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An Example of a Submission Using the 10% and \$1,500 Exception in 33-2-302(1)(d)(i), and (2) MCA

This example has the following Information based on the filing of an electronic submission:

1. This policy was a casualty risk for professional liability for an architecture firm. This is an initial policy for this firm. No fire risk is associated with this policy.
2. Montana is the home state for this policy.
3. The policy was submitted with a binder rather than a declaration page. The policy number was not available at the time the binder was prepared.
4. **Insured Information** - the surplus lines agent is required to enter the following from the Montana Surplus Lines Submission Form:
 - a. policy holder name
 - b. policy number (enter the number as assigned by the insurance company)
 - c. the Montana street address of risk insured.
 - d. the nearest Montana city in which the risk is located.
5. **Submission Form Part 1 – Producing Insurance Producer Section**, the following information must be entered:
 - a. If the risk is included in the Approved Risk List or White List the category should be entered. If the yes box is checked, an approved code must be entered. If an approved risk is entered, sections 2, 3 and 4 of Montana Surplus Lines Submission form do not have to be entered.
 - b. If the risk is not listed on the ARL, the agent must describe the risk in complete sentences.
 - c. If this risk is not listed on the ARL, the agent must describe, in complete sentences, the reason for the risk is not available from an authorized insurer.
 - d. The agent must enter the name of the prior insurer from the drop down menu. **If more than one prior insurer exists, list the lead prior insurer or the prior insurer who retained the most risk.**
 - e. If the agent is using the 10% and \$1,500 exception, under 33-2-302(1)(d)(i) and (2), MCA, this box must be checked.
 - f. The source of the company's rating must be selected, either AM Best or Standard and Poor's when using the 10% and \$1,500 exception.
 - g. The applicable rating must be selected when using the 10% and \$1,500 exception.
 - h. The effective date of the insurance company rating, if using the 10% and \$1,500 exception must be entered.
 - i. The agent must select the three authorized insurers who provided a bid for coverage when using the 10% and \$1,500 exception. The bid amount must be entered in the box to the right of the company name when using the 10% and \$1,500 exception.
 - j. Enter the producing producer's license number, which should bring up the agents name and the affiliated agency in the drop down box. The agent must select the proper agency if more than one agency is listed.
 - k. Enter the date the producing producer signed the submission form.
6. **Submission Form Part II Surplus Lines Agent Information** - the Surplus Lines Agent is Required to enter the following information:

- a. The Montana Surplus Lines Agent license should be entered, which will cause the surplus lines agent information to be automatically entered in the form. The surplus lines agent should confirm the information to be correct.
 - b. Enter the date the surplus lines agent signed the policy.
7. Submission Form – Part III - Tax and Fee information are explained below. The premium for this policy is \$8,625 with no additional fees. **Premium tax and stamping fees are calculated automatically calculated in the electronic filing.**
- a. The surplus lines agent must enter the name the surplus lines company, from the drop down menu, which also lists each company's unique NAIC number. Keeping a record of the NAIC number will prevent entry delays if the surplus lines insurer has changed their name prior to Montana updating its eligible surplus lines list. Montana only updates its eligible surplus lines company list on May 31, and November 30 of each year. **If you have difficulty entering the surplus lines insurance company due to an old policy, please contact Tim Morris at 406-444-4489.**
 - b. If Underwriters at Lloyds is selected the appropriate syndicates must be entered. Lloyds syndicate numbers can be obtained at <http://sao.mt.gov/forms/Exams/Lists/biannlst.pdf> . **If you have difficulty entering a Lloyd's syndicate, please contact Tim Morris at 406-444-4489.**
 - c. Enter the effective date of the policy and the system will generate an annual expiration date, which can be changed for a different expiration date.
 - d. Enter the policy limits of coverage. Multi-state risks can use the entire policy amount rather than breakout the Montana portion.
 - e. Enter the policy premium
 - f. Enter the applicable fire premium
 - g. Enter the applicable inspection fee

8. **The manual calculations for the example are listed below (note the stamping fee is reduced to ½ of 1% or 0.005% for electronic filings from the 1% or 0.01 due for paper filings):**

