

SEP 13 2013

DEPT. OF INSURANCE
BY 

STATE OF ARIZONA
DEPARTMENT OF INSURANCE

In The Matter Of:

**PROPERTY AND CASUALTY RATE AND
FORM FILING EXEMPTIONS;
COMMERCIAL NON-CANCELLATION
RESTRICTION EXEMPTIONS;
RECOGNIZED SURPLUS LINES**

**No. 13A-071-INS
ORDER**

THE STATE OF ARIZONA DEPARTMENT OF INSURANCE held a hearing in the above-referenced matter on August 28, 2013.

WHEREAS, the Director of Insurance ("Director") finds as follows:

1. Arizona Revised Statutes ("A.R.S.") §§ 20-385(F) and (G), 20-385(G), 20-398(B), 20-409 and 20-1671(12) authorize the Director to make certain determinations and issue certain orders related to:

- a) The applicability of filing and approval requirements for property and casualty insurance products subject to A.R.S. Title 20, Chapter 2, Article 4.1;
- b) The applicability of cancellation or non-renewal restrictions to commercial property and casualty insurance products pursuant to A.R.S. Title 20, Chapter 6, Article 14;
- c) The recognition of surplus lines pursuant to A.R.S. Title 20, Chapter 2, Article 5.

2. The Director previously issued an Order (Docket No. 05A-108-INS, October 21, 2005, Order Amending Exhibit C, October 5, 2007) pursuant to the statutes referenced above.

3. The Director may hold hearings for any purpose deemed necessary and within the scope of A.R.S. Title 20, pursuant to A.R.S. § 20-161.

1 NOW, THEREFORE, in order to protect the interests of consumers of property and
2 casualty insurance products in Arizona, to promote a competitive marketplace for property
3 and casualty insurance products in Arizona, and to promote the effective and efficient
4 administration of A.R.S. Title 20,

5 IT IS ORDERED, adopting Exhibit A, B and C attached hereto, which shall
6 supersede the Order in Docket No. 05A-108-INS.

7 This Order is effective immediately upon filing.

8 DATED this 29 day of August, 2013.

9
10
11
12
13 ...
14 ...
15 ...
16 ...
17 ...
18 ...
19 ...
20 ...
21 ...
22 ...
23 ...
24 ...
25 ...
26 ...

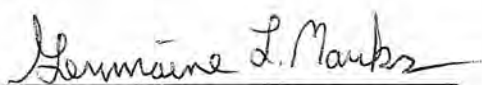

GERMAINE L. MARKS, Director
Arizona Department of Insurance

Exhibit A
RATES AND FORMS EXEMPTED FROM THE FILING
REQUIREMENTS OF A.R.S. §§ 20-385 AND 20-398

Pursuant to A.R.S. § 20-385(F), the Director may order exempt from the requirements of A.R.S. § 20-385 any insurance rate, rating class, rating rule or rating program or type, the filing of which in the Director's opinion is not desirable or necessary for the protection of the public.

Pursuant to A.R.S. § 20-398(B), the Director may by order exempt from the requirements of A.R.S. § 20-398, for as long as the Director deems appropriate, any insurance form as specified in such order, to which in the Director's opinion the section may not be practicably applied, or the filing or approval of which are not desirable or necessary for the protection of the public.

The exemptions from filing requirements identified in this Order are limited to types of insurance subject to A.R.S. § 20-385(F) and 20-398(B). The rate and form filings of types of insurance subject to other sections of the A.R.S., Title 20, including but not limited to workers' compensation, title and certain types of credit insurance must be filed with the Department in accordance with the specific statutory requirements applying to them.

