

PSLA News

April 2008

Newsletter for the Pennsylvania Surplus Lines Association

ELECTRONIC FILING PROCESS To Become Mandatory, January 1, 2009

July, 2007 marked the one year anniversary of PSLA's deployment of the Electronic Filing System (EFS). One year ago PSLA added the option of an XML data export/import process of specific interest to those surplus lines agencies which file large numbers of transactions.

The Electronic Filing System enables surplus lines agencies to submit filings, endorsements, monthly reports and copies of the annual tax filings electronically, eliminating the need to print and mail or fax filings to PSLA. In addition, EFS allows the agency's access to its own records, enhancing the monitoring of the user's own individual activity and compliance.

As we move into 2008, the response and feedback from the users is overwhelmingly positive. Many of the surplus lines agencies who file regularly with PSLA have made the conversion to electronic filing. The number of participants increases every day. Considering the favorable response, the growing rate of participation and the efficiencies inherent in the system, the Pennsylvania Insurance Department has authorized PSLA to announce that ALL surplus lines filings and endorsements, monthly reports and copies of annual surplus lines tax returns must be filed electronically beginning January 1, 2009. This ruling is in line with and promotes the Department's and PSLA's

continuing goals to expedite the handling of information and hold the line on costs to surplus lines licensees and their insured clients.

PSLA strongly urges you register for the electronic filing feature as soon as possible and take advantage of this significantly more efficient method that will benefit your agency record keeping. For further information and a complete description of this process, visit our web site section devoted exclusively to the Electronic Filing System by **clicking here**.

If you need further assistance in this regard, please contact:

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2008 ANNUAL MEETING April 9-10, 2008 Pittsburgh Marriott City Center Hotel

Featured Speakers:

- Joel Ario - Acting Insurance Commissioner, Commonwealth of Pennsylvania
- Jack Bogut - Famous Pittsburgh Radio Personality
- Emily Huling - Nationally recognized speaker.

Commissioner Ario will speak about Federal developments affecting the surplus lines market, SLIMPACT, and Governor Rendell's Healthcare initiatives.

Information about the Annual Meeting can be found at www.pasla.org

NAIC SPRING MEETING – ORLANDO, FLORIDA

The NAIC Spring Meeting was held in Orlando, Florida from March 29-31, 2008. Topics discussed at several meetings may have an effect on surplus lines licensees.

The development of a new NAIC State Licensing Handbook (the “Handbook”) was the topic at the meeting of the State Licensing Handbook Subgroup. The Handbook contains a chapter on Surplus Lines Producer Licenses. Interested parties have until April 11th to provide comments to the NAIC. A draft of the Handbook can be found at by [clicking here](#).

The Producer Licensing Working Group (“PLWG”) met on Sunday, March 30, 2008. The PLWG discussed Producer Licensing Coalition initiatives and the working group priorities for 2008. Based upon a memo from the NAIC’s Executive Committee to The D Committee, the PLWG will evaluate certain findings and issues in the Producer Licensing Assessment Aggregate Report. These issues include the following: (1) uniform licensing standards that should be considered professional licensing standards; (2) compliance with uniform licensing standards and identification of those standards that are not generally supported by the local industry organiza-

tions at the state legislative level; (3) compliance with the uniform licensing standards to identify those standards where more specific interpretive guidance is warranted or revisions to the standards are necessary; (4) disparate business entity licensing laws, (5) and full adoption, and uniform interpretation, of the commercial lines multi-state exemption and the commission sharing exemption across all states. **Click here** to read the NAIC Producer Licensing Assessment Aggregate Report of Findings.

The NARAB (National Association of Registered Agents and Brokers) Working Group was created and will report directly to the NAIC Executive Committee. The Working Group is charged with addressing the reciprocity issues raised by the Producer Licensing Assessment Aggregate Report of Findings and providing policy direction in the area of business entity licensing and other producer licensing issues. It will also provide input and recommendations to the Executive Committee, as requested, on matter of proposed federal legislation relating to producer licensing.

