

(6) PENALTY. Violations of this rule or any order issued thereunder shall subject the person to section 601.64, Wis. Stats., or other applicable statute.

**History:** Cr. Register, October, 1971, No. 190, eff. 11-1-71.

**Ins 6.13 Public Inspection of Records and Reports.** (1) PURPOSE. The purpose of this rule is to specify which records of the office of the commissioner of insurance are not open to public inspection under section 601.46 (4), Wis. Stats.

(2) DEFINITIONS. As used in this rule:

(a) "Records" includes all reports and writings required or authorized by law to be filed, deposited, or kept at the office of the commissioner of insurance or which are in his lawful possession or control.

(b) "Reports" includes all reports made, issued, or submitted by the commissioner of insurance under section 601.46 (3), Wis. Stats.

(c) "Writing" means handwriting, typewriting, printing, photostating, photographing, electronic recording, and every other means of recording any form of communication or representation.

(3) LIMITATIONS ON PUBLIC INSPECTION. (a) *Procedure.* Records shall be open to public inspection during usual business hours and in such a manner as not to interfere with the efficient and orderly operation of the office of the commissioner of insurance.

(b) *Statutory limitations.* Public inspection shall be denied or limited with respect to records within the purview of section 66.77 (3), Wis. Stats., and any other statute limiting inspection.

(c) *Other limitations.* Except as provided in paragraph (b), all records shall be open to public inspection except:

1. A record which is the work product of an employee in the office of the commissioner of insurance or a person contracting with the commissioner of insurance to provide such record, unless and until such record becomes a public record by operation of other statute or rule.

2. A record whose disclosure would reveal the identity of an informant who furnished information pursuant to a pledge of confidentiality.

3. A record received on a confidential basis from another governmental agency.

4. A record which is a part of a current investigation which may result in administrative, legal or criminal action or which relates to any such pending action, if the disclosure of such record would impede or frustrate such investigation or action.

5. A record whose disclosure would unduly damage a person's reputation so as to outweigh the public interest in disclosure.

6. A record whose disclosure would result in such harm to the public interest as to outweigh the public benefit to be gained by granting inspection.

(4) JUSTIFICATION FOR REFUSING INSPECTION. Whenever the commissioner is requested in writing to provide the reasons for his refusing a demand to inspect a particular record, he shall specifically state the reasons for such refusal.

(5) EXCEPTIONS. Nothing contained herein shall prevent the commissioner from furnishing a record when required to do so by a

proper court order or when requested to do so by a public officer in the official discharge of his duties, under such safeguards as may be appropriate.

**History:** Cr. Register, June, 1973, No. 210, eff. 7-1-73.

**Ins 6.17 Regulation of surplus lines insurance.** (1) **PURPOSE.** This rule implements and interprets sections 601.42, 601.72, 601.73, 618.41 and 618.42, Wis. Stats., for the purpose of facilitating the regulation of surplus lines insurance business in this state.

(2) **PROHIBITED PLACEMENT.** No licensed surplus lines agent may place contracts of insurance with any unauthorized insurer:

(a) For the classes of insurance specified by subsections (8), (16), and (19) of section 201.04, Wis. Stats., and

(b) For any kind of insurance not specifically authorized by any of the other subsections of section 201.04, Wis. Stats.

(3) **RESPONSIBILITIES OF SURPLUS LINES AGENT.** Every licensed surplus lines agent who procures surplus lines insurance shall:

(a) Forward promptly to the policyholder a completed copy of a Surplus Lines Insurance Proposal in a form substantially as in Appendix 1 to this rule.

(b) When applicable, forward promptly to the policyholder a notice that the unauthorized insurer with which the insurance is to be placed is not on the list of unauthorized nondomestic insurers which the commissioner believes to be reliable and solid, along with notice of any other deficiencies of the insurer of which the agent has knowledge.

(c) File with the commissioner:

1. A copy of the policy, certificate, cover note, or other evidence of insurance issued to the policyholder;

2. A copy of the Surplus Lines Insurance Proposal (Appendix 1) which was furnished to the policyholder.

3. A copy of any Notice required by paragraph (b).

4. The name of the person to whom the commissioner shall mail legal process.

(d) Keep in his office in this state a full and true record of each surplus lines insurance contract procured by him, evidenced by a copy of the daily report or other documents to show at least the following information:

1. Amount of the insurance and perils insured against;

2. Brief general description of property insured and where located;

3. Gross premium charged;

4. Return premium paid, if any;

5. Rate of premium charged upon the several items of property;

6. Effective date of the contract, and the terms thereof;

7. Name and post-office address of the insured;

8. Name and home office address of the insurer;

9. Amount collected from the insured; and

10. A copy of the Notice required by paragraph (b).

(e) The record required by paragraph (d) shall be open at all times to examination by the commissioner without notice, and shall be so kept available and open to the commissioner for 3 years (5 years for notice required by paragraph (b)) next following the expiration or cancellation of the contract.

(4) ADVERTISING BY SURPLUS LINES AGENT. A surplus lines agent may advertise the availability of his services in procuring, on behalf of persons seeking insurance, contracts with insurers not holding a certificate of authority in Wisconsin, but such advertisements shall not refer to any particular unauthorized insurer or insurers.

(5) REPORT AND PAYMENT OF TAX-SURPLUS LINES INSURANCE. All Premium tax collected by the surplus lines agent shall be reported and forwarded to the commissioner on or before March 1, for all insurance procured, renewed or continued during the preceding calendar year with unauthorized insurers. The report shall be made on a form substantially the same as Appendix 2 to this rule.

(6) PENALTY. Any violation of this rule shall subject the agent to immediate revocation of his surplus lines agent's license and to other forfeitures and penalties provided by section (601.04, Wis. Stats.

601.64

## Appendix 1

## Ins 6.17

## SURPLUS LINES INSURANCE PROPOSAL

Name and address of applicant Date

Dear \_\_\_\_\_ : Proposal No. \_\_\_\_\_

You have asked that I procure the following insurance coverage on your behalf:

<i>Type of Insurance</i>	<i>Limits of Coverage</i>
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I can procure the coverage desired from the following insurer(s) at the premium listed:

<i>Insurer(s)—Name and Address</i>	<i>% of Total Risk</i>	<i>Premium Quoted</i>
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This insurance is with an insurer which has not obtained a certificate of authority to transact a regular insurance business in the state of Wisconsin, and will be issued and delivered as a surplus lines coverage pursuant to section 618.41, Wis. Stats. The insurance is regulated by the Commissioner of Insurance only as provided in sections 618.41 and 618.43, Wis. Stats. Section 618.43 (1), Wis. Stats., requires payment by the policyholder of a 3% tax on gross premium (except for Ocean Marine Insurance on which the tax is one-half of 1%). The tax in this instance amounts to \$\_\_\_\_\_. If the above transaction is not satisfactory, please advise immediately.

Sincerely yours,

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Name and address of licensed surplus lines agent

cc: Commissioner of Insurance  
State of Wisconsin