Property Casualty Insurers Association of America
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Enacted Law Bulletin

June 23, 2011

State:	Alabama
Topic:	Alabama Enacts SLIMPACT Law
Impact:	Not Line Specific
Effective Date:	September 1, 2011
Bill Number:	H-76
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Monique Kabitzke, 850-681-2615 monique.kabitzke@pciaa.net

Executive Summary

Alabama has enacted House Bill 76 which adopts the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT) as part of the Non-Admitted and Reinsurance Reform Act of 2010. SLIMPACT would mandate single-state compliance with the laws of the insured's home state regarding surplus lines regulation and taxation. The law becomes effective on September 1, 2011.

Surplus Lines Insurance Multi-State Compliance Compact

House Bill 76 consists of the following six sections:

- Section 1 sets forth the purpose of the Surplus Lines Insurance Multi-State Compliance Compact which is to implement the Non-Admitted and Reinsurance Reform Act of 2010 by establishing a Commission which will be responsible for adopting rules requiring single-state compliance with the laws of the insured's home state regarding diligent searches, affidavits, policyholder notices, producer licensing, bank accounts, bond requirements, and recordkeeping.

- Section 2 directs the governor to enter into a compact on behalf of Alabama with any other U.S. state.

- Section 3 sets forth the effective dates of the compact and the Commission. The compact is effective and binding if it is enacted by two compacting states, while the Commission becomes effective after 10 states, or states representing 40 percent of the market have joined.

- Section 4 amends Section 27-10-31 of the Code of Alabama by specifying the amount of the tax that a surplus lines broker should remit to the State Treasurer.

- Section 5 provides that the tax provision, Section 27-10-31, will not take effect until SLIMPACT is enacted into law by two compacting states.

- Section 6 sets the effective date of H-76 as September 1, 2011.

Effective Date

H-76 was approved by the governor on June 9, 2011 and becomes effective on September 1, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

August 22, 2011

State:	Alaska
Topic:	Surplus Lines
Impact:	Not Line Specific
Effective Date:	Multiple Effective Dates
Bill Number:	H-164
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Kenton Brine, 360-915-6268 Kenton.Brine@pciaa.net

Executive Summary

Alaska House Bill 164 has been enacted into law amending several provisions of Alaska statutory law consistent with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The provision takes effect with multiple effective dates, the relevant provisions going into effect July 21, 2010.

Significant Provisions

H-164, in accordance with the NRRA, makes the following changes: permits the Director to enter into an agreement or compact with other states for the collection and disbursement of premium taxes; creates an exemption for commercial purchasers from due diligence search requirements for surplus line brokers; and revises capital and surplus requirements upward for foreign nonadmitted insurers upward to that of its domiciliary jurisdiction or $15 million, whichever is greater.

It further qualifies alien insurers to transact surplus lines business in Alaska if listed on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners, and amends surplus line broker reporting to mandate quarterly filings.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

August 22, 2011

State:	Arizona
Topic:	Surplus Lines
Impact:	Not Line Specific
Effective Date:	July 21, 2011
Bill Number:	H-2112
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Kelly Campbell, 303-830-6772 Kelly.Campbell@pciaa.net

Executive Summary

The State of Arizona House has passed legislation this year to amend surplus lines provisions reflecting the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The measure, House Bill 2112, went into effect July 21, 2011.

Significant Provisions

H-2112 revises Arizona law consistent with the NRRA, and introduces the following changes: permits the Director to enter into a multistate compact or agreement for collecting and allocating premium taxes, provided a hearing is conducted to determine the impact such agreement would have on Arizona business, in accordance with criteria provided toward that end.

The bill further amends the definition of surplus lines tax provisions applicable to industrial insureds, reflecting multistate risk tax collection via remittance to a clearinghouse established in accordance with the multistate agreement. The Director is required to participate in the NAIC producer database or any equivalent mechanism for licensing surplus line brokers after July 21, 2012, and provides for quarterly surplus line broker reports. The bill also revises capital and surplus requirements on unauthorized foreign insurers.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

April 11, 2011

State:	Arkansas
Topic:	Arkansas Enacts Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	April 1, 2011
Bill Number:	H-2143
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Joe Woods, 512-334-6638 joe.woods@pciaa.net

Executive Summary

Arkansas has enacted House Bill 2143 which brings the Surplus Lines Insurance Law into conformity with the federal Nonadmitted and Reinsurance Reform Act of 2009. The law became effective immediately upon the governor's approval on April 1, 2011.

Surplus Lines Reform

H-2143 adds and amends existing provisions of its Surplus Lines Insurance Law as follows:

- Requires that only the insured's home state require a surplus lines broker to be licensed in order to sell, solicit, or negotiate nonadmitted insurance;
- Requires the insurance commissioner to use the NAIC's National Insurance Producer Database or an equivalent database for the licensure and renewal of an individual or entity as a surplus lines broker;
- Authorizes the insurance commissioner to participate in a multistate compact for the purpose of reporting, collecting, and apportioning surplus lines insurance premium taxes;
- In regard to surplus lines insurers domiciled in the United States, authorizes a surplus lines broker to place coverage with an insurer that has the greater of a state's minimum capital and surplus requirements or $15 million;
- Allows a surplus lines broker to place coverage with an alien nonadmitted insurer listed on the NAIC's Quarterly Listing of Alien Nonadmitted Insurers;
- Authorizes the insurance commissioner to allow an insurer having a capitalization of not less than $4.5 million to write coverage on a surplus lines basis; and
- Exempts a surplus lines broker procuring nonadmitted insurance for an exempt commercial purchaser from the diligent search requirements if the broker has disclosed to the purchaser that the coverage may or may not be available from the admitted market and the purchaser requests in writing that the agent place the insurance with a nonadmitted insurer.

Effective Date

H-2143 became effective immediately upon the governor's approval on April 1, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

July 19, 2011

State:	California
Topic:	NRRA
Impact:	Not Line Specific
Effective Date:	July 13, 2011
Bill Number:	AB-315
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Mark Sektnan, 916-449-1370 Mark.Sektnan@pciaa.net

Executive Summary

On July 13, 2011, California Assembly Bill 315 became law effective immediately. This legislation is in regard to the Federal Nonadmitted Reinsurance and Reform Act.

Significant Provisions

AB -315 amends California's surplus lines law to conform to the Federal Nonadmitted and Reinsurance Reform Act (NRRA), introducing in particular such Federal regulatory concepts as exclusive home state jurisdiction and exemption for commercial policyholders. The NRRA prohibits states from having mandatory listing requirements such as California's current "List of Eligible Surplus Lines Insurers" (LESLI list). However, the NRRA does not prohibit state establishment of financial solvency requirements.

Moreover, it is convenient to maintain a formalized list of insurers known to be in compliance and acceptable, and this is allowed under the NRRA if voluntary. This is established under AB-315 in two places, once as elements of the criteria to be placed on the voluntary list, and secondly to govern the criteria of insurers not interested in complying with the voluntary listing regulatory requirements.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

October 4, 2012

State:	California
Topic:	Insurance Omnibus—Multiple Topics
Impact:	Not Line Specific
Effective Date:	January 1, 2013
Bill Number:	AB-2303
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Mark Sektnan, 916-449-1370 Mark.Sektnan@pciaa.net

Executive Summary

California Assembly Bill 2303 was approved on September 29, 2012 and becomes effective January 1, 2013. This is an omnibus insurance bill.

Significant Provisions

The changes introduced by AB-2303 include the following.

It prohibits mortgage insurance from being offered in this state. By incorporating the federal Dodd-Frank act the bill authorizes the FDIC to stand in the place of the Commissioner and file a verified application in state court to place the insurer into liquidation under the laws and requirements of the state.

Further, it allows an individual applying for a surplus lines broker license who is not a California resident to prove competency by showing that he or she holds an existing license for property and casualty in his or her own state of residency.

The bill also deletes a requirement that formerly required an insurer of child care liability coverage to submit an experience report for the preceding calendar year ending on December 31 to the Commissioner by May 1 of each year, and instead requires the report to be made available at the request of the Commissioner on a form prescribed by the Commissioner, but no more than once per year.

Moreover, the bill establishes licensure standards and procedures for crop insurance adjusters, eliminates the Advisory Committee on Automobile Insurance Fraud, and finally eliminates the filing

requirements for otherwise qualified nonadmitted insurers for transactions in order to provide surplus line insurance coverage.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publication.

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Enacted Law Bulletin

September 22, 2011

State:	California
Topic:	Surplus Lines Brokers
Impact:	Not Line Specific
Effective Date:	January 1, 2012
Bill Number:	SB-131
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Mark Sektnan, 916-449-1370 Mark.Sektnan@pciaa.net

Executive Summary

On September 20, 2011, California Senate Bill 131 was signed into law, amending provisions relating to surplus lines brokers' reports under changes introduced under the Nonadmitted and Reinsurance Reform Act (NRRA). The measure goes into effect January 1, 2012.

Significant Provisions

§ 1774 of the Insurance Code, which requires a sworn statement by March 1 of each year from a surplus lines broker as to business transacted during the previous calendar year, is amended to reflect recent changes in the surplus lines law under the NRRA. Specifically, for a 'home state' insured (meaning the insured's principal place of business or residence is California), the report must contain the total gross premiums, the total gross premiums for single state risks in California, and, for multistate risks, the percentage of gross premium respectively allocable to California and the other states involved. For insurers independently procuring insurance, a similar yearly report by March first must contain the same itemization of premiums.

Moreover, the reporting rule regarding sworn statements under § 1774 is amended likewise for cases where two or more brokers are involved in placing a surplus lines policy, such that the broker which negotiates, places, remits the premium, and files the diligent search report under § 1763 is thereby considered to be transacting business for tax purposes, and is thereby responsible for including the policy in his sworn statement. A surplus lines broker may be delegated by written agreement to include the policy in the broker's sworn statement.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

April 20, 2012

State:	Colorado
Topic:	Surplus Lines--NRRA
Impact:	Not Line Specific
Effective Date:	90 days after adjournment
Bill Number:	H-1215
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Kelly Campbell, 303-830-6772 Kelly.Campbell@pciaa.net

Executive Summary

Colorado House Bill 1215 was enacted on April 13, 2012 and becomes effective 90 days after adjournment sine die. This bill revises Colorado law consistently with the Federal Nonadmitted and Reinsurance Reform Act of 2010(NRRA).

Significant Provisions

Among leading changes which H-1215 makes to the C.R.S. to bring it under the restrictions and standards of the NRRA are the following:

Restricts the eligibility requirements that the commissioner can impose on nonadmitted insurance companies by making them subject to national eligibility requirements in conformance with the NRRA

Enables the division to collect premium taxes on surplus lines insurance more than once annually

Gives the Commissioner of Insurance the authority to enter into a multistate compact to manage, collect, and properly distribute all appropriate premium taxes and collect all possible premium taxes on multistate insurance policies

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

August 23, 2011

State:	Connecticut
Topic:	Implements the Nonadmitted and Reinsurance Reform Act
Impact:	Surplus Lines
Effective Date:	June 21, 2011
Bill Number:	H-6652
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Kristina Baldwin, 518-443-2220 kristina.baldwin@pciaa.net

Executive Summary

H-6652 was approved on June 21, 2011. This bill implements the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The bill was effective from passage and is applicable to nonadmitted insurance coverage procured, continued, or renewed on or after July 1, 2011.

Significant Provisions

Premium Tax

Section 33 of the bill amends Section 38a-277 of the General Statutes (Insureds Involved With Unauthorized Insurers). The amendments provide that, with respect to independently procured insurance, where such coverage is procured, continued, or renewed on or after July 1, 2011, and where Connecticut is an insured's home state, there is levied an independently procured insurance premiums tax of four percent of the gross premiums charged for such insurance, irrespective of the fact that the independently procured insurance policy may cover properties, risks, or exposures located or to be performed both within and without Connecticut. The tax shall be due and payable to Connecticut by the insured and shall be in lieu of all other taxes on such nonadmitted insurance.

With respect to independently procured insurance, for the period beginning on July 1, 2011, and ending September 30, 2011, the insured shall pay to the Commissioner of Revenue Services, by November 15, 2011, a sum equal to four percent of the gross premiums charged the insured by a nonadmitted insurer during such period.

With respect to independently procured insurance, for the period beginning on October 1, 2011, and ending December 31, 2011, the insured shall pay to the Commissioner of Revenue Services, by February 15, 2012, a sum equal to four percent of the gross premiums charged the insured by a nonadmitted insurer during such period.

For calendar years beginning on or after January 1, 2012, the insured shall pay to the Commissioner of Revenue Services, on independently procured insurance: (a) on or before May 15 of each year in which nonadmitted insurance was procured, continued, or renewed, a sum equal to four percent of the gross premiums charged the insured by a nonadmitted insurer during the period from January 1 to March 31 of that year; (b) on or before August 15 of each year in which nonadmitted insurance was procured, continued, or renewed, a sum equal to four percent of the gross premiums charged the insured by a nonadmitted insurer during the period from April 1 to June 30 of that year; (c) on or before November 15 of each year in which nonadmitted insurance was procured, continued, or renewed, a sum equal to four percent of the gross premiums charged the insured by a nonadmitted

insurer during the period from July 1 to September 30 of that year; and (D) on or before February 15 of each year succeeding a year in which nonadmitted insurance was procured, continued, or renewed, a sum equal to four percent of the gross premiums charged the insured by a nonadmitted insurer during the period from October 1 to December 31 of the preceding year.

If the Commissioner of Revenue Services enters into a cooperative or reciprocal agreement with another state or states, and if the provisions set forth in such agreement are different from provisions prescribed by this subsection, then the provisions set forth in such agreement shall prevail.

Any insured who fails to pay the tax on time shall pay a penalty of 10 percent of the tax not paid on time. Interest shall be added to the tax at the rate of one percent per month or fraction of such month from the date the tax was due to the date paid. The Commissioner of Revenue Services may waive all or part of the penalties if it is proven to the commissioner's satisfaction that the failure to pay any tax was due to reasonable cause and was not intentional or due to neglect.

Section 34 of the bill amends Section 38a-743 of the General Statutes (Payments by Licensee to Commissioner). The amendments provide that, with respect to nonadmitted insurance, where such coverage is procured, continued, or renewed for an insured by a licensee on or after July 1, 2011, and where Connecticut is an insured's home state, the licensee shall pay a tax equal to the sum of four percent of the gross premiums charged such insureds by nonadmitted insurers, irrespective of the fact that the insurance policy may cover properties, risks, or exposures located or to be performed both within and without Connecticut.

For the period beginning on July 1, 2011, and ending September 30, 2011, each licensee shall pay to the Insurance Commissioner, by November 15, 2011, a tax on nonadmitted insurance equal to the sum of four percent of the gross premiums charged insureds by nonadmitted insurers during such period.

For the period beginning on October 1, 2011, and ending December 31, 2011, each licensee shall pay to the Insurance Commissioner, by February 15, 2012, a tax on nonadmitted insurance equal to the sum of four percent of the gross premiums charged insureds by nonadmitted insurers during such period.

For calendar years beginning on or after January 1, 2012, each licensee shall pay to the Insurance Commissioner: (a) on or before May 15 of each year in which nonadmitted insurance was procured, continued, or renewed, a tax on such insurance equal to the sum of four percent of the gross premiums charged insureds by nonadmitted insurers during the period from January 1 to March 31 of that year; (b) on or before August 15 of each year in which nonadmitted insurance was procured, continued, or renewed, a tax on such insurance equal to the sum of four percent of the gross premiums charged insureds by nonadmitted insurers during the period from April 1 to June 30 of that year; (c) on or before November 15 of each year in which nonadmitted insurance was procured, continued, or renewed, a tax on such insurance equal to the sum of four percent of the gross premiums charged insureds by nonadmitted insurers during the period from July 1 to September 30 of that year; and (d) on or before February 15 of each year succeeding a year in which nonadmitted insurance was procured, continued, or renewed, a tax on such insurance equal to the sum of four percent of the gross premiums charged insureds by nonadmitted insurers during the period from October 1 to December 31 of the preceding year.

Interstate Agreement

Further amendments to Section 38a-277 provide that the Commissioner of Revenue Services may enter into a cooperative or reciprocal agreement with another state or states to allocate among the states the nonadmitted insurance premiums taxes paid to an insured's home state.

The agreement that the Commissioner of Revenue Services is authorized to enter into shall include, but shall not be limited to, the National Association of Insurance Commissioners' Nonadmitted Insurance Multistate Agreement.

The agreement may provide that, where Connecticut is an insured's home state and where the independently procured insurance covers properties, risks, or exposures located or to be performed both within and without Connecticut: (a) the sum payable by the insured to Connecticut shall be computed based on that portion of the

gross premiums allocated to Connecticut, based on a standardized premium allocation adopted by the states under such agreement, multiplied by four percent, (b) the sum payable by the insured to another state shall be computed based on that portion of the gross premiums allocated to such state, based on a standardized premium allocation adopted by the states under such agreement, multiplied by such state's tax rate, and (c) to the extent that another state where properties, risks, or exposures are located has failed to enter into an agreement with Connecticut, the portion of the gross premiums otherwise allocable to such other state shall be allocated to Connecticut.

The agreement may provide for: (a) recordkeeping requirements, (b) audit procedures, (c) exchange of information, (d) collection of taxes not paid by insureds within the time required, (e) disbursements of funds to other states that are parties to such agreement, and (f) any additional provisions that will facilitate the administration of the agreement.

The Commissioner of Revenue Services may, under the terms of the agreement, disclose return information relating to insureds to any official of another state that is a party to the agreement whose official duties require such disclosure.

The Commissioner of Revenue Services may enter into cooperative agreements with processing entities located in Connecticut or other states related to the capturing and processing of nonadmitted insurance premiums and nonadmitted insurance premiums tax data. The Commissioner of Revenue Services may, under the terms of any such cooperative agreement, disclose return information relating to insureds to any official of the processing entity whose duties require such disclosure.

Further amendments to Section 38a-743 provide that the Insurance Commissioner may enter into a cooperative or reciprocal agreement with another state or states to allocate among the states the nonadmitted insurance premiums taxes paid to an insured's home state.

The agreement that the Insurance Commissioner is authorized to enter into shall include, but shall not be limited to, the National Association of Insurance Commissioners' Nonadmitted Insurance Multistate Agreement.

The agreement may provide that, where Connecticut is an insured's home state and where the nonadmitted insurance covers properties, risks, or exposures located or to be performed both within and without Connecticut: (a) the sum payable by a licensee to Connecticut under this section shall be computed based on that portion of the gross premiums allocated to Connecticut, based on a standardized premium allocation adopted by the states under such agreement, multiplied by four percent, (b) the sum payable by the licensee to another state shall be computed based on that portion of the gross premiums allocated to such state, based on a standardized premium allocation adopted by the states under such agreement, multiplied by such state's tax rate, and (c) to the extent that another state where properties, risks, or exposures are located has failed to enter into an agreement with Connecticut, the portion of the gross premiums otherwise allocable to such other state shall be allocated to Connecticut.

The agreement may provide for: (a) recordkeeping requirements, (b) audit procedures, (c) exchange of information, (d) collection of taxes not paid by licensees within the time required, (e) disbursements of funds to other states that are parties to such agreement, and (f) any additional provisions that will facilitate the administration of the agreement.

The Insurance Commissioner may, under the terms of the agreement, disclose information relating to surplus lines brokers or nonadmitted insurance permitted to be placed through surplus lines brokers to any official of another state that is a party to such agreement whose official duties require such disclosure.

The Insurance Commissioner may enter into cooperative agreements with processing entities located in Connecticut or other states related to the capturing and processing of nonadmitted insurance premiums and nonadmitted insurance premiums tax data. The Insurance Commissioner may, under the terms of any such cooperative agreement, disclose information relating to surplus lines brokers or nonadmitted insurance permitted to be placed through surplus lines brokers to any official of the processing entity whose duties require such disclosure.

Exempt Commercial Purchaser

Section 36 of the bill amends Section 38a-741 of the General Statutes. It provides that the provisions of subdivision (1) of this subsection regarding affidavits shall not apply to any policy of insurance procured under the authority of such license for an insured that is an exempt commercial purchaser, as defined under the Dodd-Frank Wall Street Reform and Consumer Protection Act, provided that the surplus lines broker has disclosed to such exempt commercial purchaser that such insurance may or may not be available from an authorized insurer, that may provide greater protection with more regulatory oversight, and such exempt commercial purchaser has subsequently requested such broker, in writing, to procure such policy from an unauthorized insurer.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

August 22, 2011

State:	Delaware
Topic:	Implementation of Nonadmitted and Reinsurance Reform Act
Impact:	Surplus Lines
Effective Date:	August 16, 2011
Bill Number:	S-109
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Jeff Junkas, 847-553-3678 Jeffrey.junkas@pciaa.net

Executive Summary

S-109 was approved on August 16, 2011. This bill implements the requirements of the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). S-109 took effect upon passage.

Significant Provisions

Scope

The bill amends provisions regulating surplus lines insurance in Chapter 19 of Title 18 of the Delaware Code. The chapter shall apply to all nonadmitted insurance business in which Delaware is the home state of the insured.

Interstate Agreement

The Commissioner is authorized to enter into an interstate cooperative agreement, reciprocal agreement, or compact for the purpose of carrying out the NRRA and to facilitate the collection, allocation, and disbursement of premium taxes attributable to the placement of nonadmitted insurance, to provide for uniform methods of allocation and reporting among nonadmitted insurance risk classifications, and share information among states relating to nonadmitted insurance premium taxes.

The Commissioner may participate in a clearinghouse operation established for the purpose of collecting and disbursing to reciprocal states any premium tax funds collected applicable to properties, risks, or exposures located or to be performed outside of Delaware. The Commissioner may also participate in such a clearinghouse for purposes of surplus lines policies applicable to risks located solely within Delaware.

The Commissioner shall establish a NRRA Implementation Revenue Study Committee to study the potential impact that would result from the state's entrance into an interstate agreement in order to prevent the state from losing revenue after July 21, 2011, the effective date of the NRRA.

Tax on Surplus Lines

Every surplus lines broker shall collect and pay to the State Treasurer through the Commissioner a two percent tax on the gross premiums charged, less any returned premiums and exclusive of sums collected to cover federal and state taxes and examination fees, for insurance placed or procured under his surplus lines license in which Delaware is the home state of the insured.

If a surplus lines policy procured through a surplus lines broker covers properties, risks, or exposures only partially located or to be performed in Delaware, but Delaware is the home state of the insured, all premium for the policy shall be considered written on properties, risks, or exposures located or to be performed in Delaware.

The tax on any portion of the premium unearned at termination of insurance having been credited by the state to the surplus lines producer must be returned to the policyholder directly by the surplus lines producer. The surplus lines producer is prohibited from rebating, for any reason, any part of the tax.

Annually, by March 1, unless more frequent reporting and payment is ordered by the Commissioner, each surplus lines broker shall pay the premium tax due for the policies written during the preceding calendar year as shown by his annual statement filed with the Commissioner.

Independently Procured Insurance

Any person whose home state is Delaware may directly procure or directly renew insurance with a nonadmitted insurer without the involvement of a surplus lines licensee, on a risk located or to be performed, in whole or in part, in Delaware.

Each insured whose home state is Delaware that independently procures or continues or renews insurance with a nonadmitted insurer on properties, risks, or exposures located or to be performed in whole or in part in Delaware, other than insurance procured through a surplus lines broker, is subject to the same tax reporting requirements under this chapter as apply to a surplus lines broker.

By March 1 each year, the insured that independently procures insurance must file a written report with the Commissioner showing the name and address of the insured or insureds, name and address of the insurer, the subject of the insurance, a general description of the coverage, the amount of premium currently charged, and additional pertinent information reasonably requested by the Commissioner.

At the time of filing this report, the insured shall pay to the State Treasurer through the Commissioner a tax at the same rate and in the same manner as surplus lines brokers.

Exempt Commercial Purchasers

A surplus lines broker seeking to procure or place nonadmitted insurance in Delaware for an exempt commercial purchaser whose home state is Delaware shall not be required to satisfy any requirement to make a diligent effort to determine whether the full amount or type of insurance sought by such exempt commercial purchaser can be obtained from admitted insurers if the broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight and the exempt commercial purchaser has subsequently requested in writing the broker to procure or place such insurance from a nonadmitted insurer.

