

July 21, 2023



July 2023 Legislative and Regulatory Update

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After very active state legislative sessions, there is a lot of information from around the country on which to update WSIA members. Read below for highlights of the activity impacting the wholesale, specialty and surplus lines industry.

To stay up-to-date on pending legislation and additional surplus lines regulations as states continue their sessions, [please sign up for GovHawk alerts](#). See our [April Legislative Update](#) for other news you might have missed.



Special state updates

NEVADA DEFENSE WITHIN LIMITS LAW | [AB 398](#) prohibits insurers from issuing or renewing a policy of liability insurance that contains a provision that (1) reduces the limit of liability stated in the policy by the costs of defense, legal costs and fees, and other expenses or claims, or (2) limits the availability of coverage for the costs of defense, legal costs and fees and other expenses for claims. The bill will become effective for all new and renewal policies issued on or after October 1, 2023. WSIA engaged in discussions with the Nevada Division of Insurance in cooperation with local and national partners, including the Council of Insurance Agents & Brokers (The Council), to seek an interpretation that the bill does not apply to nonadmitted insurance policies. WSIA and The Council [jointly](#) indicated to the Department that we did not believe the bill could apply to nonadmitted transactions based on legal and regulatory precedent.

On Friday, July 21 the Division of Insurance hosted a public call to provide guidance to the entirety of the industry. WSIA is pleased with the [guidance](#), which indicates that AB 398 “applies to policies of liability insurance issued by authorized insurers,” therefore nonadmitted insurance policies are not subject to the law. The Division has issued an [Emergency Regulation](#) that includes clarification on applicability that will be effective for 120 days. During the pendency of the Emergency Regulation, the Division will host various hearings as it develops a permanent regulation. The Division indicated they received significant concerns from many industry stakeholders, insurance purchasers, municipalities and other interest parties throughout the process. This law will likely be revisited in 2025 but in the meantime WSIA appreciates the positive guidance the Division provided that supports the well-held legal and regulatory position

of the nonadmitted market functions. Further guidance is expected to continue to develop from the Division which will be made available on their website in the coming days. WSIA will provide updated details through additional messaging when appropriate but please reach out to our Government Relations team with your questions.

PENNSYLVANIA | The Pennsylvania Surplus Lines Association issued a [Bulletin](#) on July 25, 2022 indicating that personal lines policies fees charged in addition to a commission are prohibited according to the Pennsylvania Department of Insurance. The opinion is based upon the Department's interpretation of Pennsylvania Insurance Law § 310.74(a) and pursuant to a 2020 Pennsylvania Supreme Court case. Based on members' concerns, WSIA hired a lobbyist to seek a legislative change that will clarify that policy fees are permitted on personal surplus lines policies, just as they are allowed for commercial policies, and is working towards a legislative solution in 2023.

MAINE | A statutory change made by [LD 1917](#) in 2022 resurrected a long-dormant statute requiring a retaliatory tax on surplus lines business. [36 MRSA 2519](#) requires the state to collect a retaliatory tax when the writing carrier is located in a state with a higher tax rate than the Maine rate of 3%. WSIA retained legislative counsel in Maine and worked with local partners to introduce [LD 1979](#) which would repeal the retaliatory tax provision. The bill was signed into law and has a retroactive effective date of January 1, 2023, so brokers will not have to remit taxes based upon the retaliatory provision.

[LD 1808](#), amends existing statute to allow surplus lines producers to elect to determine the tax payment for each estimated tax period on the basis of premiums written during each tax period of the current calendar year instead of the traditional taxation payment method, which is based on the previous year's tax burden. WSIA supports this measure and believes it will further simplify the Maine tax payment process going forward. The bill is still pending in the Maine legislature.

TEXAS | [SB 796](#) would have required arbitration provisions in surplus lines contracts to be conducted in Texas, thus prohibiting out-of-state arbitration provisions. Ultimately, the bill passed both the House and the Senate but was vetoed by the Governor after a broad coalition urged the veto. WSIA submitted a letter in support of veto.

FLORIDA | [SB 7052](#) was introduced as a late-filed bill during the 2023 Florida regular legislative session, and it contained multiple provisions that were harmful to the surplus lines industry including:

1. A requirement that nonadmitted carriers annually submit claims manuals to the Office of Insurance Regulation (OIR), and again within 30 days of making any changes to claims manuals.
2. A requirement that surplus lines policies not be canceled or nonrenewed within 90 days of the property being repaired after a disaster.
3. Standardization of requirements applicable to insurers after natural disasters, intended to make admitted requirements applicable to surplus lines policies.