SLIMPACT Surplus Lines Insurance Multi-State Compliance Compact

The final draft of SLIMPACT has been completed and will be submitted to the NAIC. Last month the SLIMPACT drafting group met with representatives of the National Conference of State Legislatures (NCSL) and briefed them about SLIMPACT. The briefing was well received and a more detailed presentation will be made to the NCSL Communications, Financial Services

and Interstate Commerce Committee in April.

Last month the SLIMPACT drafting group gave an update of SLIMPACT developments to the National Conference of State Insurance Legislators (NCOIL). NCOIL has passed a resolution supporting SLIMPACT.

UNIFORM LICENSE BILL FOR PRODUCERS INTRODUCED IN THE U.S. HOUSE

Legislation to provide for streamlined non-resident insurance agent and broker licensing while preserving the market conduct rights of individual states and their ability to supervise agent and brokers was introduced in the United States House of Representatives on March 13th.

H.R. 5611 would provide insurance agents with a national license, issued by a federally created board controlled by state regulators and industry representatives.

The National Association of Registered Agents and Brokers (“NARAB II”) is a bi-partisan measure, that would replace individual state agent licensing, was sponsored by Rep. David Scott, D-Ga., and Geoff Davis, R-Ky., has nine Democrats and seven Republicans as original co-sponsors.

Under the bill, state regulators would continue to supervise and discipline producers and would continue to enforce state consumer protection laws. Membership in NARAB would be voluntary and would not affect the rights of a nonmember producer under any state license.

The bill establishes membership criteria, which would include standards for personal qualifications, education, training and experience. NARAB member applicants would be required to undergo a national criminal background check.

Click here to read H.R. 5611.

CYBER RISK MAY TRIGGER D&O LAWSUITS: AON



Cyber risks could be the next big trigger for lawsuits against company directors according to London-based brokerage Aon Ltd.

At its Cyber Risk & Data Management Seminar

Aon warned that directors could be held responsible for loss to companies and their shareholders if they fail in their duty of

care by not taking preventative measures against risks such as phishing, improper data manipulation or data loss.

The threat to directors is universal across all sectors, Aon said in a statement, as any company that utilizes technology as a platform or for business support is exposed. But in particular, financial institutions need to be very concerned due to the dependence on the confidentiality of their data

and exposures that relate to online banking, the company added.

“We are warning directors that they could find themselves being sued by employees or shareholders for not taking appropriate measures to prevent hacking, for example, or failing to provide back up for lost data,” commented Aon’s technical director, Tom Sheffield, in a statement.

BIAS COMPLAINTS INCREASED IN 2007: EEOC

The U.S. Equal Employment Opportunity Commissions received the highest volume of discrimination charge filings in five years in 2007, the agency reported.

The federal agency received 82,792 private sector discrimination charges in 2007, compared with 75,768 in 2006. The 9% increase marks the largest annual increase since 1993.

Allegations of discrimination based on race, retaliation and gender remain the most frequently filed charges, according to

the Washington-based EEOC’s fiscal year 2007 statistics. There were 30,510 race discrimination charges filed in 2007, 12% more than in 2006.

The number of retaliation charges surpassed gender-based charges in 2007, the EEOC said. The number of retaliation charges increased 18% in 2007 to 26,663, while gender-based discrimination charges grew 7% to 24,826. The remaining charges were based on age, disability, national origin and religion.

In addition to more discrimination charges, the number of sexual harassment filings with the EEOC also increased in 2007—the first increase since 2000, the agency said. There were 12,510 sexual harassment filings made in 2007, 4% more than in 2006. At the same time, a record 16% of the sexual harassment charges were filed by men, up from 9% in the early 1990s, the EEOC said.

The EEOC’s fiscal year 2007 enforcement and litigation statistics are available online at www.eeoc.gov.

PENNSYLVANIA COURT UPHOLDS RIGHTS OF TERMINATED INSURANCE AGENTS



A recent decision by the Commonwealth Court of Pennsylvania court could have far-ranging implications on what happens to an insurance agency’s book of business if a carrier terminates its contract.

The decision, rendered in January by Judge Bonnie Brigance Leadbetter, is being considered as a bellwether case that will likely codify the process of how companies structure the run-off period following a termination.

The ruling upholds an earlier decision by the state’s insurance department.

