

COLORADO REVISED STATUTES

TITLE 10. INSURANCE
NONADMITTED INSURANCE
ARTICLE 5. NONADMITTED INSURANCE

10-5-101. Short title

This article shall be known and may be cited as the "Nonadmitted Insurance Act".

HISTORY: Source: L. 49: p. 474, § 22.CSA: C. 87, § 334.CRS 53: § 72-14-17. C.R.S. 1963: § 72-13-17.L. 95: Entire section amended, p. 491, § 6, effective May 16.

10-5-101.1. Legislative declaration

(1) The general assembly finds and declares that property and casualty insurance transactions with nonadmitted insurers are so affected with a public interest as to require regulation, taxation, supervision, and control of such transactions and matters relating thereto, as provided in this article, in order to:

(a) Protect the insureds and claimants of this state in transactions involving the purchase of insurance from insurers not authorized to transact business in this state;

(b) Provide for the public, except for transactions related to the diligent effort requirements of this article for exempt commercial policyholders, as defined pursuant to section 10-4-1402 and rules adopted by the commissioner pursuant to that section, to the extent that insurance is not procurable from admitted insurers, orderly, reasonable, and regulated access to such insurance from eligible nonadmitted insurers through qualified, licensed, and supervised surplus line agents and brokers;

(c) Protect the revenues of this state;

(d) Protect regulated, admitted insurers from unregulated and unfair competition by nonadmitted insurers;

(e) Regulate and supervise the effectuation of surplus lines insurance in accordance with the laws of this state and federal law, including the federal "McCarran-Ferguson Act"; and

(f) Maintain reliable insurance markets.

HISTORY: Source: L. 81: Entire section added, p. 537, § 1, effective January 1, 1982.L. 95: IP(1), (1)(b), and (1)(e) amended, p. 491, § 7, effective May 16.L. 99: (1)(b) amended, p. 388, § 9, effective January 15, 2000.L. 2012: (1)(b) amended, (HB 12-1215), ch. 104, p. 355, § 9, effective August 8.

10-5-101.2. Definitions

As used in this article, unless the context otherwise requires:

(1) "Affiliate" means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured.

(2) "Affiliated group" means any group of entities that are all affiliated.

(3) "Broker" means a surplus lines producer duly licensed to export insurance under this article.

(4) "Control" means that an entity has control over another entity if the controlling entity:

(a) Directly or indirectly or acting through one or more other persons owns, controls, or has the power to vote twenty-five percent or more of any class of voting securities of the controlled entity; or

(b) Controls in any manner the election of a majority of the directors or trustees of the controlled entity.

(5) "Export" means to place with an insurer under this article insurance covering an insured whose home state is Colorado.

(6) "Federal act" means the "Nonadmitted and Reinsurance Reform Act of 2010", 15 U.S.C. sec. 8201 et seq., as amended.

(7) (a) Except as provided in paragraph (b) of this subsection (7), "home state" means, with respect to an insured:

(I) The state in which the insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

(II) If one hundred percent of the insured risk is located out of the state referred to in subparagraph (I) of this paragraph (a), the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(b) With respect to affiliated groups, if more than one insured from an affiliated group are named insureds on a single surplus lines insurance contract, "home state" means the home state, as determined pursuant to paragraph (a) of this subsection (7), of the member of the affiliated group that has the largest percentage of premium attributed to it under the insurance contract.

(8) "Independently procured insurance" means insurance procured directly by a person from a nonadmitted insurer.

(9) "Multistate risk" means a risk covered by a nonadmitted insurer with insured exposures in more than one state.

(10) "Nonadmitted insurance" means any property or casualty insurance permitted in a state to be placed directly or through a broker with a nonadmitted insurer eligible to accept such insurance. "Nonadmitted insurance" includes independently procured insurance and surplus lines insurance.

(11) "Nonadmitted insurers" means insurers not having a certificate of authority to transact business in this state.

(12) "Person" has the same meaning as set forth in section 2-4-401, C.R.S.

