

## OKLAHOMA INSURANCE DEPARTMENT

### NOTICE

To: Surplus Lines Brokers, Property and Casualty Producers

Date: February 1, 2018

As a result of some recent confusion regarding the terms “Licensed” and “Approved”, in connection with surplus lines insurers, the Department is providing the following guidance. No surplus lines insurer may represent itself to be “licensed” to transact insurance in this state. Most surplus lines insurers readily understand the distinction between licensed and unlicensed, between admitted and nonadmitted.

Unfortunately, at some time in the distant past, the Department created a certificate, which it gratuitously issued to approved surplus lines insurers. The certificate incorporated the words “License Number” in the upper left corner and the following language:

*Whereas XYZ insurance Company, a company organized under the laws of \_\_\_\_\_, having complied with the applicable laws of Oklahoma, is hereby licensed and authorized to transact the business of Surplus Lines.*

Apparently there has been some confusion on the part of at least one surplus lines company as to whether the language quoted above confers “licensed”, meaning “admitted” or “authorized”, status on the holder of such certificate.

While the use of this language was an error on the part of the Department, there is no provision in Oklahoma law which permits the “licensing” of surplus lines companies, regardless of the issuance of a certificate stating otherwise.

Oklahoma law does authorize the Commissioner to make an affirmative finding of acceptability (approval) of a company to issue contracts of surplus line coverage.<sup>1</sup> The Department lists Approved Surplus Lines carriers on its web site and in its hard copy Annual Report.

As with the “certificate” discussed above, the Commissioner’s Annual Report utilizes a columnar heading of “Date Licensed” which refers to the date that the Commissioner found the company acceptable to issue surplus lines insurance. The use of the term “licensed” was an error on the part of the Department; however, as stated above, there is no provision in Oklahoma law which permits the “licensing” of surplus lines companies regardless of the issuance of a document stating otherwise.

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<sup>1</sup> 36 O.S. §1106

To eliminate any possible confusion caused by the use of the term “licensed” in connection with surplus lines insurers, the Department is hereby voiding all “certificates” previously issued with the above quoted italicized language. Henceforth, the list of “Approved Surplus Lines Companies”, found on the Department’s web site, will constitute the only evidence of the acceptability of United States domiciled surplus lines insurers.

The Department finds that alien (non-U.S.) companies listed on the National Association of Insurance Commissioners, Quarterly Listing of Alien Insurers are acceptable for purposes of writing surplus lines policies in Oklahoma.

**Questions applicable to this bulletin should be directed to Mr. Barron Brown or Ms. Sandra Lavenue of the Insurance Department’s Legal Division at [barron.brown@oid.ok.gov](mailto:barron.brown@oid.ok.gov) or [sandra.lavenue@oid.ok.gov](mailto:sandra.lavenue@oid.ok.gov) or 405-521-2746**