



NEWS EXCLUSIVELY FOR MEMBERS OF THE PSLA

Surplus Lines Premium Taxes on Multi-State Risks: The Debate Continues

The Pennsylvania Surplus Lines Association Membership Division has been following developments on the manner in which industry, legislators and regulators have addressed the various proposals being made on implementation of the Nonadmitted and Reinsurance Reform Act (NRRRA) of 2010. The PSLA will continue to keep all member Resident and Non-Resident Excess and Surplus Lines agents and brokers advised of developments as they materialize, along with the final implementation plan that will be adopted by the PA Legislature in 2011.

Background facts. The NRRRA provides, among other things, that surplus lines premium taxes on multi-state risks will be paid to the Home State of the insured, as opposed to the surplus lines agent/broker determining the amount of risk residing in each of the states and allocating a proportionate percentage of the risk in each of those states and then calculating and paying the appropriate surplus lines premium tax in each state. The intent of Congress, as set forth in §101(b)(4) is for a nationwide system to be developed whereby “each State will adopt nationwide uniform requirements, forms, and procedures,



United States Capital Building

While the NRRRA was pending in the Congress, the surplus lines industry and representative trade associations collaborated on advancing the best way forward to achieve the proposals advanced by industry and incorporated in to the Bill. The proposal that was drafted and agreed upon is called the “[Surplus Lines Insurance Multi-State Compliance Compact](#)” (SLIMPACT).

The Surplus Lines Task Force of the National Association of Insurance Commissioners (NAIC), proposed an alternative to SLIMPACT called: the “Non-Admitted Insurance



Pennsylvania State Capital Building in Harrisburg

that would allocate surplus lines tax payments to applicable participating states. Louisiana Insurance Commissioner James J. Donelon, chair of the NAIC’s Surplus Lines Implementation Task Force, has described the plan as a “bare bones” approach.

Additional conference calls with and written responses to the NAIC followed. In a November 15, 2010 letter to Commissioner Donelon, the American Association of Managing General Agents (AAMGA), National Association of Professional Surplus Lines Offices (NAPSLO), the National Association of Mutual Insurance Companies (NAMIC), the Excess Line Association of New York (ELANY), the American Insurance Association (AIA) and Risk Insurance Management Society (RIMS) advised the regulators of several issues they had with the NIMA proposal. The Property Casualty Insurance Association (PCI) submitted a separate letter to the Task Force.

On November 23, 2010, the National Conference of Insurance Legislators (NCOIL) passed a revised version of the industry drafted compact, and called it “SLIMPACT-Lite”. The measure was passed without the support of the NAIC. The compromise NCOIL model law, among other things, would authorize a governing commission to



such as an interstate compact, that provides for the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance consistent with this section.”

The Bill was absorbed into the [Dodd-Frank Wall Street Reform and Consumer Protection Act](#) (Public Law 111-203, H.R. 4173), was then passed in both Houses of Congress and signed by President Barack Obama on July 21, 2010.

Compact”. Following various conference calls among the regulators, in which industry representatives also participated and submitted written and oral comments, the proposal was redrafted and became the Surplus Lines Insurance Model Act “SLIMA”, which then was retooled into the Nonadmitted Insurance Multi-State Agreement (NIMA).

NIMA would establish a clearinghouse

Continued on page 3

The Consistency of Change: PSLA 2011 Annual Meeting to Address Surplus Lines Industry and State Changes



2011 ANNUAL MEETING
The Consistency of Change

MAY 11-12, 2011 • OMNI BEDFORD SPRINGS • BEDFORD, PA



The annual golf outing will also be held that afternoon on the Bedford Springs Old Course, which was originally conceived by course design luminaries A.W. Tillinghast and Donald Ross, and recently restored to its original grandeur. Rolling fairways, emerald greens, old-growth trees and spectacular views make the Bedford Springs Old Course enjoyable for golfers of all skill levels, with ample opportunity for challenge, risk and reward. A dual-ended practice facility with target greens, short-game school, professional teaching programs and expansive pro shop puts the Bedford Springs Old Course, named the number-one classic course in Pennsylvania by Golfweek magazine, in its rightful place among the premier golf destinations in the nation.

