

PSLA News

NEWSLETTER FOR THE PENNSYLVANIA SURPLUS LINES ASSOCIATION



Electronic Filing Process To Become Mandatory – January 1, 2009

All surplus lines filings and endorsements, monthly reports and copies of annual surplus lines tax returns must be filed electronically on and after January 1, 2009. PSLA recommends that you register for the electronic filing feature as soon as possible and take advantage of this significantly more efficient method that will benefit your agency record keeping.

For further information and a complete description of this process, visit the PSLA web site section devoted exclusively to the Electronic Filing System by clicking here.

Electronic Filing Issues

The PSLA Stamping Office has experienced an increase of repeated filing return and data entry issues by those licensees filing electronically. This has caused a substantial upswing in the number of telephone calls and e-mails requesting instructions on how to enter the required data. Many of these telephone inquiries involve items that may be answered by reviewing the procedures manual available on the PSLA web site. These issues plus any other questions you may have are also discussed regularly in the monthly workshops presented by the PSLA.

Since a number of these issues affect compliance requirements and internal efficiencies (cost) of a given

agency and its individual surplus lines licensee, PSLA will begin notifying both the designated filing return person AND the individual surplus lines licensee of record. The PSLA's goal is that this notification will encourage those responsible to seek and utilize the appropriate training which is and always has been available. More importantly, this notification process will keep the surplus lines licensee, who is ultimately responsible, up to date regarding the status of the filing process in their agency.

A comprehensive description of the Electronic Filing issues can be found in the July 23, 2008 Bulletin issued by Ken Rudert, Executive Director of the PSLA. A copy of the July 23rd Bulletin can be downloaded by clicking here.

Update to Eligible Surplus Lines Insurer List

On September 9, and October 14, 2008, the Pennsylvania Insurance Department has announced updates to the Eligible Surplus Lines Insurer List. You can obtain these updates from the PSLA website by clicking here.



Save the Date! 2009 Annual Meeting April 8-9, 2009 Wyndham Gettysburg Hotel, Gettysburg, PA

Watch your e-mail for more information and check the PSLA's website for details!



PSLA Workshops

PSLA offers two workshops to help Resident and Non-Resident Licensees understand Pennsylvania Surplus Lines Law and filing procedures and to educate licensees about how to make electronic filings.

One workshop reviews the material covered in the Pennsylvania Surplus Lines Procedures Manual. PSLA's goal is to educate all parties involved in making a surplus lines placement.

The other workshop reviews material covered in the Electronic Filing User Manual located on the PSLA website. This Workshop and Manual will help resident and non-resident licensees learn the procedures for submitting affidavits "filings" and reports over the internet.

Each Workshop is held monthly via WebEx from 1:00pm-3:00pm EST. Registration details and dates can be found by clicking here.

Federal Update



» The Nonadmitted and Reinsurance Reform Act of 2007 ("NRRRA")

Although the NRRRA (S. 929) was introduced in the Senate in early 2007, the Senate has not taken any action on the Bill. The Senate is not likely to take any action for the remainder of the 110th Congress. Accordingly the NRRRA will have to be reintroduced in the 111th Congress.

» NARAB II

On September 17th the US House of Representatives passed the National Association of Registered Agents and Brokers Reform Act of 2008 (HR 5611) and sent the bill to the Senate. However, the Senate is not likely to take up the bill in this session of Congress. This bill amends the Gramm-Leach-Bliley Act to reestablish the National Association of Registered Agents and Brokers as a nonprofit corporation whose purpose is to provide a mechanism through which licensing, continuing education, and other insurance producer qualification requirements and conditions can be adopted and applied on a multi-state basis, while preserving the right of states to: (1) license, supervise, and discipline insurance producers; and (2) prescribe and enforce laws and regulations regarding insurance-related consumer protection and unfair trade practices.

» Congress Extends National Flood Insurance Plan Until Next March

The US Senate and House approved legislation to extend the National Flood Insurance Program until March 6, 2009.

