



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

Bulletin SL-4

July 25, 2013

To: All Surplus Lines Brokers

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

Under previous law, surplus lines brokers were required to file affidavits with the Commissioner setting forth the facts supporting the placement of coverage in the surplus lines market. On June 6, 2013, the legislature enacted Public Act 13-171, an Act Concerning Surplus Lines Insurance Brokers, which changed such requirement. Public Act 13-171 provides that surplus lines broker can file with the Commissioner signed written statements instead of affidavits.

The purpose of this bulletin is to advise all surplus lines brokers that, effective immediately, they are no longer required to execute notarized surplus lines affidavits. They are now required to submit written statements by the insured and by the licensee attesting that they were unable to procure the necessary coverage in the authorized market. Such written statements are required to be filed with the Department through OptIns along with the tax returns required under C.G.S. § 38a-743 on February fifteenth, May fifteenth, August fifteenth and November fifteenth of each year in accordance with the guidelines set out in Bulletin SL-3, adopted by the Department on June 15, 2012, which will remain in effect, except that any reference to "affidavits" contained therein is replaced with "written statement" in accordance with the guidance provided by this Bulletin. The written statement required to be submitted is attached as Exhibit A.

In addition, the Department would like to remind all licensees that surplus lines brokers may place insurance with eligible surplus lines insurers only if, after diligent effort to place the coverage in the authorized market, a particular coverage, or part thereof, is not available from licensed insurers or a residual market mechanism. Coverage placed in the surplus lines market can only be excess over the amount of insurance, if any, that can be procured from authorized insurers. See, C.G.S. § 38a-741, as amended by P.A. 13-171.

The Department restates its longstanding position that a diligent effort to procure coverage in the regular market, within the meaning of C.G.S. § 38a-741, as amended by P.A. 13-171, is presumed to have been made if: (1) the line, sub-line or class of insurance sought is considered generally unavailable through admitted insurers or a residual market mechanism and, as such, is included in the Department's Exportable List, as published by the Commissioner from time to time; or (2) the risk has been previously declined by three authorized insurers that customarily write the type of insurance at issue.

The records supporting the three declinations must be maintained by the surplus lines broker throughout the policy period and must include the specific reason for declination, the date declined, and the name and title of the insurance company's underwriter declining the coverage. Although surplus lines brokers are required to maintain the records of the required declinations, it is the Department's position that the responsibility to fulfill the due diligence requirement falls upon the insured's retail agent, given nature of the authority of surplus lines brokers and the timing of the steps involved in surplus lines transactions.

A handwritten signature in blue ink, appearing to read "Thomas B. Leonardi".

Thomas B. Leonardi
Insurance Commissioner

EXHIBIT A

Control No.

Surplus Lines Statement (Form SL-8)

State of Connecticut
Insurance Department (Rev. 07/2013)

1. Name and Address of Surplus Lines Broker		
2. Producing Agent (not agency)	2a. CT License No.	
3. Agency Represented	3a. CT License No.	
4. Name and Location on Risk		
5a. Surplus Lines Insurer(s) and NAIC No.		
5b. Surplus Lines Insurer(s) and NAIC No.		
6. Kind of Insurance	6a. Limits	6b. Risk Description
7. Type of Policy ____ New Business or ____ Renewal	7b. Reason for Placement	
8. Premium	8a. ____ Term Premium ____ Installment ____ Subject to Audit	8b. Policy Period
9. Does the undersigned broker have on file evidence of declination by three licensed insurers and ineligibility for any residual market mechanism per 38a-741 C.S.G? ___ Yes ___ No ___ Exportable List		
9a. Broker Service Fee	9b. Producer Service Fee	

STATEMENT BY INSURED

I/We, the named insured, state that on _____, I/We directed the licensed producing agent named on this Surplus Lines Statement to obtain insurance coverage described herein; that I/We were informed by said producing agent that he/she made a diligent effort to place this risk with licensed insurers authorized to transact the class of insurance involved and which accept in the usual course of business, insurance on risks of the same class as the risk described herein; and that said companies accepted only part of or no part of the required insurance.

I/We, were further informed by said producing agent that the amount of insurance indicated herein could be obtained from certain insurers not licensed to transact business in the State of Connecticut. I/We therefore directed the producing agent named herein to obtain said insurance through the office of the licensed Surplus Lines Broker named herein. I/We have been advised by the producing agent named herein that such insurance represents only the excess over the amounts procurable from licensed insurers or the Connecticut residual market. I/We have been advised that, in addition to commissions, I/We will be charged a service fee as set out in 9a and 9b.

Signature of Insured

STATEMENT BY SURPLUS LINES BROKER

I, as a licensed Surplus Lines Broker, authorized to transact insurance with the surplus lines insurer(s) named on this Surplus Lines Statement, depose and declare under the penalties provided for false statements that the diligent effort has been made to procure said insurance coverage from licensed insurers which are authorized to transact the class of insurance involved and which accept in the usual course of business, insurance on risks of the same class described herein. This insurance has been procured with the surplus lines insurer(s) named on this Surplus Lines Statement, which insurance is only the excess over amounts procurable from licensed insurers.

Signature of Surplus Lines Broker