

**Study Guide
For The
North Carolina Surplus Lines
Examination**



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According to the NC Department of Insurance, in 2020, the property and casualty industry collectively wrote over \$18 billion in premium. This includes the cost of auto and home insurance, commercial property, workers compensation, and much more. It is safe to say that insurance is big business in the state of North Carolina.

Included in this \$18 billion figure is the premium for business placed in the surplus lines market, which in 2020 totaled \$1 billion based on a January 2021 report published in the Wholesale & Specialty Insurance Association (WSIA) Stamping Office report. This places NC as the eleventh largest surplus lines state in the country.

In addition to the increase in premium volume, the surplus lines taxes collected for the state increased from \$30 million in 2016 to over \$49 million in 2020. With the ever-changing nature of the insurance marketplace, the expectation is that these numbers will continue to grow in the future.

The North Carolina Surplus Lines Association in conjunction with the North Carolina Department of Insurance developed this study guide to assist agents and brokers preparing to take the state surplus lines licensing examination. The guide will focus on the statutes specific to surplus lines placements as well as types of accounts that can be written in the surplus lines segment of the industry.

If you have questions about the guide or the role of the Surplus Lines Association, please visit our website at <https://www.ncsla.com/>

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Section I

Overview of the Insurance Marketplace and Excess and Surplus Lines

Overview of the Insurance Industry

The Property and Casualty industry in the United States is comprised of a number of companies and producers who provide insurance for a wide variety of business and personal exposures to loss. At the end of 2019, there were 2,496 property and casualty insurance companies operating in the United States (www.iii.org). These carriers wrote in excess of \$728 billion as of the end of 2020 and surplus lines insurers accounted for \$66 billion of the total according to the AM Best Report titled AM Best Market Segment Report, *Expanding Opportunities Boost Surplus Lines Growth and Spur Operating Profits*. September 16, 2021

The North Carolina Department of Insurance (DOI) is the regulatory body assigned the task of monitoring performance and assuring that rules and guidelines are followed by all insurance entities. Unlike some other jurisdictions, the relationship between the industry (companies, producers, and consumers) and the department is extremely professional, and all parties work together to provide a stable, competitive marketplace for North Carolina insurance consumers.

Before launching into the content of the presentation, it is important to keep a couple of definitions in mind. Standard, sometimes called admitted insurers, are licensed and issued a certificate of authority by the state to write business in North Carolina. Non-admitted insurers, also referred to as surplus lines insurers, are not licensed by the state **BUT** are allowed to operate under specific circumstances. This distinction will become clear as you proceed through this Study Guide. You will also learn that all unauthorized insurers are **NOT** able to sell their policies in the state! This too will be explained in a later section.

Standard insurance companies are licensed entities that, for lack of a better term, write “standard stuff.” In most cases, the products they offer provide insurance on types of exposures to loss that fit a fairly defined set of criteria. These carriers use policy forms and endorsements that have been approved by the Department of Insurance. Standard or admitted companies also participate in the state’s Guaranty Fund which comes into play when an admitted company can’t for whatever reason satisfy its contractual obligations. You will learn more about how this facility functions later in this program. Collectively this segment of the business writes over 90% of the insurance in the state.

The surplus lines industry is designed to provide an orderly process for insuring those risks that the standard carriers elect not to insure. Accounts that make their way into surplus lines tend to have one or more of the following characteristics:

- Unique. A person who wants to set up remote cameras to look for Bigfoot in a national forest needs a liability insurance policy in the event someone is injured by the camera.

- Distressed. An apartment risk with multiple property and liability losses might not qualify for coverage from a standard insurer.
- High limits. The owner of a billion-dollar schedule of commercial property can't find the necessary limits from admitted insurers.
- Tailored coverage forms. A manufacturer of airplane parts needs a type of coverage that is not available in the standard market.

These are a few examples of how the surplus lines market adds value to the insurance process. E&S companies are not required to file their rates or forms with the DOI thus they have the flexibility to develop coverages and rating methods without the need to obtain prior approval. As these companies are not licensed, they do not participate in the State Guaranty Fund.

If a particular risk qualifies for coverage in the admitted market, existing statutes require that it be placed with a licensed carrier. When the risk does not qualify, the agent may seek to place it in the non-admitted (or surplus lines) market. To do so, the agent must contact a licensed intermediary for assistance. The agents who specialize in surplus lines placements go by many names; surplus lines broker, managing general agent, general agent, wholesaler, or managing general underwriter. The key is that you must deal with someone who is either a resident or nonresident surplus lines licensee in the state of North Carolina.

A word of caution is in order. When you receive a quotation for a surplus lines placement, it is very important that you carefully review the quote. Many times, surplus lines carriers use manuscript forms which may include special limitations and exclusions that are not used by standard companies. Be sure to notify your customer of these exclusions and limitations in writing at the time of the placement, **NOT** after an uncovered loss occurs!

Section II

Statutes

There are literally thousands of pages of statutes pertaining to insurance regulations, rules, and procedures. The good news is that our study will be limited to a much more manageable workload.

Chapter 58, Article 21 of the North Carolina General Statutes contains the information specific to surplus lines and we will discuss the bulk of these statutes in the following pages. A copy of the statutes is included at the end of this Study Guide for your reference and review.

58-21-5. Purpose: necessity for regulation

This statute sets the tone for this section of the General Statutes by stating the reason for regulation is to provide access to financially secure surplus lines insurers with the overall goal being to protect policyholders and members of the public. Keep in mind that insurance is a promise to pay for something in the future so people want to make sure their company will be there when they need the protection the most.

58-21-10. Definitions

Every insurance policy has a definitions section so why wouldn't a state statute? Many of those discussed in this section are probably familiar to anyone with a producer's license. However, it is a good idea to review the items below.

Domestic, foreign, and alien insurers. Although these terms are not included in the definitions section of the statute, it is important for you to know what they mean. For a producer in North Carolina, a domestic insurer is one that is domiciled in North Carolina. A foreign company is one domesticated in another state, South Carolina for example. And an alien insurer is one that is domiciled in another country, like a Lloyd's Syndicate

Eligible surplus lines insurer. An alien insurer, a nonadmitted domestic surplus lines insurer, or a nonadmitted insurer with which a surplus lines licensee can place business with. Remember, an approved nonadmitted insurer is not licensed in the state but is allowed to provide coverage when the standard or admitted market is unwilling or unable to do so.

Export. This term is used to refer to the process of placing an account with a nonadmitted carrier. In other words, the surplus lines licensee is "exporting" the business to an eligible surplus lines insurer.

Salary protection. A type of coverage that covers losses caused by cessation of earned income because of disability from sickness, ailment, or bodily injury.

Surplus lines insurance. Any insurance in the State of North Carolina permitted to be placed by a surplus lines licensee with an eligible nonadmitted insurer. However, this

does not include the following lines of insurance:

- Reinsurance
- Commercial aircraft
- Certain classes of wet marine (Hull, Marine Builders Risk, Protection and Indemnity 'P&I,' Ocean Cargo) and transportation
- Insurance independently procured
- Life, accident or health insurance
- Annuities

Surplus lines licensee. An individual able to place insurance with an eligible nonadmitted insurer.

58-21-11. Home State

This is an important concept as it relates to which state receives the surplus lines taxes associated with a particular account. With respect to an insured, this term means either of the following:

1. The state in which an insured maintains its principal place of business or if the insured is an individual, their principal residence.
2. If 100% of the risk is located out of the state referenced in number 1, the state to which the greatest percentage of the insured's taxable premium for that insurance contact is allocated.

An example will help explain. If an insured owns and operates a business and its operations are strictly in the State of North Carolina, then that state gets the taxes. If the insured lives in NC but all of his or her business is conducted in South Carolina, then SC would get the tax revenue.

58-21-15. Placement of surplus lines insurance.

Here are the basic requirements for this process:

1. The producer must be a surplus lines licensee.
2. The insurer qualifies as an eligible surplus lines insurer.
3. The insurer is authorized to write the type of insurance requested.
4. The full amount or kind of insurance cannot be obtained from insurers who are admitted to conduct business in the state. For example, assume you are insuring a coastal property risk and the admitted carrier cannot provide wind coverage on their policy and the non-admitted carrier can provide a policy with wind coverage.
5. A diligent search must be conducted to see if an admitted carrier would be willing to entertain the account.

Unlike other states, North Carolina does not require a specific number of declinations from admitted insurers prior to placing an account with a nonadmitted insurer. The producing broker is responsible for conducting the search and the surplus lines licensee must confirm that the diligent search was conducted by the producing agent. As a reminder, this diligent search is required for new and renewal accounts.

A record of the diligent search must be maintained in the insured's policy file should questions about the search come up at a later date. There is no required standard form that must be used.

Finally, keep in mind that premium can never be the determining factor on an "apples to apples" quote from an admitted and non-admitted insurer

58-21-16. Streamlined application for commercial purchases

In some cases, the provisions outlined in 58-21-15 do not apply if the insured is considered an exempt commercial purchaser. The surplus lines licensee must disclose to the insured that not all coverage is available through the admitted market and the exempt commercial insured must acknowledge this in writing.

Generally speaking, these businesses pay a minimum of \$100,000 a year in premium, have annual revenue in excess of \$50 million, and in many cases employ a qualified risk manager to assist with purchasing insurance.

In this case, the licensee is not required to make a diligent search as stated above.

58-21-17. Placement with alien insurers

A surplus lines licensee may place business with an alien insurer if the insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners (NAIC). The link to the portion of the NAIC website with this listing is included below:

https://content.naic.org/publications#quarterly_alien

58-21-20. Eligible surplus lines insurers required

You have learned the importance of using an eligible surplus lines insurer and this statute outlines the financial requirements of becoming eligible.

