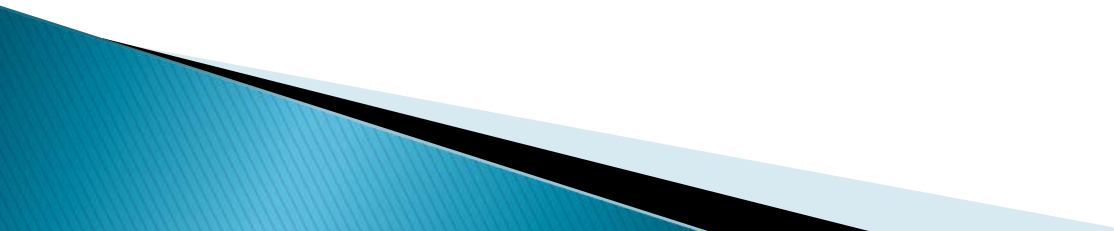


NRRA

Changes to State Regulation

The Effects on Brokers
and Their Surplus Lines Filings
with The Surplus Line Association of California

Welcome!

- ▶ Welcome to The Surplus Line Association of California Webinar Seminar on NRRRA and AB 315
 - ▶ Moderated by Hank Haldeman, The Sullivan Group and Joy Erven, The Surplus Line Association of California
 - ▶ The presentation will cover the changes that will take place when NRRRA goes into effect on July 21, 2011
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Disclosure

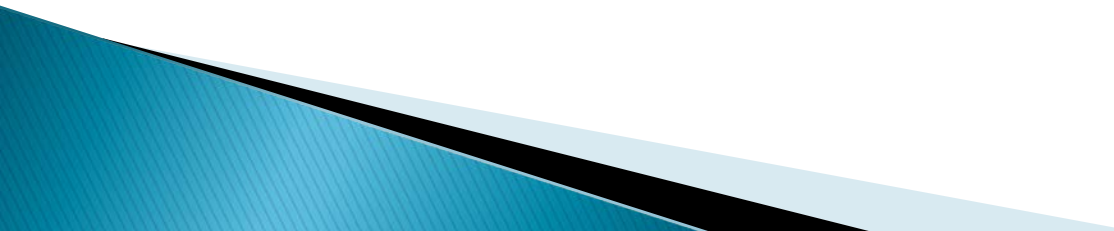
This information is provided by the Surplus Line Association (“SLA”) in its capacity as a trade association and is not provided on behalf of the California Department of Insurance (“CDI”) nor by the SLA in its capacity as the CDI’s advisory organization.

This information should not be considered legal or tax advice; it is recommended that surplus line brokers seek professional legal and tax advice on these important matters.

History of NRRA

The Non-Admitted and Reinsurance Reform Act was signed into law by President Barack Obama on July 21, 2010, as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The bill, which includes language to standardize the reporting, allocation and payment of non-admitted insurance premium tax on multi-state risks, will take effect July 21, 2011. In response, the California Legislature enacted NRRA conforming legislation in AB 315 (Soloria).

The Basic Outline:

- ❖ Determining Home State
 - ❖ Insurer Eligibility Requirements
 - ❖ Commercial Insured
 - ❖ State Tax Payments
 - ❖ Changes to state tax and surplus lines filing process
 - ❖ Changes to D1 and D2
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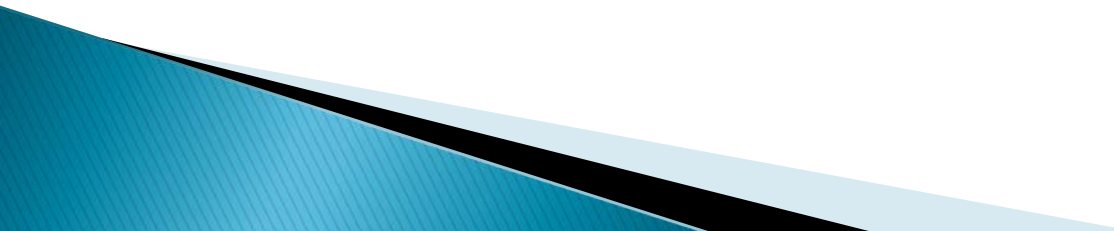
Home State Determination