- I. The following rates and forms **are exempted from having to be filed** with the Director pursuant to A.R.S. §§ 20-385(F) and 20-398(B). Notwithstanding that the following do not have to be filed with the Director, all rates and forms must still comply with the applicable standards of A.R.S. §§ 20-383(A) and 20-398(A).
 - A. Commercial Casualty Insurance as defined by A.R.S. § 20-252, except as noted in II below, including, but not limited to: Boiler and Machinery, Employee Benefits Liability, Glass, Collateral Protection Insurance, Crime Insurance, Excess and Umbrella Insurance, Family Leave Insurance – except if part of credit unemployment insurance is subject to A.R.S. § 20-1609, Pet Insurance, Products Liability, Directors and Officers, Employment Practices Liability and Nuclear Insurance Products.
 - B. Marine and Transportation Insurance, as defined by A.R.S. § 20-255, including Inland Marine, Aviation and Ocean Marine Insurance.
 - C. Commercial Property Insurance, as defined by A.R.S. § 20-256, including, but not limited to: Fire and Allied Lines, Business Interruption and Difference in Conditions, Flood Insurance, Federal Crop Multi-Peril Insurance.
 - D. Commercial Fidelity and Surety Insurance, as defined by A.R.S. § 20-257, including, but not limited to, Financial Guaranty Insurance.
 - E. Guaranteed Asset Protection (GAP) Insurance and residual value filings.
 - F. Forms or rates issued by a Risk Retention Group or by any other insurer solely to a Purchasing Group.
 - G. Commercial Automobile Insurance.

- H. Consent to Rate risks, as described by A.R.S. § 20-385(E).
 - I. Businessowners Insurance rates, except as noted in II(I) below, and forms.
 - J. Any combination of the foregoing exempt rates and forms, except rates and forms which include nonexempt coverage.
 - K. Commercial Multiple Peril Insurance, except as noted in II(J) below.
 - L. Dwelling Fire Insurance.
 - M. Recreational Vehicle, Personal Watercraft, Motor Home and Travel Trailer Insurance.
 - N. Personal Umbrella Insurance.
 - O. Comprehensive Personal Liability Insurance.
 - P. Mortgage Guaranty Insurance and defined by A.R.S. § 20-1541(14).
 - Q. Adoption or delay of adoption of rate service organization's loss costs, rates, rules or forms for lines of insurance exempted by this Order.
- II. Notwithstanding the exemptions listed in I above, the following insurance company rates and forms **are not exempted** from the filing requirements of A.R.S. §§ 20-385(A) and 20-398(A).
- A. All policy rates and forms developed by a rate service organization, as defined in A.R.S. § 20-381(6) or by an advisory organization as defined in A.R.S. § 20-381(1).
 - B. Rates and forms of an insurer possessing an Arizona Certificate of Authority less than two (2) years.
 - C. Rates and forms of any insurer the Director has expressly directed to comply with the requirements of A.R.S., Title 20, Chapter 2, Article 4.1, notwithstanding the exemptions set forth in paragraph I and II of this Order.
 - D. Rates and forms of any Residual Market Mechanism or Assigned Risk Plan.
 - E. Personal insurance rates and forms and all amendments and endorsements for rates and forms applicable to homeowners, mobile homeowners, tenants, condominiums, personal automobiles, non-owned automobiles and uninsured/underinsured motorists.
 - F. Professional liability insurance issued to "health professionals" as defined in A.R.S. § 32-3201, including Medical Malpractice Insurance.
 - G. Provider Reimbursement Policies intended to insure capitated medical providers for nonreimbursed expenses incurred in connection with the treatment of members.
 - H. Crop hail Insurance other than Multiple Peril Crop Insurance Program.
 - I. Businessowners Policies involving rate decreases of -10% or more.
 - J. Commercial Multiple Peril Insurance issued to hospitals, Health Maintenance Organizations, Preferred Provider Organizations and other Health Care Centers or Service Organizations.
 - K. Nursing Home Liability, which means, for purposes of this document, liability insurance sold to any of the following facilities, whether or not for profit:
 - a. Skilled or Intermediate Care facilities
 - b. Assisted Living facilities with On Premises Care;
 - c. Rest Homes with Health Care;

- d. Personal Care facilities or Residential Homes with Skilled Care or other Health Care including Adult Foster Homes;
 - e. Convalescent Homes with Continuous Nursing or other Medical Care;
 - f. Continuing Care Retirement Communities with a Nursing Home on Campus; and/or
 - g. Any other Adult Extended Care facility that provides Nursing or other Medical care.
- L. Non-adoption of a Rate Service Organization's loss costs, rates, rules or forms.