(13) "Surplus lines insurance" means coverage placed with an eligible nonadmitted insurer as provided by section 10-5-108.

HISTORY: Source: . L. 81: Entire section added, p. 538, § 1, effective January 1, 1982.L. 95: (1) and (2) amended and (4) added, p. 491, § 8, effective May 16.L. 2012: Entire section amended, (HB 12-1215), ch. 104, p. 350, § 1, effective August 8

10-5-101.5. Exemptions

(1) The provisions of this article controlling the placing of insurance with nonadmitted insurers shall not apply to reinsurance or, except as to subsection (2) of this section, to the following types of insurance when placed by licensed agents or brokers of this state:

(a) Insurance on vessels or crafts or their hulls or cargoes or on marine builders' risks or marine protection and indemnity or other risks, including strikes and war risks commonly insured under ocean or wet marine forms of policy;

(b) Insurance on subjects located, resident, or to be performed wholly outside of this state or on vehicles or aircraft owned and principally garaged outside this state;

(c) Insurance on the operations of railroads engaged in transportation in interstate commerce and their property used in such operations;

(d) Insurance on aircraft owned or operated by manufacturers of aircraft or on aircraft operated in commercial scheduled interstate flight or the cargo of such aircraft or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use of such aircraft;

(e) Insurance on satellites or other devices intended for launch beyond the earth's atmosphere.

(2) Brokers placing any insurance referred to in subsection (1) of this section shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this article. The record shall be preserved for not less than three years after the effective date of the insurance; shall be kept in the broker's office and open to the commissioner's examination and on forms designated and furnished by the commissioner; and shall contain a report of all such coverages so placed in a designated calendar year.

HISTORY: Source: . L. 81: Entire section added, p. 538, § 1, effective January 1, 1982.L. 2005: Entire section amended, p. 735, § 1, effective January 1, 2006.

10-5-102. Validity of certain contracts

A contract of insurance effectuated by a nonadmitted insurer in violation of the provisions of this article shall be voidable except at the instance of the insurer.

HISTORY: Source: L. 49: p. 467, § 1.CSA: C. 87, § 318.CRS 53: § 72-14-1. C.R.S. 1963: § 72-13-1.L. 95: Entire section amended, p. 492, § 9, effective May 16

10-5-103. Conditions for export

(1) If certain insurance coverages cannot be procured from admitted insurers, such coverages, designated in this article as "surplus lines", may be procured from nonadmitted insurers, subject to the following conditions:

(a) The insurance must be procured through a licensed broker.

(b) The full amount of insurance required shall not be procurable, after diligent effort has been made to do so, from among admitted insurers authorized to transact and actually transacting that kind of insurance in this state; and placing the insurance with a nonadmitted insurer shall not be for the purpose of securing a lower premium rate than that which would be accepted by an admitted insurer unless the premium rate quoted by the admitted insurer is more than ten percent higher than that quoted by the nonadmitted insurer.

(c) At the time of the procuring of any such insurance, an affidavit setting forth facts referred to in paragraph (b) of this subsection (1) must be executed by the broker. Such affidavit shall be filed with the commissioner within thirty days after the insurance is procured. In lieu thereof, the commissioner may provide for simplified monthly reporting of coverages procured pursuant to this article.

(2) The diligent effort requirements of this section shall not apply to transactions with exempt commercial policyholders, as defined pursuant to section 10-4-1402 and rules adopted by the commissioner pursuant to that section.

HISTORY: Source: L. 49: p. 467, § 2.CSA: C. 87, § 319.CRS 53: § 72-14-2. C.R.S. 1963: § 72-13-2.L. 81: Entire section R&RE, p. 538, § 2, effective January 1, 1982.L. 95: IP(1) and (1)(b) amended, p. 492, § 10, effective May 16.L. 99: (2) added, p. 388, § 10, effective January 15, 2000.

10-5-103.5. Producing broker's affidavit

Any broker exporting insurance under this article, at the request of any other licensed agent or broker, may accept an affidavit executed by such other agent or broker, in such form as may be prescribed or accepted by the commissioner, as evidence that such insurance was eligible for export under section 10-5-103. Except as the commissioner may otherwise provide, the broker shall file or cause to be filed such affidavit with the commissioner within thirty days after the insurance was so procured.

