

Chapter 48.15 RCW UNAUTHORIZED INSURERS

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RCW 48.15.020 Solicitation prohibited

(1) An insurer that is not authorized by the commissioner may not solicit insurance business in this state or transact insurance business in this state, except as provided in this chapter.

(2)(a) A person may not, in this state, represent an unauthorized insurer except as provided in this chapter. This subsection does not apply to any adjuster or attorney-at-law representing an unauthorized insurer from time to time in this state in his or her professional capacity.

(b) A person, other than a duly licensed surplus line broker acting in good faith under his or her license, who makes a contract of insurance in this state, directly or indirectly, on behalf of an unauthorized insurer, without complying with the provisions of this chapter, is personally liable for the performance of such contract.

(3) Each violation of subsection (2) of this section constitutes a separate offense punishable by a fine of not more than twenty-five thousand dollars, and the commissioner, at the commissioner's discretion, may order replacement of policies improperly placed with an unauthorized insurer with policies issued by an authorized insurer. Violations may result in suspension or revocation of a license.

History.—Rem. Supp. 1947, § 45.15.02; Laws 1947, c. 79, § .15.02; 1980, c. 102, § 2; 1983, 1st ex. s., c. 32, § 3; 1992, c. 149, § 1; 2003, c. 250 (SB 5641), § 2, eff. 7-27-2003.

RCW 48.15.023 Penalties for violations

(1) As used in this section, "person" has the same meaning as in RCW 48.01.070.

(2) For the purpose of this section, an act is committed in this state if it is committed, in whole or in part, in the state of Washington, or affects persons or property within the state and relates to or involves an insurance contract.

(3) Any person who knowingly violates RCW 48.15.020(1) is guilty of a class B felony punishable under chapter 9A.20 RCW.

(4) Any criminal penalty imposed under this section is in addition to, and not in lieu of, any other civil or administrative penalty or sanction otherwise authorized under state law.

(5)(a) If the commissioner has cause to believe that any person has violated the provisions of RCW 48.15.020(1), the commissioner may:

(i) Issue and enforce a cease and desist order in accordance with the provisions of RCW 48.02.080; and/or

(ii) Assess a civil penalty of not more than twenty-five thousand dollars for each violation, after providing notice and an opportunity for a hearing in accordance with chapters 34.05 and 48.04 RCW.

(b) Upon failure to pay a civil penalty when due, the attorney general may bring a civil action on behalf of the commissioner to recover the unpaid penalty. Any amounts collected by the commissioner must be paid to the state treasurer for the account of the general fund.

History.—Laws 2003, c. 250 (SB 5641), § 3, eff. 7-27-2003.

RCW 48.15.030 Voidable contracts

A contract of insurance effectuated by an unauthorized insurer in violation of the provisions of this code shall be voidable except at the instance of the insurer.

History.—Rem. Supp. 1947, 45.15.03; Laws 1947, c. 79, .15.03.

RCW 48.15.040 Conditions for procurement of surplus line coverage

If certain insurance coverages cannot be procured from authorized insurers, such coverages, hereinafter designated as "surplus lines," may be procured from unauthorized insurers subject to the following conditions:

(1) The insurance must be procured through a licensed surplus line broker.

(2) The insurance must not be procurable, after diligent effort has been made to do so from among a majority of the insurers authorized to transact that kind of insurance in this state.

(3) Coverage shall not be procured from an unauthorized insurer for the purpose of securing a lower premium rate than would be accepted by any authorized insurer nor to secure any other competitive advantage.

(4) The commissioner may by regulation establish the degree of effort required to comply with subsections (2) and (3) of this section.

(5) At the time of the procuring of any such insurance an affidavit setting forth the facts referred to in subsections (2) and (3) of this section must be executed by the surplus line broker. Such affidavit shall be filed with the commissioner within thirty days after the insurance is procured.

History.—Rem. Supp. 1947, 45.15.04; Laws 1947, c. 79, § .15.04; 1983, 1st ex. s., c. 32, § 4.