SB 7052 was amended based upon the House version, [HB 7065](#), and ultimately passed without any of the harmful provisions to the surplus lines industry. WSIA worked with the Florida Surplus Lines Association (FSLA) to oppose the relevant provisions of the Senate bill which was approved by the Governor and took effect on July 1, 2023.

[HB 837](#) is a comprehensive tort reform bill that limits the applicability of one-way attorney's fees in several ways but, most notably, one-way fees awarded in judgments against surplus lines insurers. The bill also includes several other tort reform provisions including uniform standards to assist juries in calculating the accurate value of medical damages in personal injury or wrongful death actions, significant modifications to Florida's bad faith framework and limitation of the contingency attorney fee multiplier in rare and exceptional circumstances. This bill was signed into law on March 24 and became effective immediately.

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Additional state updates

ALABAMA

[Bulletin 5-4-2023 \(#2\)](#) encourages all commercial property and casualty insurers with policies related to medical cannabis to submit rates and forms to facilitate the creation of the medical cannabis market. The bulletin is directed at all property and casualty insurers admitted or doing business in Alabama.

[SB 104](#) amends the state's liquor liability laws, known as dram shop laws, and is intended to help balance liability between personal responsibility and service industry responsibility with regard to serving liquor. This law became effective upon the signature of the Governor on April 19 and its impact will be closely monitored.

ARKANSAS

[Bulletin 8-2023](#) requires that all property and casualty insurers, including surplus lines carriers, submit a monthly report containing cumulative claims data related to the tornado events that took place in March 2023 for these lines of business: residential property, commercial property, business interruption, personal auto, commercial auto. The first report was due by May 15, 2023, and the final report is due November 15, 2023. The bulletin states each report should contain data up to the last day of the preceding month.

[Bulletin No. 9-2023](#), which is addressed to all licensed and surplus lines property and casualty insurers, permits electronic transactions if both the insurers and insured consent to conduct business by electronic means. Consent may also be obtained via electronic means. Some notices may be delivered electronically, but the following notices must continue to be physically mailed: (1) claims denials; (2) notices of non-renewal; and (3) notices of cancellation. The commissioner also advises that electronic fund transfers and direct deposits to insureds for payment of claims are permitted under AID Rule 43(9)(F) as valid payment of claims. The commissioner intends to amend and modernize AID Rule 43 in the ongoing months. In the interim, property and casualty insurers are permitted to pay claims to insureds through EFTs or direct deposit.

CALIFORNIA

[SB 8](#) would require a person who owns a firearm to maintain a homeowner's, renter's or gun liability insurance policy that specifically covers losses or damages resulting from the use of that firearm, including, but not limited to, death or injury to another, including without limitation a household member, guest, or invitee, and property damage. As currently drafted, the policy must be provided by an insurer that is authorized to do business in the state of California. The bill is not expected to pass in 2023 and is being held for action in 2024.

[AB 571](#) would prohibit an insurer from refusing to issue, renew or terminate professional liability insurance for health care providers and from imposing a surcharge or increasing the premium or deductible solely based on any prohibited bases for discrimination, including a health care provider offering or performing abortion, contraception, gender-affirming health care, or care related to those health care services that are lawful in the state but unlawful in another state. The bill would also prohibit an insurer from denying coverage for liability for damages arising from offering, performing, or rendering abortion, contraception, gender-affirming health care, or care related to those health care services if those services are within the scope of the insured's license and the policy would otherwise cover liability for damages arising from performing or rendering other professional services within the insured's scope of license. As currently drafted, the bill would apply to surplus lines insurers.

COLORADO

[HB 23-1288](#) establishes a fair access to insurance requirements (FAIR) plan to provide access to affordable insurance for residential and commercial property owners in the state of Colorado by establishing a residual market subsidized by assessments upon the insurance industry. Membership in the association is limited to admitted insurers offering property or commercial insurance in the state. The bill was signed into law and takes effect on August 6, 2023.

[HB 23-1071](#) allows a licensed psychologist with a prescription certificate to prescribe psychotropic medication to a person if the licensed psychologist maintains the required

malpractice insurance provided by an insurer authorized to do business in Colorado or an eligible nonadmitted insurer. The bill was signed into law and takes effect on August 6, 2023.

