

(ii) the cost of the inspection is actually incurred by the surplus lines broker and not retained by the surplus lines broker; and

(iii) the cost of the inspection is documented and verifiable.

(5) A SURPLUS LINES BROKER THAT HOLDS A CERTIFICATE OF QUALIFICATION UNDER TITLE 3, SUBTITLE 3 OF THIS ARTICLE AND A LICENSE AS AN INSURANCE PRODUCER UNDER TITLE 10, SUBTITLE 1 OF THIS ARTICLE MAY RECOUP FROM THE PROSPECTIVE INSURED THE ACTUAL COST OF AN INSPECTION REQUIRED FOR THE PLACEMENT OF INSURANCE WITH AN AUTHORIZED INSURER IF:

(I) THE INSPECTION IS REQUIRED BY THE AUTHORIZED INSURER;

(II) THE COST OF THE INSPECTION IS ACTUALLY INCURRED BY THE SURPLUS LINES BROKER AND NOT RETAINED BY THE SURPLUS LINES BROKER; AND

(III) THE COST OF THE INSPECTION IS DOCUMENTED AND VERIFIABLE.

[(4)] (6) Regardless of the number of insurers participating on a risk:

(i) only one inspection fee may be charged to recoup the actual cost of an inspection under paragraph [(3)] (4) OR (5) of this subsection for each policy or certificate of coverage; and

(ii) only one policy fee may be charged under paragraph (1) OR (2) of this subsection for each policy or certificate of coverage.

[(5)] (7) On a form approved by the Commissioner, the surplus lines broker shall:

(i) make a clear and conspicuous written disclosure of:

1. any inspection fee;

2. the total amount of the policy fee;

3. the premium tax on the policy;

4. any financial interest in the person performing the inspection, if applicable; and

5. whether the surplus lines broker will receive compensation from the person that performs the inspection; and

(ii) notify the prospective insured of the option to obtain the inspection from another person who meets the requirements of or is approved by the surplus lines insurer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2004.

Approved May 11, 2004.