

Article - Insurance

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§3-318.

(a) The Commissioner may not approve an insurer as a surplus lines insurer unless the insurer:

(1) is authorized in its domiciliary jurisdiction to write the type of insurance it seeks to write;

(2) has capital and surplus, or their equivalent under the laws of its domiciliary jurisdiction, equal to the greater of:

(i) the minimum capital and surplus required under the laws of its domiciliary jurisdiction; and

(ii) \$15,000,000; and

(3) files with the Commissioner the information required under subsection (c) of this section.

(b) (1) For a foreign insurer, the requirements of subsection (a)(2) of this section may be satisfied by the insurer's possessing less than the minimum capital and surplus if the Commissioner makes an affirmative finding of acceptability.

(2) The finding shall be based on the following or similar factors:

(i) quality of management;

(ii) capital and surplus of any parent company;

(iii) company underwriting profit and investment income trends;

(iv) market availability; and

(v) company record and reputation of the foreign insurer in the industry.

(3) The Commissioner may not make an affirmative finding of acceptability if the foreign insurer's capital and surplus is less than \$4,500,000.

(c) An insurer that seeks approval under subsection (a) of this section shall file each year with the Commissioner:

(1) a written request for approval as a surplus lines insurer to write the type of insurance it seeks to write;

(2) a certified copy of its annual statement, on convention form, that shows

the amount by line of surplus lines business written on risks located in the State during the period covered by the annual statement; and

(3) a certificate of compliance issued by the insurance department of the insurer's state of domicile.

(d) An unauthorized insurer shall appoint in writing the Commissioner as agent for the acceptance of service of process.

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