

INSURANCE DIVISION[191]

Notice of Intended Action

Proposing rule making related to surplus lines insurers and risk retention groups and providing an opportunity for public comment

The Insurance Division hereby proposes to amend Chapter 21, “Requirements for Surplus Lines, Risk Retention Groups and Purchasing Groups,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 515E.14 and 515I.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapters 515E and 515I.

Purpose and Summary

This proposed rule making adds a late fee of \$500 for surplus lines insurers and risk retention groups that (1) fail to file renewal applications by March 1 of each year following the year of registration or fail to submit requested information or (2) fail to file a financial statement as instructed on the Division’s website.

The Division has been unable to secure reasonable compliance with the renewal requirements and timely submission of financial statements for eligible surplus lines insurers and risk retention groups. This increasing noncompliance has taken two forms: more filers filing after the deadline and more filers requiring additional outreach from the Division. In 2020, 13 surplus lines insurers and 11 risk retention groups failed to timely file their renewal.

Under the existing Chapter 21, noncompliance requires automatic termination of the insurer’s status as an eligible surplus lines insurer. In the event of noncompliance, the Division may also pursue a formal administrative proceeding. The proposed subrules consistently apply the same penalty to surplus lines insurers and risk retention groups as is applied to other insurers that fail to timely file an application for renewal or fail to timely file financial statements.

Fiscal Impact

The fiscal impact cannot be calculated at this time. The goal of imposing a late fee is to encourage compliance with the filing deadline. If the addition of the late fee has its intended effect, the fiscal impact will be zero.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 191—Chapter 4.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on September 15, 2021. Comments should be directed to:

Bob Koppin
Iowa Insurance Division
1963 Bell Avenue, Suite 100
Des Moines, Iowa 50315
Email: robert.koppin@iid.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

September 15, 2021
9 a.m.

Via conference call

A conference call number will be available prior to the hearing on the Division's web page at iid.iowa.gov/hearings. Persons wishing to attend the hearing may also contact Tracy Swalwell for hearing information. Persons who wish to make oral comments at the public hearing must submit a request to Tracy Swalwell prior to the public hearing to facilitate an orderly hearing. Persons will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy Swalwell and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrules 21.5(2) to 21.5(4) as follows:

21.5(2) *Procedures for renewal of an insurer as an eligible surplus lines insurer.* An eligible surplus lines insurer that was approved by the division as an eligible surplus lines insurer, except for an alien insurer under Iowa Code section ~~515I.2(7)~~ "b," 515I.2(8) "b," must by March 1 of each year following the year of approval:

a. to c. No change.

21.5(3) *Periodic reporting.* An eligible surplus lines insurer, except for an alien insurer under Iowa Code section ~~515I.2(7)~~ "b," 515I.2(8) "b," must submit annual and quarterly financial statements to the division as instructed on the division's website.

21.5(4) *Failure to comply with renewal procedures.* ~~Failure of an eligible surplus lines insurer to timely submit the renewal materials required by subrule 21.5(2) will result in the automatic termination of the insurer's status as an eligible surplus lines insurer.~~ An eligible surplus lines insurer that fails to timely file an application for renewal as an eligible surplus lines insurer or fails to provide requested information shall pay a late fee of \$500.

ITEM 2. Adopt the following **new** subrules 21.5(5) to 21.5(7):

21.5(5) *Failure to timely file financial statements.* An eligible surplus lines insurer that fails to file a financial statement, as instructed on the division's website, shall pay a late fee of \$500. The commissioner may give notice to an insurer that fails to timely file that the insurer is in violation of this subrule. If the insurer fails to file the required financial statements within ten days of the date of the notice, the insurer shall pay an additional late fee of \$100 for each day the failure continues.

21.5(6) *Failure to comply with this rule.* An eligible surplus lines insurer's authority to transact new business in this state shall immediately cease until the insurer has fully complied with this rule, including paying all applicable late fees.

21.5(7) *Suspension.* The commissioner may order the suspension of an eligible surplus lines insurer's authority to transact the business of insurance within the state, after notice and hearing pursuant to Iowa Code chapter 17A, if the eligible surplus lines insurer fails to fully comply with this rule within 90 days, including paying all applicable late fees.

ITEM 3. Amend rule 191—21.6(515E) as follows:

191—21.6(515E) Procedures for qualification and renewal as a risk retention group.

21.6(1) *Application and procedures for initial qualification as a risk retention group.* Any insurer who wishes to register under Iowa Code chapter 515E as a risk retention group must:

a. and b. No change.

21.6(2) *Procedures for renewal as a risk retention group.* A risk retention group must pay a \$100 renewal fee by March 1 of each year following the year of registration. The risk retention group must annually provide information requested by the division for determination of continued registration.

21.6(3) *Failure to comply with renewal procedure.* A risk retention group that fails to timely file an application for renewal as a risk retention group or fails to provide requested information shall pay a late fee of \$500.

21.6(4) *Failure to timely file financial statements.* A risk retention group that fails to file a financial statement, as instructed on the division's website, shall pay a late fee of \$500. The commissioner may give notice to a group that fails to timely file that the group is in violation of this subrule. If the group fails to file the required financial statements within ten days of the date of the notice, the group shall pay an additional late fee of \$100 for each day the failure continues.

21.6(5) *Failure to comply with this rule.* A risk retention group's authority to transact new business in this state shall immediately cease until the group has fully complied with this rule, including paying all applicable late fees.

21.6(6) *Suspension.* The commissioner may order the suspension of a risk retention group's authority to transact the business of insurance within the state, after notice and hearing pursuant to Iowa Code chapter 17A, if the risk retention group fails to fully comply with this rule within 90 days, including paying all applicable late fees.