



National Association of Professional Surplus Lines Offices, Ltd.

200 N.E. 54th St. • Suite 200 • Kansas City, MO 64118 • 816/741-3910 • Fax 816/741-5409
www.napslo.org

Richard M. Bouhan
Executive Director

May 6, 2010

Mr. John W. Bauer
Chief Counsel, Regulatory Affairs
National Association of Insurance Commissioners
2301 McGee Street, Suite 800
Kansas City, MO 64108

RE: Maine NARAB Questionnaire

Dear Mr. Bauer:

NAPSLO would like to briefly comment about the Maine responses to the NARAB Working Group survey. The survey responses indicate that an underlying P&C license is not required as a precondition for obtaining a non-resident surplus lines broker's license but goes on to say:

“But we do require them to hold the same license authorities here that their home state requires of them to have surplus lines. Therefore in most cases they need an underlying general lines or P&C license.”

We believe that the position taken by Maine is not consistent with Gramm-Leach-Bliley reciprocity standards. GLBA provided specific criteria for reciprocity and did not rely upon other usages of the term. Maine's position might be consistent with some concepts of reciprocity, but it is not consistent with the standards of GLBA.

Specifically GLBA provides that:

“At least a majority of states permit a producer that has a resident license for selling or soliciting the purchase of insurance in its home state to receive a license to sell or solicit the purchase of insurance in such majority of states as a nonresident to the same extent that such producer is permitted to sell or solicit the purchase of insurance in its state, if the producer's home state also awards such licensing on a reciprocal basis, without satisfying any additional requirements other than submitting:

- a) Request for licensure;
- b) The application for licensure that the producer submitted to its home state;
- c) Proof that the producer is licensed and in good standing in its home state;
- d) The payment of the requisite fee to the appropriate authority.”

Maine's requirement that the non-resident P&C license is a prerequisite for a nonresident surplus lines license violates GLBA because it constitutes an “additional requirement.” GLBA does not allow a state to be counted as reciprocal if it has imposed

May 6, 2010
Page Two

additional requirements on a non-resident broker. The surplus lines wholesale broker would not need a P&C license because the wholesaler does not complete the diligent search of admitted markets. A broker would need a P&C license to complete a diligent search because it is necessary to take an application, make a submission, and possibly complete the sale of insurance. In the case of a surplus lines wholesaler, the diligent search is completed by the retail broker, who possesses a P&C license.

Although Maine is like nearly all states in requiring the diligent search, Maine does not require a wholesale broker to complete a second, redundant diligent search. Because the first diligent search is deemed adequate there is no regulatory reason for a surplus lines wholesale broker to have an underlying P&C license. Requiring an underlying P&C license for a surplus lines wholesaler would appear to be an "additional requirement" under GLBA.

We believe it is in the best interest of all involved if as many states as possible are certified as reciprocal under GLBA. If there is anything NAPSLO can do to further that objective, please let us know.

Yours truly,

A handwritten signature in cursive script that reads "Steven P. Stephan".

Steven P. Stephan, J.D., CPCU, ARe
Director of Government Relations