[HB 23-1111](#) would raise the tax rate for unauthorized insurance from 2.25% to 3% to provide parity with the surplus lines tax rate. This law goes into effect on January 1, 2024.

CONNECTICUT

[HB 6621](#) eliminates the diligent search signed statement on surplus lines business that is renewed. Signed statements will still be required for new business. The bill was signed into law and takes effect October 1, 2023. For more information on state diligent search laws, see our diligent search compliance chart on the [WSIA compliance resources page](#).

[SB 1039](#) allows a non-resident person or entity to apply for and get a non-resident state license in Connecticut and designate it as their home state if their resident state does not offer the same or equivalent resident license and they maintain a principal place of business in the state. This applies to several insurance-related licenses, including surplus lines broker licenses. The bill was signed into law and takes effect October 1, 2023.

[SB 1014](#) would have required insurers in Connecticut to annually submit information related to their investments in the fossil fuel industry and the degree to which such insurers' investments are exposed to climate risk. The bill failed to advance before the end of the legislative session.

FLORIDA

[HB 799](#) revises flood insurance requirements for Citizens Property Insurance Corporation policies and allows Citizens to use the Division of Administrative Hearings to resolve disputes, instead of the courts. The bill also includes a requirement for insurers that require flood to verify that the insured has such flood coverage. The bill was signed into law and takes effect July 1, 2023.

[SB 250](#) would have required all insurers including surplus lines insurers, to submit their claims handling manuals to the Office of Insurance Regulation. The bill failed to advance before the end of the legislative session.

[SB 516/HB 57](#) would have revised the statute governing motor vehicle liability policy to explicitly permit risk retention groups and surplus lines insurers with an AM Best rating of "A" or better to provide commercial automobile coverage under Florida's Financial Responsibility Law. The bill passed the House but failed to pass the Senate before the legislature adjourned.

GEORGIA

[Executive Bulletin No. 23-EX-9](#) answers frequently asked questions regarding certificates of insurance for admitted and nonadmitted markets in Georgia. Specific to surplus lines, it states that a surplus lines agent must hold an appointment with the MGA or insurance company that issues the policy to deliver a certificate of insurance to a customer. Certificates of insurance may only be issued by an "insurer" or "insurance producer" as defined in [O.C.G.A § 33-24-19.1\(a\)\(3\); \(a\)\(4\)](#).

ILLINOIS

[HB 3521](#) would have revised the definition of unaffiliated group for the purposes of determining the "home state" on multi-state surplus lines insurance policies. The new definition would have been simplified to apply the federal Nonadmitted and Reinsurance Reform Act (NRRRA) definition for "home state" to unaffiliated groups, specifically determined by the principal place of business or principal residence. The measure failed to pass before the adjournment of the legislative session. The bill was supported by the Surplus Lines Association of Illinois and WSIA and is expected to be reintroduced in 2024.

[HB 2089](#) would reduce penalties for failure of an industrial insured or surplus line producer to file a tax return or report. The bill has passed both chambers and is awaiting the governor's signature.

[HB 2130](#) enacts the NAIC Data Security Model Law. The bill becomes effective January 1, 2024 and requires licensees to implement the required cybersecurity program by January 1, 2025. For more information on state data security laws, [see our data security compliance chart on the WSIA compliance resources page](#).

INDIANA

[HB 1125](#) establishes insurance requirements for delivery network companies and delivery network company drivers that may be provided by surplus lines insurers. It was signed into law and goes into effect on July 1, 2023.

KANSAS

[HB 2090](#) lowers the surplus lines tax rate for business placed beginning January 1, 2024, from 6% to 3%. WSIA worked with the Kansas Association of Insurance Agents on the bill and provided [testimony](#) in support of the legislation. The bill also makes technical changes to producer licensing fees and allows the commissioner to set fees within certain parameters.

KENTUCKY

[HB 102](#) would have established insurance requirements for delivery network companies and delivery network drivers that may be provided by surplus lines insurers. The bill failed to pass before the session adjourned.

The Kentucky Department of Insurance issued [Bulletin 2023-02](#) on April 14 detailing annual changes for submitting the local government premium tax.