HISTORY: Source: L. 81: Entire section added, p. 539, § 3, effective January 1, 1982

10-5-104. Endorsement of contract

Every insurance contract procured and delivered as a surplus line coverage pursuant to this article shall be initialed by or bear the name of the surplus line broker who procured it and shall have stamped upon it the following: "This contract is delivered as a surplus line coverage under the 'Nonadmitted Insurance Act'. The insurer issuing this contract is not licensed in Colorado but is an eligible nonadmitted insurer. There is no protection under the provisions of the 'Colorado Insurance Guaranty Association Act'."

HISTORY: Source: L. 49: p. 468, § 3.CSA: C. 87, § 320.CRS 53: § 72-14-3. C.R.S. 1963: § 72-13-3.L. 95: Entire section amended, p. 492, § 11, effective May 16.L. 2012: Entire section amended, (HB 12-1215), ch. 104, p. 355, § 10, effective August 8

10-5-105. Surplus line insurance valid

Insurance contracts procured as surplus line coverage from nonadmitted insurers in accordance with this article shall be fully valid and enforceable as to all parties and shall be given recognition in all matters and respects to the same effect as like contracts issued by admitted insurers.

HISTORY: Source: L. 49: p. 468, § 4.CSA: C. 87, § 321.CRS 53: § 72-14-4. C.R.S. 1963: § 72-13-4.L. 95: Entire section amended, p. 492, § 12, effective May 16.

10-5-107. Brokers may accept business from producers

A licensed surplus line broker may accept and place surplus line business for any insurance producer licensed in this state for the kind of insurance involved and may compensate such agent or broker therefor.

HISTORY: Source: L. 49: p. 468, § 6.CSA: C. 87, § 323.CRS 53: § 72-14-6. C.R.S. 1963: § 72-13-6.L. 2001: Entire section amended, p. 1213, § 38, effective January 1, 2002.

10-5-108. Placement of surplus lines insurance

(1) A broker shall not place any coverage with a nonadmitted insurer unless, at the time of placement, the nonadmitted insurer meets all applicable eligibility requirements contained in the federal act or is an insurance exchange, Lloyds plan, or group of incorporated insurers under common administration that has been approved by the commissioner and is included on the list of eligible nonadmitted insurers prepared by the commissioner at least annually. To be placed on the eligible list, the nonadmitted insurer shall:

(a) Submit a current year's application, fees as prescribed by sections 10-3-207 and 24-31-104.5, C.R.S., and other information required by the commissioner. In the case of an insurance exchange, the nonadmitted insurer shall submit an aggregate combined annual statement of all underwriting syndicates operating during the period reported, in addition to individual annual statements for each syndicate.

(b) (I) In the case of a foreign insurer, meet all applicable eligibility requirements contained in the federal act. The commissioner may approve an insurer with less than the required minimum requirements upon an affirmative finding of acceptability by the commissioner.

The finding must be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability, and company record and reputation within the industry. The commissioner shall not make an affirmative finding of acceptability when the insurer's capital and surplus is less than four million five hundred thousand dollars.

(II) In the case of an "insurance exchange" created by the laws of a state other than this state, the syndicates of the exchange shall have and maintain, under terms acceptable to the commissioner, capital and surplus of not less than seventy-five million dollars in the aggregate. The insurance exchange shall maintain, under terms acceptable to the commissioner, not less than fifty percent of the policyholder surplus of each syndicate in a custodial account accessible to the exchange or its domiciliary commissioner in the event of insolvency or impairment of the individual syndicate. In addition, each individual syndicate to be eligible to accept surplus lines insurance placements from this state shall meet either of the following requirements:

(A) For insurance exchanges that maintain funds in an amount of not less than fifteen million dollars for the protection of all exchange policyholders, the syndicate shall have and maintain, under terms acceptable to the commissioner, minimum capital and surplus of not less than five million dollars; or

(B) For insurance exchanges that do not maintain funds in an amount of not less than fifteen million dollars for the protection of all exchange policyholders, the syndicate shall maintain, under terms acceptable to the commissioner, minimum capital and surplus of not less than the minimum capital and surplus requirements under the laws of its domiciliary jurisdiction or fifteen million dollars, whichever is greater.

