Pennsylvania Surplus Lines Association

PERISCOPE

PENNSYLVANIA SURPLUS LINES ASSOCIATION June 2006

WARNING! LATE FILINGS ON THE RISE

A recent review of PA Surplus Lines filing submissions revealed that the number of late filings received by PSLA has been steadily increasing. As described in section 1609 of PA Surplus lines law, a filing is considered "late" if it is received by PSLA more than 45 days **after** the effective date of the policy. In reviewing new filings processed by PSLA between January 1st and April 30th of 2006, 48% were recorded as late. Almost 20% of all filings were over 30 days late.

A late filing can be detrimental to all parties involved in a surplus lines placement. At a minimum, a late filing is a very obvious violation of PA Surplus Lines Law. However, late filings also serve to under-represent the volume of Surplus Lines premium conducted within the Commonwealth (the premium amounts are not reflected in our statistical analyses until they are received and entered into the PSLA database). In our experience, they also increase the chances of causing additional Filing Return issues within the placement (many Licensees end up sending endorsements to filings before the original filing is submitted).

PSLA encourages all Licensees to review their filing submittal processes and make sure all original filing paperwork is received by PSLA within 45 days of the effective date of the policy. If you have any questions or concerns, or would like to request a statistical review of late filings received from your Agency, please contact the Stamping Office.

POSTINGS & UPDATES FROM THE STAMPING OFFICE

On May 11, PSLA sent an email notice to all mailing list contacts regarding an update to the list of Eligible Surplus Lines Insurers. You can obtain this update by linking to http://www.pasla.org/Documents/Eligible%20List%20Update%20051106.doc.

COMING UP…SUMMER CALENDAR

July 7-8	AAMGA General Liability, Minneapolis, MN
July 19-23	Western States Surplus Lines Conference, Park City, UT
July 19	PSLA Workshop via WebEx
August 8	PSLA CE: History of the Surplus Lines, Exton, PA
August 9	PSLA Workshop via WebEx
August 9	PSLA CE: E&O In Depth, Harrisburg, PA
August 10	PSLA CE: Cyber Security, Warrendale, PA
September 6	PSLA Workshop, Exton, PA
Sept. 13-16	NAPSLO Annual Convention, Chicago, IL
September 27	PSLA Workshop via WebEx

DEPARTMENT RELEASES UPDATED EXPORT LIST

Under section 1604(2)(ii) of the Pennsylvania Surplus Lines Law, the Insurance Commissioner declares specific insurance coverages to be generally unavailable in the admitted market at the present, and thus exportable. This list is updated once a year by the Pennsylvania Insurance Department. The most recent list was put into effect on May 12th, 2006 and includes the addition of Real Estate Environmental Impairment coverage. The full list can be obtained via http://www.pabulletin.com/secure/data/vol36/36-19/852.html.

PSLA sent an email notice to all mailing list contacts advising on the updated Export List, as well as related changes to our own "Kinds" list (a list of coverage types for use in the filing submission process). Be sure to download the latest "Kinds" list from our website: http://www.pasla.org/HTML/KindsClasses.htm

DEPARTMENT GUIDANCE FOR REINSTATEMENT

Recently, the PSLA Member Services office received a number of queries from surplus lines producers whose licenses lapsed wanting to know how they could be reinstated. According to PA law all surplus lines licenses expire on the last day of February. In 2006, a surprising number of licensees reported they did not receive a renewal notice. Per the Department's Bureau of Producer Services, each request for reinstatement must be handled on an individual basis after speaking with a representative of the Department: 717/787-3840. *(Cont'd on page 2)*

DEPARTMENT GUIDANCE FOR REINSTATEMENT ***(Cont'd from page 1)***

Still, some general guidance was provided: *"If a person did not receive the renewal notice, they would have to print off the form from the Department web site www.ins.state.pa.us under Producer Services and go to "how to be licensed as an other licensee". They will receive the renewal addendum under Surplus Lines. The late fee is triple the amount of the original fee. If they normally pay $10, it's $30. If they normally $100, then it's $300. A lot of the older Surplus Lines' Certificate of Eligibility's licenses have the $10 fee but mostly they are $100.* ***This form and fee must be mailed to the address on the form. This cannot be done on line."***

INDUSTRY NEWS YOU MAY HAVE MISSED…

- News From Other Jurisdictions -

New York Insurance Department amends Disclosure Statement to Surplus Lines policy holders. AAMGA reports that New York amended Regulation 41 to require a new notice provision on all surplus lines policies. The red type requirement is gone but the notice must be in point 10 type conspicuously across the face of the policy. Text: "THE INSURERS NAMED HEREIN IS (ARE) NOT LICENSED BY THE STATE OF NEW YORK, NOT SUBJECT TO ITS SUPERVISION, AND IN THE EVENT OF THE INSOLVENCY OF THE INSURERS, NOT PROTECTED BY THE NEW YORK STATE SECURITY FUNDS. THE POLICY MAY NOT BE SUBJECT TO ALL OF THE REGULATIONS OF THE INSURANCE DEPARTMENT PERTAINING TO POLICY FORMS."

