

OCT 4 2013

STATE OF ARIZONA  
DEPARTMENT OF INSURANCE

DEPT OF INSURANCE  
BY 

**In The Matter Of:**

**PROPERTY AND CASUALTY RATE AND  
FORM FILING EXEMPTIONS;  
COMMERCIAL NON-CANCELLATION  
RESTRICTION EXEMPTIONS;  
RECOGNIZED SURPLUS LINES**

**No. 13A-071-INS  
AMENDED ORDER**

**FINDINGS OF FACT**

1. The Arizona Department of Insurance held a hearing in the above-referenced matter on August 28, 2013.

2. The Insurance Director ("Director") adopted Exhibits A, B and C by order on September 13, 2013 (the September 13, 2013 Order").

3. Exhibit C of the September 13, 2013 Order contains the Surplus Lines Export List (the "List"). The List enumerates recognizes surplus lines grouped in categories of coverage.

4. The List adopted by the Director in the September 13, 2013 Order added new surplus lines to existing numerical designations which caused the previously assigned surplus lines to no longer match the numerical designations used by the Surplus Lines Association programs.

5. Instead, the new surplus lines should be given unused numerical designations.

6. The change to the List does not amend the recognized surplus lines, it only assigns unused numerical designations to the surplus lines recognized by the Director in the September 13, 2013 Order.

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**CONCLUSIONS OF LAW**

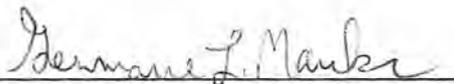
1. The Director has jurisdiction.
2. The Director may modify orders issued pursuant to Arizona Revised Statutes ("A.R.S.") § 20-409(A). A.R.S. § 20-409(B).
3. No hearing is required because the modification does not amend the list of recognized surplus lines within the meaning of A.R.S. § 20-409(B).

**ORDER**

IT IS ORDERED, re-adopting Exhibit A and B (which has been corrected to remove the word "proposed" in the footer of the exhibit) and adopting Exhibit C, as amended (in alphabetical order), which shall supersede the September 13, 2013 Order in Docket No. 13A-071-INS.

This Order is effective immediately upon filing.

DATED this 26<sup>th</sup> day of September, 2013.

  
GERMAINE L. MARKS, Director  
Arizona Department of Insurance

## Exhibit A

# RATES AND FORMS EXEMPTED FROM THE FILING REQUIREMENTS OF A.R.S. §§ 20-385 AND 20-398

Pursuant to A.R.S. § 20-385(F), the Director may order exempt from the requirements of A.R.S. § 20-385 any insurance rate, rating class, rating rule or rating program or type, the filing of which in the Director's opinion is not desirable or necessary for the protection of the public.

Pursuant to A.R.S. § 20-398(B), the Director may by order exempt from the requirements of A.R.S. § 20-398, for as long as the Director deems appropriate, any insurance form as specified in such order, to which in the Director's opinion the section may not be practicably applied, or the filing or approval of which are not desirable or necessary for the protection of the public.

The exemptions from filing requirements identified in this Order are limited to types of insurance subject to A.R.S. § 20-385(F) and 20-398(B). The rate and form filings of types of insurance subject to other sections of the A.R.S., Title 20, including but not limited to workers' compensation, title and certain types of credit insurance must be filed with the Department in accordance with the specific statutory requirements applying to them.

