



State of New Jersey

DEPARTMENT OF BANKING AND INSURANCE
LEGISLATION AND REGULATION
PO Box 325
TRENTON, NJ 08625-0325

CHRIS CHRISTIE
Governor

THOMAS B. CONSIDINE
Commissioner

KIM GUADAGNO
Lt. Governor

TEL (609) 984-3602
FAX (609) 292-0896

MARY C. BEAUMONT
Director

BULLETIN NO. 11-21

TO: ALL INSURERS SEEKING TO BE DESIGNATED A DOMESTIC SURPLUS LINES INSURER IN THIS STATE

FROM: THOMAS B. CONSIDINE, COMMISSIONER

RE: DESIGNATION AS A DOMESTIC SURPLUS LINES INSURER IN THIS STATE

P.L. 2011, c. 39, enacted on March 22, 2011, provides, among other things, for the designation of a domestic insurer as a domestic surplus lines insurer pursuant to N.J.S.A. 17:22-6.69a through 6.69c. This statute provides that, notwithstanding any other provision of law to the contrary, a domestic insurer possessing policyholder surplus of at least \$15 million may, pursuant to a resolution by its Board of Directors, and upon the written approval of the Commissioner of Banking and Insurance (Commissioner), be designated as a domestic surplus lines insurer. A domestic surplus lines insurer shall be duly authorized by a current certificate of authority. However, a domestic surplus lines insurer shall be considered an eligible, unauthorized insurer for purposes of writing surplus lines insurance coverage in this State. The statute further provides that a domestic surplus lines insurer shall only insure in this State a New Jersey risk procured from a surplus lines agent in accordance with the provisions of N.J.S.A. 17:22-6.40 et seq.; and shall not issue policies of private passenger automobile insurance, workers' compensation or workers' occupational disease insurance. In addition, pursuant to N.J.S.A. 17:22-6.69b insurance written by domestic surplus lines insurers shall be subject to the tax on premiums as set forth in N.J.S.A. 17:22-6.59.

The Department is in the process of developing a rulemaking proposal to implement this statute. Pending the ultimate adoption of such rules, the Department is issuing this Bulletin to provide guidance to insurers seeking to be designated as a domestic surplus lines insurer.

(1) Pursuant to N.J.S.A. 17:22-6.69b, a domestic property and casualty insurer possessing policyholder surplus of at least \$15,000,000 may, pursuant to a resolution by its Board of Directors, and upon approval by the Commissioner, be designated as a domestic surplus lines insurer. A domestic surplus lines insurer shall be considered an eligible, unauthorized insurer as noted in N.J.S.A. 17:22-6.40 et seq. for purposes of writing surplus lines insurance coverage.

(2) A domestic surplus lines insurer shall only insure in this State a New Jersey risk procured from a surplus lines producer in accordance with the provisions of N.J.S.A. 17:22-6.40 et seq. This limitation with respect to New Jersey risks shall not be deemed to limit such insurer from transacting business as a surplus lines insurer in another state or jurisdiction pursuant to that state's or jurisdiction's requirements.

(3) A domestic surplus lines insurer shall not issue policies of private passenger automobile insurance, workers' compensation or workers' occupational disease insurance.

(4) Insurance written by a domestic surplus lines insurer shall be subject to the tax on premiums as provided by N.J.S.A. 17:22-6.59.

(5) A domestic insurer that is designated as a domestic surplus lines insurer shall only be approved to write the lines of surplus lines coverage that it is approved to write as a domestic insurer pursuant to its authority as a domestic insurer in this State, and may be considered as approved to write those lines by this State for purposes of seeking surplus lines eligibility in other states or jurisdictions.

(6) Whenever any insurance risk or any part thereof is placed with a domestic surplus lines insurer, the policy, binder, or cover note shall bear conspicuously on its face and in boldface, the following notation:

“Notice to Policyholder: This policy is written by a domestic surplus lines insurer, an eligible unauthorized insurer pursuant to section 2 of P.L.2011, c.39 (C.17:22-6.69b), and is not subject to the rate or form filing or approval requirements of the New Jersey Department of Banking and Insurance. This policy may contain conditions, limitations, exclusions and different terms than a policy otherwise issued by a New Jersey authorized or admitted insurer. This policy is not covered by the New Jersey Property-Liability Guaranty Association. This policy may be covered by the New Jersey Surplus Lines Insurance Guaranty Fund, but only to the extent provided pursuant to section 2 of P.L.1984, c.101 (C. 17:22-6.71).”

A foreign insurer that is currently admitted or eligible to transact business in this State that wishes to be designated as a domestic surplus lines insurer may seek to transfer its domicile to this State utilizing the procedures set forth in N.J.S.A. 17:17-20. An entity that will be a newly formed domestic insurer should use the formation procedures set forth in N.J.A.C. 11:1-28. All information should be sent to:

New Jersey Department of Banking and Insurance
Office of Solvency Regulation
Attn: Domestic Surplus Lines Insurance
20 West State St.
P.O. Box 325
Trenton, NJ 08625-0325

10/14/11

Date



Thomas B. Considine
Commissioner

jc11-15/inoord