

FALL 2012 SURPLUS LINES LAW GROUP MEETING

BEAU REVAGE RESORT

Biloxi, Mississippi

September 28, 2012

Friday, 8 a.m. – Noon

**Hosted and Sponsored by:
Mississippi Surplus Lines Association**

Electronic Documents

NOTE: Materials are as of 8/31/12 and generally track to agenda

8:00 Welcome: Peggy Dronet

Antitrust Admonition (handout): Mike Koziol

8:05-9:00 **STATE ISSUES:**

ARIZONA:

AZ Bulletin 2012-02: Legislative summary:

SB 1123 was on spring law group electronic document. It makes several changes to the surplus lines broker reporting requirements. It removes the compliance attestation from the required information a surplus lines broker must file with the ADOI to procure surplus lines insurance, if the insurance coverage is not a recognized surplus line. It also requires a surplus lines broker to maintain evidence of compliance with ARS §20-407 (A) for the duration of the policy plus 6 years after expiration date, if the coverage is not a recognized surplus line. It allows a facsimile of a broker's signature on the quarterly statement to be submitted to the stamping office in lieu of the original. The broker must maintain the original notarized statement for 6 years after the calendar year in which the statement was filed. <http://www.id.state.az.us/bulletin/2012-02.pdf>

AZ SB 1124: 5/29/12: SIGNED BY GOVERNOR: Transportation contract bids would be deemed to comply with financial responsibility requirements if the coverage is procured through surplus lines insurers.

http://www.azleg.gov//FormatDocument.asp?inDoc=/legtext/50leg/2r/laws/0137.htm&Session_ID=107

ARKANSAS:

AR: Case regarding duty of wholesaler to apply underwriting guidelines of insurer under wholesaler's contract with insurer in transaction with retail brokers.

Related Article: <http://www.propertycasualty360.com/2012/07/03/ruling-reveals-broker-wo-risk-in-surplus-lines-agr>

AR: Proposed Rule 101: Eff. 1/1/13: Prohibition of use of discretionary clauses in disability income policies and hearing (10/30/12) notice. No policy, contract, certificate or agreement offered or issued in this State providing for disability income protection coverage may contain a provision purporting to reserve discretion to the insurer to interpret the terms of the contract, or to provide standards of interpretation or review that are inconsistent with the laws of this State.

<http://www.insurance.arkansas.gov/Legal%20Dataseservices/PropRules/PropRule101.pdf>

<http://www.insurance.arkansas.gov/Legal%20Dataseservices/NOH/NOH-Rule101.pdf>

CALIFORNIA: Ben McKay, Joy Erven, SLA of CA

CA: Summary from SLA of various kinds of surplus lines carriers:

1. LASLI Carriers: Nonadmitted insurers approved by the CDI upon review of a voluntary filing made pursuant to Section 1765.2 by the insurer or on its behalf. Please note that all insurers that were on the LESLI on July 21, 2011 were automatically transferred to the LASLI, and continue to be eligible for use by surplus line brokers, unless such insurers have opted off the list.

2. File and Use Recognition System Eligible Carriers: Nonadmitted insurers recognized by the CDI as eligible surplus line insurers upon a voluntary filing made pursuant to Section 1765.1(c) by the insurer or on its behalf. The CDI has established a File and Use Recognition System List comprised of insurers that have made the Section 1765.1(c) voluntary filing. Surplus line brokers may contact the CDI to verify whether an insurer is on this list.

3. Eligible Surplus Line Carriers: Non-admitted insurers that meet the eligibility requirements pursuant to the NRRA and section 1765.1(a) and (b) of the California Insurance Code are eligible surplus line insurers with which surplus line brokers may make placements. Please note that eligible insurers are not required to make any filings with the CDI, and surplus line brokers may place business with eligible surplus line insurers so long as the broker has determined at the time of placement that the insurer meets the requisite eligibility criteria.

Link to summer quarterly newsletter from surplus lines association
http://www.sla-cal.org/publications/sla_quarterly/2012/2012Q1.pdf

Link to SLA bulletin on the various kinds of carriers:

http://www.sla-cal.org/publications/bulletins/1200_series/1263.pdf

CA: LASLI Requirements for surplus lines insurers: (CA Surplus Lines Association Bulletin 1261): April 23, 2012.

http://www.sla-cal.org/publications/bulletins/1200_series/1261.pdf

CA: AB 2084 was changed so no longer amends the definition of “industrial insured” to require 50, rather than 25, employees and \$50,000, rather than

\$25,000, in aggregate premium other than workers compensation. Amendments to the current 6/21/12 version no longer contain these provisions. The original bill, an amended version removing surplus lines and industrial insured language, and the current version (without industrial insured language) are the links.

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2051-2100/ab_2084_bill_20120223_introduced.pdf

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2051-2100/ab_2084_bill_20120412_amended_asm_v98.pdf

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2051-2100/ab_2084_bill_20120621_amended_sen_v95.pdf

CA: AB 2303: 8/28/12 WAITING GOVERNOR'S SIGNATURE: Modifies 1765.1 (mainly :(c) & (d)) which effectively eliminates the file & use list (the eligibility list). Existing law requires any natural person applying for a license to act as a surplus line broker to prove his or her competency by showing he or she holds an existing license to act as a property broker-agent and casualty broker-agent. This bill would allow a natural person, who is not a resident of California, to prove his or her competency by showing that he or she holds an existing license for property and casualty in his or her resident state.

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2301-2350/ab_2303_bill_20120827_enrolled.pdf

CA: AB 2453 would allow the time to petition for a redetermination of a tax deficiency against an insurer or surplus lines broker to be 60 days from notice rather than the current 30.

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_2451-2500/ab_2453_bill_20120607_amended_sen_v97.pdf

CA: SB392 from the 2009-2010 session relating to financial responsibility for contractors, operating through a limited liability company, excluded surplus lines coverage from acceptable contractors' coverage but allowed an admitted surety insurer to issue a bond for the coverage. New language (not in the draft below) has been proposed to allow coverage from an eligible surplus lines insurer.

http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0351-0400/sb_392_bill_20100930_chaptered.html

CA: SB1171: Ch. 162, Gov. approved 7/23/12: Technical bill.

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1171_bill_20120723_chaptered.pdf

CA: SB 1172: This bill has now been amended to delete the provisions that required surplus line brokers receiving funds as premium or return premium on or under any policy of insurance or undertaking of bail, and receive and hold those funds in his or her fiduciary capacity. The April 9, 2012 amendment (second link) struck the surplus lines provisions. The May 5, 2012 amendment has no reference to surplus lines.

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1172_bill_20120222_introduced.pdf

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1172_bill_20120409_amended_sen_v98.pdf

http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1151-1200/sb_1172_bill_20120525_amended_sen_v94.pdf

CA: Verification of Home state is required by modifications to 1763(a). The SL-1 has not yet been so modified but the California Surplus Lines Association indicated to put the home state information on the coversheet.

COLORADO

CO: Proposed Amended Regulation 2-1-8. Hearing was held June 1, 2012: This regulation concerns Risk Retention and Purchasing Groups. The minor changes concern, among other things, enforcement provisions. Note, however, the existing regulation does set forth surplus lines producer requirements for purchasing groups using surplus lines or risk retention group insurers. Second link is version effective 7/1/12:

http://www.dora.state.co.us/pls/real/SB121_Web.Show.Rule?p_rule_id=4665

http://www.dora.state.co.us/insurance/regs/F2-1-8_05012012.pdf

CO: Proposed Amended Regulation 2-4-1. Hearing: July 2, 2012. The revised regulation contains a new provision that requires the reporting period to be the calendar year. It requires that on or before the first day of March, each broker and every person that enters into an independent procurement for nonadmitted insurance shall file their statement of, and remit the premium taxes for, all nonadmitted insurance transacted during the preceding calendar year. NOTE: Previous 2-4-1 was repealed in full 3/1/12. It changes the terminology to mention an “eligible” insurer list.

http://www.dora.state.co.us/pls/real/SB121_Web.Show.Rule?p_rule_id=4694

CO: EFFECTIVE 7/1/12: Amendments to Applications and Binders: Reg. 5-1-2 requires some disclosures including the identity of the insurers. This continues to state that it is inapplicable to surplus lines. Hearing date was May 1, 2012. New rules below. http://www.dora.state.co.us/insurance/regs/F5-1-2_05012012.pdf
http://www.dora.state.co.us/insurance/regs/F5-1-8_05012012.pdf

CONNECTICUT

CT: Public act 12-145: Substitute HB 5011 PASSED Enrolled 05/2012: This bill makes technical changes to insurance laws, but continues to contain pre-existing provisions that make compliance with the cancelation and non-renewal provisions a condition of eligibility for surplus lines insurers.

<http://www.cga.ct.gov/2012/act/pa/pdf/2012PA-00145-R00HB-05011-PA.pdf>

CT: Bulletin SL-3: 6/15/12: New Procedures for Filing Surplus Lines Taxes and Surplus Lines Affidavits. Electronic filing of tax returns and submitting payments; and (2) filing affidavits required by § 38a-741, as amended by section 36 of Public Act No. 11-61.

Beginning August 15, 2012, all filings of affidavits and payments of taxes will be made using OPTins. Licensees may begin using the system on or after June 15, 2012. Note that the new quarterly schedule requires that tax returns and payments are to be filed on the 15th of February, May, August and November of each year.

Affidavits: Effective for the August 15, 2012 tax return due date, surplus lines brokers are required to file surplus lines affidavits electronically in PDF format through OPTins. The affidavit form has been revised as of June 1, 2012. PDF's of the old form will still be accepted with the August 15th filing.