RCW 48.15.050 Required endorsement on surplus line contract

Every insurance contract procured and delivered as a surplus line coverage pursuant to this chapter shall have stamped upon it and be initialed by or bear the name of the surplus line broker who procured it, the following:

"This contract is registered and delivered as a surplus line coverage under the insurance code of the state of Washington, enacted in 1947."

History.—Rem. Supp. 1947, 45.15.05; Laws 1947, c. 79, § .15.05.

RCW 48.15.060 Enforceability of contracts

Insurance contracts procured as surplus line coverage from unauthorized insurers in accordance with this chapter shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

History.—Rem. Supp. 1947, § 45.15.06; Laws 1947, c. 79, .15.06.

RCW 48.15.070 Licensing of surplus line brokers

Text of section effective until July 1, 2009

~~Any individual while a resident of this state, or any firm or any corporation that has in its employ a qualified individual who is a resident of this state and who is authorized to exercise the powers of the firm or corporation, deemed by the commissioner to be competent and trustworthy, and while maintaining an office at a designated location in this state, may be licensed as a surplus line broker in accordance with this section.~~

~~———— (1) Application to the commissioner for the license shall be made on forms furnished by the commissioner. As part of, or in connection with, this application, the applicant shall furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any governmental agency or entity authorized to receive this information for a state and national criminal history background check; personal history; experience; business records; purposes; and other pertinent information, as the commissioner may reasonably require.~~

~~———— (2) The license shall expire if not timely renewed. Surplus line brokers licenses shall be valid for the time period established by the commissioner unless suspended or revoked at an earlier date.~~

~~———— (3) Prior to issuance of license the applicant shall file with the commissioner a bond in favor of the state of Washington in the penal sum of twenty thousand dollars, with authorized corporate sureties approved by the commissioner, conditioned that he or she will conduct business under the license in accordance with the provisions of this chapter and that he or she will promptly remit the taxes provided by RCW 48.15.120. The licensee shall maintain such bond in force for as long as the license remains in effect.~~

~~———— (4) Every applicant for a surplus line broker's license or for the renewal of a surplus line broker's license shall file with the application or request for renewal a bond in favor of the people of the state of Washington, executed by an authorized corporate surety approved by the commissioner, in the amount of one hundred thousand dollars and shall be the bonding requirement for new licensees. The licensee shall maintain such bond in force while so licensed. The bond may be continuous in form, and total aggregate liability~~

~~on the bond may be limited to the amount stated in the bond. The bond shall be contingent on the accounting by the surplus line broker to any person requesting such broker to obtain insurance, for moneys or premiums collected in connection therewith. A bond issued in accordance with RCW 48.17.250 or with this subsection will satisfy the requirements of both RCW 48.17.250 and this subsection if the limit of liability is not less than the greater of the requirement of RCW 48.17.250 or the requirement of this subsection.~~

~~———— (5) Any bond issued pursuant to subsection (3) or (4) of this section shall remain in force until the surety is released from liability by the commissioner, or until the bond is canceled by the surety. Without prejudice to any liability accrued prior to such cancellation, the surety may cancel the bond upon thirty days' advance notice in writing filed with the commissioner.~~

~~———— (6) If in the process of verifying fingerprints under subsection (1) of this section, business records, or other information the commissioner's office incurs fees or charges from another governmental agency or from a business firm, the amount of the fees or charges shall be paid to the commissioner's office by the applicant.~~

~~———— (7) For the purposes of this section, a "qualified individual" is a natural person who has met all the requirements that must be met by an individual surplus line broker.~~

Text of section effective July 1, 2009

Any individual while a resident of this state, or any firm or any corporation that has in its employ a qualified individual who is a resident of this state and who is authorized to exercise the powers of the firm or corporation, deemed by the commissioner to be competent and trustworthy, and while maintaining an office at a designated location in this state, may be licensed as a surplus line broker in accordance with this section.

(1) Application to the commissioner for the license shall be made on forms furnished by the commissioner. As part of, or in connection with, this application, the applicant shall furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any governmental agency or entity authorized to receive this information for a state and national criminal history background check; personal history; experience; business records; purposes; and other pertinent information, as the commissioner may reasonably require. If in the process of verifying fingerprints, business records, or other information, the commissioner's office incurs fees or charges from another governmental agency or from a business firm, the amount of the fees or charges shall be paid to the commissioner's office by the applicant.