The case centered on Everett Cash Mutual Insurance Co., which terminated its contract with the small Coatesville agency C. Kenneth Grant Inc. That termination was set to take effect in Jan. 2006. Several months before, however, the company began sending non-renewal letters to its

clients insured through Grant, saying their policies would no longer remain in effect after the anniversary date of their policies.

According to the Court’s ruling, the law required ECM to offer renewals to those clients for 12 months after Grant’s contract had been terminated.

Barry Norton, principal of the agency, said the ruling upheld the rights of agents to maintain their books of business in the face of a termination.

A copy of the Court’s decision is found by [clicking here](#).

UPDATE ON FEDERAL AND STATE LEGISLATION AFFECTING SURPLUS LINES

Nonadmitted and Reinsurance Reform Act of 2007

Sen. Mel Martinez (R-FL), a senior member of the Senate Banking Committee, said that Congress could pass a measure this year reforming and modernizing surplus lines and reinsurance industry regulation. Regarding the surplus lines bill, Sen. Martinez said a hearing—which he called a critical first step—is likely to be held on the bill

in mid-spring by the committee, with committee and floor action likely thereafter.

He noted there is no “entrenched opposition” to the bill in the Senate, and that the key to passage this year is moving action on the surplus lines bill to the top of the committee agenda.

He said key holdups to passage are congressional “apathy and lack of understanding” of the nature of the bill—something that education of members of the Senate by industry officials can overcome.

The House version of the bill, H.R. 1065, passed overwhelmingly in June 2007.

STATUS OF SURPLUS LINES BILL IN US SENATE

Representatives of Trade groups and carriers met with several US Senators on Capitol Hill in late March. Among the topics of discussion, was the pendency of Senate Bill 929, the “Nonadmitted and Reinsurance Reform Act.”

Introduced during the 2007 legislative session, the Bill passed unanimously in the House of Representatives in 2006 and 2007 and is now before the Senate Banking, Housing and Urban Affairs Committee.

Staff members of Committee members all confirm the prospects of passage are based on the extent to which the Members seek to hold hearings on broader insurance is-

issues. The recent subprime mortgage crisis, bailout of Bear Stearns by JP Morgan Chase and the Federal Reserve, Treasury Secretary Paulson’s call for greater regulation of the financial services industry, and the Optional Federal Charter legislation all are sharing the spotlight with the initiative to have multi-state surplus lines premium taxes paid to the Home State of the insured, the central essence of S929.

The other obstacle is that this is a presidential election year. The Committee’s agenda has not yet crystallized due to all the pending issues and assigning them an order of priority for consideration.

However, as the minority chief of staff for the Committee advised, the focus should now be on developing anecdotal evidence and details of the financial burdens imposed by the current paradigm. Whether the Bill moves forward in 2008 or in the next session, this underlying information will be necessary to provide a firm foundation with which to have it voted out of Committee and on to the Senate Floor for consideration.

Alabama Senator Jeff Sessions has also expressed interest in the measure and requested additional information. We will keep PSLA members fully advised of all further developments.

PAULSON PROPOSES INSURANCE AGENCY TO CUT BUREAUCRACY

On March 31st Treasury Secretary Henry Paulson proposed allowing insurance companies to select the federal government as their main regulator for the first time in more than a century as part of a plan to cut bureaucracy.

Secretary Paulson’s plan concludes that federal oversight would allow insurers more flexibility to set prices, rather than negotiate possible increases with agencies all over the country, and would end most supervision from the states, which have been the primary insurance regulators for

more than 135 years. Paulson’s proposal was part of a broader plan to overhaul U.S. financial regulation.

“Our regulatory structure severely inhibits our competitiveness,” Paulson said in remarks at the Treasury in Washington. “A state-based regulatory system is quite burdensome. It allows price controls to create market distortions.”

Paulson’s 218-page “Blueprint for Regulatory Reform” says the optional federal regulation would have a structure similar

to the current dual-chartering system for U.S. banks. The blueprint is the first by any administration to propose federalizing insurance regulation, according to a statement from the Washington-based Council of Insurance Agents & Brokers.

Paulson’s plan also suggests that Congress establish a federal Office of Insurance Oversight within the Treasury Department to handle regulation of non-U.S. insurers as an interim step toward full oversight.