This bulletin only applies to nonadmitted insurance, including surplus lines insurance, placed through licensed surplus lines brokers. Unauthorized insurance that is not placed through a surplus lines broker, including independently procured insurance, continues to be under the jurisdiction of the Connecticut Department of Revenue Services. http://www.ct.gov/cid/lib/cid/Bulletin_SL-3_Filing_Surplus_Lines_Taxes_and_Affidavits.pdf

DELAWARE

DE: Surplus Lines Bulletin No. 12: This Bulletin introduces the new surplus lines broker quarterly SL-1925-Q reporting form, which is replacing former surplus lines broker quarterly reporting form SL-1917. A copy of the form and instructions are provided with this Bulletin. <http://www.delawareinsurance.gov/departments/documents/bulletins/linesbull12.pdf>

DE: 6/27/12: Domestic/Foreign Insurers Bulletin 50: Homeowners Insurance Rate Survey. The second link is of a list indicating the insurers that “must” comply with the survey. There are some surplus lines carriers listed. The regulation (link) seems to indicate this would not apply to surplus lines: “Insurer” shall mean every insurer licensed to offer and sell non-commercial residential homeowners insurance coverage in the State of Delaware. <http://delawareinsurance.gov/departments/documents/bulletins/DomesticForeignInsurersBulletin50.pdf>
<http://www.delawareinsurance.gov/survey/default.shtml>
<http://regulations.delaware.gov/AdminCode/title18/700/704.pdf>

FLORIDA: Gary Pullen, Fred Karlinsky, Jack Dearie, Erin Bagley

FL: Zota and imposition of attorney fees on surplus lines insurers per specific reference to surplus lines insurers in 626.9373: Article: John Dearie and John David Dickenson, Edwards Wildman, link below with permission. See page 10 of the link

<http://www.edwardswildman.com/newsstand/detail.aspx?news=2923>

FSLSO has released a number of bulletins regarding filings including a page for the clearinghouse on their site.

<http://www.slclearinghouse.com/>

The **Clearinghouse** on May 15, 2012 issued **Bulletin 2012-CH-01** which indicates that brokers and Independent Procurement Filers may start filing transactions on July 1, 2012. A registration form is on that site for filers. The bulletin provides guidance regarding the filing of multi-state surplus lines policies after the Surplus Lines Clearinghouse has become operational. This bulletin applies to policies in which a NIMA-participating state is deemed the “Home State” under the provisions of the Nonadmitted and Reinsurance Reform Act (NRRA) and the policy includes premium for an exposure in one or more states/territories, regardless of their participation in NIMA. This bulletin is intended to provide guidance to brokers or policyholders who transact multi-state business in a NIMA participating state.

<http://www.floir.com/siteDocuments/FSLSOBulletin05242012.pdf>

FSLSO Bulletin 2012-02 issued on 05/04/12 regarding the filing of multi-state policies after the Surplus Lines Clearinghouse has become operational. It requires that all multi-state policies issued or renewed on or after July 1, 2012, and any subsequent endorsements to those policies, in which Florida is deemed the “Home State” should be filed with the Surplus Lines Clearinghouse once it has become operational.

<http://www.fslso.com/publications/news.aspx?ID=507>

<http://www.fslso.com/publications/press/FSLSO/bulletin-2012-02.pdf>

A web-based Multi-State Tax Calculator to assist brokers in estimating the taxes due for transactions submitted to the Clearinghouse will be available on the Clearinghouse website at <http://www.slclearinghouse.com/tools/calculator.aspx>.

FSLSO Bulletin 2012-03: Multi-state Risks Bearing Non-US Premium Eff. 6/05/12, FL surplus lines agents and IPC filers not required to report Non-US premium allocations on multi-state policies. Non-US premium is defined as premium charged on exposures occurring or located outside of the United States and its territories. Multi-state policies bearing Non-US premium previously filed will receive a credit or refund on any taxes paid on the Non-US allocated portion. Surplus lines agents and IPC filers will not be required to complete any corrective action on policy filings in order to receive the applicable credits for amounts previously paid. However, agents and IPC filers are responsible for providing a credit or refund to policyholders.

<http://www.fslso.com/publications/press/FSLSO/bulletin-2012-03.pdf>

FL: The Florida Office of Insurance Regulation has on its website, a category of insurer: **Surplus Lines – Federally Authorized:** *As used herein, “Surplus Lines – Federally Authorized” insurer is an unauthorized insurer that has notified the Office of Insurance Regulation of its intention to write certain property and casualty insurance business not written by an admitted/authorized insurer pursuant to the applicable provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act. A Surplus Lines – Federally Authorized insurer does not file an application with the Office of Insurance Regulation and thus, does not provide detailed background information on its officers/directors/certain shareholders nor is it subject to a financial review by the Office of Insurance Regulation prior to conducting business in Florida. A person insured by a Surplus Lines – Federally Authorized insurer does not have the protection of the Florida Insurance Guaranty Act to the extent of any right or recovery for the obligation of an insolvent unlicensed insurer.* Here is a link to definitions and a link to the various kinds of surplus lines insurers.

<http://www.floir.com/siteDocuments/SurplusLinesDefinitions.pdf>

http://www.floir.com/Sections/AppCoord/oir_ac_surplus_Lines_search.aspx

FL: HB 1101, SB 1620 SIGNED BY GOVERNOR 04/24/12: Among other things, this bill amends s. 626.916, F.S. to revise the disclosure statement signed by an insured placing coverage in the surplus lines market. It also contains a “fix” for the Brown v. Edenfield case by clarifying that if the insurer has manifested its willingness to renew, the non-renewal requirements of subsection (1) of s. 626.9201, F.S. do not apply. It also clarifies that the subsection does not apply in cases of nonpayment of premium. Generally effective 7/01/12. Enrolled Text: http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?FileName=_h1101er.docx&DocumentType=Bill&BillNumber=1101&Session=2012

FL: Lemy v. Direct General Finance Co. Slip Copy, 2012 WL 2339702, M.D.Fla., June 19, 2012 (NO. 8:11-CV-2722-T-23AEP). This case addresses the consequences if a surplus lines policy placement fails to comply with all of the regulatory requirements. Plaintiffs alleged many failures to comply with the surplus lines regulations, but the court agreed with only a couple of the allegations. Plaintiffs argued that the surplus lines policies were “not regulated,” that a cause of action accrues for each “important” violation of the insurance code, and that each policy is worthless. . .” The court found that at worst, “each policy displays a couple of minor defects—a warning in lower case letters or an irregular and incomplete (but not absent) affidavit confirming a diligent search.” The court explained that if “violating the sections of the insurance code cited in the complaint could render an insurance policy breached, void, or illegal, one would say that neither policy is sufficiently defective to qualify as breached, void, or illegal.” The court relied upon the prior holding of the Florida Supreme Court that “affirmed a more reasonable and more widely followed rule, which holds that a policy violating a section of the insurance code remains valid unless the code

explicitly states that violating the section voids the policy.” QBE Ins. Corp. v. Chalfonte Condo. Apartment Assoc., Inc. (Chalfonte II), — So.3d —, 2012 WL 1947863, *9–*11 (Fla. May 31, 2012) (No link)

FL: Erin Bagley: Change in the surplus lines law to add the “manifesting intent to renew” provision to its cancellation/nonrenewal provision (**626.9201**) effective July 1, 2012

GEORGIA:

GA: ACT: 746: SB385 was a bill which was on the electronic document for the spring law group meeting. **May 2, 2012, signed by Governor** and applies the Georgia tax rate unless the state elects to participate in a compact. In 2011, Georgia legislation taxed a multi-state policy at the rates of the states where the exposure was located. Georgia advised brokers to apply this law regardless of whether the state elected to participate in a tax sharing system. The Act amends the 2011 legislation to provide that if Georgia participates in a cooperative agreement, etc., with other states the sum payable shall be computed based upon an amount equal to 4 percent of that portion of the gross premiums allocated to this state plus an amount equal to the portion of premiums allocated to other states or territories on the basis of the tax rates and fees applicable to properties, risks, or exposures located or to be performed outside this state.

<http://www.legis.ga.gov/Legislation/20112012/127802.pdf>

GA: Bulletin 12-EX-1: Multi-state tax rate changes SB385: Eff. 7/1/12 all non-admitted business written in Georgia with an effective date on or after July 1, 2012 –where Georgia is the HOME state – will be taxed pursuant to Senate Bill 385. If a surplus line policy covers risks or exposures located or to be performed both in and out of Georgia and Georgia is the “home state,” the entire premium will be taxed at a rate of 4% and filers do not need to allocate that portion of the risk located in each state. Allocations will be required if Georgia participates in a cooperative agreement, compact, or reciprocal agreement with other states. However, if Georgia enters into any such agreement, additional instructions will be provided at that time. **NOTE: You will need to copy and paste this link into your browser to access it.**

<http://www.oci.ga.gov/ExternalResources/Announcements/Bulletin-5212012-1444.pdf>

GA: In re International Management Associates, LLC, Slip Copy, 2012 WL 2105908, Bkrtcy.N.D.Ga. 2012. April 03, 2012). Issues: whether a surplus lines binder merges into a policy when it is issued and what constitutes delivery of the policy. The court explained that “[O.C.G.A. § 33-24-33](#) provides an exception to the general rule that a binder merges into a policy when the policy is surplus lines insurance...” The statute provided “no binder shall be valid beyond the issuance of the policy with respect to which it was given or beyond 90 days

from its effective date, whichever period is the shorter, provided that this subsection shall not apply to excess or surplus line insurance.” Notwithstanding the statutory exemption for surplus lines policies, the Court concluded that a conditional binder for surplus line insurance is not valid beyond the issuance of the surplus line insurance policy. Consequently, the court found that the terms of the Cover Note, as a conditional binder for the surplus line insurance, were not valid as a matter of law upon the issuance of the Policy, which replaced and superseded the Cover Note and extinguished any condition precedent not also included in the Policy, including the application requirement.