Whether it is a change in regulations pertaining to surplus lines premium taxes on multistate risks, new plans and directions to be offered by a new Insurance Commissioner, a new focus to be pursued by the newly elected Governor Tom Corbett, or changes in the mechanics of underwriting due to emerging risks, the PSLA's Annual Meeting will cover them all.

Located in South Central Pennsylvania's scenic Cumberland Valley just 90 minutes from Pittsburgh, two hours from Washington, DC and three hours from Philadelphia, the [Omni Bedford Springs Resort](#) is three miles off the Pennsylvania Turnpike at Exit 146. The facility is a National Historic Landmark.

Educational sessions will lead off the conference on the afternoon of Wednesday, May 11th and will cover "Environmental Liabilities" (2 hours) and "Emerging Exposures: Nonotechnology and Hazardous Materials" (2 hours). Both classes will provide credit for state licensing requirements.

Dinner and an entertaining speaker will follow the reception Wednesday evening.

PSLA's Executive Director Ken Rudert will provide Opening Remarks following a breakfast on Thursday morning, May 12th. Either the state Insurance Commissioner or representative of the Department will address the attendees and will be followed by the General Business Meeting. A Workshop on regulatory changes in the surplus lines industry and a speaker on navigating and managing insurance agencies and companies through change will be presented and precede a luncheon.

Resident and non-resident surplus lines agents and brokers rarely have an exclusive opportunity like this to hear from state industry specialists who will help members to chart their way through the new regulations and changes that have already occurred – as well as those that lie on the horizon.



Omni Bedford Springs Resort



Bedford Springs Old Course



Bedford Springs Old Course

Registration materials for the PSLA's Annual Meeting May 11th & 12th, 2011 will be sent to members in the immediate future.

PSLA Bulletins Updated & Online

Surplus Lines Bulletins are updated regularly by the PSLA and sent to all members via e-mail as soon as they are issued. They are also posted on PSLA's website under Training/Publications, [PSLA Bulletins by Date](#) and [PSLA Bulletins by Category](#). Please bookmark the website to refer to these important Bulletins as necessary, and share them with others in your respective offices. Recent Bulletins have included:

- The Pennsylvania Insurance Department has announced the following updates to the [Eligible Surplus Lines Insurer List dated](#)

BREAKING NEWS

[July 1, 2010](#). You can obtain the update by clicking on the following link, [Eligible List Updates](#) which can also be found on PSLA's website under [Eligible Insurers](#).

- The [Bulletin - Nonadmitted and Reinsurance Reform Act \(NRRRA\) - Pending Multi-state Changes](#)

- The Bulletin of October 13, 2010 - Pennsylvania Insurance Department Directive - Surplus Lines Filings with Missing Producer Affidavits was also redistributed in an effort to remind licensees of the new missing 1609-PR process that will be available on January 1, 2011 and the additional fee associated with it. Please click on the following link to review the [Bulletin - Pennsylvania Insurance Department Directive - Surplus Lines Filings with Missing Producer Affidavits](#)

PA Law on Writing Motor Carrier Cover is Amended



PSLA members writing insurance for motor carriers are reminded that the PA General Assembly passed H 2375, which became effective on December 20, 2010.

The new law adds Chapter 84 to the Transportation Code, to void indemnity provisions in all future motor carrier transportation contracts covering the

transportation, loading, unloading, or services incidental to the transportation, loading or unloading, of property. The General Assembly found such indemnity provisions to be against the public policy of the Commonwealth of Pennsylvania. The new law will not apply to a contract or agreement for transportation involving a railroad.

Surplus Lines Premium Taxes on Multi-State Risks: The Debate Continues Cont'd.

Continued from the front page

establish allocation formulas to help states share premium tax dollars on nonadmitted transactions. It authorizes the new governing commission to devise uniform payment methods and reporting requirements for insureds and surplus lines brokers, as well as national eligibility standards.

The new panel would also have the authority to devise a single policyholder notice to replace the various forms used across the country.

The National Conference of State Legislatures (NCSL) voted unanimously to pass a [resolution](#) supporting NCOIL's interstate compact plan, designed to the surplus implement lines reform law passed by Congress earlier this year.