- ▶ Upon the passage of AB 315 and when the NRRRA becomes effective on 7/21/11, brokers should determine which state law applies to their multi-state insurance transactions:
 - Is the placement on a single state risk or a multi-state risk?
 - If the exposure is in one state only, the laws and regulations of that state apply.
- ▶ Only one state can regulate a multi-state transaction

Home State Determination on Multi State Policy

- ▶ If the exposure is in more than one state, determine whether the insured is a business entity or an individual.
 - If the insured is a business entity, home state is where the insured maintains its principal place of business.
 - If the insured is an individual, the home state is where the insured maintains his or her principal residence.

Home State Determination

- ▶ However, if **none** of the insured risk is located in the state where the insured maintains its principal place of business or, in the case of an individual, his/her principal residence, the home state for the purposes of that placement is the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.
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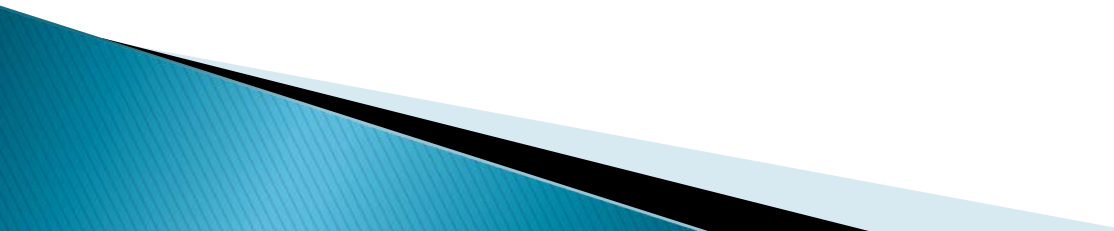
Affiliated Groups

Affiliated Group: any group of entities that are affiliated

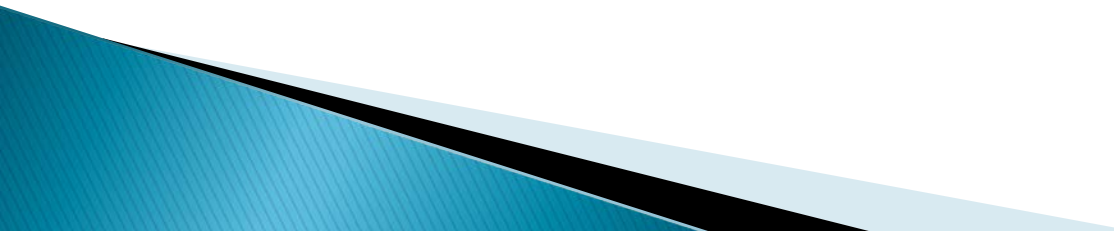
Affiliate: any entity that controls, is controlled by, or is under common control with the insured

* Note this does NOT apply to purchasing groups, affinity groups or master policies, because the members of a purchasing group or master policy are not affiliated with each other per this definition

Home State Determination

- ▶ If more than one insured from an affiliated group is named insured on a single non-admitted insurance contract, the home state for that placement is the home state of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.
- 

Home State Documentation

- ▶ The broker must retain in the file the basis on which it was determined that this is a California home stated risk
 - ▶ Definition of principle place of business
- 

Insurer Eligibility in California

- ▶ AB 315 amends the existing insurer eligibility requirements for California home state placements to conform with NIRA as follows:
 - 1. Foreign non-admitted insurers (US-domiciled) must be licensed or authorized to write the type of insurance in their domiciliary jurisdiction and maintain a minimum of \$45,000,000 in capital and surplus to be eligible to write non-admitted insurance in California; and
 - 2. Alien non-admitted insurers (non-US-domiciled) listed on the International Insurance Department's Quarterly Listing of Alien Insurers, maintained by the National Association of Insurance Commissioners, are eligible to write non-admitted insurance in California.