Although the policy was delivered electronically to IMA's surplus lines broker of record, that broker did not review it, countersign it, pay the tax for it, file with the Georgia Department of Insurance, pay the premium for it, or deliver it to IMA, as the Georgia Insurance Code requires. The Court nevertheless concluded that actual delivery of an insurance policy is not a necessary prerequisite to policy issuance, citing *New York Life Ins. Co. v. Babcock*, 104 Ga. 67, 30 S.E. 273 (1898); *Sur. Group, Inc. v. Ragsdale*, 197 Ga.App. 437, 398 S.E.2d 718 (1990). The court found the policy had been issued when the insurer sent it to the broker. The fact that any other requirements for issuance of the policy had not occurred prior to the insurers' decision to declare it *void ab initio* provides no basis for concluding that the Policy did not become effective.

HAWAII:

HI: SB 2168: SLIMPACT: DEAD: Legislature adjourned 05/04/12. Bills that did not pass the Legislature are dead for the session. This bill would have required Hawaii to join SLIMPACT. Hawaii would have been the 10th state to join SLIMPACT, which is the minimum amount required for SLIMPACT to begin operations.

http://www.capitol.hawaii.gov/session2012/Bills/SB2168_.HTM

HI: SB 2768 (companion HB 2506) ENACTED ACT 04/25/12: Eliminates some underlying producer license requirements for applying and obtaining surplus lines broker license; makes other changes regarding surplus lines broker licensing.

http://www.capitol.hawaii.gov/session2012/bills/SB2768_SD1_.htm

HI: 6/7/12: WITHDRAWS FROM NIMA: CLARIFIES TAX. MEMO 2012-4E, Eff. 7/1/12.

http://hawaii.gov/dcca/ins/commissioners_memo/Memo_2012-4E.pdf

HI: Surplus Lines Broker Licensing FAQ effective 7/1/12: A Surplus Lines Broker will no longer be required to hold a Producer license. Resident Surplus Lines Brokers for property are required to successfully pass the Hawaii Property Insurance Exam. Resident Surplus Lines Brokers for casualty are required to

successfully pass the Hawaii Casualty Insurance Exam. Resident Surplus Lines Brokers for personal lines are required to successfully pass the Hawaii Personal Lines Insurance Exam. Resident Surplus Lines Brokers must comply with continuing education requirements.

<http://hawaii.gov/dcca/ins/faqs/surplus-lines-faq-effective-july-1-2012.html>

HI: 5/11/12: New quarterly tax form and FAQs and other tax information available at:

<http://hawaii.gov/dcca/ins/surplus-lines-tax>

IOWA:

IA: SSB 3066: DID NOT PASS: Would have amended Code section 515.120 to provide that disability insurance that is in excess of policy limits available in admitted insurers can be purchased from nonadmitted insurers.

<http://coolice.legis.state.ia.us/Cool-ICE/default.asp?Category=billinfo&Service=Billbook&menu=true&ga=84&hbill=SSB3066>

IDAHO

ID: UPDATED WHITELIST: 6/21/12:

<http://www.idahosurplusline.org/app/insurers.asp>

ILLINOIS: David Ocasek, SLA of IL

IL: HB1577 PUBLIC ACT 097-0955: SIGNED BY GOVERNOR AND EFFECTIVE AUGUST 14, 2012. The Act contains the NRRA provisions including taxing and regulating the transaction in the home state when Illinois is the home state of the insured. It contains NRRA eligibility, and ECP provisions. It also removes the surplus line producer bond requirement and precicensing course requirement; amends the tax wording to make it clear that taxes are due based on policies filed with the ILSLA; and harmonizes the Illinois Domestic Surplus Line Insurer law with the NRRA.

<http://www.ilga.gov/legislation/publicacts/97/PDF/097-0955.pdf>

IL: Proposed Amendments to Medical Professional Liability Database.

Information regarding comments and deadline. Applies to all “other entities” which by definition includes surplus lines insurers. Intent of the amendments is believed to conform to the NAIC model. NOTE: Link below is to the Illinois register issue. It is slow to load. You will need to go to page 9692 for the document which contains highlighted amendments.

http://www.cyberdriveillinois.com/departments/index/register/register_volume36_issue27.pdf

IL SLA: General Bulletin #38, New S/L License Application and Renewal Procedures. Eff. 7/18/12 all Illinois surplus line producer renewals and applications will be handled through NIPR. Any paper renewals and applications that were received, complete and approved by the Illinois Department of Insurance as of today have been processed. All others will need to be processed through NIPR.

<http://www.slai.org/bulletins/bulletin38.pdf>

KENTUCKY:

KY: 2012 Legislative Summary. HB 295 amends the surplus lines law to include the following amendments:

KRS 304.10-140 is amended to remove the requirement that a surplus lines broker file proof of financial responsibility with the department;

KRS 304.10-030 is amended to include definitions from the Nonadmitted and Reinsurance Reform Act (within the Dodd Frank Wall Street Reform Act);

KRS 304.10-040 is amended to clarify that the diligent search must be performed by a licensed agent with a property and casualty line of authority; and to clarify that a diligent search is not required for an exempt commercial purchaser;

KRS 304.10-120 is amended to clarify that an agent license with a property and casualty line of authority is not a requirement for licensure as a surplus lines broker; and

KRS 304.99-085 is amended to create a penalty of:

\$100 for failure to file an affidavit in accordance with KRS 304.10-050;

\$1,000 to \$5,000 for a broker who exhibits a pattern of failing to file affidavits in accordance with KRS 304.10-050; and

\$500 for failing to file a quarterly statement in accordance with KRS 304.10-170;

<http://insurance.ky.gov/Documents/Bulletin1202Legislation060412.pdf>

KY: HB 497: Signed by Governor 4/11/12. Applies to surplus lines brokers. HB 497 relates to those reasons constituting impermissible cancellation and non-renewal and time frames. Click on the link below then the HB 497 preceding the summary.

<http://www.lrc.ky.gov/record/12RS/HB497.htm>

KY: 806 KAR 2:150. Collection fee allowed for brokers that collect local government premium tax.

<http://www.lrc.state.ky.us/kar/806/002/150.htm>

KY: 806 KAR 2:095 (amended) provides for the accounting and reporting procedures to be used by every insurance company or its agent, to which this administrative regulation applies, including surplus lines brokers, for the collection and reporting of the fees, taxes and the collection fee.

<http://www.lrc.state.ky.us/kar/806/002/095.htm>

KY: Bulletin 2012-01 All Insurance Companies and Surplus Lines Brokers subject To Kentucky Local Government Premium Taxes, Detailed instructions as to tax payments and processing. For convenience, a link to advisory opinion 2011-04 is attached. http://insurance.ky.gov/Documents/lgptbulletin12-01_040912.pdf

http://insurance.ky.gov/Documents/advop11_04nonadmitins060611.pdf

LOUISIANA: Ronnie Johnson, McGlinchey Stafford, PLLC

LA: H 442: ADJOURNED WITHOUT ACTION. Would have required every rental dealer to maintain a contingent automobile liability policy with minimum limits of \$100,000 per occurrence, \$300,000 aggregate, and \$50,000 property damage through a company licensed by and admitted in Louisiana or, upon a finding by the commissioner after a public hearing that there are no admitted carriers offering such a policy, through an approved nonadmitted insurance company with an A.M. Best rating of A or better. The permissibility of the use of an approved nonadmitted insurance company shall exist for not longer than 12 consecutive months from the date of determination by the commissioner, at which time another determination shall be required.

<http://legis.la.gov/billdata/streamdocument.asp?did=777153>

See Also:

LA: HB 1074 ADJOURNED WITHOUT ACTION. Every rental dealer shall maintain a contingent auto liability policy with minimum limits \$100,000/\$300,000 and \$50,000 property damage. Such policy shall be placed, if available, through a company licensed by and admitted in the state of Louisiana, or an approved nonadmitted insurance company that is licensed by the state of Louisiana and has an A.M. Best rating of B+ or better.

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=787403>

LA: H 766. Act 802: 06/13/12: SIGNED BY GOVERNOR. EFF. 8/1/12. Reduces time to remit payment to patient compensation fund from 45 days from receipt by surplus lines broker to 30 days. Link is to enrolled version.

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=807542>

LA: SB 208 Act 317. 05/25/12: SIGNED BY GOVERNOR. EFF. 8/1/12. Adds a representative of the La. Surplus Lines Association to the membership of the La. Property and Casualty Commission.

<http://legis.la.gov/billdata/streamdocument.asp?did=803459>

LA SB263, Act No. 544 06/05/12 SIGNED BY GOVERNOR. EFF. 8/1/12. Provides for secretary of state's service of process on an unauthorized insurer.

<http://www.legis.state.la.us/billdata/streamdocument.asp?did=810775>

LA: BULLETIN NO. 2012-02. SURPLUS LINES TAXES. 06/14/12

Effective July 1, 2012. It applies where Louisiana is the home state and for which there is premium allocated to at least one other state or territory, whether a NIMA participating state or not. 2012-02 supplements 2011-01 and 2011-04. Tax filers shall file all transaction data for the calendar quarter before the start of the next calendar quarter ending on March 31, June 30, September 30 and December 31. The clearinghouse will invoice tax filers immediately following the end of the quarter and payment is due within 45 days of the end of the quarter. For subsequent endorsements on policies with effective dates prior to July 1, 2012, the tax filer should file with the LDI in accordance with the laws in force prior to July 1, 2012.

The clearinghouse will require information different from that currently required by the Department. The Bulletin contains tax examples such as single-state premium, multi-state premium with NIMA states, multi-state premium with non-NIMA states, affiliated groups, etc.

http://www.lidi.state.la.us/docs/CommissionersOffice/legal/Bulletins/Bul2012-02_Cur_InstructionsForFilin.pdf

MARYLAND: Jason Fetterman

MD Bulletin 12-14 Claims Handling Practices by its language does not appear to apply to surplus lines. However, that may not be the view of the DOI. Also see 12-15, 12-16 and 11-27.