The House and Senate had failed to agree on the details of a longer term extension earlier in the session. Among the dividing issues are whether to add wind coverage to the flood program and whether to forgive NFIP's debt.

» NAIC and Surplus Lines

During the NAIC Fall Meeting in Washington DC the Surplus Lines Task Force met on September 23rd. The Task Force

- Discussed the reporting of Medical Professional Liability Insurance Data.
- Discussed the current definition of "Home State" in the Nonadmitted and Reinsurance Reform Act of 2007 ("NRRRA"), as well as the definition recommended by the NAIC Government Relations Leadership Council (GRLC). This definition establishes the home state as the sole regulator for a given surplus lines transaction. The Home State would collect premium taxes on a multi-state surplus lines policy. Thereafter, the taxes are expected to be shared among the applicable states on an equitable basis.
- Discussed the establishment of a clearing house for allocating multi-state surplus lines premium taxes. The Task Force voted to reinstate the Multi-state Tax Working Group of the Surplus Lines (C) Task Force to further analyze this option.
- Discussed issues regarding form and rate regulation for surplus lines and the need for the Task Force to further consider addressing this issue.

State Update

» Essex Ins. Co. v. Zota

The June 2008 decision of the Florida Supreme Court in Essex Insurance Company v. Mercedes Zota has called into question the broad exemption historically applied to surplus lines insurance under Florida law.

In Essex the Florida Supreme Court answered a question certified to it by the US Court of Appeals for the Eleventh Circuit: Whether the provisions embodied in Section 626.922, Florida Statutes (requiring surplus lines insurers to issue and deliver insurance policies) or Section 627.421 (requiring licensed insurers to deliver insurance policies to insureds within a specified timeframe) require a surplus lines insurer to deliver the policy directly to an insured and not just to the insured's agent.

The Court answered in the negative, upholding the common law rule that delivery to the insured's agent was sufficient.

Though not necessary for the Court to reach its decision, the Court also addressed the scope of Florida's surplus lines exemption. Chapter 627 of the Florida Statutes contains Florida's rating law as well as content and filing requirements for policy forms and most other policyholder-related provisions. In Essex, Florida's highest court held that the exclusionary provision of Section 627.021(2), Florida Statutes, was intended to exempt surplus lines insurance only from the rating law, and not

from all of the other provisions of Chapter 627. Based upon its interpretation, the Court found that both Section 627.421 and Section 627.428 (allowing for the award of attorney's fees) were applicable to surplus lines insurance.

» CNL Hotels & Resorts v. Twin City Fire Insurance Company

In the case of CNL Hotels & Resorts v. Twin City Fire Insurance Company the US Court of Appeals for the Eleventh Circuit, relying on the Florida Supreme Court's decision in Essex, held that §427.410, Florida Statutes, (filing, approval of forms) applies to surplus lines insurance.

The Florida Office of Insurance Regulation ("OIR") has filed an Amicus Curiae brief in support of the insurance companies' petition for a panel rehearing in the CNL Hotels & Resorts case. In its brief the OIR stated that "Historically, the Office has only reviewed form filings made by licensed property and casualty insurance companies; companies who write insurance as surplus lines carriers have never been required to file for review the forms they use in the State of Florida."

The PSLA will continue to monitor this situation and keep PSLA members informed of developments.

Continuing Education

Insurance Coverage and Bad Faith

November 7, 2008
9:00am - 12:15pm

Locations: Exton, Harrisburg, Chadds Ford and Warrendale (Pittsburgh area). The class will be presented live in Exton and by webconference in the other locations.

[Click here for more information and a Registration Form.](#)

Insurance Fraud

December 3, 2008
1:00pm - 4:00pm

Locations: Exton, Harrisburg, Chadds Ford and Warrendale (Pittsburgh area). The class will be presented live in Exton and by webconference in the other locations.

[Click here for more information and a Registration Form.](#)

Questions? Contact Paul Spector at 610-225-2639 or at memberservices@psla.org