



National Association of Insurance Commissioners

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Surplus Lines Insurance Reform

- *Conflicting state oversight and licensing rules governing surplus lines insurance and surplus lines brokers, particularly for premium tax collection and allocation, should be resolved through a state compact or through federal legislation.*
- *A state compact that simplifies the premium tax collection and allocation for surplus lines relieves brokers of a complicated and conflicting compliance problem, and ensures that states are collecting all the revenues they are due.*
- *There is broad industry and Congressional consensus for reforming surplus lines and reinsurance oversight as legislation addressing this issue passed the House twice in a 9 month span.*

Issue Background

Surplus lines insurance (non-admitted insurance) is insurance for unusual risks where coverage is typically unavailable in the traditional marketplace. The majority of these policies are purchased by sophisticated commercial entities to cover commercial risk and they are typically less regulated than traditional insurance products. There are conflicting state rules and tax allocation policies for surplus lines insurance, and given the business-to-business nature of the coverage, a simplified system is appropriate for this particular product. Developing a common premium tax allocation system, and providing a single point of contact for premium tax collection, simplifies the process for surplus lines brokers and ensures compliance so states collect what they are owed.

Legislation that addresses this issue, and reinsurance oversight, passed the House unanimously in 2006 and 2007. Parallel to the legislation, a group of interested parties, with input from regulators, continues working on a draft interstate compact model that would address the problem without the need for federal legislation.

Key Points

- H.R. 1065 and S. 929 call for a “home state” deference system where only the rules and regulations of the insured’s home state would apply to a surplus lines policy, regardless of how many states the risk is spread over.
- For business-to-business risks where a contract is negotiated between sophisticated commercial purchasers, a single state or home state regulatory approach is appropriate.
- Streamlining the regulatory process for surplus lines insurance should not hinder the ability of states to collect and share data related to surplus lines policies providing medical malpractice coverage.
- Streamlining the regulatory process for surplus lines insurance should not induce companies to shift risk that should be covered by the admitted market into the non-admitted market.

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