When someone buys an insurance policy, in effect they are purchasing a promise. If a covered loss occurs, the expectation is that the insurer will be there to pay what is owed. This statute outlines the minimum financial requirements for a surplus lines carrier operating in North Carolina. The required amounts are listed below:

- The minimum capital and surplus limits listed in General Statute 58-7-75; and these amounts vary based on the type of insurer (stock, mutual, etc.)
- \$15,000,000. However, the Commissioner may grant an exception for insurers with capital and surplus of less than \$15,000,000 but greater than \$4,500,000
- Lloyd’s Syndicates (or similar groups) must maintain a trust fund of no less than \$100,000,000 as security for all policyholders and creditors in the United States
- Insurance exchanges: \$75,000,000 minimum.

A surplus lines licensee may place business with an insurer that meets the qualifications stated above **AND** appears on the most recent list of eligible surplus lines insurers published by the Commissioner.

To determine if a carrier is on the list, go to <https://sbs.naic.org/solar-external-lookup/> and follow the steps listed below:

1. Lookup Search – Jurisdiction – North Carolina / Search Type – Company.
2. Under Company Type – Scroll down to “Surplus Lines”
3. Check the “I agree” box / Click Search.
4. The companies will appear in alphabetical order.

An eligible surplus lines insurer in North Carolina must either appear on the most recent list of approved surplus lines insurers published by the commissioner “White List” or on the NAIC Quarterly Listing of Approved Alien Insurers as discussed in 58-21-17.

58-21-21. Nonadmitted domestic surplus lines insurer

In some states, including North Carolina, it is possible to establish a nonadmitted domestic surplus lines insurer. These insurers must have at a minimum capital and surplus of \$15,000,000 and for all practical purposes, are treated just like a surplus lines carrier domiciled in another state.

58-21-22. Limitation on amount of salary protection insurance

Salary protection insurance pays an individual when he or she suffers a “cessation of earned income because of disability from sickness, ailment, or bodily injury.” This statute limits the amount a person can recover from all sources (an individual disability income policy for example) to 75% of the individual’s annual earned income.

58-21-25. Other nonadmitted insurers

In some cases, the surplus lines licensee may not be able to procure the full amount of coverage needed from eligible surplus lines insurers. This statute allows the licensee to use a surplus lines carrier not on the eligibility list as long the insurer meets the financial requirements stated in GS 58-21-20. In addition, the licensee must make a filing and send written notice to the insured within 30 days after the coverage has been placed that a portion of the risk was written with a nonadmitted insurer that is not on the eligibility list. An example will help explain this concept.

Assume a surplus lines licensee is working on finding \$10 million of property coverage for an apartment building on the North Carolina coast. The broker has access to \$9 million of coverage from eligible surplus lines carriers but he can't place the last \$1 million. The good news is that a carrier not on the list will write the last piece of the account subject to the provisions listed in this statute.

58-21-30. Withdrawal of eligibility from a surplus lines insurer

The Commissioner may remove a surplus lines company from the list of eligible insurers if the Commissioner has reason to believe that the company is in unsound financial condition, has acted in an untrustworthy manner, has failed to pay just losses and claims, has violated State laws, or otherwise no longer qualifies under 58-21-20.

58-21-35. Duty to file and retain reports

Within 30 days after placing any surplus lines insurance, the surplus lines licensee shall file a report with the Commissioner or the stamping office with the following information:

- Name of the insured
- Name of the insurer(s)
- Description and location of the risk
- The premium charged
- Amount of premium tax
- Policy period and policy number
- Compliance with 58-21-15 or 58-21-16, whichever applies
- Contact information of the surplus lines licensee
- Any other relevant information the Commissioner may request

The licensee must retain a copy of this report for each surplus lines placement for audit purposes in the future.

58-21-40. Surplus lines regulatory support organization

Many states have established support organizations, sometimes referred to as stamping offices, to assist the Department of Insurance to facilitate and encourage regulatory compliance to

surplus lines licensees. In North Carolina, the North Carolina Surplus Lines Association (NCSLA) carries out the following functions:

- Monitor compliance with all North Carolina surplus lines laws and regulations by resident and nonresident surplus lines licensees
- Communicate with organizations of admitted insurers regarding the proper use of the surplus lines market
- Distribute information to surplus lines licensees about changes in filing procedures, updates to the surplus lines insurer eligibility list, and other important matters.
- Establish and operate a stamping office to process surplus lines transactions and remit premium taxes that are due.

The NCSLA must also provide the name and address of a resident of the State upon whom notices or orders of the Commissioner may be served. This individual is normally the Executive Director of the NCSLA.

Any individual surplus lines licensee (resident or non-resident) will automatically become a member of the NCSLA when they receive their North Carolina surplus lines license and will remain a member if the license is compliant. NCSLA membership dues are no longer required.

58-21-45. Evidence of insurance; changes; penalty

After the placement of a surplus lines account, the producing broker or surplus lines licensee must deliver a policy or other evidence of coverage to the insured if the policy is not yet available. If there is a change in identity of the insurer or other material change in coverage after delivery of the evidence of coverage, the producing broker or surplus lines licensee deliver an endorsement showing the correct information. Non-compliance with these rules can result in penalties including civil fines and potentially suspension or revocation of the license to transact business.

When the policy is issued, the statute requires that the name of the surplus lines licensee must be provided to the insured. In addition, one of the following notices must be included in 12-point type in either **bold print** and underlined or in a contrasting color (see the examples below).

If the policy is issued by a nonadmitted domestic surplus lines insurer:

"The insurance company with which this coverage has been placed is domiciled and authorized by the State of North Carolina and is subject to its supervision. However, in the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund."

If the policy is issued by another nonadmitted insurer:

"The insurance company with which this coverage has been placed is not licensed by the State of North Carolina and is not subject to its supervision. In the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund."

58-21-50. Duty to notify insured

This statute reinforces the requirements listed in 58-21-45 regarding the fact that surplus lines policies, whether issued by a nonadmitted domestic insurer or any other nonadmitted insurer are not protected by the North Carolina Guaranty or Solvency Fund. If a nonadmitted carrier becomes insolvent, losses will not be paid by the Fund.

58-21-55. Valid surplus lines insurance

This one is pretty simple: an insurance contract procured under this Article is valid and enforceable to all parties. Just because the policy is issued by a nonadmitted insurer does not mean the contract is not valid.

58-21-65. Licensing of surplus lines license

As you have already learned, no agent or broker shall directly procure any contract of surplus lines insurance with a nonadmitted insurer unless he or she possesses a current surplus lines license. The commissioner will issue a surplus lines license to a qualified holder of a current property and casualty agent's license subject to the following:

- Pay the required fees for a new license (see below) to the Commissioner
- Complete and submit an application for a surplus lines license
- Pass a qualifying surplus lines exam

The cost of the initial license is \$50.00 plus a \$44.00 processing fee and a National Insurance Producer Registry (NIPR) fee of \$5.00. Renewal fees are \$ 50.00, \$34.00 for processing and the \$5.00 NIPR charge.

Licenses are good for one year (September 1st to August 31st) and renewal applications must be submitted 30 days in advance. If a license lapses and is not reinstated within two years, the agent/broker must retake the exam and submit a new application.

Surplus lines business entity licenses are available as well and they must list all individuals within the corporation that have obtained a surplus lines license and **only those agents or brokers with a surplus lines license may place business with an eligible nonadmitted insurer.** The cost for this license is \$144.00 (new) and \$134.00 for renewal plus a NIPR transaction fee of \$5.00.

The statute goes on to state that any person who places surplus lines insurance without a valid

surplus lines license in effect shall pay a penalty of \$1,000 and be subject to other penalties as provided by law.

Some surplus lines intermediaries (wholesalers, brokers, managing general agents, etc.) have interpreted this statute incorrectly and feel that if one person in the office has a surplus lines license then they are complying with the rules. Nothing could be further from the truth!

For instance, assume the ABC Surplus Lines Agency has 10 producers and all 10 have obtained their North Carolina Property and Casualty Agents license. However, to save time and money, only one of the producers has received a surplus lines license **BUT** all 10 of the producers are selling policies issued by nonadmitted carriers. As you can see, this could get expensive for the brokers. In the Exhibit section of this Study Guide there is a Memorandum on North Carolina Surplus Lines Licensing which provides additional details for your review.

58-21-70. Surplus lines licensees may accept business from other agents or brokers

A surplus lines licensee may accept business from another duly licensed agent or broker and may compensate the agent or broker for the business.

A duly licensed agent means the individual/entity **must be properly licensed in North Carolina** to engage in the transaction in order to share in commissions.

An independent agent (resident or non-resident) placing business through a North Carolina surplus lines licensee needs only a property & casualty license in North Carolina to place business with the surplus lines licensee.

For example, one of the producers for the ABC Surplus Lines Agency receives a call from another agent in North Carolina with a valid P&C license. The agent's policyholder needs liability coverage for a bar with axe throwing lanes and has conducted a diligent search and cannot find an admitted carrier who will write the account. The ABC surplus lines licensee may place the account with a nonadmitted insurer and pay a portion of the commission to the agent who made the request.

58-21-75. Records of surplus lines licensee

This statute requires the licensee to keep the following records in his or her office including a copy of the policy, certificates, cover notes or other evidence of insurance:

- (1) Amount of the insurance and perils insured;
- (2) Brief description of the property insured and its location;
- (3) Gross premium charged;
- (4) Any return premium paid;
- (5) Rate of premium charged upon the several items of property;
- (6) Effective date of the contract, and the terms of the contract;

- (7) Name and address of the insured;
- (8) Name and address of the insurer;
- (9) Amount of tax and other sums to be collected from the insured;
- (10) Identity of the producing broker, any confirming correspondence from the insurer or its representative, and the application; and
- (11) Copy of the compliance agreement (a sample is included in the Exhibits section of this Study Guide).

These records shall be kept open at all reasonable times to examination by the Commissioner and be maintained for each contract (policy) for a minimum of **five years** following termination.

58-21-85. Surplus lines taxes

The tax rate for surplus lines gross premiums charged, less any return premium, for insureds where North Carolina is their home state is 5%. In addition, the North Carolina Surplus Lines Association applies a 0.4% charge to all transactions. Here are some additional details regarding the collection and payment of both charges.