While voting to support the NCOIL plan, NCSL also amended its resolution to include

a provision asking Congress to consider providing state legislatures with a one-year extension until July 2012, since State legislators only were provided a short window to enact enabling or other legislation to implement a compact to reform premium tax payments and allocations. Moreover, several state legislatures will not meet in 2011, thereby precluding uniform agreement among all of the states.

The federal statute allowed the states until June 11, 2011 to pass legislation implementing the law.

The Council of State Governments' executive committee has also voiced its support for SLIMPACT-Lite during its meetings during the week of December 6th.

The NCSL resolution and the SLIMPACT-Lite proposal will now be distributed to state legislators around the country by NCOIL in preparation for the 2011 legislative session,

while the NAIC Plenary Committee considers NIMA.

Rhode Island State Representative Brian Patrick Kennedy, a past president of NCOIL and the immediate past chairman of the NCSL Communications, Financial Services and Interstate Commerce Committee, was the sponsor of the NCSL resolution.

The PSLA will continue to keep members advised of the outcome of the debates and the manner in which the Pennsylvania legislature addresses the issue and enacts regulations to implement new procedures in the payment of surplus line premium taxes on multistate exposures. A workshop will also be held in conjunction with the PSLA's Annual Meeting, May 11 – 12, 2011 at the Omni Bedford Springs Hotel in Bedford, PA to bring resident and non-resident agents and brokers up to date with any new rules and regulations on surplus lines premium taxes.

Update to Directive 1609-X: Moratorium Period Ends December 31, 2010

A Bulletin issued on February 22, 2010 by the PSLA pertaining to the Pennsylvania Insurance Department Directive 1609-X Filing Type, advised that the PSLA had developed the process that became known as the 1609-X filing type. That initial Bulletin was followed by a series of periodic reminders throughout the year.

The process allows surplus lines licensees to make filings that, for one reason or another, did not exist in PSLA's database. In addition, the newly created 1609-X filing type enables surplus lines licensees who never made filings in the first place to do so as required by law, without penalty. The discovery of these issues was a result of the reconciliation and examination process that has been in effect since June 2009.

In order to encourage surplus lines licensees to comply with these procedures, the Pennsylvania Insurance Department

The newly created 1609-X filing type enabled surplus lines licensees who never made filings in the first place to do so as required by law, without penalty. The moratorium period ends December 31, 2010.

instituted a moratorium period during which surplus lines licensees have been permitted to waive the late stamping fee by selecting an "Omissions" box. During this moratorium period of March 1, 2010 through December 31, 2010 only the applicable stamping fee was due.

The creation of these procedures and the moratorium period with respect to the late stamping fee was not instituted to accommodate those producers and/or surplus lines licensees who habitually break the Surplus Lines Law, but rather, maintain the integrity of the database. As indicated in the February 22, 2010 Bulletin, the moratorium period ends December 31, 2010. The availability of the "Omissions" box and the option to waive the late stamping fee will be eliminated for these procedures. In addition, the 1609-X filing type will only be available for use in certain circumstances approved by the Department. The use of the 1609-X filing type is a means to maintain database integrity where a violation has taken place.

NAIC Elects New Vice President, Secretary-Treasurer: Special Interim Election Held To Fill Recent Vacancies

Members of the National Association of Insurance Commissioners (NAIC) have held a special interim election in which Louisiana Insurance Commissioner James J. Donelon was elected NAIC Vice President and Illinois Insurance Director Michael T. McRaith was elected NAIC Secretary-Treasurer.

Donelon and McRaith join NAIC President Susan E. Voss and NAIC President-Elect Kevin M. McCarty, who were elected in October. The newly elected officers will assume their duties on Jan. 1, 2011.

James J. Donelon was appointed Louisiana Insurance Commissioner in February 2006 and has been re-elected twice to the position. A retired State Judge Advocate for the Louisiana Army National Guard, Donelon's career at the Department of Insurance includes serving as



James J. Donelon



Michael T. McRaith

Chief Deputy Commissioner and Executive Counsel. He is also a former Parish Council Chairman and State Representative where he chaired the Committee on Insurance. Donelon is a graduate of the University of New Orleans and Loyola School of Law.