- I. The following rates and forms **are exempted from having to be filed** with the Director pursuant to A.R.S. §§ 20-385(F) and 20-398(B). Notwithstanding that the following do not have to be filed with the Director, all rates and forms must still comply with the applicable standards of A.R.S. §§ 20-383(A) and 20-398(A).
  - A. Commercial Casualty Insurance as defined by A.R.S. § 20-252, except as noted in II below, including, but not limited to: Boiler and Machinery, Employee Benefits Liability, Glass, Collateral Protection Insurance, Crime Insurance, Excess and Umbrella Insurance, Family Leave Insurance – except if part of credit unemployment insurance is subject to A.R.S. § 20-1609, Pet Insurance, Products Liability, Directors and Officers, Employment Practices Liability and Nuclear Insurance Products.
  - B. Marine and Transportation Insurance, as defined by A.R.S. § 20-255, including Inland Marine, Aviation and Ocean Marine Insurance.
  - C. Commercial Property Insurance, as defined by A.R.S. § 20-256, including, but not limited to: Fire and Allied Lines, Business Interruption and Difference in Conditions, Flood Insurance, Federal Crop Multi-Peril Insurance.
  - D. Commercial Fidelity and Surety Insurance, as defined by A.R.S. § 20-257, including, but not limited to, Financial Guaranty Insurance.
  - E. Guaranteed Asset Protection (GAP) Insurance and residual value filings.
  - F. Forms or rates issued by a Risk Retention Group or by any other insurer solely to a Purchasing Group.
  - G. Commercial Automobile Insurance.

- H. Consent to Rate risks, as described by A.R.S. § 20-385(E).
  - I. Businessowners Insurance rates, except as noted in II(I) below, and forms.
  - J. Any combination of the foregoing exempt rates and forms, except rates and forms which include nonexempt coverage.
  - K. Commercial Multiple Peril Insurance, except as noted in II(J) below.
  - L. Dwelling Fire Insurance.
  - M. Recreational Vehicle, Personal Watercraft, Motor Home and Travel Trailer Insurance.
  - N. Personal Umbrella Insurance.
  - O. Comprehensive Personal Liability Insurance.
  - P. Mortgage Guaranty Insurance and defined by A.R.S. § 20-1541(14).
  - Q. Adoption or delay of adoption of rate service organization's loss costs, rates, rules or forms for lines of insurance exempted by this Order.
- II. Notwithstanding the exemptions listed in I above, the following insurance company rates and forms **are not exempted** from the filing requirements of A.R.S. §§ 20-385(A) and 20-398(A).
- A. All policy rates and forms developed by a rate service organization, as defined in A.R.S. § 20-381(6) or by an advisory organization as defined in A.R.S. § 20-381(1).
  - B. Rates and forms of an insurer possessing an Arizona Certificate of Authority less than two (2) years.
  - C. Rates and forms of any insurer the Director has expressly directed to comply with the requirements of A.R.S., Title 20, Chapter 2, Article 4.1, notwithstanding the exemptions set forth in paragraph I and II of this Order.
  - D. Rates and forms of any Residual Market Mechanism or Assigned Risk Plan.
  - E. Personal insurance rates and forms and all amendments and endorsements for rates and forms applicable to homeowners, mobile homeowners, tenants, condominiums, personal automobiles, non-owned automobiles and uninsured/underinsured motorists.
  - F. Professional liability insurance issued to "health professionals" as defined in A.R.S. § 32-3201, including Medical Malpractice Insurance.
  - G. Provider Reimbursement Policies intended to insure capitated medical providers for nonreimbursed expenses incurred in connection with the treatment of members.
  - H. Crop hail Insurance other than Multiple Peril Crop Insurance Program.
  - I. Businessowners Policies involving rate decreases of -10% or more.
  - J. Commercial Multiple Peril Insurance issued to hospitals, Health Maintenance Organizations, Preferred Provider Organizations and other Health Care Centers or Service Organizations.
  - K. Nursing Home Liability, which means, for purposes of this document, liability insurance sold to any of the following facilities, whether or not for profit:
    - a. Skilled or Intermediate Care facilities
    - b. Assisted Living facilities with On Premises Care;
    - c. Rest Homes with Health Care;

- d. Personal Care facilities or Residential Homes with Skilled Care or other Health Care including Adult Foster Homes;
  - e. Convalescent Homes with Continuous Nursing or other Medical Care;
  - f. Continuing Care Retirement Communities with a Nursing Home on Campus; and/or
  - g. Any other Adult Extended Care facility that provides Nursing or other Medical care.
- L. Non-adoption of a Rate Service Organization's loss costs, rates, rules or forms.