<http://www.mdinsurance.state.md.us/sa/docs/documents/insurer/bulletins/bulletin12-14.pdf>

MD Bulletin 12-15: August 9, 2012

Draft Proposed Regulation 31.08.13 – Application of a Percentage Deductible in the Case of a Hurricane or Other Storm indicates that it applies to all P&C insurers as defined in 19-201(c): “Insurer” means an insurer that issues or delivers a policy of homeowner’s insurance in the State. Update: applying admitted provisions to surplus lines as was done in Bulletin 11-27, links below.

<http://www.mdinsurance.state.md.us/sa/docs/documents/insurer/bulletins/bulletin1215percentagedeductibleregs.pdf>

Bulletin 11-27:

<http://www.mdinsurance.state.md.us/sa/docs/documents/insurer/bulletins/bulletin11-27.pdf>

MD BULLETIN 12-16 August 16, 2012: Homeowner’s Insurance-Limitation on Number of Claims Made-Notice (HB1068). It indicates that it applies to all P&C Insurance Companies Writing Homeowners Insurance and the JIA and may be applied by the DOI to surplus lines.

The purpose of this Bulletin is to clarify the applicability and content of the notice required by HB 1068 (Chapter 699, Acts of 2012), which applies to all

homeowner's insurance policies issued or renewed on or after October 1, 2012. The legislation creates new Section 19-214 (link below for your convenience) of the Insurance Article. NOTE: See Link immediately above to 11-27 as applying to surplus lines.

<http://www.mdinsurance.state.md.us/sa/docs/documents/insurer/bulletins/bulletin1216-honotice.pdf>

<http://mlis.state.md.us/2012rs/bills/hb/hb1068e.pdf>

MASSACHUSETTS:

MA: Bulletin 2012-06; New Online Licensing of Resident and Nonresident Surplus Lines Brokers; 7/17/12: As of July 18, 2012, the DOI is using the National Insurance Producer Registry ("NIPR") Gateway for both original surplus lines broker applications and surplus lines broker license renewals. The DOI will continue to accept surplus lines broker initial and renewal applications in paper format only until September 17, 2012.

<http://www.mass.gov/ocabr/business/insurance/doi-regulatory-info/doi-regulatory-bulletins/2012-doi-bulletins/bulletin-2012-06.html>

MICHIGAN

MI: The OIR posted a list of FAQs on its website dated July 31, 2012. Many of the points are similar to those addressed by other states. Note that for eligibility, the NRRRA requirements are set forth AND a requirement of an application be filed (for foreign and alien surplus lines insurers at:

http://www.michigan.gov/documents/lara/FIS_2260_361190_7.pdf

General link re: NRRRA FAQs:

http://www.michigan.gov/lara/0,4601,7-154-35299_10555_13648-260773--,00.html

Here are FAQs regarding surplus lines dated April 12, 2012:

http://www.michigan.gov/documents/lara/Surplus_Lines_Coverage_FAQs_382303_7.pdf

MI: June 1, 2012: Payment of Surplus Lines Taxes – Implementation of NAIC OPTins

Eff. 7/1/12. After that date the dept. will not accept paper tax filings. The bulletin contains detailed instructions and relevant links.

http://www.michigan.gov/documents/lara/Payment_of_Surplus_Lines_Taxes_377641_7.pdf

MI: Bulletin 2012-09-INS: Annual Adjustment of the Licensee Fee for Costs. In accordance with the required CPI adjustment, effective June 1, 2012 through May 3, 2013, the maximum fee a surplus lines licensee may charge for costs, without application to the Commissioner, is \$57.00.

http://www.michigan.gov/documents/lara/Bulletin_2012-09-INS_387824_7.pdf

MINNESOTA Nicolas Schroeder, SLA of MN

MN: SB 2060, Chapter 187, EFFECTIVE 8/1/12, makes minor language changes relating to eligible surplus lines insurers. See section 11 of the bill. Also see Article 2, Section 4, subd. 21 regarding surplus lines association data
<https://www.revisor.mn.gov/laws/?id=187&doctype=chapter&year=2012&type=0>

MISSISSIPPI: Peggy Dronet, MS SLA

MS: Bulletin 2012-2: May 11 2012: SB 2626: Nonadmitted policy fee (Windpool fee) reduced from 5% to 3%.
<http://www.mid.state.ms.us/bulletins/20122bul.pdf>

MS: Bulletin 2012-3: Mississippi withdraws from NIMA. The bulletin explains that home state taxation has very little revenue impact. NIMA would result in additional costs. Mississippi will withdraw from NIMA, effective June 18, 2012. Taxation until July 1, 2012 will be at the rate of 4% surplus lines premium tax plus a 5% nonadmitted policy fee (Windpool fee) and a .25% stamping fee. After July 1, 2012 the calculation changes from 5% to a 3% nonadmitted policy fee (Windpool fee). Bulletin 2012-3 was effective May 11, 2012 and supersedes bulletins 2011-8, 2011-10, and 2011-11. From the Mississippi Surplus Lines Association website:
<http://www.msla.org/docs/MID%20-%202012-3.pdf>

MS: HB 1348 4/16/12 Approved by Governor. Exempts from the surplus lines premium tax property insurance purchased by Department of Finance and Administration for the state of Mississippi. Would be effective until July 1, 2013.
<http://billstatus.ls.state.ms.us/documents/2012/pdf/HB/1300-1399/HB1348SG.pdf>

MS: SB 2626 4/17/12 Approved by Governor. Sets the nonadmitted policy fee (windstorm assessment) at 3% of premium rather than be set by the commissioner. Eff. 7/1/12.
<http://billstatus.ls.state.ms.us/documents/2012/pdf/SB/2600-2699/SB2626SG.pdf>

MS: SB 2628 3/30/12 Approved by Governor and Bulletin 2012-4: Eliminates the affidavit requirement effective 7/1/12. Broker no longer has to file the form, but must maintain it for inspection by the DOI upon request. The form is an attachment to the bulletin.
<http://billstatus.ls.state.ms.us/documents/2012/pdf/SB/2600-2699/SB2628SG.pdf>
<http://www.mid.state.ms.us/bulletins/20124bul.pdf>

MSLA Bulletin 2012-02 issued May 21, 2012 provided FAQ's on complying with the eligible nonadmitted insurance form and SB2628.

<http://www.msla.org/docs/MSLA%20Bulletin%20-%202012-02%20MID%20Eligible%20Non%20Admitted%20Insurance%20Form.pdf>

NORTH CAROLINA

NC: 07/02/12 Surplus Lines License Renewals Ready on NIPR.

http://www.ncdoi.com/asd/Documents/Hot_Topics/2012%2007%2002~July%202,%202012-%20Surplus%20Lines%20License%20Renewals%20Ready_AAHT_BEHT_ICINHT.pdf

NORTH DAKOTA

ND: New surplus lines rule 45-09-01 EFF. 7/1/12. The new rules pertain to resident licenses, implement an ECP exemption from diligent search, require a “report of placement” rather than affidavit, revises the export list and repeals inconsistent provisions.

<http://www.nd.gov/ndins/uploads/legal/288/45-09-01---surplus-lines.pdf>

<http://www.nd.gov/ndins/uploads/legal/288/final-order-adopting-rules.pdf>

NEBRASKA

NE: L 1064, APPROVED BY GOVERNOR 3/14/12: Permits procurement of sickness and accident insurance under the surplus lines act.

<http://nebraskalegislature.gov/FloorDocs/Current/PDF/Slip/LB1064.pdf>

NEW MEXICO

NM: Bulletin 2012-09: 30-day cancellation notices required by state agencies: Certain commercial policyholders are required by state agencies to provide proofs of insurance that include a statement from the insurer that the insurer will provide notice to the state agency. These regulations from the Transportation Department require insurance from admitted carriers.

<http://nmprc.state.nm.us/insurance/insurance-bulletins/docs/Bulletin2012-009.pdf>

NEW JERSEY: Parimah Hassouri, Drinker Biddle & Reath LLP

NJ: ADOPTED NEW RULE: EFF. 6/4/12: N.J.A.C. 11:1-28.4A: This rule contains reforms regarding Surplus Lines Insurer Eligibility (eliminates existing requirements and adheres to NRRA requirements regarding US domestic and alien surplus lines insurer eligibility provisions). The revised rule contains

amended surplus lines procurement procedures as well as new provisions regarding the new domestic surplus lines insurer law. It deletes the portions of the rule that required the allocation of premium taxes.

<http://www.state.nj.us/dobi/proposed/ad120530.pdf>

NEVADA: Lynn Twaddle, NV SLA

NV: Bulletin 12-005: EFF. 7/2/12. On June 29, 2012, Nevada submitted its notice of withdrawal from the Nonadmitted Insurance Multistate Agreement (NIMA). Nevada's membership in NIMA officially terminates on August 29, 2012, or 60 days from the date of the notice. However, because Nevada withdrew from NIMA prior to the July 1, 2012, effective date of the NIMA multi-state premium-tax allocation implementation, Nevada will not be required to participate in such allocation.

<http://www.doi.nv.gov/sinfo/bulletin/12-005.pdf>

NV: Proposed new regulations relating to NIRA. Appears to not have moved since last quarter. There was a workshop on 8/1/12 and a hearing on 8/10/12 on proposed changes to R034-12.

<http://www.leg.state.nv.us/Register/2012Register/R034-12I.pdf>

NV: Eff. 7/1/12. Brokers will receive quarterly invoices for filings in lieu of monthly invoices. The invoices will be available online from the NVSLA after the close of each calendar quarter.

<http://www.nsla.org/Docs/CHANGE%20TO%20FILING%20FEE%20INVOICING%203-27-12.pdf>

NEW YORK: Dan Maher, ELANY

NY: S 6552 PASSED SENATE TO ASSEMBLY 3/26/12. Amends section 2118 of the insurance law to recognize that where a quote for coverage from an authorized insurer exceeds by 25% or more a quote for comparable coverage from the excess line market, the licensed insurer quote may be regarded as a declination from the authorized insurer; further expands the authority of the Superintendent of Insurance to waive the diligent effort requirement and declare certain coverages eligible for export to the excess line market based upon the best interests of the insureds seeking coverage; also relieves an excess line broker's diligent effort obligation in the circumstances where a policy is renewed with the same insurer for a second or third consecutive one year term. Does not appear to have moved in the Assembly.