- Broker fees are not subject to either the 5% state tax or the 0.4% stamping fee
- However, insurance company-imposed fees, inspection fees for example, are subject to both the state tax and stamping fee
- Surplus lines taxes and stamping fees are due and payable within 30 days from the invoice date each quarter (January 1, April 1, July 1, and October 1)
- Two invoices along with a billing report will be available to licensees in their Surplus Lines Information Portal (SLIP) account at the end of each quarter:
 - An invoice for taxes due
 - An invoice for stamping fees due
- Taxes are paid via Automated Clearing House (ACH) to the North Carolina State Department of Insurance
- Stamping fees also must be paid via ACH to the North Carolina Surplus Lines Association

58-21-95. Suspension, revocation or nonrenewal of surplus lines license

The Commissioner of Insurance may revoke, suspend or refuse to renew a surplus lines license for any of the following reasons:

- Removal of the surplus lines licensee's office accounts and records during the period during which such accounts and records are required to be maintained under G.S. 58-21-75;
- Closing of the surplus lines licensee's office for a period of more than 30 business days, unless permission is granted by the Commissioner;
- Failure to make and file required reports;
- Failure to transmit the required tax on surplus lines premiums;

- Failure to pay the stamping fee to the stamping office;
- Violation of any provision of this Article; or
- For any other cause for which an insurance license could be denied, revoked, suspended, or renewal refused under the Insurance Law.

58-21-100. Actions against surplus lines insurer; service of process

A surplus lines insurer may be sued for a wide variety of reasons by a policyholder, claimant, or other party. The policy issued by the surplus lines carrier must contain a provision stating the substance of this section and designate a person to whom the Commissioner shall mail the process.

58.21.105. Penalties

A surplus lines licensee who represents or aids a nonadmitted surplus lines insurer in violation of any part of this Article shall be guilty of a Class 1 misdemeanor.

Section III

The Surplus Lines Association

The North Carolina Surplus Lines Association was created by statute (58-21-40) and plays an integral role in the operation of the surplus lines business in the state. The Mission of the Association is detailed below:

The mission of the NCSLA is to serve as a regulatory support organization for all North Carolina surplus lines licensees and the North Carolina Department of Insurance. We will facilitate and encourage regulatory compliance, provide communication, education, changes in filing procedures and industry representation to ensure the financial integrity and the stability of the non-admitted market in North Carolina.

In addition to the duties discussed in the Statute, the Association is involved in the following activities:

- Provide educational resources to all stakeholders regarding surplus lines business
- Developing relationships with colleges and universities throughout the state to spread the word about insurance opportunities for future graduates
- Plan and deliver an annual conference (where allowed)
- Serve as a provider of state approved continuing education programs

A great resource titled NCSLA Stamping Office-FAQ is included in the Exhibits section of this Study Guide.

Section IV

The Surplus Lines Exam

Successful completion of the North Carolina Surplus Lines exam is one of the requirements to become a surplus lines licensee. The exam is comprised of 55 multiple choice questions. Note: 5 of the questions on the exam are trial questions and do not count towards the licensee's final grade. A score of 70% or higher is required to receiving a passing grade.

Ten of the questions deal with general property and casualty concepts including:

- Building and persona property coverage form
- Business income
- Crime
- General liability insurance
- Inland marine
- Professional liability
- Pollution liability
- Garagekeepers
- Personal lines

If you kept the study material for your initial P&C license exam, it would be a good idea to review some of the key areas listed above.

The remaining 40 questions are focused on surplus lines specific statutes, procedures, rules, and definitions as discussed in this Study Guide.

To fully prepare for the North Carolina Surplus Lines Licensing Exam, we recommend reading the NC Surplus Lines Act - Statute §58-21 in its entirety. The statute is included in this Study Guide.

Section V

Exhibits

- North Carolina General Statutes. 58-21-1 to 58-21-105
- Website References
- Memorandum on North Carolina Surplus Lines Licensing
- North Carolina Surplus Lines Compliance Acknowledgement
- NCSLA Stamping Office – FAQ

Article 21.

Surplus Lines Act.

§ 58-21-1. Short title.

This Article shall be known and may be cited as the "Surplus Lines Act". (1985, c. 688, s. 1.)

§ 58-21-2. Relationship to other insurance laws.

Except as provided in G.S. 58-21-21(c) and (g), unless surplus lines insurance, surplus lines licensees, nonadmitted domestic surplus lines insurers, or nonadmitted insurers are specifically referenced in a particular section of this Chapter, no sections contained in Articles of this Chapter other than this Article apply to surplus lines insurance, surplus lines licensees, nonadmitted domestic surplus lines insurers, or nonadmitted insurers. (1999-219, s. 6.2; 2018-120, s. 2.1(a).)

§ 58-21-4. Nonadmitted and Reinsurance Reform Act duties.

(a) For the purposes of carrying out the provisions of the Nonadmitted and Reinsurance Reform Act of 2010, the Commissioner is authorized to utilize the national insurance producer database of the NAIC, or any other equivalent uniform national database, for the licensure of an individual or an entity as a surplus lines producer and for renewal of such license.

(b) In order to assist in the performance of the Commissioner's duties, under the Nonadmitted and Reinsurance Reform Act of 2010, the Commissioner may contract with nongovernmental entities, including the NAIC or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions that the Commissioner and the nongovernmental entity may deem to be appropriate, including (i) the collection of fees related to producer licensing and (ii) the collection of the premium tax under G.S. 58-21-85. The NAIC or other entity with whom the Commissioner contracts may charge a reasonable fee to the insurer, insured, or other appropriate person for the functions performed. (2011-120, s. 1.1.)

§ 58-21-5. Purposes; necessity for regulation.

This Article shall be liberally construed and applied to promote its underlying purposes, which include all of the following:

- (1) Protecting persons in this State seeking insurance.
- (2) Permitting surplus lines insurance to be placed with reputable and financially sound nonadmitted domestic surplus lines insurers, nonadmitted insurers and exported from this State pursuant to this Article.
- (3) Establishing a system of regulation that will permit orderly access to surplus lines insurance in this State and encourage admitted insurers to provide new and innovative types of insurance available to consumers in this State.
- (4) Protecting revenues of this State. (1985, c. 688, s. 1; 2018-120, s. 2.1(b).)

§ 58-21-10. Definitions.

As used in this Article:

- (1) "Admitted insurer" means an insurer licensed to engage in the business of insurance in this State.
- (1a) "Affiliate" means, with respect to an insured, any entity that controls, is controlled by, or is under common control with the insured.
- (1b) "Affiliated group" means any group of entities that are all affiliated.
- (2) "Capital", as used in the financial requirements of G.S. 58-21-20, means funds paid in for stock or other evidence of ownership.
- (2a) "Control" means an entity that has "control" over another entity if either of the following occurs:
 - a. The entity directly or indirectly or acting through one or more other persons owns, controls, or has the power to vote twenty-five percent (25%) or more of any class of voting securities of the other entity.
 - b. The entity controls in any manner the election of a majority of the directors or trustees of the other entity.
- (3) "Eligible surplus lines insurer" means an alien insurer as defined in G.S. 58-21-17, a nonadmitted domestic surplus lines insurer, or a nonadmitted insurer with which a surplus lines licensee may place surplus lines insurance under G.S. 58-21-20.
- (4) "Export" means to place surplus lines insurance with a nonadmitted domestic surplus lines insurer or a nonadmitted insurer.
- (4a) "Nonadmitted domestic surplus lines insurer" means an insurer that is domiciled in and authorized pursuant to G.S. 58-21-21 to transact surplus lines insurance in this State.
- (5) "Nonadmitted insurer" means an insurer not licensed to do an insurance business in this State. "Nonadmitted insurer" includes insurance exchanges authorized under the laws of various states. "Nonadmitted insurer" does not include a risk retention group, as defined in G.S. 58-22-10(10).
- (6) "Producing broker" means an agent or broker licensed under Article 33 of this Chapter who deals directly with the party seeking insurance and who may also be a surplus lines licensee.
- (6a) "Salary protection insurance" means insurance against financial loss caused by the cessation of earned income because of disability from sickness, ailment, or bodily injury.
- (7) "Surplus", as used in the financial requirements of G.S. 58-21-20, means funds over and above liabilities and capital of the company for the protection of policyholders.
- (8) "Surplus lines insurance" means any insurance in this State of risks resident, located, or to be performed in this State, permitted to be placed through a surplus lines licensee with a nonadmitted domestic surplus lines insurer or a nonadmitted insurer eligible to accept such insurance, including salary protection insurance. The term does not include reinsurance, commercial aircraft insurance, wet marine and transportation insurance, insurance independently procured pursuant to G.S. 58-28-5, life and accident or health insurance, and annuities.

- (9) "Surplus lines licensee" means a person licensed under G.S. 58-21-65 to place insurance on risks resident, located, or to be performed in this State with a nonadmitted domestic surplus lines insurer or with nonadmitted insurers eligible to accept such insurance.
- (10) "Wet marine and transportation insurance" means any of the following:
- a. Insurance upon vessels, crafts, hulls and of interests therein or with relation thereto.
 - b. Insurance of marine builder's risks, marine war risks and contracts of marine protection and indemnity insurance.
 - c. Insurance of freights and disbursements pertaining to a subject of insurance coming within this subsection.
 - d. Insurance of personal property and interests therein, in the course of exportation from or importation into any country, or in the course of transportation coastwise or on inland waters including transportation by land, water, or air from point of origin to final destination, in connection with any and all risks or perils of navigation, transit or transportation, and while being prepared for and while awaiting shipment, and during any delays, transshipment, or reshipment incident thereto. (1985, c. 688, s.1; 1985 (Reg. Sess., 1986), c. 1027, s. 45; 1987, c. 629, s. 19; c. 727, s. 6; c. 864, s. 73; 1998-211, s. 3; 1999-219, s. 5.3; 2011-120, s. 2; 2011-370, s. 1; 2015-101, s. 1; 2018-120, s. 2.1(c).)

§ 58-21-11. Home state.

(a) The provisions of this Article shall apply to those transactions in which North Carolina is the home state of the insured.