## **Exhibit B**

### **EXEMPT POLICIES PURSUANT TO A.R.S. § 20-1671(12)**

The following are exempted from having to comply with all of the provisions of Article 14, Chapter 6, Title 20, Arizona Revised Statutes relating to cancellation or non-renewal of commercial insurance:

1. Binders or other contracts for temporary insurance made either orally or in writing. As used herein, the term "binder" means contracts for temporary insurance which do not expressly set forth all the usual terms of a policy of insurance. The term "binder" also includes applications of insurance.
2. Policies that offer retrospective rating plans.
3. Medical malpractice policies.
4. Fidelity and surety insurance policies.
5. Multiple peril crop insurance policies.
6. Crop hail insurance policies.
7. Policies issued by a Risk Retention Group or by any other insurer solely to a Risk Purchasing Group.
8. Policies as issued to an Industrial Insured as defined at A.R.S. § 20-401.07.
9. Mechanical reimbursement insurance issued to a motor vehicle dealer.
10. Pet insurance policies.
11. Credit insurance policies including, but not limited to the following:
  - a. Family Leave policies intended to provide loss of income coverage on a monthly outstanding balance basis to be issued in conjunction with a credit card to insure a creditor's debtors.
  - b. Credit Unemployment insurance policies.
  - c. Credit Property policies.
12. Guaranteed Asset Protection (GAP) policies.

The following are exempted from having to comply with A.R.S. § 20-1674(B) if they otherwise comply with the provisions of Article 14, Chapter 6, Title 20, Arizona Revised Statutes:

1. Policies subject to audit which contain provisions substantially similar to A.R.S. §§ 20-1672, 20-1673, 20-1674(A), 20-1676 and 20-1677.

**EXHIBIT C**  
**The Surplus Lines Export List**  
**Sorted Alphabetically**

CODE AH: Accident And Health

- 00. Diligent Effort Completed\*
- 01. Accidental Death (High Limits)
- 02. Air Crew Personal Accident
- 03. Athletes, Celebrities, And Show Business Personalities
- 04. Aviation Accident
- 05. Jockeys

CODE AL: Automobile Liability

- 00. Diligent Effort Completed\*
- 01. Ambulance Service
- 02. Bus Or Livery
- 03. Butane, Propane Hauling
- 04. Drive Away (Affords Coverage For The Pick Up Or Delivery Of Vehicles To Or From A Point Greater Than 50 Miles From The Dealership)
- 05. Driving School
- 06. Excess Limits
- 07. Explosive Hauling
- 08. Garbage/Refuse Trucks
- 09. Go Carts/Midget Autos
- 10. Heavy Equipment Dealers
- 11. Long Haul Trucking
- 12. Vehicles Registered in Mexico
- 13. Monoline Hired/Non-Owned Automobile
- 14. New Ventures
- 15. Racing Events
- 16. Sand/Gravel Haulers
- 17. Taxicabs
- 18. Used Car Dealers
- 19. Wrecking Companies And Wreckers, Towing Companies And Tow Trucks, Or Repossession Operations

CODE AP: Automobile Physical Damage

- 00. Diligent Effort Completed\*
- 01. Antique Or Classic Automobiles
- 02. Automobile Rental - Short Term
- 03. Butane, Propane Hauling
- 04. Drive Away (Affords Coverage For The Pick Up Or Delivery Of Vehicles To Or From A Point Greater Than 50 Miles From The Dealership)
- 05. Go Carts/Midget Autos
- 06. Heavy Equipment Dealers
- 07. Leased Motor Homes

**EXHIBIT C**  
**The Surplus Lines Export List**  
**Sorted Alphabetically**

- 08. Long Haul Truck And Trailers
- 09. Vehicles Registered in Mexico
- 10. New Ventures
- 11. Racing Events
- 12. Used Car Dealers