"Exempt commercial purchaser" is defined as any person purchasing commercial insurance that, at the time of placement, meets the following requirements:

- The person employs or retains a qualified risk manager to negotiate insurance coverage.
- The person has paid aggregate nationwide commercial property and casualty insurance premiums in excess of $100,000 in the immediately preceding 12 months.
- The person meets at least one of the following criteria: (a) The person possesses a net worth in excess of $20,000,000; (b) The person generates annual revenues in excess of $50,000,000; (c) The person employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1,000 employees in the aggregate; (d) The person is a not-for-profit organization or public entity generating annual budgeted expenditures of at least $30,000,000; (e) The person is a municipality with a population in excess of 50,000 persons.

Effective January 1, 2016, and each fifth January 1 occurring thereafter, the amounts in subsections (a), (b), and (d) above shall be adjusted to reflect the percentage change for such 5-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

Minimum Financial Eligibility Standards for Surplus Line Insurers

The Commissioner may consider a surplus lines insurer to be eligible if the nonadmitted insurer:

- If a United States domestic insurer has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of: (a) (1) The minimum capital and surplus requirements under the law of Delaware; or (2) $15 million. (b) The requirements of subparagraph (a)(1) may be satisfied by an insurer possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the Commissioner. The finding must be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability, and company record and reputation within the industry. The Commissioner may not make an affirmative finding of acceptability when the nonadmitted insurer's capital and surplus is less than $4,500,000; or

- The insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the NAIC if the insurer is not domiciled in the United States or its territories.

Domestic Surplus Lines Insurers

A Delaware domestic insurer possessing policyholder surplus of at least $15 million may, pursuant to a resolution by its board of directors, and with the written approval of the Commissioner, be designated as a domestic surplus lines insurer. Such insurers may write surplus lines insurance in any jurisdiction, including Delaware.

In this state, a Delaware domestic surplus lines insurer may only insure a Delaware risk when such coverage is procured pursuant to this chapter governing surplus lines insurance, and the premium shall be subject to surplus lines premium tax.

A domestic surplus lines insurer may not issue a policy designed to satisfy the motor vehicle financial responsibility requirements of this state, the Workers Compensation Act, or any other law of this state mandating insurance coverage by a licensed insurance company.

A domestic surplus lines insurer must agree to abide by all the requirements of this chapter, and all other requirements of the Delaware Code applicable to Delaware domestic insurers, unless otherwise exempted. The provisions of Chapters 42 and 44 of this title will not apply to a domestic surplus lines insurer.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly, or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

Property Casualty Insurers Association of America
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Enacted Law Bulletin

May 31, 2011

State:	Florida
Topic:	Florida Enacts Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	May 26, 2011
Bill Number:	S-1816
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	William Stander, 850-681-2615 william.stander@pciaa.net

Executive Summary

Florida has enacted Senate Bill 1816 which authorizes the Department of Financial Services and the Office of Insurance Regulation to enter into a multi-state agreement for the collection of non-admitted insurance taxes as set forth in the Nonadmitted and Reinsurance Reform Act (NRRA). The law became effective immediately upon the governor's approval on May 26, 2011.

Surplus Lines Reform

Agent Affidavit Filing Requirement

Section 1 of Senate Bill 1816 amends Section 626.931(1) of the Florida Statutes to allow a surplus lines agent to file an affidavit stating that the agent has submitted all of the agent's surplus lines transactions to the Florida Surplus Lines Service Office (FSLSO) 45 days after the end of the calendar quarter. Prior law required the affidavit to be filed with the FSLSO by the end of the month after the end of the quarter.

Surplus Lines Tax

Section 2 amends Section 626.932(3) by adding language specifying that the surplus lines tax shall be computed on the gross premium when the surplus lines policy covers risks that are only partially in Florida and Florida is the home state as defined in the Nonadmitted and Reinsurance Reform Act (NRRA). The tax rate is limited to the tax rate where an insured risk is located.

Service Fee

Section 3 amends Section 626.9325 by requiring surplus lines agents to pay to the FSLSO all service fees related to policies reported during the previous quarter 45 days after each calendar quarter. Prior law required monthly payments.

Cooperative Reciprocal Agreement

Section 4 enacts Section 626.9362 to authorize the Florida Department of Financial Services and the Office of Insurance Regulation to enter into cooperative reciprocal agreements with other states to collect and allocate nonadmitted insurance taxes for multi-state risks pursuant to the NRRA.

Report and Tax of Independently Procured Coverages

Section 5 amends Section 626.938(3) by adding language providing that the surplus lines tax paid by the insured be computed on the gross premium when the surplus lines policy covers risks that are only partially in Florida and the latter is the home state as defined by the NRRA. Additional language provides that the tax rate is limited to the tax rate where the insured risk is located.

Section 5 also amends the payment schedule for independently procured coverage policies in Section 626.938(3) by requiring insureds that do not use a surplus lines agent to procure surplus lines coverage to pay the surplus lines premium tax and the service fee to the FSLSO within 45 days following each calendar quarter in which the insurance was procured. Prior law required the insured to pay the tax and the fee within 30 days after the insurance was procured.

Effective Date

S-1816 became effective immediately upon the governor's approval on May 26, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Property Casualty Insurers Association of America
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Enacted Law Bulletin

May 26, 2011

State:	Georgia
Topic:	Georgia Enacts Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	July 1, 2011
Bill Number:	H-413
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Micaela Isler, 404-844-8230 micaela.isler@pciaa.net

Executive Summary

Georgia has enacted House Bill 413 which brings the Surplus Lines Insurance Law into conformity with the federal Nonadmitted and Reinsurance Reform Act of 2010. H-413 also amends the insurance agent examination and risk-based capital level requirements. The law becomes effective on July 1, 2011.

Surplus Lines Reform

House Bill 413 adds and amends existing provisions of the Surplus Lines Insurance Law as follows:

- Exempts a surplus lines broker procuring nonadmitted insurance for an exempt commercial purchaser from the diligent search requirements if the broker has disclosed to the purchaser that the coverage may be available from the admitted market and the purchaser requests in writing that the agent place the insurance with a nonadmitted insurer (Section 2 amends Section 33-5-21);

- In regard to surplus lines insurers domiciled in the United States, authorizes a surplus lines broker to place coverage with an insurer that has the greater of a state's minimum capital and surplus requirements or $15 million (Section 3 amends Section 33-5-25);

- Allows a surplus lines broker to place coverage with an alien nonadmitted insurer listed on the NAIC's Quarterly Listing of Alien Nonadmitted Insurers (Section 3 amends Section 33-5-25);

- Authorizes the insurance commissioner to allow an insurer having a capitalization of not less than $4.5 million to write coverage on a surplus lines basis (Section 3 amends Section 33-5-25); and

- Authorizes the governor, in consultation with the insurance commissioner, to enter into a compact with other states for the purpose of collecting insurance premium taxes imposed under Section 33-5-31. The compact should follow the form of either the Surplus Lines Insurance Multi-State Compliance Compact (SLIM-PACT-lite) or the Nonadmitted Insurance Multi-State Agreement (NIMA). (Section 8 enacts Part 2 consisting of Section 33-5-41 through 33-5-44).

H-413 also amends the broker tax, penalty, and exemption provisions set forth in Sections 33-5-31, 33-5-32, 33-5-33, and 33-5-35, respectively.

Miscellaneous Provisions

Section 9 of H-413 amends Section 33-23-10 by adding language which prohibits the insurance commissioner from exempting himself from any written examination requirements, while Section 12 amends Section 33-56-3 by specifying when a "company action level event" occurs for a property and casualty insurer. A "company action level event" for a property and casualty insurer occurs when total adjusted capital (1) is greater than or equal to its company action level RBC; (2) is less than the product of its authorized control level RBC and 3.0; and (3) triggers the trend test calculation in the property and casualty RBC instructions.

Effective Date

H-413 was approved by the governor on May 11, 2011 and becomes effective on July 1, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

May 10, 2012

State:	Georgia
Topic:	Georgia Adopts NAIC's Credit for Reinsurance Reform
Impact:	Not Line Specific
Effective Date:	July 1, 2012
Bill Number:	S-385
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Oyango Snell, 202-349-7461 oyango.snell@pciaa.net

Executive Summary

Georgia has enacted Senate Bill 385 which adopts the reinsurance risk-based collateral reforms embodied in the recently amended National Association of Insurance Commissioners (NAIC) model law. S-385 also amends provisions relating to the confidentiality and sharing of insurance data, the surplus lines premium tax, and personal automobile insurance billing and cancellation notices. The law becomes effective on July 1, 2012.

Examination Reports

Section 33-2-14 of the Official Code of Georgia Annotated is amended to authorize the insurance commissioner to share work papers, analysis, and other related information with state, federal, or international regulatory agencies and law enforcement authorities provided the recipient agrees in writing to maintain the confidentiality of the information. The amended section also clarifies that work papers generated in financial and market conduct examinations are not subject to the open records law.

Surplus Lines

Section 33-5-33 is amended to clarify procedures for the payment of the surplus lines premium tax based on Georgia's participation or lack thereof in an interstate compact with other states.

Credit for Reinsurance Reform

Senate Bill 385 conforms the credit for reinsurance statute, Section 33-7-14, to parts of the recently revised Credit for Reinsurance Model Law of the National Association of Insurance Commissioners (NAIC).

S-385 requires that a reinsurer demonstrate, to the satisfaction of the insurance commissioner, it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers, and would delete language authorizing a reinsurer whose accreditation has been approved to maintain a surplus of less than $20 million, provided, however, that a reinsurer who maintains a surplus of not less than $20 million and whose accreditation has not been denied by the commissioner within the last 90 days will be automatically deemed to meet the satisfaction of the insurance commissioner.

Under amended Section 33-7-14, an assuming insurer is eligible for accreditation in Georgia if it satisfies the following requirements:

- Is domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the insurance commissioner;
- maintains minimum capital and surplus, or its equivalent, in an amount to be determined by the insurance commissioner pursuant to regulation;
- maintains financial strength ratings from at least two rating agencies deemed acceptable by the insurance commissioner pursuant to regulation;
- agrees to submit to the jurisdiction of Georgia, appointing the insurance commissioner as its agent for service of process in Georgia, and agrees to provide security for 100 percent of its liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment;
- agrees to meet applicable information filing requirements as determined by the insurance commissioner, both with respect to an initial application for certification and on an ongoing basis; and
- meets any other requirements for certification deemed relevant by the insurance commissioner.

S-385 also requires the insurance commissioner to publish a "Qualified Jurisdictions List" under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the insurance commissioner as a certified reinsurer.

In addition, S-385 requires a domestic ceding insurer to notify the insurance commissioner within 30 days of reinsurance recoverables that exceed 50 percent of the domestic insurer's last reported surplus to policyholders. The amended law also requires a domestic ceding insurer to diversify its reinsurance program.

Personable Automobile Cancellation Notices With Billing Notices

In the case where a policyholder has failed to pay a policy premium, Section 33-24-45(c)(1) is amended to permit a personal automobile insurer to send a cancellation notice with the monthly billing notice, provided that the bill is mailed to the policyholder at least 10 days prior to the due date.

Effective Date

S-385 was approved by the governor on May 2, 2012 and becomes effective on July 1, 2012.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

June 2, 2011

State:	Hawaii
Topic:	Surplus Lines—NRRA Legislation
Impact:	Not Line Specific
Effective Date:	June 1, 2011
Bill Number:	H-1052
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Mark Sektnan, 916-449-1370 Mark.Sektnan@pciaa.net

Executive Summary

On May 31, 2011, Hawaii House Bill 1052 was signed into law revising Hawaii law in response to the Federal Nonadmitted and Reinsurance Reform Act (NRRA). The bill takes effect June 1, 2011.

Significant Provisions

H-1052 generally incorporates certain provisions of NAIC's Nonadmitted Insurance Multistate Agreement (NIMA) including its definitions of "home state", "group insurance" and "principal place of business."

More specifically it:

Authorizes the Commissioner to participate in a tax sharing system, as well as to adopt uniform insurer eligibility requirements

Requires brokers and insureds to report the multi-state allocation for transactions on a quarterly basis, which is inconsistent with the NRRA

Requires brokers and insureds to apply the tax rate of each state where there are exposures for a multi-state risk, regardless of whether or not the other state does not participate in the new tax sharing system

Incorporates the NRRA's exemption from the diligent search requirement for exempt commercial purchasers

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

April 7, 2011

State:	Idaho
Topic:	Surplus Lines Taxation and Related
Impact:	Not Line Specific
Effective Date:	July 1, 2011
Bill Number:	H-179
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Kenton Brine, 360-915-6268 Kenton.Brine@pciaa.net

Executive Summary

On April 5, 2011, Idaho House Bill 179 was signed into law making several revisions to surplus lines taxation and broker requirements, to take effect July 1, 2011.

Significant Provisions

This legislation amends § 41-1229, effective July 21, 2011, to prescribe that for property and casualty insurance other than worker's compensation insurance, if the insured's home state is Idaho the premium tax payable is to be computed upon the entire premium without regard to whether the policy covers risks or exposures that are located in Idaho.

It further amends § 41-1212 to restrict the applicability of several surplus lines provisions regarding export conditions through broker reporting requirements only to insureds who have Idaho as a home state.

It also revises § 41-1214 to allow a surplus line broker to procure from, or place insurance with, an unauthorized insurer for an exempt commercial purchaser without being required to satisfy the diligent search requirement set forth in this section when certain conditions apply relating to “exempt commercial purschasers,” newly defined under § 41-1213.

Additional conditions are introduced applicable to the placing of surplus lines insurance with foreign and alien insurers, as well as with insurers that may have less than minimum capital and surplus levels, upon the discretion of the director.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Property Casualty Insurers Association of America
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Enacted Law Bulletin

August 17, 2012

State:	Illinois
Topic:	Amends RBC Reporting and Surplus Lines Provisions
Impact:	Not Line Specific
Effective Date:	August 14, 2012
Bill Number:	H-1577
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Deirdre Manna, 847-553-3613 deirdre.manna@pciaa.net

Executive Summary

H-1577 was approved on August 14, 2012, and became effective immediately. This law makes amendments to the Insurance Code with regards to risk-based capital (RBC) reporting requirements and surplus lines compliance with the federal Nonadmitted and Reinsurance Reform Act of 2010.

Significant Provisions

Expands Definition of "Company Action Level Event"

The law amends the definition of "company action level event" as it relates to risk-based capital (RBC) for property/casualty insurers. Specifically, the law amends the definition of "company action level event" to include the following: the filing by a property and casualty insurer of an RBC report indicating the insurer has total adjusted capital greater than or equal to its company action level RBC, but less than the product of its authorized control level RBC and 3.0 and triggers the trend test calculation included in the RBC instructions for property and casualty insurers.

Surplus Line Compliance with NRRA

The law amends Illinois' surplus lines provisions to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The law accomplishes the following: provides relevant definitions; specifies that policies where an insured's "home state" is Illinois are regulated and taxed solely by Illinois, and that they are only filed with the Illinois Surplus Lines Association (SLA); establishes new insurer eligibility standards; provides that when procuring a policy for an "exempt commercial purchaser," a surplus lines producer does not need admitted company declinations if the proper signed warnings are obtained from the prospective insured; removes the surplus lines producer bond and pre-licensing course requirements; modifies tax wording to clarify that taxes are due based

on policies filed with the SLA (previous law stated taxes were due based on when they were procured); amends tax wording to clarify that the surplus lines tax rate has changed over time and is applied based on a policy's effective date; and makes technical changes to help harmonize the Illinois surplus lines law with NRRA.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

May 11, 2011

State:	Indiana
Topic:	Enacts Surplus Lines Insurance Compact
Impact:	Surplus Lines
Effective Date:	July 1, 2011
Bill Number:	S-578
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Ann Weber, 847-553-3689 ann.weber@pciaa.net

Executive Summary

S-578 was approved on May 9, 2011. This bill enacts the Surplus Lines Insurance Compact. It takes effect July 1, 2011.

Significant Provisions

Establishment of Commission and Authority

Article 18, Surplus Lines Insurance Compact, is added to the Indiana Code. It establishes a joint public agency known as the Surplus Lines Insurance Multistate Compliance Compact Commission.

The Commission has the authority to adopt mandatory rules to establish the following:

(1) Allocation formulas for each type of nonadmitted insurance coverage, which must be used by each compacting state and contracting state in acquiring premium tax and clearinghouse transaction data from surplus lines licensees and insureds to report to the clearinghouse. The rules must be adopted with input from surplus lines licensees and must be based on readily available data, with simplicity and uniformity for the surplus lines licensee as a material consideration.

(2) Uniform clearinghouse transaction data reporting requirements for all information reported to the clearinghouse.

(3) Methods by which compacting states and contracting states will require surplus lines licensees and insureds to pay premium tax and report clearinghouse transaction data to the clearinghouse, including processing clearinghouse transaction data through state stamping and service offices, state insurance departments, or other state designated agencies or entities.

(4) That nonadmitted insurance of multistate risks is subject to all regulatory compliance requirements of the home state exclusively.

(5) That each compacting state and each contracting state may charge its own rate of taxation on the premium allocated to the compacting state or contracting state based on the applicable allocation formula, with conditions.

(6) That a change in the rate of taxation by a compacting state or contracting state is restricted to changes made prospectively with at least 90 days advance notice to the Commission.

(7) That each compacting state and each contracting state shall require premium tax payments either annually, semi-annually, or quarterly.

(8) That each compacting state and each contracting state shall prohibit any state agency or political subdivision from requiring surplus lines licensees to provide clearinghouse transaction data and state transaction documentation other than to the insurance department or tax official or a single designated agent of the insurance department or tax official of the home state.

(9) The obligation of the home state itself or through a designated agent or surplus lines stamping or service office to collect clearinghouse transaction data from surplus lines licensees and from insureds (for independently procured insurance), for reporting to the clearinghouse.

(10) A method for the clearinghouse to periodically report to compacting states, contracting states, surplus lines licensees, and insureds who independently procure insurance: (a) all premium taxes owed to each of the compacting states and contracting states; (b) the dates upon which payment of the premium taxes are due; and (c) a method for paying the premium taxes through the clearinghouse.

(11) That each surplus lines licensee is required to be licensed only in the home state of each insured for whom the licensee has procured surplus lines insurance.

(12) That: (a) a policy considered to be surplus lines insurance in the insured's home state shall be: (i) considered to be surplus lines insurance in all compacting states and contracting states; and (ii) taxed as a surplus lines transaction in all states to which a portion of the risk is allocated; (b) each compacting state and each contracting state shall require each surplus lines licensee to pay to every other compacting state and contracting state premium taxes on each multistate risk through the clearinghouse at the tax rate charged on surplus lines transactions in the other compacting state or contracting state on the portion of the risk in the compacting state or contracting state, as determined by the applicable uniform allocation formula adopted by the Commission; (c) a policy considered to be independently procured insurance in the insured's home state is considered to be independently procured insurance in all compacting states and contracting states; and (d) each compacting state and each contracting state shall require the insured to pay every other compacting state and contracting state the independently procured insurance premium tax on each multistate risk through the clearinghouse, as determined by the uniform allocation formula adopted by the Commission.

(13) Uniform foreign insurer eligibility requirements, as authorized by the NRRA.

(14) A uniform policyholder notice.

(15) Uniform treatment of purchasing group surplus lines insurance placements.

Organization of Commission

Each compacting state is represented on the Commission by only one member. A member shall be chosen through a process and according to the qualifications and method of selection determined by the compacting state, or, in the absence of the above provisions, appointed by the governor of the compacting state.

The Commission shall prescribe bylaws, establish an executive committee, establish an operations committee, and establish a legislative committee.

The Commission shall maintain the confidentiality of the following:

(1) Work papers related to an internal or independent audit;

(2) Information regarding the privacy of individuals;

(3) Licensees' and insurers' proprietary information, including trade secrets.

Immunity

The members, officers, executive director, employees, and representatives of the Commission, members of the executive committee, and members of any other committee of the Commission are, personally and in their official capacity, immune from suit and liability for a claim for damage to or loss of property, personal injury, or other civil liability caused by or arising out of an actual or alleged act, error, or omission that occurs or that the person against whom the claim is made has a reasonable basis for believing to have occurred within the scope of Commission employment, duties, or responsibilities, excluding intentional or willful or wanton misconduct.

Further, the Commission shall defend a member, officer, executive director, employee, or representative of the commission, the executive committee, or any other committee of the Commission in a civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurs or that the person against whom the claim is made has a reasonable basis for believing to have occurred within the scope of Commission employment, duties, or responsibilities if the actual or alleged act, error, or omission did not result from the person's intentional or willful or wanton misconduct.

Dispute Resolution

The Commission shall attempt, upon the request of a member, to resolve disputes or other issues that are subject to this compact and may arise between two or more compacting states, contracting states, or non-compacting states.

A member may not bring an action in a court with jurisdiction alleging a violation of a provision, standard, or requirement of this compact unless the Commission, at the member's request, has attempted to resolve the dispute concerning the alleged violation.

The Commission is required to adopt a rule providing alternative dispute resolution procedures for disputes described above.

The Commission shall provide alternative dispute resolution procedures to resolve any disputes between insureds or surplus lines licensees concerning tax calculation or allocation or related issues that are the subject of this compact.

Alternative dispute resolution procedures must be used in circumstances where a dispute arises as to which state constitutes the home state.

Review of Commission Decisions

Except as necessary in adopting rules to fulfill the purposes of this compact, the Commission does not have authority to regulate insurance in the compacting states.

Not later than 30 days after the Commission has given notice of a rule or allocation formula, a third party filer or compacting state may appeal the Commission's determination to a review panel appointed by the Commission.

An allegation that the Commission, in making a compliance or tax determination, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law is subject to judicial review in accordance with Ind. Code 27-18-2-6.

The Commission may monitor and review Commission decisions, and may reconsider Commission decisions upon a finding that the determinations or allocations do not meet the relevant rule.

The Commission may withdraw or modify a determination or allocation after proper notice and hearing, subject to appeal.

Finance

The Commission shall collect a fee, payable by the insured directly or through a surplus lines licensee, on each transaction processed through the compact clearinghouse, to cover the cost of the operations and activities of the Commission and the Commission's staff.

Compacting States and Effective Dates

Any state is eligible to become a compacting state. This compact becomes effective and binding upon legislative enactment of the compact into law by two compacting states. The Commission becomes effective for purposes of adopting rules and creating the clearinghouse when there is a total of 10 compacting states and contracting states or there are compacting states and contracting states representing more than 40 percent of the total surplus lines insurance premium volume, based on a listed apportionment of the total surplus lines insurance premium volume among the states.

After the Commission becomes effective, the compact becomes effective and binding as to any other compacting state upon the enactment of the compact into law by that state.

The clearinghouse operations and the duty to report clearinghouse transaction data begin on the first January 1 or July 1 following the first anniversary of the Commission's effective date.

The Commission shall set a date for the reporting of clearinghouse transaction data by states that become compacting states after the Commission's effective date, and provide notice of the date for reporting clearinghouse transaction data to surplus lines licensees and all other interested parties at least 90 days before the date set.

If this compact does not take effect or becomes ineffective, the Indiana Department of Insurance has the authority to enter into contracts to implement the requirements of the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The Department shall not enter into a contract that is related to reporting, payment, collection, or allocation of fees or taxes on nonadmitted insurance, unless the Department has done all of the following:

- Completed a fiscal analysis of the impact of the contract;
- Studied the expected effect of the contract on Indiana's gross receipt of premium tax;
- Reviewed whether the contract will create undue administrative burdens on the state of Indiana or surplus lines licensees;
- Concluded that entering into the contract: (a) is in Indiana's financial best interest; and (b) is consistent with the requirements of the NRRA.

Withdrawal, Default, and Termination

After this compact becomes effective, the compact continues in force and remains binding upon every compacting state. A compacting state may withdraw from this compact by enacting a statute specifically repealing the statute that enacted this compact into law. The effective date of a compacting state's withdrawal is the effective date of the statute repealing the statute that enacted this compact.