(2) Every surplus line broker licensed under this chapter must maintain a bond in favor of the state of Washington in the penal sum of twenty thousand dollars, with authorized corporate sureties approved by the commissioner, conditioned that the licensee will conduct business under the license in accordance with the provisions of this chapter and that the licensee will promptly remit the taxes provided by RCW 48.15.120. The licensee shall maintain such bond in force for as long as the license remains in effect.

(3) Every surplus line broker licensed under this chapter must maintain in force while so licensed a bond in favor of the people of the state of Washington or a named insured such that the people of the state are covered by the bond, executed by an authorized corporate surety approved by the commissioner, in the amount of two thousand five hundred dollars, or five percent of the premiums from placement of coverage with surplus line insurers in the previous calendar year, whichever is greater, but not to exceed one hundred thousand dollars total aggregate liability. The bond may be

continuous in form, and total aggregate liability on the bond may be limited to the required amount of the bond. The bond shall be contingent on the accounting by the surplus line broker to any person requesting the broker to obtain insurance, for moneys or premiums collected in connection therewith. A bond issued in accordance with RCW 48.17.250 or with this subsection will satisfy the requirements of both RCW 48.17.250 and this subsection if the limit of liability is not less than the greater of the requirement of RCW 48.17.250 or the requirement of this subsection.

(4) Authorized surplus line brokers of a business entity may meet the requirements of subsection (3) of this section with a bond in the name of the business entity, continuous in form, and in the amount set forth in subsection (3) of this section.

(5) Surplus line brokers may meet the requirements of this section with a bond in the name of an association. The association must have been in existence for five years, have common membership, and have been formed for a purpose other than obtaining a bond. An individual surplus line broker remains responsible for assuring that a bond is in effect and is for the correct amount.

(6) Members of an association may meet the requirements of subsection (3) of this section with a bond in the name of the association that is continuous in form and in the amounts set forth in subsection (3) of this section for each participating member.

(7) The surety may cancel the bond and be released from further liability thereunder upon thirty days' written notice in advance to the principal. The cancellation does not affect any liability incurred or accrued under the bond before the termination of the thirty-day period.

(8) Failure to have and maintain the bonds required under subsections (2) and (3) of this section is grounds for revocation of a license under RCW 48.15.140.

(9) If a party injured under the terms of the bond required under subsection (3) of this section requests the surplus line broker to provide the name of the surety and the bond number, the surplus line broker must provide the information within three working days after receiving the request.

(10) All records relating to the bonds required by this section must be kept available and open to the inspection of the commissioner at any business time.

(11) A surplus line broker's license expires if not timely renewed. Surplus line broker licenses are valid for the time period established by the commissioner unless suspended or revoked at an earlier date.

(12) Subject to the right of the commissioner to suspend, revoke, or refuse to renew any surplus line broker's license as provided in this title, the license may be renewed into another like period by filing with the commissioner by any means acceptable to the commissioner on or before the expiration date a request, by or on behalf of the licensee, for the renewal accompanied by payment of the renewal fee as specified in RCW 48.14.010.

(13) If the request and fee for renewal of a surplus line broker's license are filed with the commissioner prior to expiration of the existing license, the licensee may continue to act under the license, unless sooner revoked or suspended, until the issuance of a renewal license, or until the expiration of fifteen days after the commissioner has refused to renew the license and has mailed notification of the refusal to the licensee. If the request and fee for the license are not received by the expiration date, the authority conferred by the license ends on the expiration date.

(14) If the request for renewal of a surplus line broker's license and payment of the fee are not received by the commissioner prior to the expiration date, the applicant for renewal shall pay to the commissioner in addition to the renewal fee, a surcharge as follows:

(a) For the first thirty days or part thereof of delinquency, the surcharge is fifty percent of the renewal fee; and

(b) For the next thirty days or part thereof of delinquency, the surcharge is one hundred percent of the renewal fee.

(15) If the request for renewal of a surplus line broker's license and payment of the renewal fee are not received by the commissioner after sixty days but prior to twelve months after the expiration date, the application shall be for reinstatement of the license and the applicant for reinstatement shall pay to the commissioner the license fee and a surcharge of two hundred percent of the license fee.

