

Understanding surplus-lines policies in New Hampshire

What is a surplus-lines policy?

It means a policy written by an insurance company that is not authorized (not licensed) in the state of New Hampshire. While a policy from an unauthorized company may be written legally through a surplus-lines broker, this transaction places on the policyholder more responsibility for policy negotiation and protection against the insurance company's insolvency.

What is a surplus-lines broker?

A surplus-lines broker means a broker specifically licensed to place insurance with an unauthorized insurance company. Surplus-lines insurance purchased in New Hampshire must include a surplus-lines broker in the transaction. A retail broker must procure coverage through a wholesale broker (referred to as a surplus-lines broker) that provides access to the surplus-lines market.

Is a surplus-lines company safe to do business with?

Not all surplus-lines companies are more likely to be financially sound than authorized companies. The difference is that the New Hampshire Insurance Department is not monitoring in detail the company's financial records on an ongoing basis, although certain qualifying standards must be maintained to remain on the list of

unauthorized insurance companies that may transact surplus-lines insurance in New Hampshire.

For your protection, significant due diligence is achieved through other means. This is in the jurisdiction where the company is domiciled examined by the state's financial records, as well as by independent rating agencies, such as A.M. Best. A surplus-lines broker should use due diligence in selecting an unauthorized insurance company to provide the desired coverage.

Isn't there a way to fund a policy without going through a surplus-lines broker?

This is possible in New Hampshire. Some funds own the policy and are insured by an authorized insurance company in New Hampshire. This is a significant distinction for policyholders insured by a surplus-lines company, and the lack of agency protection must be considered when making the purchase decision.

Nevertheless, placement with a financially sound surplus-lines insurance company may be more prudent than placement with an authorized insurance company that is financially impaired.

Why would my broker offer me an surplus-lines policy?

There are several reasons why it may be necessary to look for coverage in the surplus-lines market. First, the risk of loss may be too great for acceptance by regular markets.

Second, the risk may not be understood by regular markets, so they cannot price the risk appropriately. If there may be no way to obtain an exclusive program for the risk.

Placement of risks in the surplus-lines market is considered a last resort, when authorized insurance companies have not been able to satisfy your insurance needs. Before placement can be made with a surplus-lines company, three declinations from authorized companies will be required. Note that a higher premium proposed by an authorized company is not considered a declination.

What should I know about forms and rates used by a surplus-lines company?

Most surplus-lines companies are exempt from the laws requiring rates and forms to be filed with the Insurance Department. This means that forms may vary significantly from standard forms used by authorized insurance companies. The flexibility offered by this freedom from filing can work to the benefit of the policyholder by permitting coverage to be tailored to individual needs. However, reductions in standard coverage may be necessary in order to turn an uninsurable risk into one that is insurable. The important thing to remember is that coverage analysis is essential in this market and that insurance companies are more inclined to negotiate policy terms.

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What about adherence to cancellation and nonrenewal laws?

Unlike authorized companies, surplus-lines insurance companies are not subject to the New Hampshire cancellation and nonrenewal laws. Consequently, the terms for canceling and nonrenewing the policy must be found in the policy itself. For example, before coverage is bound by the insurance company, you should determine what the minimum-earned premium will be if the policy is canceled a short time later.

Why am I being billed for a New Hampshire state tax on my policy?

The 3 percent surplus-lines tax that you see on your bill is collected by the surplus-lines broker and paid to New Hampshire. It serves as a substitute for the premium tax that would have been collected if the policy were it authorized in New Hampshire.

What are the uses or fees that I might be billed for?

When a surplus-line broker employs a contractor to perform an inspection of the premises, a fee likely will be added on to the policy. Other charges incurred by the surplus-lines broker that are not underwriting may be billed for reimbursement, but they must be disclosed in the terms of the offer.

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