LOUISIANA

[SB 156](#) provides that no property insurance policy shall prohibit an insured from hiring a public adjuster. Amendments requested by the Louisiana Surplus Lines Association (LSLA) and supported by WSIA provide an exemption from commercial policies written by surplus lines insurers. The bill was signed into law and goes into effect on August 1, 2023.

[HB 183](#) would prohibit the assignment of benefits for contracts of property insurance. Liability policies are not subject to the prohibition. The bill was signed into law and takes effect August 1, 2023.

[SB 106](#) makes limited changes to the bad faith law that requires the insurer to provide certain records in connection with an unsettled property insurance claim upon written request of the insured. The underlying statute is applicable to surplus lines insurers. Another proposal supported by the LSLA and WSIA would have made more extensive changes to the bad faith law including limiting claims for penalties and attorney fees, but the bill failed to pass before the legislature adjourned.

[SB 147](#) creates a fund for churches, religious institutions, and religious nonprofits to support their access to insurance. This bill dictates that the fund shall only purchase reinsurance or excess insurance from a company having a rating of A- by AM Best Rating Services, Inc., A- by Fitch Ratings, A by Weiss Ratings, A- by S&P Global Ratings, or by Moody's Investors Service, or better, and this reinsurance may be purchased from nonadmitted companies. This bill was signed into law on June 12 and immediately went into effect.

[HB 569](#) would have provided additional factors for which an insurer may cancel or nonrenew a policy under the Louisiana "three-year marriage rule" that restricts cancellation and nonrenewal of homeowners' policies that have been in effect for more than three years. The additional factors justifying cancellation or nonrenewal included continuation of coverage that endangers the insurer's solvency, inadequacy or insufficiency of the rate or premium for coverage when the insurer sought actuarially justified rate relief from the commissioner of insurance and the commissioner rejected such rate relief, or unrepaired damage or a deteriorated condition to the insured's property. The bill would also reduce the suspension associated with the rule from five years to three. The bill was supported by LSLA and WSIA but failed to pass before the legislature adjourned.

The Louisiana Insurance Department issued [Directive 218-R](#) on March 29 to rescind Directive 218 which was issued September 7, 2021. The original directive required authorized and surplus lines insurers to waive the "Prohibited Use" clause in their policies and provide coverage to policyholders impacted by Hurricane Ida, even though the policyholders resided in areas that were not subject to a civil evacuation order. The directive was rescinded after an administrative law judge declared it invalid and unenforceable.

MASSACHUSETTS

[H 1064](#) is a bill designed to facilitate the uptake of private flood insurance based upon the NCOIL flood insurance model act. The bill would permit a surplus lines broker to place a private flood

insurance policy or endorsement without making a diligent search to seek coverage from the admitted market. The bill had a hearing on June 6 but has not advanced out of committee.

MICHIGAN

[SB 329/HB 4681](#) would establish a policyholder bill of rights, establishing criteria for claims handling practices that are applicable to insurance policies issued by authorized and unauthorized insurers. Several provisions of the bill include vague requirements for insurers and provide an unreasonable advantage to plaintiff's attorneys in claims handling. WSIA has worked with local members to engage in discussions with legislators and educate them about the harmful effects of certain provisions within the bill. WSIA will continue working with trades and local members to amend the bill and educate legislators as to its harmful effects. The companion bills have not yet been scheduled for a legislative hearing.

MINNESOTA

[SF 2744](#) is an omnibus appropriations bill that raises the annual fee for renewal of a surplus lines license from \$300 to \$400. It was signed into law and the annual fee increase takes effect January 1, 2024.

MISSOURI

[SB 101](#) would provide regulatory requirements for lender-placed insurance. The bill is limited to insurers authorized to write lender-placed insurance within the state. The bill also provides an exemption from rate regulation for insurance against loss of or damage to aircraft, or against liability, other than employers' liability, arising out of the ownership, maintenance, or use of aircraft. The bill was signed into law and takes effect on January 1, 2025.

[HB 1243](#) would establish insurance requirements for peer-to-peer car-sharing programs that may be obtained from an insurance company licensed to transact business or by an eligible surplus lines insurer. The bill failed to advance before the legislative session adjourned.

MONTANA

[HB 808](#) was a bill providing general requirements for surety and bail bonds. The bill would have required a surplus lines insurance producer who provides surety appearance bonds to collect a minimum premium of 10% of the guaranteed amount of the surety appearance bond. This provision was removed from the bill before it passed both chambers, but the governor vetoed the bill on June 5 and the legislature failed to complete a veto override.

