

Surplus Lines Brokers

The Department of Insurance has received several complaints and inquiries regarding the business practice by some surplus lines licensees of providing “courtesy filings” for individuals or business entities not licensed as surplus lines brokers in Kentucky. This clarifies the Department’s historic position regarding that business practice. It should be noted that effective July 2002 Kentucky began issuing a license to non-resident surplus lines brokers to comply with the Gramm-Leach-Bliley Act.

KRS 304.9-080 requires individuals and business entities to hold a surplus lines license before marketing those products in Kentucky:

304.9-080 Licensure requirements; forms

- (1) An individual or business entity shall not sell, solicit, or negotiate insurance in this state unless the individual or business entity is licensed as the appropriate insurance producer for that line of authority in accordance with this subtitle or Subtitle 10 of this chapter.

KRS 204.9-425 prohibits a licensee from paying, or accepting, anything of value relating to an insurance transaction unless the person holds the appropriate license:

304.9-425 Payment or acceptance of commission, brokerage, or other valuable consideration -- Exception.

- (1) No insurer, financial institution, agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, viatical settlement broker or provider, or consultant shall pay, directly or indirectly, any commission, brokerage, or other valuable consideration to any individual or business entity for services as an agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, viatical settlement broker or provider, or consultant within this state, unless the individual or business entity held at the time the services were performed a valid license for that line of insurance as required by the laws of this state for the services.
- (2) No individual or business entity, other than an individual or business entity duly licensed by this state as an agent, surplus lines broker, adjuster, administrator, reinsurance intermediary broker or manager, rental vehicle agent or managing employee, specialty credit producer or managing employee, viatical settlement broker or provider, or consultant at the time the services were performed, shall accept any commission, brokerage, or other valuable consideration for those services.

KRS 304.10-040 requires individuals and business entities must hold a surplus lines license in Kentucky before placing business.

304.10-040 Conditions for export.

If certain insurance coverages cannot be procured from authorized insurers such coverages hereinafter designated "surplus lines," may be procured from unauthorized insurers subject to the following conditions:

- (1) The insurance must be procured through a licensed surplus lines broker.

Effective: June 18, 1970

History: Created 1970 Ky. Acts ch. 301, subtit. 10, sec. 4, effective June 18, 1970.

The insurance business practice of providing “courtesy filings” for persons that **do not** hold a surplus lines license in Kentucky violates KRS 304.9-080 (1) and KRS 304.10-040 (1) these statutes.