Except by mutual agreement of the Commission and the withdrawing state, a withdrawal does not apply to a tax or compliance determination that has already been approved on the date the repealing statute becomes effective, unless the compacting state and Commission mutually agree that the withdrawal applies to the tax or compliance determination, or the approval of the tax or compliance determination is rescinded by the Commission.

The member representing a compacting state are required to immediately notify the executive committee of the Commission in writing upon the introduction in the state's legislature of legislation to repeal this compact in the

state. Not more than 10 days after receiving notice of the legislation under which a state would withdraw from this compact, the Commission is required to notify the other compacting states of the introduction of the legislation.

A withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of the state's withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal. To the extent that obligations have been released or relinquished by mutual agreement of the Commission and the withdrawing state, the Commission's determinations before the effective date of the state's withdrawal continue to be effective and shall be given full force and effect in the withdrawing state, unless formally rescinded by the Commission.

A state that has withdrawn from this compact shall be reinstated upon the effective date of the state's legislature's reenactment of this compact.

If the Commission determines that a compacting state has defaulted in the performance of any of the compacting state's obligations or responsibilities under this compact or under the bylaws or rules, the Commission shall, after notice and hearing, suspend all rights, privileges, and benefits conferred by this compact on the defaulting state, effective on the effective date of default as fixed by the Commission.

Upon making a determination, the Commission shall immediately notify the defaulting state in writing of the defaulting state's suspension, pending resolution of the default, the conditions for resolution of the default, and the period within which the defaulting state must resolve the default. If a defaulting state fails to resolve the default within the period specified by the Commission, the defaulting state shall be terminated from this compact and all rights, privileges, and benefits conferred on the state by this compact are terminated on the effective date of the state's termination from this compact.

This compact dissolves effective on the date of the withdrawal or termination for default of the compacting state whose withdrawal or termination reduces membership in the compact to one compacting state. Upon the dissolution of this compact, it becomes void and has no further force or effect, and the business and affairs of the Commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws and rules.

Binding Effect of Compact and Other Laws

Except as otherwise provided, this article does not prevent the enforcement of any other law of a compacting state.

Decisions of the Commission and rules and other requirements of the Commission constitute the exclusive rule or determination applicable to the compacting states.

A law or regulation regarding nonadmitted insurance of multistate risks that is contrary to rules of the Commission is preempted with respect to the following:

(1) Clearinghouse transaction data reporting requirements;

(2) Allocation formula;

(3) Clearinghouse transaction data collection requirements;

(4) Premium tax payment time frames and rules concerning dissemination of data among the compacting states for nonadmitted insurance of multistate risks and single state risks;

(5) Exclusive compliance with the surplus lines law of the home state of the insured;

(6) Rules for reporting to a clearinghouse for receipt and distribution of clearinghouse transaction data related to nonadmitted insurance of multistate risks;

(7) Uniform foreign insurers eligibility requirements;

(8) Uniform policyholder notice;

(9) Uniform treatment of purchasing groups procuring nonadmitted insurance.

Except as provided above, a rule, uniform standard, or other requirement of the Commission constitutes the exclusive provision that a commissioner may apply to compliance or tax determinations. However, an action taken by the Commission does not abrogate or restrict:

(1) The access of a person to state courts;

(2) The availability of alternative dispute resolution under Ind. Code 27-18-10;

(3) Remedies available under state law related to breach of contract or torts, or other laws not specifically directed to compliance or tax determinations;

(4) State law relating to the construction of insurance contracts; or

(5) The authority of the attorney general of the state, including the authority to maintain any actions or proceedings, as authorized by law.

Except as provided in this section, lawful actions of the Commission, including rules adopted by the Commission, are binding upon the compacting states.

Agreements between the Commission and the compacting states are binding in accordance with the terms of the agreements.

Upon the request of a party to a conflict over the meaning or interpretation of a Commission action and the affirmative vote of a majority of the compacting states, the Commission may issue advisory opinions regarding the meaning or interpretation in dispute.

If a provision of this compact exceeds the constitutional limits imposed on the legislature of a compacting state:

(1) The conferral upon the Commission of obligations, duties, powers, and jurisdiction through this compact is ineffective as to the compacting state; and

(2) The obligations, duties, powers, and jurisdiction remain in the compacting state and shall be exercised by the agency of the compacting state to which the obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly, or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

April 11, 2012

State:	Iowa
Topic:	Establishes Provisions Permitting Access to Surplus Lines Insurance in State
Impact:	Surplus Lines
Effective Date:	March 29, 2012
Bill Number:	H-2145
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Ann Weber, 847-553-3689 ann.weber@pciaa.net

Executive Summary

H-2145 was approved on March 29, 2012, and became effective immediately. This law adds Chapter 515I to the Insurance Code, and repeals Sections 515.120 through 515.122, addressing access to surplus lines insurance in Iowa.

The stated purpose of H-2145 is to accomplish all of the following: establish a system of regulation that will permit orderly access to surplus lines insurance in Iowa; encourage admitted insurers to make new and innovative types of insurance available to consumers in Iowa; protect persons seeking insurance in Iowa; permit surplus lines insurance to be placed with reputable and financially sound nonadmitted insurers; provide a system through which persons may independently procure surplus lines insurance; protect revenues of the State of Iowa; foster a national system of regulation of surplus lines insurance by collaborating with other state insurance commissioners; provide a system that subjects surplus lines insurance activities in Iowa to the jurisdiction of the insurance commissioner and state and federal courts in suits by or on behalf of the State of Iowa; and ensure compliance with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA), Tit. V, subtit. B, of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act.

Accordingly, the law enacts provisions addressing the following areas: relevant terms and definitions; criteria for placement of surplus lines insurance with nonadmitted insurers; requirements for eligible surplus lines insurers when Iowa is the home state of an insured; requirements for "exempt commercial purchasers"; violations and penalties; and a requirement that for surplus lines insurance, the tax on premiums will be calculated on the amount of premiums written on such insurance policies where the home state of the insured is Iowa.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

July 14, 2011

State:	Kansas
Topic:	Enacts Omnibus Insurance Bill, Includes SLIMPACT
Impact:	Not Line Specific
Effective Date:	May 19, 2011
Bill Number:	H-2076
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Joe Woods, 512-334-6638 joe.woods@pciaa.net

Executive Summary

H-2076 enacts insurance omnibus legislation containing provisions relating to several different areas, including the following: confidentiality of anti-fraud plans; filing deadline for certain financial statements of group-funded workers compensation pools; and enactment of SLIMPACT.

Significant Provisions

Confidentiality of Anti-Fraud Plan Filed with Commissioner

The law provides that any anti-fraud plan or amendment thereof submitted to the Insurance Commissioner for informational purposes only will be confidential and not public record, and will not be subject to discovery or subpoena in a civil action. This provision expires July 1, 2016.

Filing Deadline for Financial Statement of Group-Funded Workers Compensation Pools

The law increases the time permitted for a group-funded workers compensation pool to file an independent, audited financial statement with the Insurance Commissioner, from 90 days to 150 days after the end of the pool's fiscal year.

Surplus Lines Compliance with NRRA

This law enacts the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT). The law brings Kansas into compliance with the Nonadmitted and Reinsurance Reform Act (NRRA) of the federal Dodd/Frank bill. Effective July 21, 2011, the Dodd/Frank provisions prohibit any state that is not the home state of an insured from requiring any premium tax payment for nonadmitted insurance. Among other things, the NRRA authorizes states to enter into a compact to allocate premium taxes, and enactment of this law authorizes Kansas to join the multi-state compact as a compacting state. For more detailed information regarding the changes, please review the attached legislative conference committee report brief.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

June 15, 2015

Topic:	Kansas Enacts Omnibus Insurance Measure
Jurisdictions(s):	Kansas
Impact:	Not Line Specific
Effective Date:	July 1, 2015
Bill Number:	KS House Bill 2352
PCI Legislative Analyst:	Sheila Williams 847-553-3757 **sheila.williams@pciaa.net**
PCI Regional Manager:	Kelly Campbell 303-830-6772 **kelly.campbell@pciaa.net**

Overview

Kansas has enacted House Bill 2352, an omnibus measure, with provisions pertaining to notice of cancellation for motor vehicle liability insurance, financial examination, surplus lines insurance and gross premium taxes. The law has multiple effective dates.

Significant Provisions

House Bill 2352 amends K.S.A. 40-2127 and K.S.A. 2014 Supp. 40-223, 40-246c, 40-2,194, and 40-3118 and repeals the existing sections. The measure also repeals K.S.A. 2014 Supp. 40-5701, 40-5702 and 40-5703.

Notice of Termination of Insurance Coverage

Section 2 of HB 2352 amends K.S.A. 40-3118(b), (Kansas Automobile Injury Reparations Act) to expand the options associated with providing notice of termination of motor vehicle liability insurance. The measure gives insurance companies, in addition to the options of mailing a notice of termination by certified or registered mail, or USPS certificate of mailing, the option to mail the notice "by any other mail tracking method currently used, approved or accepted by the United States postal service."

Financial Examinations

Section 3 of HB 2352 amends K.S.A. 40-223 to increase the amount from $100,000 to $500,000

for the maximum amount allowed for the collective total payment of outside consulting and data processing fees associated with the financial examination of any one insurance company or society, including their subsidiaries or any combination; and the pro rata amount to fund the purchase of examination equipment and computer software. The companies subject to the consulting fee and equipment purchase limitation are those with $200 million or more in gross premiums, both direct and assumed, in the prior calendar year.

Surplus Lines Insurance; SLIMPACT

Sections 5-8 of HB 2352 create new definitions and amend existing requirements in the Insurance Code pertaining to the regulation of excess or surplus lines insurance. In addition, the measure repeals the 2011 law authorizing the state to join the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT). Key provisions of the measure include the following:

- Section 5 adds defined terms for exempt commercial purchaser, home state, nonadmitted insurer, principal place of business, and surplus lines insurance (this section takes effect January 1, 2016);
- Section 6 amends KS 40-246(c), to simplify the computation method of surplus lines premium by specifying that licensed agents must collect and pay to the Commissioner a tax of 6 percent on the total gross premiums charged, less any return premiums, for surplus lines insurance transacted by the licensee pursuant to the license for insureds whose home state is Kansas (this section takes effect January 1, 2016);
- Section 7 adds a new section to the Insurance Code and exempts a surplus lines producer seeking to place non-admitted insurance for an exempt commercial purchaser from filing a sworn affidavit or statement with the Kansas Insurance Department, if the surplus lines producer has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market and the exempt commercial purchaser has subsequently requested in writing that the surplus lines producer procure or place such insurance from a non-admitted insurer (this section takes effect January 1, 2016); and
- Section 8 authorizes the Commissioner to adopt rules and regulations necessary for the enforcement and administration of the provisions governing excess or surplus lines insurance. Any such rules and regulations must be adopted no later than January 1, 2017 (this section takes effect January 1, 2016).

Effective Dates

House Bill 2352 becomes effective July 1, 2015. On January 1, 2016, K.S.A. 2014 Supp. 40-246c, 40-2,194, 40-5701, 40-5702 and 40-5703 are repealed.

Attachments

A copy of House Bill 2352 and the conference committee report are available as attachments.

Related Information

Kansas H 2352 Confererence Committee Report.pdf

KS H 2352.PDF

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Enacted Law Bulletin

March 22, 2011

State:	Kentucky
Topic:	Kentucky Enacts SLIMPACT Law
Impact:	Not Line Specific
Effective Date:	June 8, 2011
Bill Number:	H-167
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Jeffrey Junkas, 847-553-3678 jeffrey.junkas@pciaa.net

Executive Summary

Kentucky has enacted House Bill 167 which adopts the Surplus Lines Insurance Multi-State Compliance Compact. The law becomes effective on June 8, 2011.

Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT)

H-167 adopts the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT) in Sections 304.10-010 through 304.10-210 of the Kentucky Revised Statutes. The law includes a preamble explaining why SLIMPACT was enacted. A major reason for the enactment is to facilitate the payment, collection, and distribution of the multi-state surplus lines insurance premium taxes among the states.

Establishment of Multi-State Compliance Compact Commission

H-167 establishes the Surplus Lines Insurance Multi-State Compliance Compact Commission (Commission), a joint public agency which is authorized to adopt rules establishing exclusive home state authority regarding non-admitted insurance of multi-state risks, allocation formulas, and uniform payment methods and reporting requirements for policyholders and surplus lines brokers. Articles III through XII of H-167 set forth the Commission's powers, rulemaking authority, corporate structure, meeting schedule, dispute resolution procedures, and financial requirements.

Compact Agreement

The remaining Articles XIII through XVI allow any state to be eligible to be a compacting state and set forth procedures for amending and withdrawing from a compact. The articles also specify conditions under which a state may be in default of a compact and when the compact may be dissolved.

Miscellaneous Amendments

H-167 amends Sections 91A.080 and 304.10-180 by prohibiting assessment of a local government premium tax on multi-state surplus lines in conformity with the Dodd-Frank Wall Street Reform and Consumer Protection Act. Amended Section 304.10-180 will require brokers to pay a tax rate of 11.8 percent on multi-state risks to the Kentucky Insurance Department.

Effective Date

H-167 was approved by the governor on March 16, 2011 and becomes effective 90 days after the legislature's adjournment, or on June 8, 2011. The legislature adjourned on March 9, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

April 25, 2012

State:	Kentucky
Topic:	Kentucky Enacts Omnibus Measure
Impact:	Not Line Specific
Effective Date:	July 12, 2012 and July 15, 2014 (Section 12 only)
Bill Number:	H-295
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Jeffrey Junkas, 847-553-3678 jeffrey.junkas@pciaa.net

Executive Summary

Kentucky has enacted House Bill 295 which amends several subtitles in the Insurance Code pertaining to insurance agents, surplus lines insurers, insurance holding company systems, and captive insurers. The law becomes effective on July 12, 2012, except for Section 12 which becomes effective on July 15, 2014.

Omnibus Insurance Amendments

House Bill 295 amends Subtitles 3, 9, 10, 37, 49, and 99 of Chapter 304 of the Kentucky Revised Statutes which are discussed below.

Authorization of Insurers and General Requirements (Subtitle 3)

Section 1 of H-295 amends Section 304.3-180 to change the expiration date for a certificate of authority from midnight on June 30 to midnight on April 30. The amended section also requires an insurer to pay a $100 fine to the insurance commissioner in order to reinstate an expired certificate of authority.

Agents Law (Subtitle 9)

Section 2 amends Section 304.9-105 to eliminate the requirement that agents file proof of financial responsibility with the state insurance department.

Section 3 amends Section 304.9-320, relating to licensure as a consultant, to delete the substitution of other special experience, education or training for the five-year experience as a licensed agent. The section also eliminates the bond filing requirement.

Section 4 amends Section 304.9-330 to eliminate the requirement that consultants file proof of financial responsibility with the insurance commissioner.

Section 5 amends Section 304.9-430 to eliminate the requirement that adjusters file proof of financial responsibility with the state insurance department.

Surplus Lines Law (Subtitle 10)

Section 6 amends Section 304.10-030 to add definitions for the terms "admitted insurer," "affiliate," "exempt commercial purchaser," "home state," "nonadmitted insurance," and "nonadmitted insurer."

Section 7 amends Section 304.10-040 to clarify that a diligent search shall 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.

Section 8 amends Section 304.10-070 to clarify conditions under which a broker may place surplus lines insurance with an insurer, including the insurer's satisfaction of minimum capital and surplus requirements and presence on the NAIC's quarterly alien insurer listing, if the insurer is a nonadmitted insurer domiciled outside of the United States.

Section 9 amends Section 304.10-120 to clarify that an agent license with a property and casualty line of authority is not required for licensure as a surplus lines broker.

Section 10 amends Section 304.10-140 to eliminate the requirement that a licensed resident surplus lines broker and the insurance commissioner be given at least 30 days' prior written notice before the issuer terminates a policy, bond, deposit, or combination of a bond or deposit.

Insurance Holding Company Systems Law (Subtitle 37)

Section 12 enacts a new section in Subtitle 37 of Chapter 304 which authorizes the insurance commissioner to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations. **(Effective July 15, 2014)**

Section 13 amends Section 304.37-010 by adding definitions for two new terms “enterprise risk” and "supervisory college." The section also amends the definition of "insurer."

Sections 14, 15, 16, 17, and 18 amend Sections 304.37-020, 304.37-030, 304.37-040, 304.37-120, and 304.37-565 to adopt updates to the NAIC's Holding Company Act, primarily relating to the recognition of an enterprise risk.

Captive Insurers (Subtitle 49)

Section 19 amends Section 304.49-150 to establish the insurance code subtitles to which an industrial insured captive insurer is subject.

Section 20 amends Section 304.49-070 to provide that all captive insurers, except those formed as a risk retention group, are not required to file an actuarial opinion summary if a certification of loss and loss expense reserves and opinion of reserve adequacy are filed with the state insurance department.

Penalties (Subtitle 99)

Section 21 creates a new section in Subtitle 99 of Chapter 304 to require a person to pay a $100 fine in order to reinstate an expired certificate of authority.

Section 22 amends Section 304.99-085 to require a broker to pay a penalty of $100 for failing to file an affidavit as provided by Section 304.10-050. If the broker has a pattern of failing to file affidavits, the section requires the broker to pay minimum and maximum penalties of $1,000 and $5,000. In addition, the section requires a broker to pay a $500 penalty for failing to file a quarterly statement as required by Section 304.10-170.

Section 23 amends Section 304.99-152 to allow the insurance commissioner to disapprove a dividend or distribution or place an insurer under supervision in accordance with Subtitle 33 of KRS Chapter 304, if the

person violates Section 17 of H-295 which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system.

Effective Date

H-295 was approved by the governor on April 11, 2012 and becomes effective on July 12, 2012 except for Section 12 which becomes effective on July 15, 2014.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

July 7, 2015

Topic:	Louisiana to Lower Surplus Lines Tax Rate
Jurisdiction(s):	Louisiana
Impact:	Not Line Specific
Effective Date:	October 1, 2015
Bill Number:	House Bill 259
PCI Legislative Analyst:	Tina Crum 847-553-3804 Tina.Crum@pciaa.net
PCI Regional Manager:	Joe Woods 512-358-1345 joe.woods@pciaa.net

Overview

Louisiana has enacted House Bill 259 which lowers the surplus lines tax rate from 5 percent to 4.85 percent. The law also repeals the insurance commissioner's authority to enter into the Nonadmitted Insurance Multi-State Agreement (NIMA) or other cooperative compacts or agreements with other states. The law was approved by the governor on July 1, 2015 and becomes effective on October 1, 2015 unless noted otherwise.

Significant Provisions

H-259 amends Sections 22:439 and 22:443 of the Louisiana Revised Statutes.

Key components of H-259:

- decrease the tax rate on gross premiums for surplus lines of insurance from 5 percent to 4.85 percent (Section 22:439)(A)(1) and Section 22:443(A));
- expand the surplus lines tax base;
- eliminate the allocation of premiums to other states for multi-state policies (Section 22:439(D)(1)-(D)(4));
- eliminate the requirement that a surplus lines broker file a quarterly report if there is no surplus lines premium to report (Section 22:439(A)(3)); and
- exempt certain educational institutions and political subdivisions from the tax on gross premiums for surplus lines of insurance (Sections 22:439(D)(1) and (D)(2)).

Also, H-259 deletes Section 22:439(G) and repeals Section 2 of House Bill (2011) which authorizes the insurance commissioner to enter the Nonadmitted Insurance Multi-State Agreement (NIMA) or other cooperative compacts or agreements with other states.

Effective Date

H-259 was approved by the governor on July 1, 2015 and becomes effective on October 1, 2015 (including the withdrawal from NIMA), except for Sections 22:439(C) and (D) which became effective on July 1, 2015.

Related Information

LAHB259attach.pdf

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Enacted Law Bulletin

July 8, 2011

State:	Louisiana
Topic:	Louisiana Enacts Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	Multiple Effective Dates
Bill Number:	H-469
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Monique Kabitzke, 850-681-2615 monique.kabitzke@pciaa.net

Executive Summary

Louisiana has enacted House Bill 469 which conforms its surplus lines tax provision to the Nonadmitted and Reinsurance Reform Act of 2010. The law authorizes the insurance commissioner to enter into the Nonadmitted Insurance Multi-State Agreement or other cooperative compacts with other states. The law has multiple effective dates.

Surplus Lines Tax Provision

Section 1 of House Bill 469 amends and adds new subsections to Section 22:439 of the Louisiana Revised Statutes as follows:

Amended Section 22:439(C) provides that there shall be a tax on all premiums paid for surplus lines insurance covering properties, risks, or exposures for more than one state and for which Louisiana is the home state of the insured. The amended section requires surplus lines brokers and independently procuring insureds to remit the tax to the commissioner who shall transfer it to the general fund less the amount due to other states. The section further requires the state to return to the insured, through the surplus lines broker, if any, the tax on any portion of the premium unearned at the termination of the insurance. The section prohibits the surplus lines licensee or broker from rebating any part of the tax.

New Section 22:439(D) requires the tax to be on the gross premiums charged for any surplus lines insurance policy covering properties, risks, or exposures in more than one state and for which Louisiana is the home state of the insured. The section also requires the surplus lines broker or independently procuring insured to compute the sum payable based upon all of the following:

1. An amount equal to 5 percent on that portion of the gross premiums allocated to this state.
2. Plus an amount equal to the portion of the 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 in other states and territories that participate in a reciprocal allocation procedure as authorized in proposed law.
3. Less the amount of gross premiums allocated to this state and returned to the insured.
4. Less the net premium tax collected on properties, risks, or exposures allocable to states or territories that do not participate in a reciprocal allocation procedure with this state.

New Section 22:439(E) requires each surplus lines broker and insured independently procuring surplus lines insurance covering properties, risks, or exposures in more than one state for which Louisiana is the home state of the insured to transmit to the insurance commissioner a quarterly surplus lines tax report by the dates designated by the commissioner. This section authorizes the commissioner to prescribe the form and content of the report, which shall conform to any interstate agreement or compact for the receipt, allocation, and distribution of surplus lines premium taxes.

New Section 22:439(F) applies the federal NRRA definition of "home state of the insured" to the one in state law.

New Section 22:439(G)(1) requires the insurance commissioner, on behalf of the state, to enter into a Nonadmitted Insurance Multi-State Agreement (NIMA) or other cooperative compacts with other states for any of the following:

1. The receipt, allocation, and disbursement among the participating, compacting, or contracting states of premium taxes attributable to the placement of surplus lines insurance.

2. A uniform method of allocating and reporting among surplus lines insurance risk classifications.

3. Sharing information among states relating to surplus lines insurance premium taxes.

4. Such other purposes that are necessary and proper to maintain the state's revenues from surplus lines insurance premium taxes and to comply with the NRRA.

New Section 22:439(G)(5) authorizes the insurance commissioner to promulgate rules and regulations for the administration and enforcement of any agreement, including the assessment of a clearinghouse transaction fee.

NIMA

Section 2 requires the insurance commissioner to enter into a NIMA or other cooperative compact.

Effective Date of Section 1

Section 3 makes Section 1 effective when the insurance commissioner has entered into the NIMA or other cooperative compacts with other states. This section also requires the insurance commissioner to notify the Louisiana Law Institute (LLI) when the agreement has been executed so that the LLI can notify the appropriate entities about the effective date of the law.

Effective Date of Sections 2, 3, and 4

Section 4 makes Sections 2, 3, and 4 effective immediately upon the governor's approval on June 29, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

June 19, 2013

State:	Louisiana
Topic:	Louisiana Measure Intended to Conform to NRRA
Impact:	Not Line Specific
Effective Date:	June 10, 2013
Bill Number:	H-543
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Joe Woods, 512-334-6638 joe.woods@pciaa.net

Executive Summary

Louisiana has enacted House Bill 543 which revises surplus lines insurer eligibility requirements to conform to the Nonadmitted and Reinsurance Reform Act (NRRA) of 2010, among other amendments. The law became effective immediately upon the governor's approval on June 10, 2013.

