

CHAPTER 21
REQUIREMENTS FOR EXCESS AND SURPLUS LINES,
RISK RETENTION GROUPS AND PURCHASING GROUPS
[Prior to 10/22/86, Insurance Department[510]]

191—21.1(515) Definitions. In addition to the definitions provided in Iowa Code chapters 515 and 515E, the following definitions shall apply to this chapter, unless the context clearly requires otherwise:

“*Division*” means the Iowa insurance division.

“*Excess and surplus lines insurance*” means surplus lines insurance.

“*NAIC UCAA*” means a National Association of Insurance Commissioners Uniform Certificate of Authority Application form.

“*Nonadmitted insurer*” means an insurer that is not licensed by or admitted to do business in this state.

“*Place*” means obtaining insurance for an insured with a specific insurer.

“*Producer*” means the person who places the policy with the insurance company. The producer may be either a resident or nonresident of this state and must be licensed in Iowa to sell insurance classified as excess and surplus lines.

“*Qualified surplus lines carrier*” means a nonadmitted insurer that the division has determined is qualified to provide surplus lines coverage as set forth in Iowa Code section 515.147, but in no event shall “qualified surplus lines carrier” include an insurer described in Iowa Code section 515.148.

“*Surplus lines insurance*” means insurance on a risk or a part of a risk for which there is no market available through the original insurance producer in Iowa; therefore, the risk needs to be placed with a qualified surplus lines carrier, in accordance with the provisions of Iowa Code chapter 515 and this chapter.

191—21.2(515) Qualified surplus lines carriers’ duties.

21.2(1) *Insurer liable.* Where, pursuant to Iowa Code section 515.147, coverage is placed with a qualified surplus lines carrier, the qualified surplus lines carrier shall be liable for the premium tax required by Iowa Code section 515.147.

21.2(2) *How premium tax quoted.* A qualified surplus lines carrier or a broker for a qualified surplus lines carrier is authorized to quote a premium which includes tax as is required by Iowa Code section 515.147, and thereafter no additional tax amount may be charged or collected. Premium tax may be stated in the contract of insurance as a separate component of the total premium only when the premium is not based upon rates or premiums which included a premium tax component when promulgated. Policy fees collected from residents of this state are considered part of the premium and thus are subject to taxation.

191—21.3(515) Producers’ duties.

21.3(1) *Producer collection of tax.* A producer who places insurance in qualified surplus lines carriers shall collect premium tax from the qualified surplus lines carriers by withholding 1 percent of the premiums for such tax.

21.3(2) *Quarterly reports required.* A producer who places insurance with a qualified surplus lines carrier shall file a report with the division. Reports shall be filed on April 10, July 10, October 10 and January 10, summarizing the surplus lines insurance issued during the prior calendar quarter. The reports shall be made using the division’s Form SL2007 and shall be filed electronically or as otherwise directed by the division. A producer is not required to file a report for a quarter in which no surplus lines insurance was issued. If a producer does not file a quarterly report by the due date, the producer shall be fined \$100 on the day after the report was due and an additional \$100 on the first of each month thereafter until the report is filed.

21.3(3) *Annual report.* On or before March 1 of each year, every producer who has placed insurance with qualified surplus lines carriers when the policies have been issued during the preceding calendar year shall file electronically with the division or as otherwise directed by the division a sworn report of all

such business written during the preceding calendar year and shall submit the amount to cover the taxes due on said business. Failure to file an annual return or pay the taxes imposed by Iowa Code section 515.147 et seq., will be deemed grounds for the revocation of a producer's license by the insurance division, and failure to file an annual return or pay taxes within the time requirements of this rule will subject the producer to the penalties of 2006 Iowa Acts, Senate File 2364, section 68 [Iowa Code section 515.147A].

191—21.4(515) Producers' duty to insured; evidence of coverage. A producer who places coverage with a qualified surplus lines carrier as defined herein shall deliver to the insured, within 30 days of the date the policy is issued, a notice that states the following: "This policy is issued, pursuant to Iowa Code section 515.147, by a nonadmitted company in Iowa and as such is not covered by the Iowa Insurance Guaranty Association." A producer may comply with this rule by typing or stamping a verbatim copy of this language in a clear and conspicuous place on the policy.

191—21.5(515) Procedures for qualification and renewal of a nonadmitted insurer as a qualified surplus lines carrier.