Base premium	\$8,625.00
Inspection fee	<u>0.00</u>
Total Premium for premium tax calculation	\$8,625.00
Fire premium	0.00
Premium tax rate	2.75%
Fire tax rate	2.50%
Stamping fee rate of base premium	0.50%
Premium taxes owed (8,625X 0.0275)	\$ 237.19
Fire taxes owed (0.025 X 0)	0.00
Stamping fees owed (0.005% X 8,625)	<u>\$ 43.13</u>
Total taxes and fees owed	\$ 280.32

9. The surplus lines agent should review the information for accuracy. If the agent is satisfied, the box to the left of the surplus lines agents name must be checked and the submit button can be pressed to enter the transaction. The surplus lines agent can view and print their statement of surplus lines activity at anytime. Please contact 406-444-2040 if you have any questions.
10. After June 1, 2010 the surplus lines agent can either be pay the premium tax and stamping fees electronically or by a single check, at their convenience or with an annual payment due by April 1 in the next calendar year. The CSI will not be sending out tax and stamping fee statements as these amounts can be viewed on-line. **Checks must be made out to the Montana Commissioner of Securities and Insurance.**
11. After the submit button has been pressed, the next screen should be the following confirmation, listed below, indicating that the submission was successful. If this screen is not present the transaction has not been entered into the database. Two possibilities are likely for the problem. The first may be that not all of the boxes have been properly completed or a problem may exist with the server. The agent should check the form for completeness, attempt to resubmit or reenter the information at a later time.

12. Premium revisions to policies entered on this website must be entered through the endorsement or cancellation functions located on this website. Please keep a record of the reason for the premium increase or decrease for your records.
13. The surplus lines agent is required to maintain the original or a scanned copy of the Montana Surplus Lines Submission form and/or binder for a period of five years from the end date of the policy.
14. **PLEASE NOTE THE SURPLUS LINES FILING MUST BE MADE TO THE MONTANA COMMISSIONER OF SECURITIES AND INSURANCE, OFFICE OF THE STATE AUDITOR WITHIN 60 DAYS OF THE EFFECTIVE DATE OF THE POLICY**

MONTANA SURPLUS LINES SUBMISSION FORM

SAMPLE

NOTICE: Complete entire submission form. Do not leave any blanks. Write "NA" if any question is "not applicable." Incomplete submission forms will be returned.

INSURED: Vanderlan Industries POLICY NUMBER: AAA922823

MT ADDRESS: 515 N. Henry ← MT LOCATION ONLY

Butte, MT 59701 ← MT LOCATION ONLY

IS THIS FILED ON A BINDER?
 YES NO

PART 1: AFFIDAVIT OF PRODUCING INSURANCE PRODUCER SECTION

State of Montana
 County of Silver Bow) ss.
 The undersigned hereby certifies upon oath that the insurance which is the subject of this affidavit is in accordance with Title 33, § 33-2-301, et seq. MCA, the Montana Surplus Lines Insurance Law. The insurance which is the subject of this affidavit was not procured for 1) the purpose of securing advantages as to the terms of the insurance contract and 2) the purpose of obtaining a lower premium rate than would be accepted by the authorized insurer except as provided in § 33-2-302 (1) (d) (i) and (2), MCA. Furthermore: 1) The insurance which is the subject of this affidavit is a line of insurance which appears on the most recent Approved Risk List (ARL) issued by the Commissioner of Insurance; or 2) Immediately before requesting from an unauthorized insurer the insurance which is the subject of this affidavit, I endeavored diligently and unsuccessfully to secure equivalent coverage from authorized insurers holding certificates of authority to transact this line or the full amount of the line of insurance in the State of Montana; and 3) I have expressly advised the insured prior to placing the insurance that the surplus lines insurer with whom the insurance is placed is not authorized in this state and is not subject to the same supervision as an authorized insurer; and in the event of the insolvency of the surplus lines insurer, the property and casualty guaranty fund of the state will not pay losses under the surplus lines coverage.