Insurer Eligibility in California

- ▶ The California conforming legislation repeals the List of Eligible Surplus Line Insurers (“LES LI”) and replaces it with the List of Approved Surplus Line Insurers (“LAS LI”), which is a voluntary list of approved insurers. The requirements for LAS LI approval are substantially similar to those for the current LES LI list. Insurers on the LES LI on July 20, 2011 will remain on the LAS LI beginning July 21, 2011. Insurers wishing to remain on the LAS LI will be required to continue to file all the documents mandated in the current CIC 1765.1(c) and pay the appropriate filing fees.

If Insurer is NOT on the LASLI

- ▶ Brokers who wish to use an ineligible company will need to either file on behalf of the insurer or have the non-admitted insurer file the following directly with the CDI:
 - A certificate of capital and surplus issued by the insurer's domiciliary jurisdiction;
 - A certified copy of the insurer's license issued by its domiciliary jurisdiction, plus a certificate of good standing, certificate of compliance, or other equivalent certificate;
 - Information on the insurer's agent for service of process in California;
 - Insurer's principal place of business;
 - Insurer's regulatory disclosure statement that discloses any currently known regulatory actions (including license revocation or suspension or cease and desist order) pending against the insurer or any of its affiliates; and
 - A list of all the California surplus line brokers authorized by the insurer to issue policies in this State on its behalf.

Commercial Insured

Under the NRRRA, the surplus line broker does not need to perform a diligent search if the insured qualifies as an Exempt Commercial purchaser. (California uses the term “ Commercial Insured”). The Export List exemption is also still in place.

To determine whether the insured meets the NRRRA definition of an Exempt Commercial Purchaser, and California’s definition of a Commercial Insured, we will review the following checklist. If the insured meets all three requirements, a diligent search does not need to be performed.

Commercial Insured

Requirement 1: Employs or retains a qualified risk manager *

Requirement 2: Paid an aggregate nationwide property & casualty premium of at least \$100,000 in the immediately preceding 12 months.

Requirement 3: Meets one of the following:

Possesses a net worth in excess of \$20 million, or

Generates annual revenues over \$50 million, or

Employs more than 500 full time employees per individual insured, or is a member of an affiliated group employing more than 1,000 employees in the aggregate, or

Is a non-profit or public entity generating annual budget over \$30 million, or

Is a municipality with a population in excess of 50,000 persons.

▶ Please see Code 1760.1 (o)

Commercial Insured

▶ If Insured qualifies:

- The surplus line broker procuring or placing the surplus line insurance must have disclosed in writing to the commercial insured that such insurance may or may not be available from the admitted market, which may provide greater protection with more regulatory oversight, *and*
- The commercial insured must have subsequently requested in writing that the surplus line broker procure or place surplus insurance from a nonadmitted insurer.

Differing Surplus Line Filing Exemptions

- ❖ Commercial Insureds No Diligent Search (SL2) – CIC Sec.1760.1(b)
- ❖ Industrial Insureds – No Signed Disclosure Notice (D1) – CIC Sec.1764.1(c) Definition has not changed
- ❖ Export List- No Diligent Search Report (SL2) – CIC Sec.1763.1
- ❖ Ocean Marine, Aviation, Interstate Transportation – No SLA Filing – CIC Sec.1760.5
- ❖ GAP Coverage – up to 20% of Risk from Non-Eligible Insurers – CIC Sec.1765.1 (h)

State Tax Payment Under AB315

- ❖ New or Renewal Policies effective prior to 7/21/2011 follow Pre-RRRA/AB315 Regulation and Law
- ❖ Brokers may be required to provide data on premium allocation relative to Multi-State policies in March 1 premium tax filing.
- ❖ California state tax is to be paid on 100% of the premium and the stamping fee will apply to the entire premium
 - ❖ Commissioner may exempt brokers from burdensome multi-state allocation data in March 1st tax filing under the law
 - ❖ California has not joined any multi-state tax allocation agreement with other states

