



Rules of
Department of Insurance,
Financial Institutions and
Professional Registration
Division 200—Insurance Solvency and Company
Regulation
Chapter 6—Surplus Lines

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**Title 20—DEPARTMENT OF
INSURANCE, FINANCIAL
INSTITUTIONS AND
PROFESSIONAL REGISTRATION**
Division 200—Insurance Solvency and
Company Regulation
Chapter 6—Surplus Lines

**20 CSR 200-6.100 Surplus Lines Insurance
Forms**

PURPOSE: This rule prescribes forms to be followed in making filings pursuant to sections 384.031 and 384.057, RSMo, and effectuates or aids in the interpretation of sections 384.017(2), 384.031, and 384.057, RSMo.

(1) Forms.

(A) Surplus Lines Filing Report—Appendix 1 is the method prescribed by the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration for filing the confidential written report required by section 384.031, RSMo. The Surplus Lines Filing Report—Appendix 1 data must be filed electronically using the systems, software, and/or method prescribed by the director.

(B) Surplus Lines Licensee's Tax Report—Appendix 3 is the method prescribed by the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration for filing the annual report required by section 384.057, RSMo. The Surplus Lines Licensee's Tax Report—Appendix 3 data must be filed electronically using the systems, software, and/or method prescribed by the director.

(C) Copies of the forms are available at the department's office, at the department website, www.insurance.mo.gov, or by mailing a written request to the Department of Insurance, Financial Institutions and Professional Registration, PO Box 690, Jefferson City, MO 65102.

(2) Proof of filing. Proof of filing will be provided to the surplus lines licensee making electronic filings by means or methods prescribed by the director of the Missouri Department of Insurance, Financial Institutions and Professional Registration.

AUTHORITY: sections 374.045, 384.017, 384.031, and 384.057, RSMo 2000.* This rule was previously filed as 4 CSR 190-10.103. Original rule filed May 4, 1987, effective Aug. 1, 1987. Emergency rule filed June 2, 1987, effective July 1, 1987, expired Sept. 1, 1987. Emergency rescission filed June 16, 1987, effective June 26, 1987, expired Aug. 1, 1987. Amended: Filed Jan.

17, 1990, effective May 1, 1990. Amended: Filed April 23, 1999, effective Nov. 30, 1999. Amended: Filed July 12, 2002, effective Feb. 28, 2003. Amended: Filed Nov. 1, 2005, effective April 30, 2006. Amended: Filed May 14, 2008, effective Nov. 30, 2008.

*Original authority: 374.045, RSMo 1967, amended 1993, 1995; 384.017, RSMo 1987, amended 1989; 384.031, RSMo 1987, amended 1989; and 384.057, RSMo 1987, amended 1989.

**20 CSR 200-6.200 Surplus Lines Advisory
Organizations**

This rule was previously filed as 4 CSR 190-10.104. Emergency rule filed June 2, 1987, effective July 1, 1987, expired Sept. 1, 1987. Emergency rescission filed June 16, 1987, effective June 26, 1987, expired Sept. 1, 1987.

**20 CSR 200-6.300 Surplus Lines Insurance
Fees and Taxes**

PURPOSE: This rule clarifies and effectuates the provisions of Chapter 384, RSMo as amended by Senate Bill 250 in the First Regular Session of the 85th General Assembly with regard to the premium charged by surplus lines insurers. This rule is pursuant to the provisions of sections 374.045, 384.051, 384.057 and 384.059, RSMo.

(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, unless all the following conditions are met:

(A) The surplus lines licensee is also the retail insurance producer (i.e., the surplus lines licensee has the primary direct relationship with the prospective policyholder); and

(B) The surplus lines licensee's compensation is received pursuant to an insurance producer's agreement as permitted by 20 CSR 700-1.100; and

(C) The amount of compensation excludable from the application of such premium tax does not exceed the amount of compensation such licensee would have received under such licensee's insurance producer service

agreement if surplus lines insurance was not involved.

(2) The fees may include, but are not limited to, policy fees, inspection fees, fees charged by an insurance producer acting as a managing general agent for a surplus lines insurer or any other fee charged by surplus lines insurer or surplus lines licensee for the placement of surplus lines insurance.

(3) All fees charged to the insured by the surplus lines insurer or surplus lines licensee shall be considered premium for purposes of the premium tax imposed by sections 384.051 and 384.059, RSMo.

(4) Fees paid by an insured to an insurance producer and retained by an insurance producer pursuant to an insurance producer service agreement as permitted by 20 CSR 700-1.100 shall not be considered premium for purposes of the premium tax imposed by sections 384.051 and 384.059, RSMo.