Michael T. McRaith worked 15 years in private practice as an attorney in Chicago prior to his appointment as Illinois Insurance Director, most recently as a partner with an international law firm where he represented national and regional financial institutions. He serves as President of the Board of Directors for the Illinois Comprehensive Health Insurance Plan (a high-risk health insurance pool), and serves on the Board of Directors for the AIDS Foundation of

Chicago and the American Foundation for Suicide Prevention, Chicago Chapter. McRaith received a Bachelor of Arts degree from Indiana University in Bloomington and received a law degree from Loyola University School of Law in Chicago.

Surplus Line Stamping Offices Report Decline in Premium and Filing of Items

Decreased premium revenue due to market conditions, increased competition, an overabundance of surplus and reduced pricing continue to impact the receipts of premium and items filed in the respective state stamping and surplus line services offices across the United States. During the first 6 months of 2010, stamping office managers reported an 11% decline in premium and 1.6% decline in filings (statistics for the entire year will be reported after the first of

the New Year). In Pennsylvania, premium for the first 6 months of the year were \$386 million, compared to \$453.5 million during the same period in 2009; a 14.9% decrease.

The chart below provides data accumulated by the Surplus Lines Stamping Office of Texas based on information reported by the 14 stamping offices.

SURPLUS LINES STAMPING OFFICE / SERVICE OFFICES FIRST HALF 2010 / 2009 COMPARATIVE STATISTICS

STATE	RATES		6 MOS. PREMIUM (MILL.)			6 MOS. ITEMS		%CHG	COMMENTS
	ST. FEE	SL TAX	2010	2009	%CHG	2010	2009		
AZ	0.20%	3.00%	\$167.3	\$205.2	-18.5%	30,922	34,055	-9.2%	
CA	0.225%	3.00%	\$1,905.2	\$2,252.9	-15.4%	209,545	217,842	-3.8%	New stamping fee rate effective February 1, 2010
FL	0.10%	5.00%	\$2,347.2	\$2,351.4	-0.2%	525,121	550,116	-4.5%	
ID	0.25%	1.50%	\$30.6	\$29.2	4.8%	6,675	6,784	-1.6%	
IL	0.10%	3.50%	\$503.4	\$526.5	-4.4%	72,495	57,816	25.4%	
MN	0.25%	3.00%	\$147.9	\$114.0	29.7%	16,340	11,507	42.0%	New stamping office operational January 1, 2009
MS	0.25%	4.00%	\$179.0	\$171.2	4.6%	54,211	46,586	16.4%	
MT	1.00%	2.75%	- - - -	\$34.6	-100.0%	- - - -	7,130	-100.0%	Stamping office ceased operation effective July 1, 2009
NV	0.40%	3.50%	\$99.5	\$116.5	14.6%	13,296	13,212	0.6%	Penalty of \$50 for late filing
NY	0.20%	3.60%	\$1,356.9	\$1,811.3	-25.1%	101,317	102,059	-0.7%	Additional fee of \$25 applies for late/erroneous filing
OR	\$15.00	2.00%	\$120.3	\$104.7	14.9%	19,371	18,231	6.3%	New flat stamping fee effective June 1, 2009 (no fee on ends) Additional 1% tax on "fire" premium
PA	\$25.00	3.00%	\$386.0	\$453.5	-14.9%	82,316	86,231	-4.5%	Additional fee of \$25 applies for late filing
TX	0.06%	4.85%	\$1,590.7	\$1,770.9	-10.2%	417,130	420,852	-0.9%	
UT	0.15%	4.25%	\$76.2	\$90.6	-15.9%	9,612	10,023	-4.1%	
WA	0.25%	2.00%	\$245.6	\$267.1	-8.0%	41,239	42,710	-3.4%	
TOTAL			\$9,155.8	\$10,299.6	-11.1%	1,599,590	1,625,154	-1.6%	

NY data is gross premium; 2010 net premium = \$858.4 million.