(c) (I) In the case of an alien insurer, as defined in section 10-3-301 (1), maintain status on the current national association of insurance commissioners' international insurers department listing;

(II) In the case of a Lloyd's plan or other similar unincorporated group of individual insurers, or a combination of both unincorporated and incorporated insurers, such alien insurer shall have and maintain a trust fund in the United States, in an amount of not less than one hundred million dollars, which trust fund shall be available for the benefit of United States surplus lines policyholders of any member of the group. The group shall, in addition, maintain in the United States a trust fund or trust funds in an amount satisfactory to the commissioner that is not less than the amount required by the law of the state where the trust fund or trust funds are located. The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and shall be subject to the same level of solvency regulation and control by the group's domiciliary regulator as are the unincorporated members. The trust funds shall be maintained in an irrevocable trust account in the United States in a qualified financial institution and shall consist of cash, securities, letters of credit, or investments of substantially the same character and quality as those that are eligible investments for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this state, and the trust

instrument representing the surplus portion of the trust deposit shall satisfy the requirements of the standard trust agreement required for listing with the national association of insurance commissioners' international insurers department.

(III) In the case of a group of incorporated insurers under common administration that has continuously transacted an insurance business outside the United States for at least three years immediately before May 16, 1995, and that submits to this state's authority to examine its books and records and bears the expense of the examination, have and maintain an aggregate policyholders' surplus of ten billion dollars and have and maintain in trust a surplus in the amount of one hundred million dollars, all of which surplus funds shall be available for the benefit of United States surplus lines policyholders of any member of the group. Each insurer shall individually maintain capital and surplus of not less than twenty-five million dollars per company. The trust funds shall satisfy the requirements of the standard trust agreement requirement for listing with the national association of insurance commissioners' international insurers department, shall be maintained in an irrevocable trust account in the United States in a qualified financial institution, and shall consist of cash, securities, letters of credit, or investments of substantially the same character and quality as those that are eligible investments for the capital and statutory reserves of admitted insurers to write like kinds of insurance in this state. Additionally, each member of the group shall make available to the commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.

(d) (Deleted by amendment, L. 95, p. 493, § 13, effective May 16, 1995.)

(2) A surplus line broker who places insurance with a nonadmitted insurance company that does not comply with this article is subject to a penalty of up to ten thousand dollars as determined by the commissioner and the surplus line broker's license may be revoked.

HISTORY: Source: L. 49: p. 469, § 7.CSA: C. 87, § 324.CRS 53: § 72-14-7. C.R.S. 1963: § 72-13-7.L. 71: p. 725, § 1.L. 73: p. 856, § 1.L. 75: (1) R&RE, p. 342, § 1, effective July 1.L. 81: (1) amended, p. 539, § 5, effective January 1, 1982.L. 91: (1) amended, p. 1232, § 6, effective June 5.L. 92: (1) amended, p. 1492, § 21, effective July 1.L. 93: (1)(c) amended, p. 485, § 2, effective April 26.L. 95: Entire section amended, p. 493, § 13, effective May 16.L. 98: (1)(c)(II) amended, p. 227, § 1, effective April 10.L. 2010: (1)(a) amended, (HB 10-1385), ch. 204, p. 883, § 4, effective May 5.L. 2012: (1)(a) amended, (SB 12-110), ch. 158, p. 561, § 6, effective July 1; IP(1), (1)(a), IP(1)(b), (1)(b)(I), (1)(c)(I), and (2) amended, (HB 12-1215), ch. 104, p. 351, § 2, effective August 8.

