

# Arkansas Insurance Department

Asa Hutchinson  
Governor



Allen Kerr  
Commissioner

**BULLETIN NO.: 14-2015A**

**TO: ALL LICENSED PROPERTY & CASUALTY INSURERS, PRODUCERS, BROKERS, SURPLUS LINES INSURERS, PRODUCER AND TRADE ASSOCIATIONS AND OTHER INTERESTED PARTIES.**

**FROM: ARKANSAS INSURANCE DEPARTMENT**

**SUBJECT: ARK. CODE ANN. § 23-66-310(c)(2) APPLICATION TO UNDERWRITING EXPENSES FOR SURPLUS LINES BROKERS & OTHERS**

**DATE: November 24, 2015**

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The Arkansas Insurance Department (“AID”) issues the following clarification to AID Bulletin # 14-2015. AID Bulletin # 14-2015 provided the interpretation that “inspection fees” were considered “underwriting expenses” under Ark. Code Ann. § 23-66-310(b)(2)(A) and therefore not considered additional fees under Ark. Code Ann. § 23-66-310(c)(2). AID continues to maintain the interpretation that “inspection fees” are not counted as additional fees in Ark. Code Ann. § 23-66-310(c)(2).

In AID Bulletin # 14-2015, the Department however made reference to the opinion that surplus lines brokers were subject to Ark. Code Ann. § 23-66-310(c)(2). After the issuance of this Bulletin, several surplus lines brokers and associations contacted the Department explaining that it had been their understanding with the Department in the past that surplus broker’s fees and commissions were not subject to the 20% aggregate limit on commissions and additional fees in Ark. Code Ann. § 23-66-310(c)(2). These brokers explained that it was their understanding in the non-admitted market that, although the fees and commissions of the surplus lines broker were not countable fees and commissions in Ark. Code Ann. § 23-66-310(c)(2), the aggregate commissions and additional fees of the retail agent or producer selling a surplus lines policy were subject to Ark. Code Ann. § 23-66-310(c)(2). AID agrees with the interpretation that, for purposes of calculating the aggregate additional fees and commissions in surplus lines policies, the commissions and fees of the surplus broker are not countable or included in the 20% aggregate cap.

For any questions regarding this Bulletin, please contact Booth Rand in the Legal Division of the Arkansas Insurance Department at 501-371-2820.

ALLEN KERR  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS

*November 24, 2015*

DATE