<http://open.nysenate.gov/legislation/bill/S6552-2011>

NY: SB 6808. This bill would permit domestic excess line insurers to operate in New York. PASSED Senate 6/12/12, to Assembly. A9783, 06/14/2012 reported referred to ways and means.

http://assembly.state.ny.us/leg/?default_fld=&bn=S06808&term=2011&Summary=Y&Text=Y

http://assembly.state.ny.us/leg/?default_fld=&bn=A09783&term=2011&Summary=Y&Actions=Y&Text=Y

NY: Extension of Emergency Rule: Regulation 41 (amendment of part 27): The emergency rule is extended and will expire July 14, 2012. The rule implements changes to the rule to conform the NRRA. The rules could be considered to conflict with some provisions of the NRRA in requiring certain documents from insurers to be considered eligible. The provisions requiring the EL-1 form and the trust account could be considered an additional eligibility requirement which conflict with the NRRA. The rules are adopted on an emergency basis until they are made permanent. See pages 19-21. It is likely the state will consider further revisions to Regulation 41 in the coming months.

<http://www.dos.state.ny.us/info/register/2012/may2/pdfs/rules.pdf>

NY: Filing Requirements and Calculation of Tax for Unauthorized Insurance Corporations 2/17/12. An unauthorized insurance corporation is one that does not have a certificate of authority to conduct an insurance business in New York State. The second link is to a KPMG article elaborating upon the state's new position. The KPMG article explains that under the Department's interpretation, as announced in the technical memorandum, an unauthorized insurer's or reinsurer's tax will be the greater of:

- A tax on allocated entire net income
- A tax on allocated business and investment capital
- A tax on a prescribed portion of entire net income plus salaries and other compensation of elected or appointed officers and certain stockholders, or
- A fixed minimum tax of \$250

http://www.tax.ny.gov/pdf/memos/corporation/m12_4c.pdf

<http://us.kpmg.com/microsite/taxnewsflash/2012/Mar/12164.html>

NY: Proposed rule amending various provisions of free trade zone, including Section 16.1 by reducing the Class 1 risk minimum billed annual premium from \$200,000 to \$150,000 for more than one kind of insurance where the premium for any one kind of insurance does not exceed \$100,000. Comment deadline 08/04/12, see second link, Notice of Proposed Rulemaking. Also below is a link to ELANY's explanation of the free trade zone, FYI.

http://www.dfs.ny.gov/insurance/r_prop/pdf/rp86a4t.pdf

http://www.dfs.ny.gov/insurance/r_prop/pdf/rp86a4f.pdf

<http://www.elany.org/lexicon-click.aspx?LT=0&H=124&T=76&D=D27>

NY: ELANY August 9, 2012: Bulletin 2012-21: Business Entity License Renewals. The bulletin contains information on how to renew those licenses (all

expire on October 31, 2012) and the preferred method to renew via link
<http://www.dfs.ny.gov/insurance/licrenewal.htm>

Note that individual licenses expire on the individual's birthday in the odd/even year corresponding to the person's birth year odd/even. However, if an individual uses an entity to place business etc. that entity must hold the license.
<http://www.elany.org/HotNews.aspx?docID=1710>

NY: ELANY Bulletin 2012-19 6/27/12: Broker Fees should be properly labeled.
<http://www.elany.org/HotNews.aspx?docID=1707>

NY: ELANY Bulletin 2012-18 6/27/12: New Affidavit part C reminder: Brokers are to be using (since 7/1/11) the new affidavit. After 9/1/12, ELANY examiners will be calling brokers who fail to use the new Affidavit Part C in order to discuss this non-compliance issue.
<http://www.elany.org/HotNews.aspx?docID=1706>
<http://www.elany.org/docs/forms/85.pdf>

OHIO

OH: HB 508 PASSED exempting surplus lines from the commercial activity tax. See: Sec. 5751.01. As used in this chapter...(E) "Excluded person" means any of the following...(9) A domestic insurance company or foreign insurance company, as defined or an unauthorized insurance company whose gross premiums are subject to tax under section 3905.36 of the Revised Code...
http://www.legislature.state.oh.us/BillText129/129_HB_508_EN_N.html

OKLAHOMA

OK: H 2458: APPROVED BY GOVERNOR 4/16/12: This bill adds some NRRA terms and definitions. The 2011 legislation added some NRRA definitions and some NIMA definitions. This bill fails to include the NRRA definitions of affiliate, affiliated group, control, premium tax, qualified risk manager, and state. This bill and the 2011 legislation incorporated the NIMA definitions of home state for group policyholder, principal place of business and principal residence. There is no comprehensive provision limiting the application of the laws to those policies where Oklahoma is the home state of the insured. The bill goes beyond the NRRA in requiring that "the insurance shall be procured through a licensed surplus lines broker licensed in the home state of the insured." The 3/5/2012 amendment requires a license in the "insurer's" home state which is inconsistent with the NRRA which requires a license in the "insured's" home state. The 2011 legislation appeared to require the state to collect the other states' rates on a multi-state risk for portions residing in another state regardless of whether the state

joined a tax sharing system, and these provisions were deleted in 2012. The 2012 bill makes it clear that the Oklahoma rate shall be used until the state joins a tax sharing system. The bill is unusual in that the tax appears to be imposed upon the domestic surplus lines insurer instead of the broker (but this was clarified by S 1617). The 2011 legislation authorized tax sharing if the Commissioner elects to join a tax sharing system. The bill authorizes the use of NIMA or another agreement that has the "same" purpose. The 2011 legislation exceeded the scope of the NRRA in incorporating a provision in the eligibility section that required the surplus lines insure to comply with the Unauthorized Insurer and Surplus Lines Insurance Act (the Oklahoma Surplus Lines code) as well as comply with the NRRA eligibility criteria. The law continues to prohibit a broker from knowingly placing coverage with a nonadmitted insurer which is in an unsound financial condition.

Click on "version" "enrolled (final version) after clicking on the link below and it opens.

<http://www.oklegislature.gov/BillInfo.aspx?Bill=HB2458>

OK S1617: Clarifies that the broker pays the taxes (rather than insurer). APPROVED BY GOVERNOR 06/08/12. Click on "version" "enrolled (final version) after clicking on the link below and it opens.

<http://www.oklegislature.gov/BillInfo.aspx?Bill=SB1617&Session=1200>

OREGON:

OR: FAQ re: NRRA from the Departments "Spring Regulator" newsletter. The FAQ's address taxing at 100% of the premium where OR is the home state (including fire tax); request for allocation data on OR home state policies; indicates that no diligent search letter is required from risk purchasing groups (RPGs); if there is non-US premium, when Oregon is the home state, then 100% of the tax is due OR.

<http://insurance.oregon.gov/FAQs/surplus-lines-NRRA.html>

OR: SLA: Diligent effort form requirement and forms.

<http://www.slaor.org/DSSstatement.aspx>

<http://www.slaor.org/uploads/DSS%201-12-12.pdf>

OR: Electronic Filings related to licensing and continuing education: Temporary rules: Adopted June 19, 2012, Effective: August 1, 2012 through January 25, 2013 Temporary rules require electronic submission of license applications and continuing education materials to the extent possible. All fingerprints are to be submitted electronically from the exam vendor testing facilities. Continuing education providers will be required to report course completion information electronically via instructions from the division and non-resident applicants must supply background information electronically. This notice reflects changes in the licensing process that result from DCBS's change to an electronic-based system.

http://www.insurance.oregon.gov/rules/attachments/recently%20proposed/id12-2012_rule.pdf

PENNSYLVANIA Ken Rudert, PA SLA

PA: SLA, Bulletin B-2012-7-12 Eff. 8/1/12, 1609-PR Producer Affidavit forms will be returned if there is missing and/or invalid declining carriers.
<http://www.pasla.org/Bulletins/B-2012-7-12.pdf>

PA: SLA, Bulletin B-2012-6-12, 6/29/12: Exclusions to the Miscellaneous Errors & Omissions or Professional Liability 1604-E (Export) filing type
<http://www.pasla.org/Bulletins/B-2012-6-29.pdf>

PA: Export List: effective May 12, 2012.
<http://www.pabulletin.com/secure/data/vol42/42-19/878.html>

PA: SLA Bulletin B-2012-5-21: Agency License Report. On May 21, 2012 the Pennsylvania Surplus Lines Association issued a bulletin to surplus lines agencies with the following instructions:

“Business entities that are licensed as Pennsylvania insurance producers shall be eligible to be surplus lines licensees, if the business entities do all of the following:

- (1) Designate one or more officers or partners licensed under this article to be responsible for compliance with all reporting and recordkeeping required by this article.
- (2) Provide to the department a list of all surplus lines licensees associated with and placing surplus lines business through the business entity. The business entity shall provide to the department an updated list of licensees within five (5) business days of a change in association of any licensee. The list shall be available at all times for inspection by the department.”

The SLA has created an agency license report available through the electronic filing system.
<https://www.pasla.org/Bulletins/B-2012-5-21.pdf>

RHODE ISLAND: David Kodama, PCI
RI law requiring provision of loss reserves information upon request on open and closed claims. No related linked document.