AUTHORITY: sections 374.045, 384.051, 384.057 and 384.059, RSMo 2000.* This rule was previously filed as 4 CSR 190-10.105. Original rule filed Jan. 17, 1990, effective June 11, 1990. Amended: Filed Sept. 24, 1991, effective Feb. 6, 1992. Amended: Filed July 12, 2002, effective Jan. 30, 2003. Amended: Filed Aug. 10, 2006, effective Feb. 28, 2007.

*Original authority: 374.045, RSMo 1967, amended 1993, 1995; 384.051, RSMo 1987 amended 1989; 384.057, RSMo 1987, amended 1989; and 384.059, RSMo 1987, amended 1989.

**20 CSR 200-6.400 Surplus Lines Premium
Tax Allocation Formulas**

PURPOSE: This rule implements the surplus lines premium tax allocation provisions contained in section 384.061, RSMo.

(1) For purposes of determining the amount of premium properly allocable to that portion of the risk located in this state pursuant to the provisions of section 384.061, RSMo, the following formulas shall be used where applicable:

(A) Products Liability =
$$\frac{\text{Missouri Sales Revenue}}{\text{Total Sales Revenue}}$$

(B) Fire and Extended Coverage =
$$\frac{\text{Missouri Property Value}}{\text{All Property Value}}$$

(C) Employee Liability =
$$\frac{\text{Missouri Salaries Paid}}{\text{All Salaries Paid}}$$



and

(D) Transportation Insurance =
Missouri Revenue Miles
All Revenue Miles

(2) To the extent that the formulas contained in section (1) are inapplicable or do not adequately reflect that portion of the risk located within this state, the tax payable shall be computed on the portions of the premium properly allocable to that portion of the risks located in this state. The formula may be based on the rating basis for the particular policy. The surplus lines licensee shall obtain the approval of the director prior to the use of any other formula for determining the amount of premium allocable to that portion of the risk located within this state.

AUTHORITY: sections 374.045, RSMo 1986 and 384.061, RSMo Supp. 1990. Original rule filed Sept. 24, 1991, effective Feb. 6, 1992.*

**Original authority: 374.045, RSMo 1967 and 384.061, RSMo 1967, amended 1989.*

20 CSR 200-6.500 Standards for Determining the Availability of Coverage

PURPOSE: This rule specifies the standards for determining whether there is an available market in Missouri for the class of coverage required by a prospective insured, both as to the type of coverage and the quality of coverage, such that an insurer admitted to business in Missouri must be used, or whether, in the alternative, a surplus lines licensee may be used to obtain coverage from a nonadmitted insurer.

(1) For purposes of section 384.017, RSMo, an available market shall be deemed not to exist for the type and quality of coverage required by the insured if, at the time of the request, the surplus lines licensee and the licensee's producing insurance producer, if any, have been unable, after the exercise of due diligence, to obtain such coverage from both—

(A) Those admitted insurers with whom the surplus lines licensee and any producing insurance producer have been appointed to act, respectively, as insurance producers; and

(B) Those other admitted insurers to whom the surplus lines licensee and any producing insurance producer have reasonable access and from whom they either knew they could obtain coverage or from whom they would typically be able to obtain coverage, during the normal course of business.

AUTHORITY: sections 374.045, and 384.017, RSMo 2000. Original rule filed Aug. 4, 1992, effective May 5, 1993. Amended: Filed July 12, 2002, effective Jan. 30, 2003.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995 and 384.017, RSMo 1987, amended 1989.*

20 CSR 200-6.600 Licensing Requirements (Rescinded September 30, 2005)

AUTHORITY: section 374.045, RSMo 2000. Original rule filed Sept. 5, 2001, effective March 30, 2002. Rescinded: Filed March 9, 2005, effective Sept. 30, 2005.

20 CSR 200-6.700 Procedures for Forming and Operating a Missouri Domestic Surplus Lines Insurer

PURPOSE: The purpose of this rule is to prescribe procedures to be followed in applications for a certificate of authority to form and operate a Missouri domestic surplus lines insurer. This rule also effectuates and aids in the interpretation of section 384.018, RSMo.

(1) The procedures outlined in this section are the procedures required for the successful formation of a Missouri domestic surplus lines insurer authorized to write any kind of insurance that a nonadmitted insurer not domiciled in Missouri is eligible to write.

(A) The insurer must be admitted and domiciled in Missouri. Any foreign insurance company or incorporators wishing to become or form a Missouri domestic surplus lines insurer must satisfy this requirement in one (1) of the two (2) following manners:

1. Any foreign insurance company wishing to become a Missouri domestic surplus lines insurer must first redomesticate to Missouri pursuant to the procedures outlined in section 375.908, RSMo, and 20 CSR 200-17.300; or

2. Any incorporators wishing to form a Missouri domestic surplus lines insurer must first form a Missouri domestic insurance company pursuant to the procedures outlined in sections 379.010-379.065, RSMo (insurance companies other than life), and 20 CSR 200-17.100.