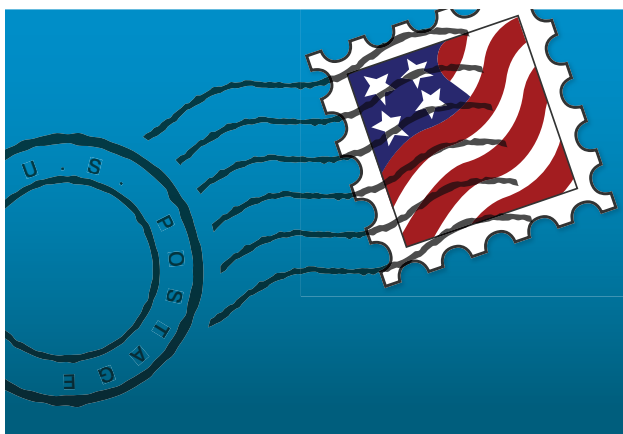
FL data includes \$321.2 million / 6,507 policies in IP insurance.

TX data is net premium, excluding \$501.7 million in "other state" & \$102.9 million in "tax exempt" premium.

Stamping fee rates are at July 1, 2010.

Items include certain non-premium filings in IL, NV & TX.

Source: Surplus Lines Stamping Office of Texas



PSLA 2011 Dues Invoices are in the Mail

With all of the prospective regulatory and legislative changes, access to essential industry educational and CE classes and subject matter expert instructors, and an annual meeting covering integral aspects of value to all resident and non-resident agents and brokers, membership in the PSLA has never been more important.

The PSLA sincerely appreciates the confidence and support of all members and encourages you to renew your membership as you receive the dues mailing. We will continue to provide you with important information and the tools and resources you need to write surplus lines insurance business in Pennsylvania successfully. We look forward to your renewal of membership in the PSLA for 2011.

PSLA Employment Practices and Fiduciary Liability CE Class Provides Line of Business Updates

The U.S. Equal Employment Opportunity Commission (EEOC) received nearly 100,000 new private sector charges of employment discrimination in fiscal year 2010—a record high and a jump of 7 percent over 2009. The spike comes after a slight decline in 2009, when total charges fell 2.2 percent to 93,277 from a total of 95,402 charges in fiscal year 2008.

These sobering facts were the starting point of the PSLA's December 2nd continuing education session on employment practices and fiduciary liability, presented by Thomas F. Boland, Assistant Vice president and Regional Underwriting manager of ACE Professional Risk.



Thomas F. Boland, Assistant Vice president and Regional Underwriting manager of ACE Professional Risk

Mr. Boland explained the reasons for the increase included the current economic conditions, an expanded charge to the EEOC in making itself more accessible to employees and employees becoming more aware of their rights.

Reviewing federal and state regulations, case law and insuring agreements, Mr. Boland provided surplus lines insurance professionals across the Commonwealth attending the live webinar session with substantive information on underwriting considerations, insurance coverage terms and conditions, current trends in litigation and reasons why all companies need to avail themselves of EPL and Fiduciary Liability insurance.

Fiscal Year 2010 charge receipts show the EEOC having received more charges this year than in any of the prior 45 years of the agency's history, according to the agency's [Fiscal Year 2010 Performance and Accountability Report](#), first published on November 15, 2010.

PSLA to Provide Online CE and Professional Development Classes

The PSLA has negotiated several arrangements with online educational vendors to afford members with the opportunity for access to technical and professional development classes from the comfort of their offices or homes. The arrangements include

1. Insurance (and Securities) Pre-licensing. These offerings contain the course and exam that qualifies for PA's pre-licensing course requirement.

2. Agent and Adjuster Continuing Education Licensing. These courses include general insurance topics, as well as topics that are relevant to the excess and surplus lines industry. We have negotiated a discounted price for each course, so if PSLA members find themselves short on hours at the end of a renewal period, or if they cannot make it to a classroom offering, this can provide the perfect solution.

3. The American Institute for CPCU/ Insurance Institute of America will be offering PSLA members their full curriculum of insurance-specific courses on-line, again at discounted prices. Over 50 courses comprise the list and include classes on Insurance Fundamentals, Personal and Commercial Insurance, and a selection of Insurance Financial Dynamics. These courses can be used for new and existing employees. As the Institute adds more courses to their list, they will automatically become available to PSLA members as well.

4. Professional Business Skills: For one low price, PSLA member employees will have one-year access to a library containing close to 1000 business skills courses. There is truly something for everyone in this library, and includes such topics as communication, leadership, conflict resolution, negotiation, interviewing, business etiquette, and many more. Whether a front desk receptionist, an underwriter, accountant, principal owner or CEO, there is something in this library for everyone.

