

**SURPLUS LINE
ASSOCIATION
OF
OREGON**

MANUAL

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Oregon Surplus Line Association History and Purpose

The Surplus Line Association of Oregon (the Association) was originally formed in 1939, at the direction of the Insurance Commissioner of Oregon, as an unincorporated association of surplus lines brokers. Its purpose was to assist the Insurance Department, now the Division of Financial Regulation (DFR), in regulating and collecting taxes on the surplus lines business written in Oregon. On August 28, 1980, it was incorporated as a non-profit corporation under the Oregon Non-Profit Corporation Act, for purposes, as stated in its Articles of Incorporation, as follows:

- a) To cooperate with recognized organizations of admitted insurance carriers and insurance agents for the proper use of the surplus lines market by members of the corporation.
- b) To discourage and prevent violations of the law regarding surplus lines insurance by members of the association and insofar as possible, by nonmembers.
- c) To encourage fair dealing between members and with the public and admitted insurance carriers.
- d) To adopt and enforce rules, insofar as permitted by law for the accomplishment of the objectives of the corporation.
- e) To support the education, investment and attraction of diverse new talent into the excess, surplus lines and risk management insurance industry, and to support the attraction, education and development of careers in the insurance industry, including without limitation, by providing educational programming, support, materials, sponsorship, scholarships, endowments and related initiatives to assist in furthering the development of insurance professionals and the insurance industry; and,
- f) To engage in political and governmental lobbying and advocacy in furtherance of the purposes set out above.

Under the Oregon Surplus Lines Law, the Association shall be the advisory organization of surplus lines licensees to:

- a) Facilitate and encourage compliance by resident and nonresident surplus lines licensees with the laws of this state and rules of the Director of the Department of Consumer and Business Services relative to surplus lines insurance.

- b) Provide means for the examination of all surplus lines coverage written by resident and nonresident surplus lines licensees to determine whether the coverages comply with the Oregon Surplus Lines Law.
- c) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market.
- d) Receive and disseminate to resident and nonresident surplus lines licensees information relative to surplus lines coverages.
- e) At the request of the director, receive and collect on behalf of the state and remit to the state premium receipts taxes for surplus lines insurance pursuant to ORS 735.417 or 735.470.

The Mission of the Association is:

To protect persons seeking surplus lines insurance in Oregon while encouraging the development of new and innovative types of insurance.

To assist the DFR in the administration of surplus lines insurance regulations and to encourage compliance by surplus lines agents and insurers with the surplus lines laws of the state of Oregon.

To monitor and provide input for regulatory and legislative changes affecting the insurance industry and communicate those changes and related issues to Association members.

To support and promote educational activities relating to the insurance and surplus lines industries.

To promote professionalism among members of the Association.

In furtherance of this Mission, the Association shall:

Foster good public relations with the insurance industry and the general public.

Encourage an exchange of information among members and support the development and dissemination of educational information for the benefit of members and the excess and surplus lines insurance industry.

Maintain liaison with other segments of the insurance industry, including insurance commissioners, regulatory bodies, insurers, and insurance producer groups.

Supported by filing fees paid by policyholders on the approximately 48,000 (in 2018) surplus lines policies written each year, the Association today continues its role of examining surplus lines placements and reporting taxes to the state. In addition to its examining duties, the Association supports insurance education and research in the surplus lines industry. An Executive Director and staff are employed to discharge these responsibilities subject to the oversight of a volunteer board of five directors elected from the membership.

The Surplus Line Association office is located at:

7360 SW Hunziker Street, Suite 105
Portland, OR 97223

Phone: (503) 718-6700
E-Mail: oregonsla@oregonsla.org
Website: www.oregonsla.org

Executive Director – Roger Helbling	E-Mail: roger@oregonsla.org
Manager – Carolee Lance	E-Mail: carolee@oregonsla.org
Filing Analyst – Theresa Chamberlain	E-Mail: theresa@oregonsla.org
Filing Analyst – Diane Grazer	E-Mail: diane@oregonsla.org

The Association office, under the direction of the Executive Director, examines all submissions as per the *Plan of Operations* and *Submission Procedure* sections of this Manual.