Exhibit B

EXEMPT POLICIES PURSUANT TO A.R.S. § 20-1671(12)

The following are exempted from having to comply with all of the provisions of Article 14, Chapter 6, Title 20, Arizona Revised Statutes relating to cancellation or non-renewal of commercial insurance:

1. Binders or other contracts for temporary insurance made either orally or in writing. As used herein, the term "binder" means contracts for temporary insurance which do not expressly set forth all the usual terms of a policy of insurance. The term "binder" also includes applications of insurance.
2. Policies that offer retrospective rating plans.
3. Medical malpractice policies.
4. Fidelity and surety insurance policies.
5. Multiple peril crop insurance policies.
6. Crop hail insurance policies.
7. Policies issued by a Risk Retention Group or by any other insurer solely to a Risk Purchasing Group.
8. Policies as issued to an Industrial Insured as defined at A.R.S. § 20-401.07.
9. Mechanical reimbursement insurance issued to a motor vehicle dealer.
10. Pet insurance policies.
11. Credit insurance policies including, but not limited to the following:
 - a. Family Leave policies intended to provide loss of income coverage on a monthly outstanding balance basis to be issued in conjunction with a credit card to insure a creditor's debtors.
 - b. Credit Unemployment insurance policies.
 - c. Credit Property policies.
12. Guaranteed Asset Protection (GAP) policies.

The following are exempted from having to comply with A.R.S. § 20-1674(B) if they otherwise comply with the provisions of Article 14, Chapter 6, Title 20, Arizona Revised Statutes:

1. Policies subject to audit which contain provisions substantially similar to A.R.S. §§ 20-1672, 20-1673, 20-1674(A), 20-1676 and 20-1677.

EXHIBIT C

The Surplus Lines Export List

CODE AH: Accident And Health

- 00. Diligent Effort Completed*
- 01. Accidental Death (High Limits)
- 02. Air Crew Personal Accident
- 03. Athletes, Celebrities, And Show Business Personalities
- 04. Aviation Accident
- 05. Jockeys

CODE AL: Automobile Liability

- 00. Diligent Effort Completed*
- 01. Ambulance Service
- 02. Bus Or Livery
- 03. Butane, Propane Hauling
- 04. Drive Away (Affords Coverage For The Pick Up Or Delivery Of Vehicles To Or From A Point Greater Than 50 Miles From The Dealership)
- 05. Driving School
- 06. Excess Limits
- 07. Explosive Hauling
- 08. Garbage/Refuse Trucks
- 09. Go Carts/Midget Autos
- 10. Heavy Equipment Dealers
- 11. Long Haul Trucking
- 12. Vehicles Registered in Mexico
- 13. Monoline Hired/Non-Owned Automobile
- 14. New Ventures
- 15. Racing Events
- 16. Sand/Gravel Haulers
- 17. Taxicabs
- 18. Used Car Dealers
- 19. Wrecking Companies And Wreckers, Towing Companies And Tow Trucks, Or Repossession Operations

CODE AP: Automobile Physical Damage

- 00. Diligent Effort Completed*
- 01. Antique Or Classic Automobiles
- 02. Automobile Rental - Short Term
- 03. Butane, Propane Hauling
- 04. Drive Away (Affords Coverage For The Pick Up Or Delivery Of Vehicles To Or From A Point Greater Than 50 Miles From The Dealership)
- 05. Go Carts/Midget Autos
- 06. Heavy Equipment Dealers
- 07. Leased Motor Homes
- 08. Long Haul Truck And Trailers

EXHIBIT C

The Surplus Lines Export List

- 09. Vehicles Registered in Mexico
- 10. New Ventures
- 11. Racing Events
- 12. Used Car Dealers