Surplus Lines Law Amendments

Key components of House Bill 543:

- authorize the placement of insurance with a surplus lines insurer without regard to the availability of authorized insurance. Until H-543 was enacted, surplus lines brokers could only place insurance coverage with a surplus lines insurer if such coverage was unavailable from an authorized or admitted insurer.
- eliminate an existing requirement that a submitting producer provide an affidavit to the surplus lines broker that the policyholder is not able to obtain authorized personal lines insurance after diligent efforts by the producer.
- require that all producers obtain written permission from the policyholder on a form approved by the Louisiana Insurance Commissioner prior to obtaining surplus lines coverage.
- establish new minimum capital and surplus requirements that conform to the NRRA for foreign surplus lines insurers, specifically requiring that they have either the minimum capital and surplus required in this state or $15 million.

- authorize the insurance commissioner to approve a surplus lines insurer with a smaller capital and surplus but at least $4.5 million upon a finding that the insurer is acceptable after considering factors listed in H-543.

Effective Date

H-543 became effective immediately upon the governor's approval on June 10, 2013.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

June 16, 2011

State:	Maine
Topic:	Implements Requirements of Nonadmitted and Reinsurance Reform Act
Impact:	Surplus Lines
Effective Date:	June 14, 2011
Bill Number:	LD-1352
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Frank O'Brien, 617-723-1976 frank.obrien@pciaa.net

Executive Summary

LD-1352 was approved on June 14, 2011. This bill implements the requirements of the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The law took effect upon passage and applies to taxes on all premiums received on or after July 1, 2011.

Significant Provisions

Scope of Surplus Lines Law

24-A Me. Rev. Stat. section 2001-A is enacted to provide that Chapter 19, Surplus Lines, applies exclusively to transactions when Maine is the home state of the applicant or insured. Nothing in this chapter applies to the sale, solicitation, negotiation, placement, or writing of contracts of insurance for any applicant or insured whose home state is in a jurisdiction other than in this state.

Taxation of Nonadmitted Insurance Coverage

36 Me. Rev. Stat. section 2531 is enacted. This section provides that all gross direct insurance premiums and annuity considerations paid to insurers that do not have certificates of authority to do business in this state issued by the superintendent are subject to taxation in accordance with this section if this state is the insured's home state. This section does not apply to reinsurance premiums paid by an authorized domestic insurer.

Except as otherwise provided in Section 2519 or 2532, the rate of taxation is three percent of the premiums subject to tax under this section. For all coverage placed in accordance with Title 24-A, Chapter 19, the tax must be paid by the surplus lines producer. For all other nonadmitted insurance, the tax must be paid by the insured.

Except as otherwise provided in accordance with a multistate agreement entered into pursuant to Section 2532, every producer holding surplus lines authority in this state shall file a return and pay the tax due in accordance with Section 2521-A and every insured subject to tax in accordance with this section shall file a return and pay the tax due subject to the same requirements as provided in Section 2521-A. An insurance agency may elect to collect and pay the tax on surplus lines premiums on behalf of all of its employees who are surplus lines producers and file a single return.

Ratio of Tax on Foreign Insurance Companies

36 Me. Rev. Stat. section 2519 is amended to provide that for nonadmitted insurance premiums subject to Section 2531, the rate applied pursuant to this section must be the highest rate that the state or province applies to nonadmitted insurance premiums taxed in that state or province.

Authority to Enter into Multistate Agreement

36 Me. Rev. Stat. section 2532 is enacted. This section provides that the State Tax Assessor may, after consultation with the Department of Professional and Financial Regulation, Bureau of Insurance, enter into a multistate agreement, in accordance with the federal Nonadmitted and Reinsurance Reform Act of 2010, for the reporting of nonadmitted insurance premiums and the collection and allocation of nonadmitted insurance taxes.

For any nonadmitted insurance premiums that are subject to taxation by this state and interstate allocation of taxes in accordance with the federal Nonadmitted and Reinsurance Reform Act of 2010, the rate of taxation on each participating state's share of the premium must be that state's applicable nonadmitted insurance premium tax rate.

The State Tax Assessor may not enter into a multistate agreement unless the assessor has:

- Completed a fiscal analysis of the impact of the agreement that examines the expected effects on the state's gross receipt of premium tax; and
- Concluded, after consultation with representatives of surplus lines insurers, admitted insurers, and surplus lines producers, that entering into the agreement: (1) Is in this state's financial best interest; (2) Does not significantly increase administrative burden and cost to the state, surplus lines insurers, and insureds; and (3) Is consistent with the requirements of the federal Nonadmitted and Reinsurance Reform Act of 2010.

Exempt Commercial Purchasers

24-A Me. Rev. Stat. section 2002-A is amended to allow producers with surplus lines authority to procure the following insurance from eligible surplus lines insurers without adherence to the procedures set forth in section 2004 or any other requirement to determine whether the full amount or type of insurance sought can be obtained from admitted insurers: Insurance placed by a producer with surplus lines authority for an exempt commercial purchaser if: (1) The producer has disclosed to the exempt commercial purchaser that such insurance may or may not be available from the admitted market that provides greater protection with more regulatory oversight; and (2) The exempt commercial purchaser has subsequently requested in writing for the producer to procure or place such insurance from a nonadmitted insurer.

Eligible Surplus Lines Insurers

24-A Me. Rev. Stat. section 2007 is amended to provide that the superintendent shall approve a United States insurer's request for eligibility if the insurer:

- Is authorized to write such insurance in its domiciliary jurisdiction;
- Has established satisfactory evidence of good repute and financial integrity; and
- Maintains capital and surplus, or its equivalent under the laws of its state of domicile, in an amount at least equal to the greater of: (1) The minimum capital and surplus that would be required if the insurer were licensed in this state; and (2) $15 million.

The superintendent may list an insurer as eligible if it does not meet the minimum capital and surplus requirements of the above provision upon an affirmative finding of acceptability by the superintendent. The finding must be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability, and company record and reputation within the industry. The superintendent may not make an affirmative finding of acceptability if the nonadmitted insurer's capital and surplus is less than $4.5 million.

A non-United States insurer is considered eligible to write insurance on an unauthorized basis in this state if it is listed on the quarterly listing of alien insurers maintained by the National Association of Insurance Commissioners (NAIC).

Representing or Aiding Unauthorized Insurer Prohibited

24-A Me. Rev. Stat. section 2101 prohibits a person in this state from acting as an agent for, or otherwise representing or aiding on behalf of another, any insurer not then authorized to transact such business in this state, in the solicitation, negotiation, procurement, or effectuation of insurance contracts or in any other manner representing or assisting such an insurer in the transaction of insurance with respect to subjects of insurance resident, located or to be performed in this state. This section is amended to provide that it does not apply to transactions outside this state arising from the unsolicited application of the insured, if the transaction is lawful in the jurisdiction in which it occurs and the applicable premium tax has been paid in compliance with Title 36, Section 2513.

Confidentiality of Tax Records

36 Me. Rev. Stat section 191 provides for the confidentiality of tax information. It is amended to provide an exemption from its requirements for the disclosure to tax officials of other states, and to clearinghouses and other administrative entities acting on behalf of participating states, of information necessary for the administration of a multistate agreement entered into pursuant to Section 2532.

Repeals

24-A Me. Rev. Stat. section 2016, subsection 2, is repealed. This subsection had provided that if a surplus lines policy covers risks or exposures only partially in this state, the tax so payable must be computed upon the proportion of the premium that is properly allocable to the risks or exposures located in this state.

24-A Me. Rev. Stat. section 2113 is repealed. This section had provided for the reporting and taxing of independently procured coverages.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly, or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

May 23, 2011

State:	Maryland
Topic:	Surplus Lines Law—NRRA
Impact:	Not Line Specific
Effective Date:	July 1 2010
Bill Number:	H-959
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Richard Stokes, 609-396-9601 Richard.Stokes@pciaa.net

Executive Summary

On April 19, 2011, Maryland House Bill 959 was enacted into law and becomes effective on July 1, 2011. This legislation applies to surplus lines law in relation to the federal Nonadmitted and Reinsurance Reform Act of 2010.

Significant Provisions

H-959 amends Maryland law to conform to the NRRA by transferring exclusive premium tax and other regulatory powers to the home state of the insured; making an exception to diligent search requirements brokers must conduct where a defined class of exempt commercial purchasers are concerned; requiring the Commissioner to cooperate with other states to adopt and implement uniform requirements for nonadmitted insurance consistently with the NRRA; allowing states to enter into a compact to share premium taxes collected; and related substantial and procedural matters.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Property Casualty Insurers Association of America
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Enacted Law Bulletin

September 8, 2011

State:	Massachusetts
Topic:	Amends Surplus Lines Law to Conform to NRRA
Impact:	Surplus Lines
Effective Date:	July 1, 2011
Bill Number:	H-3535
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Frank O'Brien, 617-723-1976 frank.obrien@pciaa.net

Executive Summary

H-3535 was approved on July 11, 2011. This is the fiscal year 2012 budget bill. The bill enacts provisions regarding surplus lines insurance to conform Massachusetts law to the Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The amended surplus lines law has a retroactive effective date of July 1, 2011.

Significant Provisions

Home State

Section 106 of the bill amends Section 168 of Chapter 175 of the General Laws. The amended section adds the definition of home state, relative to an insured, as: (1) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or (2) if 100 percent of the risk is located out of the state referred to in clause (1), the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

Affidavit Required and Exempt Commercial Policyholders

The section further provides that when a licensed special insurance broker procures insurance in an unauthorized company for an insured whose home state is Massachusetts, the broker is required to execute, and within 20 days thereafter, file with the Commissioner an affidavit stating that the full amount of insurance required to protect the subject property or interest of the insured is not procurable, after a diligent effort has been made to do so, from among companies admitted to transact insurance in Massachusetts against the hazard involved, and that the amount of insurance procured in such unauthorized company is only the excess over the amount procurable from such admitted companies. The affidavit shall have force and effect for one year from the date of issuance or expiration of the policy, whichever comes later. This provision shall not apply to the procurement of a contract of insurance for an exempt commercial risk or policyholder as described in Section 224, if the commercial risk or policyholder acknowledges in writing its understanding that: (1) the company from which insurance is procured is not admitted to transact insurance in Massachusetts and (2) in the event of the insolvency of the company, a loss shall not be paid by the Massachusetts Insurers Insolvency Fund.

Any insurance policy procured under this section must contain a specified disclosure notice to the policyholder. Each licensed special insurance broker is required to maintain a copy of the acknowledgement for inspection by the Commissioner with respect to all policies of insurance so procured by the broker for exempt commercial risks or policyholders. The broker shall not be required to file such affidavit if an affidavit relative to the same property or interests has been filed within the preceding 12 months by any broker licensed under this section, nor to offer

any portion of such insurance to any company not possessed of net cash assets of at least $200,000, nor to one that has within the preceding 12 months been in an impaired condition, nor shall the broker procure any such insurance on said property or interests from any unauthorized company unless: (i)(a) such company is possessed of net cash assets of at least $300,000 computed on the basis fixed by Sections 10 to 12, inclusive, and on the form prescribed by Section 25; (b) such company has satisfied the Commissioner that its officers and directors are of good repute and competent to manage an insurance company; (c) the management of the company is carrying out its insurance contracts in good faith; (d) such company has filed with the Commissioner an examination report of the affairs of the company completed within the previous three years and made by the proper supervisory official of its home state; and (e) such company has made a deposit of not less than $400,000 with the state treasurer or with the proper board or officer of some other state of the United States in accordance with the terms and conditions hereinafter specified; (ii) such company has filed a financial statement on a form satisfactory to the Commissioner and conforms to and maintains the financial requirements specified in subparagraph (i) of paragraph (D) of subsection (1) of Section 20A; or (iii) such company is an eligible alien unauthorized insurer; provided, however, that such deposit shall be made in exclusive trust for the benefit and security of all its policyholders in the United States, including obligees of bonds executed by such company as surety, and when made with the state treasurer, may be made in the securities and subject to the limitations specified in Sections 63 and 66, or in cash or in such other securities as the Commissioner may approve; provided further, that bonds need not be accepted by the state treasurer unless in registered form and of denominations satisfactory to him, and shall not be returned to the company until it has ceased to transact business in Massachusetts, or until the Commissioner is satisfied that the company is under no obligation to such policyholders or obligees in the United States for whose benefit such deposit was made, or until the treasurer has given his written consent to such return; provided further, that the Commissioner may, in any case, authorize in writing the return to the company of any excess of any deposit made under this section over the amount required thereby, if he is satisfied that such return shall not be prejudicial to the interests of such policyholders or obligees.

Premium Tax

The special insurance broker is required to pay the following:

1. If the insurance covers properties, risks, or exposures located or to be performed in Massachusetts and not in any other state, an amount equal to four percent of such gross premiums;

2. If the insurance covers properties, risks, or exposures located or to be performed both in and outside of Massachusetts: (i) an amount equal to four percent of such gross premiums allocated to Massachusetts, plus (ii) an amount equal to the portion of the 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 of Massachusetts; and

3. To the extent that other states where portions of the insured properties, risks, or exposures are located have failed to enter into a compact or reciprocal allocation procedure with Massachusetts, the net premium tax collected shall be retained by Massachusetts.

Interstate Compact

The section provides that the Commissioner may enter into a cooperative agreement, reciprocal agreement, or compact with another state or states in order to facilitate the collection, allocation, and disbursement of insurance premium fees and taxes attributable to the placement of unauthorized insurance; provide for uniform methods of allocation and reporting among unauthorized insurance risk classifications; and share information among states related to unauthorized insurance premium fees and taxes. The Commissioner may also enter into other cooperative agreements with surplus lines stamping offices and other similar entities located in other states related to the capturing and processing of insurance premium and tax data. The Commissioner may participate in any clearinghouse established pursuant to any such agreement for the purpose of collecting and disbursing to reciprocal states any funds collected applicable to properties, risks, or exposures located or to be performed outside of Massachusetts. In determining whether to enter in to such agreements or compacts, the Commissioner may consider the following: (i) the efficiencies to be achieved in the reporting, payment, collection, allocation, and

disbursement of insurance premium fees and taxes attributable to the placement of unauthorized insurance; (ii) the amount of revenue to be generated through participation in any such agreements or compacts; and (iii) any other material factor relevant to the reporting, payment, collection, allocation, or disbursement of insurance premium fees and taxes attributable to the placement of unauthorized insurance, as determined by the Commissioner. Prior to entering into such an agreement or compact, the Commissioner is required to provide public notice and an opportunity for comment.

Additional Information

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Property Casualty Insurers Association of America
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Enacted Law Bulletin

August 3, 2011

State:	Minnesota
Topic:	Minnesota Incorporates NRRA Terms in Insurance Tax Provision
Impact:	Not Line Specific
Effective Date:	August 1, 2011 unless noted otherwise
File Number:	H-20a
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Ann Weber, 847-553-3689 ann.weber@pciaa.net

Executive Summary

Minnesota has enacted House File 20a, an omnibus tax measure, which provides for "home state" taxation of surplus lines premiums and incorporates definitions related to the Nonadmitted and Reinsurance Reform Act (NRRA) into the insurance tax section of the Minnesota Statutes. As PCI previously reported in the June 30, 2011 Enacted Law Bulletin, MN House File 1045 amended Chapter 60A of the Minnesota Statutes by conforming the state's surplus lines law to the NRRA. HF-20a has a general effective date of August 1, 2011. However, the amendments to the insurance tax sections discussed in this Enacted Law Bulletin are effective for nonadmitted insurance policies that go into effect after July 20, 2011.

Definitions Section of Insurance Taxes Chapter

House File 20a amends Section 297I.01, Definitions, of the Minnesota Statutes by adding the following NRRA definitions for the following terms: "affiliated group," "home state," "independently procured insurance," "nonadmitted insurance," "nonadmitted insurance tax," "nonadmitted insurer," and "surplus lines broker." The special session law also provides definitions for the terms "gross premiums for nonadmitted insurance," "nonadmitted insurance premium tax," and "surplus lines brokers and purchasing groups."

Repealed Tax Provisions

HF-20a repeals the surplus lines insurance tax provisions in subdivisions 9 and 10 of Section 297I.05. Subdivision 9 imposed a 2 percent tax on persons, firms, or corporations licensed to procure insurance from unlicensed foreign companies, while subdivision 10 imposed a 2 percent tax on persons, firms, or corporations procuring insurance from an ineligible company, such as a surplus lines insurer. Amended Section 297I.05, subdivision 7 discussed in Section 10 of HF-20a, which replaces repealed subdivisions 9 and 10, imposes a 2 percent surplus lines premiums tax on nonadmitted insurance premiums paid by insured individuals or entities whose home state is Minnesota. The section prohibits taxation by any state other than the insured's home state. The term "home state" is defined as any of the following:

- the state in which the insured's principal place of business is located;
- an individual person's principal place of residence;
- if all of the insured's risk is located in a different state (other than the principal office location or state of principal residence), the home state is the state with the largest share of the premium; or

- if more than one insured in an affiliated group is covered under one contract, the insured's home state would be the home state (principal office location) with the largest share of the premium.

Effective Date

H-20a was approved by the governor on July 20, 2011 and becomes effective on August 1, 2011 unless noted otherwise.

Additional Information

File text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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PCI Property Casualty Insurers Association of America
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Enacted Law Bulletin

June 30, 2011

State:	Minnesota
Topic:	Minnesota Omnibus Measure Includes Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	August 1, 2011 unless noted otherwise
File Number:	S-1045
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Ann Weber, 847-553-3689 ann.weber@pciaa.net

Executive Summary

Minnesota has enacted Senate File 1045, an omnibus measure, which amends Chapters 45, 60A, 60K, 72B, and 79A of the Minnesota Statutes. Chapter 60A conforms the state's surplus lines law to the Nonadmitted and Reinsurance Reform Act (NRRA) of 2010 and takes effect on July 20, 2011. The other amended chapters relating to continuing education, crop adjuster licensing, and workers' compensation self-insurance become effective on August 1, 2011 unless noted otherwise.

Omnibus Amendments

Senate File 1045 amends Chapters 45, 60A, 60K, 72B, and 79A of the Minnesota Statutes as follows:

Continuing Education - Chapter 45 (Effective August 1, 2011)

Section 2 of S-1045 amends Section 45.25 by adding a definition for the term "classroom course" in subdivision 2a.

Section 3 amends Section 45.25 by adding a definition for the term "distance learning course" in subdivision 5a.

Section 4 amends Section 45.25 by adding a definition for the term "self-study course" in subdivision 14.

Section 5 amends Section 45.30 by adding subdivision 6a. This new subdivision provides that approved courses leading to the achievement or maintenance of specified insurance agent professional designations qualify for continuing education.

Section 6 amends Section 45.30, subdivision 7, by adding new language which allows professional designation coursework to be limited to producers seeking the designation or those who have met prerequisite course work. This amended section also deems professional designation courses to be company sponsored only if they are provided by an insurance company.

Section 7 enacts Section 45.304 which specifies the verification requirements for self-study courses. Self-study courses should be approved only if it is verified that they include a closed-book, end-of-course examination and if successful completion of the end-of-course examination can be documented.

Section 8 amends Section 45.35 by allowing a bona fide trade association to offer continuing education courses on the premises of an insurance company so long as the courses are not restricted to company's employees or agents.

Surplus Lines Insurance - Chapter 60A (Effective July 20, 2011)

Section 10 makes a technical change to the language in Section 60A.19, subdivision 8, concerning persons or entities that obtain insurance from the nonadmitted market, or unlicensed foreign insurance companies. The section still requires individuals obtaining policies from the nonadmitted market to make certain tax filings with the Commissioner of Revenue.

Section 11 amends Section 60A.196 by adding definitions to conform to the Nonadmitted and Reinsurance Reform Act (NRRA) of 2010.

Section 12 amends the licensing provision in Section 60A.198, subdivision 1, by adding language providing that the provision does not apply to nonadmitted insurance procured by a surplus lines broker when the insured's home state is a state other than Minnesota.

Section 12 amends Section 60A.198 by adding subdivision 7. This new subdivision authorizes the insurance commissioner to use the NAIC's National Producer Database or an equivalent uniform national database for the licensure of surplus lines brokers and for license renewals in order to carry out the provisions of the NRRA.

Section 13 makes a conforming change to Section 60A.199, subdivision 1, concerning examination of books and records.

Section 14 amends Section 60A.201 by enacting subdivision 5. This new subdivision allows surplus lines brokers to place insurance on behalf of exempt commercial purchasers without having to satisfy the diligent search requirement. The broker must disclose to the exempt commercial purchaser that the insurance may or may not be available from a licensed insurer that may provide greater protection, and the purchaser must have subsequently requested in writing for the broker to procure or place the insurance from the nonadmitted insurer.

Section 15 makes technical changes to Section 60A.201, relating to evidence of placement of insurance by a broker.

Section 16 makes technical changes to Section 60A.203, relating to retention of records.

Section 17 makes technical changes to Section 60A.204 relating to regulation of fees and commissions.

Section 18 makes technical changes to Section 60A.205, subdivision 1, relating to the compensation of surplus lines brokers.

Section 19 makes technical changes to Section 60A.205, subdivision 2, relating to the effect of the receipt of premiums by the broker.

Section 20 makes technical changes to Section 60A.206, subdivision 1, which requires surplus lines insurers to place nonadmitted insurance with financially-stable insurers.

Section 21 amends Section 60A.206, subdivision 3, by adding language allowing surplus lines brokers to place insurance with certain U.S. domiciled insurers and alien insurers. Surplus lines brokers may place insurance with U.S. domiciled insurers that are authorized in their state of domicile and that satisfy minimum capital and surplus of $15 million or a greater amount if the state requires. There is also language permitting the insurance commissioner to allow a company having a lesser amount of capitalization to be eligible in certain cases, but in no case may the insurer have less than $4.5 million in capitalization. Surplus lines brokers may also place insurance with alien insurers that are listed on the quarterly list of the NAIC's International Insurers Department.

Section 22 makes a technical change to Section 60A.27, relating to the notice requirements for policies.

Section 23 makes technical changes to Section 60A.208, relating to broker association.

Section 24 makes technical changes to Section 60A.2085, subdivision 1, relating to the Surplus Lines Association of Minnesota.

Section 25 makes a technical change to Section 60A.2085, subdivision 3, relating to SLAM's plan of operation.

Section 26 makes a technical change to Section 60A.2085, subdivision 7, relating to the stamping fee.

Section 27 makes a technical change to Section 60A.2085, subdivision 8, relating to data classification.

Section 28 makes technical changes to Section 60A.2086, subdivision 1, relating to the submission of documents to SLAM.

Section 29 makes technical changes to Section 60A.2086, subdivision 2, relating to the penalty imposed upon an insurance agent or broker for not having a nonadmitted insurance policy stamped.

Section 30 makes technical changes to Section 60A.209, subdivision 1, which specifies the requirements for a Minnesota resident seeking insurance from an ineligible surplus lines insurer in the state through a surplus lines broker.

Section 49 renumbers Section 60A.19, subdivision 8, pertaining to insurance from unlicensed foreign insurance companies, as Section 60A.198, subdivision 7.

The technical changes referenced above either replaced the term "licensee" with "broker" or replaced the term "surplus lines insurance" with "nonadmitted insurance."

Insurance Producers - Chapter 60K (Effective August 1, 2011)

Section 31 amends Section 60K.56, subdivision 6, by adding language requiring courses not sponsored by an insurance company to be open to all unless an exception in Section 45.30 applies.

Workers' Compensation Self Insurance - Chapter 72B (Effective August 1, 2011)

Section 39 amends Section 72B.041, subdivision 5, by adding new language which allows a licensed crop hail adjuster who has successfully completed the National Crop Insurance Services Crop Adjuster Proficiency Program or the loss adjustment training curriculum and competency testing required by the Federal Crop Insurance Corporation Standard Reinsurance Agreement to adjust multiple peril crop insurance claims without holding the crop line of authority.

Section 40 enacts Section 72B.055 authorizing a licensed crop hail adjuster who has satisfactorily completed the loss adjustment training curriculum and competency testing required by the Federal Group Insurance Corporation (FCIC) Standard Reinsurance Agreement to act as an adjuster in Minnesota in regard to multiple peril crop insurance policies regulated by the FCIC.