RI: Bulletin 2012-2 Summary of 2012 legislative changes, see Portable Electronics Insurance and Loss Information, the latter takes effect January 1, 2013 and now applies the provision to medical malpractice and medical professional liability insurance. Note that the change is in the Unfair

Competition and Practices Chapter. The Department will be amending Insurance Regulation 38 to address these statutory changes (Which currently does not apply to surplus lines)

<http://www.dbr.state.ri.us/documents/news/insurance/InsuranceBulletin2012-2.pdf>

SOUTH CAROLINA

SC S. 1419 NRRA legislation SIGNED BY THE GOVERNOR 6/29/2012. Contains many NRRA terms. Defines “broker’s premium tax rate” as 6% blended tax and municipal rate (4% +2%) to a special fund. Does not explicitly implement NRRA home state taxing provisions. Does not contain NRRA eligibility but instead continues existing eligibility provisions, Allows the Director to join a tax clearinghouse. The Director is to collect 100% of the taxes due (but does not use the term “home state”). ECP is defined, but the NRRA provisions for processing an ECP are not in the law. Indicates effective retroactively to 1/1/12. http://www.scstatehouse.gov/sess119_2011-2012/prever/1419_20120531.htm

SOUTH DAKOTA

SD: Bulletin 12-03: Guidance regarding the filing of multi-state surplus lines policies where SD is the Home State. All multi-state surplus lines policies issued or renewed on or after July 1, 2012, and any subsequent endorsements to those policies in which a NIMA-participating state is deemed the “Home State” must be filed with the Clearinghouse. Multi-state policies with an effective date prior to July 1, 2012 or endorsements on those policies will not be filed with the Clearinghouse. After July 1, 2012, any renewing multi-state policies and endorsements must be filed with the Clearinghouse. Brokers and policyholders may begin filing transactions with the Clearinghouse on July 1, 2012. NOTE: The Clearinghouse will function as the universal filing place for all surplus lines premium tax submissions where South Dakota is the Home State, including single-state risks, at a future date. At this time, single-state surplus lines premium tax will continue to be filed directly with the South Dakota Division of Insurance. See the bulletin link for further information.

Also, the division of insurance has a new webpage. This is the link to surplus lines information. Note the information regarding NIMA.

http://dlr.sd.gov/insurance/bulletins/bulletin_12_03_surplus_lines.pdf

http://dlr.sd.gov/insurance/companies/surplus_lines.aspx

SD: SUMMER NEWSLETTER indicates that the DOI is working to have ALL surplus lines filings processed thru the clearinghouse. Also in the newsletter is reference to SD: Bulletin 12-03: Guidance regarding the filing of multi-state

surplus lines policies where SD is the Home State which was addressed in the second quarter report.

http://dlr.sd.gov/insurance/publications/newsletter_summer12.pdf

TENNESSEE

TN: NOTE: This is admitted coverage: June 29, 2012, Implementation of Public Chapter 878: **Exempt Commercial Policyholders**. Ch. 878 allows large companies to qualify as an exempt commercial risk policyholder and obtain a certificate letting them purchase commercial insurance policies whose rates and forms are not filed and approved by the state. Ch. 878 spells out the penalties if the insurer fails to comply with the requirements, meet the qualification criteria, and file for the annual certificate. The insured must employ a licensed agent and purchase a commercial policy that provides the services of a risk manager. The insured must also have a net worth of more than \$10 million at the time of issuance and net revenue over \$15 million in the preceding year, employ more than 25 employees per individual company or 50 employees per holding company. There must have been \$250,000 in commercial risk premium in the preceding fiscal year of commercial risk, excluding A&H, health, workers' compensation and employer's liability insurance.

Link to the memorandum with the form for the insured:

<http://www.state.tn.us/commerce/insurance/documents/PublicChapter878.pdf>

TN: Notice to companies required to submit statement of taxes and fees may use OPTins

<http://www.state.tn.us/commerce/insurance/documents/OptinsAnnouncement.pdf>

TEXAS: Phil Ballinger, SLSOT; Peter Nolan, Winstead PC

TX Franchise tax: A suit was filed June 20, 2012 to determine whether the franchise tax applies to surplus lines insurers. Atlantic Casualty Insurance Company V. Combs, Cause No. D-1-GN-12-000884. No link to document.

TX: SLSOT: March 19, 2012. Texas Comptroller Offers Limited Tax Amnesty Program

Beginning June 12, 2012 through August 17, 2012, the Comptroller's Office will waive penalties and interest for businesses that file delinquent tax reports and pay all taxes due, or amend reports that underreported taxes and pay the taxes due.

Amnesty does not apply to filing periods under audit or identified for an audit.

<http://www.slsot.org/SLSOT/PubEdInformation/SLSOTBulletins/Bulletinpdf/Mar19-2012-06.pdf>

TX: HB 3410: Creation of "Managing Underwriter" as a legal entity in the Insurance Code and its implications for tax payments. In April

of 2012, the Comptroller has issued the following explanation of the compliance obligations: Surplus Lines “Agent of Record” and House Bill 3410.

House Bill 3410, passed during the 82nd Texas Legislature, became effective on Jan. 1, 2012. This bill provides for important changes to the collection, reporting and payment of surplus lines insurance premium taxes. It affects the definition of the “agent of record” as used in Comptroller and Texas Department of Insurance (TDI) rules and adds a definition of a “managing underwriter” under Chapter 981 of the Insurance Code:

“Sec. 981.002(1-a) ‘Managing underwriter’ means a surplus lines agent or agency that exercises, pursuant to a written agreement with an eligible surplus lines insurer, underwriting authority for the eligible surplus lines insurer and that derives the agent or agency’s business from a surplus lines agent.”

When two or more agents who hold surplus lines licenses are involved in the placement of a surplus lines policy, the new provisions require the surplus lines agent that places the policy with the managing underwriter to collect, report and pay the premium taxes due on the placement. There must be a written agreement between the two parties acknowledging that the surplus lines agent agrees to act as the agent for the placement of the policy and be responsible for all filing, reporting, collection, and payment requirements.

Prior to HB 3410, Rule 3.822 defined the agent of record as the Texas licensed surplus lines agent who placed a policy with an eligible surplus lines insurer, or the Texas licensed surplus lines agent who transacted business directly with an out-of-state agent not licensed by Texas as a surplus lines agent to obtain coverage with an eligible surplus lines insurer. The agent of record was responsible for all taxes due the state on policies issued by the agent in the surplus lines market. Rule 3.822 is being revised to reflect the changes from HB 3410.

The managing underwriter must maintain the following records, available for inspection by the TDI and the Comptroller:

- 1. the name and address of the insured;*
- 2. the policy number and policy period;*
- 3. the name of the eligible surplus lines insurer;*
- 4. the gross premium charged for the insurance;*
- 5. the name of the producing surplus lines agent who placed the policy with the managing underwriter;*
- 6. the license number of the producing surplus lines agent who placed the policy with the managing underwriter; and*
- 7. a written agreement between the managing underwriter and the producing surplus lines agent that the producing surplus lines agent will act as the “agent of record” for the placement of the policy and be responsible for all filing, reporting, collection, and payment requirements under both Chapter 981 (Surplus Lines Insurance) and Chapter 225 (Surplus Lines Insurance Premium Tax) of the Insurance Code.*

If a managing underwriter is acting as the sole licensed surplus lines agent for a policy, then the managing underwriter must maintain the records listed in numbers 1 through 6 above and also make the records available for inspection by

representatives of the Comptroller and the TDI. The managing underwriter would be responsible for filing the policy, paying the taxes, and all other requirements imposed under the surplus lines statutes.

These provisions only apply to policies where Texas is the home state of the insured. <http://www.statutes.legis.state.tx.us/SOTWDocs/IN/htm/IN.981.htm>

UTAH

UT: H 29 PASSED. This bill establishes surplus lines as a license type.
<http://le.utah.gov/~2012/bills/hbillenr/hb0029.htm>

UT: NOTICE: Surplus Lines Producer (SL Producer) will now be a separate license type, rather than a Line of Authority (LOA) under a Producer license, Utah Code Annotated (UCA) Section 31A-23a-106. The Department will convert all Producer licenses with a surplus LOA to a new separate SL Producer license with a unique license number, resulting in two licenses. The expiration date of the new SL Producer license will be the same date as the expiration date of the existing Producer license. No action will be needed on your part for this conversion to take place. As a result, both licenses will need to be renewed at the same time with a separate renewal fee paid for each license. After the conversion, you will be able to look up your new SL Producer license number on the department's website at <http://www.insurance.utah.gov> by clicking on "Search for Company & Agent". To print a copy of the license, go to Sircon's website at <http://www.sircon.com/utah>
<http://www.insurance.utah.gov/docs/LicensingChanges4-10-2012.pdf>

UT: Multistate tax filing bulletin 2012-4, 06/20/12: NIMA: Sets out guidance for filings after 07/01/12 with the clearinghouse. Utah has indicated they will only tax the exposures in other NIMA states.
<http://www.insurance.utah.gov/docs/bulletins/2012-4Signed.pdf>

VIRGINIA

VA: Surplus Lines Broker Licensing Renewal Information is available at:
<http://www.scc.virginia.gov/boi/pro/renew.aspx>

VERMONT

VT: HB 782 PASSES HOUSE AND SENATE. Among other things, this bill increases the existing fire tax on surplus lines:
Sec. 62 32 V.S.A. § 8557(a) is amended to read:(a) Sums for the expenses of the operation of training facilities and curriculum of the Vermont fire service training council not to exceed

~~\$800,000.00~~ \$950,000.00 per year shall be paid to the fire safety special fund created by 20 V.S.A. § 3157 by insurance companies, including surplus lines companies, writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the state of Vermont within 30 days after notice from
The commissioner... (See p. 84)

<http://www.leg.state.vt.us/docs/2012/bills/Passed/H-782.pdf>

VT: Bulletin 169, supplement to Bulletin 163: Clarification of tax payment until SLIMPACT is operational. Where VT is the home state, tax is at the rate of 3% of premium applicable to properties, risks or exposures located or to be performed in VT PLUS: any premium outside VT at the rates established at that of that jurisdiction which sum of the two is the total tax due in VT. (Basically pay VT at the rate where the exposure is located or to be performed).

http://www.dfr.vermont.gov/sites/default/files/Bulletin_169.pdf

WASHINGTON Bob Hope, SLA of WA

WA: RULE 164 WA WAC 458-20-164: MADE PERMANENT, Eff. 6/3/12. Department of Revenue Rule Change to explain the taxability of amounts (received) earned by insurance (agents, brokers, or solicitors) producers, title insurance agents, and surplus line brokers, which include persons commonly referred to as insurance agents, solicitors, representatives, brokers, or dealers.