CODE AVL: Aviation Liability

- 00. Diligent Effort Completed*
- 01. Air Ambulance
- 02. Air Meet And Special Events Liability
- 03. Antique Aircraft
- 04. Balloon - Hot Air And Gas
- 05. Charter Service
- 06. Chemical Spray And/Or Drift
- 07. Excess Limits
- 08. Experimental Aircraft
- 09. Fixed Base Operations (Total Aircraft Site Operations Including, But Not Limited To: Airfield; Hangar; And Aircraft Sales, Rentals, Storage, Fueling, Servicing, And Instruction.)
- 10. Hangar Keepers Legal Liability
- 11. Helicopters
- 12. Hijacking
- 13. Parachute Club And Skydiving
- 14. Slung Cargo Liability

CODE AVPD: Aircraft Physical Damage

- 00. Diligent Effort Completed*
- 01. Antique Aircraft
- 02. Balloon - Hot Air And Gas
- 03. Charter Service
- 04. Chemical Spray And/Or Drift
- 05. Crop Dusters
- 06. Excess Limits
- 07. Helicopters

CODE FA: Fire And Allied Lines

- 00. Diligent Effort Completed*
- 01. Air-Supported Structures
- 02. Amusement Parks And Carnivals
- 03. Bars And Taverns
- 04. Cyber or Electronic Media Risks
- 05. Developmentally Disabled Resident Services And Day Care Centers
- 06. Earthquake And Flood

EXHIBIT C

The Surplus Lines Export List

07. Explosive Manufacturing Or Storage Or Sales
08. Fraternity Or Sorority Houses
09. General Contractors, Owners, Developers, Paper Contractors Or Subcontractors
10. Greenhouses - Wind And Hail
11. Habitational Risks
 - A. Apartments
 - B. Condominiums
 - C. Dwellings-One To Four Family
 - D. Hotels/Motels
 - E. All Other
12. Hay In Open Or Barns When Value Exceeds \$50,000 In Each Stack Or Barn
13. Heavy Equipment Dealers
14. Mattress Manufacturing
15. Medical Marijuana Dispensaries/Grow Facilities
16. Municipalities
17. New Ventures
18. Nuclear Energy Property
19. Plastic Manufacturing And Sales
20. Restaurants Without Automatic Fire Suppression Systems Or That Do Not Meet NFPA 96 Standards
21. Trade Name Restoration Or Product Contamination
22. School Districts
23. Seasonal Dwellings Or Operations In Areas Without Fire Protection
24. Used Car Dealers
25. Vacant Buildings

CODE GL: General Liability

00. Diligent Effort Completed*
01. Adult Day Care Centers
02. Air Meets
03. Alcohol/Drug Rehabilitation Centers/Programs
04. Amusement Parks And Carnivals (Including Rides And Devices)
05. Anhydrous Ammonia Dealers/ Haulers/ Applicators (Fertilizers/ Herbicide/ Pesticide)
06. Animal Rides
07. Automobile Parts Manufacturing
08. Automobile Wrecking Yards
09. Building Demolition
10. Building, Manufactured Housing Moving
11. Camps (Athletic, Seasonal, Rehabilitative, Social Services)
12. Child Day Care Centers
13. Collapse Hazard (XCU) Contractors
14. Crane Rental
15. Dentists
16. Detective/Private Investigation Agencies
17. Developmentally Disabled Resident And Day Care Centers
18. Dude Ranches

