the commissioner to waive the financial requirements:

(1) A detailed letter explaining the need to waive the financial requirements;

(2) Documentation of the financial condition of the proposed insurer as reported in its annual statement as of the end of the preceding calendar year;

(3) Summary information showing the number of years the company has been writing the specific line of insurance;

(4) A written acknowledgement signed by the proposed insured confirming all of the following:

(a) The insured has been informed that the coverage will be issued by an insurer (or insurers) that is not an authorized insurer in the state of Washington;

(b) The insured understands that financial requirements for surplus line insurers must be waived by all parties concerned to enable this coverage to be obtained; and

(c) The insured understands that there is no protection for the insured under the Washington Insurance Guaranty Association because the coverage will be issued by an unauthorized insurer;

(5) For accounts requiring a multiplicity of insurers, in lieu of the requirements in subsections (2) and (3) of this section, the commissioner may accept certification from a surplus line broker that the broker has investigated the financial condition of the prospective insurers and is satisfied that they are capable of underwriting the specified risks. Records and documents supporting the broker's certification must be maintained by the broker for the term of the policies and as long thereafter as a claim may be litigated, but in no case less than five years after completion of the transaction.

[Statutory Authority: RCW 48.02.060, 48.15.040(4), 48.15.073(2), and 48.15.160(2). 08-14-169 (Matter No. R 2008-04), § 284-15-050, filed 7/2/08, effective 8/2/08. Statutory Authority: RCW 48.02.060, 89-03-060 (Order R 89-2), § 284-15-050, filed 1/17/89; 81-03-082 (Order R 81-1), § 284-15-050, filed 1/21/81.]

**WAC 284-15-080 Relationship between surplus line broker and insurance producer not acting as the agent of the insured.** When a surplus line broker accepts surplus line business from an insurance producer not acting as an agent of

the insured, as permitted by RCW 48.15.080, acceptance of the business does not mean that the insurance producer has become the representative of the insured with respect to that business. In this circumstance:

(1) Return premiums or claim payments will not be deemed to have been paid to the insured or claimant until the payments are actually received by the insured or claimant.

(2) Delivery of notices involving the insurance, such as cancellation or renewal notices, will not be deemed to have been made until actually received by the insured.

[Statutory Authority: RCW 48.02.060, 48.17.005, 09-02-073 (Matter No. R 2008-06), § 284-15-080, filed 1/6/09, effective 7/1/09. Statutory Authority: RCW 48.02.060, 48.15.040(4), 48.15.073(2), and 48.15.160(2), 08-14-169 (Matter No. R 2008-04), § 284-15-080, filed 7/2/08, effective 8/2/08. Statutory Authority: RCW 48.02.060, 48.05.310, 48.30.010 and 48.15.080, 91-23-032 (Order R 91-7), § 284-15-080, filed 11/13/91, effective 1/1/92.]

**WAC 284-15-090 Financial requirements for unauthorized foreign and alien insurers increased.** (1) Pursuant to RCW 48.15.090 (2)(a) and subject to RCW 48.15.090 (2)(b) and WAC 284-15-050, the commissioner hereby increases the financial requirements set forth in RCW 48.15.090 (1)(a) with respect to unauthorized foreign insurers as follows:

(a) Beginning January 1, 1993, a surplus line broker shall not insure with any foreign insurer having less than seven million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital.

(b) Beginning January 1, 1994, a surplus line broker shall not insure with any foreign insurer having less than eight million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital.

(c) Beginning January 1, 1995, a surplus line broker shall not insure with any foreign insurer having less than nine million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital.

(d) Beginning January 1, 1996, a surplus line broker shall not insure with any foreign insurer having less than ten million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital.

(e) Beginning January 1, 1997, a surplus line broker shall not insure with any foreign insurer having less than eleven million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital.

(f) Beginning January 1, 1998, a surplus line broker shall not insure with any foreign insurer having less than twelve million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital.

(g) Beginning January 1, 1999, a surplus line broker shall not insure with any foreign insurer having less than thirteen million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital.

(h) Beginning January 1, 2000, a surplus line broker shall not insure with any foreign insurer having less than

fourteen million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital.

(i) Beginning January 1, 2001, a surplus line broker shall not insure with any foreign insurer having less than fifteen million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital.

(2) The commissioner hereby advises that the financial requirement imposed by RCW 48.15.090 (1)(b) with respect to unauthorized alien insurers is increased. Beginning January 1, 1993, a surplus line broker shall not insure with any alien insurer having less than fifteen million dollars of capital and surplus or substantially equivalent capital funds, subject to WAC 284-15-050 with respect to a waiver pursuant to RCW 48.15.090 (2)(b).

[Statutory Authority: RCW 48.02.060, 92-24-062 (Order R 92-24), § 284-15-090, filed 11/30/92, effective 12/31/92.]