

Red Tape Review Rule Report (Due: September 1, 2023)

Department Name:	Department of Insurance and Financial Services- Insurance Division	Date:	8/31/2023	Total Rule Count:	9
IAC #:	191	Chapter/ SubChapter/ Rule(s):	21	Iowa Code Section Authorizing Rule:	CH. 515I 2023 Iowa Acts, Senate File 549
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PLEASE NOTE, THE BOXES BELOW WILL EXPAND AS YOU TYPE

What is the intended benefit of the rule?

The rules in Chapter 21 provide duties and procedures for insurance producers and nonadmitted insurers in order to provide excess and surplus lines insurance in Iowa.

Is the benefit being achieved? Please provide evidence.

Yes. This rule making is being proposed pursuant to Executive Order 10.

What are the costs incurred by the public to comply with the rule?

There are no known costs.

What are the costs to the agency or any other agency to implement/enforce the rule?

The reduction of premium tax as authorized by Senate File 549 will impact state revenues.

Do the costs justify the benefits achieved? Please explain.

Yes. The proposed changes streamline and eliminate redundant language.

Are there less restrictive alternatives to accomplish the benefit? YES NO

If YES, please list alternative(s) and provide analysis of less restrictive alternatives from other states, if applicable. If NO, please explain.

The Division did not find any less restrictive alternatives. The chapter codifies industry practices and ensures a competitive and fair market for excess and surplus lines insurance.

Does this chapter/rule(s) contain language that is obsolete, outdated, inconsistent, redundant, or unnecessary language, including instances where rule language is duplicative of statutory language? [list chapter/rule number(s) that fall under any of the above categories]

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191—21.3
191—21.5

RULES PROPOSED FOR REPEAL (list rule number[s]):

None.

RULES PROPOSED FOR RE-PROMULGATION (list rule number[s] or include rule text if available):

The following rulemaking action proposed:

ITEM 1. Amend rule 191—21.3(515I) as follows:

191—21.3(515I) Surplus lines insurance producer’s duties.

21.3(1) Surplus lines insurance producer’s collection of tax. A surplus lines insurance producer who places insurance with an eligible surplus lines insurer must collect premium tax from the eligible surplus lines

insurer by withholding ~~1 percent of the premiums for such tax~~ the applicable percent of premiums pursuant to Iowa Code section 432.1, subsections (3) and (4).

21.3(2) *Electronic reporting of premium tax.* A surplus lines insurance producer who places insurance with an eligible surplus lines insurer must file electronically the premium tax information with the division, as instructed on the division's website, on or before March 1 for policies issued during the preceding calendar year.

21.3(3) *Annual report.* On or before March 1 of each year, every surplus lines insurance producer who has placed insurance with an eligible surplus lines insurer when the policies have been issued during the preceding calendar year must file electronically with the division, or as otherwise directed by the division, a sworn report and supporting documentation, as instructed on the division's website, which may include evidence of a diligent search required pursuant to Iowa Code section 515I.3, of all such business written during the preceding calendar year and must submit the amount to cover the taxes due on all such business. The manner of filing electronically and the content of the report and required supporting documentation are listed on the division's website. If no business was issued during the preceding calendar year, no report is required. Failure to file an annual report or pay the taxes imposed by Iowa Code chapter 515I will be deemed grounds for the revocation of a surplus lines insurance producer's license by the division, and failure to file an annual report or pay taxes within the time requirements of this rule will subject the surplus lines insurance producer to the penalties of Iowa Code section 515I.12.

ITEM 2. Amend rule 191—21.5(515I) as follows:

191—21.5(515I) Procedures for qualification and renewal as an eligible surplus lines insurer.

21.5(1) Application and procedures for initial qualification as an eligible surplus lines insurer.

a. Any ~~nonadmitted~~ insurer or domestic surplus lines insurer who wishes to qualify under Iowa Code chapter 515I as an eligible surplus lines insurer must have been actively in operation for at least three

years without significant changes in ownership or management during the three-year period and make an application with the division in a format prescribed by the division, as instructed on the division's website. The management requirement may be waived pursuant to the division's waiver process in 191—Chapter 4.

b. The application must include:

(1) The name of an Iowa resident surplus lines insurance producer whom the insurer is designating as the person to accept inquiries and notices on behalf of the insurer.

(2) Payment of the greater of a \$100 filing fee or a retaliatory fee, and an examination fee for all new applicants.

(3) Demonstrated maintenance of the capital and surplus required pursuant to Iowa Code chapter 515I.

~~*c.* In addition to the above requirements, the nonadmitted insurer must have been actively in operation for at least three years without significant changes in ownership or management during the three-year period. This management requirement may be waived pursuant to the division's waiver process in 191—Chapter 4.~~

21.5(2) Procedures for renewal of an insurer as an eligible surplus lines insurer. An eligible surplus lines insurer that was approved by the division as an eligible surplus lines insurer, except for an alien insurer under Iowa Code section 515I.2(8) “*b*,” must by March 1 of each year following the year of approval:

a. Be in compliance with subparagraph 21.5(1) “*b*”(3);

b. Pay the greater of a \$100 renewal fee or a retaliatory fee; and

c. Submit to the division the documents and materials listed on the division's website.

21.5(3) Periodic reporting. An eligible surplus lines insurer, except for an alien insurer under Iowa Code section 515I.2(8) “*b*,” must submit annual and quarterly financial statements to the division as instructed on the division's website.

21.5(4) Failure to comply with renewal procedures. An eligible surplus lines insurer that fails to timely file an application for renewal as an eligible surplus lines insurer or fails to provide requested information shall pay a late fee of \$500.

21.5(5) Failure to timely file financial statements. An eligible surplus lines insurer that fails to file a financial statement, as instructed on the division’s website, shall pay a late fee of \$500. The commissioner may give notice to an insurer that fails to timely file that the insurer is in violation of this subrule. If the insurer fails to file the required financial statements within ten days of the date of the notice, the insurer shall pay an additional late fee of \$100 for each day the failure continues.

21.5(6) Failure to comply with this rule. An eligible surplus lines insurer’s authority to transact new business in this state shall immediately cease until the insurer has fully complied with this rule, including paying all applicable late fees.

21.5(7) Suspension. The commissioner may order the suspension of an eligible surplus lines insurer’s authority to transact the business of insurance within the state, after notice and hearing pursuant to Iowa Code chapter 17A, if the eligible surplus lines insurer fails to fully comply with this rule within 90 days, including paying all applicable late fees.

***For rules being re-promulgated with changes, you may attach a document with suggested changes.**

METRICS

Total number of rules repealed:	0
Proposed word count reduction after repeal and/or re-promulgation	4
Proposed number of restrictive terms eliminated after repeal and/or re-promulgation	1

ARE THERE ANY STATUTORY CHANGES YOU WOULD RECOMMEND INCLUDING CODIFYING ANY RULES?

None.