The Executive Director serves as liaison with the DFR of the Department of Consumer and Business Services, State of Oregon. The Executive Director also maintains liaison with the National Association of Insurance Commissioners (NAIC), the Wholesale & Specialty Insurance Association (WSIA), and monitors the activity of the Oregon and Federal Legislatures with respect to surplus lines issues.

The Association office, via the Association's website www.oregonsla.org, makes available current information on non-admitted insurers which have met the financial requirements of the DFR. Any non-admitted insurer wishing to do business in Oregon must provide the DFR with a certified copy of its financial statement or otherwise comply with ORS 735.415 of the Surplus Lines Law.

All information is furnished without any warranty representation or reassurance that the information is accurate, complete, or current. While it is the intention of the Association to provide an efficient source of certain limited information obtained from third parties, it is not the function, intent, or purpose of the Association to interpret, explain, ratify, or comment on the information or its significance. It is the responsibility of the members to make appropriate judgment based on the information, if any, they obtain from the Association or others.

Plan of Operations

INTRODUCTION

This plan of operations (the "Plan") identifies the duties that the Association performs as a surplus lines advisory organization pursuant to the Oregon Insurance Surplus Lines Law¹ and describes the manner in which the Association will perform those duties. These duties are as required in Oregon statute ORS 735.430 (1) and the By-Laws, Articles of Incorporation and Mission Statement of the Association. A copy of ORS 735.430 (1), Article II of the Articles of Incorporation and the Mission Statement of the Association may be found in Exhibit I of this "Plan". The complete By-Laws of the Association may be found in the publications section of the Association website: www.oregonsla.org.

I. RECEIPT, REVIEW AND RECORDING OF DOCUMENT FILINGS REQUIRED BY THE SURPLUS LINES LAW

The Association shall serve as a designee of the Insurance Commissioner (the "Commissioner") for receiving, reviewing and recording documents that Oregon licensed surplus lines producers or others are required by the Surplus Lines Law to file with the Commissioner, including the following items:

- confidential report of placement, including a copy of the declaration page of the policy or the surplus line producer's certificate or binder, and other pertinent information reasonably required by the Commissioner,
- Diligent Search Statement (DSS) completed by the insurance producer, on a standardized form prescribed by the Commissioner. The completed DSS is submitted to the surplus lines filing licensee who retains a copy for five (5) years, as per ORS 735.460 (2), and who completes an on-line acknowledgment to the SLA when the filing is made.

If requested to do so by the Commissioner, the Association shall also receive, review, and record other documents that the Commissioner by law may require surplus lines producers to file. Other than the quarterly "Report of Taxes", any documents or reports required may be filed as e-documents and "hard" copies are not required.

A. Processing of filings.

1. Surplus Lines Producers Filing Procedures

The Association shall advise all surplus lines producers or others responsible for Oregon surplus lines filings to submit filings and accompanying documents in the manner prescribed by current statutes, regulations, and bulletins. The Association shall

¹ ORS Chapter 735.400-495

adopt procedures for filers and, from time to time, the Association shall advise all surplus lines producers of the current filing procedures and requirements.

2. Receipt, Review, and Recording of Filings

The Association shall be the Commissioner's designated recipient of all filings and required documents related to surplus lines insurance placements and for the collection of Premium and Fire Marshal Taxes owed to the State of Oregon for such surplus lines insurance placements. For each filing received, the Association shall confirm that the producer's licensed name or DBA name, producer's license number, date received, and premium total and item count are recorded. Each item filed shall be reviewed by the Association staff, who shall see that all pertinent information is recorded, as required by the Commissioner and the Association's computer database. Exhibit II describes the required information which may be amended from time to time as directed by the Commissioner.

During the review, the Association shall determine whether the documents required by the Commissioner have been fully and correctly completed by the filing surplus lines producer in accordance with the Commissioner's instructions and existing statutes and regulations, that the accompanying calculation of tax is in the correct amount and whether the insurer is on the list of surplus lines insurers maintained by the Commissioner or maintained by the International Insurance Division (IID) of the NAIC (National Association of Insurance Commissioners). Printouts of the information recorded in the Association's database pursuant to this section shall be available to the Commissioner on request.

