

CHAPTER 19

DOMESTIC SURPLUS LINES INSURER REQUIREMENTS

S.F. 558

AN ACT relating to requirements for domestic surplus lines insurers.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. [Section 515I.2](#), Code 2019, is amended by adding the following new subsection:
NEW SUBSECTION. 6A. “*Domestic surplus lines insurer*” means a domestic insurer that has been authorized by the commissioner pursuant to [chapter 515I](#) to do business as a domestic surplus lines insurer with which a surplus lines insurance producer may place surplus lines insurance.

Sec. 2. [Section 515I.2, subsection 7](#), Code 2019, is amended to read as follows:

7. “*Eligible surplus lines insurer*” means ~~either~~ any of the following:

a. A nonadmitted insurer that has filed an application with the commissioner and been approved for placement of surplus lines insurance and appears on the Iowa listing of nonadmitted companies.

b. A nonadmitted insurer domiciled outside of the United States that is listed on the quarterly listing of alien insurers maintained by the national association of insurance commissioners.

c. A domestic surplus lines insurer authorized by the commissioner.

Sec. 3. [Section 515I.3](#), Code 2019, is amended to read as follows:

515I.3 Placement of surplus lines insurance business with nonadmitted insurers and domestic surplus lines insurers.

1. Surplus lines insurance may be placed by a surplus lines insurance producer with a nonadmitted insurer or domestic surplus lines insurer only if all of the following requirements are met:

a. The proposed nonadmitted insurer or domestic surplus lines insurer is an eligible surplus lines insurer.

b. The proposed nonadmitted insurer or domestic surplus lines insurer is authorized to write the type of insurance sought in this state in its domiciliary jurisdiction.

c. Unless otherwise exempt from this requirement, after a diligent search the full amount or type of insurance cannot be obtained from an admitted insurer.

d. All other requirements of [this chapter](#) are met.

2. a. In addition to the full amount of gross premiums charged by the nonadmitted insurer or domestic surplus lines insurer for the insurance on which a premium tax is imposed for surplus lines insurance for which the insured’s home state is Iowa, a surplus lines insurance producer shall collect and pay to the state of Iowa the appropriate amount of premium tax as provided in [section 432.1](#) for surplus lines insurance. The commissioner shall adopt rules to specify the use of credits or deductions that may be applied to the premium tax.

b. The tax on any portion of the premium unearned at the termination of the surplus lines insurance that has been credited by the state shall be returned to the policyholder directly by the surplus lines insurance producer. The surplus lines insurance producer is prohibited from rebating, for any reason, any part of the tax.

3. [This section](#) shall not apply to a person properly licensed as an insurance producer, who, for a fee and pursuant to a written agreement, is engaged solely to offer advice, counsel, opinion, or service to an insured with respect to the benefits, advantages, or disadvantages promised under any proposed or in-force policy of insurance if the person does not, directly or indirectly, participate in the sale, solicitation, or negotiation of insurance on behalf of the insured.

4. Insurance placed under [this section](#) shall be valid and enforceable as to all parties.

Sec. 4. **NEW SECTION. 515I.4A Requirements for domestic surplus lines insurers.**

1. An insurer that is domiciled in this state may apply to the commissioner for licensure as a domestic surplus lines insurer if all of the following requirements are met:

a. The insurer possesses policyholder surplus of the greater of either fifteen million dollars or three hundred percent of authorized-control-level risk-based capital pursuant to [chapter 521E](#).

b. The insurer is an eligible surplus lines insurer in at least one jurisdiction other than this state.

c. The board of directors of the insurer has passed a resolution seeking approval as a domestic surplus lines insurer in this state and stating that the insurer shall only write surplus line business. The resolution shall not be amended without approval of the commissioner.

d. The commissioner has approved the insurer as a domestic surplus lines insurer in this state.

2. For the purposes of the federal Nonadmitted and Reinsurance Reform Act of 2010, 15 U.S.C. §8201 et seq., a domestic surplus lines insurer shall be considered a nonadmitted insurer as the term is referenced in the Act, with respect to risks insured in this state.

3. A domestic surplus lines insurer shall be deemed an eligible surplus lines insurer and is subject to all requirements of [this chapter](#) that are applicable to an eligible surplus lines insurer. A domestic surplus lines insurer is authorized to write any kind of insurance that a nonadmitted insurer not domiciled in this state is eligible to write.

4. Notwithstanding any other provision of law to the contrary, a policy or contract issued in this state by a domestic surplus lines insurer shall be subject to taxes assessed on a surplus lines policy or contract issued by a nonadmitted insurer, including the premium tax on surplus lines insurance, but shall not be subject to other taxes levied on an admitted insurer, whether domestic or foreign.

5. A policy or contract issued by a domestic surplus lines insurer is not a policy or contract for which coverage is provided under the Iowa insurance guaranty association pursuant to [chapter 515B](#) or the Iowa life and health insurance guaranty association pursuant to [chapter 508C](#).

6. All financial and solvency requirements imposed in this state upon a domestic admitted insurer are applicable to a domestic surplus lines insurer unless a domestic surplus lines insurer is specifically exempted from such requirements.

7. A policy or contract issued by a domestic surplus lines insurer in this state is exempt from all requirements imposed in this state relating to insurance rating plans, policy or contract forms, policy or contract cancellation and nonrenewal, or premiums charged to the insured in the same manner and to the same extent as a policy or contract issued by a nonadmitted insurer domiciled in another state.

Approved April 9, 2019