



PERISCOPE

PENNSYLVANIA SURPLUS LINES ASSOCIATION

October 2006

POSTINGS & UPDATES FROM THE STAMPING OFFICE

A special Bulletin was emailed to surplus lines licensees on September 1, 2006 stating that as of October 1, 2006, PSLA will no longer refund the flat, annual, non-refundable stamping fee when a correction is needed on a filing. The Bulletin states that with the introduction of electronic filing surplus lines licensees are now able to review and edit their own records prior to submission to PSLA, which should prevent and eliminate the justification for a stamping fee refund.

On September 25, 2006, PSLA provided a link to surplus lines licensees for the latest PA Insurance Department update to the Eligible Surplus Lines Insurer List. This is an update to the July 10, 2006, Eligible List.

The full text of a Special Bulletin issued on June 20, 2006, by PSLA regarding Electronic Filing as well as step by step procedures on the use of the Electronic Filing System are available at www.pasla.org under the heading "Bulletins."

REMINDER TIMELY SUBMISSION OF FILINGS

It has been brought to the attention of the Stamping Office that the Pennsylvania Insurance Department has become concerned about the lack of timeliness of surplus lines filing submissions. For the benefit of all surplus lines licensees, PSLA has reproduced the appropriate section of the Surplus Lines Law pertaining

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COMING UP...2006 CALENDAR

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|---------------|---|
| November 2 | Lehigh Valley I Day
in Allentown, PA |
| November 4-7 | NAPSLO Advanced School
in Dallas, TX (SOLD OUT) |
| November 9 | PSLA Workshop via WebEx |
| November 10 | NAIW State Day
in York, PA |
| November 9-12 | AAMGA Mid-year Meeting
in Tucson, AZ |
| November 14 | PSLA Continuing Education
in Exton, PA
Cyber Security (CANCELLED) |
| November 15 | PSLA Continuing Education
in Harrisburg, PA
Cyber Security (CANCELLED) |
| November 16 | PSLA Continuing Education
in Warrendale, PA
Commercial Insurance Flash
Points and Insurance
Department Update |
| December 13 | PSLA Workshop via WebEx |

INDUSTRY NEWS YOU MAY HAVE MISSED...

The Interstate Insurance Product Regulation Commission has launched a web site, www.insurancecompact.org to assist companies and insurance producers to better understand how the Interstate Compact is progressing. The Compact means that an insurance product approved in one state is automatically approved in the other Compact states. Right now, the Interstate Compact's reach only extends to life, disability income, and long-term care insurance but is seen as a model prototype for other types of coverage as well. 28 states are now members.



REMINDERS

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to this issue. Please keep in mind that these requirements have been in place since the enactment of the present Surplus Lines Law of April 1993. The original Surplus Lines Law of March of 1966 allowed only **21 days** for filing submission. If you or your agency should have any questions or comments please contact the Stamping Office accordingly.

Section 1609. Declarations

(a) In the case of each placement of insurance in accordance with this article:

(1) Within thirty **(30) days** after the surplus lines licensee has placed insurance with an eligible surplus lines insurer, the producer must execute and forward to the surplus lines licensee a written statement, in a form prescribed by the department, declaring that:

(i) A diligent effort to procure the desired coverage from admitted insurers was made.

(ii) The insured was expressly advised in writing prior to placement of the insurance that:

(A) the insurer with whom the insurance is to be placed is not admitted to transact business in this Commonwealth and is subject to limited regulation by the department; and

(B) in the event of the insolvency of the insurer, losses will not be paid by the Pennsylvania Property and Casualty Insurance Guaranty Association. This written declaration shall be open to public inspection.

(2) Within forty-five **(45) days** after insurance has been placed in an eligible surplus lines insurer, the surplus lines licensee shall file with the department a written declaration of his lack of knowledge of how the coverage could have been procured from admitted insurers. The surplus lines licensee shall simultaneously file the written declaration of the producer, as set forth in paragraph (1).

