

DEPARTMENT OF INSURANCE

OFFICE OF THE COMMISSIONER

Statutory Authority: 18 Delaware Code, Section 314 (18 Del.C. §314)
18 DE Admin. Code 1101

PROPOSED

PUBLIC NOTICE

1101 Listed Surplus Lines Carriers Intending to Establish an Office in Delaware

A. Type of Regulatory Action Required

Repeal of Existing Regulation.

B. Synopsis of Subject Matter of the Regulation

Chapter 18 of the Delaware Administrative Code at Regulation 1101 sets forth regulations that are applicable to all surplus lines insurers who wish to establish offices in the State of Delaware.

Prior to the surplus lines laws being amended to adopt the Nonadmitted and Reinsurance Reform Act in 2011, there was a provision in Chapter 19 that allowed an eligible surplus lines insurer to maintain a Delaware office in accordance with rules and regulations established by the Commissioner (prior Section 1907(c)). In accordance with former Section 1907(c), Regulation 1101 was promulgated to set forth requirements for maintaining an office in Delaware.

Since Chapter 19 was amended and former Section 1907 was removed, Regulation 1101 is outdated and should be rescinded. Since this is the only Regulation in Chapter 11 of Title 18 of the Administrative Code, the Department is also deleting the title and replacing it with the word "Reserved."

The Department does not plan to hold a public hearing on the proposed repeal of Regulation 1101. The regulation proposed for repeal appears below and can also be viewed at the Department of Insurance website at <http://insurance.delaware.gov/information/proposedregs/>.

Any person may file written comments, suggestions, briefs, and compilations of data or other materials concerning the proposed repeal of the regulation. Any written submission in response to this notice and relevant to the proposed repeal must be received by the Department of Insurance no later than 4:30 p.m. EST, the 3rd day, September, 2019. Any such requests should be directed to:

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~~1101 Listed Surplus Lines Carriers Intending to Establish an Office in Delaware~~

~~1.0 Authority and scope~~

~~Pursuant to 18 Del.C. §314, the following rules and regulations are hereby promulgated and adopted. They are applicable to all surplus lines insurers who wish to establish offices in this State.~~

~~2.0 No surplus lines insurer may maintain an office in Delaware pursuant to 18 Del.C. §1907(c) until:~~

- ~~2.1 The insurer is declared eligible to write surplus lines coverages in Delaware pursuant to 18 Del.C. §1907(b); and~~
- ~~2.2 The insurer has been authorized by the Commissioner to establish a Delaware office.~~
- ~~2.3 An eligible surplus lines insurer desiring to establish an office in Delaware shall apply to the Commissioner for authorization. In the application, the insurer shall:~~
 - ~~2.3.1 State the address of the Delaware office and the name and residence address of the person regularly in charge of that office.~~

- 2.3.2 ~~Specify whether the insurer's business at the Delaware office is to be managed by an independent agent or other person not directly employed by the insurer, and if so, the insurer shall state the name and address of the managing agent, and summarize the salient terms of the management agreement.~~
- 2.3.3 ~~Describe the surplus lines coverages proposed to be offered through the Delaware office, including kinds or types of coverage or risks, and the limits of liability to be assumed under each.~~
- 2.3.4 ~~State the ratio to be maintained between premium writings and the value of the trust funds established by the insurer for the benefit of its United States policyholders.~~
- 2.3.5 ~~Certify that the insurer will issue insurance coverage to the public only through duly licensed surplus lines brokers in accordance with the surplus lines laws and regulations of this State, and the applicable laws and regulations of other states where the insurer may lawfully do business on a surplus lines basis.~~
- 2.3.6 ~~Agree to maintain books and records at the Delaware office which accurately reflect all business affairs conducted at that office.~~
- 2.3.7 ~~Authorize the Commissioner to inspect the books, records, and affairs of the insurer as often as the Commissioner reasonably deems advisable in order to determine the nature and extent of business conducted by the insurer at its Delaware office.~~
- 2.4 ~~Upon receipt of notice that the Commissioner does not object to the application, the insurer may establish a Delaware office. However, the insurer shall not operate the office for any purpose until it deposits not less than \$50,000.00 with the Commissioner (in registered bonds, or funds in other form satisfactory to the Commissioner) for the benefit of its policyholders and creditors.~~
- 2.5 ~~Within sixty days after end of its fiscal year, every insurer maintaining a Delaware office pursuant to 18 **Del.C.** §1907(c) shall submit a report summarizing the nature and extent of business conducted during the past year by the Delaware office, and the nature and extent of business proposed to be conducted by that office during the ensuing year. In a separate section denominated "Changes," the report must specify any change or proposed change in method of operation which departs from the representations made in the application to establish the Delaware office.~~