(16) Subsections (14) and (15) of this section do not exempt any person from any penalty provided by law for transacting business without a valid and subsisting license.

(17) An individual surplus line broker who allows his or her license to lapse may, within twelve months after the expiration date, reinstate the same license without the necessity of passing a written examination.

(18) For the purposes of this section, a "qualified individual" is a natural person who has met all the requirements that must be met by an individual surplus line broker.

(19) The commissioner may require any documents reasonably necessary to verify the information contained in an application and may, from time to time, require any licensed surplus line broker to produce the information called for in an application for license.

History.—Rem. Supp. 1947, § 45.15.07; Laws 1947, c. 79, § .15.07; 1959, c. 225, § 4; 1977, ex. s., c. 182, § 2; 1979, ex. s., c. 130, § 3; 1980, c. 102, § 3; 1981, c. 199, § 1; 1982, c. 181, § 5; 1983, 1st ex. s., c. 32, § 24; 1994, c. 131, § 3; 2002, c. 227 (HB 2550), § 3, eff. 3-28-2002; 2009, HB 1568, s 3, off. 7-1-2009.

RCW 48.15.073 Nonresident licensing

(1) The commissioner may license as a surplus line broker a person who is otherwise qualified under this code but who is not a resident of this state, if by the laws of the state or province of his or her residence or domicile a similar privilege is extended to residents of this state.

(2) A person under subsection (1) of this section must meet the same qualifications, other than residency, as any other person seeking to be licensed as a surplus line broker under this chapter. A person granted a nonresident surplus line broker's license must have all the same responsibilities as any other surplus line broker and is subject to the (a) commissioner's supervision as though resident in this state and (b) rules adopted under this chapter.

Text of subsections (3) and (4) effective July 1, 2009

(3) A nonresident surplus line broker's license: (a) Expires and (b) is subject to the same renewal and fee requirements for renewal as a resident surplus line broker licensed under RCW 48.15.070.

(4) Each licensed nonresident surplus line broker shall appoint the commissioner as the surplus line broker's attorney to receive service of legal process issued against the surplus line broker in this state upon causes of action arising within this state. Service upon the commissioner as attorney constitutes effective legal service upon the surplus line broker.

(a) The appointment is irrevocable for as long as there could be any cause of action against the surplus line broker arising out of the surplus line broker's insurance transactions in this state.

(b) Duplicate copies of legal process against a surplus line broker shall be served upon the commissioner either by a person competent to serve a summons, or through registered mail. At the time of service the plaintiff shall pay to the commissioner ten dollars, taxable as costs in the action.

(c) Upon receiving service, the commissioner shall immediately send one of the copies of the process, by registered mail with return receipt requested, to the defendant surplus line broker at the surplus line broker's last address of record with the commissioner.

(d) The commissioner shall keep a record of the day and hour of service upon the commissioner of all legal process. Proceedings may not be had against the defendant surplus line broker and the defendant is not required to appear, plead, or answer until the expiration of forty days after the date of service upon the commissioner.

History.—Laws 2001, c. 91, § 1, eff. 7-22-2001; 2009, JIB 1568, s 4, eff. 7-1-2009.

RCW 48.15.080 Acceptance of business by surplus line brokers

Text of section effective until July 1, 2009

~~A licensed surplus line broker may accept and place surplus line business for any insurance agent or broker licensed in this state for the kind of insurance involved, and may compensate such agent or broker therefor.~~

Text of section effective July 1, 2009

A licensed surplus line broker may accept and place surplus line business for any insurance producer licensed in this state for the kind of insurance involved, and may compensate that insurance producer therefor.

History.—Rem. Supp. 1947, § 45.15.08; Laws 1947, c. 79, § .15.08; 2008, SB 6591, s 9, eff. 7-1-2009.

RCW 48.15.085 Insurer's liability fro losses and unearned premium

(1) If pursuant to the surplus lines provisions of this chapter an insurer has assumed direct risk under a coverage and the premium therefor has been paid to the broker who placed such insurance, the insurer shall be liable to the insured for unearned premiums payable upon cancellation of the insurance, whether or not the broker is indebted to the insurer for such premium or otherwise. This provision shall not affect rights as between the insurer and the broker.