The Association shall notify the filing surplus lines producer or other permitted filer of any errors, inaccuracies, or other problems in the filed documents and shall follow up on responses as it deems appropriate, or as requested by the Commissioner. This notification may be issued in writing in the form of a "tag". Tags and procedures may be amended from time to time by the Association or as directed by the Commissioner. The Association shall notify the Commissioner of any amendments to the tags or procedures implemented by the Association if not at the direction of the Commissioner. On request or as otherwise set forth herein the Commissioner shall be provided with periodic reports regarding any unresolved or unanswered tags noted in the submitted documents or with copies of any related documentation.

Pursuant to ORS 735.430 (4), the Association shall make a charge on each transaction for reviewing surplus lines policies and collecting, on behalf of the state, taxes imposed under ORS 735.470 in the manner prescribed in the Plan of Operations. Such charge shall be adjusted from time to time in a reasonable and prudent fashion by the Association to meet changing market conditions. The Association shall notify the Commissioner of any adjustments to the charge. Such charge (“stamping charge”) shall not be subject to Premium or Fire Marshal Tax.

The Association shall make available for download a quarterly report and stamping charge invoice to each surplus lines filer showing a summary of filings registered in the preceding quarter for that surplus lines filer. The Association shall collect the checks payable to the DFR from the surplus lines filers and forward such checks to the DFR for deposit. The Association shall simultaneously collect any stamping charge due for its services.

Premium and Fire Marshal Tax rates shall be as stipulated by statute or determined by the Commissioner.² Premium Tax and Fire Marshal Tax shall apply to fees added by the filing surplus lines licensee. Fees added by any other intermediary or the insurer shall also be subject to Premium Tax and a Fire Marshal Tax.

B. Availability of File Documents and Records.

Documents maintained by the Association pursuant to the Insurance Code, and information contained in those documents, shall be made immediately available, on request, to the Commissioner.

Documents maintained pursuant to the Insurance Code shall be made available by the Association, on request, to the surplus lines producer who filed them and to the insured or insurer on whose behalf the documents were filed. The Association shall not release such documents to any other person, except that statements filed under the Insurance Code where the Commissioner has determined in writing that the public interest or the welfare of the filing producer necessitates release, if maintained by the Association, shall be made available by the Association to any person for its inspection on request made to the Commissioner if all cost of retrieval and/or copying are paid by the requesting party.

Aggregate statistics which do not reveal confidential or proprietary information may be released by the Association to the public or to the press.

² ORS 735.470

The availability of documents and information maintained by the Association pursuant to the Insurance Code shall be governed by this plan regardless of when they were filed with or otherwise received by the Association.

II. INSURANCE FRAUD REPORTING

The Association shall report to the Commissioner and other appropriate authorities instances of actual fraudulent or other illegal insurance activity in the surplus lines market that come to the Association's attention and any other facts that come to the Association's attention that, in the reasonable judgment of the Association, may indicate the presence of fraudulent or illegal insurance activity in the surplus lines market or potential risk of harm to consumers of surplus lines insurance.

The Association shall co-operate with the Commissioner in any investigation of fraudulent or other illegal activity as requested, and shall keep confidential any communications between the Commissioner and the Association regarding such activity and shall not disclose such communication to anyone, including the person subject to the investigation, except as directed by the Commissioner.

III. PREMIUM TAX INFORMATION COLLECTING AND REPORTING.

The information received, reviewed, and recorded by the Association under this plan shall be available to the Commissioner for purposes of ensuring that surplus lines taxes are fully and accurately reported and paid.

The Association shall maintain a dialogue with the Commissioner concerning additional ways in which the Association might expand its services to the Commissioner in relation to premium tax return preparation, tax auditing, and tax collection.

IV. COMMENTING ON PROPOSED LEGISLATION OR REGULATIONS

The Association, through its Executive Director and Legislative Committee, shall respond to any request by the Commissioner for comments on any proposed legislation or regulation affecting the placement of insurance pursuant to the Surplus Lines Law.

V. EDUCATIONAL AND INFORMATION DISSEMINATION ACTIVITIES

The Association shall provide information and instruction to its membership and other interested persons concerned by broadening its communication capabilities, presenting seminars, educating the industry and consumers in surplus lines laws and regulations, assisting with regulatory compliance questions, and disseminating in a timely manner, updated current information relative to the surplus lines industry.