<http://apps.leg.wa.gov/documents/laws/wsr/2012/11/12-11-006.htm>

WA: WAC 284-12-080 New Rule: Eff. 1/22/11

Proposed rule intended to make clear and beyond question that the separate premium account may not be used as a personal asset by licensed producers and surplus line brokers and that premium taxes must be deposited into the account and cannot be withdrawn from the account, except for payment to the State or refund of unearned taxes.

http://www.insurance.wa.gov/laws_regs/documents/2011-31103P.pdf

WA: Surplus Lines Association: REMINDER: WA policy stamping language has been revised:

"This contract is registered and delivered as surplus line coverage under the insurance code of the state of Washington, Title 48 RCW. It is not protected by any Washington state guaranty association law."

<http://www.surpluslines.org/Docs/Registry%20Stamp%20Wording.pdf>

WISCONSIN

WI: Surplus Lines Insurance Requirements Under Wisconsin Act 224, 05/29/12. This bulletin contains links to Act224, the changes incorporated into the statutes, and existing rules (which the statute controls).

Wisconsin taxes 100% of written premium when Wisconsin is the "Home State of the insured." The tax rate is 3% of the entire premium, fees or other consideration received. The 3% rate now applies to ocean marine. All policies with an effective date prior to January 1, 2012, and premiums collected prior to January 1, 2012, will continue to be subject to existing tax allocation rules on written premiums, additional premiums and return premiums. All policies effective on and after January 1, 2012, or premiums collected after January 1, 2012, will be taxed at 100% of all premium and other consideration collected at the 3% rate when Wisconsin is the Home State even when the policy insures exposures in other states as well. Taxes will be paid in the same manner as currently required with all taxes from calendar year 2012 due on March 1, 2013, using the same form. (See s. Ins 6.17 (5), Wis. Adm. Code)

Gillen: Sections 23 and 24 of Act 224 codify past practice that surplus lines policies do not have to be filed even if there is an arbitration clause in the policy, reversing the Gillen decision.

<http://oci.wi.gov/bulletin/0512surplines.htm>

WEST VIRGINIA

WV: SB 287 PASSED: Authorizes the commissioner to promulgate a legislative rule for surplus lines insurance. (Reauthorizes 114 CSR 20).
http://www.legis.state.wv.us/Bill_Text_HTML/2012_SESSIONS/RS/pdf_bills/SB287%20SUB1%20enr%20PRINTED.pdf

WV: Legislative summary: Informational Letter 181: 2012 insurance legislation. The summary mentions the legislation for the last year contains NRRR reforms, establishes a single rate on tax, and authorizes the state to participate in a tax clearinghouse.

<http://www.wvinsurance.gov/LinkClick.aspx?fileticket=5nyf-xEf9pY%3d&tabid=211&mid=887>

WV: Quarterly tax forms use a 4.55% rate (and other surplus lines forms at "Taxes-surplus lines licensee").

<http://www.wvinsurance.gov/company/Taxes/tabid/369/Default.aspx>

WV: Final amended rule, eff. 4/20/12, Surplus Lines Insurance, 114 CSR20, TITLE 114

LEGISLATIVE RULE, INSURANCE COMMISSIONER, SERIES 20, SURPLUS LINES INSURANCE. In addition to the rule making it possible for WV to participate in a national clearinghouse system, the rule establishes 4.55%

as the single tax rate on all surplus lines premium when WV is the insured's home state.

<http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=23595&Format=PDF>

WV: Export list: Notice of hearing: 9/7/12. Comments were to be received by 9/4/12.

<http://www.wvinsurance.gov/LinkClick.aspx?fileticket=tTODUgibLIU%3d&tabid=38&mid=725>

WYOMING

WY: MEMORANDUM: 02-2012: 5/29/12 Filing Changes on Multistate Risk Policies for Surplus Lines Clearinghouse: All multi-state policies issued or renewed on or after 7/1/12, and any subsequent endorsements to those policies, in which a NIMA state is the "Home State" should be filed with the Clearinghouse. Filings with the clearinghouse may begin on July 1, 2012. Endorsements on multi-state policies with an effective date prior to July 1, 2012 should continue to be filed with the Home State in accordance with the laws in effect at the time the policy became effective. There are links within the memorandum. There is also material on producer licensing in NIPR.

<http://insurance.state.wy.us/memorandum/Memorandum%2002%202012-1.pdf>

9:00-9:45 **PANEL: State Implementation of the NRRRA Eligibility:** Mike Koziol, Jan Shemanske, W.R.Berkley Corporation, David Kodama PCI, Ernie Taylor, Century Surety
NOTE: Related materials covered in state summaries or in NAIC materials.

9:45-10:30 **PANEL: Certificates of Insurance (as evidence of insurance to third parties)**
Steve Stephan, Penelope S. Hopper, Aon Service Corporation, Wes Bissett, Bellemore Group
Implications to surplus lines companies, brokers. NCOIL actions, state actions.

Related materials:

NCOIL: A revised version of the model will be considered in terms of if a certificate is "for information only" and if that status puts lenders at serious financial risk. There was an 8/15 deadline for comments on the new Certificates of Insurance Model Act. There will be at least one conference call before the 10/17, deadline for the Annual Meeting where there will be a working session.

http://ncoil.org/news/2012_newsletters/Vol72012.pdf

First link below is an NCOIL press release. Second link is with marked comments in draft.

<http://www.ncoil.org/HomePage/2012/03012012CertificatesPR.pdf>

<http://www.ncoil.org/Docs/2012/02092011CertificateModel.pdf>
<http://www.ncoil.org/30-Day/Substitute%20Certificates%20Model.pdf>

IA: Rule Amendment: EFF. 05/09/12, implements IA code 515 but there is one report that the department does not intend to apply the rule to surplus lines insurance. The first link contains the notice of intended action, the second (ARC 0133C) the “Adopted and Filed Emergency after Notice”, the third the findings and notice.

http://www.iid.state.ia.us/sites/default/files/pending_rules/2012/03/19/arc_0070c.pdf_81604.pdf
<https://www.legis.iowa.gov/DOCS/ACO/IAC/LINC/ARC.0133C.pdf>
http://www.iid.state.ia.us/sites/default/files/hearings/2012/04/27/public_hearing_on_iowa_insurance_division_proposed_13298.pdf

ID: Bulletin 12-03 Certificates of insurance: This does not explicitly apply to surplus lines insurers but applies to any person who issues a certificate including producers. The bulletin pertains to Idaho Code § 41-1850(2) which prohibits any person from preparing, issuing or knowingly requesting the issuance of a certificate of insurance unless the form of the certificate has been filed with the Director of the Department of Insurance (Director) by or on behalf of an insurer.

http://www.doi.idaho.gov/laws/12_03.pdf

OH: HB564, introduced 5/30/12, SB346, introduced 5/17/12. To amend section 3905.14 of the Revised Code to regulate certificates of insurance prepared or issued as evidence of property or casualty insurance coverage. The bill is an improvement over others in that it distinguishes a certificate that is evidence of insurance from one issued in connection with a master policy. It also permits the broker to issue any certificate approved by the insurer. This applies to surplus lines brokers.

http://www.legislature.state.oh.us/bills.cfm?ID=129_HB_564
http://www.legislature.state.oh.us/bills.cfm?ID=129_SB_346

WA: WAC 284-30-355, R-2011-30 EFFECTIVE 05/17/12 applies to certificates of insurance, including those issued by a surplus lines broker. Among other things, this rule provides that no person may knowingly demand or require an insurer, insurance producer, surplus line broker, or policyholder to issue a certificate that contains any false or misleading information or that purports to alter, amend, or extend the coverage provided by the insurance policy.

http://www.insurance.wa.gov/laws_regs/documents/2011-30103P.pdf

10:30-10:45 **BREAK**

10:45-11:30 **TOPICAL Issues**

FEDERAL ISSUES:

FEDERAL: COMMODITY FUTURES TRADING COMMISSION (CFTC), SEC, Steve Stephan

Further Definition of “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping. Exclusion of Insurance, surplus lines, alien surplus lines. Joint final rule; interpretations; request for comment on an interpretation. Summary: In accordance with Dodd-Frank the CFTC and the SEC are adopting new rules to further define the terms “swap,” “security based swap,” and “security-based swap agreement” (collectively, “Product Definitions”); regarding “mixed swaps;” and governing books and records with respect to “security-based swap agreements.” One purpose is to exclude non-admitted/surplus lines insurance from the definition (including alien surplus line insurance) in such a way as to prevent misuse of such terms to avoid application of the definitions. The entire rule proposal is the link. A reader may wish to open the link and search for terms such as “non-admitted”, “surplus lines” and “alien” and other terms as the proposal is quite long.

<http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/federalregister071012c.pdf>

Federal Insurance Office (FIO): Steve Stephan

The Federal Advisory Committee on Insurance (FACI) met for the second time 8/6/12. Besides a number of international issues, the FACI addressed its subcommittee activities of the Affordability and Accessibility Insurance Subcommittee and the International Regulatory Balance Subcommittee which developed four guiding principles including: 1) A robust rule of law with a commercial dispute resolution process; 2) Open and competitive markets; 3) Sustainable economic growth; and 4) Consistency in cross-border regulation.

NARAB II S 2342, HR1112 , Steve Stephan

<http://www.gpo.gov/fdsys/pkg/BILLS-112s2342is/pdf/BILLS-112s2342is.pdf>

FORCED PLACED INSURANCE: Bernie Heinze, AAMGA

Fannie Mae, postponed implementation date. Second link here for convenience.