(b) Except as provided in subsection (c) of this section, the term "home state" means, with respect to an insured, either of the following:

- (1) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence.
- (2) If one hundred percent (100%) of the insured risk is located out of the state referred to in subdivision (1) of this subsection, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(c) **Affiliated Groups.** - If two or more insureds from an affiliated group are named insureds on a single nonadmitted insurance contract, the term "home state" means the home state, as determined pursuant to subsection (b) of this section, of the member of the affiliated group that has the largest percentage of premium attributed to it under that insurance contract. (2011-120, s. 3.)

§ 58-21-15. Placement of surplus lines insurance.

Surplus lines may be placed by a surplus lines licensee if all of the following apply:

- (1) Each insurer is an eligible surplus lines insurer.
 - (1a) Each insurer is authorized to write the kind of insurance in its domiciliary jurisdiction.

- (2) The full amount or kind of insurance cannot be obtained from insurers who are admitted to do business in this State. Such full amount or kind of insurance may be procured from eligible surplus lines insurers, provided that a diligent search is made among the insurers who are admitted to transact and are actually writing the particular kind and class of insurance in this State.
- (3) All other requirements of this Article are met. (1985, c. 688, s. 1; 1985 (Reg. Sess., 1986), c. 1013, s. 5; 2011-120, s. 4.)

§ 58-21-16. Streamlined application for commercial purchasers.

(a) A surplus lines licensee seeking to procure or place nonadmitted insurance in this State for an exempt commercial purchaser shall not be required to satisfy any requirement under G.S. 58-21-15 to make a due diligence search to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from admitted insurers if all of the following apply:

- (1) The licensee procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight.
 - (2) The exempt commercial purchaser has subsequently requested in writing the licensee to procure or place such insurance from a nonadmitted domestic surplus lines insurer or a nonadmitted insurer.
- (b) As used in this section, the following definitions apply:
- (1) "Exempt commercial purchaser" means any person purchasing commercial insurance that, at the time of placement, meets all of the following requirements:
 - a. The person employs or retains a qualified risk manager to negotiate insurance coverage.
 - b. The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of one hundred thousand dollars (\$100,000) in the immediately preceding 12 months.
 - c. The person meets at least one of the following criteria:
 1. The person possesses a net worth in excess of twenty million dollars (\$20,000,000), as such amount is adjusted pursuant to subsection (c) of this section.
 2. The person generates annual revenues in excess of fifty million dollars (\$50,000,000), as such amount is adjusted pursuant to subsection (c) of this section.
 3. The person employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate.
 4. The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least thirty million dollars (\$30,000,000), as such amount is adjusted pursuant to subsection (c) of this section.

5. The person is a municipality with a population in excess of 50,000 persons.
- (2) "Qualified risk manager" means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:
- a. Is an employee of, or third-party consultant retained by, the commercial policyholder.
 - b. Provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance.
 - c. Has one of the following:
 1. A bachelor's degree or higher from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the Commissioner to demonstrate minimum competence in risk management and one of the following:
 - I. Three years of experience in risk financing, claims, administration, loss prevention, risk and insurance analysis, or purchasing commercial lines of insurance.
 - II. One of the following designations:
 - A. Chartered Property and Casualty Underwriter (CPCU) issued by the American Institute for CPCU/Insurance Institute of America.
 - B. Associate in Risk Management (ARM) issued by the American Institute for CPCU/Insurance Institute of America.
 - C. Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education & Research.
 - D. RIMS Fellow (RF) issued by the Global Risk Management Institute.
 - E. A designation, certification, or license determined by the Commissioner to demonstrate minimum competency in risk management.
 2. Seven years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; and has any one of the designations specified in sub-sub-sub- sub-subdivisions A. through E. of sub-sub-sub-subdivision II. of this sub-subdivision.
 3. Ten years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance.
 4. A graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by the

Commissioner to demonstrate minimum competence in risk management.

(c) Effective on the fifth January 1 occurring after the date of the enactment of this section [July 21, 2011] and each fifth January 1 occurring thereafter, the dollar amounts in sub-sub-subdivisions (b)(1)c.1., 2., 3., and 4. of this section shall be adjusted to reflect the percentage change for such five-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the U.S. Department of Labor. (2011-120, s. 5; 2018-120, s. 2.1(d).)

§ 58-21-17. Placement with alien insurers.

Nothing in this Article prohibits a surplus lines licensee from placing surplus lines insurance with, or procuring surplus lines insurance from, 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 NAIC. (2011-120, s. 5.)

§ 58-21-20. Eligible surplus lines insurer required.

(a) A surplus lines licensee shall not place coverage with a nonadmitted insurer unless, at the time of placement, the surplus lines licensee has determined that the nonadmitted insurer satisfies the following:

- (1) Repealed by Session Laws 2011-120, s. 6, effective July 21, 2011.
- (2) Qualifies under one of the following subdivisions:
 - a. Has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction, which equals the greater of either:
 1. This State's minimum capital and surplus requirements under G.S. 58-7-75.
 2. Fifteen million dollars (\$15,000,000).

The requirements of this sub-subdivision may be satisfied by an insurer's possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the Commissioner. 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. In no event shall the Commissioner make an affirmative finding of acceptability when the nonadmitted insurer's capital and surplus is less than four million five hundred thousand dollars (\$4,500,000).
 - b. In the case of any Lloyd's plans or other similar group of insurers, which consists of unincorporated individual insurers, or a combination of both unincorporated and incorporated insurers, maintains a trust fund in an amount of not less than one hundred million dollars (\$100,000,000) as security to the full amount thereof for all policyholders and creditors in the United States of each member of the group, and the trust shall likewise comply with the

terms and conditions established in subdivision (2)a. of this section for alien insurers.

- c. In the case of an "insurance exchange" created by the laws of individual states, maintain capital and surplus, or the substantial equivalent thereof, of not less than seventy-five million dollars (\$75,000,000) in the aggregate. For insurance exchanges which maintain funds in an amount of not less than fifteen million dollars (\$15,000,000) for the protection of all insurance exchange policyholders, each individual syndicate shall maintain minimum capital and surplus, or the substantial equivalent thereof, of not less than five million dollars (\$5,000,000). If the insurance exchange does not maintain funds in an amount of not less than fifteen million dollars (\$15,000,000) for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements of subdivision (2)a. of this section.

- d. In the case of a group of incorporated insurers under common administration, which has continuously transacted an insurance business outside the United States for at least three years immediately before this time, and which submits to this State's authority to examine its books and records and bears the expense of the examination, and maintains an aggregate policyholders' surplus of not less than ten billion dollars (\$10,000,000,000), and maintains in trust a surplus of not less than one hundred million dollars (\$100,000,000) for the benefit of United States surplus lines policyholders of any member of the group, and each insurer maintains capital and surplus of not less than twenty-five million dollars (\$25,000,000) per company.

- (3) Has caused to be provided to the Commissioner a copy of its current annual statement certified by such insurer; such statement to be provided no more than two months, and for alien insurers six months, after the close of the period reported upon and that is either:
- a. Filed with and approved by the regulatory authority in the domicile of the nonadmitted insurer; or
 - b. Certified by an accounting or auditing firm licensed in the jurisdiction of the insurer's domicile; or
 - c. In the case of an insurance exchange, the statement may be an aggregate combined statement of all underwriting syndicates operating during the period reported.

(a1) A surplus lines licensee shall not place coverage with a nonadmitted domestic surplus lines insurer unless, at the time of placement, the surplus lines licensee has verified that the insurer is a nonadmitted domestic surplus lines insurer as defined in G.S. 58-21-10.

(b) In addition to meeting the requirements in subdivisions (a)(1) through (a)(3) of this section, an insurer shall be an eligible surplus lines insurer if it appears on the most recent list of eligible surplus lines insurers published by the Commissioner. Nothing in this subsection shall require the Commissioner to place or maintain the name of any nonadmitted insurer on the list of eligible surplus lines insurers. There

shall be no liability on the part of, and no cause of action of any nature shall arise against, the Commissioner or his employees or representatives for any action taken or not taken by them in the performance of their powers and duties under this subsection.

(c) Every surplus lines insurer that applies for eligibility under this section shall pay a nonrefundable fee of five hundred dollars (\$500.00). In order to renew eligibility, such insurer shall pay a nonrefundable renewal fee of one thousand dollars (\$1,000) on or before January 1 of each year thereafter. Such fees shall not be prorated. (1985, c. 688, s. 1; c. 793; 1985 (Reg. Sess., 1986), c. 1027, s. 46; 1989 (Reg. Sess., 1990), c. 1069, s. 13; 1991, c. 681, s. 39; 1993 (Reg. Sess., 1994), c. 678, s. 15; 1995, c. 507, s. 11A(c); 2001-223, s. 17.1; 2009-451, s. 21.14(a); 2011-120, s. 6; 2018-120, s. 2.1(e).)

§ 58-21-21. Nonadmitted domestic surplus lines insurer.

(a) Notwithstanding any other law, a domestic insurer possessing minimum capital and surplus of at least fifteen million dollars (\$15,000,000), pursuant to a resolution by its board of directors and on the written approval of the Commissioner, may be designated as a nonadmitted domestic surplus lines insurer.

(b) A nonadmitted domestic surplus lines insurer shall only write surplus lines insurance in this State procured pursuant to the requirements of this Article. A nonadmitted domestic surplus lines insurer may write surplus lines insurance in any other jurisdiction in which the insurer is eligible to write surplus lines insurance if the nonadmitted domestic surplus lines insurer complies with any requirements of that jurisdiction.

(c) Insurance written by a nonadmitted domestic surplus lines insurer is subject to the premium receipts tax required by G.S. 58-21-85.

(d) For the purposes of the federal Nonadmitted and Reinsurance Act of 2010 (15 U.S.C. § 8206), a domestic nonadmitted surplus lines insurer shall be considered a nonadmitted insurer as the term is defined in the Act with respect to risks insured in this State.

(e) Surplus lines insurance policies issued in this State by a nonadmitted domestic surplus lines insurer are not subject to the protection of or other provisions of Article 48 or 62 of this Chapter.