EXHIBIT C

The Surplus Lines Export List

19. Environmental Exposures
20. Excess Limits
 - A. Following Form Excess Liability Policy
 - B. Umbrella Liability
21. Exercise/Health (Clubs/Spas/Fitness Centers)
22. Exhibitions/Concerts
23. Explosion Hazard Or Blasting (XCU) Contractors
24. Explosive Manufacturing Or Storage Or Sales
25. Fairgrounds/Fairs
26. Fire Suppression Systems And/Or Alarm Systems (Including Installation, Service, Or Repair)
27. Firearms Liability; Gunsmithing; Ammunition Reloading
28. Fraternities Or Sororities
29. Fuel Tank Testers
30. Garbage/Refuse Trucks
31. General Contractors, Owners, Developers, Paper Contractors Or Subcontractors
32. Go Cart Tracks
33. Ground Applicators (Chemical)
34. Group Homes (Premises Liability)
35. Habitational Risks
 - A. Apartments
 - B. Condominiums
 - C. Dwellings – One to Four Family
 - D. Hotels/Motels
 - E. All Other
36. Halfway Houses
37. Heavy Equipment Dealers
38. Heavy Equipment Repair
39. Homeowners Associations (Developer Controlled)
40. Homes For The Aged, Mentally Or Physically Handicapped
41. Horse Boarding/Stables
42. Horse Drawn Carriage Rides
43. Horse Shows
44. Hospices
45. Hospitals
46. Karate, Tai-Kwon-Do And Other Defense Schools
47. Lead Paint Remediation
48. Liquefied Petroleum Dealers
49. Liquor Liability
50. Loggers Property Damage Liability
51. Medical Marijuana Dispensaries/Grow Facilities
52. Mining
53. Municipalities
54. New Ventures
55. Nuclear Energy
56. Nutraceuticals/Dietary Supplements
57. Nurse Registries

EXHIBIT C

The Surplus Lines Export List

58. Nursing Homes, Convalescent Homes, And Other Care Facilities For The Aged Or Infirm
59. Outfitters, Guides, And Whitewater Rafters
60. Participant Liability Exposures
61. Pawn Shops
62. Pest Control Applicators
63. Police Officers
64. Pollution/Contamination
65. Physicians and Surgeons
66. Products Recall Coverage
67. Radio And TV Broadcasters And Producers
68. Railroad Protection
69. Recreational Vehicles/All Terrain Vehicles/Boats /Jet Skies/Snowmobiles (Daily Rental)
70. Recycling Centers
71. Rental Facilities, Including, But Not Limited To, Recreational Equipment And Construction Equipment
72. Rodeos
73. Roofers
74. Sand Or Gravel Haulers
75. Schools (Private, Charter, or Public) and School Districts
76. Security Guards
77. Senior Citizen Centers
78. Shooting Ranges
79. Short Term Special Events
80. Skating Rinks (Roller, Ice, Skateboard, Or Rollerblade)
81. Snow Ski Operations
82. Solar Electric Installation/Generation - Commercial
83. Spectator Liability
84. Tanning Salons
85. Tattoo Or Body Art Parlors
86. Taverns/Bars (Including Liquor Liability)
87. Transportation Of Senior Citizens
88. Tree Trimming
89. Tunneling And Excavation
90. Underground Hazard(XCU) Contractors
91. Vacant Buildings Or Lots
92. Welding Operations (Portable)
93. Wind Power Electric Installation/Generation - Commercial
94. Wrecking Companies And Wreckers, Towing Companies And Tow Trucks, Or Repossession Operations

CODE IM: Inland Marine

00. Diligent Effort Completed*
01. Boats Of All Types
02. Bridges

EXHIBIT C The Surplus Lines Export List

03. Cargo
04. Coin Dealers
05. Cyber or Electronic Media Risks
06. Fine Arts Or Personal Articles Coverage (High Values Or Unusual Items)
07. Heavy Equipment Dealers
08. Jewelers Block
09. Jewelry (High Values)
10. Mining Equipment
11. Tunneling Equipment
12. Water Pumping Equipment (Electrical/Agricultural)

CODE MS: Miscellaneous Special Lines

00. Diligent Effort Completed*
01. Asbestos (All Coverages)
02. Difference In Conditions
03. Hole-In-One Insurance
04. International Exposures
05. Kidnap And Ransom Coverage
06. Monoline Crime for Cyber or Electronic Media Risks
07. Mortality (Livestock And Pets)
08. Patent, Copyright Or Trademark Infringement
09. Rain (Indemnification For Canceled Event Due To Rain)
10. Short Term Events