Is the risk included on the most recent Approved Risk List? YES or NO If so, in which category? (Ex: GL-01) _____

If not included on the most recent ARL describe 1) Type of Risk _____

1a) EXPLAIN in detail why insurance for this risk is unavailable from an authorized insurer: (COMPLETE SENTENCE)

Insured is using exception under 33-2-302(1)(d)(i) and (2) MCA

2) Indicate prior insurer: None – Initial Policy 2a) Explain why the prior insurer, if an authorized insurer, did not renew:
Initial Policy

2b) If a renewal was offered, what was the renewal quote? None (IF NONE PUT "NONE")

3) Are you filing using the 10% AND \$1500 exception? (33-2-302(1)(d)(i) and (2) MCA) (Y or N) Y (DILIGENT EFFORT IS REQUIRED)

If YES, the financial stability rating system used was AM Best
 and the rating was A as of 04/01/2009 (effective date).

FOR OFFICE USE ONLY
 VERIFIED RATING:

(If YES, you are affirming: 1. I have provided the insured with the disclosure information on the form approved by the Commissioner. 2. The unauthorized market quote was placed with a surplus lines company that is "A" rated or better. 3. The authorized market quote(s) that was used was the lowest premium from the diligent effort. 4. The difference between the authorized market quote(s) and the unauthorized market quote(s) meets both the 10% AND the \$1500 requirements. 5. I listed the lowest quotes obtained from the authorized market search in #4 below.)

4) List a minimum of three authorized insurers you contacted for your diligent efforts to place this insurance:

A. Colony Specialty Ins. Co B. New Hampshire Insurance Company C. Travelers Prop & Cas Ins Co of America
 \$ 13,336 \$ 12,451 \$ 13,526

I, Ed Smith, being of lawful age and being first duly sworn, on oath, depose and say that I am one and the same person whose name is subscribed to this affidavit; that I have read the same and know the contents thereof; and that the statement of facts contained herein are true.

X Ed Smith _____ 04/22/2010 #2
 Original Signature of Producing Insurance Producer is Required Date Montana Producer/Agency License No.
David Charles Agency 830 Helena Avenue
 Agency Name Address
 Helena, MT 59601

Stamp or Seal
The notary stamp or seal is required for each Submission Form
Notary Section was not completed for the Sample

Subscribed and sworn to before me this _____ of _____, 20____.
 Signature
 Printed Name of Notary
 Notary Public for the State of
 Residing at
 My Commission expires

PART 2: Montana Surplus Lines Insurance Producer Section

I, Everett James (printed name of surplus lines insurance producer), affirm that: 1) I am the producer that placed this risk with the unauthorized insurer; 2) this line of insurance appears on the most recent Approved Risk List (ARL) issued by the Commissioner of Insurance or that I have, to the best of my ability, attempted to place this line of insurance through an authorized insurer and am unaware of any authorized insurer transacting this line or the full amount of this line of insurance in Montana; and 3) I have complied with § 33-2-302, MCA.

David Charles Agency 830 Helena Avenue, Helena, MT 59601
 Agency Name Address as it appears on the MT Surplus Lines License

X Everett James _____ April 27, 2009 #5
 Original Signature of Surplus Lines Producer is Required Date Montana Surplus Lines License No.

PART 3: Premium / Tax / Fee Information Section

Name of Unauthorized Insurer(s): Landmark American Insurance Company – NAIC #33138 Lloyds Syndicate # _____
 Policy Period From: May 1, 2019 To: May 1, 2011 Limits of Coverage: \$1,000,000/\$3,000,000

If this policy is a multi-year policy with the policy term greater than 12 months, this form is to be completed only in the initial year of the policy. For all subsequent years, report policy premium on the Montana Surplus Lines Multi-Year Policy Premium Form

Policy Premium: \$ 8,625.00 Fire Premium: \$ 0.00
 Premium Tax: (2 ¾%) \$ 237.19 Fire Tax (2.5%): \$ 0.00
 Stamping Fee: (1%) \$ 43.13 Inspection Fee: \$ 0.00

FOR OFFICE USE ONLY:
 ACCEPTED STAMP ONLY

NOTICE: Under Montana law, inspection fees for the actual cost of inspecting the risk to be covered may be charged. Other fees, such as placement fees or policy fees, are not permitted.