10-5-109. Records of surplus line broker

Each licensed surplus line broker shall keep in the broker's office a full and true record of each surplus line contract procured by the broker, including a copy of the daily report, if any, showing such of the following items as may be applicable: Amount of the insurance; gross premiums charged; return premium paid, if any; rate of premium charged upon the several items of property; effective date of the contract and the terms thereof; name and

address of the insurer; name and address of the insured; brief general description of property insured and where located; other information as may be required by the commissioner. The record shall at all times be open to examination by the commissioner.

HISTORY: Source: L. 49: p. 469, § 8.CSA: C. 87, § 325.CRS 53: § 72-14-8. C.R.S. 1963: § 72-13-8.L. 2001: Entire section amended, p. 1213, § 39, effective January 1, 2002

10-5-110. Statement - rules

(1) Each surplus line broker and every person that enters into an independent procurement for nonadmitted insurance shall file with the commissioner a verified statement of all insurance transacted by the broker or other person during the preceding reporting period. The commissioner shall, by rule, determine the reporting period.

(2) The statement must be on forms as prescribed and furnished by the commissioner, and must show: Gross amount of each kind of insurance transacted, aggregate gross premiums charged, aggregate of returned premiums paid to insureds, aggregate of net premiums, and additional information as required by the commissioner.

HISTORY: Source: L. 49: p. 469, § 9.CSA: C. 87, § 326.CRS 53: § 72-14-9. C.R.S. 1963: § 72-13-9.L. 2012: Entire section amended, (HB 12-1215), ch. 104, p. 353, § 3, effective August 8

10-5-111. Tax on premiums

(1) Each surplus line broker and every person that enters into an independent procurement for nonadmitted insurance shall remit to the division of insurance a tax on the net premiums, exclusive of sums collected to cover federal and other state taxes and examination fees, on nonadmitted insurance subject to tax under this article during the preceding reporting period as shown by the statement filed with the commissioner. The net premiums must be taxed at the rates described in section 10-5-111.5.

(2) If a surplus line policy or independently procured policy covers an insured whose home state is Colorado, and that policy covers risks or exposures located outside of Colorado, the tax payable is computed using the allocation method contained in section 10-5-111.5.

HISTORY: Source: L. 49: p. 470, § 10.CSA: C. 87, § 327.CRS 53: § 72-14-10. C.R.S. 1963: § 72-13-10.L. 92: (1) amended, p. 1761, § 2, effective February 28.L. 2012: Entire section amended, (HB 12-1215), ch. 104, p.

10-5-111.5. Allocation of premium tax

(1) In determining the amount of tax payable to Colorado, the entire amount of tax payable at a rate of three percent on the net premiums is presumed to be owed to Colorado; except that, for those multistate risks involving states that have entered into either a compact or a tax-sharing agreement with Colorado to share the tax, the premium tax rate and the amounts allocated to the other states are subject to determination according to the terms of the compact or agreement.

(2) The commissioner may participate in tax-sharing agreements to collect and disburse

funds in accordance with subsection (1) of this section, if the purposes of the tax-sharing agreement are limited to:

(a) Facilitating the payment and allocation of premium taxes on nonadmitted insurance for multistate risks among states participating in the agreement;

(b) Adopting uniform requirements, forms, and procedures that facilitate the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance for multistate risks;

(c) Coordinating the reporting of premium taxes and transaction data of multistate risks among the states participating in the agreement; and

(d) Establishing a mechanism to facilitate the receipt and distribution of premium taxes and transaction data related to nonadmitted insurance of multistate risks.

HISTORY: Source: L. 2012: Entire section amended, (HB 12-1215), ch. 104, p. 353, § 5, effective August 8.

10-5-112. Penalty for failure to comply

If any surplus line broker fails to file the annual statement, or fails to remit the tax provided by section 10-5-111, prior to the first day of April after the tax is due, the broker shall be liable for a fine of twenty-five dollars for each day of delinquency commencing with the first day of April. The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction.

HISTORY: Source: L. 49: p. 470, § 11.CSA: C. 87, § 328.CRS 53: § 72-14-11. C.R.S. 1963: § 72-13-11.L. 2005: Entire section amended, p. 736, § 2, effective January 1, 2006.