(2) Each such insurer shall be deemed to have subjected itself to this section by acceptance of such direct risk.

History.—Laws 1959, c. 225, § 5.

RCW 48.15.090 Solvency requirements

(1) A surplus line broker shall not knowingly place surplus line insurance with insurers unsound financially. The surplus line broker shall ascertain the financial condition of the unauthorized insurer, and maintain written evidence thereof, before placing insurance therewith. The surplus line broker shall not so insure with:

(a) Any foreign insurer having less than six million dollars of capital and surplus or substantially equivalent capital funds, of which not less than one million five hundred thousand dollars is capital; or

(b) Any alien insurer having less than six million dollars of capital and surplus or substantially equivalent capital funds. By January 1, 1992, this requirement shall be increased to twelve million five hundred thousand dollars. By January 1, 1993, this requirement shall be further increased to fifteen million dollars.

Such alien insurers must have in force in the United States an irrevocable trust fund, in a qualified United States financial institution, on behalf of United States policyholders of not less than five million four hundred thousand dollars and consisting of cash, securities, letters of credit, or of investments of substantially the same character and quality as those which are eligible investments for the capital and statutory reserves of admitted insurers authorized to write like kinds of insurance in this state.

There must be on file with the commissioner a copy of the trust, certified by the trustee, evidencing a subsisting trust fund deposit having an expiration date which at no time shall be less than five years after the date of creation of the trust. Such trust fund shall be included in the calculation of the insurer's capital and surplus or its equivalents; or

(c) Any group including incorporated and individual insurers maintaining a trust fund of less than fifty million dollars as security to the full amount thereof for all policyholders in the United States of each member of the group, and such trust shall likewise comply with the terms and conditions established in (b) of this subsection for an alien insurer; or

(d) Any insurance exchange created by the laws of an individual state, maintaining capital and surplus, or substantially equivalent capital funds of less than fifty million dollars in the aggregate. For insurance exchanges which maintain funds 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 six million dollars. In the event the insurance exchange does not maintain funds for the protection of all insurance exchange policyholders, each individual syndicate shall meet the minimum capital and surplus requirements of (a) of this subsection.

(2) The commissioner may, by rule:

(a) Increase the financial requirements under subsection (1) of this section by not more than one million dollars in any twelve-month period, but in no case may the requirements exceed fifteen million dollars; or

(b) Prescribe the terms under which the foregoing financial requirements may be waived in circumstances where insurance cannot be otherwise procured on risks located in this state.

(3) For any violation of this section the surplus line broker may be fined not less than one hundred dollars or more than five thousand dollars, and in addition to or in lieu thereof the surplus line broker's license may be revoked, suspended, or nonrenewed.

History.—Rem. Supp. 1947, § 45.15.09; Laws 1947, c. 79, § .15.09; 1955, c. 303, § 5; 1969, ex. s., c. 241, § 10; 1975, 1st ex. s., c. 266, § 6; 1980, c. 102, § 4; 1991, sp. s., c. 5, § 2; 1994, c. 86, § 2; 1997, c. 89, § 1, eff. 6-1-98.

RCW 48.15.100 Broker's contract records

Text of subsection (1)(intro) effective until July 1, 2009

~~— (1) Each licensed surplus line broker shall keep a full and true record of each surplus line contract procured by him including a copy of the daily report, if any, showing such of the following items as may be applicable:~~

Text of subsection (1)(intro) effective July 1, 2009

(1) Each licensed surplus line broker shall keep a full and true record of each surplus line contract procured by him or her including a copy of the daily report, if any, showing such of the following items as may be applicable:

- (a) Amount of the insurance;
- (b) Gross premiums charged;
- (c) Return premium paid, if any;
- (d) Rate of premium charged upon the several items of property;
- (e) Effective date of the contract, and the terms thereof;
- (f) Name and address of the insurer;
- (g) Name and address of the insured;
- (h) Brief general description of property insured and where located;
- (i) Other information as may be required by the commissioner.