[HB 156](#) would eliminate the role of the surplus lines advisory organization in approving a surplus lines export list, given that no such advisory organization exists. The bill would also give the department discretion to impose a penalty of less than \$25 per day for late surplus lines tax filings. It was signed into law on April 19, and the relevant provisions are effective October 1 and April 19 respectively.

NEBRASKA

[LB 16](#) would have exempted surplus lines producers from new requirements relating to occupational board licensing. The bill failed to pass before the legislature adjourned.

NEW HAMPSHIRE

[SB 31](#) exempts nonadmitted insurers from consumer guaranty contract fiscal requirements and the obligor's registration document requirements. It has passed both Chambers, but it has not been signed into law.

NEW MEXICO

The New Mexico Office of the Insurance Commissioner repealed its export list effective May 19, 2023 with the issuance of [BULLETIN 2023-012](#) which rescinds [BULLETIN 2015-007](#). The bulletin states that producers must perform the diligent search requirement before placing insurance on the surplus lines market. WSIA is working with partner trades to request that the OIC reissue the export list. For more information on state export lists, see our export list compliance chart on the [WSIA compliance resources page](#).

[SB 147](#) makes technical changes to the law authorizing taxes for nonadmitted insurance. It went into effect on July 1, 2023.

[Bulletin 2023-014](#) issues a data call requiring insurers to report the number of claims and incurred loss estimate, by county, for the claims related to the natural disaster events occurring in New Mexico during from May 24 through May 30. The submission deadline was June 8, 2023. The department followed up the data call with [Bulletin No. 2023-016](#). As a result of the data call, the superintendent declared a catastrophe to have occurred in Curry and Quay Counties during the seven-day period. Pursuant to NMSA 1978, § 59A-16-20(F), insurers must settle all catastrophic claims by September 12, 2023.

NEW YORK

[S 5896/A 5253](#) permit a waiver of the diligent effort requirement in limited circumstances for certain insurance coverage to be placed by licensed excess line brokers with unauthorized insurers where a retail-producing insurance broker seeks to procure or place commercial lines insurance through an unaffiliated wholesale excess line insurance broker. The bill was introduced at the request of the Excess Line Association of New York (ELANY) and is supported by WSIA.

[S 2796/A 4597](#) would remove the requirement that a declination must be obtained from the Medical Malpractice Insurance Pool prior to placement in the excess lines market. The bill was introduced at the request of the Excess Line Association of New York (ELANY) and is supported by WSIA.

[S 885](#) would require that short-term rentals be insured by an admitted insurer or duly licensed excess line broker with a minimum of the value of the dwelling plus a minimum of three hundred thousand dollars coverage for third-party claims of property damage or bodily injury. The bill has passed the Senate and awaits action in the Assembly.

[A 4984](#) updates excess line brokers' record-keeping requirements and reporting requirements to the excess line association. The bill says that all records that excess line brokers are required to maintain are subject to examination by the excess line association. It has passed both chambers, but it has not been signed by the governor.

[S 3100](#) prohibits non-compete agreements and authorizes covered individuals to bring a civil action against any employer or persons alleged to have violated such prohibition. Civil action must be brought within two years of the violation. The bill has passed both chambers but in different forms and will need to be reconciled before being sent to the governor for signature.

Amendments to [11 NYCRR 27.0, 2, 5](#) adds that "donor medical expense insurance" and "excess business disability insurance" may be sold in New York when written by unauthorized insurers. It also requires that the date of each declination be included in excess line brokers' affidavits when declining to issue or renew coverage. These changes became effective on July 12, 2023.

[Circular Letter No. 2023-4](#) establishes disaster planning, preparation, and response procedures for admitted and non-admitted insurers (excluding health) and repeals and [replaces Circular Letter No. 10 \(2022\)](#). It includes provisions detailing pre-disaster data surveys, business continuity and disaster response plans, disaster liaisons, and post-disaster coverage data and loss statistics.

