What is surplus lines insurance?
Surplus lines insurance is insurance placed with "unauthorized" insurers, or with a domestic insurer approved by the Commissioner to do business in Wisconsin only on a surplus lines basis, through surplus lines agents. A surplus lines agent is an agent licensed by the Commissioner to place business in surplus lines insurance.

What is an unauthorized insurer?
An unauthorized insurer is one that does not hold a valid certificate of authority to do insurance business in this state.

What risks may be placed with unauthorized insurers?
All risks, except title insurance, mortgage guaranty insurance, accident and health policies, and worker’s compensation insurance risks, may be placed with unauthorized insurers. Policyholders who are required, or choose, to participate in the Wisconsin Injured Patients and Families Compensation Fund must purchase their underlying medical malpractice coverage from an insurer licensed in Wisconsin, or with a risk retention group approved by the Commissioner to write this coverage in Wisconsin, pursuant to s. 655.23 (3) (am), Wis. Stat. This applies to policies giving first dollar coverage, policies with small or very large deductibles, and policies in the form of stop-loss or catastrophe coverage for self-insured risks.

What is an alien insurer?
An alien insurer is an insurer domiciled outside the United States.

May surplus lines agents place risks with any unauthorized insurer?
No agent shall, either knowingly or without adequate investigation of the financial condition and general reputation of the insurer, place insurance under this section with financially unsound insurers or with insurers engaging in unfair practices, or with otherwise substandard insurers, without giving the applicant notice in writing of the deficiencies of the insurer. To be financially sound, an insurer must be able to satisfy standards comparable to those applied under the laws of this state to authorized insurers.

Acceptable alien insurers are those companies listed on the quarterly listing of the National Association of Insurance Commissioners Non-Admitted Insurers Information Office, 1100 Walnut St., Ste. 1500, Kansas City, MO 64106, (816) 842-3600 (www.naic.org/prod_serv_alpha_listing.htm#quarterly_alien).

What procedures does a surplus lines agent have to follow?
Every licensed surplus lines agent who procures surplus lines insurance must promptly forward a completed copy of a surplus lines insurance proposal to the policyholder.

Every new or renewal insurance policy procured and delivered under surplus lines regulations must identify the name and address of the insurance agent who procured it and must have stamped or affixed the following:

“This insurance contract is with an insurer which has not obtained a certificate of authority to transact a regular insurance business in the state of Wisconsin, and is issued and delivered as surplus lines coverage pursuant to s. 618.41, Wis. Stat. Section 618.43 (1), Wis. Stat., requires payment by the policyholder of 3% tax on gross premium.”

The policy must include a description of the subject of insurance and indicate the coverage, conditions, and term of insurance, premium charged, premium taxes to be collected from the policyholder, and name and address of the policyholder and insurer. Upon placing new or renewal coverage under this section, the agent must promptly deliver
to the policyholder or his or her agent evidence of the insurance consisting either of the policy as issued by the insurer or, if the policy is not then available, a certificate, cover note, or other confirmation of insurance.

**What regulations are unauthorized insurers subject to?**
The placement of insurance with an unauthorized insurer, or a domestic insurer approved by the Commissioner to do business in Wisconsin only on a surplus lines basis, is subject to ss. 618.39, 618.41, 618.43, Wis. Stat., and s. Ins 6.17, Wis. Adm. Code. Risks insured by unauthorized insurers, or by a domestic insurer approved by the Commissioner to do business in Wisconsin only on a surplus lines basis, must be placed and serviced by surplus lines agents.

No person may do insurance business in this state if the person knows or should know the result is or might be the illegal placement of insurance with an unauthorized insurer or the subsequent servicing of an insurance policy illegally placed with an unauthorized insurer. Any person violating these conditions is personally liable to any claimant under the policy for any damage proximately caused by the person’s violation. Damage may include damage resulting from the necessity of placing insurance with an authorized insurer or failure of the unauthorized insurer to perform the insurance contract.

**Are surplus lines agents permitted to advertise?**
All surplus lines agents may advertise availability of their services in procuring, on behalf of persons seeking insurance, contracts with insurers not holding a certificate of authority in Wisconsin. However, these advertisements must not refer to any particular unauthorized insurer or insurers.

**What records does a surplus lines agent have to keep?**
The surplus lines agent must maintain a record of each surplus lines insurance contract, evidenced by a copy of a daily report and other documents detailed in s. Ins 6.17, Wis. Adm. Code. Records required to be maintained by the surplus lines agent shall be open at all times to examination by the Commissioner without notice and shall be kept available and open to the Commissioner for five years.

**Is surplus lines business subject to Wisconsin tax?**
Insurance business transacted under the surplus lines regulations is subject to a premium tax of 3% of gross premiums. “Gross premium” is defined as premium and any fees charged to the policyholder. All premium taxes collected by the surplus lines agent must be reported and forwarded to the Commissioner on or before March 1 for all insurance procured, renewed, or continued during the preceding calendar year with unauthorized insurers. All premium taxes collected by the surplus lines agent are the property of the state of Wisconsin. With regard to premium taxes on surplus lines business, there are no tax exemptions for any policyholder or risk, except for Indian Tribes and for federally chartered credit unions. Surplus lines agents may use the NAIC OPTins system to submit premium taxes and the tax form to Wisconsin (www.optins.org/).

For general questions relating to surplus lines issues, please send an e-mail to ocisurpluslinesfilings@wisconsin.gov.

To file a complaint online or to print a complaint form:

**OCI's Web Site**
oci.wi.gov

**Phone**
(608) 266-0103 (In Madison)
or
1-800-236-8517 (Statewide)

**Mailing Address**
Office of the Commissioner of Insurance
P.O. Box 7873
Madison, WI 53707-7873

**E-Mail**
ocicomplaints@wisconsin.gov

Please indicate your name and phone number.

Deaf, hearing, or speech impaired callers may reach OCI through WI TRS