

304.10-040 Conditions for export -- Exceptions relating to diligent effort.

Nonadmitted insurance sold to, solicited by, or negotiated with an insured whose home state is Kentucky, hereinafter designated "surplus lines," may be procured from a nonadmitted insurer subject to the following conditions:

- (1) The insurance must be procured through a licensed surplus lines broker.
- (2) The full amount of insurance required must not be procurable, after diligent effort by a licensed agent with a line of authority for property and casualty has been made to do so, from among the insurers authorized to transact and actually writing that kind and class of insurance in this state, and the amount of insurance exported shall be only the excess over the amount procurable from authorized insurers.
- (3) The insurance must not be so exported for the purpose of securing advantages either as to:
 - (a) A lower premium rate than would be accepted by an authorized insurer;
or
 - (b) Terms of the insurance contract.
- (4) The requirements of subsection (2) of this section related to a diligent effort shall not be required for coverage procured or placed for an exempt commercial purchaser if:
 - (a) The broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and
 - (b) The exempt commercial purchaser has subsequently requested in writing that the broker procure or place insurance from a nonadmitted insurer.

Effective: July 12, 2012

History: Amended 2012 Ky. Acts ch. 74, sec. 7, effective July 12, 2012. -- Created 1970 Ky. Acts ch. 301, subtit. 10, sec. 4, effective June 18, 1970.