The Association shall disseminate information relative to surplus lines issues through its website, emails, and bulletins on topics of interest to its membership. At the Commissioner's request the Association shall offer its facilities and mailing list as a convenient and cost-effective means of distributing documents and informational items relevant to the transaction of surplus lines insurance on behalf of the DFR.

The Association shall keep the Commissioner advised of all educational activities in which it engages and it shall provide such other educational activities as may reasonably be requested by the Commissioner.

VI. COMMUNICATING WITH ORGANIZATIONS OF ADMITTED INSURERS

The Association shall, as necessary and appropriate in the furtherance of its duties as delegated and actively supervised by the Commissioner under the Insurance Code, communicate with and respond to questions or comments from organizations of admitted insurers regarding surplus lines insurance.

VII. ASSOCIATION WEBSITE

The Association shall establish and maintain an internet website containing information pertinent to the surplus lines industry in Oregon. The website shall contain copies of the procedures for filing surplus lines business in Oregon, this Plan and the current By-Laws of the Association.

VIII. ADDITIONAL FUNCTIONS AGREED BETWEEN THE COMMISSIONER AND THE ASSOCIATION

The Association welcomes suggestions by the Commissioner of additional functions it could provide that would assist the Commissioner in providing efficient and cost-effective surplus lines regulation. The Association shall meet periodically with the Commissioner and the Commissioner's staff to consider modifications to this plan.

IX. EXAMINATION OF ASSOCIATION RECORDS

As provided in Oregon statutes the Commissioner may make or cause to be made an examination of the Association. The reasonable cost of any such examination shall be paid by the Association upon presentation to it by the Commissioner of a detailed account of each cost. The officers, managers, agents and employees of the Association may be examined at any time, under oath, and shall exhibit all books, records, accounts, documents or agreements governing its method of operation. The Commissioner shall furnish two copies of any such examination report to the Association and shall notify the organization that it may, within 20 days thereof, request a hearing on the report or on any facts or recommendations therein. If the Commissioner finds the Association or any member thereof to be in violation of the Surplus Lines Law, the Commissioner may issue an order requiring the discontinuance of such violation.

The Commissioner may require an independent examination of the financial records of the Association by a certified public accountant at any time and in the absence of such request the Association shall seek a certified financial report at least annually. Such report shall be made available to the Commissioner at his or her request.

EXHIBIT I

THE SUPLUS LINE ASSOCIATION OF OREGON MISSION AND RESPONSIBILITIES

Statutory:

735.430 Surplus Line Association of Oregon; fees. (1) The Surplus Line Association of Oregon shall be the advisory organization of surplus lines licensees to:

- (a) Facilitate and encourage compliance by resident and nonresident surplus lines licensees with the laws of this state and the rules of the Director of the Department of Consumer and Business Services relative to surplus lines insurance;
- (b) Provide means for the examination, which shall remain confidential as provided in ORS 705.137, of all surplus lines coverage written by resident and nonresident surplus lines licensees to determine whether the coverages comply with the Oregon Surplus Lines Law;
- (c) Communicate with organizations of admitted insurers with respect to the proper use of the surplus lines market;
- (d) Receive and disseminate to resident and nonresident surplus lines licensees information relative to surplus lines coverages; and
- (e) At the request of the director, receive and collect on behalf of the state and remit to the state premium receipts taxes for surplus lines insurance pursuant to ORS 735.417 or 735.470.

Articles of Incorporation:

Article II

The purpose of the corporation is to engage in any lawful activity for which corporations may be organized under the Oregon Non-Profit Corporation Act, including but not limited to the following objectives:

- a) To cooperate with recognized organizations of admitted insurance carriers and insurance agents for the proper use of the surplus line market by members of the corporation;
- b) To discourage and prevent violations of the law of the State of Oregon regarding surplus line insurance by members of the corporation and insofar as possible by nonmembers;
- c) To encourage fair dealing between members and with the public and admitted insurance carriers;

d) To adopt and enforce rules, insofar as permitted by law for the accomplishment of the objects of the corporation.

e) To support the education, investment and attraction of diverse new talent into the excess, surplus lines and risk management insurance industry, and to support the attraction, education and development of careers in the insurance industry, including without limitation, by providing educational programming, support, materials, sponsorship, scholarships, endowments and related initiatives to assist in furthering the development of insurance professionals and the insurance industry; and,

f) To engage in political and governmental lobbying and advocacy in furtherance of the purposes set out above.

