

Dear Colorado Surplus Lines Producer:

The Colorado Division of Insurance has a new Diligent Effort Affidavit Form, revised date 04/15/2025. Please ensure to use the updated form revised 04/15/2025. The new affidavit form can be found on the Division's website as well as on the SLAS Website:

<https://doi.colorado.gov/insurance-industry/producers/agents/surplus-lines-information-for-agents/agencies/producers/brokers>

or on the SLAS/SLIP website:

<https://slasclearinghouse.com/Documents>

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(10-5-103, C.R.S., and Colorado Insurance Regulation 2-4-1)

Before any policy of insurance can be placed by an Individual Surplus Line Broker (Producing Agent) with a nonadmitted insurer, Colorado statutes and regulations require a determination be made that the policy can not be insured with a Colorado admitted insurer. This determination is known as the diligent search.

Due diligence shall be satisfied by documentation attested to by the Individual Surplus Line Broker (Producing Agent). The documentation must demonstrate that the coverage was not procurable after a comprehensive search was made from a minimum of three admitted insurers authorized to and currently transacting that line of business in this state. If there are fewer than three admitted insurers in this state which are authorized and currently transacting the line of business needed, such diligent effort shall be met by searching the lesser market. If the Individual Surplus Line Broker (Producing Agent) can attest in writing that they are familiar with the insurance market and that a particular risk can not be placed in the admitted market, or the Individual Broker has accepted an affidavit by the Retail Agent attesting to such, then the requirement to satisfy due diligence by documentation that the coverage required was not procurable after a comprehensive search was made from a minimum of three admitted insurers shall be waived.

Placing the insurance with a nonadmitted insurer shall not be for the purpose of securing a lower premium rate than that which would be accepted by an admitted insurer unless the premium rate quoted by the admitted insurer is more than 10 percent higher than that quoted by the nonadmitted insurer for comparable coverage.

A written record documenting diligent search efforts shall be maintained by the Individual Surplus Line Broker (Producing Agent) for a period of not less than three years from the effective date of the coverage. The Individual Surplus Line Broker (Producing Agent) may rely upon representations made by an Individual Retail Agent with regard to search efforts made by the Individual Retail Agent.

Given that availability and affordability of coverage is continually changing, the determination of placement and evidence of diligent search efforts, or attestation from an Individual Retail Agent or Individual Surplus Line Broker as outlined must be made each policy period prior to placement of coverage with an eligible nonadmitted insurer.

Renee Sanchez on behalf of the Colorado Surplus Lines Desk, Colorado Division of Insurance