CODE PROD: Products

00. Diligent Effort Completed*
01. Aircraft And Parts Manufacturing
02. Ammunition Reloading And Firearms
03. Amusement Rides/Devices (Manufacturing, Installation, Repair)
04. Automobile And Automobile Parts Manufacturing
05. Discontinued Products
06. Explosive Manufacturing
07. Fuel Tank Testers
08. Heavy Equipment Manufacturing/Repair
09. Medical Equipment
10. Monoline Product Liability
11. New Products Liability
12. Nutraceuticals/ Dietary Supplements
13. Pest Control Applicators
14. Pharmaceutical Manufacturers And Distributors
15. Plastic Manufacturing
16. Playground Equipment (Manufacturing, Installation, Repair)
17. Roofers
18. Sporting Goods Manufacturing
19. Tire Recapping

EXHIBIT C

The Surplus Lines Export List

- 20. Tobacco Related Products
- 21. Toy Manufacturing

CODE PL Professional Liability And Malpractice (Including Errors And Omissions)

- 00. Diligent Effort Completed*
- 01. Accountants
- 02. Actuaries
- 03. Adult Day Care Or Home Health Care
- 04. Ambulance Personnel Or Others Providing Emergency Medical Treatment
- 05. Architects
- 06. Blood/Plasma Banks
- 07. Charter Schools
- 08. Clinical Laboratories
- 09. Collection For Drug Testing
- 10. Computer Consultants
- 11. Counseling Programs
- 12. Cyber or Electronic Media Risks
- 13. Drug Testing Laboratories
- 14. Employment Practices Liability
- 15. Engineers And Architects
- 16. Environmental Consultants
- 17. Foster Care Agencies
- 18. Halfway Houses
- 19. Healing Arts/Alternative Medicine
- 20. Investment Advisors
- 21. Lawyers Professional Liability
- 22. Medical Labs/Blood Labs
- 23. Medical Malpractice Liability
 - A. Chiropractors
 - B. Dentists
 - C. Hospitals
 - D. Nurses
 - E. Physicians & Surgeons
 - F. All Other
- 24. Midwives
- 25. Nurse Registries
- 26. Nursing Homes/Convalescent Homes
 - A. Skilled Or Intermediate Care Facilities
 - B. Assisted Living Facilities With On Premises Care
 - C. Rest Homes With Health Care
 - D. Personal Care Facilities Or Residential Homes With Skilled Care Or Other Health Care Including Adult Foster Homes
 - E. Continuing Care Retirement Communities With A Nursing Home On Campus
 - F. Convalescent Homes With Continuous Nursing Or Other Medical Care
 - G. Any Other Adult Extended Care Facility That Provides Nursing Or Other Medical Care

EXHIBIT C

The Surplus Lines Export List

27. Officers And Directors And Public Officials
28. Property Management
29. Psychologists/Sociologists/Counselors
30. Real Estate Agents
31. Real Estate Appraisers
32. Residential Home Inspectors
33. Risk Managers
34. School Board Legal Liability
35. Social Services Agencies
36. Surveyors
37. Title Agent/Abstractors
38. X-Ray Specialists/Technicians

* “Diligent Effort” means having sought insurance for the same risk from at least three insurers authorized in this state to write the particular insurance coverage or type, class or kind of insurance. Arizona Revised Statutes (“ARS”) § 20-401(4).

Any portion of all of an insurance coverage designated . . . as surplus lines may be procured from unauthorized insurers subject to the following conditions: 1. The insurance is procured through a surplus lines broker licensed in this state . . . , 2. The insurance coverage is a recognized surplus line pursuant to section 20-409 or **the insurance coverage is not procurable, after diligent effort has been made to procure coverage** or the coverage has been procured to the full extent the insurers are willing to insure, and the placing of insurance with an unauthorized insurer is not for the purpose of securing advantages either as to premium rate or terms of the insurance contract. ARS § 20-407(A). (Emphasis added.)