Mission Statement:

The mission of the Association is:

1. To protect persons seeking Surplus Line Insurance in Oregon while encouraging the development of new and innovative types of insurance.
2. To assist the DFR in the administration of surplus lines insurance regulations and to encourage compliance by surplus lines agents and insurers with the surplus lines laws of the state of Oregon.
3. To monitor and provide input for regulatory and legislative changes affecting the insurance industry and communicate those changes and related issues to association members.
4. To support and promote educational activities relating to the insurance and surplus lines industries.
5. To promote professionalism among members of the association

In furtherance of this mission, the Association shall:

1. Foster good public relations with the insurance industry and the general public.
2. Encourage an exchange of information among members and support the development and dissemination of educational information for the benefit of members and the excess and surplus lines insurance industry.
3. Maintain liaison with other segments of the insurance industry, including insurance commissioners, regulatory bodies, insurers, and insurance producer groups.

EXHIBIT II
REQUIRED INFORMATION

ORS 735.425

Filing by licensee after placement of surplus lines insurance.

(1) Within 90 days after the placing of any surplus lines insurance in this state on an Oregon home state risk, each surplus lines licensee shall file with the Director of the Department of Consumer and Business Services:

(a) A statement signed by the licensee regarding the insurance, which shall be kept confidential as provided in ORS 705.137, including the following:

(A) The name and address of the insured;

(B) The identity of the insurer or insurers;

(C) A description of the subject and location of the risk;

(D) The amount of premium charged for the insurance; and

(E) Such other pertinent information as the director may reasonably require.

(b) A statement on a standardized form furnished by the director, as to the diligent efforts by the producing insurance producer to place the coverage with admitted insurers and the results thereof. The statement shall be signed by the producing insurance producer and shall affirm that the insured was expressly advised prior to placement of the insurance that:

(A) The surplus lines insurer with whom the insurance was to be placed is not licensed in this state and is not subject to its supervision; and

(B) In the event of the insolvency of the surplus lines insurer, losses will not be paid by the state insurance guaranty fund.

(2) A surplus lines licensee placing nonadmitted insurance in this state for an exempt commercial purchaser satisfies the requirements of subsection (1)(b) of this section if the surplus lines licensee provides proof of compliance with ORS 735.410 (2).

(3) The director may direct that filings required under subsection (1) of this section be made to the Surplus Line Association of Oregon. The director may also require that such filings be made electronically but may exempt a licensee from the requirement for good cause shown.

(4) A nonresident surplus lines licensee who places a surplus lines policy on an Oregon home state risk shall satisfy the requirements of ORS 735.410 and the filing requirements in subsections (1) and (2) of this section.

(5) Facsimile signatures and electronic signatures subject to ORS 84.001 to 84.061 are acceptable and have the same force as original signatures. [1987 c.774 §122; 1993 c.182 §1; 2001 c.377 §§13,13a; 2003 c.364 §39; 2005 c.185 §12; 2011 c.660 §11]

ORS 735.465

Monthly reports; rules.

(1) On or before the end of each month, each surplus lines licensee shall file with the Director of the Department of Consumer and Business Services, as prescribed by the director, a verified report of all surplus lines insurance transacted on Oregon home state risks during the preceding 90 days. The report need not show transacted surplus lines insurance that was reported in an earlier report. The report shall show:

- (a) Aggregate gross premiums written;
- (b) Aggregate return premiums; and
- (c) Amount of aggregate tax.

(2) The director may direct that reports required under subsection (1) of this section be made to the Surplus Lines Association of Oregon and that the Surplus Lines Association of Oregon file a combined report thereof with the director. The director may also require that reports required under subsection (1) of this section be made electronically but may exempt a licensee from the requirement for good cause shown.

