

## DIVISION OF INSURANCE

124 S. Euclid Ave., 2<sup>nd</sup> Floor, Pierre, South Dakota 57501  
Tel: 605.773.3563 Fax: 605.773.5369 [dlr.sd.gov/insurance](http://dlr.sd.gov/insurance)

### SURPLUS LINES INSURER REGISTRATION PACKET

#### I. Surplus Lines Insurer General Information

1. Surplus Lines Insurance Code Cite: Title 58; Chapter 32. [SDCL 58-32]
2. The State does not maintain a list of eligible surplus lines insurers.
3. The State does not have a Surplus Lines Association.
4. South Dakota Insurance Law, Title 58, is not applicable to: - - "Any person, trust, or other entity proven to be under the regulatory authority of the federal government or another state agency." [SDCL 58-1-3 (5)]
5. Surplus Lines Tax - Rate: 2.5% (Except Fire)  
3.0% (Fire Only)

Remitted To Division By: Surplus Lines Broker (SL Broker); or  
Individual (If Self Procured); or  
Risk Retention Group

#### II. Eligibility and Filing Requirements - Insurer

58-32-22. Requirements for placing surplus lines insurance. Surplus lines insurance may be placed by a surplus lines licensee if the insurer is authorized to write the type of insurance in its domiciliary jurisdiction, and either meets the criteria established through a multi-state agreement pursuant to § 58-32-45 or meets one of the following criteria:

(1) The insurer has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of:

- (a) The minimum capital and surplus requirements under § 58-6-23; or
- (b) Fifteen million dollars; or

(2) The insurer is a nonadmitted insurer domiciled outside the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissions.

The requirements of subdivision (1) of this section may be satisfied by an insurer's possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the director. The finding shall 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 director may not make an affirmative finding of acceptability if the nonadmitted insurer's capital and surplus is less than four million five hundred thousand dollars.

**Source:** SL 1966, ch 111, ch 11, § 6(2); SL 1986, ch 420; SL 1990, ch 407, § 2; SL 2011, ch 223, § 3.

III. Before April 1 of each year the Surplus Lines Insurer needs to file:

Surplus Lines Insurer Business Written and Premium Tax Report Form (attach copy of state page (24) and schedule T from the annual statement). Due Date: April 1

Reports total premium collected and direct business written in SD by surplus line brokers.

IV. Types of Insurance Exempted From Surplus Line Regulation

1. Ocean marine and foreign trade insurance.
2. Insurance on subjects located, resident, or to be performed wholly outside of South Dakota or on vehicles or aircraft owned and principally garaged outside South Dakota.
3. Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
4. Insurance of aircraft owned or operated by manufacturers of aircraft, or aircraft operated in scheduled interstate flight, or cargo of the aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance, or use of the aircraft.

V. Other Comments or Requirements

1. South Dakota insurance business written by a non-admitted company **must** be placed through:

- A licensed Surplus Lines Broker; or
- Self-Procured \*

**\* The Division places the responsibility to inform such insured of the duty to remit premium tax, as prescribed by SDCL 58-32-50 [see I. (5).], upon the underwriting insurer, due to their status as the sophisticated party in the insurance transaction.**

2. The onus is on the surplus line broker to satisfy themselves that the non-admitted company is financially solvent and meets the eligibility requirements of SDCL 58-32-22 - [Summarized in II. 1. & 2. above.].
3. South Dakota has **not** adopted the NAIC Non-Admitted Insurance Model Act.
4. **Application and reporting forms are available at <http://dlr.sd.gov/insurance>**

If you have any questions, contact:

South Dakota Division of Insurance  
124 S Euclid Ave, 2<sup>nd</sup> Floor  
Pierre SD 57501

PHONE: 605-773-3563  
FAX: 605-773-5369  
[insurance@state.sd.us](mailto:insurance@state.sd.us)