

(2) AFTER WRITTEN NOTICE OF A DETERMINATION MADE BY THE COMMISSIONER UNDER PARAGRAPH (1) OF THIS SUBSECTION IS MAILED BY THE COMMISSIONER TO QUALIFIED SURPLUS LINES BROKERS, SURPLUS LINES INSURANCE MAY NOT BE PLACED WITH THE SURPLUS LINES INSURER.

(C) KNOWLEDGE OF BROKER.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE, A SURPLUS LINES BROKER MAY NOT PLACE SURPLUS LINES INSURANCE WITH AN INSURER IF THE BROKER KNOWS, OR REASONABLY SHOULD KNOW, THAT THE INSURER IS IN AN UNSAFE OR INSOLVENT FINANCIAL CONDITION.

(D) PREVIOUS APPOINTMENT OF COMMISSIONER AS AGENT FOR SERVICE.

A QUALIFIED SURPLUS LINES BROKER MAY NOT PLACE A RISK IN AN UNAUTHORIZED INSURER THAT HAS NOT PREVIOUSLY APPOINTED THE COMMISSIONER AS AGENT FOR THE ACCEPTANCE OF SERVICE OF PROCESS.

REVISOR'S NOTE: This section is new language derived without substantive change from former Art. 48A, §§ 197 and 190(a), (c), and (d).

Subsection (a)(3) of this section is revised to state explicitly that a surplus lines broker may not place surplus lines insurance with an unauthorized insurer that has refused to pay just claims. It is based on the cross-reference, in former Art. 48A, § 190(a), to subsection (c) of former § 190, which referred to refusal to pay just claims as a ground for the Commissioner directing that surplus lines insurance not be placed with an unauthorized insurer. The Insurance Article Review Committee notes the revision of subsection (a)(3) of this section for consideration by the General Assembly.

Defined terms: "Commissioner" § 1-101

"Insurer" § 1-101

"Qualified surplus lines broker" § 3-301

"Surplus lines insurance" § 1-101

"Unauthorized insurer" § 1-101

3-320. RECEIPT OF PREMIUM BY SURPLUS LINES BROKER.

(A) UNAUTHORIZED INSURER DEEMED TO HAVE RECEIVED PREMIUM.

IN ANY QUESTION THAT ARISES UNDER THE COVERAGE BETWEEN AN UNAUTHORIZED INSURER AND THE INSURED, THE UNAUTHORIZED INSURER IS DEEMED TO HAVE RECEIVED THE PREMIUM DUE IT FOR SURPLUS LINES INSURANCE IF:

(1) THE UNAUTHORIZED INSURER HAS ASSUMED A SURPLUS LINES RISK UNDER THIS SUBTITLE; AND

(2) THE SURPLUS LINES BROKER WHO PLACED THE SURPLUS LINES INSURANCE HAS RECEIVED THE PREMIUM FOR THE SURPLUS LINES INSURANCE.

(B) LIABILITY FOR LOSSES AND UNEARNED PREMIUMS.