Surplus Line Association of California Home Page - Mozilla Firefox
 http://www.sla-cal.org/

50 California Street, 18th Floor
 San Francisco, CA 94111
 (415) 434-4900 - Phone
 (415) 434-3716 - Fax

CONTACT US SEARCH

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Try the new SLA web site search feature in the upper right hand corner to search the entire SLA website.

BROKER LOG IN
NEW RESIDENT BROKER

WELCOME

The Association operates as a self-governed private organization. Appointed in 1994, the Association serves as the state's representative organization to the California Department of Insurance (CDI) and facilitates the state's capacity to monitor and direct surplus line insurance with eligible nonadmitted insurers.

Working with its members and the CDI, the Association helps maintain a healthy, fair, and competitive surplus line marketplace in California, as well as protect the interest of California consumers.

FAST LINKS

- CDI - California Department of Insurance
- CDI - Admitted Companies
- California Department of Insurance [Bulletin 96-4](#)
- New Surplus Line Broker Licensing Requirements
- Training Manual
- Seminar Registration
- Directory of State Stamping Offices
- State Departments of Insurance
- Video Archives

RELATED LINKS

- A.M. Best Company

UPDATES

- [Watch the 2011 Annual Meeting video](#)
- [The 2011 Annual Meeting Slideshow](#)
- [Two-Hour Training for Employees of Surplus Line Business Entities](#)
- [New Surplus Line Broker Licensing Requirements](#)
- Revised Export List - [Bulletin 1204](#)
- [LES LI](#) Last updated April 4, 2011
- [California Premiums](#)

HIGHLIGHTS

- [Upcoming Events](#)
- [Current Legislation](#)

SLA NEWS

- [Quarterly Newsletters](#)
- [Press Releases](#)

SLA FEEDBACK

- [Suggestions](#)

TAX RETURNS IMPORTANT INFORMATION

Tax Return	Calendar
Instructions	SLB Userher

RECENT SLA BULLETINS

- Re: LESLI updated due to removal of Lloyd's Syndicates No. 1007 (U.K.) and No. 1243 (U.K.)
[Bulletin #1235](#)
- Re: Lloyd's of London Syndicates #1007 and #1243 request removal from the LESLI
[Bulletin #1234](#)
- Re: American Vehicle Insurance Company changed its name to Federated National Insurance Company effective January 31, 2011. Lloyd's of London Syndicate #3902 (U.K.) added to the LESLI
[Bulletin #1233](#)

Done

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4/15/2011

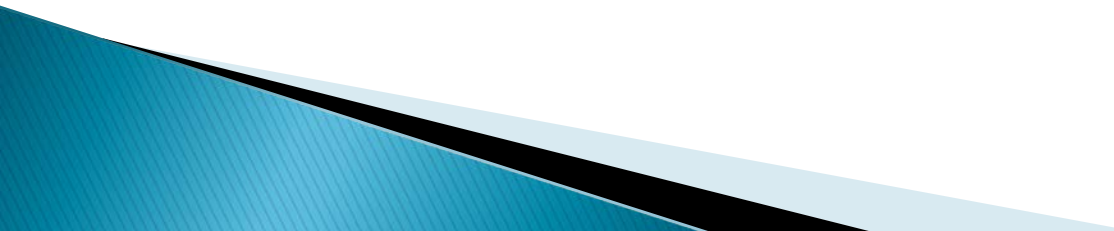
Examples

- Policy effective 12/20/10. Additional insured ("A/I") Endorsement effective 7/19/11. Because the policy was placed and effective prior to 7/21/11, and the endorsement was effective prior to 10/18/12, AB 315 does not apply to either the policy or the endorsement.
 - Policy effective 1/23/11. A/I Endorsement effective 8/13/11. Because the policy was placed and effective prior to 7/21/11, and the endorsement was effective prior to 10/18/12, AB 315 does not apply to either the policy or the endorsement.
 - Policy effective 7/1/11. Cancelled 12/1/11. Because the policy was placed and effective prior to 7/21/11, and the cancellation was effective prior to 10/18/12, AB 315 does not apply to either the policy or the cancellation/return premium.
- ▶ A/I endorsement is used as an example of a policy change, premium bearing, endorsement. Return premiums would be subject to the same rules.