5. Desktop Application Courses: Again, for one low price, PSLA members will have one-year access to over 200 courses, from introductory to advanced, on the full range of Microsoft Office applications, including Word, Excel, PowerPoint, Access, etc. The courses aren't simply static pages of text; they're interactive and force participants to walk through various tasks.

The PSLA is also working on a webinar partnership with the Insurance Journal Academy to offer their webinars which include a range of topics from insurance-specific to agency management. We have negotiated a 25% discount from their "public" price of \$109.

Further information on each of these offerings will be forthcoming shortly.



PSLA Announces Tentative 2011 Live Continuing Education Topics and Schedule

The PSLA has just announced its tentative schedule of live CE sessions for 2011 to be held via webinars over the internet. The offerings are provided as a member service for all PSLA members and the surplus line professionals in their respective offices and branches in the comfort of 5 locations conveniently located across the Commonwealth at the discounted rate of \$75 per person. Instructors specialize and are

respected across the industry for their knowledge and experience in the specific lines of business and subject matters provided.

Session topics, dates and a brief description of the courses to be offered in 2011 are:

CE CLASS	DATE	DESCRIPTION
Insurance Considerations for Privacy Risks	February 2, 2011	As data breach and privacy exposures continue to increase, many producers find themselves needing to respond to inquiries about coverage. This seminar is designed to examine the problem as well as the solutions. The seminar pivots toward the commercial general liability policy and provide a detailed analysis of why most commercial general liability policies (using ISO format) will not respond to electronic data or privacy claims. This includes a discussion of "occurrence" and the relevant exclusions, including the recent addition of exclusion for data not being property. The seminar then examines the ISO form "Internet Liability and Network Protection Policy" and its five separate insuring clauses.
Nanotechnology, Hazardous Products	May 12, 2011 Annual Meeting	What is nanotechnology, and why is it being called the next industrial revolution? To learn more, join us for a lively discussion on market predictions, regulatory concerns, product development, occupational and consumer exposures, as well as underwriting and coverage concerns with this important emerging exposure. From a hazardous exposures perspective, we will explore Chinese drywall and tire issues, toys, food, medicine and how issues with these products are affecting our industry.
Environmental Liability	May 12, 2011 Annual Meeting	This environmental liability course will help students to understand the history of environmental regulation as well as the impacts of regulation on general liability coverage. Other topics to be highlighted include premises pollution coverage, operations pollution liability, professional liability, environmental general liability, and products pollution liability. In addition, we will cover the aspects of getting the risk quoted properly and will review a case study which covers many of these important considerations.
Construction Defects	September 14, 2011	The past decade has presented several serious challenges to providers of general liability insurance coverage for contractors as homeowners and businesses have steadily marched to courthouses across the nation to take legal action alleging damage arising out of the use of inferior materials and poor methods of construction. This session will examine these challenges, the industry's response and a look into the future as it relates to the underwriting and claims aspects of construction defects.
Street Level Ethics	November 2, 2011	Gain insight into ethical behavior, to understand why the terms "ethical" and "moral" are quite different (and why confusing them presents problems). You will also become familiar with inherent conflicts in being ethical (if it weren't hard, everyone would do it) and gain an understanding of the value of a code of ethics. Through case studies, you will gain practice in seeing the ethical dilemmas in common insurance situations and have the opportunity to exercise individual judgment and reasoning in addressing ethical dilemmas, relying upon accepted ethical approaches and applicable codes of ethics.

Additional information on each class and registration materials are sent to the principal of each PSLA member by e-mail prior to each class, and are posted on the PSLA's website prior to each offering. Please mark your calendar now to take advantage of these exclusive offerings for PSLA members.



THE PSLA WANTS TO HEAR FROM YOU!

You've heard from us - now it's your turn. We love feedback, so please let us know your thoughts on this issue of the PSLA's Newsletter. Did you like it? Were the articles of interest and value to you? We're already planning the next issues, so please let us incorporate your ideas. Kindly direct your comments or questions to membership@pasla.org



PENNSYLVANIATM
SURPLUS LINES ASSOCIATION



SEASONS GREETINGS

to you and your family from
all of us at the PSLA