(f) Surplus lines insurance policies issued in this State by a nonadmitted domestic surplus lines insurer are not subject to and are exempt from all statutory requirements relating to insurance rating and rating plans, policy forms, policy cancellation, and nonrenewal in the same manner and to the same extent as a surplus lines insurer domiciled in another state.

(g) All financial and solvency requirements imposed upon domestic admitted insurers including the following, shall apply to nonadmitted domestic surplus lines insurers unless nonadmitted domestic surplus lines insurers are otherwise specifically exempted:

G.S. 58-1-5.

Definitions.

G.S. 58-2-125.

Authority over all insurance companies; no exemptions from license.

- G.S. 58-2-131. Examinations to be made; authority, scope, scheduling, and conduct of examinations.
- G.S. 58-2-132. Examination Reports.
- G.S. 58-2-133. Conflict of interest; cost of examinations; immunity from liability.
- G.S. 58-2-134. Cost of certain examinations.
- G.S. 58-2-150. Oath required for compliance with law.
- G.S. 58-2-155. Investigation of charges.
- G.S. 58-2-160. Reporting and investigation of insurance and reinsurance fraud and the financial condition of licensees; immunity from liability.
- G.S. 58-2-162. Embezzlement by insurance agents, brokers, or administrators.
- G.S. 58-2-165. Annual, semiannual, monthly, or quarterly statements to be filed with Commissioner.
- G.S. 58-2-185. Record of business kept by companies and agents; Commissioner may inspect.
- G.S. 58-2-190. Commissioner may require special reports.
- G.S. 58-2-195. Commissioner may require records, reports, etc., for agencies, agents, and others.
- G.S. 58-2-200. Books and papers required to be exhibited.
- G.S. 58-7-21. Credit allowed a domestic ceding insurer.
- G.S. 58-7-26. Asset or reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of G.S. 58-7-121.
- G.S. 58-7-30. Insolvent ceding insurer.
- G.S. 58-7-31. Life and health reinsurance agreements.
- G.S. 58-7-46. Notification to Commissioner for president or chief executive officer changes.
- G.S. 58-7-73. Dissolution of insurers.
- G.S. 58-7-160. Investments unlawfully acquired.
- G.S. 58-7-162. Allowed or admitted assets.
- G.S. 58-7-163. Assets not allowed.
- G.S. 58-7-165. Eligible investments.
- G.S. 58-7-167. General qualifications.
- G.S. 58-7-168. Authorization of investment.
- G.S. 58-7-170. Diversification.
- G.S. 58-7-172. Cash and deposits.
- G.S. 58-7-173. Permitted insurer investments.
- G.S. 58-7-179. Mortgage loans.
- G.S. 58-7-180. Chattel mortgages.
- G.S. 58-7-183. Special consent investments.
- G.S. 58-7-185. Prohibited investments and investment underwriting.

G.S. 58-7-188.	Time limit for disposal of ineligible property and securities; effect of failure to dispose.
G.S. 58-7-190.	Valuation of securities and investments.
G.S. 58-7-193.	Valuation of property.
G.S. 58-7-197.	Replacing certain assets; reporting certain liabilities.
G.S. 58-7-200.	Investment transactions.
G.S. 58-7-205.	Derivative transactions.
Part 7 of Article 10.	Annual Financial Reporting.
Part 10 of Article 10.	Risk Management and Own Risk and Solvency Assessment.
Article 12.	Risk-Based Capital Requirements.
Article 13.	Asset Protection Act.
Article 19.	Insurance Holding Company System Regulatory Act.
Article 30.	Insurers Supervision, Rehabilitation, and Liquidation.

(2018-120, s. 2.1(f).)

§ 58-21-22. Limitation on amount of salary protection insurance.

When salary protection insurance benefits are payable to an individual or an individual's beneficiary, the amount of salary protection insurance plus the amount of any in-force disability income insurance, if the individual can obtain disability insurance from an admitted insurer, shall not exceed seventy-five percent (75%) of the individual's annual earned income. As used in this section, "disability income insurance" has the same meaning as "accident and health insurance" in G.S. 58-7- 15(3). (2011-370, s. 2.)

§ 58-21-25. Other nonadmitted insurers.

Only that portion of any risk eligible for export for which the full amount of coverage is not procurable from eligible surplus lines insurers may be placed with any other nonadmitted insurer that does not appear on the list of eligible surplus lines insurers published by the Commissioner pursuant to G.S. 58-21-20(b), but nonetheless meets the requirements set forth in G.S. 58-21-20(a)(1) through (a)(3) and any regulations of the Commissioner. The surplus lines licensee seeking to provide coverage through an unlisted nonadmitted insurer shall make a filing specifying the amount and percentage of each risk to be placed, and naming the nonadmitted insurer with which placement is intended. Within 30 days after the coverage has been placed, the producing broker or surplus lines licensee shall send written notice to the insured that the insurance, or a portion thereof, has been placed with such nonadmitted insurer. (1985, c. 688, s. 1.)

§ 58-21-30. Withdrawal of eligibility from a surplus lines insurer.

If at any time the Commissioner has reason to believe that an eligible surplus lines insurer:

- (1) Is in unsound financial condition or has acted in an untrustworthy manner,
- (2) Is no longer eligible under G.S. 58-21-20,
- (3) Has willfully violated the laws of this State, or

- (4) Does not make reasonably prompt payment of just losses and claims in this State or elsewhere, the Commissioner may declare it ineligible. The Commissioner shall promptly mail notice of all such declarations to each surplus lines licensee. (1985, c. 688, s. 1; 2001-223, s. 17.2.)

§ 58-21-35. Duty to file and retain reports.

(a) Within 30 days after the placing of any surplus lines insurance, the surplus lines licensee shall file with the Commissioner or the stamping office, as appropriate, a report in a format prescribed by the Commissioner regarding the insurance and including the following information:

- (1) The name of the insured.
- (2) The identity of the insurer or insurers.
- (3) A description of the subject and location of the risk.
- (4) The amount of premium charged for the insurance.
- (5) The amount of premium tax for the insurance.
- (6) The policy period.
- (7) The policy number.
- (7a) An acknowledged statement that the surplus lines licensee has complied with G.S. 58-21-15 or G.S. 58-21-16, whichever is applicable.
- (8) The name, address, telephone number, facsimile telephone number, and electronic mail address of the licensee, as applicable.
- (9) Any other relevant information the Commissioner may reasonably require.

(b) The licensee shall complete and retain a copy of the report in paper or electronic form as required by the Commissioner. The report required by this section is not a public record under G.S. 132-1 or G.S. 58-2-100. (1985, c. 688, s. 1; 1987, c. 864, s. 35; 1993 (Reg. Sess., 1994), c. 678, s. 16; 1999-219, s. 6.1; 2006-105, s. 2.6; 2011-120, s. 7; 2015-101, s. 2; 2019-179, s. 2(a).)

§ 58-21-40. Surplus lines regulatory support organization.

(a) The North Carolina Surplus Lines Association (NCSLA) shall serve as the regulatory support organization of surplus lines licensees and shall carry out the following functions:

- (1) Facilitate and encourage compliance by resident and nonresident surplus lines licensees with the laws of this State and the rules and regulations of the Commissioner relative to surplus lines insurance.
- (2) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market.
- (3) Receive and disseminate to surplus lines licensees information about surplus lines insurance, including, without limitation, new electronic filing procedures approved by the Commissioner, changes in the list of eligible surplus lines insurers, and modifications in coverages, procedures, and requirements as may be requested by the Commissioner.
- (4) Establish and operate a stamping office to process all surplus lines insurance and remit premium taxes for those coverages under G.S. 58-21- 85 by means satisfactory to the Commissioner, and charge surplus lines licensees a fee for such processing.

- (b) The NCSLA shall file with the Commissioner all of the following:
- (1) A copy of its constitution, articles of agreement or association, or certificate of incorporation.
 - (2) A copy of its bylaws and rules governing its activities.
 - (3) Repealed by Session Laws 2019-179, s. 2(b), effective July 26, 2019.
 - (4) The name and address of a resident of this State upon whom notices or orders of the Commissioner or processes issued at his direction may be served.
 - (5) An agreement that the Commissioner may examine the NCSLA in accordance with subsection (c) of this section.

(c) The Commissioner may, at times deemed appropriate, make or cause to be made an examination of the NCSLA in which case the provisions of G.S. 58-2-131, 58-2-132, 58-2-133, 58-2-134, 58-2-150, 58-2-155, 58-2-180, 58-2-185, 58-2-190, 58-2-195, and 58-2-200 shall apply. If the Commissioner finds the NCSLA or any surplus lines licensee to be in violation of this Article, the Commissioner may issue an order requiring the discontinuance of the violation.

(d) Each surplus lines licensee shall maintain active membership in the NCSLA as a condition of continued licensure under this Article. (1985, c. 688, s. 1; 1987 (Reg. Sess., 1988), c. 975, s. 13; 1995, c. 193, s. 28; 1999-132, s. 11.3; 2001-203, s. 28; 2001-451, ss. 2.1, 2.2; 2001-487, s. 63; 2015-101, s. 3; 2018-120, s. 2.1(g); 2019-179, s. 2(b).)

§ 58-21-45. Evidence of the insurance; changes; penalty.

(a) As soon as surplus lines insurance has been placed, the producing broker or surplus lines licensee shall promptly deliver the policy to the insured. If the policy is not then available, the broker or licensee shall promptly deliver to the insured a certificate described in subsection (d) of this section, cover note, binder, or other evidence of insurance. The certificate described in subsection (d), cover note, binder, or other evidence of insurance shall be executed by the surplus lines licensee and shall show the description and location of the subject of the insurance, coverages including any material limitations other than those in standard forms, a general description of the coverages of the insurance, the premium and rate charged and taxes to be collected from the insured, and the name and address of the insured and surplus lines insurer or insurers and proportion of the entire risk assumed by each, and the name of the surplus lines licensee and the licensee's license number.