Chapter 79A (Effective May 28, 2011)

Section 41 makes a technical change to Section 79A.06, subdivision 5, relating to private employers who have ceased to be self-insured.

Section 42 amends Section 79A.24 by adding subdivision 5. This new subdivision allows a commercial self-insurance group to purchase a policy from an insurer authorized to transact workers' compensation insurance in Minnesota in lieu of the requirement to maintain a security deposit.

Section 43 amends Section 79A.24 by adding subdivision 6. This new subdivision provides special rules for eligibility for insurance guaranty coverage if an insurer that issued a policy under subdivision 5 becomes insolvent.

Effective Date

S-1045 was approved by the governor on May 27, 2011 and has multiple effective dates, including May 28, 2011 for workers' compensation self-insurance provisions; July 20, 2011 for surplus lines insurance provisions; and August 1, 2011 for continuing education provisions.

Additional Information

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Enacted Law Bulletin

July 14, 2011

State:	Missouri
Topic:	Omnibus Insurance Bill
Impact:	Not Line Specific
Effective Date:	Multiple Effective Dates
Bill Number:	S-132
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Joe Woods, 512-334-6638 joe.woods@pciaa.net

Executive Summary

S-132 was recently approved with multiple effective dates. This omnibus legislation amends provisions relating to several different areas, including the following: political subdivision and licensing during emergencies; the retaliatory tax law; portable electronics insurance; surplus lines; and motor vehicle extended service contracts.

Significant Provisions

Political Subdivisions and Licensing During Emergencies

New Section 44.114 prohibits a political subdivision from imposing restrictions or enforcing local licensing or registration ordinances with respect to an insurer's claims handling operations at the time of any emergency, catastrophe, or other life or property threatening event that jeopardizes the ability of the insurer to address the financial needs of its insureds or the public.

For purposes of the law, "claims handling operations" includes but is not limited the establishment of an insurer's base of operations within a disaster area and the investigation and handling of claims by personnel authorized by any such insurer.

Retaliatory Tax Law

Section 375.916 of Missouri's retaliatory tax law is amended to clarify that an insurer claiming a premium tax credit or deduction will not be required to pay any additional retaliatory tax as a result of claiming such credit or deduction. The law also provides that effective January 1, 2012, operating assessments based upon workers compensation paid losses imposed upon an insurer by the laws of its home state or foreign country of domicile will not be considered "any premium or income or other taxes or any fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions," so long as with respect to the tax year in question the insurer has its principal place of business within Missouri and receives more than $3 million of direct insurance premiums on account of business done in Missouri.

Portable Electronics Insurance

Effective January 1, 2012, new Sections 379.1500 through 379.1550 establish a limited lines insurance license to sell portable electronics insurance. A portable electronics vendor may not sell or solicit portable electronics insurance coverage without having a license to do so from the Missouri Department of Insurance, Financial

Institutions and Professional Registration (DIFP). The law creates a licensing framework under which a vendor may offer this specialized insurance coverage. In addition, the law requires a vendor to make disclosures about portable electronics insurance coverage to prospective customers. DIFP may suspend or revoke a license or impose a civil penalty for a violation of the law.

Surplus Lines Compliance with NRRA

The law amends the Missouri Surplus Lines Insurance Act to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The changes are intended to provide more uniformity in the following areas: licensure of surplus lines insurance professionals; standards under which surplus lines insurance may be sold; and the taxes that may be collected from the sale of surplus lines insurance. The law does not refer to either SLIMPACT or NIMA, as DIFP determined it could decide in a future legislative session whether Missouri should participate in such a plan, and if so, which vehicle to use. Please see pages four and five of the attached bill summary posted by the Missouri Legislature for more detailed information.

Motor Vehicle Extended Service Contracts

This law amends the Missouri Service Contract Act to make it unlawful for a motor vehicle extended service contract provider to fail to deliver a fully executed motor vehicle extended service contract to a consumer within a commercially feasible time period (no longer than 45 days) from the date the consumer's initial payment is processed. The law also makes it unlawful for any provider, administrator or producer selling such a contract to fail to deliver an unsigned copy of the written contract to the consumer, if requested, prior to the time the consumer's initial payment is processed. In addition, the law addresses the following issues: licensing; free look periods; deceptive practices; suspension and revocation of license; and registry of producers. Please see pages two through four of the attached bill summary posted by the Missouri Legislature for more detailed information.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

May 13, 2011

State:	Montana
Topic:	Surplus Lines
Impact:	Not Line Specific
Effective Date:	May 6, 2011
Bill Number:	S-331
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Kenton Brine, 847-553-3695 Kenton.Brine@pciaa.net

Executive Summary

On May 6, 2011, Montana Senate Bill 331 was signed into law and became effective immediately. This law revises Montana surplus lines law with special reference to the Nonadmitted Reinsurance and Reform Act of 2010.

Significant Provisions

This act introduces a number of related changes. In particular, it creates an exemption to diligent search requirements for "exempt commercial purchasers" as defined therein for sufficiently large insurers under prescribed criteria.

Further it changes tax and fee requirements consistently with the Nonadmitted Reinsurance and Reform Act of 2010 (NRRA), wherein the insured's home state authority is given exclusive jurisdiction for statutory and regulatory oversight.

It further revises the surplus lines tax requirement, § 33-2-311, to require for Montana-based transactions that the surplus line producer must collect and pay the surplus lines tax for insurers having Montana as their home state, and prohibits such collection for all other insureds, whereas for transactions occurring out of state the commissioner is required to establish procedures in accordance with the NRRA for payment of taxes on Montana's portion of multistate risks.

Alternatively, the commissioner is authorized to enter into a cooperative or reciprocal agreement with other states for collecting, allocating, and disbursing premium taxes and fees in relation to multistate risks.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

March 22, 2011

State:	Mississippi
Topic:	Mississippi Enacts Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	March 11, 2011
Bill Number:	H-785
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Monique Kabitzke, 850-681-2615 monique.kabitzke@pciaa.net

Executive Summary

Mississippi has enacted House Bill 785 which brings the surplus lines insurance statutes into conformity with the federal Nonadmitted and Reinsurance Reform Act of 2009. The law became effective immediately upon passage on March 11, 2011.

Surplus Lines Law Amendments

Section 1 of H-785 amends Section 83-21-17 of the Mississippi Code of 1972 by revising the eligibility requirements of nonadmitted insurers to write business in Mississippi.

Section 2 enacts new Section 83-21-18 which authorizes the insurance commissioner to enter into an agreement, or compact, with other states to establish procedures for allocating premium taxes.

Section 3 amends Section 83-21-19 by revising the licensing provisions for resident and nonresident surplus lines insurance producers.

Section 4 amends Section 83-21-21 to provide that stamping procedures may apply to the reporting, payment, collection, and allocation of premium taxes for nonadmitted insurance consistent with any agreement, compact or procedures entered into by the insurance commissioner.

Section 5 amends Section 83-21-23 to provide that, when placing nonadmitted insurance for an exempt commercial purchaser, a surplus lines insurance producer is not required to make a due diligence search to determine whether the full amount or type of insurance can be obtained from admitted insurers.

Section 6 makes nonsubstantive technical amendments to Sections 83-21-25, 83-21-27, and 83-21-29.

Section 7 amends Section 83-34-4 to provide that each insured in this state who directly procures or renews insurance with a nonadmitted insurer on properties, risks or exposures located in this state, other than insurance procured through a surplus lines licensee, shall be subject to the nonadmitted policy fee which shall be paid pursuant to the procedures provided for premium taxes.

Effective Date

H-785 became effective immediately upon passage on March 11, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

April 29, 2011

State:	Nebraska
Topic:	Amends Surplus Lines Insurance Act
Impact:	Not Line Specific
Effective Date:	April 26, 2011
Bill Number:	L-70
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Ann Weber, 847-553-3689 ann.weber@pciaa.net

Executive Summary

L-70 was approved on April 26, 2011, became effective immediately. This law, introduced at the request of the Director of Insurance, amends various sections of the Surplus Lines Insurance Act to conform it to the requirements of the federal Non-Admitted and Reinsurance Reform Act of 2010 (NRRA), passed as part of Dodd-Frank Wall Street Reform and Consumer Protection Act. The surplus lines provisions of that federal law will take effect July 21, 2011.

Significant Provisions

Nonadmitted Insurance Multi-State Agreement

Section 44-5506 of the Surplus Lines Insurance Act is amended to provide that, for purposes of carrying out the provisions of NRRA, the Director of Insurance may enter into the Nonadmitted Insurance Multi-State Agreement (NIMA) in order to facilitate the collection, allocation, and disbursement of premium taxes attributable to the placement of nonadmitted insurance, provide for uniform methods of allocation and reporting among nonadmitted insurance risk classifications, and share information among states relating to nonadmitted insurance premium taxes.

In addition, the director may participate in the clearinghouse established through NIMA for the purpose of collecting and disbursing to reciprocal states any funds collected applicable to properties, risks, or exposures located or to be performed outside of Nebraska. To the extent that other states where portions of the properties, risks, or exposures reside have failed to enter into a compact or reciprocal allocation procedure with the State of Nebraska, the net premium tax will be retained by the State of Nebraska. If the director chooses to participate in the clearinghouse for the purpose authorized by this subsection, the director may also participate in such clearinghouse for purposes of surplus lines policies applicable to risks located solely within Nebraska.

Placing of Insurance with Nonadmitted Insurer

Section 44-5508 is amended to conform it to the requirements of the federal NRRA by replacing the existing requirements with which a surplus lines licensee must comply before placing insurance with a nonadmitted insurer. Surplus lines licensees must determine that the insurer is authorized to write such insurance in its domiciliary jurisdiction, has sufficient evidence of good business repute and financial integrity, and has minimum capital and surplus of that required in Nebraska or $15 million, whichever is greater. If the insurer does not have the required minimum capital and surplus, the law allows placement with a finding of acceptability by the Director

of Insurance if the insurer has minimum capital and surplus of more than $4.5 million. The law prohibits the placement of coverage with an insured domiciled outside of the United States unless the insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners (NAIC).

Miscellaneous Provisions

The law also accomplishes the following: adds relevant definitions; authorizes the director to use NAIC's national insurance producer database or any other equivalent uniform database for the licensure of an individual or an entity as a surplus lines producer and for renewal of such license; requires a surplus lines licensee to retain in its records the address of the principal residence of an insured or the address at which an insured maintains its principal place of business; and exempts a surplus lines licensee from performing a due diligence search on behalf of an exempt commercial policyholder to determine whether insurance is available on an admitted basis if the licensee discloses that admitted market coverage may be available and the exempt commercial purchaser makes a written request to procure insurance from a nonadmitted insurer.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

June 15, 2011

State:	Nevada
Topic:	Nonadmitted and Reinsurance Reform Act (NRRA)
Impact:	Not Line Specific
Effective Date:	June 13, 2011
Bill Number:	S-289
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Mark Sektnan, 916-449-1370 Mark.Sektnan@pciaa.net

Executive Summary

On June 13, 2011, Nevada Governor Brian Sandoval signed Senate Bill 289 into law to conform Nevada law to the Federal Nonadmitted and Reinsurance Reform Act. The legislation went into effect immediately.

Significant Provisions

S-289 modifies Nevada surplus lines law consistently with the NRRA, which preserves exclusive regulatory and tax jurisdiction to an insureds "home state," and authorizes the Commissioner to enter into a multi-state agreement for the collection and disbursement of premium taxes for multi-state risks.

Allocation principles are introduced for applying tax rates for the respective parts of multi-state risks located within or outside of a home state. Finally, the category of "exempt commercial purchasers" is created as an exception to diligent search requirements for surplus line brokers.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

June 17, 2011

State:	New Hampshire
Topic:	Collection and Disbursement of Premium Taxes Under NRRA
Impact:	Surplus Lines
Effective Date:	60 days after passage
Bill Number:	H-424
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Frank O'Brien, 617-723-1976 frank.obrien@pciaa.net

Executive Summary

H-424 was approved on June 14, 2011. This bill allows for the collection and disbursement of premium taxes for nonadmitted insurance, including surplus lines insurance, necessitated by the passage of the Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The bill also allows a foreign insurance company to be designated as a surplus line insurer under specified circumstances. The law takes effect 60 days after passage.

Significant Provisions

Nonadmitted Insurance Multi-State Risks Premium Collection and Disbursement

New Chapter 405-B is added to the New Hampshire Statutes. The chapter provides that, for the purposes of carrying out the provisions of the Nonadmitted and Reinsurance Reform Act of 2010, the commissioner is authorized to enter into a cooperative or reciprocal agreement or compact with another state in order to facilitate the collection, allocation, and disbursement of premium taxes attributable to the placement of nonadmitted insurance, provide for uniform methods of allocation and reporting among nonadmitted insurance risk classifications, and share information among states relating to nonadmitted insurance premium taxes.

Single Home State Rate; Surplus Lines

Every person who procures or causes to be procured or continues or renews insurance with a surplus lines company is required to collect and pay to the commissioner a sum based on the total gross premiums charged, less any return premiums, for surplus insurance provided by the licensee pursuant to the license.

Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on: (a) An amount equal to three percent on that portion of the gross premiums allocated to this state, plus (b) An amount equal to the portion of the 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, less (c) The amount of gross premiums allocated to this state and returned to the insured.

Single Home State Rate; Independently Procured Under N.H. Rev. Stat. section 406-B:16

Every insured who procures or causes to be procured or continues or renews insurance with any unlicensed insurer pursuant to N.H. Rev. Stat. section 406-B:16 is required to collect and pay to the commissioner a sum based on the total gross premiums charged, less any return premiums, for independently procured insurance.

Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on: (a) An amount equal to three percent on the portion of the gross premiums allocated to this state, plus (b) An amount equal to the portion of the 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, less (c) The amount of gross premiums allocated to this state and returned to the insured.

Single Home State Rate; Independently Procured Under N.H. Rev. Stat. section 406-B:17

Every insured who procures or causes to be procured or continues or renews insurance with any unlicensed insurer pursuant to N.H. Rev. Stat. section 406-B:17 is required to collect and pay to the commissioner a sum based on the total gross premiums charged, less any return premiums, for independently procured insurance.

Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed based on: (a) An amount equal to four percent on such insurance other than marine insurance and a premium tax of two percent of gross premium charged for such marine insurance, the portion of the gross premiums allocated to this state, plus (b) An amount equal to the portion of the 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, less (c) The amount of gross premiums allocated to this state and returned to the insured.

Participation in Clearinghouse

The commissioner is authorized to participate in the clearinghouse established through the agreement or compact for the purpose of collecting and disbursing to reciprocal states any funds collected pursuant to N.H. Rev. Stat. sections 405-B:4, RSA 405-B:5, and RSA 405-B:6 on properties, risks, or exposures located or to be performed outside of this state. To the extent that other states where portions of the properties, risks, or exposures reside have failed to enter into an agreement, compact, or reciprocal allocation procedure with this state, the net premium tax collected shall be retained by this state.

Allocation Schedule

The commissioner is authorized to utilize or adopt the allocation schedule included in the agreement or compact for the purpose of allocating risk and computing the tax due on the portion of premium attributable to each risk classification and to each state where properties, risks, or exposures are located.

Foreign Insurance Companies

N.H. Rev. Stat. section 405:24 is amended to allow surplus lines insurance to be placed by a surplus lines licensee if the insurer is authorized to write the type of insurance in its domiciliary jurisdiction, and either meets the criteria established through a multi-state agreement pursuant to N.H. Rev. Stat. section 405-B:3 or meets one of the following criteria:

The insurer has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of:

(1) The minimum capital and surplus requirements under N.H. Rev. Stat. section 401:4 or 402:13;

(2) Fifteen million dollars; or

(3) The insurer is a nonadmitted insurer domiciled outside the United States that is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners.

Further amendments to this section allow a domestic insurer possessing policyholder surplus of at least $15 million to, pursuant to a resolution by its board of directors, and with the approval of the commissioner, be designated as a domestic surplus lines insurer. The authority of a domestic surplus lines insurer in this state shall

be limited to providing insurance covering risks procured from a surplus lines producer in accordance with this section. A domestic surplus lines insurer is not subject to the provisions of Title XXXVII, except that it shall be subject to any statute or regulation that specifically references unadmitted surplus lines companies and to the provisions of N.H. Rev. Stat. section 400-A:37, 400-A:39, 404-F, and 417:1 through 417:31.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

August 29, 2011

State:	New Jersey
Topic:	Premium Taxes on Surplus Lines Insurance
Impact:	Surplus Lines
Effective Date:	July 21, 2011
Bill Number:	S-2930
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Frank O'Brien, 617-723-1976 frank.obrien@pciaa.net

Executive Summary

S-2930 was approved on August 19, 2011. This bill amends the surplus lines law regarding payment of premium taxes due to the passage of the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The law took retroactive effect on July 21, 2011, which is the effective date of the NRRA.

Significant Provisions

Home State Definition

Amendments to N.J. Rev. Stat. 17:22-6.41 amend definitions in the surplus lines law, including adding the definition of “home state” as (i) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or (ii) if 100 percent of the insured risk is located out of the state referred to in subparagraph (i) of this paragraph, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated. If more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term "home state" means the home state of the member of the affiliated group that has the largest percentage of premium attributed to it under that insurance contract.

Payment of Premium Tax by Surplus Lines Agent and Insured

N.J. Rev. Stat. 17:22-6.59 and N.J. Rev. Stat. 17:22-6.64 are amended to provide that if a surplus lines policy covers risks or exposures in this state and other states, where this state is the home state, the tax payable pursuant to this section shall be based on the total United States premium for the applicable policy.

Authority to Enter into Interstate Compacts

A new section of law is enacted that authorizes the commissioner to enter into, modify, and to terminate New Jersey’s participation in one or more compacts or agreements that establish procedures for the reporting, payment, collection, and allocation among the other states participating in those compacts or agreements of the premium taxes for multi-state risks paid to this state as the home state or paid to any other state as home state on a risk that is resident or located in this state. The compacts or agreements may address any matters necessary to facilitate the reporting, payment, collection, and allocation of premium taxes on multi-state risks, including, but not limited to:

- A method and formula for that allocation;

- Establishment of uniform requirements, forms, and procedures that facilitate the reporting, payment, collection, and allocation of premium taxes on multi-state risks;
- Establishment of a clearinghouse to facilitate the receipt and distribution of premium taxes and transaction data related to multi-state risks; and
- The authority to collect and distribute taxes based on a single home state rate, as well as the rates of other states.

In determining whether to enter into one more compacts or agreements, the commissioner shall consider:

- The efficiencies to be achieved in the reporting, payment, collection, and allocation of premium taxes on surplus lines insurance;
- The amount of revenue to be generated through participation in any such compacts or agreements. The commissioner may consult with the state treasurer in making this determination; and
- Any other material factor relevant to the reporting, payment, collection, and allocation of premium taxes on surplus lines insurance.

A new section of law is enacted that authorizes the commissioner to enter into, modify, and to terminate New Jersey's participation in one or more compacts or agreements necessary to implement the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA), including, but not limited to, the imposition of eligibility requirements or establishment of eligibility criteria for nonadmitted surplus lines insurers.

The commissioner is required to submit any decision to enter into or terminate New Jersey's participation in any compacts or agreements to the Joint Budget Oversight Committee. The committee shall have the authority to nullify any decision to enter into or terminate participation in a compact or agreement. The committee shall notify the commissioner in writing of any nullification within 30 days of receipt of the commissioner's decision. Should the committee not act within 30 days of receipt of the commissioner's decision, the commissioner's decision shall be deemed approved.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

April 20, 2011

State:	New Mexico
Topic:	Enacts Surplus Lines Insurance Multi-State Compliance Compact Law
Impact:	Not Line Specific
Effective Date:	90 Days After Adjournment
Bill Number:	S-250
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Kelly Campbell, 303-830-6772 kelly.campbell@pciaa.net

Executive Summary

S-250 was recently approved and becomes effective 90 days after the legislature's adjournment. This law enacts the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT).

Significant Provisions

Enactment of SLIMPACT

S-250 enters New Mexico into a multi-state compact for the regulation and taxation of surplus lines insurance for businesses operating in multiple states. The law brings New Mexico into compliance with the Nonadmitted and Reinsurance Reform Act (NRRA) of the federal Dodd/Frank Bill. Effective July 21, 2011, the Dodd/Frank provisions prohibit any state that is not the home state of an insured from requiring any premium tax payment for nonadmitted insurance. Among other things, the NRRA authorizes states to enter into a compact to allocate premium taxes.

Establishment of Multi-State Compliance Compact Commission

The law establishes the SLIMPACT Commission, a joint public agency authorized to adopt rules establishing exclusive home state authority regarding non-admitted insurance of multi-state risks, allocation formulas and uniform payment methods and reporting requirements for policyholders and surplus lines brokers. Articles 3 through 12 of the law set forth the SLIMPACT Commission's powers, rulemaking authority, corporate structure, meeting schedule, dispute resolution procedures and financial requirements.

Compact Agreement

Articles 13 through 16 of the law allow any state to be eligible to be a compacting state and set forth procedures for amending and withdrawing from a compact. The articles also specify conditions under which a state may be in default of a compact and when the compact may be dissolved.

State Representative

The law establishes that the Superintendent of Insurance or the superintendent's designee will be New Mexico's member on the SLIMPACT Commission.

National Database – Participation Required

By July 21, 2012, the superintendent must participate in the National Insurance Producer Database of the National Association of Insurance Commissioners (NAIC), or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of the licenses.

Miscellaneous Amendments

The law makes various amendments to the Surplus Lines Insurance Act to comply with SLIMPACT's provisions.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

April 18, 2011

State:	New York
Topic:	Excess and Surplus Lines NRRA Compliance Provisions
Impact:	Not Line Specific
Effective Date:	Multiple Effective Dates
Bill Number:	S-2811
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Kristina Baldwin, 518-443-2220 kristina.baldwin@pciaa.net

Executive Summary

S-2811 was approved on March 31, 2011, with multiple effective dates. This budget bill includes provisions to amend the Insurance Law and the Tax Law, in order to bring New York laws relative to excess and surplus lines into compliance with the Nonadmitted and Reinsurance Reform Act (NRRA) provisions.

PCI worked with the Excess Line Association of New York to achieve revisions to the provisions originally submitted by the Governor that would not have complied with the NRRA provisions. (See Part I.) The Governor's original budget bill and the Assembly's initial budget bill contained provisions to enact the National Association of Insurance Commissioners (NAIC) tax sharing agreement known as "NIMA." These provisions were ultimately deleted due to wide opposition by the industry. Therefore, no authority is provided to participate in any tax sharing compact or agreement. On all policies effective on and after July 21, 2011, when New York is the home state of an insured, the state will tax and retain 100 percent of all written premium, even when the policy insures risk exposures in other states as well.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

April 21, 2011

State:	North Dakota
Topic:	Surplus Lines, Taxation
Impact:	Not Line Specific
Effective Date:	April 19, 2011
Bill Number:	H-1123
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Kelly Campbell, 303-830-6772 Kelly.Campbell@pciaa.net

Executive Summary

On April 19, 2011, North Dakota Governor Jack Dalrymple signed House Bill 1123 into law regarding surplus lines and premium taxation. The provision took effect immediately.

Significant Provisions

This legislation amends North Dakota law governing surplus lines insurance consistently with federal law, enacting the Surplus Lines Multistate Compliance Compact (SLIMPACT) for North Dakota, allowing ND to collect all premium tax on surplus lines multistate polices where North Dakota is the insured's home state, and further permitting North Dakota to share premium tax with other states in SLIMPACT.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

March 24, 2015

Topic:	North Dakota Enacts HB-1146, Repeals SLIMPACT
State(s):	North Dakota
Impact:	Agricultural, Auto--All, Auto--Commercial, Auto--Nonstandard, Auto--Personal, Auto--Residual Market, Boat, Commercial--All, Fidelity And Surety, General Liability, Homeowners, Inland Marine--All, Inland Marine--Commercial, Inland Marine--Personal, Mortgage Guaranty, Motorcycle, Personal--All, Professional Liability, Property--All, Property--Commercial, Property--Personal, Property--Property Residual Market, Service Contract Reimbursement--All, Service Contract Reimbursement--Commercial, Service Contract Reimbursement--Personal, Umbrella--All, Umbrella--Commercial, Umbrella--Personal, Workers Compensation
Effective Date:	June 1, 2015
Bill Number:	ND HB 1146
PCI Legislative Analyst:	Sheila Williams 847-553-3757 **sheila.williams@pciaa.net**
PCI Regional Manager:	Kenton Brine 360-915-6268 **kenton.brine@pciaa.net**

Overview

North Dakota House Bill 1146, regarding surplus lines insurance, was approved on March 20, 2015. The law becomes effective on June 1, 2015.

