

TO: All insurers eligible to write nonadmitted insurance in [State], all licensed surplus lines brokers, [all insureds independently procuring nonadmitted insurance and stamping office]

FROM: [Commissioner, Director, Superintendent]

DATE: [Insert Date]

RE: Implementation of federal Nonadmitted and Reinsurance Reform Act in [State]

The purpose of this bulletin is to outline nationwide regulatory changes that will affect the placement of nonadmitted insurance in [State]. The Nonadmitted and Reinsurance Reform Act of 2010 (“NRRA”), 15 U.S.C. § 8201 *et seq.*, provides that only an insured’s “Home State” may require the payment of premium tax for nonadmitted insurance. Moreover, the NRRA subjects the placement of nonadmitted insurance solely to the statutory and regulatory requirements of the insured’s Home State, and provides that only the insured’s Home State may require a

member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

New and renewal policies with an effective date prior to July 21, 2011 will be subject to the laws and regulations of [State] and other jurisdictions, as applicable, as of the policy effective date. The laws and regulations of [State] and other jurisdictions, as applicable, as of the effective date of such a policy will also apply to any modification to that policy during the policy period, such as all endorsements (including risk- and premium-bearing endorsements), installment payments and premium audits. New and renewal policies with an effective date on or after July 21, 2011, and any modifications thereto, will be subject only to the laws and regulations of [State] if [State] is the Home State of the insured.

As of July 21, 2011, the NRRA permits only the insured's Home State to require the payment of premium tax for nonadmitted insurance. Until July 21, 2011, the laws and regulations of [State] and other jurisdictions, as applicable, will continue to apply to premium tax due on multi-state placements.

It is the intent of the Department to issue additional bulletins if and when [State] begins participating in a tax sharing arrangement. Until additional bulletins are issued, the [State] tax rate should be applied to new and renewal policies with an effective date on or after July 21, 2011, when [State] is the insured's Home State. [Note: If the state intends to apply an alternate formula for computing the premium tax on multistate policies for which it is the Home State, that information should be inserted here.]

Only the insured's Home State may require a surplus lines broker to be licensed to sell, solicit or negotiate nonadmitted insurance with respect to a particular placement. If [State] is the insured's Home State, the surplus lines broker must be licensed in [State]. The NRRA provides that [State] may not collect licensing fees for surplus lines brokers as of July 21, 2012, unless [State] participates in the NAIC's national insurance producer database or any other equivalent uniform national database. 15 U.S.C. § 8203. [State] participates in the National Insurance Producer Registry (NIPR), which provides such a database. [Note: If the state does not participate in NIPR, the state should describe its broker licensing requirements.]

[Insert general diligent search requirements for state].

On or after July 21, 2011, a surplus lines broker seeking to procure or place nonadmitted insurance on behalf of an "exempt commercial purchaser" is not required to perform a diligent search if: 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 a nonadmitted insurer. "Exempt commercial purchaser" is defined in [insert State statute consistent with NRRA definition].



- “ ”: The term “independently procured insurance” means insurance procured directly by an insured from a nonadmitted insurer. 15 U.S.C. § 8206(7).
- “ ”: The term “nonadmitted insurance” means any property and casualty insurance permitted to be placed directly or through a surplus lines broker with a nonadmitted insurer eligible to accept such insurance. 15 U.S.C. § 8206(9).
- “ ”: The term “nonadmitted insurer”—
  - (A) means, with respect to a State, an insurer not licensed to engage in the business of insurance in such State; but
  - (B) does not include a risk retention group, as that term is defined in section 2(a)(4) of the Liability Risk Retention Act of 1986 (15 U.S.C. 3901(a)(4)). 15 U.S.C. § 8206(11).
- “ ”: The term “premium tax” means, with respect to surplus lines or independently procured insurance coverage, any tax, fee, assessment, or other charge imposed by a government entity directly or indirectly based on any payment made as consideration for an insurance contract for such insurance, including premium deposits, assessments, registration fees, and any other compensation given in consideration for a contract of insurance. 15 U.S.C. § 8206(12).
- “ ”: The term “qualified risk manager” means, with respect to a policyholder of commercial insurance, a person who meets all of the following requirements:
  - (A) The person is an employee of, or third-party consultant retained by, the commercial policyholder.
  - (B) The person provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis, and purchase of insurance.
  - (C) The person—
    - (i) (I) has a bachelor’s degree or higher from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a State insurance commissioner or other State regulatory official or entity to demonstrate minimum competence in risk management; and
      - (II) (aa) has 3 years of experience in risk financing, claims administration, loss prevention, risk and insurance analysis, or purchasing commercial lines of insurance; or
        - (bb) has—
          - (AA) a designation as a Chartered Property and Casualty Underwriter (in this subparagraph referred to as “CPCU”) issued by the American Institute for CPCU/Insurance Institute of America;
          - (BB) a designation as an Associate in Risk Management (ARM) issued by the American Institute for CPCU/Insurance Institute of America;
          - (CC) a designation as Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education & Research;
          - (DD) a designation as a RIMS Fellow (RF) issued by the Global Risk Management Institute; or
          - (EE) any other designation, certification, or license determined by a State insurance commissioner or other State insurance regulatory official or entity to demonstrate minimum competency in risk management;
      - (ii) (I) has at least 7 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; and
        - (II) has any 1 of the designations specified in subitems (AA) through (EE) of clause (i)(II)(bb);

(iii) has at least 10 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; or

(iv) has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or any other field determined by a State insurance commissioner or other State regulatory official or entity to demonstrate minimum competence in risk management. 15 U.S.C. § 8206(13).

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