CODE AVL: Aviation Liability

- 00. Diligent Effort Completed\*
- 01. Air Ambulance
- 02. Air Meet And Special Events Liability
- 03. Antique Aircraft
- 04. Balloon - Hot Air And Gas
- 05. Charter Service
- 06. Chemical Spray And/Or Drift
- 07. Excess Limits
- 08. Experimental Aircraft
- 09. Fixed Base Operations (Total Aircraft Site Operations Including, But Not Limited To: Airfield; Hangar; And Aircraft Sales, Rentals, Storage, Fueling, Servicing, And Instruction.)
- 10. Hangar Keepers Legal Liability
- 11. Helicopters
- 12. Hijacking
- 13. Parachute Club And Skydiving
- 14. Slung Cargo Liability

CODE AVPD: Aircraft Physical Damage

- 00. Diligent Effort Completed\*
- 01. Antique Aircraft
- 02. Balloon - Hot Air And Gas
- 03. Charter Service
- 04. Chemical Spray And/Or Drift
- 05. Crop Dusters
- 06. Excess Limits
- 07. Helicopters

CODE FA: Fire And Allied Lines

- 00. Diligent Effort Completed\*
- 01. Air-Supported Structures
- 02. Amusement Parks And Carnivals
- 03. Bars And Taverns
- 23. Cyber or Electronic Media Risks
- 04. Developmentally Disabled Resident Services And Day Care Centers
- 05. Earthquake And Flood

**EXHIBIT C**  
**The Surplus Lines Export List**  
**Sorted Alphabetically**

- 06. Explosive Manufacturing Or Storage Or Sales
- 07. Fraternity Or Sorority Houses
- 08. Greenhouses - Wind And Hail
- 24. General Contractors, Owners, Developers, Paper Contractors or Subcontractors
- 09. Habitational Risks
  - A. Apartments
  - B. Condominiums
  - C. Dwellings-One To Four Family
  - D. Hotels/Motels
  - E. All Other
- 10. Hay In Open Or Barns When Value Exceeds \$50,000 In Each Stack Or Barn
- 11. Heavy Equipment Dealers
- 12. Mattress Manufacturing
- 25. Medical Marijuana Dispensaries/Grow Facilities
- 13. Municipalities
- 14. New Ventures
- 15. Nuclear Energy Property
- 16. Plastic Manufacturing And Sales
- 17. Restaurants Without Automatic Fire Suppression Systems Or That Do Not Meet NFPA 96 Standards
- 18. Trade Name Restoration Or Product Contamination
- 19. School Districts
- 20. Seasonal Dwellings Or Operations In Areas Without Fire Protection
- 21. Used Car Dealers
- 22. Vacant Buildings

CODE GL: General Liability

- 00. Diligent Effort Completed\*
- 01. Adult Day Care Centers
- 02. Air Meets
- 03. Alcohol/Drug Rehabilitation Centers/Programs
- 04. Amusement Parks And Carnivals (Including Rides And Devices)
- 05. Anhydrous Ammonia Dealers/ Haulers/ Applicators (Fertilizers/ Herbicide/ Pesticide)
- 06. Animal Rides
- 07. Automobile Parts Manufacturing
- 08. Automobile Wrecking Yards
- 09. Building Demolition
- 10. Building, Manufactured Housing Moving
- 11. Camps (Athletic, Seasonal, Rehabilitative, Social Services)
- 12. Child Day Care Centers
- 13. Collapse Hazard (XCU) Contractors
- 14. Crane Rental
- 15. Dentists
- 16. Detective/Private Investigation Agencies
- 17. Developmentally Disabled Resident And Day Care Centers
- 18. Dude Ranches
- 19. Environmental Exposures

