



March 12, 1992
Bulletin No. 508
BULLETIN TO ALL MEMBERS:
RE: California Managing General Agents Act

On October 27, 1991, the Governor signed SB1039 enacting California's Managing General Agents Act (the "Act"), which became effective January 1, 1992.

The Act establishes a new three-part statutory definition of "Managing General Agent" ("MGA"). This definition may be significant to California surplus line brokers because, in the future, the courts and regulators may look to this new statutory definition for determining when a surplus line broker will be considered acting unlawfully as a managing general agent on behalf of a non-admitted insurer.

To summarize the definition, a managing general agent is any person or entity who meets all of the following three criteria:

(1) The person or entity does either (A) or (B):

(A) Negotiates and binds ceding reinsurance for an insurer, or

(B) "Manages" all or part of an insurer (the term "manage" is not defined in the Act); and

(2) Produces and underwrites as agent for that insurer gross direct premiums amounting to five percent (5%) or more of the insurer's policyholder surplus in the last year or any one quarter of that year; and

(3) Performs (A) and/or (B):

(A) Adjusts or pays claims, and/or

(B) Negotiates reinsurance on behalf of the insurer.

The Act's new three-part definition and other relevant provisions are contained in Insurance Code Section 769.80-770.

A. D. Freeman, Jr.

Manager

ADF:mfq