<https://www.efanniemae.com/sf/guides/ssg/annltrs/pdf/2012/ntce052312.pdf>

<https://www.efanniemae.com/sf/guides/ssg/annltrs/pdf/2012/svc1204.pdf>

<http://www.insurancenetworking.com/news/force-placed-insurance-freddie-mac-30679-1.html>

BUREAU OF CONSUMER FINANCIAL PROTECTION (CFPB)

4. Force-placed insurance. As required by the Dodd-Frank Act, servicers would not be permitted to charge a borrower for force-placed insurance coverage unless the servicer has a reasonable basis to believe the borrower has failed to maintain hazard insurance and has provided required notices. One notice to the borrower would be required at least 45 days before charging for forced-place insurance

coverage, and a second notice would be required no earlier than 30 days after the first notice. The proposal contains model forms that servicers could use. If a borrower provides proof of hazard insurance coverage, then the servicer would be required to cancel any force-placed insurance policy and refund any premiums paid for periods in which the borrower's policy was in place. In addition, if a servicer makes payments for hazard insurance from a borrower's escrow account, a servicer would be required to continue those payments rather than force-placing a separate policy, even if there is insufficient money in the escrow account. The rule would also provide that charges related to forced place insurance (other than those subject to State regulation as the business of insurance or authorized by federal law for flood insurance) must relate to a service that was actually performed. Additionally, such charges would have to bear a reasonable relationship to the servicer's cost of providing the service. SEE P. 4 of/and the proposed amendment to Regulation Z.

http://files.consumerfinance.gov/f/201208_cfpb_tila_proposed_rules.pdf

Comments are requested by October 9: See:

<http://www.consumerfinance.gov/blog/putting-the-serviceback-in-mortgage-servicing/>

NAIC: Articles

On the NAIC hearings and Florida and Forecd-placed insurance.

<http://www.propertycasualty360.com/2012/08/10/naic-promises-greater-focus-on-force-placed-insura>

FL: Attached is an article on the OIR's Denial of QBE Force-Placed Rate Proposal

<http://www.propertycasualty360.com/2012/08/13/florida-denial-of-qbe-force-placed-rate-proposal-c>

FL: OIR Issues Notice of Intent to Disapprove Praetorian Insurance Company's Rate Filing for Lender-Placed Insurance.

Click the link for more info:

<http://www.floir.com/PressReleases/viewmediarelease.aspx?id=1954>

ID: August 2012 Consumer alert from DOI on forced placed.

<http://www.doi.idaho.gov/ConsumerAlerts/LenderPlacedInsurance.pdf>

NAIC, Keri Kish, NAPSLO

National Treatment/Surplus Lines Task Force:

The surplus lines task force organized a subgroup to examine the best practices surrounding the approval process for surplus lines insurers. The subgroup consists of representatives of CA, NJ, DE, NY, NV, IN. the subgroup will conduct a survey of the eligibility requirements of the states and report back to the surplus lines task force at the fall meeting. The National Treatment and Coordination (E) Working Group continued to discuss surplus lines eligibility standards,

transferring responsibility to the Surplus Lines Task Force for discussion at the summer meeting. Links to both NAIC website pages are below. At the summer meeting the surplus lines Task Force received letters from the trades indicating concerns as to lack of compliance with NRRA as to eligibility including continued filing fees and other requirements. Also, concern was voiced regarding IID listing requirements on an Alien if a multistate transaction, but single state eligibility if an alien insurer in that transaction.

http://www.naic.org/committees_e_nat_treat.htm

http://naic.org/committees_c_surplus_lines.htm

NIPR (no electronic document)

Producer Licensing (EX) Working Group - biennial review of the State Licensing Handbook: review to include Surplus Lines. The Surplus Lines section was reviewed by Alabama, California, Louisiana and Mississippi. A draft proposal for revisions to Chapter 10 Surplus Lines Producer Licenses covers changes related to NRRA. Comments/suggestions were discussed at the NAIC Summer 2012 National Meeting. Contact information is at

http://www.naic.org/committees_ex_pltf_producer_licensing.htm

IID Quarterly Listing: July 2012:

http://www.naic.org/documents/committees_e_surplus_lines_fawg_quarterly_listing_alien_insurers.pdf

NIMA/CLEARINGHOUSE: Gary Pullen FLSLSO

Clearinghouse website www.slclearinghouse.com.

CIAB: 05/04/12: states should tax and retain 100 percent of surplus lines premium taxes at the state's own tax rate, as opposed to entering into shared allocation schemes.

<http://www.ciab.com/news.aspx?id=3087>

Here is a link to video tutorials regarding the clearinghouse, including an overview of the process, SLIP, terminology used, registration and log in, SLIP settings, for users and security, submitting a new policy, filing endorsements, renewals, cancellations and reinstatements, transactions in-questions, edits, corrections, backouts, batch filing.

<http://slclearinghouse.com/education/videolibrary.aspx>

NRRA "HOME STATE": Mike Koziol: Under NRRA the "home state" controls. Many states differ in their definition of home state. Is it the chicken and egg? Have there been conflicts regarding principle place of business, principle residence, risk purchasing group, and any other definitions. (No electronic document).

PORTABLE ELECTRONICS INSURANCE: Steve Stephan
AZ: SB1251, CH. 57. Governor signed 3/20/12: Section 7. "Supervising entity" means a business entity that is a licensed insurer or insurance producer and that is authorized by an insurer to supervise the administration of a portable electronics insurance policy.
http://www.azleg.gov//FormatDocument.asp?inDoc=/legtext/50leg/2r/laws/0057.htm&Session_ID=107

GA: Act 727: (SB 203) EFF. 7/1/12: "Supervising entity" means a business entity that is a licensed insurer, or insurance producer that is authorized by licensed insurer, to supervise the administration of a portable electronics insurance program.
<http://www.legis.ga.gov/Legislation/20112012/127697.pdf>

HI: SB2655 ENROLLED TO GOVERNOR 05/08/12. "Supervising entity" means a business entity that is a licensed insurer or insurance producer that is appointed or authorized by an insurer to supervise the administration of a portable electronics insurance program.
http://www.capitol.hawaii.gov/session2012/bills/SB2655_CD1_.pdf

MD: Act 602: (1) AN AUTHORIZED INSURER; OR (2) A LICENSED INSURANCE PRODUCER THAT IS APPOINTED BY AN INSURER TO SUPERVISE THE ADMINISTRATION OF A PORTABLE ELECTRONICS INSURANCE PROGRAM.
http://mlis.state.md.us/2012rs/chapters_noln/Ch_602_hb1093T.pdf

MN: H 2638 ENACTED as Act 259 EFF: 1/1/13. (f) "Supervising ~~agency~~ entity" means a business entity that is a **licensed insurer** or insurance producer that is appointed by an insurer to supervise the administration of a portable electronics insurance program.
<https://www.revisor.mn.gov/laws/?id=259&doctype=chapter&year=2012&type=0>

OH: Ohio started regulating portable electronics insurance but does not include the "licensed" wording in its relevant provision.
<http://codes.ohio.gov/orc/3905.062>

RI: Eff. 7/1/12 HB7847aa Ch. 247, S2538aa Ch. 136 contain definition: "Supervising entity" means a business entity that is a licensed insurer or insurance producer that is authorized by an insurer to supervise the administration of a portable electronics insurance program.
<http://www.rilin.state.ri.us/PublicLaws/law12/law12247.htm>
<http://www.rilin.state.ri.us/PublicLaws/law12/law12136.htm>

VT: H 730, ACT136 ENACTED. § 4261. RULEMAKING; LICENSING; CLAIMS; SALES The commissioner shall adopt rules establishing a business

entity limited lines producer license for the sale of portable electronics insurance as well as requirements for the sale of portable electronics insurance by a vendor and its employees and authorized representatives and standards for the adjusting of claims under a policy of portable electronics insurance by a supervising entity.
<http://www.leg.state.vt.us/docs/2012/Acts/ACT136.pdf>

WA: SB 6242 Ch. 154. (6) "Supervising (~~agent~~) person" means a licensed insurer or an appointed insurance producer licensed under RCW 48.17.090 who provides training as described in RCW 48.120.020 and is (~~affiliated to a licensed vendor~~) appointed by an insurer to supervise the administration of a portable electronics insurance program.
<http://apps.leg.wa.gov/documents/billdocs/2011-12/Pdf/Bills/Session%20Laws/Senate/6242-S.SL.pdf>

PPACA: (Patient Protection and Affordable Care Act)

Stop loss coverage and mandates. Can stop loss coverage be used to avoid some of the mandates? The link is an article from SNR Denton on the issue.
http://www.snr Denton.com/news_insights/alerts/2012-07-30-stop-loss-coverage.aspx

Disability, accident coverage, state prohibitions, pre and post NRRA (AR, VA, WY). Tom Petersen, Petersen International Underwriters

AR: See state reporting item Proposed Rule 101, links here for convenience
<http://www.insurance.arkansas.gov/Legal%20Dataseservices/PropRules/PropRule101.pdf>
<http://www.insurance.arkansas.gov/Legal%20Dataseservices/NOH/NOH-Rule101.pdf>

SURPLUS LINES STAMPING/SERVICE OFFICES STATISTICS:

Premiums have dropped by nearly 10%.

<http://www.slsot.org/SLSOT/GeneralInformation/adobepdffiles/statistics%20mid%202012.pdf>

11:30– 12:00 **Group Discussion (Or open forum) (Time permitting):**
Defining “Surplus Lines” in terms of not “doing business” in a state. Steve Stephan Moderator, Sanford Kingsley SNR Denton, other TBD
Impact on companies and brokers.

OTHER BUSINESS

NEXT MEETING: Spring 2013: Host: Dan Maher, Executive Director
Excess Line Association of New York

ADJOURN