SEND: THE ORIGINAL SUBMISSION, A COPY OF THE ORIGINAL SUBMISSION FORM AND A SELF-ADDRESSED STAMPED ENVELOPE WITH SUFFICIENT POSTAGE TO RETURN THE STAMPED COPY OF THE SUBMISSION FORM AND ANY OTHER DUPLICATES YOU WOULD LIKE RETURNED (I.E.; DECLARATION PAGES AND/OR BINDERS). IF COPIES ARE NOT PROVIDED, NONE WILL BE RETURNED. TO: MONTANA COMMISSIONER OF SECURITIES AND INSURANCE, SURPLUS LINES, 840 HELENA AVENUE, HELENA, MT 59601.

SAMPLE

**DAVID CHARLES AGENCY
INSURANCE BINDER**

REFERENCE NO. 123456789B

DATE ISSUED: May 25, 2010

PRODUCER: Ed Smith
David Charles Agency
830 Helena Avenue
Helena, MT 59601
Tel: (406) 442-0000 Fax: (406) 442-0001

**FIRST NAMED
INSURED:** Vanderlan Industries
515 N Henry
Butte, MT 59715

INSURER: Landmark American Insurance Co.
A.M. Best's Rating: A, XII, Non-Admitted

COVERAGE: Professional (E&O) Liability Insurance

POLICY TERM: 5/1/2010 To 1/1/2011

BINDER PERIOD: 5/1/2010 To 7/1/2010

POLICY NUMBER: TBD
Policy # issued June 1, 2010
Policy #AAA92283

LIMITS OF LIABILITY: \$1,000,000 Each Claim
\$3,000,000 Aggregate
Defense Cost: Covered Within the Limit

RETENTION: \$10,000 Per Claim – Applies to Indemnity and Expense

TERMS: FORM:
"Claims Made"
Retroactive Date: 1-1-2005`
Extended Reporting Period: 12 months for premium not to exceed 200%
FORM: Architects and Engineers Professional Liability Coverage form Claims Made Basis

ENDORSEMENTS:
Additional Exclusions Endorsement – As per Expiring
Biological Contaminants Exclusion
Minimum Retained Premium
Montana – Notice of Cancellation & Nonrenewal
Montana Surplus Lines Disclosure Notice
Nuclear Energy Liability Exclusion and Service of Suit
Prior and Pending Litigation Exclusion
Warranty Endorsement

CONDITIONS: Flat cancellation of the policy following the effective date will not be permitted.

Policy fees are fully earned (**only inspection fees are allowed in Montana**).
Binder premium equal to 25% of the deposit premium is fully earned.
Annual minimum premium is equal to deposit premium.

COST:

Premium	\$8,625.00
Total Fees*	-0-
Surplus Line Tax and Fee**	\$280.32
Total Cost	\$8,905.32

* No inspection fees for this policy

** Policy was filed electronically with Montana Department of Insurance stamping fee is 0.005% when filed electronically rather than 0.01% when filed on a paper submission after January 1, 2010.

Important Notice:

This proposal is an outline of the coverages proposed by the insurer, based upon the information provided by your company. It may differ from the terms you requested and does not include all the terms, coverages, exclusions, limitations and conditions of the actual policy. Copies of specific forms and endorsements or a specimen policy is available upon request.

It is your responsibility to determine whether the proposed coverage is adequate and to explain the proposal to your client. You are not an agent of the insurer and cannot amend the proposal, bind coverage or make any commitments on behalf of us or the insurer. The policy cannot be assigned to another party without the consent of the insurer.

FROM: Lynn Smith
TEL: (406) 442-0000
FAX: (406) 442-0001
EMAIL: lsmith@dcinsurance.com

ASSISTANT: Megan Kelly
TEL: (406) 442-0000
FAX: (406) 442-00001
EMAIL: mkelly@dcinsurance.com

DAVID CHARLES AGENCY
830 Helena Avenue
Helena, MT 59601

INSURED: Vanderlan Industries
DATE ISSUED: May 25, 2010
Reference No.: 123456789B

SAMPLE