



STATE OF ALASKA  
DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Division of Insurance

*Sean Parnell, Governor*  
*Susan K. Bell, Commissioner*  
*Linda S. Hall, Director*

## **BULLETIN B 11-08**

**TO: ALL INSURERS ELIGIBLE TO WRITE NONADMITTED INSURANCE IN THE STATE OF ALASKA, ALL LICENSED SURPLUS LINES BROKERS, ALL INSUREDS INDEPENDENTLY PROCURING NONADMITTED INSURANCE AND OTHER INTERESTED PARTIES**

**RE: NEW ALASKA SURPLUS LINES REQUIREMENTS CONTAINED IN HB 164**

This bulletin will outline new Alaska requirements for surplus lines and the transition requirements necessary to establish new processes and procedures. These requirements arise out of changes to Alaska's surplus lines laws that were enacted in the last legislative session under sections of SCS CSHB 164 (L&C), which became effective on July 21, 2011.

### **Eligibility requirements for Surplus Lines Insurers**

The director will continue to maintain a list of eligible surplus lines insurers. The Nonadmitted and Reinsurance Reform Act of 2010 (NRRRA) restricts the requirements Alaska may impose on a company to be an eligible nonadmitted insurer. The director will approve a foreign insurer's request for eligibility if the insurer

- maintains capital and surplus of \$15,000,000 and provides a copy of its annual statement including all supplementary reports, exhibit, and schedules required by the National Association of Insurance Commissioners (NAIC); and
- provides a certification that it is authorized to write such insurance in its domiciliary jurisdiction.

A non-United States insurer (alien) is considered eligible to write insurance on an unauthorized basis in Alaska if it is listed on the quarterly listing of alien insurers maintained by the NAIC. Alien insurers that are not on the quarterly listing and want to write business in Alaska must apply for approval to be listed on the eligible surplus lines insurer list. The director may approve an alien insurer's request for eligibility if the nonadmitted insurer

- establishes satisfactory evidence of good report and financial integrity;
- maintains capital and surplus of \$15,000,000;
- maintains a trust of \$2,500,000 deposited in a U.S. financial institution;
- submits a completed application form 08-1241, the required fee of \$1,000, and consents to service of process and forwarding designation (forms 08-253 and 08-254); and
- submits designation of persons to contact (form 08-280).

## Licensing Requirements for Surplus Lines Brokers

If Alaska is the insured's home state, the surplus lines broker must be licensed in Alaska in order to sell, solicit, or negotiate nonadmitted insurance with respect to a particular placement.

## Required Filings and Payments by Surplus Lines Brokers

### *Policies effective before July 21, 2011*

New and renewal policies with an effective date before July 21, 2011 will be subject to the laws of Alaska and other jurisdictions in place before July 21, 2011. If the policy is multistate, then just the Alaska portion of the risk will be reported in Alaska regardless of the home state of the insured. Any modification to such a policy during the policy period, such as endorsements and premium audits, will remain under the requirements of the previous laws of Alaska and other jurisdictions.

### *Transition*

For transactions effective or occurring July 1, 2011 – July 20, 2011, a monthly report is required to be filed by August 31, 2011. For those brokers required to file and pay tax quarterly under the previous law, the second quarter tax report for months April, May, and June will still be due August 31, 2011. In order to transition into the new statutory requirements, the division requests that surplus lines brokers file the 2011 annual premium tax report required under 3 AAC 25.110 on or before November 15, 2011 instead of March 1, 2012 and report only those transactions occurring from January 1, 2011 through July 20, 2011. Payment of premium tax **and** filing fees should be received in the division's bank account on or before November 15, 2011 by the Automated Clearing House (ACH) method. For transactions occurring before July 21, 2011 that are not previously filed or are inaccurately filed, the previous statutory and regulatory procedures will still be applicable, including penalties for late filed transactions.

### *Policies effective on or after July 21, 2011*

New and renewal policies with an effective date on or after July 21, 2011, and any modifications to them, will be subject only to the laws of Alaska if Alaska is the home state of the insured.

