

RCW 48.15.180 Surplus line broker's fiduciary capacity—

Violations. (1) A surplus line broker, its representative, or any person licensed under this chapter involved in the procuring or issuance of an insurance contract and who receives any funds representing premiums or return premiums which belong to or should be paid to another person as a result of or in connection with an insurance transaction is deemed to have been received in the surplus line broker's fiduciary capacity and shall:

(a) Report to the insurer the exact amount of consideration charged as premium for the contract, and the amount shall likewise be shown in the contract and in the records of the surplus line broker;

(b) Be promptly accounted for and paid to the insured, insurer, or person entitled to the funds;

(c) Be accounted for and maintained in a separate account from all other business and personal funds and not commingle or otherwise combine premiums with any other moneys, except a surplus line broker may commingle with premium funds any additional funds as the surplus line broker may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return premiums, or for any contingencies as may arise in the surplus line broker's business of receiving and transmitting premium or return premium funds.

(2) Each willful violation of this section constitutes a misdemeanor.

(3) Any surplus line broker or other person licensed under this chapter who, not being lawfully entitled thereto, diverts or appropriates funds received in a fiduciary capacity or any portion thereof to his or her own use, is guilty of theft under chapter 9A.56 RCW. [2009 c 162 § 9.]

Effective date—2009 c 162: See note following RCW 48.03.020.