



Federal Update

» Wall Street Reform and Consumer Protection Act

President Obama signed into law on July 21, 2010 a comprehensive financial services regulatory reform measure that creates a Federal Insurance Office within the Treasury Department.

The Dodd-Frank Wall Street Reform and Consumer Protection Act also streamlines the collection of surplus lines insurance premium taxes and eases qualified risk managers' access to the non admitted market.

The Non admitted and Reinsurance Reform Act of 2009 (NRRA), which is included in the Dodd-Frank Wall Street Reform and Consumer Protection Act -

- Prohibits any state other than the home state of an insured from requiring a premium tax payment for non admitted insurance.

- authorizes states to establish procedures to allocate among themselves the premium taxes paid to an insured's home state.

- declares that Congress intends that each state adopt nationwide uniform requirements, forms, and procedures, such as an interstate compact, that provide for the reporting, payment, collection, and allocation of premium taxes for non admitted insurance consistent with this Act.

- allows an insured's home state to require surplus lines brokers and certain insureds to file annual tax allocation reports detailing the portion of the non admitted insurance premiums attributable properties, risks, or exposures located in each state.

- subjects non admitted insurance solely to the regulatory requirements of the insured's home state.

- declares that only an insured's home state may require a surplus lines broker to be licensed to conduct non admitted insurance business with respect to such insured.

The June 2010 newsletter of Excess Lines Association of New York (ELANY) contains an informative article of how the Non admitted and Reinsurance Reform Act of 2009 (NRRA) will impact the surplus lines industry. [Click here](#) to download a copy of the ELANY newsletter.

» Federal Bill To Give FTC Authority to Investigate the Insurance Industry

On August 2, 2010 Senators Pryor (D-Ark.), Rockefeller (D-W.Va.) and Boxer (D-Cal.) introduced a bill that would give the Federal Trade Commission authority to conduct studies, prepare reports, and release information relating to insurance companies. This bill (S.3685), although targeted to health insurers, would cover all insurers.

» Optional Federal Charter

At the summer meeting of the National Conference of Insurance Legislators (NCOIL) last month, Rep. Barney Frank (D-Mass., chairman of the House Financial Services Committee) told state legislators that creation of an optional federal charter for insurers will be on Congress' 2011 agenda because it has strong bipartisan support.

SLIMPACT

In July PSLA, together with NAPSLO, Excess Lines Association of New York, The Surplus Line Association of Oregon, The Surplus Line Association of Illinois, Surplus Lines Stamping Office of Texas, and the Surplus Line Association of California, sent a letter to Joel Ario, Pennsylvania Insurance Commissioner, requesting the Commissioner's endorsement of SLIMPACT. The signers stated that "That there is no time left to study and defer consideration of SLIMPACT. SLIMPACT is the only

viable, readily available solution which has any reasonable chance of passage and adoption by a sufficient number of states to address the NRRA provisions in the time period provided." [Click here](#) to download a copy of the letter to Commissioner Ario.

The ELANY 2010 newsletter also includes an article on the future of SLIMPACT. [Click here](#) to download a copy of the ELANY newsletter.

2011 Annual Meeting Save the Date



Final arrangements are currently being made for the site of the 2011 PSLA Annual Meeting. The tentative dates are May 11 - 12, 2011 at the Omni Bedford Springs Hotel, in Bedford, PA

Download information about the Bedford Spring Resort by [clicking here](#).

PSLA Workshops

PSLA provides free workshops which will give licensees the information they need to enable them to make filings via the internet. You can attend the workshop in the comfort of your office.

The workshop reviews material covered in the Procedures and Electronic Filing User Manual located on our website. The purpose of this Workshop and Manual is to help resident and non-resident licensees learn the procedures for submitting affidavits "filings" and reports over the internet.

The workshops are presented from 1:00 PM - 3:30 PM Eastern time on:

September 15th
October 13th
November 10th
December 8th

More information can be found on PSLA website at http://www.psla.org/training_workshops.htm

PSLA Bulletins



» Who is Responsible for the Surplus Lines Filing?

Ken Rudert, Executive Director of PSLA, prepared the following bulletin to address the issue of who is responsible for the filing of the affidavit(s) which are part of the filing. We have reprinted this bulletin in order to inform licensees about their filing responsibility.

DATE: April 8, 2010

TO: All Surplus Lines Agencies

FROM: Kenneth A. Rudert, Executive Director

SUBJECT: Who is Responsible for the Filing?