Examples

- Policy effective 7/1/11. Four (4) month Policy Extension effective 7/1/12. Because the policy was placed and effective prior to 7/21/11, AB 315 does not apply to the policy, but because the extension expiration date exceeds 90 days from the original policy expiration date, the extension is treated as a separate placement. AB 315 does apply to the endorsement.
- Policy effective 7/23/11. A/I Endorsement effective 9/22/11. Because the policy was effective after AB 315 took effect, AB 315 applies to both the policy and the endorsement.
- Three (3) year policy effective 12/20/10. A/I Endorsement effective 11/12/12. Because the policy was placed and effective prior to 7/21/11, AB 315 does not apply to the policy, but because the endorsement was effective after 10/18/12, AB 315 does apply to the endorsement

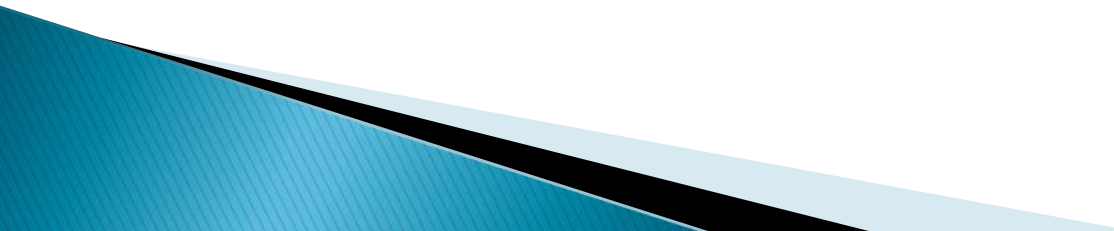
Revised D1 & D2

- ▶ New D1 and D2 forms will be in effect on July 21, 2011
 - ▶ The new forms have changes that reflect the new regulations
 - ▶ New D1 and D2 are available on our website
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Changes to How Members File



New Coversheet

- ❖ Will be mandatory
 - ❖ Broker will be tagged for not submitting a coversheet
 - ❖ Coversheet will indicate if the insured is a Commercial Insured (CI)
 - ❖ Coversheet will indicate % of California premium
- 

COVERSHEET EXAMPLE

DATE OF SUBMISSION:

BROKER NAME:

BROKER NUMBER:

CI	<u>Insured Name</u>	<u>Type</u>	<u>Policy No.</u>	<u>Premium</u>	Stamp		<u>Invoice Date</u>	<u>CA %</u>
					<u>Fee</u>	<u>Taxes</u>		
				0	0	0	1/1/2011	100%
				0	0	0	2/4/2011	100%
				<u>0</u>	<u>0</u>	<u>0</u>	12/31/2010	20%
TOTALS				0	0	0		

Submitted by: Sarah Clark (415) 555-1680

Recap

▶ Under NRRA

- ❖ Home State has exclusive authority to tax and regulate surplus line transactions
- ❖ No Tax Sharing Compact
- ❖ 100% of Premium Tax on CA home state risks to be paid to CA.
- ❖ Insurer Eligibility Requirement Changes – from LESLI to LASLI
- ❖ Coversheet is mandatory with your SLA filing which:
 - ❖ Documents Commercial Insured
 - ❖ Documents if insured is a multi state risk
- ❖ New D1 and D2 and should be used in place of outdated versions as of July 21