**EXHIBIT C**  
**The Surplus Lines Export List**  
**Sorted Alphabetically**

20. Excess Limits
  - A. Following Form Excess Liability Policy
  - B. Umbrella Liability
21. Exercise/Health (Clubs/Spas/Fitness Centers)
22. Exhibitions/Concerts
23. Explosion Hazard Or Blasting (XCU) Contractors
24. Explosive Manufacturing Or Storage Or Sales
25. Fairgrounds/Fairs
26. Fire Suppression Systems And/Or Alarm Systems (Including Installation, Service, Or Repair)
27. Firearms Liability; Gunsmithing; Ammunition Reloading
28. Fraternities Or Sororities
29. Fuel Tank Testers
30. Garbage/Refuse Trucks
31. General Contractors, Owners, Developers, Paper Contractors Or Subcontractors
32. Go Cart Tracks
33. Ground Applicators (Chemical)
34. Group Homes (Premises Liability)
35. Habitational Risks
  - A. Apartments
  - B. Condominiums
  - C. Dwellings – One to Four Family
  - D. Hotels/Motels
  - E. All Other
36. Halfway Houses
37. Heavy Equipment Dealers
38. Heavy Equipment Repair
39. Homeowners Associations (Developer Controlled)
40. Homes For The Aged, Mentally Or Physically Handicapped
41. Horse Boarding/Stables
42. Horse Drawn Carriage Rides
43. Horse Shows
44. Hospices
45. Hospitals
46. Karate, Tai-Kwon-Do And Other Defense Schools
47. Lead Paint Remediation
48. Liquefied Petroleum Dealers
49. Liquor Liability
50. Loggers Property Damage Liability
92. Medical Marijuana Dispensaries/Grow Facilities
51. Mining
52. Municipalities
53. New Ventures
54. Nuclear Energy
55. Nutraceuticals/Dietary Supplements
56. Nurse Registries
57. Nursing Homes, Convalescent Homes, And Other Care Facilities For The Aged Or Infirm
58. Outfitters, Guides, And Whitewater Rafters
59. Participant Liability Exposures

**EXHIBIT C**  
**The Surplus Lines Export List**  
**Sorted Alphabetically**

60. Pawn Shops
61. Pest Control Applicators
62. Police Officers
63. Pollution/Contamination
64. Physicians and Surgeons
65. Products Recall Coverage
66. Radio And TV Broadcasters And Producers
67. Railroad Protection
68. Recreational Vehicles/All Terrain Vehicles/Boats /Jet Skies/Snowmobiles (Daily Rental)
69. Recycling Centers
70. Rental Facilities, Including, But Not Limited To, Recreational Equipment And Construction Equipment
71. Rodeos
72. Roofers
73. Sand Or Gravel Haulers
74. Schools (Private, Charter, or Public) and School Districts
75. Security Guards
76. Senior Citizen Centers
77. Shooting Ranges
78. Short Term Special Events
79. Skating Rinks (Roller, Ice, Skateboard, Or Rollerblade)
80. Snow Ski Operations
93. Solar Electric Installation/Generation - Commercial
81. Spectator Liability
82. Tanning Salons
83. Tattoo Or Body Art Parlors
84. Taverns/Bars (Including Liquor Liability)
85. Transportation Of Senior Citizens
86. Tree Trimming
87. Tunneling And Excavation
88. Underground Hazard (XCU) Contractors
89. Vacant Buildings Or Lots
90. Welding Operations (Portable)
94. Wind Power Electric Installation/Generation - Commercial
91. Wrecking Companies And Wreckers, Towing Companies And Tow Trucks, Or Repossession Operations

CODE IM: Inland Marine

00. Diligent Effort Completed\*
01. Boats Of All Types
02. Bridges
03. Cargo
04. Coin Dealers
12. Cyber or Electronic Media Risks
05. Fine Arts Or Personal Articles Coverage (High Values Or Unusual Items)
06. Heavy Equipment Dealers
07. Jewelers Block

**EXHIBIT C**  
**The Surplus Lines Export List**  
**Sorted Alphabetically**

- 08. Jewelry (High Values)
- 09. Mining Equipment
- 10. Tunneling Equipment
- 11. Water Pumping Equipment (Electrical/Agricultural)

CODE MS: Miscellaneous Special Lines

- 00. Diligent Effort Completed\*
- 01. Asbestos (All Coverages)
- 02. Difference In Conditions
- 03. Hole-In-One Insurance
- 04. International Exposures
- 05. Kidnap And Ransom Coverage
- 10. Monoline Crime for Cyber or Electronic Media Risks
- 06. Mortality (Livestock And Pets)
- 07. Patent, Copyright Or Trademark Infringement
- 08. Rain (Indemnification For Canceled Event Due To Rain)
- 09. Short Term Events

