



## BULLETIN B 12-05

**TO: ALL PROPERTY AND CASUALTY PRODUCERS, SURPLUS LINES BROKERS, SURPLUS LINES INSURERS, AND OTHER INTERESTED PARTIES**

**RE: COMPLIANCE WITH ALASKA SURPLUS LINES INSURANCE LAWS AND REQUIREMENTS**

On April 25, 2012, Alaska withdrew from the Nonadmitted Insurance Multi-State Agreement (NIMA), effective June 25, 2012. This means that any policy for which the insured's home state is Alaska, regardless of portions of risk located elsewhere, will be considered an Alaska risk and subject to Alaska taxes and fees. The due dates for the new quarterly reports will reflect dates in statute, not the NIMA dates.

For all policies and their respective endorsements with an effective date on or after July 21, 2011, the Report of Surplus Lines Transaction forms are reported on a quarterly basis with the Quarterly Report sent to the Division of Insurance with the taxes and fees paid by ACH on or before the following due dates:

<u>Months:</u>	<u>Due Date:</u>
January, February, March	June 1
April, May, June	September 1
July, August, September	December 1
October, November, December	March 1 of the following year

If a due date falls on a weekend or a holiday, the due date will be the next business day.

In order for an ACH debit payment to be deposited in the State of Alaska's bank account and to be considered on time, the payment must be initiated before 12:00 noon Alaska time the day before the due date. For example, an ACH debit payment initiated on August 31, 2012 at 12:01 p.m. will be received by Alaska on September 5, 2012, not on September 4, 2012 because the electronic request between banks took place at 12:00 noon. An ACH credit payer should contact their bank for initiation rules to ensure the payment is received by Alaska on or before the due date.

- Transition period due to law change effective July 21, 2011  
For an endorsement invoiced to a policy effective before July 21, 2011, the Report of Surplus Lines Transaction and Monthly Premium Report Summaries are sent in to the division on or

before the end of the following month and the taxes and fees are paid when the Annual Premium Tax Report is completed and sent to the division before March 1st of the following year. This process will phase out once all endorsements, audits, and cancellations to policies effective before July 21, 2011 are completed.

The rest of this bulletin is intended to illustrate areas of Alaska insurance law that the division staff has identified as having widespread noncompliance by property and casualty producers, surplus lines brokers, and surplus lines insurers.

- Diligent Search (AS 21.34.020, 3 AAC 25.010, 3 AAC 25.035)

In order for a surplus lines broker to procure insurance from a nonadmitted insurer, documentation must be received **prior to binding** from the producer that a diligent search was conducted among companies admitted to transact business in Alaska and that are actually writing the particular kind or class of insurance required by the insured in Alaska. Documentation can be in any form as long as it includes one of the following:

- (1) documentation of declinations from an admitted insurer;
- (2) evidence that the full amount, kind, or class of insurance could not be obtained from an admitted insurer;
- (3) affirmation that the coverage is on the director's current surplus lines placement list under 3 AAC 25.040 (Note that an admitted quote takes precedence over the placement list. If there is an admitted market available to the producer or surplus lines broker in a transaction, a listing on the placement list does not allow use of the surplus lines market); or
- (4) an exception from the director under AS 21.34.020(a)(4).

An oral declination is acceptable if documented in writing including the name, office location, and phone number of the insurer; the name and position of the person contacted; the date of contact; and the reason for the declination.

- Notification of nonadmitted insurer (AS 21.34.110)

A surplus lines broker is required to maintain a copy of the notification to the insured that the insurer with which coverage is being placed does not hold a certificate of authority issued by Alaska and is not subject to Alaska's supervision, and, in the event of the insolvency of the surplus lines insurer, losses will not be covered under AS 21.80 (Alaska Insurance Guaranty Association Act). If the producing broker provides the insured with this notification, the producing broker is required to provide the surplus lines broker a copy to be maintained in the insured's file. A contract of insurance placed by a surplus lines broker is not binding upon the insured and a premium charged is not due and payable until the insured receives this notification. This notification can be a separate document or included in a quotation, a proposal, a letter, or other similar document.

- Disclosure stamps (AS 21.34.100(e))

Every evidence of insurance negotiated, placed, or procured from a nonadmitted insurer issued by a surplus lines broker must bear the name of the surplus lines broker, which may not be covered, concealed, or obscured by the producing broker, and include the following legend in at least 10-point type: "This is evidence of insurance procured and developed

under the Alaska Surplus Lines Law, AS 21.34. It is not covered by the Alaska Insurance Guaranty Association Act, AS 21.80.” Endorsements are also considered evidence of insurance.

- Alaska Policyholder Notice (AS 21.34.100, 3 AAC 25.050)  
An eligible surplus lines insurer must include in each policy, binder, and cover note an Alaska surplus lines policyholder notice regarding nonrenewal and premium increase, in a format approved by the director. The currently approved format is found in Bulletin 08-06 (<http://www.commerce.state.ak.us/insurance/Insurance/programs/Consumers/Bulletins/2008/B08-06.pdf>). If an insurer prefers to have its own form approved, a form filing can be made to the division for approval.

If you have questions regarding this bulletin, contact Rebecca Nesheim at (907) 465-2584 or [rebecca.nesheim@alaska.gov](mailto:rebecca.nesheim@alaska.gov) or Jeff Bodine at (907) 465-4609 or [jeff.bodine@alaska.gov](mailto:jeff.bodine@alaska.gov).

Dated this 31st day of May, 2012 at Anchorage, Alaska.

  
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Bret S. Kolb  
Director