

Michigan Office of Administrative Hearings and Rules
MOAHR-Rules@michigan.gov

**AGENCY REPORT TO THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES (JCAR)**

1. Agency Information

Agency name:

Insurance and Financial Services

Division/Bureau/Office:

Insurance

Name of person completing this form:

Catherine Hart

Phone number of person completing this form:

248-982-9425

E-mail of person completing this form:

HartC4@michigan.gov

Name of Department Regulatory Affairs Officer reviewing this form:

Jeff Hayden

2. Rule Set Information

MOAHR assigned rule set number:

2023-62 IF

Title of proposed rule set:

Surplus Lines Insurance Fees

3. Purpose for the proposed rules and background:

In its current form, the rule establishes a standard for surplus lines licensees to charge a fee of over \$50.00. The rule specifically establishes: a) categories of costs considered "unrelated to the licensee," and b) disclosure and reporting requirements for fees exceeding the \$50.00 cap. MCL 500.1915 was amended by 2020 PA 62 to eliminate the \$50.00 fee cap and to establish new fee standards and disclosure requirements for permissible fees. These amendments necessitate conforming amendments to the rule. The proposed amended rule removes language no longer relevant following the passage of 2020 PA 62 and defines expenses "unique to surplus lines" that are permitted to be included in a surplus lines insurance fee.

4. Summary of proposed rules:

Chapter 19 of the Insurance Code, MCL 500.1901, et seq., known as the "surplus lines insurance act," regulates surplus lines insurers in the state of Michigan. Chapter 19 contains certain conditions and requirements for licensees to charge policy fees to insureds. See MCL 500.1915. MCL 500.1915 was amended by 2020 PA 62 to establish new fee schedule standards for permissible fees. The proposed rule will provide consistency with Chapter 19 by striking obsolete language from the existing rule, and it defines the expenses that are "unique to surplus lines."

5. List names of newspapers in which the notice of public hearing was published and publication dates:

MCL 24.242 and 24.245

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Detroit Free Press: February 7, 2024
Escanaba Daily Press: February 7, 2024
Lansing State Journal: February 7, 2024

6. Date of publication of rules and notice of public hearing in Michigan Register:

3/1/2024

7. Date, time, and location of public hearing:

3/7/2024 10:30 AM at Ottawa Building, Conference Room #6 , 611 West Ottawa Street, Lansing, Michigan 48933

8. Provide the link the agency used to post the regulatory impact statement and cost-benefit analysis on its website:

<https://ARS.apps.lara.state.mi.us/Transaction/RFRTransaction?TransactionID=1489>

9. List of the name and title of agency representative(s) who attended the public hearing:

Jeffrey Hayden, Director, Office of Appeals, Legal Research, and Market Regulation
Huifang (Holly) Zhu, CPA, CFE, Audit Manager, Office of Insurance Licensing, Investigations, and Audit
Sherry Barrett, Surplus Lines Specialist, Office of Insurance Licensing, Investigations, and Audit
Catherine Hart, Administrative Law Specialist
Ian McLauchlan, Administrative Law Specialist

10. Persons submitting comments of support:

There were no express comments in support.

11. Persons submitting comments of opposition:

The Department received comments indicating opposition to components of the proposed rule by: John H. Meetz, Director of Government Relations, on behalf of Wholesale & Specialty Insurance Association; and Alex Houseman, Director of Government Relations, on behalf of Big I Michigan.

12. Persons submitting other comments:

There were no other comments.

13. Identify any changes made to the proposed rules based on comments received during the public comment period:

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	Name & Organization	Comments made at public hearing	Written Comments	Agency Rationale for Rule Change and Description of Change(s) Made	Rule number & citation changed
1	John Meetz, Director of Government Relations, Wholesale & Specialty		Revise/broaden the list in the rule naming specific expenses incurred for which a fee might be charged. The current list does not reflect the statutory changes in the law or the reasonable circumstances under which a surplus lines broker would need to charge a fee. It would be virtually impossible to list all the items that might be considered “unique to surplus lines.” WSIA has no issue with the rule language excluding costs incurred in maintaining offices and compensating employees.	The original R 500.1251(1) defined those expenses “unique to surplus lines,” which are not defined expenses in MCL 500.1915, as amended by 2020 PA 62. See MCL 500.1915. The agency amended R 500.1251(1) to broaden those expenses considered “unique to surplus lines,” which the agency agrees more closely adheres to the legislative intent. The agency did not adopt the commenter’s suggested language verbatim because it was not sufficiently clear and contained undefined terms.	R 500.1251 (1)

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2	Alex Houseman, Director of Government Relations, Big I Michigan		<p>Revise/broaden the list in the rule naming specific expenses incurred for which a fee might be charged. The current list does not reflect the statutory changes in the law or the reasonable circumstances under which a surplus lines broker would need to charge a fee. It would be virtually impossible to list all the items that might be considered "unique to surplus lines." Big I supports maintaining the existing language regarding the exclusion of costs incurred in maintaining offices and compensating employees.</p>	<p>The original R 500.1251(1) defined those expenses "unique to surplus lines," which are not defined expenses in MCL 500.1915, as amended by 2020 PA 62. See MCL 500.1915. The agency amended R 500.1251(1) to broaden those expenses considered "unique to surplus lines," which the agency agrees more closely adheres to the legislative intent.</p>	R 500.1251 (1)

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3	John Meetz, Director of Government Relations, Wholesale & Specialty Insurance Association		Remove language requiring the disclosure of a commission as part of the fee disclosure as it would be overly complicated and is not required by other states.	The agency revised the language contained in R 500.1215(2) with regard to commission disclosures to better reflect the intent of the rule provision, i.e., to disclose whether the fee was charged in addition to a commission, rather than disclosing the value of any commission.	R 500.1215 (2)
4	Alex Houseman, Director of Government Relations, Big I Michigan		Remove language requiring the disclosure of a commission as part of the fee disclosure as it would be overly complicated and is not required by other states.	The agency revised the language contained in R 500.1215(2) with regard to commission disclosures to better reflect the intent of the rule provision, i.e., to disclose whether the fee was charged in addition to a commission, rather than disclosing the value of any commission.	R 500.1215 (2)

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5	John Meetz, Director of Government Relations, Wholesale & Specialty Insurance Association		To ensure compliance, reiterate the statutory cap on personal lines fees within the language of the new rule.	The existing rule cross-referenced the fee limitations set forth in MCL 500.1915(1). The agency relocated the sentence referencing those limitations in the revised language in R 500.1251(1) for the purposes of clarity.	R 500.1215 (1)
6	Alex Houseman, Director of Government Relations, Big I Michigan		Either remove the reference to personal lines in the rule or incorporate the specific personal lines language currently included in the law.	The agency relocated the sentence referencing the fee limitations contained in MCL 500.1915(1) in the revised language in R 500.1251(1) for the purposes of clarity.	R 500.1215 (1)

14.Date report completed:

4/17/2024