(B) The insurer must furnish to the director proof that the insurer possesses policyholder surplus of at least twenty million dollars (\$20,000,000).

(C) The insurer must furnish to the director proof that the insurer is an approved or eligible surplus lines insurer in at least one (1) jurisdiction other than Missouri.

(D) The board of directors of the insurer must pass a resolution seeking to be a domestic surplus lines insurer in Missouri.

(E) The insurer must provide a copy of its current articles of incorporation. The director may waive this requirement at his/her discretion if such articles of incorporation are already on file with the department and no amendments have been made.

(F) The insurer must provide a copy of its current bylaws. The director may waive this requirement at his/her discretion if such bylaws are already on file with the department and no amendments have been made.

(G) The insurer must pay any required filing fees pursuant to section 374.230, RSMo.

(H) The insurer must submit all biographical affidavits for all officers, directors, and other key personnel of the company. The director may waive this requirement in whole or part at his/her discretion if such biographical affidavits are already on file with the department and no changes have been made to the officers, directors, and other key personnel of the company.

(I) The insurer must submit any other information requested by the director relevant to the issuance of a certificate of authority as a domestic surplus lines insurer.

(J) The insurer must surrender to the director its certificate of authority to transact admitted insurance business in the state of Missouri.

(K) Upon satisfaction that the requirements outlined in subsections (1)(A)–(J) of this section have been met, the director will accept the surrender outlined in subsection (1)(J) of this section and concurrently issue the company a certificate of authority, which shall constitute written approval for the company to be a domestic surplus lines insurer pursuant to section 384.018.1(4), RSMo.

(L) For insurers that choose to satisfy the requirements of subdivision 1 or 2 of subsection (1)(A) simultaneously with subsections (1)(B)–(I), subsection (1)(J) will be deemed satisfied without the issuance and subsequent surrender of a certificate of authority to transact admitted insurance business. Insurers already in possession of a certificate of authority to transact admitted insurance business must satisfy subsection (1)(J) as written.

(2) All financial and solvency requirements imposed by Chapters 374, 375, 379, and 382, RSMo, upon domestic admitted insurers shall apply to domestic surplus lines insurers unless domestic surplus lines insurers are otherwise specifically exempted. These financial and solvency requirements shall include, but not be limited to:



(A) Financial examination pursuant to sections 374.202 to 374.207, RSMo;

(B) The deposit requirement in section 379.098, RSMo. For the purposes of section 379.010, RSMo, a domestic surplus lines insurer shall be considered to be making two (2) or more classes of insurance. The deposit required in order to satisfy subsection (1)(A) above, may continue to be held in satisfaction of this requirement, provided the deposit is of the amount specified in section 379.010.2, RSMo, for a company making two (2) or more classes of insurance;

(C) Requirements imposed by Chapter 382, RSMo, which are all deemed to be financial and solvency requirements for the purposes of section 384.018.6, RSMo; and

(D) All other financial and solvency requirements imposed by Chapters 374, 375, 379, and 382, RSMo, upon domestic admitted insurers.

(3) All requirements imposed by Chapter 384, RSMo, upon nonadmitted insurers shall apply to domestic surplus lines insurers unless domestic surplus lines insurers are otherwise specifically exempted.

(4) A financial or solvency requirement imposed by Chapter 384, RSMo, upon domestic surplus lines insurers shall supersede a requirement imposed under section 384.018.6, RSMo and section (2) of this rule only to the extent that Chapter 384, RSMo, addresses the same financial or solvency requirement. This supersession shall be construed narrowly. Any ambiguity as to the supersession of a requirement imposed under section 384.018.6, RSMo and section (2) of this rule shall be interpreted in support of the continued application of such requirement.

(5) For the purposes of section 374.230(3), RSMo, the certificate of authority issued pursuant to section 384.018.1(4), RSMo and subsection (1)(K) of this rule shall be a certificate of authority for which annual renewal is required.

(6) By way of the certificate of authority issued to a domestic surplus lines insurer pursuant to section 384.018.1(4), RSMo and subsection (1)(K) of this rule, a Missouri domestic surplus lines insurer shall be authorized to write that kind of insurance in Missouri as required by section 384.021.1(1), RSMo.

(7) Credit shall be allowed pursuant to section 375.246.1(1), RSMo for reinsurance ceded to a Missouri domestic surplus lines insurer.

2013, and section 384.018, RSMo Supp. 2014.* Original rule filed July 15, 2015, effective Jan. 30, 2016.

*Original authority: 374.045, RSMo 1967, amended 1993, 1995, 2008 and 384.018, RSMo 2014.

AUTHORITY: section 374.045, RSMo Supp.