During the last several years, due to several new developments coming into existence all at the same time causing a confluence of confusion, there seems to be misunderstanding as to who is responsible for the completion and filing of the affidavit(s) that make up a surplus lines filing. Surplus lines filings require 1) a producer who represents the insured AND 2) a surplus lines licensee who is empowered to enter the non-admitted, surplus lines market. This can be two different parties or one party functioning as both licensees. NOTHING HAS CHANGED, the party who represents the insured is still responsible for the Producer Affidavit, and the party who negotiated and bound the placement in the surplus lines market is still responsible for the Surplus Lines Affidavit. Operating in the surplus lines market differs from the standard or admitted market where the producer represents both the insured and is also empowered to enter the ADMITTED or LICENSED marketplace. The difference is the Surplus Lines Law and its Regulations shifts responsibility from that of the carrier (which is non-admitted) to the licensee. What is required is an electronic filing for each placement made, a monthly report stating all surplus lines transactions during the month, and an annual surplus lines premium tax report to the Department of Revenue at the end of each calendar year with a copy submitted electronically to PSLA.

Therefore, it is important that ALL licensees (both producers and surplus lines licensees) be well informed of the function or role that they perform in a surplus lines transaction. For example, a producer

who also holds a valid surplus lines license is able to represent the insured as the producer, and as the surplus lines licensee, is also empowered to negotiate the placement in the surplus lines market WHEN ACCESSING THE SURPLUS LINES MARKET DIRECT. In this case, the agency is responsible for the completion of both the surplus lines affidavit, as well as the producer affidavit which make up the complete filing. On the other hand, a producer with the same surplus lines license who accesses the surplus lines market utilizing the services of a surplus lines licensee wholesaler is functioning ONLY AS THE PRODUCER, representing the insured. In this case, the producer is only responsible for the producer affidavit, which is forwarded to the surplus lines licensee wholesaler, who in turn, is responsible for the surplus lines affidavit and upon collecting the producer affidavit from the producer, submits the complete filing (both affidavits) to PSLA. Please refer to Section 1609 of the Surplus Lines Law.

There is a relatively easy guide as to who should complete which affidavit.

A. Establish who the surplus lines licensee is who placed the coverage with the carrier on the risk. This is the licensee who is responsible for remitting the net premium to the carrier and the 3% surplus lines tax (calculated on the gross premium) to the Pennsylvania Department of Revenue. This is the party responsible for the surplus lines affidavit and making the COMPLETE FILING with PSLA.

B. Establish who the producer licensee is representing the insured in the transaction. This is the licensee who is responsible for collecting the gross premium from the insured including the 3% surplus lines premium tax and for the completion of the Producer Affidavit.

If the same party is functioning as both licensees then that party is responsible for both affidavits. What should not happen is two filings made for the same placement. IMPORTANT TO REMEMBER: THE ONLY PERSON WHO CAN COMPLETE AN AFFIDAVIT DECLARING COMPLIANCE IS THE PERSON WHO ACTUALLY DOES IT.

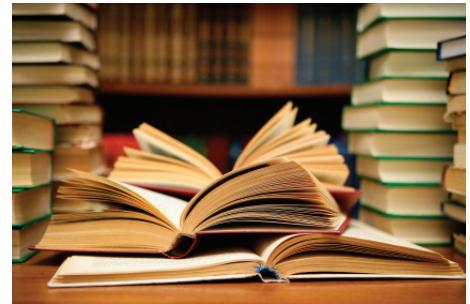
Pennsylvania Insurance Department Information

» Commissioner Ario Goes To Washington

Commissioner Joel Ario has been chosen to lead the office which will create health exchanges. Ario's new job is in the U.S. Department of Health and Human Services. He will serve as director of the Office of Insurance Exchanges of the Office of Consumer Information and Insurance Oversight.

» Eligible Surplus Lines Insurers List

The Pennsylvania Insurance Department has announced the most recent Eligible Surplus Lines Insurer List dated as of July 1, 2010. You can obtain this new list by clicking on the following link, [Eligible Surplus Lines Insurer List](#).



PSLA and Continuing Education

One of the valuable benefits of PSLA membership is attending PSLA sponsored continuing education classes at the member's reduced rate.

On June 15th, 34 persons attended the PSLA class titled Legal Ramifications of Errors and Omissions. The course was taught by Michael J. Cawley, a partner with the law firm Wilson, Elser, Moskowitz, Edelman & Dicker.

The next PSLA CE class will be given in September. Check your e-mail and the PSLA website (www.pasla.org) for information about this course.

» CE at your office

PSLA can make CE available to you via web conferencing in the comfort of your office. For more information, please call Paul Spector at (610) 225-2639 or e-mail him at MemberServices@pasla.org.