

**NEW HAMPSHIRE INSURANCE DEPARTMENT  
SURPLUS LINES INFORMATION  
NH RSA 405**

**Definitions**

**Surplus Lines Policies (Excess & Omission Policies)** – When an individual or company/corporation is unable to obtain insurance coverage through a licensed insurance company in the State of New Hampshire, the Department of Insurance provides for such insurance through unlicensed companies that have been approved (“white listed”) to offer this insurance coverage. These companies are reviewed for financial and market conduct stability before being added to the Department’s approved list. This list is usually updated annually, but sometimes it is necessary to be updated more frequently.

**Types of Surplus Lines Policies** – An agent/producer must first try to place the business through three licensed companies before going to the surplus lines market. Surplus lines policies usually cover such things as carnival rides, go-carts, jewelry, art, empty buildings, officer/director liability, antiques, etc. (no life and health). Recently, licensed companies have been refusing to insure homeowners for various reasons, ranging from possessing trampolines to certain pets, resulting in the rapid increase of the surplus lines market.

**Licensed Agents/Producers need surplus lines authority** in order to sell surplus lines policies. Agents/producers who are licensed in New Hampshire but do not have the authority to sell surplus lines products (policies) may not sell surplus lines insurance. If they do, this is considered unauthorized insurance and the premium tax rate, which is normally 2%, increases to 3 or 4%, depending on the type of unauthorized business.

**Policyholder protection** – Anyone purchasing surplus lines insurance needs to be made aware that should the surplus lines company they are using become insolvent, the Guaranty Fund, which protects policyholders utilizing licensed companies in New Hampshire, will not be available to them. Effective July 4, 1986, RSA 405:24 requires every surplus lines producer shall have stamped on the face of the binder or policy the following: “The company issuing this policy is an eligible surplus lines insurer in the State of New Hampshire and the rates charged and policy forms used have not been approved by the Commissioner of Insurance. If the company issuing this policy becomes insolvent, the New Hampshire insurance guaranty fund shall not be liable for any claims made against the policy.” However, each surplus lines company is required to provide the Department with a security deposit for the protection of policyholders before being added to the approved company list.

NOTE: For more information, please review New Hampshire RSA 405 on the Department’s Web Site: [www.nh.gov/insurance](http://www.nh.gov/insurance)

From the Home Page, click on Rules & Statutes. Click on Current New Hampshire Statutes, then on RSA 405 – Foreign Insurance Companies and Their Agents.