WSIA joined with the Council of Insurance Agents and Brokers to submit a comment letter on January 9 to the Department of Financial Services (DFS) in response to their request for comment on the Proposed [Second Amendment](#) to the New York regulation governing Cybersecurity Requirements for Financial Services Companies. The letter focused on a revised definition of Class A Companies that are subject to the regulation and duplicative auditing and external risk assessment requirements. Comments on the amended regulation are currently under review by the DFS. DFS later published a revised version of the Proposed [Second Amendment](#) on June 28. The revisions included modifying the definition of Class A Companies to clarify that when calculating the number of employees and gross annual revenue, affiliates should include only those that share information systems, cybersecurity resources, or all or any part of a cybersecurity program with the covered entity. The current comment period ends on August 14.

NORTH CAROLINA

[SB 452](#) is an omnibus insurance bill that would codify that personal and commercial auto liability may not be written in the surplus lines market with the exception of excess auto liability. The bill would also permit the NCSLA to provide other services to its members that are incidental or

related to the purposes of the association, clarify that tax payments from RRGs must be submitted at the same time they file a quarterly report with the commissioner and that tax payments must be made through the NCSLA SLIP system 30 days after the end of each quarter.

[SB 319](#) would reduce the tax rate for risk retention group business to 1.85% from 5%. If passed, the bill's effective date would be October 1, 2023, and applied to contracts issued, renewed, or amended on or after that date.

NORTH DAKOTA

On June 12 the Commissioner of Insurance issued a [Notice](#), which includes a proposal for an administrative rule change related to changes made to diligent search pursuant to [SB 2305](#), a bill requested by WSIA. It also adds Commercial Cyber Insurance, inclusive of first-party and/or third-party commercial cyber insurance coverage, to the export list. The department is accepting comments until July 22, and we expect a final rule to be issued soon thereafter. For more information on diligent search and export lists, see our compliance charts on the [WSIA compliance resources page](#).

[HB 1440](#) permits surplus lines insurers to provide insurance required of delivery network companies. It was signed into law and takes effect on August 1.

PENNSYLVANIA

The Pennsylvania Department of Insurance issued a [Notice](#) on July 15 with a reissued export list that included the addition of commercial cyber insurance. For more information on state export lists, see our export list compliance chart on the [WSIA compliance resources page](#).

RHODE ISLAND

[SB 367/ HB 5080](#) would allow businesses that had an insurance policy in place for business interruption as of March 9, 2020 to recover from their insurance companies for a COVID-19 business impact. Both the House and Senate committees recommended the measure be held for further study and they are not expected to pass in 2023.

SOUTH CAROLINA

[Notice of Liability Data Call](#) requires all authorized property and casualty companies, including Y insurers and eligible surplus lines insurers, complete this [form](#) regarding liability insurance coverage by July 3, 2023. The data call was requested by the legislature for the purpose of considering legislation in the 2024 session to improve the liability insurance market within the state.

[SB 500](#) makes several changes to the insurance code and was amended to affirmatively permit surplus lines companies to write commercial auto liability. The bill was signed into law on May 16, 2023 and immediately went into effect.

TEXAS

[SB 833](#) prohibited rating criteria related to the use of environmental, social, or governance models, scores, factors, or standards and defines acts or practices that may be unfair discrimination in the business of insurance. The bill does not specifically apply to surplus lines insurance and provides an exception for rating based upon sound actuarial principles. The bill also does not require the filing of rates for any line, type of insurer, or type of insurance business that is not specifically required by statute to file rates with the department. The bill was signed into law and takes effect September 1, 2023.

[HB 1706](#) prohibits insurance contracts from prohibiting an insured's use of a public insurance adjuster, including surplus lines contracts. It was signed into law and will go into effect on September 1, 2023.

[HB 4194/ HB 1437/ SB 1194/ SB 554](#) would have set forth rules and procedures for appraisal processes contained in insurance contracts including contracts by eligible surplus lines insurers. Some versions of the bill were limited to contracts for personal auto or residential property but none of the bills were able to pass before the legislature adjourned.

[HB 1588/ SB 1217](#) specify that catastrophe surcharges may be imposed by the Texas Windstorm Association on policies of fire and allied lines; farm and ranch owners; residential property insurance; and the property insurance portion of a commercial multiple peril insurance policy,

including those written by surplus lines insurers. HB 1588 passed both houses but failed to become law.

WASHINGTON

[HB 1266](#) requires any emails sent by the Commissioner's office be responded to within 15 days and details the conditions under which a broker is in violation of the requirements. The bill also requires every licensed surplus line broker to provide the commissioner with a current email address and update the commissioner within 30 days of any change in email address. The law went into effect on July 1, 2023.

