



General Bulletin #19 New Changes to the Law

To: All Illinois Surplus Line Producers & Interested Parties
From: David L. Ocasek

On August 16, 2001, the Governor signed Public Act 92-0386 into law. This new law, which goes into effect on January 1, 2002, will make many significant changes to the producer licensing and surplus line sections of the Illinois Insurance Code. Below is a synopsis of some of the changes that will affect surplus line producers. You are encouraged to review the entire bill, or consult with your attorney to see exactly how the changes in the law affect you.

Policy Fees / Broker Fees

In the current law, except for commissions, no insurance producer may receive any compensation (for example, "Policy Fees" or "Broker Fees") from any insured unless the producer gives a separate, prior written notice to the insured. A copy of that notice, signed by the insured, must be maintained in file by any producer that collects or receives any portion of that compensation.

Beginning January 1, 2002, under the new law, the producer's copy of the notice must only be signed by the insured if the compensation exceeds 10% of the premium amount, or the potential premium amount, of the policy. Additionally, if the policy is canceled within the first half of the policy period, the compensation must be returned to the insured at a prorated amount. The pro rata return of the compensation must be based on the length of time the policy was in force, compared to the entire term of the policy. No compensation or processing fee may be assessed or received for processing the cancellation.

Nonresident Producer & Surplus Line Licenses

The changes to the producer licensing section of the Insurance Code were prompted by the passage of the federal Gramm-Leach-Bliley Act of 1999. It mandated that a majority of states enact a uniform or reciprocal licensing standard within three years or relinquish licensing to a single, national authority. The states decided that a reciprocal approach would be easier to achieve within the three year deadline.

The new Illinois law provides that, effective January 1, 2002, any nonresident can obtain a license in Illinois if (i) they are licensed in good standing in their home state, and (ii) they submit the proper request together with the proper fee, and (iii) they submit their home state application or the Uniform Application, and (iv) their home state awards nonresident licenses to Illinois producers on the same basis. The same four standards apply to nonresident surplus line licenses.

Surplus Line Prelicensing Course

Effective January 1, 2002, before receiving a new surplus line license, an applicant must complete a prelicensing course. No course is required for renewing a license you already have.

Surplus Line Producer Records

Effective January 1, 2002, the surplus line law has been amended to include a provision requiring a surplus line licensee to keep a complete copy of each surplus line policy procured under their license, on paper or by electronic means.

Surplus Line Electronic Filing

Effective January 1, 2002, the surplus line law has been amended to include a provision allowing for the possibility of filing surplus line documents with the SLA through electronic means. As we explore this possibility and how we can implement it, we will keep you informed. Until then, the procedure of filing original documents, on paper, with the Association remains unchanged.

Surplus Line Service of Suit

For all surplus line policies with an effective date of January 1, 2002 or later, the Service of Suit or Service of Process clause or endorsement will no longer need to contain the name and address of an Illinois resident. The requirement that the insurer name the Director of Insurance as their attorney for Service of Suit remains intact.

Other Changes

We will not be eliminating Firm Memberships in the Association as previously reported.

Currently the SLA generates tax returns for all surplus line licensees. Although not part of the changes to the law, the Department is working on implementing a system whereby surplus line taxes are billed directly to the producer based on a data file provided to the Department by the SLA. They do not expect to begin with this new system at the end of this year, but rather sometime within the next 12 - 18 months. We will keep you advised as we know more about the new procedures.

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