

# BRIDGING THE GAP:

## UNDERSTANDING FLORIDA'S EXCESS AND SURPLUS MARKET

### WHAT IS SURPLUS LINES INSURANCE?

Excess and surplus lines insurance is an alternative type of insurance coverage for consumers who cannot get coverage in the standard/admitted market. Typically, standard companies do not write policies for unusual or high risks. This may include old homes located in coastal areas, yachts, day-care liability or medical malpractice needs. The surplus lines market also provides coverage for unique risks, such as professional athletes who insure body parts.

### WHAT DO THESE FLORIDA RESIDENTS HAVE IN COMMON?

They all have insurance needs that may be uninsurable in the standard/admitted insurance market. Surplus lines insurance can help and plays an important role in Florida. Surplus lines companies write policies for hard to place risks that other insurance companies will not cover. Some examples of surplus lines coverage include coastal homes, hull and liability coverage for an expensive yacht, or liability insurance for a high-risk business.



Jane operates a home *childcare business* in Orlando.



John owns a *luxury yacht* in Tampa.



Joe lives in a *home* built on the beach overlooking the Gulf of Mexico.

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### What Makes Surplus Lines Insurance Unique?

- The Florida Insurance Guaranty Association (FIGA) does not guarantee unpaid claims of surplus lines companies. If a surplus lines company is unable to meet its financial obligations, FIGA will not assist with the payment of the policyholder's claims. Regulation of the surplus lines insurance industry is maintained through the licensing of surplus lines insurance agents.
- Many surplus lines policies have a minimum earned premium requirement. This means that regardless of the length of time you have the coverage, you will owe the minimum amount. The amount should be noted on the declarations page, the front page of your policy.
- The cost of surplus lines coverage can be more expensive than coverages sold in the standard market.
- There is usually a service fee and premium receipts tax assessed with the premium charged.

### Service Fees and Taxes

Surplus lines service fees and taxes are collected by the Florida Surplus Lines Service Office (FSLSO); a self-regulating, not-for-profit organization, created by the Florida Legislature to oversee the surplus lines industry in this state. FSLSO's chief purposes are to enhance insurance availability to consumers; provide advice and counsel for the benefit of consumers, agents, companies and government agencies; and to protect the revenues of this state. Except for coverages specifically exempt, a service fee is applicable for all surplus lines policies. This fee is collected by the agent at the time the policy is purchased. The service fee should be shown separately on the declaration page.

In addition to the service fee, a premium receipts tax of 4.94% is also assessed on the premium charged for surplus lines coverage except for coverages specifically exempt. Your agent is required to collect this amount, along with the premium at the time of delivery of the policy. This tax must be presented as a separate charge on the declarations page, and may not be waived or paid by your agent. This tax is then paid to the Florida Department of Financial Services (DFS). Most surplus lines policies also include an agent policy fee. This fee helps cover the administrative cost of the policy.

### Applicable Assessments and Surcharges

In 2002, the Florida Legislature passed a law establishing the Citizens Property Insurance Corporation (Citizens). Citizens provides insurance to homeowners in high-risk areas and others who cannot find coverage in the standard insurance market. Citizens may impact the insurance industry by charging an assessment (fee) to financially recover from an operational deficit. Assessment charges and time periods are determined by Citizens. This impacts both the admitted and nonadmitted insurance markets. FSLSO has the responsibility for collecting assessments levied by Citizens on surplus lines transactions, when applicable.

Florida law also provides the Florida Hurricane Catastrophe Fund (FHCF) the ability to assess surplus lines policyholders to pay emergency assessments in the event a deficit exists. FSLSO has the responsibility for collecting assessments levied by FHCF on surplus lines transactions, when applicable.

FSLSO is also responsible for collecting the Emergency Management Preparedness Assistance (EMPA) Trust Fund surcharge. The surcharge is \$2.00 for certain residential property coverages and \$4.00 for certain commercial property coverages.

