Michigan Office of Administrative Hearings and Rules

MOAHR-Rules@michigan.gov

AGENCY REPORT TO THE JOINT COMMITEE ON ADMNINISTRATIVE 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:

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:

	Name &	Comments made at	Written	Agency Rationale	
	Organization	public hearing	Comments	for Rule Change	& citation
				and Description	changed
				of Change(s)	
				Made	
1	John Meetz,		Revise/broaden	The original R	R 500.1251
	Director of			500.1251(1)	(1)
	Government		naming specific	defined those	
	Relations,		expenses incurred		
	Wholesale &		for which a fee	to surplus lines,"	
	Specialty		might be charged.		
			The current list	defined expenses	
			does not reflect	in MCL 500.1915,	
			the statutory	as amended by	
			changes in the	2020 PA 62. See	
			law or the	MCL 500.1915.	
			reasonable	The agency	
			circumstances	amended R	
			under which a	500.1251(1) to	
			surplus lines	broaden those	
			broker would	expenses	
			need to charge a	considered	
			fee. It would be	"unique to surplus	
			virtually	lines," which the	
			impossible to list	agency agrees	
			all the items that	more closely	
			might be	adheres to the	
			considered	legislative intent.	
			"unique to	The agency did	
			surplus lines."	not adopt the	
			WSIA has no	commenter's	
			issue with the	suggested	
			rule language	language verbatim	
			excluding costs	because it was not	
			incurred in	sufficiently clear	
1			maintaining	and contained	
			offices and	undefined terms.	
			compensating		
			employees.		
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Alex Houseman, Director of Government Relations, Big I Michigan 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," which the agency agrees more closely adheres to the legislative intent. R 500.1251 (1) (1) (1) (1) (1) (1) (1) (1) (1) (2) (2) (4) (5) (1) (1) (1) (1) (1) (1) (1) (2) (4) (5) (6) (7) (1) (1) (1) (1) (1) (1) (1) (1) (1) (1	Houseman, Director of Government Relations, Big I Michigan 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 the list in the rule defined those expenses "unique to surplus lines," which are not defined expenses "which are not defined expenses "unique to surplus lines," which are not defined expenses "which are not defined expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "unique to surplus lines," which are not defined those expenses "onle of the apency are anded R sunded R unique to surplus lines," which the agency agrees more closely adheres to the legislative intent.		. 1	I ·	и .	mi :: 1 n	D 500 1251
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3	John Meetz,	Remove language	The agency	R 500.1215
	Director of	requiring the	revised the	(2)
	Government	disclosure of a	language	
	Relations,	commission as	contained in R	
	Wholesale &	part of the fee	500.1215(2) with	
	Specialty	disclosure as it	regard to	
	Insurance	would be overly	commission	
	Association	complicated and	disclosures to	
		is not required by	better reflect the	
		other states.	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.	
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			addition to a	
			commission,	
			rather than	
			disclosing the	
			value of any	
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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