21.5(1) Application and procedures for initial qualification of a nonadmitted insurer as a qualified surplus lines carrier.

a. Any insurer who wishes to qualify under Iowa Code section 515.147 as a nonadmitted insurer shall make an application.

b. The application shall contain the following information, which also is listed on the division's Web site, www.iid.state.ia.us:

(1) A completed NAIC UCAA Expansion Application, available through the division's Web site, www.iid.state.ia.us, or through the NAIC Web site, www.naic.org/industry.

(2) A designation of a licensed Iowa resident producer qualified to write excess and surplus lines insurance.

(3) Remittance of the greater of a \$100 filing fee or a retaliatory fee, and a \$500 examination fee for all new applicants.

c. In addition to the above requirements, the insurer shall:

(1) Maintain the greater of either minimum capital and surplus of \$5 million or risk-based capital pursuant to Iowa Code chapter 521E, and

(2) Have been actively in operation for at least three years without significant changes in ownership or management during the three-year period.

These financial and management requirements may be waived by the division upon a finding that the insurer will be offering coverage in a line of insurance for which there is an unavailability of capacity and an extraordinary need for coverage in this state. The division may require other information as deemed necessary.

21.5(2) Procedures for renewal of a nonadmitted insurer as a qualified surplus lines carrier.

a. A nonadmitted insurer that is not an alien insurer as defined in Iowa Code section 515.70 and that met the division's requirements for becoming a qualified surplus lines carrier shall, by March 1 of each year following the year of qualification:

(1) Continue to comply with paragraph 21.5(1)"c";

(2) Pay a \$100 renewal fee; and

(3) Submit to the division the documents and materials listed on the division's Web site, www.iid.state.ia.us.

b. In addition, a nonadmitted insurer that is not an alien insurer as defined in Iowa Code section 515.70 shall file quarterly financial statements as required by the division.

21.5(3) Failure of a nonadmitted insurer to timely submit the materials required in this rule or to otherwise fail to comply with this rule shall result in the termination of the nonadmitted insurer's status as a qualified surplus lines carrier.

191—21.6(515E) Risk retention groups. A risk retention group as defined in Iowa Code chapter 515E may utilize its producers to report and pay premium taxes or may pay the taxes directly. If producers are utilized, they shall follow the procedure set forth in subrule 21.3(2). In the event that the group desires to pay the premium tax directly, it shall file with the division, electronically or as directed by the division, a sworn statement on Form No. SL264 and other information required through the division's Web site, www.iid.state.ia.us.

191—21.7(515E) Procedures for qualification as a risk retention group.

21.7(1) Any insurer who wishes to register under Iowa Code chapter 515E as a risk retention group shall file with the division an application that contains:

- a. The information set forth in Iowa Code sections 515E.4(1) and (2), which also is listed on the division's Web site, www.iid.state.ia.us; and
- b. Remittance of a \$100 filing fee plus any additional retaliatory fees.

21.7(2) A risk retention group shall pay a \$100 renewal fee by March 1 of each year following the year of registration. The risk retention group shall annually provide information requested by the division for determination of continued registration.

191—21.8(515E) Procedures for qualification as a purchasing group.

21.8(1) Prior to doing business in this state, a purchasing group shall furnish to the division notice that shall include:

- a. The information set forth in Iowa Code section 515E.8, which also is listed on the division's Web site, www.iid.state.ia.us; and
- b. Remittance of a \$100 filing fee.

21.8(2) A registered purchasing group shall pay a \$100 renewal fee by March 1 of each year following the year of registration. The purchasing group must provide information requested by the division for determination of continued registration.

191—21.9(515,515E) Failure to comply; penalties. Failure of a producer, insurer, risk retention group or purchasing group to comply with this chapter or with Iowa Code section 515.147, 515.148, or 515.149, or chapter 515E may subject the producer, insurer, risk retention group or purchasing group to penalties set forth in Iowa Code chapter 507B or 2006 Iowa Acts, Senate File 2364, section 68 [Iowa Code section 515.147A].

These rules are intended to implement Iowa Code sections 515.147 to 515.149.

[Filed 8/1/63]

[Filed 5/26/77, Notice 4/6/77—published 6/15/77, effective 7/20/77]

[Editorially transferred from [510] to [191], IAC Supp. 10/22/86; see IAB 7/30/86]

[Filed 6/22/90, Notice 5/16/90—published 7/11/90, effective 8/15/90]

[Filed 2/15/91, Notice 1/9/91—published 3/6/91, effective 4/10/91]

[Filed 10/10/91, Notice 9/4/91—published 10/30/91, effective 12/4/91]

[Filed 3/5/99, Notice 11/4/98—published 3/24/99, effective 4/28/99]

[Filed 11/2/06, Notice 9/27/06—published 11/22/06, effective 12/27/06]