Illinois Stamping Office reduces stamping fee to .01 percent of the premium effective July 1, 2006, per General bulletin #28 per the Surplus Lines Association of Illinois.

- News From the National Scene –

Interstate Compact. On May 9, Ohio became the 26th state to approve the Interstate Insurance Product Regulation Compact. According to NAIC, that was the decisive state, meaning that the Compact is nearly operational. While not having a direct bearing on surplus lines (it affects life, annuities, disability income and long-term care insurance), it sets the NAIC direction of state reciprocity when new products are filed. The Interstate Compact is an important initiative that creates uniform regulatory standards among the participating states, promoting greater uniformity and efficiency in an ever-changing insurance market.

Major Changes in the ASLI Program Announced. The Insurance Institute of America (IIA) recently announced major changes in its Associate in Surplus Lines Insurance (ASLI) designation program. The ASLI designation was developed for surplus lines professionals by the IIA with the assistance of the Derek Hughes/ NAPSLO Educational Foundation. To earn the ASLI designation, students must pass examinations in two required courses and two elective courses. More information on the new ASLI completer rules is available at http://www.aicpcu.org/doc/ASLIRevision.htm. Or contact a Customer Service Representative at (800) 644-2101 or by e-mail at cserv@cpcuiia.org.

ANNUAL MEETING FOCUSES ON TRIA, PRIVACY & ELECTRONIC FILING

The PSLA completed its 2006 Annual Membership Meeting in Hershey with informative presentations on Terrorism Risk Insurance Act (TRIA) re-authorization, compliance with the Third Privacy Rule, and demonstrations of the new Electronic Filing System.

The high point of the Annual Membership Meeting was the session on TRIA. Speakers included U.S. Treasury Department Legal Counsel, David J. Brummond presenting factual information on the re-authorization citing a diminished federal role in favor of expansion of the private sector and a panel moderated by PSLA Vice President Dave Bowersox. Panelists included Paul Goodwin CPCU, ASLI, Are, AU, AIM, AIAF, Senior Vice President for American Re's Direct Treaty National Accounts, and Joseph Maurer III, CPIA, LUTCF, founder of J. A. Maurer & Associates, Commonwealth Professional Group, Ltd., and Commonwealth Professional Group International. Perspectives between panelists and augmented by audience participation showed differences on key issues surrounding TRIA. Some areas of disagreement centered on TRIA's usefulness. Criticism of TRIA was that it was set up to reassure, not really to solve exposure to the insurance industry from a terrorist attack on the United States. The rebuttal stated that the purpose of TRIA was to bring stability, affordability and availability of this type of insurance.

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ANNUAL MEETING FOCUSES ON TRIA, PRIVACY & ELECTRONIC FILING ***(Cont'd from page 2)***

After 9/11, the market – not just P/C but also WC and L/A/H was in turmoil and TRIA (it was argued) achieved its goal.

Another area of interest was market capacity. Speakers agreed that the market capacity was sufficient in addressing a conventional attack but would have more difficulty getting its arms around a biological or 'dirty bomb' attack because of the unknowns. One way the market looks at terrorism is that natural disasters allow for use of a model such as with hurricanes where damage scenarios can be estimated and projected. Terrorism risk on the other hand is not necessarily based on historic data. Even if severity can be estimated, how does one assess frequency?

In a practical sense, terrorism insurance is at least now available thanks to TRIA. The legislation removed the uncertainty of construction being in limbo without a market. Now, however, many commercial accounts do not purchase it if they are low-hazard industries in low-hazard areas.

One question raised a perceived limitation on TRIA in that it does not affect domestic terrorism such as Timothy McVeigh's bombing of the federal building in Oklahoma City. Pointing out that domestic terrorists typically target the government, the answer was that the U.S. government is self-insured and thus outside TRIA. Besides, it was said, Oklahoma City did not approach the TRIA threshold.

A number of scenarios and warnings were posited for the future by panelists and through audience comment. Some included: *'Reauthorization will fall on deaf congressional ears next re-authorization'… Politicians look at Katrina's $64 billion versus the World Trade Centers' $32 billion and sees 2005 as a punch in the industry nose, not a body blow'…The industry should have been saving the terrorism premiums it received instead of applying it to the current year's bottom line'…'TRIA was a way to purchase time'…*