### Minimum Earned Premium

Surplus lines policies may vary from those of the standard market. Consumers should carefully read the terms and conditions of their policy upon receipt. These policies do not have a free look period; therefore, policies are binding at the time indicated on the application receipt and/or policy. Policies cancelled before the expiration date can be charged 25% of the premium or more.

### How Do I Purchase Surplus Lines Insurance?

Surplus lines coverage is sold by licensed surplus lines agents. A general lines agent may become a Florida licensed surplus lines agent after completing training and passing the required examinations. Consumers may call the DFS Consumer helpline at 800.342.2762 to verify whether a particular agent is licensed to sell surplus lines insurance in Florida.

A general lines agent, who cannot obtain coverage for a consumer in the standard market, can contact a Florida licensed surplus lines agent to provide the coverage the consumer needs. Before choosing a surplus lines company as an option, for certain types of coverage, the law requires the agent to first receive three rejections from licensed insurers in the standard market.

## Purchasing a Policy Without a Florida Licensed Surplus Lines Agent

Independently Procured Coverage (IPC) is surplus lines coverage procured without a Florida agent involved in the transaction. The policyholder or their representative purchases coverage from an unauthorized insurer directly. IPC transactions are required to be reported to FLSO in order to account for the appropriate premium receipts tax, service fee and assessments.

A policyholder, or their representative, must report premium through FLSO's Surplus Lines Information Portal (SLIP). Users are required to create a customer account in order to file the policy data. Once the IPC transaction is submitted taxes, fees, and applicable assessments on IPC transactions are invoiced at the end of the reporting quarter and should be made payable to each respective entity. Policyholders whose information is not filed, or incorrectly filed, may be subject to civil action by DFS and may have to pay interest on any past due amounts.

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## How Do I File a Claim?

Consumers should make certain their agent is listed on the declarations page of each policy and should contact their agent directly to file a claim. If a consumer is unable to contact their agent, try contacting the company. If unable to contact either party, a consumer may contact FLSO or DFS Consumer Services for assistance. If a company is located outside of the country (an alien company), FLSO or DFS will also assist. For difficulty resolving a claim, consumers should contact the DFS Consumer Services helpline.

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## Your Rights and Responsibilities When Purchasing Surplus Lines Insurance

Consumers purchasing surplus lines insurance have certain rights and responsibilities. You are responsible for evaluating your needs and making sure the insurance company and policy you choose can meet those needs. You are responsible for verifying licenses. To verify the license of a surplus lines agent, general lines agent or company, contact the DFS Consumer Helpline.

- You have the right to a fair quote for coverage.
- You are responsible for ensuring the accuracy and completeness of information on your application, and for not signing any blank, incomplete or inaccurate forms.
- You have the right to receive copies of all forms and applications signed by you or your agent.
- You are responsible for getting a receipt of proof of coverage from your agent.

## Termination of Coverage

There are various reasons why a company may refuse to renew or cancel a policy. There is also a process a company must follow if a policy is being cancelled or nonrenewed. The provisions a company must provide include:

- **Notice of Nonrenewal**

If the company issuing a surplus lines policy decides not to renew a policy, the company must notify the policyholder in writing at least 45 days before the policy expires. The notice must state the reason(s) why the policy is not being renewed.

- **Notice of Cancellation**

If the company cancels or terminates the policy within the first 90 days the policy is in force, for any reason other than nonpayment of premium, the company must provide the consumer with 20 days written notice of cancellation. However, if the reason for termination is nonpayment of premium, the company must provide 10 days written notice of cancellation.

If false information is provided on an application, or the consumer fails to comply with the company's underwriting requirements, no notice of cancellation is required. The policy may be cancelled immediately. Failure of a financial institution to honor a check or payment may void the contract and all contractual obligations.

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Florida Department of  
Financial Services  
Consumer Helpline  
800.342.2762  
myfloridacfo.com

Florida Surplus Lines  
Service Office  
800.562.4496  
FSLSO.com