Significant Provisions

North Dakota HB 1146 amends and reenacts sections 26.1-44-01.1, 26.1-44-03.1, and 26.1-44-06.1 and repeals the authorizing section for the surplus lines insurance multistate compliance compact (SLIMPACT), NDCC §26.1-44-11.

Other key provisions in the measure include the following amendments:

- Section 26.1-44-03.1, regarding surplus lines tax, is amended to apply the North Dakota tax rate to the full amount of gross premiums charged by the insurer for the insurance "on properties, risks, or exposures located or to be performed in this state or another state."
- Section 26.1-44-06.1(c), and (d) regarding reports, is amended to provide that if an insured's home state is North Dakota, on or before April 1 each year, each surplus lines producer must file a verified report of all surplus lines insurance transacted during the preceding calendar year, including:
    - the amount of aggregage tax remitted on risks located or to be performed in this state; and
    - the amount of aggregate tax remitted on risks located or to be performed in another state.

Related Information

North Dakota HB 1146.PDF

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Enacted Law Bulletin

June 30, 2011

State:	North Carolina
Topic:	Amends Surplus Lines Act to Conform with Federal NRRA
Impact:	Not Line Specific
Effective Date:	July 21, 2011
Bill Number:	S-321
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Micaela Isler, 404-880-1462 micaela.isler@pciaa.net

Executive Summary

S-321 was recently approved and becomes effective July 21, 2011. This law amends the North Carolina Surplus Lines Act to conform to the federal Nonadmitted and Reinsurance Reform Act (NRRA).

Significant Provisions

NRRA Duties

Section 58-21-4 is added to the North Carolina General Statutes to authorize the Commissioner of Insurance to participate in a national insurance producer database for the licensing of surplus lines insurers, and to contract with nongovernmental entities to collect the appropriate licensing fees and surplus lines premium taxes.

Revenue Laws Study Committee

The law directs the Revenue Laws Study Committee, in cooperation with the commissioner, to study the potential impact that would result if North Carolina entered into a nonadmitted insurance interstate agreement, and to determine which compact or agreement would result in the most retention of surplus lines tax revenue for the State of North Carolina. The committee must report its findings and recommendations to the 2012 Regular Session of the General Assembly.

Relevant Definitions

Section 58-21-10 is amended to add and amend relevant definitions to conform North Carolina law to the federal NRRA.

Section 58-22-10 is amended to revise the definition of “risk retention group” to conform to the definition in federal law.

Home State

Section 58-21-11 is added to define “home state” as the principal place of business or principal residence of an insured, as required by the NRRA. However, if 100 percent of an insured risk is located outside of the aforementioned principal state of business or residence, then the “home state” is the state to which the greatest percentage of an insured’s taxable premium for that insurance contract is allocated. For affiliated groups, the

"home state" is determined by the member of the affiliated group having the largest percentage of premium attributed to it under that insurance contract.

Placement of Surplus Lines Insurance

Section 58-21-15 is amended to provide that a surplus lines insurer only needs to obtain authorization to write a kind of insurance in its domiciliary state in order to write the same kind of insurance in North Carolina.

Streamlined Application for Commercial Purchasers

Sections 58-21-16 and 58-21-17 are added to provide a streamlined process by which a surplus lines licensee may place surplus lines coverage for certain exempt commercial purchasers without conducting a search to determine whether the insurance may be obtained from admitted insurers. To comply with the new procedure, a licensee must satisfy the following requirements: the licensee must disclose to the purchaser that the insurance may or may not be available from the admitted market; and the exempt commercial purchaser must subsequently request in writing that the licensee place the insurance with a non-admitted insurer. Nothing prohibits a licensee from procuring surplus lines insurance from a nonadmitted insurer outside of the United States, known as an "alien insurer," listed on the NAIC Listing of Alien Insurers.

The law defines "exempt commercial purchaser" for the purposes of the new statutory procedure.

Eligible Surplus Lines Insurers Required

Section 58-21-20 is amended to conform North Carolina eligibility criteria for surplus lines insurers to the NAIC Nonadmitted Insurance Model Act, as required by the federal NRRA.

Duty to File and Retain Reports

Section 58-21-35 is amended to make technical and conforming changes to the provisions relating to the duty to file and retain reports.

Licensing of Surplus Lines Licensee

Section 58-21-65 is amended to provide that an agent or broker doing business with an insured whose home state is North Carolina must possess a current North Carolina surplus lines license to procure any contract of surplus lines insurance with any nonadmitted insurer. This conforms to the NRRA mandate that only an insured's home state may require a surplus lines broker to be licensed.

Surplus Lines Tax

Section 58-21-85 is amended to provide that surplus lines premium tax is to be collected "on insureds for whom North Carolina is the home state," as required by the NRRA. In addition, the law provides that to the extent portions of an insured risk are located in another state that has not entered into a compact or reciprocal agreement with North Carolina, any tax collected will be retained by North Carolina.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

March 23, 2011

State:	Ohio
Topic:	Ohio Enacts Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	June 17, 2011
Bill Number:	H-122
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Jeffrey Junkas, 847-553-3678 jeffrey.junkas@pciaa.net

Executive Summary

Ohio has enacted House Bill 122 which brings the surplus lines insurance statutes into conformity with the federal Nonadmitted and Reinsurance Reform Act of 2009. The law becomes effective on June 17, 2011. The Ohio Legislative Service Commission has prepared a section-by-section analysis of the law which is available as an attachment on PCI's Web site.

Effective Date

H-122 was approved by the governor on March 18, 2011 and becomes effective on June 17, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

June 6, 2011

State:	Oklahoma
Topic:	Oklahoma Enacts Omnibus Measure
Impact:	Not Line Specific
Effective Date:	90 days after adjournment (August 26, 2011)
Bill Number:	H-2072
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Joe Woods, 512-334-6638 joe.woods@pciaa.net

Executive Summary

Oklahoma has enacted House Bill 2072, an omnibus measure, which amends the Producer Licensing Law and the Unauthorized Insurers and Surplus Lines Insurance Act, among other changes. The law becomes effective on August 26, 2011, or 90 days after the legislature's adjournment.

Insurance Department Anti-Fraud Revolving Fund

Section 2 enacts Section 307.5 in Title 36 of the Oklahoma Statutes. This new section creates within the State Treasury the Insurance Department Anti-Fraud Revolving Fund which will be used to investigate allegations of abuse, negligence, or criminal conduct regarding insurance laws and regulations.

Unauthorized Insurers and Surplus Lines Insurance Act

H-2072 amends the Unauthorized Insurers and Surplus Lines Insurance Act codified in Sections 1101 through 1121 of Title 36 of the Oklahoma Stautes as follows:

- The law amends the definition of "home state" in Section 1100.1;
- The law amends Section 1100.2 to allow the insurance commissioner to join the Non-admitted Insurance Multi-state Agreement;
- The law amends Section 1106 by requiring a person to hold an Oklahoma surplus lines license only if Oklahoma is the home state and domicile of the insurer;
- The law enacts Section 1106.1 which exempts a surplus lines broker procuring nonadmitted insurance for an exempt commercial purchaser from the diligent search requirements if the broker has disclosed to the purchaser that the coverage may be available from the admitted market and the purchaser requests in writing that the agent place the insurance with a nonadmitted insurer;
- The law amends Section 1107 by requiring a surplus lines licensee or broker to make tax filings and payments consistent with a multi-state agreement, such as the Nonadmitted Insurance Multi-State Agreement;
- The law amends Section 1108 by removing language which delayed the ability of a surplus lines licensee or broker to place coverage with a nonadmitted insurer or surplus lines insurer; and
- The law makes conforming amendments to additional sections under the Unauthorized Insurers and Surplus Lines Insurance Act.

Producer Licensing Law

Section 23 amends Section 1435.23 of the Producer Licensing Law by adding a non-resident producer's biennial license fee of $100. The amended section also changes the biennial appointment fee from $55 to an annual appointment fee of $30.

Insurance Contract

Section 42 enacts Section 3623.3 in Title 36, Chapter 1, Article 36. The new provision prohibits an insurer from charging an insurance producer any fees associated with underwriting a personal insurance policy. For purposes of this law, the term "personal insurance policy" is defined in Section 952 as a policy underwritten for personal, family, or household use, such as a private passenger automobile, homeowners, motorcycle, mobile-homeowners and noncommercial dwelling fire insurance policy or a boat, personal watercraft, snowmobile, or recreational vehicle policy.

Effective Date

H-2072 was approved by the governor on May 26, 2011 and becomes effective 90 days after the legislature's adjournment or on August 26, 2011. See the Secretary of State's "Effective Date List" here.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

April 20, 2012

State:	Oklahoma
Topic:	Oklahoma Makes Technical Amendments to Surplus Lines Act
Impact:	Not Line Specific
Effective Date:	April 16, 2012
Bill Number:	H-2458
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Joe Woods, 512-334-6638 joe.woods@pciaa.net

Executive Summary

Oklahoma has enacted House Bill 2458, a clean-up measure, which makes technical amendments to provisions in the Unauthorized Insurers and Surplus Lines Insurance Act. The law became effective immediately upon the governor's approval on April 16, 2012.

Unauthorized Insurers and Surplus Lines Insurance Act

House Bill 2458 amends Sections 1100, 1100.1, 1100.2, 1101, 1101.1, 1103, 1104, 1105, 1106, 1106.1, 1107, 1109, 1111, 1112, 1113, 1114, 1115, 1116, 1118, and 1120 of Title 36 of the Oklahoma Statutes. The majority of the amendments are technical in nature. Several noteworthy provisions in H-2458:

- Specify that the Unauthorized Insurers and Surplus Lines Insurance Act shall relate back to the effective date of the implementation of the federal Nonadmitted and Reinsurance Reform Act of 2010;
- Give the insurance commissioner the flexibility to decide whether to join the Nonadmitted Insurance Multi-state Agreement (NIMA) or another multistate agreement or compact based on whether joining is beneficial to the state;
- Require domestic surplus lines insurers to pay premium taxes to the insurance commissioner when Oklahoma is the home state of the insured unless the commissioner decides to join NIMA or any other multistate agreement;
- Exempt surplus lines brokers from the due diligence search requirements of Section 1106; and
- Clarify application of the service of process procedures to surplus lines insurers.

Effective Date

H-2458 became effective immediately upon the governor's approval on April 16, 2012.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

June 6, 2011

State:	Oklahoma
Topic:	Oklahoma Enacts Omnibus Measure
Impact:	Not Line Specific
Effective Date:	August 26, 2011 and November 1, 2011
Bill Number:	S-778
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Joe Woods, 512-334-6638 joe.woods@pciaa.net

Executive Summary

Oklahoma has enacted Senate Bill 778, an omnibus measure, which amends the Unauthorized Insurers and Surplus Lines Insurance Act, the Producer Licensing Law, the Risk-Based Capital for Insurers Act, and the Insurance Adjusters Licensing Act. The law becomes effective on August 26, 2011 unless noted otherwise.

NAIC's Uniform Certificate of Authority Application (Effective November 1, 2011)

Section 2 amends Section 615.1 of Title 36 of the Oklahoma Statutes by adding language specifying information that the insurance commissioner shall focus on when reviewing the NAIC's Uniform Certificate of Authority Application of an insurance applicant seeking to do business in the state.

Unauthorized Insurers and Surplus Lines Insurance Act (Effective August 26, 2011)

Sections 4 through 22 amend and add new provisions to the Unauthorized Insurers and Surplus Lines Insurance Act.

Producer Licensing Act ((Effective August 26, 2011 except Section 25, which is effective November 1, 2011)

Section 24 amends Section 1435.23 of the Producer Licensing Act by adding a non-resident producer's biennial license fee of $100 and changing the biennial appointment fee from $55 to an annual appointment fee of $30.

Section 24 also amends Section 1435.29(C) by adding language authorizing the insurance commissioner to impose a civil penalty ranging from $100 to $500 per occurrence against a continuing education provider that fails to comply with the Producer Licensing Act.

Section 25 amends Section 1435.29(B)(3) by deeming an insurance producer to be in compliance with the biennial continuing education requirement if the producer participates in a professional designation program approved by the insurance commissioner which offers 24 hours of continuing education credits within a 24-month period.

Risk-Based Capital for Insurers Act (Effective November 1, 2011)

Section 26 amends Section 1524 by specifying when a "company action level event" occurs for a property and casualty insurer. A "company action level event" for a property and casualty insurer occurs when total adjusted capital (1) is greater than or equal to its company action level RBC; (2) is less than the product of its authorized control level RBC and 3.0; and (3) triggers the trend test calculation in the property and casualty RBC instructions.

Renewal Offers for Personal Insurance Policies (Effective November 1, 2011)

Section 27 amends Section 3639.1 by adding language requiring an insurer to provide a renewal offer for a private passenger automobile or homeowner's policy to a policyholder within 30 days prior to the policy's expiration date.

Certificate of Insurance Forms (Effective November 1, 2011)

Section 28 enacts Section 3640 which regulates the issuance of certificate of insurance forms.

Insurance Adjusters Licensing Act (Effective November 1, 2011)

Section 30 amends Section 6202 of the Insurance Adjusters Licensing Act by adding a definition for the term "automated claims adjudication system." This system is used by licensed independent adjusters, licensed agents, or individuals supervised by a licensed adjuster or licensed agent to resolve insurance claims for consumer electronic products.

Section 31 amends Section 6203 by exempting persons authorized to use the automated claims adjudication system from the list of persons who are required to have an adjuster license.

Section 32 amends Section 6205 by adding language requiring a Canadian resident to pass the adjuster examination in order to receive an adjuster license.

Section 33 amends Section 6212 by requiring a licensee to give the insurance commissioner notice of a change in e-mail address within 30 days of the change. If a licensee fails to give the notice within this time frame, the licensee shall be subject to a $50 fee, which is the same fee currently charged for a licensee's late submission of a change in a legal name or an address. Changes submitted more than 45 days after the assessment of the $30 administrative fee shall result in penalties set forth in Section 6220(B).

Section 34 amends Section 6217 by adding language authorizing the authorizing the insurance commissioner to impose a civil penalty ranging from $100 to $500 per occurrence against a continuing education provider that fails to comply with the Insurance Adjusters Licensing Act.

Medical Professional Liability Insurance Closed Claim Reports (Effective November 1, 2011)

Section 52 amends Section 6811(A) by removing language requiring a medical professional liability insurer to file a closed claim report with the insurance department by April 1 of the same or subsequent calendar year if the claim is closed before or after April 1, respectively.

New language inserted in the section will require the insurer to file a closed claim report for medical professional liability insurance claims between January 1 and March 15 of each year.

Effective Date

S-778 was approved by the governor on May 19, 2011 and becomes effective on August 26, 2011 unless noted otherwise. See the Secretary of State's "Effective Date List" here.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

June 12, 2012

State:	Oklahoma
Topic:	Oklahoma Amends Unauthorized Insurers, Captive Insurance Laws
Impact:	Not Line Specific
Effective Date:	June 8, 2012
Bill Number:	S-1617
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Joe Woods, 512-334-6638 joe.woods@pciaa.net

Executive Summary

Oklahoma has enacted Senate Bill 1617 which amends the Unauthorized Insurers Law and the Captive Insurance Company Law. The law became effective immediately upon the governor's approval on June 8, 2012.

Unauthorized Insurers Law

Senate Bill 1617 makes substantive and technical amendments to Sections 1101.1, 1106, 1107, and 1115 of the Unauthorized Insurers Law by (1) clarifying the responsibility of a surplus lines broker or licensee (instead of a surplus lines insurer) to pay premium taxes and make informational filings and fee payments established by the insurance commissioner; (2) correcting the name of the "Oklahoma Property and Casualty Insurance Guaranty Association"; and (3) replacing the word "assured" with "insured."

Captive Insurance Company Act

S-1617 also makes technical and substantive amendments to Sections 6470.3 and 6470.19 of the Captive Insurance Company Act. A substantive amendment to Section 6470.3(B)(4) eliminates the requirement that a resident agent registered to accept service of process on a captive insurer's behalf be licensed by the Oklahoma State Insurance Department as a licensed third-party administrator or managing general agent and maintain its principal place of business in the state. Also, if a captive insurer's aggregate taxes to be paid under subsections (A) and (B) of Section 6470.19 exceed $100,000 in any one year, new subsection (D) of Section 6470.19 requires the captive insurer to pay a maximum tax of $100,000 for that year.

Effective Date

S-1617 became effective immediately upon the governor's approval on June 8, 2012.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

August 11, 2011

State:	Oregon
Topic:	Surplus Lines
Impact:	Not Line Specific
Effective Date:	January 1, 2011
Bill Number:	H-2679
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Kenton Brine, 360-915-6268 Kenton.Brine@pciaa.net

Executive Summary

On August 2, 2011, Oregon House Bill 2679 was enacted into law in relation to the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The provision takes effect January 1, 2012.

Significant Provisions

H-2679 revises Oregon law in light of the NRRA, particularly authorizing the Director of the Department of Consumer and Business Services to enter into a compact or to otherwise establish procedures with other states to allocate premium taxes paid to an insured's home state, also defined herein. The legislation also exempts commercial purchasers under given circumstances, imposes a tax on independently procured coverage as well as a fire marshal tax, and increases capital and surplus requirements of nonadmitted insurers.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

July 14, 2011

State:	Pennsylvania
Topic:	Amends Tax Laws Related to Changes to Surplus Lines Laws
Impact:	Not Line Specific
Effective Date:	June 30, 2011
Bill Number:	S-1097
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Richard Stokes, 609-396-9601 richard.stokes@pciaa.net

Executive Summary

S-1097 was approved on June 30, 2011, and became effective immediately. This law amends Section 2265 of the Pennsylvania tax laws, to implement changes required by the federal Non-Admitted and Reinsurance Reform Act of 2010 (NRRA) law relating to surplus lines premium taxation. Specifically, the law amends the statute governing insurance premium taxes, to make the tax laws consistent with amendments made to the surplus lines laws by Senate Bill 1096 (2011).

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

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Enacted Law Bulletin

June 8, 2011

State:	Rhode Island
Topic:	Enacts Surplus Lines Insurance Multi-State Compliance Compact
Impact:	All
Effective Date:	May 27, 2011
Bill Number:	S-88 and H-5110
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Frank O'Brien, 617-723-1976 frank.obrien@pciaa.net

Executive Summary

S-88 and H-5110, identical bills, were approved on May 27, 2011. The bills enact the Surplus Lines Insurance Multi-State Compliance Compact. The law took effect upon passage.

Significant Provisions

Formation of Compact

Chapter 75, Surplus Lines Insurance Multi-State Compliance Compact, is added to Title 27 of the General Laws. This chapter enacts the Surplus Lines Insurance Multi-State Compliance Compact and enters Rhode Island into the compact with all other states legally joining the compact.

Creation of Commission

The compacting states create a joint public agency known as the Surplus Lines Insurance Multi-State Compliance Compact Commission. The commission has the power to adopt mandatory rules to establish exclusive home state authority regarding non-admitted insurance of multi-state risks, allocation formulas, clearinghouse transaction data, a clearinghouse for receipt and distribution of allocated premium tax and clearinghouse transaction data, and uniform rulemaking procedures and rules for the purpose of financing, administering, operating, and enforcing compliance with the provisions of the compact, its bylaws, and rules. The commission also has the power to adopt mandatory rules establishing foreign insurer eligibility requirements and a concise and objective policyholder notice regarding the nature of a surplus lines placement.

Organization of Commission

Each compacting state is limited to one member. Each state is responsible for determining the qualifications and the method by which it selects a member. Any member may be removed or suspended from office. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state where the vacancy exists. Each member is entitled to one vote.

The commission must establish an executive committee, an operations committee, and a legislative committee. Additional advisory committees may be established. The commission must meet at least once per year.

Rulemaking

Not later than 30 days after a rule is promulgated by the commission, a person may file a petition for judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.

Commission Records and Enforcement

The laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state member of the duty to disclose any relevant records, data, or information to the commission; provided that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement. Further, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any member, and the commission shall maintain the confidentiality of any information provided by a member that is confidential under that member's state law.

The commission is responsible for monitoring compacting states for compliance with bylaws and rules. The commission shall notify any non-complying compacting state in writing of its noncompliance with commission bylaws or rules. If a non-complying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default.

Dispute Resolution

Before a member may bring an action for violation of the compact, the commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to the compact and that may arise between two or more compacting states, contracting states, or non-compacting states, and the commission shall promulgate a rule providing alternative dispute resolution procedures for such disputes.

The commission shall also provide alternative dispute resolution procedures to resolve any disputes between insureds or surplus lines licensees concerning a tax calculation or allocation or related issues that are the subject of the compact.

Review of Commission Decisions

Except as necessary for promulgating rules to fulfill the purposes of the compact, the commission shall not have authority to otherwise regulate insurance in the compacting states.

Not later than 30 days after the commission has given notice of any rule or allocation formula, any third-party filer or compacting state may appeal the determination to a review panel appointed by the commission. An allegation that the commission, in making compliance or tax determinations, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review.

The commission shall have authority to monitor, review, and reconsider commission decisions upon a finding that the determinations or allocations do not meet the relevant rule. Where appropriate, the commission may withdraw or modify its determination or allocation after proper notice and hearing, subject to the appeal process.

Finance

The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions, grants, and other forms of funding from the state stamping offices, compacting states, and other sources.

The commission shall collect a fee payable by the insured directly or through a surplus lines licensee on each transaction processed through the compact clearinghouse in order to cover the cost of the operations and activities of the commission and its staff, in a total amount sufficient to cover the commission's annual budget.

Compacting States

Any state is eligible to become a compacting state. The compact shall become effective and binding upon legislative enactment of the compact into law by two compacting states, provided the commission shall become effective for purposes of adopting rules, and creating the clearinghouse when there are a total of 10 compacting states and contracting states or, alternatively, when there are compacting states and contracting states representing greater than 40 percent of the surplus lines insurance premium volume based on records of the percentage of surplus lines insurance premium based on records of the National Association of Insurance Commissioners for the prior year.

The clearinghouse operations and the duty to report clearinghouse transaction data shall begin on the first January 1st or July 1st following the first anniversary of the commission's effective date. For states that join the compact subsequent to the effective date, a start date for reporting clearinghouse transaction data shall be set by the commission provided surplus lines licensees and all other interested parties receive not less than 90 days advance notice.

The Superintendent of Insurance shall not enter into a multi-state agreement or contract unless the Division of Insurance has done all of the following:

(i) Completed a fiscal analysis of the impact of the agreement or contract that examines the expected effects on Rhode Island's gross receipt of premium tax;

(ii) Reviewed whether the contract will create additional administrative burdens on the state of Rhode Island or surplus lines licensee;

(iii) Concluded, after conducting a public hearing, that entering into the agreement or contract: (a) Is in Rhode Island's financial best interest; and (b) Is consistent with the requirements of the Non-Admitted and Reinsurance Reform Act.

Withdrawal, Default, and Termination

Once effective, the compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute that enacted the compact into law. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any tax or compliance determinations approved on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the commission. The member of the withdrawing state shall immediately notify the executive committee of the commission in writing upon the introduction of legislation repealing the compact in the withdrawing state. The commission must notify the other compacting states of the introduction of such legislation within 10 days after its receipt of notice.

The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal. To the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state, the commission's determinations prior to the effective date of withdrawal shall continue to be effective and given full force and effect in the withdrawing state, unless formally rescinded by the commission. Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under the compact, after notice and hearing, all rights, privileges, and benefits conferred by the compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the specified time period, the defaulting state shall be terminated from the compact and all rights, privileges, and benefits conferred by the compact shall be terminated from the effective date of termination. Decisions of the commission that are issued on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily. Reinstatement following termination of any compacting state requires a reenactment of the compact.

