

**§ 58-21-45. Evidence of the insurance; changes; penalty.**

(a) As soon as surplus lines insurance has been placed, the producing broker or surplus lines licensee shall promptly deliver the policy to the insured. If the policy is not then available, the broker or licensee shall promptly deliver to the insured a certificate described in subsection (d) of this section, cover note, binder, or other evidence of insurance. The certificate described in subsection (d), cover note, binder, or other evidence of insurance shall be executed by the surplus lines licensee and shall show the description and location of the subject of the insurance, coverages including any material limitations other than those in standard forms, a general description of the coverages of the insurance, the premium and rate charged and taxes to be collected from the insured, and the name and address of the insured and surplus lines insurer or insurers and proportion of the entire risk assumed by each, and the name of the surplus lines licensee and the licensee's license number.

(b) No producing broker or surplus lines licensee shall issue or deliver any evidence of insurance or purport to insure or represent that insurance will be or has been written by any eligible surplus lines insurer, or a nonadmitted insurer pursuant to G.S. 58-21-25, unless he has authority from the insurer to cause the risk to be insured, or has received information from the insurer in the regular course of business that such insurance has been granted.

(c) If, after delivery of any such evidence of insurance there is any change in the identity of the insurers, or the proportion of the risk assumed by any insurer, or any other material change in coverage as stated in the producing broker's or surplus lines licensee's original evidence of insurance, or in any other material as to the insurance coverage so evidenced, the producing broker or surplus lines licensee shall promptly issue and deliver to the insured an appropriate substitute for or endorsement of the original document, accurately showing the current status of the coverage and the insurers responsible thereunder.

(d) As soon as reasonably possible after the placement of any such insurance the producing broker or surplus lines licensee shall deliver a copy of the policy or, if not available, a certificate of insurance to the insured to replace any evidence of insurance previously issued. Each certificate or policy of insurance shall contain or have attached thereto a complete record of all policy insuring agreements, conditions, exclusions, clauses, endorsements, or any other material facts that would regularly be included in the policy.

(e) Any surplus lines licensee or producing broker who fails to comply with the requirements of this section shall be subject to the penalties provided in G.S. 58-21-105.

(f) Every evidence of insurance negotiated, placed, or procured under the provisions of this Article issued by the surplus lines licensee shall bear the name of the licensee and one of the following legends, whichever is applicable, in 12 point type and in contrasting color or in 12 point type and underlined and in bold print:

- (1) For nonadmitted insurers: "The insurance company with which this coverage has been placed is not licensed by the State of North Carolina and is not subject to its supervision. In the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund."
- (2) For nonadmitted domestic surplus lines insurers: "The insurance company with which this coverage has been placed is domiciled and authorized by the State of North Carolina and is subject to its supervision. However, in the event of the insolvency of the insurance company, losses under this policy will not be paid by any State insurance guaranty or solvency fund." (1985, c. 688, s. 1; 2006-105, s. 2.7; 2018-120, s. 2.1(h).)