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Arkansas  
Insurance Code

TITLE 23 -- PUBLIC UTILITIES AND REGULATED INDUSTRIES...Subtitle 3. Insurance...Chapter 65 --  
UNAUTHORIZED INSURERS AND SURPLUS LINES...Subchapter 3. Surplus Lines Insurance

### **23-65-310**

#### **Eligible surplus lines insurers**

**Former Citations**            66-2916

(a) A surplus lines broker shall place surplus lines insurance only with insurers which have been approved by the Insurance Commissioner. The commissioner may maintain a list of approved foreign and alien surplus lines insurers in addition to those alien insurers maintaining status on the current National Association of Insurance Commissioners' nonadmitted insurers' quarterly listing. The approved list shall not contain:

(1) Any insurer which is not licensed in at least one (1) state of the United States for the kind of insurance involved;

(2) Any stock insurer having capital and surplus amounting to less than three million dollars (\$3,000,000);

(3) Any type of insurer, other than stock insurers, having surplus of less than three million dollars (\$3,000,000);

(4) An alien insurer unless the insurer shall have an established and effective trust fund within the United States administered by a recognized financial institution and held for the benefit of all its policyholders wherever located in the United States, the trust fund to be in the amount of not less than one million dollars (\$1,000,000). However, the broker may place casualty insurance with an alien insurer or a pool of alien insurers having combined capital and surplus of five million dollars (\$5,000,000) or more, so long as the insured signs an affidavit accepting the insurance. The affidavit shall include a statement that the insurance is not available to him elsewhere. The alien insurer shall annually report the location and balance of the trust fund to the commissioner as he prescribes, and shall promptly report to the commissioner any change in the location of the trust fund;

(5) Any insurer owned or controlled by a political sovereign or any agency of a political sovereign;

(6) Any insurer which does not maintain on deposit in accordance with §§ 23-63-901 — 23-63-912 eligible securities having a market value at all times of not less than one hundred thousand dollars (\$100,000) conditioned on the payment of creditors, or obligees, of the

insurer in this state and the prompt payment of all claims arising and accruing to any persons during the term of the securities under any policy issued by the insurer.

(b)(1) Each foreign and alien surplus lines insurer on the approved list maintained by the commissioner shall, annually on or before March 1 or within any extension of time therefor which the commissioner for good cause may have granted, file with the commissioner a full and true statement of its financial condition, transactions, and affairs as of the December 31 preceding. The statement shall be in such general form and context, as required or not disapproved by the commissioner, as is in current use for similar reports to states in general with respect to the type of insurer and kinds of insurance to be reported on, and as supplemented for additional information required by the commissioner. The statement shall be verified by the oath of the insurer's president or vice president and secretary or actuary as applicable.

(2) The statement of an alien insurer shall be verified by the oath of the insurer's United States manager or other officer duly authorized and shall relate only to its transactions and affairs in the United States unless the commissioner requires otherwise. If the commissioner requires a statement as to the alien insurer's affairs throughout the world, the insurer shall file the statement with the commissioner as soon as reasonably possible.

(3) The commissioner may waive any requirement under this subsection for verification under oath.

(4) The insurer shall be subject to a penalty of one hundred dollars (\$100) for each day of delinquency, such penalty to be collected by the commissioner, if necessary, by a civil suit therefor brought by the commissioner in the Circuit Court of Pulaski County unless the penalty is waived by the commissioner upon a showing by the insurer of good cause for its failure to file its report on or before the date due.

(5) At time of filing, the insurer shall pay the fee for filing its annual statement as prescribed by § 23-61-401.

(6) In addition to information called for and furnished in connection with its annual statement, an insurer shall furnish to the commissioner as soon as reasonably possible such information with respect to any of its transactions or affairs as the commissioner may from time to time request in writing.

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