



February 17, 2000 RECEIVED

2000 FEB 22 AM 9:18

INDEPENDENT REGULATORY
REVIEW COMMISSION

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VIA FACSIMILE AND REGULAR MAIL

Independent Regulatory Review Commission
Mr. Robert Nyce
14th floor, Harristown 2
333 market Street
Harrisburg, PA 17101
783-2664 fax

Re: Surplus Lines Final Form Rulemaking

Dear Mr. Nyce:

The Pennsylvania Insurance Department has submitted final form regulations for consideration to implement Article XVI of the Insurance Company Law enacted in 1992. This followed several years of work by the Insurance Commissioner's Task Force on Surplus Lines Regulation to develop a new and revised surplus lines law to recognize changes in the marketplace and to consider and incorporate provisions as contained in the National Association of Insurance Commissioners model law. PIA was appointed to the Insurance Commissioner's Task Force and was a participating member throughout.

We focus our comments on one section of the Final Form Regulation; namely §124.5 Diligent search of admitted insurers.

The Insurance Department has chosen to delete original proposed language that attempted to tie diligent search criteria to an arbitrary matrix relating to the "Number of Agent Appointments" to the "Number of Required Declinations". PIA, in its original comments, pointed out that 1) there was no statutory basis for this approach and 2) the matrix was arbitrary and failed to recognize marketplace realities. The Independent Regulatory Review Commission agreed with PIA that the proposed regulations exceeded statutory authority.

PIA can support the changes submitted, however, it is important to point out that the marketplace and regulatory environments have changed dramatically since the Surplus Lines Task Force first undertook its charge in the late 1980's. The key change has been Pennsylvania's Commercial Lines Deregulation of the admitted market.

5050 Ritter Road
P.O. Box 2023
Mechanicsburg, PA
17055-0763
Phone (717) 795-9100
Fax (717) 795-8347

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Such changes, as PIA noted in a letter to the Insurance Department dated October 18, 1999, necessitates renewed dialogue on the surplus lines marketplace and to deal with entire question and necessity of a "diligent search" requirement.

We also note that the proposal for "diligent search" relates specifically to a broker. It eliminates any reference or responsibilities/requirements tied to an agent's certificate of qualification and the number of appointments. By making this change, there is no commingling of broker and agent powers, which is consistent with statute.

Lastly, PIA remains open to dialogue with the Insurance Department so that we can fully understand the system and mechanics that the Department will employ in enforcing the statute and regulation.

Sincerely,

F. E. "Rick" Russell, II
Executive Vice President

Joseph T. Leighton, Esq.
Vice President of
Government & Industry Affairs