(2) All such records as to any particular transaction shall be kept available and open to the inspection of the commissioner at any business time during the five years next following the date of completion of such transaction.

Text of subsection (3) effective July 1, 2009

(3) For the purpose of ascertaining its condition, or compliance with this title, the commissioner may as often as he or she deems advisable, examine the accounts, records, documents, and transactions of any surplus line broker as set forth in chapter 48.03 RCW.

History.—Rem. Supp. 1947, § 45.15.10; Laws 1947, c. 79, § .15.10; 1955, c. 303, § 6; 2009, HE 1568, s 5, eff. 7-1-2009.

RCW 48.15.110 Annual statement

(1) Each surplus line broker shall on or before the first day of March of each year file with the commissioner a verified statement of all surplus line insurance transacted by him during the preceding calendar year.

(2) The statement shall be on forms as prescribed and furnished by the commissioner and shall show:

- (a) Aggregate of net premiums;
- (b) Additional information as required by the commissioner.

History.—Rem. Supp. 1947, 45.15.11; Laws 1947, c. 79, § .15.11; 1955, c. 303, § 7; 2009, SE 5038, s 7058, eff. 7-26-2009.

RCW 48.15.120 Surplus Lines premium tax

(1) On or before the first day of March of each year each surplus line broker shall remit to the state treasurer through the commissioner a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by him during the preceding calendar year as shown by his annual statement filed with the commissioner, and at the same rate as is applicable to the premiums of authorized foreign insurers under this code. Such tax when collected shall be credited to the general fund.

(2) If a surplus line policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

History.—Rem. Supp. 1947, § 45.15.12; Laws 1947, c. 79, § .15.12; 2009, SB 5038, s 7059, eff. 7-26-2009.

RCW 48.15.130 Failure to file annual statement or to remit tax

If any surplus line broker fails to file his or her annual statement, or fails to remit the tax provided by RCW 48.15.120, by the last day of the month in which the tax becomes due, the surplus line broker must pay the penalties provided in RCW 48.14.060(1). The tax may be collected by distraint, or the tax and fine may be recovered by an action instituted by the commissioner in any court of competent jurisdiction. Any fine collected by the commissioner must be paid to the state treasurer and credited to the general fund.

History.—Rem. Supp. 1947, § 45.15.13; Laws 1947, c. 79, § .15.13; 1980, c. 102, § 5; 1983, 1st ex. s., c. 32, § 5; 2003, c. 341 (HB 2040), § 2, eff. 7-27-2003.

RCW 48.15.140 Revocation, suspension, or nonrenewal of license

Text of section effective until July 1, 2009

~~———— (1) The commissioner may revoke, suspend, or refuse to renew any surplus line broker's license:~~

~~———— (a) If the surplus line broker fails to file his annual statement or to remit the tax as required by this chapter; or~~

~~———— (b) If the surplus line broker fails to maintain an office in this state, or to keep the records, or to allow the commissioner to examine his records as required by this chapter; or~~

~~———— (c) For any of the causes for which a broker's license may be revoked under chapter 48.17 RCW.~~

~~———— (2) The commissioner may suspend or revoke any such license whenever he deems suspension or revocation to be for the best interests of the people of this state.~~

~~———— (3) The procedures provided by this code for the suspension or revocation of general brokers' licenses shall be applicable to suspension or revocation of a surplus line broker's license.~~

~~———— (4) No broker whose license has been so revoked shall again be so licensed within one year thereafter, nor until any fines or delinquent taxes owing by him have been paid.~~

Text of section effective July 1, 2009

(1) The commissioner may place on probation, revoke, suspend, or refuse to renew any surplus line broker's license, or may levy a civil penalty in accordance with RCW 48.17.560 or any combination of actions, for any one or more of the following causes:

(a) If the surplus line broker fails to file the licensee's annual statement or to remit the tax as required by this chapter; or

(b) If the surplus line broker fails to maintain an office in this state, or to keep the records, or to allow the commissioner to examine the licensee's records as required by this chapter; or

(c) For any of the causes for which an insurance producer's license may be revoked under chapter 48.17 RCW.

(2) The commissioner may suspend or revoke any such license whenever he or she deems suspension or revocation to be for the best interests of the people of this state.

