



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Bulletin SL-3

June 15, 2012

To: All Surplus Lines Brokers

Re: New Procedures for Filing Surplus Lines Taxes and Surplus Lines Affidavits

The manner in which the State of Connecticut Insurance Department, Licensing Division, will be accepting surplus lines taxes and surplus lines affidavits is changing. Connecticut will be moving forward with the elimination of the manual paper filing of surplus lines affidavits, taxes and payments.

The purpose of this bulletin is to outline streamlined electronic procedures for (1) filing tax returns and submitting payments; and (2) for filing the necessary affidavits required by Connecticut General Statute § 38a-741, as amended by section 36 of Public Act No. 11-61. These streamlined requirements meet the legislative intent of Public Act No. 11-150 to provide for the electronic transmission of documents, when not inconsistent with other applicable statutory requirements, and to examine the feasibility of transforming to an electronic format all forms used by the public to file information with state agencies.

a. Surplus Lines Taxes

Beginning with the 2nd quarter filing, due August 15, 2012, all filings of affidavits and payments of taxes will be made using the National Association of Insurance Commissioners *OPTins* (Online Premium Tax for Insurance) application. Each individual or business entity submitting tax returns to the Insurance Department will be required to transmit them electronically via ACH, credit or debit. Licensees may begin using the system on or after June 15, 2012.

The steps to submit tax filing through the *OPTins* application are simple and require no formal training. Easy to follow instructions are available at: <http://www.optins.org>. Once registered and set up, licensees will be able to log in, upload their return forms and submit payments online. The Insurance Department will no longer accept paper checks – everything will have to be filed electronically so that tax forms along with payment are received at the Connecticut Insurance Department immediately upon submission by the company or licensee.

Using *OPTins* allows licensees to save time and ensure that both the forms and payment are received together and on time. **To implement *OPTins*, contact the *OPTins* Marketing Team at optinsmktg@naic.org or call (816) 783-8787.**

Connecticut will continue to collect all surplus lines premium taxes for risks in which Connecticut is the home state. That means that any surplus lines policy for which the insured's home state is Connecticut, regardless of portions of risk located elsewhere, will be considered a Connecticut risk and subject to Connecticut taxes. The definition of home state in the NRRA will determine if Connecticut is the home state. Specifically, the NRRA at 15 U.S.C. §8206(6) provides:

(A) In General. – Except as provided in sub-paragraph (B), the term “home State” means, with respect to an insured –

- (i) The State in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or
- (ii) If 100 percent of the insured risk is located out of the State referred to in clause (i), the State to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated. **Affiliated Groups.** – If more than 1 insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term "home State" means the home State, as determined pursuant to paragraph (A), of the member of the affiliated group that has the largest percentage of premium attributed under such insurance contract.

Additionally, please note that the new quarterly schedule requires that tax returns and payments are to be filed on the 15th of February, May, August and November of each year. See Connecticut General Statute section 38a-743(c)(3), as amended by section 34 of Public Act No. 11-61.

b. Surplus Lines Affidavits

Connecticut General Statute § 38a-741(b)(1) provides that when any insurance policy is procured under the authority of a surplus lines broker for a line of insurance or its component that does not appear on the exportable list, both the surplus lines broker and the insured are to execute an affidavit, setting forth facts showing that the surplus lines broker and insured were unable, after diligent effort, to procure the full amount of insurance necessary to protect the interests of the insured from any authorized insurer or insurers. In the event that a portion of the coverage is obtained from an authorized insurer, the surplus lines affidavit is further required to show that the portion of insurance procured from unauthorized insurer(s) is excess over the amount procured from authorized insurer(s).

Consistent with the federal Nonadmitted and Reinsurance Reform Act of 2010 ("NRRA"), Connecticut General Statutes § 38a-741(b) was amended to provide that a surplus lines affidavit is not required to be submitted by a surplus lines broker that procures or places nonadmitted insurance on behalf of an "exempt commercial purchaser", provided that the (1) the broker has disclosed to the exempt commercial purchaser that insurance may or may not be available from the admitted market that may provide greater protection with more regulatory oversight; and (2) the exempt commercial purchaser has subsequently requested in writing for the broker to procure or place such insurance from an unauthorized insurer.

For the definition of "exempt commercial purchaser", please consult Insurance Department's Bulletin SL-2 at http://www.ct.gov/cid/lib/cid/Bulletin_SL-2

Filing of surplus lines affidavits for those insureds who are not exempt commercial purchasers fills a valuable regulatory purpose and allows the Insurance Department to properly monitor the property-casualty marketplace. Therefore, surplus lines affidavits filing requirements applicable to all insureds, other than exempt commercial purchasers, remain in full force and effect.

To provide greater filing efficiencies for surplus lines brokers and for Department staff who review and utilize surplus lines affidavits, effective for the August 15, 2012 tax return due date, surplus lines brokers are required to file surplus lines affidavits electronically in PDF format through *OPTins*. The affidavit form has been revised as of June 1, 2012. PDF's of the old form will still be accepted with the August 15th filing.

This bulletin only applies to nonadmitted insurance, including surplus lines insurance, placed through licensed surplus lines brokers. Unauthorized insurance that is not placed through a surplus lines

broker, including independently procured insurance, continues to be under the jurisdiction of the Connecticut Department of Revenue Services. You may address questions regarding this notice to: cid.surpluslines@ct.gov RE: Bulletin SL-3 in the subject line.

The Connecticut Insurance Department encourages readers of this notice to sign up for e-Alerts on the Department's web site www.ct.gov/cid for news, information, updates and other relevant material.



Thomas B. Leonardi
Insurance Commissioner