

Bulletin 831

Report on Legislative Enactments in 1998

SB 678 (Leslie) Advertising by surplus line brokers and nonadmitted insurers

Status: Passed by the Senate and approved by the Assembly Insurance Committee on July 1, 1999, with a 3-year expiration clause. The bill was signed by the Governor on August 4, 1998 and will become effective on January 1, 1999.

This bill was originally introduced on February 25, 1997 by Senator Tim Leslie (R-Tahoe City). The bill will establish the requirements for “advertising” by surplus line brokers and both LESLI listed and non-LESLI listed nonadmitted carriers. The bill sets forth guidelines for surplus line broker advertising and explicitly allows limited advertising by LESLI and non-LESLI companies.

Specifically, this bill: Permits surplus line brokers to advertise and solicit in any advertising or marketing medium; these advertisements may include the name of specific nonadmitted insurers as well as the nonadmitted insurance products available, as long as: 1) the nonadmitted insurer is legally authorized to accept placements from the surplus line broker, 2) the nonadmitted insurer’s name is not used in connection with any of its own nonadmitted insurance products, 3) the insurer’s unlicensed status, and the nonadmitted status of the insurance products are disclosed in the ad in type no smaller than any telephone or fax number or address shown in the ad, 4) the ad does not contain any knowingly false or misleading information, and 5) the ad does not contain any information about rates. (New Ins. Code Sec. 1773).

Special lines’ surplus line brokers are permitted to advertise and solicit business the same as surplus line brokers. (New Ins. Code Sec. 1760.5(h).) With respect to nonadmitted insurers that are members of groups of insurers, the bill allows surplus line brokers and special lines’ surplus line brokers to use the name of the group in their advertising.

With respect to LESLI listed companies, the bill permits advertising if: 1) their unlicensed status is disclosed, 2) the ad is truthful, 3) the ad does not discuss premiums or rates, and 4) specific products are not mentioned in media of general circulation. (New Ins. Code Sec. 703.1.) The SLA understands that the prohibition against advertising specific products in “media of general circulation” means product lines may be advertised in insurance trade press as well as other trade, industry and special interest publications.

For nonadmitted insurers that are not on the LESLI list, advertising is permitted in any media except media targeted primarily at California insureds or prospective insureds, as long as they meet the standards set out for LESLI listed companies and do not advertise any information about a specific product. (New Ins. Code Sec. 703.1(b).)

SB 237 (Johnson) Special lines' surplus line broker

Status: Signed into law by the Governor on August 24, this bill becomes effective on January 1, 1999.

This bill was introduced by Senator Ross Johnson (R-Irvine) and makes technical, conforming changes related to specified exemptions that apply to the placement of special lines' insurance by a special lines' surplus line broker which are consistent with AB 816 of 1997. The sponsors of this bill indicated that some inappropriate language regarding special lines' surplus line brokers inadvertently remained in laws which were intended to apply solely to surplus line insurers and brokers. The co-sponsors indicated that this bill contains solely technical cleanup amendments consistent with AB 816 (Brewer, 1997), which exempted special lines' surplus line brokers from using only the nonadmitted insurers on the LESLI when placing marine, aviation, spacecraft and other special line transportation risks.

The bill also adds a new section to the insurance code which states, the commissioner has the discretion to direct special lines' surplus line brokers to not place further business with an insurer whose eligibility has been withdrawn from the LESLI.

AB 1975 (Brewer) Surplus line broker definition/section 1764.1 disclosure statement

Status: The bill was signed into law by the Governor on August 17 and will become effective on January 1, 1999.

This bill was introduced by Assemblywoman Marilyn C. Brewer (R-Newport Beach) and defines "surplus line broker" as a person licensed pursuant to the surplus line law. The bill also improves the mandatory disclosure statement (D-1 & D-2 Forms) to be provided to policyholders who are purchasing insurance from a nonadmitted insurer by adding the following language: "California maintains a list of eligible surplus line insurers approved by the insurance commissioner. Ask your agent or broker if the insurer is on that list." (See Attachments)