The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state. Upon the dissolution of the compact, the compact becomes null and void and shall have no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the rules and bylaws.

Binding Effect of Compact and Other Laws

Nothing in this chapter prevents the enforcement of any other law of a compacting state, except as otherwise provided.

Decisions of the commission and any rules or any other requirements of the commission shall constitute the exclusive rule or determination applicable to the compacting states. Any law or regulation regarding non-admitted insurance of multi-state risks that is contrary to rules of the commission is preempted with respect to the following:

(i) Clearinghouse transaction data reporting requirements;

(ii) Allocation formula;

(iii) Clearinghouse transaction data collection requirements;

(iv) Premium tax payment time frames and rules concerning dissemination of data among the compacting states for non-admitted insurance of multi-state risks and single-state risks;

(v) Exclusive compliance with surplus lines law of the home state of the insured;

(vi) Rules for reporting to a clearinghouse for receipt and distribution of clearinghouse transaction data related to non-admitted insurance of multi-state risks;

(vii) Uniform foreign insurers eligibility requirements;

(viii) Uniform policyholder notice; and

(ix) Uniform treatment of purchasing groups procuring non-admitted insurance.

Any rule, uniform standard, or other requirement of the commission shall constitute the exclusive provision that a commissioner may apply to compliance or tax determinations. However, no action taken by the commission shall abrogate or restrict the following:

(i) The access of any person to state courts;

(ii) The availability of alternative dispute resolution under Article X of the compact;

(iii) Remedies available under state law related to breach of contract, tort, or other laws not specifically directed to compliance or tax determinations;

(iv) State law relating to the construction of insurance contracts; or

(v) The authority of the attorney general of the state as authorized by law.

All lawful actions of the commission are binding upon the compacting states, except as otherwise provided.

All agreements between the commission and the compacting states are binding in accordance with their terms.

Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers. or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that state and those obligations duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time the compact becomes effective.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

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Property Casualty Insurers Association of America
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Enacted Law Bulletin

June 8, 2011

State:	Rhode Island
Topic:	Tax of Surplus Lines Insurance
Impact:	All
Effective Date:	May 27, 2011
Bill Number:	S-758 and H-5953
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Frank O'Brien, 617-723-1976 frank.obrien@pciaa.net

Executive Summary

S-758 and H-5953, identical bills, were approved on May 27, 2011. These bills amend the surplus lines law in order to bring the state into compliance with the Nonadmitted and Reinsurance Reform Act of 2010. The law took effect upon passage.

Significant Provisions

Surplus Lines Broker Licensing

Sections 27-3-38 of the General Laws is amended to require residents of Rhode Island to hold a property and casualty insurance producer license to qualify for a surplus lines broker license. Further amendments provide that for the purposes of carrying out the provisions of the Nonadmitted and Reinsurance Reform Act of 2010, the commissioner is authorized to utilize the National Insurance Producer Database of the National Association of Insurance Commissioner (NAIC), or any other equivalent uniform national database, for the licensure of a person as a surplus lines producer and for renewal of the license. For insureds whose home state is Rhode Island, a person shall not procure a contract of surplus lines insurance with a nonadmitted insurer unless the person possesses a current surplus lines insurance license issued by the commissioner.

This section requires an affidavit confirming that coverage could not be procured by admitted insurers before a surplus lines broker can obtain a surplus lines policy. This provision is amended to provide that no such affidavit is required for exempt commercial purchasers, as defined by the Nonadmitted and Reinsurance Reform Act of 2010.

Tax

Section 27-3-38.1 is amended to provide that where the insurance covers properties, risks, or exposures located or to be performed both in and out of Rhode Island, the sum payable shall be computed based on:

(1) An amount equal to four percent on that portion of the gross premiums allocated to Rhode Island pursuant to section 27-3-38.3; plus (2) An amount equal to the portion of the 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 of this state.

This section also provides that the commissioner shall participate in a multi-state surplus lines compact or agreement for the purpose of collecting and disbursing to reciprocal states any funds collected pursuant to

paragraph (2) above applicable to other properties, risks, or exposures located or to be performed outside of this state. To the extent that other states where portions of the properties, risks, or exposures reside have failed to enter into compact or reciprocal allocation procedure with this state, the net premium tax collected shall be retained by this state.

Placement of Surplus Lines Insurance

Section 27-3-40 is amended to provide that surplus lines insurance may be placed by a surplus lines broker if each insurer is authorized to write the type of insurance in its domiciliary jurisdiction. A surplus lines licensee shall not place coverage with a nonadmitted insurer, unless, at the time of placement, the nonadmitted insurer:

(1) Has established satisfactory evidence of good repute and financial integrity; and

(2) Qualifies under one of the following subparagraphs: (i) Has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction which equals the greater of: (A) The minimum capital and surplus requirements under the law of this state; or (B) 15 million dollars; or (ii) For an insurer not domiciled in the United States or its territories, the insurer is listed on the quarterly listing of alien insurers maintained by the NAIC International Insurers Department or its equivalent.

The capital and surplus requirements above may be satisfied by an insurer possessing less than the minimum capital and surplus upon an affirmative finding of acceptability by the commissioner. The finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment income trends, market availability, and company record and reputation within the industry. In no event shall the commissioner make an affirmative finding of acceptability when the nonadmitted insurer's capital and surplus is less than $4,500,000.

The commissioner is authorized to enter into a multi-state surplus lines agreement to establish additional and alternative nationwide uniform eligibility requirements that shall be applicable to nonadmitted insurers domiciled in another state or territory of the United States.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

June 25, 2013

State:	South Carolina
Topic:	South Carolina Removes Diligent Search Requirement for Exempt Commercial Purchasers
Impact:	Not Line Specific
Effective Date:	June 13, 2013
Bill Number:	S-460
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Oyango Snell, 202-349-7461 oyango.snell@pciaa.net

Executive Summary

South Carolina has enacted Senate Bill 460 which allows a surplus lines broker to place nonadmitted insurance for an exempt commercial policyholder without having to adhere to the due diligence requirements. The law became effective immediately upon the governor's approval on June 13, 2013.

Surplus Lines Brokers

Senate Bill 460 amends subsection (A) and creates subsection (B) in Section 38-45-90 of the South Carolina Code of Laws as follows:

- Section 38-45-90(A) has been amended to authorize the director of the South Carolina Department of Insurance to require a surplus lines broker to submit on behalf of an insurer documents showing that the insurer is licensed in its domiciliary state; meets at least the minimum capital and surplus requirements of the state; and that its operation is not hazardous to policyholders.
- Section 38-45-90(A) has been amended to insert a definition for the term "domiciliary state" which means the state or jurisdiction in which an insurer is incorporated or organized.
- New Subsection (B) of Section 38-45-90 provides that a surplus lines broker is not required to search with due diligence to determine whether the full amount or type of insurance can be obtained from an admitted insurer when the broker is seeking to place nonadmitted insurance for an exempt commercial purchaser provided the:

1. Broker disclosed to the exempt commercial purchaser that the insurance may or may not be available from the admitted market and that insurance obtained from the admitted market may provide greater protection with more regulatory oversight; and

2. The exempt commercial purchaser has subsequently requested in writing for the broker to procure or place such insurance from a nonadmitted insurer.

Effective Date

S-460 became effective immediately upon the governor's approval on June 13, 2013.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

July 24, 2012

State:	South Carolina
Topic:	Enacts Provisions Relating to Brokers and Surplus Lines Insurance
Impact:	Surplus Lines
Effective Date:	January 1, 2012
Bill Number:	S-1419
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Oyango Snell, 202-349-7461 oyango.snell@pciaa.net

Executive Summary

S-1419 was recently approved and states that it takes effect January 1, 2012. This legislation amends the Insurance Code with regards to insurance brokers and surplus lines insurance.

The law accomplishes the following: defines terms relative to the Nonadmitted and Reinsurance Reform Act (NRRA) of 2010; establishes that the revenue collected from a broker's premium tax rate must be credited to a special earmarked fund; provides for the manner in which such fund may be used and disbursed; authorizes the Director of the Department of Insurance (DOI) to conduct examinations of broker records; permits DOI to promulgate regulations necessary to implement the chapter; specifies the manner in which NRRA may be implemented; and disallows a municipality from charging an additional license fee or tax based upon a percentage of premiums for purposes of surplus lines insurance.

In addition, New Section 38 45 190 provides that for the purposes of carrying out NRRA, the Director of DOI may do the following: enter into an agreement with a single state to facilitate the collection, allocation, and disbursement of premium taxes attributable to the placement of surplus lines insurance; provide for uniform methods of allocation and reporting among surplus lines insurance risk classifications; and share information among states relating to surplus lines insurance premium taxes. The law also authorizes the director to participate in a clearinghouse established through a multi-state agreement for the purpose of collecting and disbursing to reciprocal states any funds collected applicable to properties, risks or exposures located or to be performed outside South Carolina. Nothing in this chapter prevents the director or the director's designee from collecting 100 percent of the taxes due for all risks placed in the surplus lines market.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

February 28, 2011

State:	South Dakota
Topic:	South Dakota Enacts Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	July 1, 2011
Bill Number:	H-1030
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Kelly Campbell, 303-830-6772 kelly.campbell@pciaa.net

Executive Summary

South Dakota has enacted House Bill 1030 which brings the surplus lines insurance statutes into conformity with the federal Nonadmitted and Reinsurance Reform Act of 2009. The law becomes effective on July 1, 2011.

Licensing as Surplus Lines Broker

Section 1 of H-1030 amends Section 58-32-7 of the South Dakota Codified Laws by adding language that requires each surplus line broker to be licensed only in the home state of each insured for whom surplus lines insurance has been procured.

Access to Surplus Lines Market by Large Commercial Purchasers

Section 2 amends Section 58-32-16 by adding language allowing surplus lines brokers representing exempt commercial lines policyholders to go directly to the nonadmitted market to purchase coverage without having to satisfy the diligent search requirement. There is an automatic export provided the surplus lines broker discloses to the exempt commercial purchaser that coverage may be available in the admitted market that may provide greater protection with more regulatory oversight, and the exempt commercial purchaser subsequently requests in writing that the broker place coverage with the nonadmitted insurer.

Eligibility Criteria for Surplus Lines Insurers

Section 3 amends Section 58-32-22 by authorizing surplus lines brokers to place surplus lines insurance with insurers that are eligible in the insured's home state. Domestic insurers in the United States must be authorized in their domiciliary state and meet the greater of $15 million or the state's capitalization requirement set forth in Section 58-6-23. The insurance commissioner may waive the minimum capital and surplus requirements and make an affirmative finding of acceptability based on the quality of management, capital and surplus of the parent company, company underwriting profit and investment income trends, market availability, and company record and reputation so long as the insurer has capital and surplus of at least $4.5 million. Surplus lines brokers may also place surplus lines insurance with alien insurers on the quarterly listing maintained by the NAIC's International Insurers Department.

Remittance of Surplus Lines Tax

Section 4 makes technical amendments to Section 58-32-44 which requires a broker to pay the surplus lines premium tax by April 1 of each year or on a quarterly basis. New language in the section authorizes the broker to remit the tax according to the time that may be specified in the multi-state surplus lines agreement authorized by Section 58-32-45.

Apportionment of Tax

Section 5 amends Section 58-32-45 by setting forth procedures for the allocation and payment of the surplus premium tax. The section authorizes the director to enter into a multi-state surplus lines agreement for the eligibility for placement of surplus lines insurance and the payment, reporting, collection, and apportionment of surplus lines premium taxes.

Home State Definition

Section 6 enacts a new section in Chapter 58-32 which has yet to be codified. This new section defines the term "home state." The term is defined as the state in which the insured maintains its principal place of business or the principal residence of an individual. In cases where 100 percent of the insured risk is located out of the state, the home state would be the state where the greatest percentage of the insured's taxable premium for the insurance contract is allocated.

Effective Date

H-1030 was approved by the governor on February 17, 2011 and becomes effective on July 1, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

June 16, 2011

State:	Tennessee
Topic:	Tennessee Enacts Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	June 10, 2011
Bill Number:	H-966
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Monique Kabitzke, 850-681-2615 monique.kabitzke@pciaa.net

Executive Summary

Tennessee has enacted House Bill 966 which brings the Surplus Lines Insurance Act into conformity with the federal Nonadmitted and Reinsurance Reform Act of 2010 and enacts the Surplus Lines Insurance Multi-State Compliance Compact which will expire in 2013. The law became effective immediately upon the governor's approval on June 10, 2011.

Surplus Lines Reform

House Bill 966 amends the Surplus Lines Insurance Act codified in Sections 56-14-101 through 56-14-117 of the Tennessee Code by conforming it to the Nonadmitted and Reinsurance Reform Act of 2010. Amendments worth noting include the addition of new Part 2 to Title 56, Chapter 14 pertaining to the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT). Pursuant to Section 3 of H-966 which amends Section 4-29-234(a), SLIMPACT is set to sunset on June 30, 2013. A more detailed analysis of the provisions in H-966 is available as an attachment on PCI's Web site.

Effective Date

H-966 became effective immediately upon the governor's approval on June 10, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

April 14, 2014

State:	Tennessee
Topic:	Surplus Lines Insurance Multi-State Compliance Compact
Impact:	Surplus Lines
Effective Date:	July 1, 2014
Bill Number:	SB 356
PCI Legislative Analyst:	Sheila Williams, 847-553-3757 sheila.williams@pciaa.net
PCI Regional Manager:	Ann Weber, 847-553-3689 ann.weber@pciaa.net

Executive Summary

Tennessee Senate Bill 356, which repeals the authority of the state to participate in the Surplus Lines Insurance Multi-State Compliance Compact, was approved on April 4, 2014. The measure deletes Tennessee Code Annotated Section 4-29-234(a)(52) in its entirety and deletes Title 56, Chapter 14, Part 2 in its entirety. The law becomes effective July 1, 2014. PCI obtained the final version of the law on April 14, 2014.

Additional Information

Bill text is available on the PCI member Web site, **www.pciaa.net**. Select Advocacy, State and use the Legislation and Regulation Database link.

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Related Information

Tennessee SB 356 att.pdf

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Enacted Law Bulletin

July 26, 2011

State:	Texas
Topic:	Fiscal Bill Enacts NRRA Compliance Provisions
Impact:	Not Line Specific
Effective Date:	September 28, 2011
Bill Number:	S-1
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Joe Woods, 512-334-6638 joe.woods@pciaa.net

Executive Summary

Special Session Bill S-1 was recently approved and becomes effective September 28, 2011. This law amends various provisions of the Insurance Code to implement changes required by the federal Non-Admitted and Reinsurance Reform Act of 2010 (NRRA) law relating to surplus lines premium taxation. The changes do not commit Texas to participate in any particular model agreement related to nonadmitted insurance taxes.

The law accomplishes the following: prohibits Texas from imposing a premium tax on nonadmitted insurance premiums for insurance in which Texas is not the insured's home state; authorizes the Texas Comptroller by rule to establish an alternate basis for taxation for multi-state and single-state policies in order to achieve uniformity; modifies the basis on which surplus lines insurance premium tax is computed for a multi-state policy to be the entire policy premium in which Texas is the insured's home state, and adds the condition to this computation that Texas may not have entered into a cooperative agreement, reciprocal agreement, or compact with another state for the collection of surplus lines tax; removes provision exempting premiums properly allocated to another state that are specifically exempt from taxation in that state from taxation in Texas; mandates allocation and reporting of surplus lines insurance premium taxes in accordance with the terms of any agreement or compact if Texas enters into a cooperative agreement, reciprocal agreement, or compact with another state for the allocation of surplus lines taxes as authorized by Chapter 229; makes conforming changes relating to an independently procured insurance premium tax applicable to an insured that obtains an independently procured insurance contract for any risk in which Texas is the insured's home state; defines relevant terms; and provides for applicability of law to insurance policies delivered, issued for delivery, or renewed on or after July 21, 2011. These provisions may be found in Sections 18.01 through 18.13 of the law.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

June 21, 2013

State:	Texas
Topic:	Surplus Lines
Impact:	Not Line Specific
Effective Date:	June 14, 2013
Bill Number:	SB 951
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Joe Woods, 512-358-1345 Joe.Woods@pciaa.net

Executive Summary

Texas Senate Bill 951 was approved on June 14, 2013 and became effective immediately, relating to the regulation of surplus lines insurers in light of the Nonadmitted and Reinsurance Reform Act (NRRA) of 2010.

Significant Provisions

Senate Bill 951 amends Chapter 981 of the Insurance Code to limit its applicability to Texas residents and to insurance that is issued to an insured whose home state is Texas. It further defines and exempts certain commercial purchasers from select restrictions on the purchasing of surplus lines insurance.

Further, SB 951 replaces certain capital requirements for alien surplus lines insurers with a requirement that an alien surplus lines insurer must be listed on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners. However, alien surplus lines insurers who were eligible under Insurance Code Section 981.058 as it existed before the effective date of this bill are to remain eligible surplus lines insurers in accordance with the standards and requirements of those prior capital requirements.

Several Insurance Code Sections are repealed consistent with this legislation so as to conform Texas law to the language of the Nonadmitted and Reinsurance Reform Act (NRRA) of 2010.

Additional Information

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Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

April 14, 2011

State:	Utah
Topic:	Enacts Legislation Addressing Taxation of Surplus Lines
Impact:	Not Line Specific
Effective Date:	May 10, 2011
Bill Number:	H-316
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Kenton Brine, 360-915-6268 kenton.brine@pciaa.net

Executive Summary

H-316 was recently approved and becomes effective on May 10, 2011. This law modifies the Insurance Code to address the taxation of surplus lines insurance transactions, but does not commit the state to participate in any particular model agreement related to nonadmitted insurance taxes. The law accomplishes the following: prohibits local taxation of surplus lines transactions; defines terms; and addresses the collection of fees and taxes, if an agreement is entered into, for coverage of property, risks, or exposures located or to be performed within and outside of Utah. Accordingly, the law authorizes the Insurance Commissioner to participate in some tax-sharing compact or reciprocal agreement clearinghouse. However, the commissioner must report the nature and status of any such participation to the Utah Legislature's Business and Labor Interim Committee.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

June 13, 2011

State:	Vermont
Topic:	Enacts Surplus Lines Insurance Multi-State Compliance Compact
Impact:	All
Effective Date:	May 26, 2011
Bill Number:	S-36
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Frank O'Brien, 617-723-1976 frank.obrien@pciaa.net

Executive Summary

S-36 was approved on May 26, 2011. This bill enacts the Surplus Lines Insurance Multi-State Compliance Compact. It also amends current law to conform to the provisions of the Non-Admitted and Reinsurance Reform Act of 2010. It took effect upon passage.

Significant Provisions

Surplus Lines Insurance Multi-State Compliance Compact Commission

The bill enacts the Surplus Lines Insurance Multi-State Compliance Compact and also authorizes the Commissioner of Banking, Insurance, Securities, and Health Care Administration to enter into another agreement if the compact does not take effect.

The compacting states create and establish a joint public agency known as the Surplus Lines Insurance Multi-State Compliance Compact Commission. The commission has the power to adopt mandatory rules that establish exclusive home state authority regarding non-admitted insurance of multi-state risks, allocation formulas, clearinghouse transaction data, a clearinghouse for receipt and distribution of allocated premium tax and clearinghouse transaction data, and uniform rulemaking procedures and rules for the purpose of financing, administering, operating, and enforcing compliance with the provisions of this compact, its bylaws, and rules. The commission also has the power to adopt mandatory rules establishing foreign insurer eligibility requirements and a concise and objective policyholder notice regarding the nature of a surplus lines placement.

The Vermont member of the commission shall be the Commissioner of Banking, Insurance, Securities, and Health Care Administration or designee.

Organization of Commission

Each compacting state is limited to one member. Each state is responsible for determining the qualifications and the method by which it selects a member. Any member may be removed or suspended from office. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state where the vacancy exists. Each member is entitled to one vote and shall otherwise have an opportunity to participate in the governance of the commission in accordance with the bylaws.

The commission is required to establish an executive committee, an operations committee, and a legislative committee. Additional advisory committees may be established. The committee is required to meet at least once in a calendar year.

Rulemaking

Not later than 30 days after a rule is adopted by the commission, a person may file a petition for judicial review of the rule, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.

Commission Records and Enforcement

Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state member of the duty to disclose any relevant records, data, or information to the commission, provided that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement. Further, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any member, and the commission shall maintain the confidentiality of any information provided by a member that is confidential under that member's state law.

The commission is responsible for monitoring compacting states for compliance with bylaws and rules. The commission shall notify any non-complying compacting state in writing of its noncompliance with commission bylaws or rules. If a non-complying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default.

Dispute Resolution

Before a member of the commission may bring an action for violation of the compact, the commission shall attempt, upon the request of a member, to resolve any disputes or other issues that are subject to this compact and that may arise between two or more compacting states, contracting states, or non-compacting states, and the commission shall adopt a rule providing alternative dispute resolution procedures for such disputes.

The commission shall also provide alternative dispute resolution procedures to resolve any disputes between insureds or surplus lines licensees concerning a tax calculation or allocation or related issues that are the subject of this compact.

Review of Commission Decisions

Except as necessary for adopting rules to fulfill the purposes of the compact, the commission shall not have authority to otherwise regulate insurance in the compacting states.

Not later than 30 days after the commission has given notice of any rule or allocation formula, any third party filer or compacting state may appeal the determination to a review panel appointed by the commission. An allegation that the commission, in making compliance or tax determinations, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law is subject to judicial review.

The commission has the authority to monitor, review, and reconsider commission decisions upon a finding that the determinations or allocations do not meet the relevant rule. Where appropriate, the commission may withdraw or modify its determination or allocation after proper notice and hearing, subject to the appeal process.

Finance

The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions, grants, and other forms of funding from the state stamping offices, compacting states, and other sources.

The commission shall collect a fee payable by the insured directly or through a surplus lines licensee on each transaction processed through the compact clearinghouse in order to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

Compacting States

Any state is eligible to become a compacting state. The compact shall become effective and binding upon legislative enactment of the compact into law by two compacting states, provided the commission shall become effective for purposes of adopting rules and creating the clearinghouse when there are a total of 10 compacting states and contracting states or, alternatively, when there are compacting states and contracting states representing greater than 40 percent of the surplus lines insurance premium volume based on records of the percentage of surplus lines insurance premium set forth in section 5069 of this chapter. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The clearinghouse operations and the duty to report clearinghouse transaction data shall begin on the first January 1 or July 1 following the first anniversary of the commission effective date. For states that join the compact subsequent to the effective date, a start date for reporting clearinghouse transaction data shall be set by the commission, provided that surplus lines licensees and all other interested parties receive not less than 90 days' advance notice. Amendments to the compact may be proposed by the commission for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.

Withdrawal, Default, and Termination

Once effective, the compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from the compact by enacting a statute specifically repealing the statute that enacted the compact into law. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any tax or compliance determinations approved on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the commission. The member of the withdrawing state is required to immediately notify the executive committee of the commission in writing upon the introduction of legislation repealing the compact in the withdrawing state. The commission must notify the other compacting states of the introduction of such legislation within 10 days after its receipt of notice. The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal. To the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state, the commission's determinations prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the commission. Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under the compact, the bylaws, or adopted rules, after notice and hearing, all rights, privileges, and benefits conferred by the compact on the defaulting state shall be suspended from the effective date of default. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact and all rights, privileges, and benefits conferred by the compact shall be terminated from the effective date of termination. Decisions of the commission that are issued on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily. Reinstatement following termination of any compacting state requires a reenactment of the compact.

The compact dissolves effective upon the date of the withdrawal or default of the compacting state that reduces membership in the compact to one compacting state. Upon the dissolution of the compact, the compact becomes null and void and shall have no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the rules and bylaws.

