

40-246c. Excess coverage license to effect insurance or reinsurance in nonadmitted companies; accounting of gross premiums and tax thereon; penalty. (a) On March 1 of each year, each licensed agent shall collect and pay to the commissioner a sum based on the total gross premiums charged, less any return premiums, for surplus lines insurance provided by the licensee pursuant to the license. Where the insurance covers properties, risks or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on:

- (1) An amount equal to 6% of that portion of the gross premiums allocated to this state; plus
- (2) an amount equal to the portion of the premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks or exposures located or to be performed outside of this state; less
- (3) the amount of gross premiums allocated to this state and returned to the insured.

(b) The tax on any portion of the premium unearned at termination of insurance, if any, having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker. The surplus lines licensee is prohibited from rebating any part of the tax for any reason. To the extent that other states where portions of the properties, risks or exposures reside have failed to enter into a compact or reciprocal allocation procedure with this state, the net premium tax collected shall be retained by this state.

(c) The individual responsible for filing the statement shall be the agent who signs the policy or the agent of record with the company. The commissioner of insurance shall collect double the amount of tax herein provided from any licensee or other responsible individual as herein described who shall fail, refuse or neglect to transmit the required affidavit or statement or shall fail to pay the tax imposed by this section, to the commissioner within the period specified.

History: L. 1955, ch. 242, § 2; L. 1982, ch. 198, § 2; L. 1992, ch. 154, § 3; L. 2011, ch. 61, § 9; May 19.