10-5-113. Revocation of broker's license

(1) The commissioner may revoke any surplus line broker's license:

(a) If the broker fails to file the annual statement or to remit the tax as required by this article; or

(b) If the broker fails to keep the records, or to allow the commissioner to examine the broker's records as required by this article; or

(c) For any of the causes for which a general broker's license may be revoked.

(2) The commissioner may suspend or revoke any such license whenever the commissioner deems suspension or revocation to be for the best interest of the people of this state.

(3) The procedures provided by law for the suspension or revocation of general brokers' licenses shall be applicable to suspension or revocation of a surplus line broker's license.

(4) No broker whose license has been so revoked or suspended shall again be so licensed

within one year thereafter or until any fines or delinquent taxes owing by the broker have been paid.

HISTORY: Source: L. 49: p. 470, § 12.CSA: C. 87, § 329.CRS 53: § 72-14-12. C.R.S. 1963: § 72-13-12.L. 95: IP(1) amended, p. 496, § 14, effective May 16.L. 2001: (1)(b) amended, p. 1213, § 40, effective January 1, 2002.L. 2005: (1)(a), (2), and (4) amended, p. 736, § 3, effective January 1, 2006.

10-5-114. Actions against insurer - service

(1) A nonadmitted insurer may be sued, upon any cause of action arising in this state under any contract issued by it as a surplus line contract, pursuant to this article, in the district court of the county in which the cause of action arose.

(2) Service of legal process against the insurer may be made in any such action by service upon the commissioner. The commissioner shall forthwith mail the documents of process served, or a true copy thereof, to the person designated by the insurer pursuant to rule of the commissioner for the purpose by prepaid certified mail with return receipt requested. The insurer shall have forty days from the date of service upon the commissioner within which to plead, answer, or otherwise defend the action. Upon service of process upon the commissioner in accordance with this provision, the court shall be deemed to have jurisdiction in personam of the insurer.

(3) A nonadmitted insurer issuing such policy shall be deemed thereby to have authorized service of process against it, in the manner and to the effect as provided in this section, and to have appointed the commissioner as its agent for service of process issuing upon any cause of action arising in this state under any such policy. Any such policy shall contain a provision stating the substance of this section and designating the person to whom the commissioner shall mail process as provided in subsection (2) of this section.

HISTORY: Source: L. 49: p. 471, § 13.CSA: C. 87, § 330.CRS 53: § 72-14-13. C.R.S. 1963: § 72-13-13.L. 73: p. 848, § 4.L. 86: (2) amended, p. 556, § 7, effective July 1.L. 89: (2) amended, p. 438, § 9, effective July 1.L. 95: (1) and (3) amended, p. 496, § 15, effective May 16.L. 98: (2) amended, p. 228, § 2, effective April 10.L. 2001: (2) amended, p. 1213, § 41, effective January

10-5-115. Authority of commissioner - assistance of brokers' association

(1) The commissioner shall maintain such facilities as may be necessary to carry out the purposes of this article.

(2) The commissioner may rely upon the advice and assistance of a duly constituted association of brokers in carrying out the purposes of this article, if the association files with the commissioner:

(a) A copy of the association's constitution and articles of agreement or association or the association's certificate of incorporation and bylaws and any rules or regulations governing

the association's activities;

(b) (Deleted by amendment, L. 95, p. 496, § 16, effective May 16, 1995.)

(c) A list of the association's members;

(d) The name and address of a resident of this state upon whom notices or orders of the commissioner or process issued by the commissioner may be served.

(2.5) The commissioner may examine the association's records concerning the functions or duties performed on behalf of the commissioner by the association.

(3) The association shall provide a means for the examination of all surplus line coverages written in this state to determine whether such coverages comply with the law and such rules or regulations as may be issued by the commissioner.