(3) The procedures provided by this code for the suspension or revocation of insurance producers' licenses shall be applicable to suspension or revocation of a surplus line broker's license.

(4) A surplus line broker whose license has been so revoked shall not again be so licensed within one year thereafter, nor until any fines or delinquent taxes owing by the formal licensee have been paid.

History.—Rem. Supp. 1947, § 45.15.14; Laws 1947, c. 79, § .15.14; 1980, c. 102, § 6; 2008, SB 6591, s 10, eff. 7-1-2009; 2009, HB 1568, s 7, eff. 7-1-2009.

RCW 48.15.150 Service of process against surplus line insurer

(1) An unauthorized insurer shall be sued, upon any cause of action arising in this state under any contract issued by it as a surplus line contract, pursuant to this chapter, in the superior court of the county in which the cause of action arose.

(2) Service of legal process against the insurer may be made in any such action by service upon the commissioner of duplicate copies of such legal process either by a person competent to serve a summons or by registered mail or certified mail with return receipt requested. At the time of such service the plaintiff shall pay to the commissioner ten dollars, taxable as costs in the action. The commissioner shall forthwith mail the documents of process served, or a true copy thereof, to the insurer at its principal place of business last known to the commissioner, or to the person designated by the insurer for that purpose in the most recent document filed with the commissioner, on forms prescribed by the commissioner, by prepaid registered or certified mail with return receipt requested. The insurer shall have forty days from the date of service upon the commissioner within which to plead, answer, or otherwise defend the action. Upon service of process upon the commissioner in accordance with this provision, the court shall be deemed to have jurisdiction in personam of the insurer.

(3) An unauthorized insurer issuing such policy shall be deemed thereby to have authorized service of process against it in the manner and to the effect as provided in this section. Any such policy shall contain a provision designating the commissioner as the person upon whom service of process may be made.

History.—Rem. Supp. 1947, § 45.15.15; Laws 1947, c. 79, § .15.15; 1955, c. 303, § 8; 1963, c. 195, § 16; 1979, ex. s., c. 199, § 4.

RCW 48.15.160 Exemptions from surplus line requirements

Text of subsection (1) effective until July 1, 2009

~~(1) The provisions of this chapter controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed agents or brokers of this state:~~

Text of subsection (1) effective July 1, 2009

(1) The provisions of this chapter controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed insurance producers of this state:

- (a) Ocean marine and foreign trade insurances.
- (b) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.
- (c) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.
- (d) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in schedule interstate flight, or cargo of such aircraft, or against liability, other than workers' compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

Text of subsection (2) effective until July 1, 2009

~~(2) Agents and brokers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this chapter and shall meet the requirements imposed upon a surplus line broker pursuant to RCW 48.15.090 and any regulations adopted thereunder. The record shall be preserved for not less than five years from the effective date of the insurance and shall be kept available in this state and open to the examination of the commissioner. The agent or broker shall furnish to the commissioner at the commissioner's request and on forms as designated and furnished by him or her a report of all such coverages so placed in a designated calendar year.~~

Text of subsection (2) effective July 1, 2009

(2) Insurance producers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this chapter and shall meet the requirements imposed upon a surplus line broker pursuant to RCW 48.15.090 and any regulations adopted thereunder. The record shall be preserved for not less than five years from the effective date of the insurance and shall be kept available in this state and open to the examination of the commissioner. The insurance producer shall furnish to the commissioner at the commissioner's request and on forms as designated and furnished by him or her a report of all such coverages so placed in a designated calendar year.

RCW 48.15.170 Production of records on order

Every person for whom insurance has been placed with an unauthorized insurer pursuant to or in violation of this chapter shall, upon the commissioner's order, produce for his examination all policies and other documents evidencing the insurance, and shall disclose to the commissioner the amount of the gross premiums paid or agreed to be paid for the insurance. For each refusal to obey such order, such person shall be liable to a fine of not more than five hundred dollars.

History.—Rem. Supp. 1947, § 45.15.17; Laws 1947, c. 79, § .15.17; 2009, SB 5038, s 7060, eff. 7-26-2009.