Binding Effect of Compact and Other Laws

Decisions of the commission and any rules and other requirements of the commission shall constitute the exclusive rule or determination applicable to the compacting states. Any law or regulation regarding non-admitted insurance of multi-state risks that is contrary to rules of the commission is preempted with respect to the following:

- Clearinghouse transaction data reporting requirements;
- The allocation formula;
- Clearinghouse transaction data collection requirements;
- Premium tax payment time frames and rules concerning dissemination of data among the compacting states for non-admitted insurance of multi-state risks and single-state risks;
- Exclusive compliance with surplus lines law of the home state of the insured;
- Rules for reporting to a clearinghouse for receipt and distribution of clearinghouse transaction data related to non-admitted insurance of multi-state risks;
- Uniform foreign insurers eligibility requirements;
- Uniform policyholder notice; and
- Uniform treatment of purchasing groups procuring non-admitted insurance.

Except as otherwise stated, any rule, uniform standard, or other requirement of the commission shall constitute the exclusive provision that a commissioner may apply to compliance or tax determinations. However, no action taken by the commission shall abrogate or restrict:

- The access of any person to state courts;
- The availability of alternative dispute resolution under section 5061 of this chapter;
- The remedies available under state law related to breach of contract, tort, or other laws not specifically directed to compliance or tax determinations;
- State law relating to the construction of insurance contracts; or
- The authority of the attorney general of the state as authorized by law.

All lawful actions of the commission are binding upon the compacting states, except as otherwise provided.

Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that state and those obligations duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Amendments to Conform Vermont Law with Non-Admitted and Reinsurance Reform Act of 2010

8 V.S.A. section 5024 is amended to provide that the due diligence search for reasonably procurable insurance coverage required under this section is not required for an exempt commercial purchaser, provided that (1) the surplus lines broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial purchaser that such insurance may be available from an admitted insurer and may provide greater protection with more regulatory oversight and (2) the exempt commercial purchaser has subsequently requested in writing the surplus lines broker to procure or place such insurance from a nonadmitted insurer.

8 V.S.A. section 5026 is amended to provide that where Vermont is the home state of the insured, surplus lines brokers shall not knowingly place or continue surplus lines insurance with non-admitted insurers who are insolvent or unsound financially, and in no event shall any surplus lines broker place any insurance with a non-admitted insurer unless such insurer has and maintains capital and surplus or its equivalent under the laws of its domiciliary jurisdiction that equals the greater of: (A) the minimum capital and surplus requirements under the law of this state; or (B) $15 million; and, if an alien insurer, is listed on the quarterly listing of alien insurers maintained by the NAIC International Insurers Department.

Notwithstanding the capital and surplus requirements of this section, a non-admitted insurer may receive approval upon an affirmative finding of acceptability by the commissioner. The finding shall be based upon such factors as quality of management, capital and surplus of any parent company, company underwriting profit and investment-income trends, market availability, and company record and reputation within the industry. In no event, however, shall the commissioner make an affirmative finding of acceptability when the surplus lines insurer's capital and surplus is less than $4,500,000.

8 V.S.A. section 5035 is amended to provide that where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable for premium tax shall be computed based on gross premiums charged, less any return premiums, as follows:

(1) An amount equal to three percent on that portion of the premiums applicable to properties, risks, or exposures located or to be performed in Vermont; plus

(2) An amount equal to a percentage on that portion of the premiums applicable to properties, risks, or exposures located or to be performed outside Vermont. Such percentage shall be determined based on the laws of the jurisdiction within which the property, risk, or exposure is located or to be performed.

8 V.S.A. section 4807 is amended to require the commissioner to participate in the National Insurance Producer Database of the NAIC, or any other equivalent uniform national database, for the licensure of surplus lines brokers and the renewal of such licenses by July 1, 2012.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

The enacted law is also tracked in the PCI *Legislative Tracking Report* and the *New Law Alert*. Sign up for daily, weekly, or monthly email delivery of these reports under My Profile, Subscriptions, State Publications.

PCI Property Casualty Insurers Association of America
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Enacted Law Bulletin

March 29, 2011

State:	Virginia
Topic:	Licensing of Surplus Lines Brokers and Premium Tax Liability
Impact:	Surplus Lines
Effective Date:	July 1, 2011
Bill Number:	H-2286
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Micaela Isler, 404-844-8230 micaela.isler@pciaa.net

Executive Summary

H-2286 was approved on March 24, 2011. This bill amends the surplus lines insurance law, including eliminating the requirement that a surplus lines broker be licensed in Virginia unless the broker is selling, soliciting, or negotiating contracts of insurance for insureds whose home state is Virginia, requiring that surplus lines premium taxes be collected for risks whose home state is Virginia, and establishing eligibility requirements for the approval of unlicensed insurers in Virginia. The law takes effect July 1, 2011.

Significant Provisions

Issuance of Surplus Lines Broker License

Section 38.2-1857.1 of the Code of Virginia is amended to provide that nothing in this article or in Chapter 48 (Section 38.2-4806 et seq.) of this title applies to the sale, solicitation, or negotiation of contracts of insurance for any insured whose home state is a state other than this Commonwealth.

Section 38.2-4805.2 defines “home state” for the purposes of surplus lines insurance coverage as: (i) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence or (ii) if 100 percent of the insured risk is located out of the state referred to in clause (i) of this definition, "home state" means the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated. When more than one insured from an affiliated group are named insureds on a single insurance contract, "home state" means the state of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

Applications for Surplus Lines Broker License

Section 38.2-1857.2 is amended to require a business entity applying for a license as a surplus lines broker that is not a resident of this Commonwealth to designate a producer licensed in his home state to be responsible for the business entity’s compliance with the insurance laws, rules, and regulations of the Commonwealth.

Premium Tax

Section 38.2-4809 is amended to provide that, for policies effective on or after July 1, 2011, payment of taxes for surplus lines brokers shall be made based on the direct gross premium income derived from policies for insureds whose home state is this Commonwealth.

Surplus lines brokers subject to the provisions of this chapter are required to annually, by March 1, to report under oath to the Commission, upon a form prescribed by the Commission, the direct gross premium income derived from policies for insureds whose home state is this Commonwealth during the preceding year ending December 31. Failure to file the report will result in a $50 fine for each day's failure to file the report. Additionally, for the failure to pay the premium license tax within the time required, a penalty of 10 percent of the amount of the tax and interest at a rate equal to the rate of interest established pursuant to Section 58.1-15 for the period between the due date and the date of full payment will be added. The Commission shall notify a surplus lines broker of all additional amounts owed, and the surplus lines broker is required to pay such amounts within 14 days of the date of the notice. Upon good cause shown, the Commission may accept late payment of the premium license tax exclusive of penalties; however, interest shall be paid on such tax.

Foreign Insurers

Section 38.2-4811 is amended to provide that an unlicensed foreign insurer wishing to be approved by the Commission to issue surplus lines coverage may receive such approval upon providing the following:

- Evidence that it is authorized to write the type of insurance in its domiciliary jurisdiction; and
- Proof that it has capital and surplus or its equivalent under the laws of its domiciliary jurisdiction, which equal the greater of (i) the minimum capital and surplus requirements under sections 38.2-1028, 38.2-1029, 38.2-1030, or 38.2-1031, or (ii) $15 million.

An unlicensed alien insurer shall be deemed approved by the Commission if such insurer is listed on the Quarterly Listing of Alien Insurers maintained by the NAIC International Insurers Department.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

April 12, 2011

State:	Washington
Topic:	Surplus Lines
Impact:	Not Line Specific
Effective Date:	90 Days After Adjournment of the Legislature
Bill Number:	H-1694
PCI Legislative Analyst:	Carl Walsh, 847-553-3695 Carl.Walsh@pciaa.net
PCI Regional Manager:	Kenton Brine, 360-915-6268 Kenton.Brine@pciaa.net

Executive Summary

On April 11, 2011, Washington Governor Chris Gregoire signed House Bill 1694 into law regarding surplus lines insurance, to take effect 90 days after adjournment of the legislature.

Significant Provisions

The following changes go into effect 90 days after the adjournment of the Washington legislature unless elsewhere indicated in what follows.

RCW § 48.15.040 is amended, effective July 21, 2011, to provide that surplus lines property and casualty insurance must be procured through a licensed surplus lines broker and in accordance with the laws and rules of the insured's home state, and moreover that at the time the broker procures insurance the broker must certify diligent search efforts with a filing to the commissioner within 60 days (formerly within 30 days) afterward. This is set to expire on December 31, 2016, after which § 48.15.040 continues as amended but without subsection (6) excluding joint underwriting associations established or authorized by the legislature from consideration under Washington law as authorized insurers.

A new section is added to Chapter 48.15, effective July 21, 2011, authorizing the commissioner to participate in any future national insurance producer database for the licensure of surplus lines brokers. Also effective July 21, 2011, a new section is added to Chapter 48.15 permitting a surplus lines broker to place insurance with an unauthorized insurer for an exempt commercial purchaser, defined in a new definitions section under this act, provided: (1) the purchaser has been received adequate disclosure from the broker about the availability or unavailability that coverage in the admitted market that may be available, along with disclosure as to the protections and administrative oversight available in the admitted market; and (2) the purchaser has requested such coverage in writing, the broker maintaining sufficient records of the transaction in accordance with RCW § 48.15.100.

§ 48.15.090 is revised to change the minimum capital and surplus requirements for surplus lines insurers to an amount equaling the greater of: (1) the minimum capital and surplus requirements under the laws of Washington or (2) $15,000,000. The commissioner, within limits, may relax this requirement in individual cases in accordance with suitable findings of financial and managerial soundness.

§ 48.15.110 is amended to provide that when an insured's home state is other than Washington, a surplus line broker does not need to include the insurance procured for that insured in the annual filing the broker must file under this section verifying all surplus line insurance transacted by the broker during the preceding calendar year.

Finally, § 48.15.120 is amended to provide that for property and casualty insurance other than industrial insurance, if an insured's home state is Washington, the premium tax which surplus lines broker must remit to the commissioner must be computed upon the entire premium without regard to whether the policy covers risks or exposures located in Washington. For all other lines of insurance, if a surplus line policy covers risks or exposures only partially in Washington, the tax must be computed on the proportion of the premium allocable to the risks or exposures located in Washington.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Property Casualty Insurers Association of America
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Enacted Law Bulletin

April 11, 2011

State:	West Virginia
Topic:	Amends Surplus Lines Insurance Law
Impact:	Surplus Lines
Effective Date:	July 1, 2011
Bill Number:	S-435
PCI Legislative Analyst:	Sue Depner, 847-553-3806 susan.depner@pciaa.net
PCI Regional Manager:	Jeff Junkas, 847-553-3678 Jeffrey.junkas@pciaa.net

Executive Summary

S-435 was approved by both houses of the legislature on March 12, 2011. This bill amends the surplus lines insurance law in order to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010. It takes effect July 1, 2011.

Significant Provisions

Placement of Surplus Lines Insurance

Section 33-12C-5 is amended to add a provision that states the placement of surplus lines insurance is subject to this section only if this state is the insured's home state. "Home state" is defined, with respect to an insured, as: (1) The state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or (2) If 100 percent of the insured risk is located out of the state referred to in subdivision (1) above, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

This section states that surplus lines insurance may be placed by a surplus lines licensee if the full amount or line of insurance cannot be obtained from insurers who are admitted to do business in this state. The full amount or type of insurance may be procured from eligible surplus lines insurers, provided that a diligent search is made by the individual insurance producer among the insurers who are admitted to transact and are actually writing the particular type of insurance in this state if any are writing it. This provision is amended to provide that such a search is not required when the licensee is seeking to procure or place nonadmitted insurance for an exempt commercial purchaser if the licensee disclosed to such purchaser that the insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight and that the purchaser has subsequently requested in writing that the licensee procure or place the insurance from a nonadmitted insurer. "Exempt commercial purchaser" is defined as any person purchasing commercial insurance that, at the time of placement, employs or retains a qualified risk manager to negotiate insurance coverage, has paid aggregate nationwide commercial property and casualty insurance premiums in excess of $100,000 in the immediately preceding 12 months, and meets at least one of the following criteria:

(1) Has a net worth in excess of $20 million;

(2) Generates annual revenues in excess of $50 million;

(3) Employs more than 500 full-time or full-time equivalent employees per individual insured or is a member of an affiliated group employing more than 1000 employees in the aggregate;

(4) Is a not-for-profit organization or public entity generating annual budgeted expenditures of at least $30 million; or

(5) Is a municipality with a population in excess of 50,000 persons; provided, that on January 1, 2015, and every five years thereafter, the amounts in subdivisions (1), (2), and (4) of this subsection shall be adjusted to reflect the percentage change for such five-year period in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the federal Department of Labor.

Surplus Lines Tax

Section 33-12C-7 is amended to increase the amount of premium tax surplus lines insurers are required to pay from four percent to four and fifty-five one-hundredths percent. This section is further amended to provide that where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state and this state is the insured's home state, the sum payable will be computed on that portion of the gross premiums allocated to this state, plus an amount equal to the portion of the gross 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 of this state, and less the amount of gross premiums allocated to this state and returned to the insured due to cancellation of policy; provided that the surcharge imposed by Section 33-3-33 on surplus lines policies (surcharge on fire and casualty insurance policies to benefit volunteer and part-volunteer fire departments, Public Employees Insurance Agency, and municipal pension plans) shall no longer be effective with respect to premium attributable to coverage under such policies for periods after June 30, 2011. However, 12 percent of taxes collected under this subsection with respect to premium attributable to coverage under such policies after June 30, 2011, shall be disbursed and distributed in accordance with subsection (d) of Section 33-3-33 and 88 percent in accordance with subdivision 2, subsection (f) of this section.

Further amendments to this section authorize the commissioner to participate in a clearinghouse established through the Nonadmitted Insurance Multi-State Agreement or in a similar allocation procedure for the purpose of collecting and disbursing to signatory states any funds collected pursuant to this section that are allocable to properties, risks, or exposures located or to be performed outside of this state; provided that 12 percent of any moneys received from a clearinghouse or through a similar allocation procedure is subject to the provisions of subsection (d) of Section 33-3-33 and 88 percent of such moneys is subject to the provisions of subdivision (2), subsection (f) of this section; provided, however, that to the extent other states where portions of the properties, risks, or exposures reside have failed to enter into the Nonadmitted Insurance Multi-State Agreement or a similar allocation procedure with this state, the net premium tax collected shall be retained by this state and be disbursed and distributed in the same manner as moneys received through a clearinghouse or similar allocation procedure.

Surplus Lines Licenses

Section 33-12C-8 is amended to clarify that a person cannot procure a contract of surplus lines insurance with a nonadmitted insurer for an insured whose home state is West Virginia unless the person possesses a current surplus lines insurance license issued by the commissioner.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State, and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

April 19, 2012

State:	Wisconsin
Topic:	Enacts Omnibus Insurance Bill
Impact:	Not Line Specific
Effective Date:	April 20, 2012
Bill Number:	S-378 (Act 224)
PCI Legislative Analyst:	Christine E. Bourseau, 847-553-3757 christine.bourseau@pciaa.net
PCI Regional Manager:	Jeffrey Junkas, 847-553-3678 jeffrey.junkas@pciaa.net

Executive Summary

S-378 (Act 224) was recently approved and becomes effective April 20, 2012. This law makes various changes to the Wisconsin Insurance Code, including technical and conforming changes.

The amendments to the Insurance Code accomplish the following: allow an intermediary to procure surplus lines insurance from an insurer not licensed in Wisconsin, under certain conditions; exempt surplus lines insurance from the requirement to file forms with Office of Commissioner of Insurance (OCI), including forms with arbitration clauses; revise mandatory motor vehicle liability insurance provisions to distinguish between a commercial liability policy and a commercial automobile liability policy; revise the insurance security fund to allow a claim arising from a retained asset account; and revised the maximum payout for certain claims from the insurance security fund.

Please see the attached Act Memo from the Wisconsin Legislative Council for more detailed information.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

March 16, 2012

State:	Wyoming
Topic:	Wyoming Amends Surplus Lines Law
Impact:	Not Line Specific
Effective Date:	March 8, 2012
Bill Number:	H-15
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Kelly Campbell, 303-830-6772 kelly.campbell@pciaa.net

Executive Summary

Wyoming has enacted House Bill 15 which amends the surplus lines law in Chapter 11 of Title 26 of the Wyoming Statutes to conform with the federal Non-Admitted and Reinsurance Reform Act. The law became effective immediately upon the governor's approval on March 8, 2012.

Technical Amendments to Sections in Chapters 3 and 9

Section 2 makes technical or conforming amendments to Sections 26-3-102, 26-9-201, 26-9-207, and 26-9-230 in Chapters 3 and 9 of Title 26 of the Wyoming Statutes.

Surplus Lines Law Amendments (Chapter 11)

H-15 amends the Surplus Lines Law set forth in Chapter 11 of Title 26 as follows:

Section 26-11-101 changes the name of Chapter 11 from the "Surplus Line Law" to the "Nonadmitted Insurance Law."

Section 26-11-102 is amended to add language providing that the placement of nonadmitted insurance shall be subject to the statutory and regulatory requirements solely of the insureds' home state. Language also has been amended to provide that the section will not supersede a state law, rule, or regulation that restricts the placement of workers' compensation insurance or excess insurance for self-funded workers' compensation plans with a nonadmitted insurer.

Section 26-11-103 amends the definitions of "export," "home state," and "nonadmitted insurance" and adds new definitions for the terms "affiliate," "affiliated group," "business entity," "control," "independently procured insurance," "kind of insurance," "nonadmitted insurer," "premium tax," "principal place of business," "principal place of residence," "qualified risk manager," "surplus lines broker," "type of insurance," and "wet marine and transportation insurance."

Section 26-11-104 amends the conditions under which insurance may be procured from a nonadmitted insurer. The section requires a surplus lines broker to verify that a properly conducted diligent effort search was performed and documented; the insurer is an eligible insurer; the insurer is authorized to write the kind of insurance in its domiciliary jurisdiction; and all other requirements of Chapter 11 are met. The diligent effort requirements do not

apply if the broker is seeking to place nonadmitted insurance for an exempt commercial purchaser. The section sets forth those requirements.

Section 26-11-105 requires a surplus lines broker who has placed insurance for a policyholder whose home state is Wyoming to file a surplus lines transaction report with the insurance commissioner. The broker must file the report within 45 days after placing surplus lines coverage and must set forth in the report (1) the name and address of the insured; (2) the identity of the insurer(s); (3) a description of the subject and location of the risk; (4) the amount of premium charged for the insurance; (5) tax allocation information detailing the portion of the premium attributable to properties, risks or exposures located in each state; and (6) any other information required by the commissioner.

Section 26-11-106 includes technical changes.

Section 26-11-107 includes new language requiring a surplus lines broker to ensure that the nonadmitted insurer with whom s(h)e is placing coverage is an eligible insurer or is in sound financial condition and has satisfactory claims practices. This section also places responsibilities upon the nonadmitted insurer, including ensuring that it is authorized to write the kind of insurance in its domiciliary jurisdiction; that it has established satisfactory evidence of good repute and financial integrity; and satisfies minimum capital and surplus requirements set forth in the statute.

Section 26-11-108 requires a surplus lines broker to provide to the policyholder or the producer evidence of surplus lines insurance, which may include a cover note or binder. This section has been amended to require the broker to deliver a copy of the policy or a certificate of insurance to the insured or producer to replace any evidence of insurance previously issued as soon as reasonably possible. The certificate or policy should contain or have attached a complete record of all policy insuring agreements, conditions, exclusions, endorsements, and any other material facts that would regularly be included in the policy.

Section 26-11-109 has been amended to require the surplus lines statement about the licensing status of the surplus lines insurer to be in at least 10 point bold type font and to contain the name and address of the surplus lines broker who procured the coverage. The statement should also indicate that losses will not be paid by the Wyoming Insurance Guaranty Association in the event of the surplus lines insurer's insolvency. The section provides that the contract between the broker and the insured shall not be binding until the insured is provided with the surplus lines statement.

Section 26-11-110 includes a technical change.

Section 26-11-111 includes technical changes.

Section 26-11-112 specifies conditions under which the insurance commissioner may issue a resident surplus lines broker license to a qualified holder of a current property and casualty producer license.

Section 26-11-113 specifies conditions under which the commissioner may take adverse action against a surplus lines broker. Adverse action includes placing on probation or suspending, revoking, or refusing to issue or renew a license. It also includes levying a civil penalty. Specific conditions under which the commissioner may take adverse action include removal of the resident surplus lines broker's license from the state; removal of office accounts and records from the state; failure to make and file reports when due; failure to remit the tax on surplus lines premiums; failure to maintain a bond; and violation of any provision of Chapter 11.

Section 26-11-116 has been amended to update the type of information that a surplus lines broker must maintain for examination by the commissioner, such as taxes to be collected from the insured, the allocation of taxes, and the producer's identity.

Section 26-11-117 requires the surplus lines broker to file a verified report with the commissioner by March 1 of each year of all surplus lines insurance transacted during the preceding calendar year. The report should indicate

the aggregate gross premiums written; the aggregate of net premiums; the amount of aggregate tax remitted to the state; and the amount of aggregate tax due or remitted to each other state for which an allocation is made. The report should also include the broker's diligent effort affidavit.

Section 26-11-118 has been amended to require the broker to pay interest on the amount of any delinquent tax due, at the rate of 9 percent per year, compounded annually, beginning the day the amount becomes delinquent. New language in the section authorizes the commissioner to use the allocation schedule included in the nonadmitted insurance multistate agreement for the purpose of allocating risk and computing the tax due on the portion of premium attributable to each risk classification and to each state where properties, risks or exposures are located.

Section 26-11-119 has been amended to authorize a fine of up to $25 per day, plus interest, on a surplus lines broker or insured who independently procures insurance and fails to timely file annual and tax reports with the insurance commissioner.

Section 26-11-120 includes a technical change.

Section 26-11-122 includes a technical change.

Section 1 of House Bill 15 enacts Section 26-11-124 in the Wyoming Statutes. This new section requires a policyholder who has obtained insurance from a nonadmitted insurer, other than through a surplus lines broker, to file a report with the insurance commissioner within 45 days after obtaining the insurance. The report should be filed on forms approved by the commissioner and should include the name and address of the policyholder and the insurer, the subject of insurance, a general description of the coverage, the amount of premium currently charged, and additional information requested by the commissioner.

Repealed Sections

H-15 repeals Sections 26-11-107(a) and (b), 26-11-108(d), 26-11-112(a) through (d), 26-11-113(a)(i) and (ii), and 26-11-116(a)(ix).

Effective Date

H-15 became effective immediately upon the governor's approval on March 8, 2012.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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Enacted Law Bulletin

March 10, 2011

State:	Wyoming
Topic:	Wyoming Enacts Surplus Lines Reform
Impact:	Not Line Specific
Effective Date:	July 1, 2011
Bill Number:	H-242
PCI Legislative Analyst:	Tina Crum, 847-553-3804 tina.crum@pciaa.net
PCI Regional Manager:	Kelly Campbell, 303-830-6772 kelly.campbell@pciaa.net

Executive Summary

Wyoming has enacted House Bill 242 which brings the surplus lines insurance statutes into conformity with the federal Nonadmitted and Reinsurance Reform Act of 2009. The law becomes effective on July 1, 2011.

Surplus Lines Reform

House Bill 242 adds and amends provisions in its Surplus Line Law as follows:

- Enacts Section 26-11-123 which authorizes the insurance commissioner to participate in a nonadmitted insurance multistate agreement or compact.
- Amends Section 26-11-103(a) by adding definitions for the terms “admitted insurer,” “home state,” “nonadmitted insurer,” and “reciprocal state.”
- Enacts Section 26-11-112 which requires a surplus lines broker procuring insurance for an insured whose home state is Wyoming to hold a surplus lines license issued by the insurance commissioner.
- Repeals and replaces the surplus lines tax provisions in subsections (a) and (b) of Section 26-11-118 with new language. The new provision specifies the manner in which a surplus lines broker is to compute the tax on surplus lines. The amended provision authorizes the insurance commissioner to participate in a multistate compact, reciprocal agreement or clearinghouse with other states for the purpose of collecting, allocating and disbursing funds collected under Section 26-11-117(c).

Effective Date

H-242 was approved by the governor on March 2, 2011 and becomes effective on July 1, 2011.

Additional Information

Bill text is available on the PCI member Web site, www.pciaa.net. Select Advocacy, State and use the Legislation and Regulation Database link.

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