CODE PROD: Products

- 00. Diligent Effort Completed\*
- 01. Aircraft And Parts Manufacturing
- 02. Ammunition Reloading And Firearms
- 03. Amusement Rides/Devices (Manufacturing, Installation, Repair)
- 04. Automobile And Automobile Parts Manufacturing
- 05. Discontinued Products
- 06. Explosive Manufacturing
- 07. Fuel Tank Testers
- 08. Heavy Equipment Manufacturing/Repair
- 09. Medical Equipment
- 10. Monoline Product Liability
- 11. New Products Liability
- 12. Nutraceuticals/ Dietary Supplements
- 13. Pest Control Applicators
- 14. Pharmaceutical Manufacturers And Distributors
- 15. Plastic Manufacturing
- 16. Playground Equipment (Manufacturing, Installation, Repair)
- 17. Roofers
- 18. Sporting Goods Manufacturing
- 19. Tire Recapping
- 20. Tobacco Related Products
- 21. Toy Manufacturing

**EXHIBIT C**  
**The Surplus Lines Export List**  
**Sorted Alphabetically**

CODE PL Professional Liability And Malpractice (Including Errors And Omissions)

00. Diligent Effort Completed\*
01. Accountants
02. Actuaries
03. Adult Day Care Or Home Health Care
04. Ambulance Personnel Or Others Providing Emergency Medical Treatment
05. Architects
06. Blood/Plasma Banks
07. Charter Schools
08. Clinical Laboratories
09. Collection For Drug Testing
10. Computer Consultants
11. Counseling Programs
37. Cyber or Electronic Media Risks
12. Drug Testing Laboratories
13. Employment Practices Liability
14. Engineers And Architects
15. Environmental Consultants
16. Foster Care Agencies
17. Halfway Houses
18. Healing Arts/Alternative Medicine
19. Investment Advisors
20. Lawyers Professional Liability
21. Medical Labs/Blood Labs
22. Medical Malpractice Liability
  - a. Chiropractors
  - b. Dentists
  - c. Hospitals
  - d. Nurses
  - e. Physicians & Surgeons
  - f. All Other
23. Midwives
24. Nurse Registries
25. Nursing Homes/Convalescent Homes
  - a. Skilled Or Intermediate Care Facilities
  - b. Assisted Living Facilities With On Premises Care
  - c. Rest Homes With Health Care
  - d. Personal Care Facilities Or Residential Homes With Skilled Care Or Other Health Care Including Adult Foster Homes
  - e. Continuing Care Retirement Communities With A Nursing Home On Campus
  - f. Convalescent Homes With Continuous Nursing Or Other Medical Care
  - g. Any Other Adult Extended Care Facility That Provides Nursing Or Other Medical Care
26. Officers And Directors And Public Officials
27. Property Management
28. Psychologists/Sociologists/Counselors
29. Real Estate Agents

**EXHIBIT C**  
**The Surplus Lines Export List**  
**Sorted Alphabetically**

- 30. Real Estate Appraisers
- 31. Residential Home Inspectors
- 32. Risk Managers
- 33. School Board Legal Liability
- 34. Social Services Agencies
- 35. Surveyors
- 38. Title Agents/Abstractors
- 36. X-Ray Specialists/Technicians

\* “Diligent Effort” means having sought insurance for the same risk from at least three insurers authorized in this state to write the particular insurance coverage or type, class or kind of insurance. Arizona Revised Statutes (“ARS”) § 20-401(4).

Any portion of all of an insurance coverage designated . . . as surplus lines may be procured from unauthorized insurers subject to the following conditions: 1. The insurance is procured through a surplus lines broker licensed in this state . . . , 2. The insurance coverage is a recognized surplus line pursuant to section 20-409 or **the insurance coverage is not procurable, after diligent effort has been made to procure coverage** or the coverage has been procured to the full extent the insurers are willing to insure, and the placing of insurance with an unauthorized insurer is not for the purpose of securing advantages either as to premium rate or terms of the insurance contract. ARS § 20-407(A). (Emphasis added.)