(b) No producing broker or surplus lines licensee shall issue or deliver any evidence of insurance or purport to insure or represent that insurance will be or has been written by any eligible surplus lines insurer, or a nonadmitted insurer pursuant to G.S. 58-21-25, unless he has authority from the insurer to cause the risk to be insured, or has received information from the insurer in the regular course of business that such insurance has been granted.

(c) If, after delivery of any such evidence of insurance there is any change in the identity of the insurers, or the proportion of the risk assumed by any insurer, or any other material change in coverage as stated in the producing broker's or surplus lines

licensee's original evidence of insurance, or in any other material as to the insurance coverage so evidenced, the producing broker or surplus lines licensee shall promptly issue and deliver to the insured an appropriate substitute for or endorsement of the original document, accurately showing the current status of the coverage and the insurers responsible thereunder.

(d) As soon as reasonably possible after the placement of any such insurance the producing broker or surplus lines licensee shall deliver a copy of the policy or, if not available, a certificate of insurance to the insured to replace any evidence of insurance previously issued. Each certificate or policy of insurance shall contain or have attached thereto a complete record of all policy insuring agreements, conditions, exclusions, clauses, endorsements, or any other material facts that would regularly be included in the policy.

(e) Any surplus lines licensee or producing broker who fails to comply with the requirements of this section shall be subject to the penalties provided in G.S. 58-21-105.

(f) Every evidence of insurance negotiated, placed, or procured under the provisions of this Article issued by the surplus lines licensee shall bear the name of the licensee and one of the following legends, whichever is applicable, in 12 point type and in contrasting color or in 12 point type and underlined and in bold print:

- (1) For nonadmitted insurers: "The insurance company with which this coverage has been placed is not licensed by the State of North Carolina and is not subject to its supervision. In the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund."
- (2) For nonadmitted domestic surplus lines insurers: "The insurance company with which this coverage has been placed is domiciled and authorized by the State of North Carolina and is subject to its supervision. However, in the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund." (1985, c. 688, s. 1; 2006-105, s. 2.7; 2018-120, s. 2.1(h).)

§ 58-21-50. Duty to notify insured.

No contract of insurance placed by a surplus lines licensee under this Article shall be binding upon the insured and no premium charged therefor shall be due and payable until the producing broker or surplus lines licensee notifies the insured in writing, a copy of which shall be maintained by the broker or licensee with the records of the contract and available for possible examination, that:

- (1) For surplus lines insurers that are not a nonadmitted domestic surplus lines insurer, the insurer with which the coverage has been placed is not licensed by this State and is not subject to its supervision and in the event the insurer who issued this policy becomes insolvent, losses will not be paid by any State guaranty or solvency fund.
- (2) For nonadmitted domestic surplus lines insurers, in the event of the insolvency of the surplus lines insurer with which the coverage has been

placed, losses will not be paid by any State insurance guaranty or solvency fund.

Nothing in this section shall nullify any agreement by any insurer to provide insurance. (1985, c. 688, s. 1; 2018-120, s. 2.1(i).)

§ 58-21-55. Valid surplus lines insurance.

Insurance contracts procured under this Article shall be valid and enforceable as to all parties. (1985, c. 688, s. 1.)

§ 58-21-60. Effect of payment to surplus lines licensee.

A payment of premium to a surplus lines licensee acting for a person other than himself in negotiating, continuing, or reviewing any policy of insurance under this Article shall be deemed to be payment to the insurer, notwithstanding any conditions or stipulations inserted in the policy or contract. (1985, c. 688, s. 1.)

§ 58-21-65. Licensing of surplus lines license.

(a) For insureds whose home state is this State, no agent or broker licensed by the Commissioner shall directly procure any contract of surplus lines insurance with any nonadmitted domestic surplus lines insurer or nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the Commissioner.

(b) The Commissioner shall issue a surplus lines license to any qualified holder of a current property and casualty agent's license, but only when the agent has done all of the following:

- (1) Remitted the fifty dollars (\$50.00) annual fee to the Commissioner.
- (2) Submitted a completed license application on a form supplied by the Commissioner, and the application has been approved by the Commissioner.
- (3) Passed a qualifying examination approved by the Commissioner; except that all holders of a license prior to July 11, 1985 shall be deemed to have passed such an examination.
- (4) Repealed by Session Laws 2004-199, s. 20(c), effective August 17, 2004.

(c) Corporations shall be eligible to be surplus lines licensees, upon the following conditions:

- (1) The corporate licensee shall list individuals within the corporation who have satisfied all requirements of this Article to become surplus lines licensees; and
- (2) Only those individuals listed on the corporate license and who are surplus lines licensees shall transact surplus lines business.

(d) Each surplus lines license shall be issued on September 1 of each year and expire August 31 of the following year unless renewed. Application for renewal shall be made 30 days before the expiration date. The license shall be renewed upon payment of the annual license fee and compliance with the other applicable provisions of this section. Any person who places surplus lines insurance without a valid surplus lines license in effect shall pay a penalty of one thousand dollars (\$1,000) and be subject to such other penalties as provided by law.

The clear proceeds of civil penalties provided for in this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(e) Any person who does not renew a surplus lines license and applies for another surplus lines license more than two years after the expiration date of the previous license shall be required to satisfy every condition in this section, including the written exam, before the Commissioner issues another surplus lines license to that person.

(f) Repealed by Session Laws 2011-120, s. 8, effective July 21, 2011. (1985, c. 688, s. 1; 1985 (Reg. Sess., 1986), c. 928, s. 6; c. 1013, ss. 4, 16; 1987, c. 629, s. 18; c. 752, s. 6; 1987 (Reg. Sess., 1988), c. 975, s. 14; 1991, c. 212, s. 1; c. 644, s. 41; 1998-215, s. 85; 2004-199, s. 20(c); 2008-124, s. 10.2; 2009-566, s. 11; 2011-120, s. 8; 2015-101, s. 4; 2015-281, s. 14; 2018-120, s. 2.1(j).)

§ 58-21-70. Surplus lines licensees may accept business from other agents or brokers.

(a) A surplus lines licensee may originate surplus lines insurance or accept such insurance from any other duly licensed agent or broker, and the surplus lines licensee may compensate such agent or broker therefor.

(b), (c) Repealed by Session Laws 2015-101, s. 5, effective January 1, 2017. (1985, c. 688, s. 1; 2001-451, s. 2; 2015-101, s. 5; 2015-281, s. 14.)

§ 58-21-75. Records of surplus lines licensee.

Each surplus lines licensee shall keep in his or her office a full and true record of each surplus lines insurance contract placed by or through the licensee, including a copy of the policy, certificate, cover note, or other evidence of insurance. The record shall include the following items:

- (1) Amount of the insurance and perils insured;
- (2) Brief description of the property insured and its location;
- (3) Gross premium charged;
- (4) Any return premium paid;
- (5) Rate of premium charged upon the several items of property;
- (6) Effective date of the contract, and the terms of the contract;
- (7) Name and address of the insured;
- (8) Name and address of the insurer;
- (9) Amount of tax and other sums to be collected from the insured;
- (10) Identity of the producing broker, any confirming correspondence from the insurer or its representative, and the application; and
- (11) Copy of the compliance agreement.

The record of each contract shall be kept open at all reasonable times to examination by the Commissioner without notice for a period not less than five years following termination of the contract. (1985, c. 688, s. 1; 1991, c. 644, s. 42; 2018-120, s. 2.1(k); 2019-179, s. 2(c).)

§ 58-21-80. Repealed by Session Laws 2019-179, s. 2(d), effective July 26, 2019.

§ 58-21-85. Surplus lines tax.

(a) Gross premiums charged, less any return premiums, for surplus lines insurance on insureds for whom North Carolina is the home state are subject to a premium receipts tax of five percent (5%), which shall be collected in a manner approved by the Commissioner, in addition to the full amount of the gross premium charged by the insurer for the insurance. The tax on any portion of the premium unearned at termination of insurance having been credited by the State to the licensee shall be returned by the licensee directly to the policyholder. The surplus lines licensee is prohibited from absorbing such tax and from rebating for any reason, any part of such tax. To the extent that other states in which portions of the properties, risks, or exposures reside have failed to enter into a compact or reciprocal allocation procedure with this State, the premium tax collected shall be retained by this State.

(b) At the same time that he files his quarterly report as set forth in G.S. 58-21-80, each surplus lines licensee shall pay the premium receipts tax due for the period covered by the report.

(c) This section does not apply to risks of State government agencies nor to risks of local government risk pools created and operating under Article 23 of this Chapter.

(d) The surplus lines licensee placing the insurance and claiming the exemption in subsection (c) of this section shall affirmatively show in writing to the Commissioner that the risk qualifies for the exemption. (1985, c. 688, s. 1; 1985 (Reg. Sess., 1986), c. 928, s. 11; 1987, c. 727, ss. 2, 3; c. 864, s. 37; 2011-120, s. 9; 2015- 101, s. 6; 2015-281, s. 14; 2018-120, s. 2.1(l).)

§ 58-21-90. Collection of tax.

All provisions of Chapter 105 of the General Statutes, not inconsistent with this Article, relating to administration, auditing and making returns, the imposition and collection of tax and the lien thereon, assessments, refunds, and penalties, shall be applicable to the tax imposed by this Article; and with respect thereto, the Commissioner has the same power and authority as is given to the Secretary of Revenue under the provisions of Chapter 105 of the General Statutes. (1985, c. 688, s. 1; 1985 (Reg. Sess., 1986), c. 928, s. 7.)

§ 58-21-95. Suspension, revocation or nonrenewal of surplus lines licensee's license.

The Commissioner may suspend, revoke, or refuse to renew the license of a surplus lines licensee after notice and hearing as provided under G.S. 58-2-70 upon any one or more of the following grounds:

- (1) Repealed by Session Laws 2019-179, s. 2(e), effective July 26, 2019.
- (2) Removal of the surplus lines licensee's office accounts and records during the period during which such accounts and records are required to be maintained under G.S. 58-21-75;
- (3) Closing of the surplus lines licensee's office for a period of more than 30 business days, unless permission is granted by the Commissioner;
- (4) Failure to make and file required reports;
- (5) Failure to transmit the required tax on surplus lines premiums;
- (6) Failure to pay the stamping fee to the stamping office;

- (7) Violation of any provision of this Article; or
- (8) For any other cause for which an insurance license could be denied, revoked, suspended, or renewal refused under the Insurance Law. (1985, c. 688, s. 1; 2019-179, s. 2(e).)