WEST VIRGINIA

[HB 3153](#) would have increased the tax on surplus lines policies from 4.55% to 5% and reallocated the proceeds of those taxes to certain state entities. The bill would also have imposed a policyholder surcharge on surplus lines policies written after December 31, 2023 of one percent. The House and Senate failed to negotiate a compromise bill before the legislature adjourned on March 11, 2023.

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NAIC updates

The Surplus Lines (C) Task Force will convene at the NAIC Summer 2023 National Meeting on August 13. The agenda and materials indicate that the task force will hear an update from the Surplus Lines (C) Working Group and make small changes to the task force charges but we do not anticipate that the task force will consider any significant work items at the meeting.

As previously reported, the NAIC Surplus Lines Task Force and Property & Casualty (C) Committee adopted a [final draft](#) of the Nonadmitted Insurance Model Act (Model #870) at the NAIC Spring National Meeting in Louisville, KY in March. WSIA expects the NAIC Executive Committee to consider the model for adoption at the Summer Annual Meeting in Seattle.

The [Privacy Protections \(H\) Working Group](#) is currently in the process of drafting a Consumer Privacy Protections Model Act and issued a new [exposure draft](#) for comment on July 11 with comments due July 28. The draft has been extensively revised and the working group continues to hold public calls to address public comments in an effort to maintain their aggressive [workplan timeline](#). WSIA will continue to monitor the working group's progress and work with partner trades to shape the model in a way that is not detrimental to the surplus lines industry.

The [Cannabis Insurance \(C\) Working Group](#) is in the process of updating the current draft of its [Understanding the Market for Cannabis Insurance 2.0](#) white paper. The working group exposed the draft for comments on April 11 and discussed those comments on a July 18 conference call. WSIA will continue to monitor developments of the white paper.

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Federal updates

Private Flood Insurance

WSIA continues to work with offices to share our support of a long-term reauthorization and reforms to the NFIP after we were asked to testify at the Housing & Insurance Subcommittee's March 10 Flood Hearing. In case you missed it in March, you can watch a recording of the hearing [here](#) and read our written testimony [here](#).

The NFIP is set to expire on September 30. While we do not expect it to lapse, we are not expecting it to receive a long-term reauthorization or experience significant, if any, reforms, at that time. The most likely scenario is that it will receive its 26th short-term extension since September 2017, probably through December with the Continuing Resolution for the federal

budget. At that time the length of reauthorization will depend on whether the program continues to be coupled with the budget or if it receives its own separate reauthorization.

With continued, and seemingly increasing, flooding across the nation, private flood insurance options are critical and reforms for the NFIP -ensuring its stability - are top of mind for many WSIA members. We continue to voice these opinions and concerns to members of Congress and focus on our priorities to strengthen opportunities for consumers that we [focused on](#) in our March 10 hearing.

Cannabis

The SAFE Banking Act has been refiled in the Senate as [S. 1323](#) by Sen. Jeff Merkley (D-OR). WSIA has strongly supported this legislation for several Congressional sessions in both the House and Senate. It has previously passed the House on a number of occasions in various vehicles but has continued to stall in the Senate over conflicts with other cannabis-related reforms. The purpose of this legislation is to secure a safe harbor for financial services providers, like insurance, to utilize the federal banking system for proceeds from the sales of cannabis where states have made it legal. WSIA has had positive meetings with Senate Banking Committee offices in coalition with other insurance trade associations regarding our support for the bill and the importance for passage to ensure increased options and opportunities for insurance services to legal insurance business consumers in these states.

If your firm supports the SAFE Banking Act and is willing to send a letter of support to your Senator, please contact WSIA staff at keri@wsia.org.

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WSIA's advocacy efforts rely on the support and contributions of members like you. The [WSIA PAC](#) is an essential tool that enables us to advance our public policy objectives not only at the federal level but also in various states, where we are working tirelessly to preserve freedom of rate and form for the surplus lines industry. Your generous donations directly fund candidates who align with the goals of the wholesale, specialty, and surplus lines industry.



We believe that every gift matters. Your contribution to the WSIA PAC is crucial to empower our advocacy work and drive meaningful change. By donating, you are actively shaping the future and success of our industry and ensuring that our voices are heard by lawmakers.

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WSIA News - Published by
Wholesale & Specialty Insurance Association
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