(3) In a particular transaction where the producer and surplus lines licensee are one in the same entity, he shall execute both declarations.

(b) Subsection (a) shall not apply to any insurance which has been placed continuously with an eligible surplus lines insurer for a period of at least three (3) consecutive years immediately preceding the current placement. However, within forty-five (45) days after insurance has been placed with an eligible surplus lines insurer, the surplus lines licensee shall file with the department his written declaration on a form prescribed by the department.

(1609 amended July 10, 2002, P.L.749, No.110)

FEDERAL SURPLUS LINES BILL PASSES U.S. HOUSE

HR 5637 passed the U.S. House of Representatives in a 417-0 vote taken September 27. The bill, "Nonadmitted and Reinsurance Reform Act of 2006", establishes a standardized system for regulation of surplus lines and reinsurance. This new system would replace the patchwork of differing and often contradictory tax collection schemes surplus lines licensees have to face in meeting the demands of the different states. NAPSLO and AAMGA support the bill.

PA Republican Mike Fitzpatrick from Bucks County is listed as a sponsor of the bill as is Democratic Rep. Tim Holden from central PA. To be noted is the speed by which the House acted since the bill was only introduced June 19, 2006.

Provisions include:

- Prohibits any state other than the home state of an insured from collecting any premium taxes for nonadmitted insurance

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FEDERAL SURPLUS LINES BILL PASSES U.S. HOUSE

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- Prescribes requirements for reporting, payment, and allocation of premium taxes
- Subjects nonadmitted insurance solely to the regulatory requirements of the insured's home state
- Prohibits a state (two years after this bill becomes law) from collecting fees relating to licensing of a nonresident insurance broker in the state unless the state has laws or regulations that provide for participation in the NAIC producer database
- Prohibits a state from establishing eligibility criteria for nonadmitted insurers domiciled in a U.S. jurisdiction except in conformance with HR 5637
- A state may not prohibit a surplus lines broker from placing nonadmitted insurance with or procuring nonadmitted insurance from a nonadmitted insurer domiciled outside the U.S. that is listed on the Quarterly Listing of Alien Insurers maintained by the NAIC International Insurers Department
- Specifies preemption of state laws regarding a ceding insurer, excepting those of the ceding insurer's state of domicile
- Declares the state of domicile of a reinsurer solely responsible for regulating the reinsurer's financial solvency if such state is NAIC-accredited
- Prescribes conditions by which a surplus lines broker seeking to procure or place nonadmitted insurance in a state for an exempt commercial purchaser shall not be required to satisfy any state requirement to make a due diligence search

RECENT INSURANCE DEPARTMENT ACTIONS

Regulators at the PA Insurance Department are taking special interest in transactions referred to as courtesy filings. This is a situation where a non-surplus lines licensed producer uses a licensee that did not actually participate in the procurement of the insurance – and this is illegal.

Recent Department Enforcement Actions include:

- CO06-04-038 Blue Point, NY Non-licensed Retail PA Producer procured 2 surplus lines policies, submitted taxes and filings through a surplus lines licensee. Fine: \$1,000 and three-year supervision.
- CO06-04-039 Philadelphia, PA Retail PA Producer held no surplus lines license but procured a surplus lines policy through an entity which did not have a surplus lines license and made filings through another entity. Fine: \$1,000 and three years supervision.
- CO06-05-015 Washington, PA Retail Producer without a surplus lines license procured 2 surplus lines policies in 2004 and 3 in 2005, submitted filings and taxes to PA through an entity that did not participate in the placement of the insurance. Fine: \$2,500 and three-year license supervision.
- CO06-05-016 Hillside, NJ Retail Producer without a surplus lines license procured 4 surplus lines policies for PA policyholders, submitted the business through an entity which did not participate in the procurement. Fine: \$2,000 and three years of supervision.
- CO06-04-045 Doylestown, PA Retail Producer procured a surplus lines policy without a surplus lines license but made its filings through a licensed producer. Fine: \$1,000 and three years of supervision.