Under SCS CSHB 164 (L&C), the reporting requirements under AS 21.34.170 have changed from monthly to quarterly reporting and the taxes and fees imposed under AS 21.34.180 and 21.34.190 now must be paid quarterly. SCS CSHB 164 (L&C) also enacted AS 21.34.180(d) which authorizes the director to participate in agreements with other states formed for the purpose of collecting and disbursing surplus lines taxes. On July 21, 2011, Alaska officially executed the Nonadmitted Insurance Multi-State Agreement (NIMA) to become a participating state. A participating state is one that signed the NIMA agreement to share premium tax on policies with multistate exposures with the other NIMA states.

Under NIMA, the quarterly surplus lines tax filings and payments must be filed by the surplus lines brokers on the due date below for the following quarters:

<u>Months in Quarterly Report</u>	<u>Due Date</u>
January, February, March	May 15
April, May, June	August 15
July, August, September	November 15
October, November, December	February 15

Accordingly, surplus lines brokers should make the appropriate tax filings and payments by these dates as required by the cooperative agreement, notwithstanding the dates listed in AS 21.34.170(a). For purposes of imposing fees or penalties for late filings or late payment of taxes, the dates in AS 21.34.170 will be used to determine the amount of any such fees or penalties. Individually licensed surplus lines brokers who work on behalf of a firm are not required to file the quarterly report. The firm must include all business written on its quarterly report. This report will include all transaction details written for the quarter. ***If no business is written for the quarter, no report is required to be filed.***

The first quarterly report due after the new law is effective is the third quarter report for all transactions occurring from July 21, 2011 – September 30, 2011, which should be filed by all surplus lines brokers by November 15, 2011. Payment of the premium tax and fees should be received in the division’s bank account on or before November 15, 2011 by ACH and the amount due will be the actual tax and fees as shown on the tax report. A late filing penalty may be assessed on any quarterly reports received late. A late payment penalty may be assessed on any late payments.

### **Calculation of premium tax and filing fees beginning July 21, 2011**

For new and renewal policies, when Alaska is the insured’s home state, with an effective date on or after July 21, 2011, the tax and fees paid to Alaska will be calculated as follows:

Total premium tax and fees to be collected on each multistate policy = (home state’s tax rate x portion of premium allocated to home state) + (home state’s tax rate x premium allocated to non-participating state if insurer is nonadmitted in that state) + (participating states’ tax rate x premium allocated to each participating state if insurer is nonadmitted in that state).

### **Location of new forms**

Until a clearinghouse is available per the NIMA agreement for the submission of information, the division has created interim forms for submission of information. Once a clearinghouse is operational, another bulletin will be provided with submission details and requirements.

From the division’s home page: [www.commerce.state.ak.us/insurance](http://www.commerce.state.ak.us/insurance) click on Surplus Lines just above the picture, then Surplus Lines Broker Premium Report Forms. There will be two sections, one for forms relating to reporting transactions effective before July 21, 2011 and one for transactions effective on or after July 21, 2011.

### **Definition of Home State**

In the new law, AS 21.34.900(14) defines “home state” as follows:

“home state,” for purposes of determining the home state of an insured in a multistate placement of nonadmitted insurance, is defined as follows:

(A) except as provided in (B) of this paragraph, “home state” means, with respect to an insured,

(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

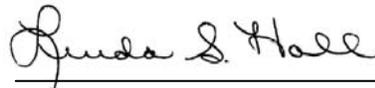
(ii) if 100 percent of the insured risk is located out of the state referred to in (i) of this subparagraph, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated'

(B) if two or more insured from an affiliated group are named insureds on a single policy, "home state" under (A) of this paragraph is based on the member of the affiliated group that has the largest percentage of premium attributed to it under the insurance contract;

(C) for purposes of (A) of this paragraph, the principal place of business of an insured is the state where the insured maintains its headquarters and where the insured's high-level officers direct control and coordinate the business activities of the insured.

If you have questions regarding the survey or instructions, contact Rebecca Nesheim by phone, (907) 465-2584 or Joseph Boyle by phone, (907) 465-2577 or by e-mail at [rebecca.nesheim@alaska.gov](mailto:rebecca.nesheim@alaska.gov) or [joseph.boyle@alaska.gov](mailto:joseph.boyle@alaska.gov)

Dated: July 22, 2011



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Director