(4) The commissioner may refuse to accept, or may suspend or revoke the acceptance of, an association for any of the following reasons:

(a) It reasonably appears that the association will not be able to carry out the purpose of this article;

(b) The association does not maintain and enforce rules or regulations which will assure that members of the association and persons associated with those members will comply with this article, other applicable articles of this title, and rules or regulations promulgated under either;

(c) The rules or regulations of the association do not assure a fair representation of its members in the selection of directors and in the administration of its affairs;

(d) The rules or regulations of the association do not provide for an equitable allocation of reasonable dues, fees, and other charges among members;

(e) The rules or regulations of the association impose an undue burden on competition;

(f) The association fails to meet other applicable requirements prescribed in this article.

(5) An association shall deny membership to any person who is not a licensee.

(6) A broker shall cooperate with the association and the commissioner of insurance in fulfilling the broker's statutory responsibilities under this article.

(7) There shall not be liability on the part of, nor shall a cause of action of any nature arise against, the association or its agents, employees, or directors or authorized representatives of the commissioner for actions taken or omitted by them in the performance of their powers and duties under this section.

(8) (a) Upon request from the association, the commissioner may approve the levy of an examination fee of not more than one percent of premiums charged pursuant to this article for the operation of the association to the extent that such operation relieves the commissioner of duties otherwise required of the commissioner under this article.

(b) The association may revoke the membership and the commissioner may revoke the license in this state of any licensee who fails to pay the examination fee when due, if the examination fee has been approved by the commissioner.

HISTORY: Source: L. 49: p. 472, § 14.CSA: C. 87, § 331.CRS 53: § 72-14-14. C.R.S. 1963: § 72-13-14.L. 81: Entire section R&RE, p. 540, § 6, effective January 1, 1982.L. 95: (2)(b), (6), and (7) amended and (2.5) added, p. 496, § 16, effective May 16; IP(2) amended, p. 1109, § 56, effective May 31.L. 2010: IP(2) amended, (HB 10-1220), ch. 197, p. 853, § 10, effective July 1.

10-5-116. Records produced on order

Every person for whom insurance is placed with a nonadmitted insurer pursuant to or in violation of this article, upon the commissioner's order, shall produce for the commissioner's examination all policies and other documents evidencing the insurance and shall disclose to the commissioner the amount of the gross premiums paid or agreed to be paid for the insurance. For each refusal to obey such order, such person shall be liable to a fine of not more than ten thousand dollars.

HISTORY: Source: L. 49: p. 472, § 15.CSA: C. 87, § 332.CRS 53: § 72-14-15. C.R.S. 1963: § 72-13-15.L. 95: Entire section amended, p. 497, § 17, effective May 16.L. 2005: Entire section amended, p. 736, § 4, effective January 1, 2006

10-5-117. Rules and regulations

The commissioner may make and publish reasonable rules and regulations consistent with this article in respect to the transactions governed thereby and for the basis for his determination under this article.

HISTORY: Source: L. 49: p. 472, § 16.CSA: C. 87, § 333.CRS 53: § 72-14-16. C.R.S. 1963: § 72-13-16.

10-5-118. Notice provisions not applicable to surplus lines

The notice provisions in sections 10-4-109.7, 10-4-110, 10-4-110.5, and 10-4-110.7 shall not be applicable to insurance companies authorized pursuant to this article to write surplus lines insurance in Colorado.

HISTORY: Source: L. 87: Entire section added, p. 434, § 9, effective May 1

10-5-119. Disclosures regarding claims-made policies by surplus line brokers or insurers

(1) In the event that a contract procured or placed by a Colorado surplus line broker is on a claims-made or other nonoccurrence policy form, the broker or the nonadmitted insurer shall stamp on the face of the policy a clear disclosure, as prescribed by the commissioner, which shall be in predominate type.

(2) The disclosure requirement in subsection (1) of this section shall not apply to transactions with exempt commercial policyholders as defined by section 10-4-1402 and the rules adopted by the commissioner pursuant to such section.

HISTORY: Source: . L. 87: Entire section added, p. 434, § 9, effective May 1.L. 92: Entire section amended, p. 1494, § 22, effective July 1.L. 95: Entire section amended, p. 497, § 18, effective May 16.L. 2005: Entire section amended, p. 736, § 5, effective January 1, 2006.