§ 58-21-100. Actions against surplus lines insurer; service of process.

(a) A surplus lines insurer may be sued upon any cause of action arising in this State, under any surplus lines insurance contract made by it or evidence of insurance issued or delivered by the surplus lines licensee, pursuant to the procedure provided in G.S. 58-16-30. Any such policy issued by the surplus lines licensee shall contain a provision stating the substance of this section and designating the person to whom the Commissioner shall mail process.

(b) Each surplus lines insurer engaging in surplus lines insurance shall be deemed thereby to have subjected itself to this Article.

(c) The remedies and procedures provided in this section are in addition to any other methods provided by law for service of process upon insurers. (1985, c. 688, s. 1; 1991, c. 720, s. 43.)

§ 58-21-105. Penalties.

(a) Any surplus lines licensee who in this State represents or aids a nonadmitted domestic surplus lines insurer or a nonadmitted insurer in violation of this Article shall be guilty of a Class 1 misdemeanor.

(b) In addition to any other penalty provided for in this section or otherwise provided by law, including any suspension, revocation, or refusal to renew a license, any person violating any provision of this Article shall be subject to a civil penalty, payment of restitution, or both, in accordance with G.S. 58-2-70. (1985, c. 688, s. 1; 1993, c. 539, s. 450; 1994, Ex. Sess., c. 24, s. 14(c); 2018-120, s. 2.1(m).)

Surplus Lines Website References

North Carolina Department of Insurance

<https://www.ncdoi.gov/>

North Carolina Surplus Lines Association

<https://www.ncsla.com/>

NC General Statutes. Chapter 58 regarding insurance.

<https://www.ncleg.gov/Laws/GeneralStatuteSections/Chapter58>

North Carolina Surplus Lines Act. Chapter 58, Article 21

https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_58/Article_21.pdf

NAIC Quarterly Listing of Alien Insurers

https://content.naic.org/publications#quarterly_alien

List of Eligible Surplus Lines Insurers

<https://sbs.naic.org/solar-external-lookup/>

1. Lookup Search – Jurisdiction – North Carolina / Search Type – Company.
2. Under Company Type – Scroll down to “Surplus Lines”
3. Check the “I agree” box / Click Search.
4. The companies will appear in alphabetical order.

Memorandum on North Carolina Surplus Lines Licensing

*From the North Carolina Surplus Lines Association (“NCSLA”)
and the North Carolina Department of Insurance (“NCDOI”)*

License Required for Placement of Surplus Lines Insurance

N.C.G.S. §58-21-65(a).

For insureds, whose home state is this State, no agent or broker licensed by the Commissioner shall directly procure any contract of surplus lines insurance with any non-admitted insurer, unless he possesses a current surplus lines insurance license issued by the Commissioner.

Questions and Answers

Q: How many employees of each entity (MGA/Wholesale Agent/Retail Agent) that procures surplus lines policies in North Carolina must have a North Carolina surplus lines license?

A: All employees involved in the direct procurement of a surplus lines policy placed on an insured whose home state is North Carolina, must have an individual North Carolina surplus lines license.

Q: What if an agency has a North Carolina Business Entity surplus lines license?

A: Only those individuals listed as licensees under the business entity surplus lines license are considered duly licensed to place surplus lines business. To be listed as a licensee under a business entity surplus lines license you must be an individual North Carolina surplus lines licensee.

Q: Are CSRs or other employees who handle endorsement transactions, accounting functions and other clerical transactions on surplus lines policies required to be individual surplus lines licensees?

A: If these individuals are not involved in the actual binding and placement of the surplus lines policy, then they are not required to be individual surplus lines licensees.

Q: What are the penalties for individuals placing surplus lines business without being properly licensed in North Carolina?

A: Penalties for violation of the provisions of the Surplus Lines Act may include, but are not limited to, suspension, revocation or refusal to renew a license, and payment of penalties and restitution.

Q: How will the NCSLA in conjunction with the NCDOI confirm that the producer of a policy has the proper license to procure that policy with a non-admitted insurer?

A: One of the duties of the NC Surplus Lines Stamping Office is to facilitate compliance. To do so we have developed a Compliance Review Program which will help ensure fairness and conformity with the NC Surplus Lines law by monitoring and evaluating data submissions. Reviews will include basic verification of information such as the policy premiums, tax, fee calculations, production ledgers, statutorily required disclosures and individual producer information. Some of this information may also be verified with the issuing non-admitted carrier.

§ 58-21-75. Records of surplus lines licensee. Each surplus lines licensee shall keep in his or her office in this State a full and true record of each surplus lines insurance contract placed by or through the licensee, including a copy of the policy, certificate, cover note, or other evidence of insurance. The record shall include the following items:

- (1) Amount of the insurance and perils insured;*
- (2) Brief description of the property insured and its location;*
- (3) Gross premium charged;*
- (4) Any return premium paid;*
- (5) Rate of premium charged upon the several items of property;*
- (6) Effective date of the contract, and the terms of the contract;*
- (7) Name and address of the insured;*
- (8) Name and address of the insurer;*
- (9) Amount of tax and other sums to be collected from the insured;*
- (10) Identity of the producing broker, any confirming correspondence from the insurer or its representative, and the application; and*
- (11) Copy of the compliance agreement.*

The record of each contract shall be kept open at all reasonable times to examination by the Commissioner without notice for a period not less than five years following termination of the contract.

If you have additional questions, please feel free to contact any of the following:

North Carolina Surplus Lines Association

Steve Allen, Executive Director: execdir@ncsla.com

NCSLA General Counsel

David K. Liggett, Ragsdale Liggett PLLC: dliggett@rl-law.com

NCDOI/ Agent Services Division

Robert Cunningham, Licensing Supervisor: robert.cunningham@ncdoi.gov

NCDOI/ Property and Casualty Division

Fred Fuller, Deputy Commissioner: fred.fuller@ncdoi.gov

NC Surplus Lines Stamping Office

Geoff Allen, Chief Operating Officer: geoff@ncsla.com

NC Surplus Lines Compliance Acknowledgement

I, the North Carolina surplus lines licensee, have verified that after a diligent search the producing agent has been unable to obtain the full amount or kind of insurance necessary to protect the risks of this insured from any insurance company licensed to do business in North Carolina; therefore, application is made under article §58-21-15 of the General Statutes of North Carolina to procure insurance through an insurance company that is not licensed in North Carolina.

I have complied with N.C. Gen. Stat. §58-21-50 and the insured has been notified in writing that:

- (1) For surplus lines insurers that are not a nonadmitted domestic surplus lines insurer, the insurer with which the coverage has been placed is not licensed by this State and is not subject to its supervision and in the event the insurer who issued this policy becomes insolvent, losses will not be paid by any State guaranty or solvency fund.
- (2) For nonadmitted domestic surplus lines insurers, in the event of the insolvency of the surplus lines insurer with which the coverage has been placed, losses will not be paid by any State insurance guaranty or solvency fund.

In addition, I verify that every evidence of insurance negotiated, placed or procured under the provisions of N.C. Gen. Stat. §58-21 issued by this North Carolina surplus lines licensee shall bear the name of the licensee and the following legend in 12 point type and in contrasting color, or in 12 point type and underlined and in bold print:

- (1) For nonadmitted insurers: **“The insurer with which this coverage has been placed is not licensed by the State of North Carolina and is not subject to its supervision. In the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund.”**
- (2) For nonadmitted domestic surplus lines insurers: **“The insurer with which this coverage has been placed is domiciled and authorized by the State of North Carolina and is subject to its supervision. However, in the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund.”**

The original of this document must be retained in the files of the surplus lines licensee and available for inspection by the Commissioner for a period of at least five (5) years.



**NORTH CAROLINA
SURPLUS LINES ASSOCIATION**

Stamping Office - FAQ

WWW.NCSLA.COM

How many employees of each entity (MGA/Wholesale Agent/Retail Agent) that procures surplus lines policies in North Carolina must have a North Carolina surplus lines license?

All employees involved in the direct procurement of a surplus lines policy placed on an insured whose home state is North Carolina, must have an individual North Carolina surplus lines license.

§ 58-21-65. Licensing of surplus lines license.

(a) For insureds whose home state is this State, no agent or broker licensed by the Commissioner shall directly procure any contract of surplus lines insurance with any nonadmitted domestic surplus lines insurer or nonadmitted insurer, unless he possesses a current surplus lines insurance license issued by the Commissioner.

What if an agency has a North Carolina Business Entity Surplus Lines license?

Only those individuals listed as licensees under the Business Entity Surplus Lines license are considered duly licensed to place surplus lines business. To be listed as a licensee under a business entity surplus lines license you must be an individual North Carolina surplus lines licensee.

§ 58-21-65. Licensing of surplus lines license.

(c) Corporations shall be eligible to be surplus lines licensees, upon the following conditions:

- (1) The corporate licensee shall list individuals within the corporation who have satisfied all requirements of this Article to become surplus lines licensees; and
- (2) Only those individuals listed on the corporate license and who are surplus lines licensees shall transact surplus lines business.

If I have a question regarding my surplus lines license, who do I contact?

All licensing and questions regarding your license should be directed to the North Carolina Department of Insurance – Agent Services Division. <https://www.ncdoi.gov/licensees/agent-and-adjuster-licensing>

Does a North Carolina surplus lines licensee need to register with and pay annual dues to the North Carolina Surplus Lines Association (NCSLA)?

No. Once you receive your North Carolina Surplus Lines License (Resident or Nonresident) the licensee is automatically a member of the NCSLA. There is no requirement to register with the NCSLA, and membership dues are no longer required.

