

## NCSLA Compliance Review Program

One of the functions of the North Carolina Surplus Lines Association is to facilitate compliance. In keeping with our statutorily required duties, the NCSLA Compliance Review program was developed under the advisement of the North Carolina Department of Insurance to help ensure fairness and conformity with the North Carolina surplus lines laws by monitoring and evaluating data submissions.

### **North Carolina General Statute 58-21-40 (a) (1)**

**(a) The North Carolina Surplus Lines Association (NCSLA) shall serve as the regulatory support organization of surplus lines licensees and shall carry out the following functions:**

**(1) Facilitate and encourage compliance by resident and nonresident surplus lines licensees with the laws of this State and the rules and regulations of the Commissioner relative to surplus lines insurance**

Each resident and nonresident North Carolina surplus lines licensees will be subject to a compliance review at least once every three (3) years. Reviews include a basic verification of information such as the named insured, policy premiums, tax, fees, policy dates, statutorily required disclaimers, insurer, identity of procuring broker, and surplus lines licensee information, etc.

### Purpose

The purpose of the review is to ensure compliance by the surplus lines licensees relative to the export of surplus lines insurance contracts, to provide educational assistance to surplus lines agents where needed, and to measure the quality of service provided in the marketplace.

### Notice of Intent to Review

A notice of intent to review records is forwarded to each licensee via email, as advanced notice of an impending review. Within 5-7 days of notification of intent to review, the agent is contacted to schedule the review date. Once a review date is established, an analyst forwards a detailed list of surplus lines policies selected for review. The review is designed to verify information that the surplus lines licensee is responsible for reporting to NCSLA, as well as other information required to be maintained in order to comply with the surplus lines law.

### Review Requirements

It is the surplus lines licensees' responsibility to make specific records available for the review. As requested, but not limited to, the compliance review will include a review of the following items made available by the surplus lines agent: Policy declarations page including name of insured, policy number, insurer, type of coverage, policy period, premium amount, taxes

charged, fees charged, endorsements as requested, page displaying the North Carolina Disclaimer language, invoice to the insured or sub agent, name of procuring broker, surplus lines licensee information, and any fee amounts that are not displayed on the declarations page.

### **Frequency**

The NCSLA may review all, but not limited to, the information filed with the office as part of the compliance review process. All resident and nonresident North Carolina licensed surplus lines agents will be subject to a compliance review at least once every three (3) years or as deemed necessary by NCSLA.

### **Final Report**

Within thirty (30) days of the review, the surplus lines agent will receive a final report from NCSLA. The surplus lines agent may be required to submit, within thirty (30) days of receipt of the final report, a response/corrective action plan to address any non-compliance issues noted in the final report.

# Memorandum on North Carolina Surplus Lines Licensing

*From the North Carolina Surplus Lines Association (“NCSLA”) and the North Carolina Department of Insurance (“NCDOI”)*

## **License Required for Placement of Surplus Lines Insurance**

*N.C.G.S. §58-21-65(a).*

*For insureds, whose home state is this State, no agent or broker licensed by the Commissioner shall directly procure any contract of surplus lines insurance with any non-admitted insurer, unless he possesses a current surplus lines insurance license issued by the Commissioner.*

### **Questions and Answers**

Q: How many employees of each entity (MGA/Wholesale Agent/Retail Agent) that procures surplus lines policies in North Carolina must have a North Carolina surplus lines license?

A: All employees involved in the direct procurement of a surplus lines policy placed on an insured whose home state is North Carolina, must have an individual North Carolina surplus lines license.

Q: What if an agency has a North Carolina Business Entity surplus lines license?

A: Only those individuals listed as licensees under the business entity surplus lines license are considered duly licensed to place surplus lines business. To be listed as a licensee under a business entity surplus lines license you must be an individual North Carolina surplus lines licensee.

Q: Are CSRs or other employees who handle endorsement transactions, accounting functions and other clerical transactions on surplus lines policies required to be individual surplus lines licensees?

A: If these individuals are not involved in the actual binding and placement of the surplus lines policy, then they are not required to be individual surplus lines licensees.

Q: What are the penalties for individuals placing surplus lines business without being properly licensed in North Carolina?

A: Penalties for violation of the provisions of the Surplus Lines Act may include, but are not limited to, suspension, revocation or refusal to renew a license, and payment of penalties and restitution.

Q: How will the NCSLA in conjunction with the NCDOI confirm that the producer of a policy has the proper license to procure that policy with a non-admitted insurer?

A: One of the duties of the NC Surplus Lines Stamping Office is to facilitate compliance. To do so we have developed a Compliance Review Program which will help ensure fairness and conformity with the NC Surplus Lines law by monitoring and evaluating data submissions. Reviews will include basic verification of information such as the policy premiums, tax, fee calculations, production ledgers, statutorily required disclosures and individual producer information. Some of this information may also be verified with the issuing non-admitted carrier.

***§ 58-21-75. Records of surplus lines licensee. Each surplus lines licensee shall keep in his or her office in this State a full and true record of each surplus lines insurance contract placed by or through the licensee, including a copy of the policy, certificate, cover note, or other evidence of insurance. The record shall include the following items:***

- (1) Amount of the insurance and perils insured;***
- (2) Brief description of the property insured and its location;***
- (3) Gross premium charged;***
- (4) Any return premium paid;***
- (5) Rate of premium charged upon the several items of property;***
- (6) Effective date of the contract, and the terms of the contract;***
- (7) Name and address of the insured;***
- (8) Name and address of the insurer;***
- (9) Amount of tax and other sums to be collected from the insured;***
- (10) Identity of the producing broker, any confirming correspondence from the insurer or its representative, and the application.***

***The record of each contract shall be kept open at all reasonable times to examination by the Commissioner without notice for a period not less than five years following termination of the contract.***

**If you have additional questions, please feel free to contact any of the following:**

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