West Virginia Surplus Lines Export List

Pursuant to Section 7, Series 20, Title 114 of the West Virginia Code of State Rules, the Insurance Commissioner declares the following insurance coverages to be generally unavailable in the authorized market at the present, and thus exportable, and adopts the following export list. Accordingly, for those insurance coverages which are included on the export list, a diligent search among insurers admitted to do business in this State is not required before placement of the coverages in the surplus lines market.

The export list is not exclusionary. It does not affect what may or may not be placed through surplus lines insurers. It is a procedural tool. For those items on the list some of the procedures for surplus lines placements are eliminated - simplifying the process. If a coverage or class is included on this list the diligent search of admitted insurers is not required. If a coverage or class is not included on the list, the normal diligent search will still be necessary.

It is not the purpose of the export list to include every possible surplus lines exposure. The purpose is to list obvious coverages and classes that in almost every case will only be written by a surplus lines company. If a coverage or exposure is not on the list it may still be written through surplus lines if the procedures of Section 4, Series 20, Title 114 of the West Virginia Code of State Rules are followed.

Following is the published West Virginia Surplus Lines Export List of coverages and classes eligible for export to non-admitted insures participating in the surplus lines market:

Effective: September 30, 2012

Agriculture
- Hay in open or barn
- Drought
- Animal Mortality
- Poultry

Amusements
- Amusement Parks and their Devices
- Animal Rides / Animal Racing & Tracks
- Balloon (Hot Air)
- Go Kart Tracks / Motorcross Tracks
- Guides / Outfitters
- Rafting (White Water)
- Recreational and Sporting Events
- Special Short Term Events
- Skating Rinks (Roller / Ice / Skateboard / Roller Blade)
- Ski Lifts and Tows
- Spectator Liability

Assisted Living
- Group Homes
- Nursing Home Liability with or without other Affiliated Elder Care Services

Aviation
- Fixed Base Operations

Building
- Demolition
- Moving or Raising

Chemical Spray and/or Drift

- Contractors
  - Blasting
  - Crane and Rigging (liability and physical damage only)
  - Demolition Liability
  - Excavation
  - Pollution Liability & Remediation
- Crop Dusters (aircraft liability and aircraft hull coverage only)
- Day Care Centers Liability, including Sexual Abuse Coverage
- Explosive Manufacturing / Storage / Sales / Distribution
- Fire Suppression / Alarm Systems — Installation, Service & Repair
- Firearms (Sales / Distribution / Repair)
- Firework Sales
- Flood Insurance not provided under Federal Flood Insurance
- Fuel and Explosive Haulers (excess Auto liability and auto physical damage only)
- Hazardous Waste Haulers (excess Auto liability and auto physical damage only)
- Hazardous Waste Storage and Disposal (liability only)
- Health / Exercise / Spa / Fitness Club Centers
- Hunting Clubs
- Kidnapping, Ransom and Extortion Insurance
- Liquor Liability (monoline)
- Loggers
- Logging Equipment
- Medical Malpractice Liability with or without related General Liability Coverages
- Mining
- Mining Equipment (Manufacturing / Installation / Service / Repair)
- Product Liability / Recall (monoline) for the Manufacturing of:
  - Aircraft and Component Parts
  - Automotive and Component Parts
  - Farm and Industrial Equipment
  - Firearms
  - Medical Equipment
  - Petrochemicals
  - Pharmaceuticals
- Railroad, including Consultants, Contractors, and Suppliers
- Real-Estate Environmental Impairment Coverage
- Rehabilitation Centers & Programs (Alcohol / Drug)
- Remediation (Lead Paint / Asbestos / Environmental)
- Sawmills / Planing Mills
- Security / Detective / Patrol Agencies
- Tavern / Bar / Private Clubs / Fraternal or Social Clubs with Alcohol
- Taxicab Liability
- Trucks
  - Coal Hauling
  - Logging
  - Long Haul
- Underground Equipment (Oil & Gas, Tunneling, Drilling)
- Vacant Properties

The Surplus Lines Market

The surplus lines market, hereafter referred to as surplus lines, is a supplemental market of insurance companies that do not have a certificate of authority to write insurance in West Virginia. Laws and regulations provide a mechanism to control the surplus lines brokers' "export" of business to recognized non-admitted insurers. Though specifics may differ, there is a consistency in the basic framework of surplus lines laws throughout the various states. The prohibition against soliciting business on behalf of nonadmitted insurers is universal, as well as the requirement that there be a diligent, good faith effort to place the insurance with an admitted insurer. Documentation and justification of the surplus lines placement is always required. Restrictions on using surplus lines for the purpose of price advantage and restrictions on exporting different layers or segments of a risk are common. Several states use an export list of insurance coverages and classes. Some states have exemptions for larger insureds. West Virginia surplus lines rules and procedures are consistent with most other states in these areas.

Frequently Asked Questions

What is **your surplus lines tax rate?**

• 4% of gross premiums less return premiums due to cancellations or premium reductions. Gross premiums include all policy fees.

What is **the 0.55% policyholder surcharge?**

• W. Va. Code **§**33-3-33 imposes a policyholder surcharge on the policyholder of any fire insurance policy or casualty insurance policy equal to 0.55% of taxable premium. "Taxable premium" means the amount of gross direct premiums, annuity considerations or dividends on participating policies applied in reduction of premiums less premiums returned to policyholders due to cancellation of policies. The policyholder surcharge is not imposed upon qualified surplus lines policy fees.

Is there a stamping fee?

• No. West Virginia does not have a stamping office.

Can non-residents obtain a surplus lines brokers license?

• Yes. West Virginia has a non-resident surplus lines licensee's license. For more information, the website is located at: http://www.wvinsurance.gov/Default.aspx?tabid=306.

Statutes and Regulatory Rules Applicable to Surplus Lines

Current statutes and regulations are as follows:

Statutory Provisions

Article 12C Chapter 33, West Virginia Code
Article 43 Chapter 33, West Virginia Code

Regulatory Rules

Procedures for Surplus Lines Placement:
W.Va. Code of State Rules, Title 114, Series 20, Section 4

Surplus Lines Premium Tax Procedures:
W.Va. Code of State Rules, Title 114, Series 20, Sections 5 & 6