If I have a question regarding SLIP (entering policies, making changes, invoices, etc.) who should I contact?

All SLIP questions should be directed to the North Carolina Surplus Lines Stamping Office (NCSLA) at contact@ncsla.com

Do not contact the NC Department of Insurance on any SLIP questions, as they will refer you to the NCSLA.

How does a surplus lines licensee receive a login and password for SLIP?

Once a North Carolina surplus lines licensee has received their North Carolina surplus lines license (Resident or Non-resident), the licensee should view the SLIP registration tutorial on the NCSLA website at the following link.

SLIP Tutorials - <https://www.ncsla.com/tax/tax-filing/slip/tutorials>

After viewing the registration tutorial, the licensee should register at the SLIP login screen to receive their credentials. The credentials will be issued by SLIP and emailed to the licensee after the registration approval process.

SLIP Login - <https://slip.ncsla.com>

Is it mandatory to register for the North Carolina Surplus Lines Information Portal (SLIP)?

SLIP is only mandatory for those filing surplus lines taxes on non-admitted policies. If you write "0" non-admitted policies in North Carolina, then there is no need to register for SLIP.

Should I select "Individual" or "Corporation" when registering for SLIP?

If your company has a North Carolina Business Entity Surplus Lines license, then you should register for SLIP as a corporation. Otherwise, you will need to register as an individual.

A corporate license in North Carolina is not a "Business Entity Surplus Lines" license.

What filings can be entered through SLIP?

New and renewal filings on surplus lines policies with an inception date of **01/01/2017** and later, can be entered through SLIP. Endorsements can also be entered in SLIP, but only for those policies with an inception date of **01/01/2017** and later.

When should policy filings be entered in SLIP?

Filings are due within 30 days of binding. *(North Carolina General Statute §58-21-35)*

Policies should be filed when written and not on a quarterly basis.

Is the Form F required for filings entered in SLIP?

The North Carolina Form F has been replaced by an online “Compliance Acknowledgement” which confirms that the surplus lines licensee has verified the producing agent has complied with North Carolina General Statute §58-21 for the placement of surplus lines business in North Carolina.

A copy of the compliance acknowledgment should be maintained in each insured’s file. (Either a hard copy or electronically stored).

What forms are required for filings entered in SLIP?

No forms are required to be uploaded with SLIP filings.

What is the North Carolina surplus lines tax and stamping fee?

The North Carolina surplus lines tax is five percent (5%) on all transactions.

The North Carolina surplus lines stamping fee is four-tenths of one percent (0.4%) on all transactions with a policy inception date of 01/01/2017 or later. This fee will apply to all premiums, company (insurer) imposed fees, and all endorsements entered in SLIP.

[Surplus lines tax and stamping fee examples.](#)

Example 1:

<i>Premium:</i>	\$1000.00
<i>NC surplus lines tax (1000 x 0.5)</i>	\$50.00
<i>NC stamping fee (1000 x .004)</i>	\$4.00

Example 2:

<i>Premium:</i>	\$1000.00
<i>Company Fee:</i>	\$200.00
<i>NC surplus lines tax (1200 x 0.5)</i>	\$60.00
<i>NC stamping fee (1200 x .004)</i>	\$4.80

[Are company fees taxable?](#)

Yes, company fees are taxable. Company fees are those charged by the insurer.

Any fees charged by the surplus lines licensee are not subject to the North Carolina surplus lines tax or the North Carolina stamping fee.

[Does SLIP support XML batch submission?](#)

Yes. SLIP is configured to allow for multiple policy submissions through a batch format.

The following link will direct you to our batch user guides and batch filing tutorial video.

Batch Upload Guides - <https://www.ncsla.com/tax/tax-filing/slip/batch-filing>

[How will the North Carolina Surplus Lines Stamping Office monitor SLIP filings?](#)

The North Carolina Surplus Lines Stamping Office will perform **Compliance Audits** under the advisement of the North Carolina Department of Insurance. The stamping office will request that certain documents be sent to verify that filings are being accurately entered in SLIP.

The purpose of the review is to ensure compliance by the surplus lines licensees relative to the export of surplus lines insurance contracts, to provide educational assistance to surplus lines agents where needed, and to measure the quality of service provided in the marketplace.

The stamping office will also run **Verification Reports** to confirm that the surplus lines policies reported as written in North Carolina by each surplus lines insurer, match the filings entered through SLIP that are reported by each surplus lines licensee.

What are the “Due Diligence” requirements for placing a surplus lines policy in North Carolina?

North Carolina General Statute G.S. 58-21-15 governs diligent search requirements for the placement of surplus lines insurance in North Carolina. The statute is broad in scope and does not require a specific number of declinations from the admitted insurers before insurance is placed with an authorized surplus lines insurer.

The NCDOI has maintained the position that the producing agent is responsible for conducting a diligent search for the placement of insurance with admitted insurers in North Carolina. In the event that insurance cannot be placed with an admitted insurer in North Carolina, it is the responsibility of the surplus lines licensee to confirm that the diligent search was conducted by the producing agent.

North Carolina insurance laws, including the Surplus Lines Act, are silent as to the type of documentation that the surplus lines licensee may use as confirmation of the diligent search by the producing agent. This decision regarding acceptable documentation confirming the diligent search can be determined by the surplus lines licensee. A copy of the licensee’s diligent search confirmation, shall be maintained in the insured’s policy file.

What written notification must appear on every surplus lines policy?

North Carolina General Statute §58-21-45(f) requires that every surplus lines policy placed by a surplus lines licensee bear the name of the licensee and the following legend in 12-point type and in contrasting color or in 12-point type and underlined and in bold print.

- (3) For nonadmitted insurer: **“The insurer with which this coverage has been placed is not licensed by the State of North Carolina and is not subject to its supervision. In the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund.”**
- (4) For nonadmitted domestic surplus lines insurers: **“The insurer with which this coverage has been placed is domiciled and authorized by the State of North Carolina and is subject to its supervision. However, in the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund.”**

What are the record keeping requirements for surplus lines licensees?

Please refer to North Carolina General Statute §58-21-75, Records of surplus lines licensee.

Records can be kept either electronically or a hard copy and must be maintained for 5 years.

Does North Carolina require quarterly or annual filing reports?

North Carolina does not require any quarterly or annual filing reports.

No "0" reports are required if there are no filings in SLIP.

How are Risk Purchasing Groups and Independent Procurement filed?

Risk Purchasing Groups and **Independent Procurement** filings are to be filed directly with the NCDOI as they have historically been filed. These cannot be entered in SLIP.

For questions regarding Risk Purchasing Groups and Independent Procurement, please contact the NCDOI – Property and Casualty Division.

Are "Courtesy Filings" allowed in North Carolina?

No. North Carolina surplus lines licensees are prohibited from doing "Courtesy Filings" for any agent who does not have a North Carolina surplus lines license and is directly involved in the procurement of a surplus lines policy in North Carolina.

Any person who is directly involved with procuring surplus lines policies in North Carolina must have a North Carolina surplus lines license. North Carolina General Statute §58-21-65(a)

How are tax-exempt filings be handled?

All tax-exempt filings are to be entered in SLIP but will not receive an approval until the NCDOI has been notified of such filing and has approved the tax-exempt status for such risk.

- File the policy in SLIP with a **nontaxable** tax status. SLIP will mark this as a Transaction in Question.

- The NCSLA will ask for supporting documentation to present to the NCDOI for a decision on the tax status.
- The NCDOI will review each policy on a case by case basis for tax-exempt approval.

Are tax-exempt filings subject to the surplus lines stamping fee?

Yes. All tax-exempt filings are subject to the surplus lines stamping fee, except for North Carolina state owned property.

How long after a policy entered in SLIP has expired can a return premium endorsement be entered and accepted.

Three years from the expiration date of the policy.

G.S. 58-21-90 (under the NC Surplus Lines Act) provides that all provisions of Chapter 105 (under Revenue) apply in regard to administration, auditing, making returns, the imposition and collection of tax, and the lien thereon, assessments, refunds, and penalties, etc. In other words, NCDOI defers to the statutory provisions in Chapter 105 for the referenced items.

G.S. 58-105-241.6 establishes the statute of limitations for refunds. NCDOI has long held that the maximum number of years for surplus lines tax overpayments is 3 years as per the provisions in the aforementioned statute.

How and when to pay surplus lines taxes and stamping fees? (SLIP Only)

On the first business day following the end of each calendar quarter (March 31, June 30, September 30, December 31), two separate invoices, one for the surplus lines tax and one for the stamping fee, will be available in SLIP for review and payment. Filers will also receive a billing report in SLIP that contains the transactions included in the tax and stamping fee invoices.

- Taxes and stamping fees are due within **30 days** of the invoice date.
- Separate payments must be issued for the surplus lines tax and stamping fee invoices.
- Invoices must be paid in full to be compliant with the NCDOI.
- **No adjustments can be made to the invoice once the quarter has closed.**
- Transactions entered in SLIP after the quarter has closed will be reflected on the next invoice.

Payment for the North Carolina **surplus lines tax** must be paid in SLIP by ACH.

Surplus Lines Tax - ACH Payments:

For surplus lines tax ACH payment, the SLIP administrator will need to enter their bank information in SLIP at the payment screen for surplus lines tax. This information will then be transmitted to the NCDOL's bank, who will then debit the surplus lines tax payment from the agency's account. The information you need regarding the NCDOL's bank customer ID # to allow for this debit transaction is printed below.

ACH Company Name - [NC DEPT INSUR](#)

ACH Company ID – [1561401519](#)

Payment for the North Carolina **surplus lines stamping fee** must be paid in SLIP by ACH.

Stamping Fee - ACH Payments:

For stamping fee ACH payments, the SLIP administrator will need to enter their bank information in SLIP on the payment screen for surplus lines stamping fees. This information will then be transmitted to PNC bank, who will then debit the stamping fee payment from the agency's account. The information you need regarding the NCSLA's PNC customer ID # to allow for this debit transaction is printed below.

ACH Company Name: [NCarolinaSurplus](#)

ACH Company ID: [1581712305](#)