

DATE: December 12, 2011
TO: All Surplus Lines Agencies
FROM: Kenneth A. Rudert, Executive Director
SUBJECT: Changes resulting from the Non-admitted Reinsurance and Reform Act (NRRA)

As we enter into the final weeks of 2011, we would like to take the opportunity to bring some observations and comments to your attention. Clearly, the biggest event was the enactment of the Non-admitted and Reinsurance Reform Act (NRRA). The general feeling is that, for the most part, compliance with this Federal Act has made the filing process more streamlined and easier. At the same time, there are a few issues within this Law that have surfaced as problem areas.

1. On a positive note, the implementation of the "home state rule" on multi-state risks requires the surplus lines licensee to be licensed only in said "home state" of the insured. In addition, the licensee can calculate, collect and remit the tax on the full 100% of the premium to just the "home state". This eliminates the expensive, time consuming, involved, allocation of premium based on the location of risk. This is a particularly important issue on large accounts with locations in an array of states. After all, it was the cumbersome allocation of premium problem that brought about the NRRA in first place. Thankfully, when the Pennsylvania Legislature passed Act 28 and Act 29, the amendments to the Pennsylvania Surplus Lines Law adopted the NRRA in its entirety. Life is good.

The challenge that has developed is determining the "home state". As you know, PSLA always stands ready to help, but, the fact of the matter is that WE know little or nothing about YOUR client. Often, we can ask some helpful questions that may help you to make your determination, but we often find that the person responsible for making the filing also knows little about the client. Our suggestion is that the person making the filing has sufficient information available to reach a decision. This information should come from the production and/or marketing personnel in your agency or, better yet, directly from the insured.

2. We would remind all licensees to be accurate when making filings in Pennsylvania using the filing type 1610-A, especially now since this filing type is applicable to the Exempt Commercial Purchaser (ECP) for policies effective after June 30, 2011. Basically we would like to bring to your attention the requirements of the Exempt Commercial Purchaser, which are stated below.

"Exempt commercial purchaser." Any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

- (1) The person employs or retains a qualified risk manager to negotiate insurance coverage.
- (2) The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of one hundred thousand (\$100,000) dollars in the immediately preceding twelve (12) months.
- (3) (i) The person meets at least one of the following criteria:

(A) The person possesses a net worth in excess of twenty million (\$20,000,000) dollars, as adjusted under subparagraph (ii).

(B) The person generates annual revenues in excess of fifty million (\$50,000,000) dollars, as adjusted under subparagraph (ii).

(C) The person employs more than five hundred (500) full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than one thousand (1,000) employees in the aggregate.

(D) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least thirty million (\$30,000,000) dollars, as adjusted under subparagraph (ii).

(E) The person is a municipality with a population in excess of fifty thousand (50,000) persons.

(ii) Beginning January 1, 2015 and every five years thereafter, the amounts under clauses (A), (B) and (D) shall be adjusted to reflect the percentage change for the five-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor and Industry.

KAR/ds