

COMMISSIONER OF SECURITIES & INSURANCE

MATTHEW M. ROSENDALE, SR.
COMMISSIONER



OFFICE OF THE MONTANA
STATE AUDITOR

ADVISORY MEMORANDUM

To: Surplus Lines Agents

From: Matthew M. Rosendale, Sr., Commissioner of Securities and Insurance
Office of the Montana State Auditor

Date: December 18, 2017

Matthew M. Rosendale, Sr.

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SURPLUS LINES FEES

The Commissioner of Securities and Insurance, Office of the Montana State Auditor (CSI), has received numerous questions regarding allowable fees on surplus lines policies, and how those fees should be reported.

Surplus lines insurers have broad discretion to include fees with surplus lines insurance policies. Please note that “[a]ny assessment or membership, policy, survey, inspection, service, or similar fee or charge in consideration for an insurance contract is deemed part of the premium” (MCA § 33-15-102(2)) and must be reported to the CSI as such. Therefore, an eligible surplus lines insurer may charge any sort of “carrier fee” as part of a homeowner’s surplus lines policy, but the surplus lines insurance producer must then report that fee to the CSI as part of the premium earned by that insurer and collect and transfer the premium tax accordingly. MCA §§ 33-2-310, 311. Similarly, the insurer may agree to charge a fee for any other licensed entity or agent; but again, any such fee would also be considered part of the premium for the insurance policy sold and would be subject to the surplus lines premium tax. *Id.*

In addition to fees charged by the insurer, a surplus lines insurance producer may charge a producer fee up to a flat \$50 (for personal lines) or \$100 (for commercial lines) on each surplus lines policy sold. See MCA § 33-2-320 and CSI Advisory Memorandum “Surplus Lines Producer Allowable Fees” (7/1/15). This surplus lines insurance producer fee is not considered part of the insurance premium. Please note that only a surplus lines insurance producer validly licensed in Montana may charge

this flat fee, and only one fee may be charged per policy. MCA §§ 33-2-301(3)(u), 33-2-320.

Any other entity or agent not licensed as a surplus lines insurance producer—such as a “broker” or “managing general agent”—may not charge a fee on an insurance policy in Montana separate from the premium charged by the insurer or the producer fee.

For any questions regarding this advisory memorandum, please contact:
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