(3) For the purpose of collecting taxes on insurance covering Oregon home state risks when the insurance is placed outside this state, the director may establish by rule requirements for filing reports on surplus lines insurance transacted outside this state on Oregon home state risks. [1987 c.774 §130; 2001 c.191 §48; 2007 c.71 §236; 2011 c.660 §17]

Submission Procedure

Anyone placing surplus lines business for which Oregon is the “Home State” must complete a filing form, file the form, and pay appropriate taxes and charges to the State of Oregon on the premium and fees shown on the policy. The Association, in its capacity as a “stamping office”, is responsible for reviewing all Oregon surplus lines placements and assisting the State of Oregon in collecting premium taxes on those placements. All parties desiring to file surplus lines business written on Oregon exposures, in compliance with Oregon Statutes, must register to file with the Association. Upon processing of a Filing Registration Application, applicants are given detailed instructions on how to file and access to the on-line filing system – *SLIP (Surplus Lines Information Portal)*.

SLIP (a web-based application), offers several distinct modules for data entry, data storage, data export and data reporting. Filers input all relevant policy data by entering insured name, policy number, inception date of policy, effective date of endorsement, expiration date of policy, coverage type, premium amount, fees, insurer, insurer’s participation percentage, and an acknowledgment of receipt of a diligent search statement completed by the producer in order to create an electronic record for each placement. The filer can view the created record to verify the accuracy of data entry and can make any necessary edits. The record is then submitted via the on-line system, and is available to the Association for review. Support documentation can be electronically filed with *SLIP* or copies can be sent via U.S. Mail. All submitted support documentation, i.e. insuring forms (declarations page, binder, certificate, cover note, or endorsement form) are reviewed for accuracy and checked to see that they conform to Code requirements and match the electronic record created by the filer.

After an examination of the filer’s submission, the Association generates an e-mail message regarding the status of the reviewed record. Immediately upon receipt, the filer should review the e-mail message and make any necessary corrections to “tagged” records. (Any submitted records subsequently “tagged” by the Association during the review process are not considered to have been filed, and are returned to the filer. After corrections are made, those records must be re-submitted.) Ultimately, the LICENSEE is responsible for correctly reporting his/her surplus lines business, paying the tax thereon and retaining documentation for the statutory period.

The Association records the state taxes (premium and fire marshal) and SLSC due from each filer. At the end of each calendar quarter, the Association generates a tax report based on the premium reported by each filer during that calendar quarter. This tax report and all taxes are to be remitted to the Insurance Commissioner no later than the 45th day following the end of the calendar quarter as per ORS 735.470.

Copies of all documents required for placement, the related insurance policies, and the completed and signed Diligent Search Statement (Form 100 or State approved replacement) are required by ORS 735.460 to be retained in the offices of the filer for five years, subject to possible exam by the Insurance Division.

All documents submitted shall be held in confidence by the Association and the DFR and shall not be divulged to, or be open to inspection by, any third party, except a government agency having legal authority to do so, the insured, the filing surplus lines filer and the insurer.

All new surplus lines business must be submitted, as per ORS 735.425 of the Surplus Lines Law, within ninety (90) days after the placement of any surplus lines insurance for which Oregon is the "Home State". Surplus lines business is considered to have been "submitted" when the complete submission (by electronic record and/or by "hard copy") has been received in the Association Office. Oregon surplus lines policies are subject to three types of charges: State premium tax, State fire marshal tax and a surplus line service charge (SLSC) due the Association. SLIP filings, once they have been registered by the Association, are considered to have satisfied the state's requirement for monthly reports as provided in ORS 735.465.

The name of the Licensee and the following legend in BOLD type must appear on the ORIGINAL of every evidence of insurance negotiated, placed or procured under the provisions of the Oregon Surplus Lines Law. This can be accomplished by the use of a stamp, sticker or typing thereon.

"This insurance was procured and developed under the Oregon surplus lines laws. It is NOT covered by the provisions of ORS 734.510 to 734.710 relating to the Oregon Insurance Guaranty Association. If the insurer issuing this insurance becomes insolvent, the Oregon Insurance Guaranty Association has no obligation to pay claims under this insurance."

Web Sites Links

- Association Articles of Incorporation & By-Laws
<http://www.oregonsla.org> - click on the “About” tab, By-Laws
- Association Directors & Officers
<http://www.oregonsla.org> - click on the “About Us” tab, Board of Directors
- Association Membership Directory
<http://www.oregonsla.org> - click on the “About Us” tab, Membership Directory
- Oregon Insurance Code & Surplus Lines Law
<http://www.oregonsla.org> - click on the “About Surplus Lines Insurance in Oregon” tab,
Oregon Statutes