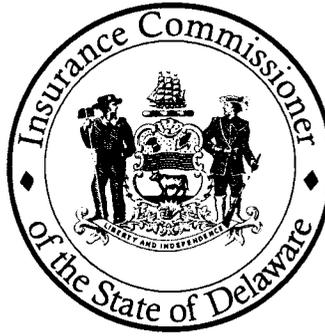


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### **Surplus Lines Bulletin No. 7**

**TO: Surplus Lines Licensees (Brokers and Business Entities)**

**RE: Surplus Lines Filing and Reporting Requirements**

**DATE: December 21, 2006**

#### **Background**

A significant part of the Insurance Commissioner's obligation to Delaware citizens is to ensure that sufficient protection is available for risks throughout the state. The surplus lines market exists to help provide coverage that is not available through the admitted market. All surplus lines business is subject to conditions specified in 18 *Del. C.* Ch. 19\*, and it is through the responsibilities placed on surplus lines brokers that the surplus lines market is regulated by the Insurance Department.

#### **Purpose**

The purpose of this bulletin is twofold. The first purpose is to introduce new filing procedures intended to streamline surplus lines (SL) policy and premium tax reporting, and to facilitate compliance with all filing requirements. The second purpose is to emphasize the surplus lines licensee's (broker and business entity) responsibilities to meet these filing requirements, and the Department's intent to strictly enforce compliance with the statutory requirements. **This Bulletin supersedes and replaces Surplus Lines Bulletin No. 1.**

#### **Changes in Reporting Procedures**

To reduce the considerable paperwork burden associated with surplus lines reporting, especially in light of the dramatic increase in volume of surplus lines business written in Delaware during recent years, the Department has initiated important changes in reporting procedures. To assist and acquaint resident and non-resident Delaware Surplus Lines licensees and their staff with proper procedures, the Department has developed a new ***Surplus Lines Broker Procedures Manual***, which is available in searchable electronic format and can be printed for reference. The new manual will be available on the Department's website <http://www.delawareinsurance.gov> by January 1, 2007. All parties involved in the surplus lines insurance business are directed to access and use this tool.

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\* All statutory references are to Title 18 of the Delaware Code

Along with existing forms and information, the manual contains detailed instructions for completing the following *new forms* designed to streamline Surplus Lines reporting. These forms are available on the Department's website [www.delawareinsurance.gov](http://www.delawareinsurance.gov) under the "Forms and Applications" section. The forms are to be used by all surplus lines licensees:

- ***Surplus Lines Notice of Insurance Transaction, Form SL-1905*** – This new form is in Microsoft Excel® format, and can be submitted to the Department via email as an attachment. The form may also be printed for broker records or given to the insured as evidence of insurance transacted. This new form replaces the Broker Affidavit (old Form SLB-A1), the Broker Certificate, (old Form SLB-C1), and the Broker of Record (Form SLB-R1).
- ***Surplus Lines Quarterly Premium Tax Report, Form SL-1917*** – This new form replaces the Surplus Lines Broker Monthly Report, old Form SLBM-1. After submitting the December 2006 report (due by January 15, 2007) surplus lines brokers will no longer be required to file monthly reports. The new SL-1917 form is due on or before April 30, July 30, October 30 and January 30 each year, beginning with an April 30, 2007, report for the January-February-March 2007 calendar quarter. Premium tax payment should be remitted each quarter with the SL-1917.
- ***Surplus Lines Statement of Diligent Effort, Form SL-1904*** – This form must be completed and signed by the individual licensee who represents the insured (producing agent or broker). If the producing agent is not licensed for surplus lines, this form must be completed and signed by the producing agent then forwarded to the SL Broker. If the SL Broker also acts as the producing agent, the SL Broker must complete and sign the form. This form must be kept with the surplus lines broker's other policy records and must be open to examination by the Commissioner at all times for 5 years after issuance of the coverage to which it relates. (§1915) This form should NOT be mailed to the Insurance Department.
- ***Surplus Lines Binder/Policy Number Replacement, Form SL-1908*** – It is critical that a surplus lines broker notify the Department when a previously reported binder number is replaced with an actual policy number. This form must be submitted as soon as the policy number becomes available.

**IMPORTANT: All surplus lines licensees – individual brokers and business-entities – must use their 7-digit Delaware SL license number as their Broker ID or Agency ID.** This number will be consistently used by the Department for SL broker identification. The 7-digit Broker ID must be used on all correspondence to the Department, including all forms. Agencies must also use their 7-digit Delaware business entity SL license number for identification purposes. Although the premium tax section of the Department retains SSN and FEIN in the tax data records, those numbers will only be used for cross-matching purposes, not as general identification numbers.

### **Broker Responsibilities and Compliance**

The Department has encountered several and varied compliance violations committed by reporting brokers and business entities. Due to the increasingly frequent occurrence of these violations, the Commissioner has determined that there is a need for more rigorous enforcement

of compliance with surplus lines reporting requirements. All brokers and business entities have until April 1, 2007 to bring their licenses, records, reports and tax payments up to acceptable standards as detailed in the *Surplus Lines Broker Procedures Manual*. For violations that have not been remedied by or for violations occurring after April 1, 2007, all surplus lines licensees, including business entities, will be strictly held responsible for complying with the existing statutory requirements and the rules set forth in this Bulletin.

The information in this section addresses several of the most prevalent problems that have been encountered and briefly attempts to clarify the proper reporting procedures relative to those problems. This is not meant to be an exhaustive listing of violations and in its enforcement of compliance the Department may cite other violations. Refer to the *Surplus Lines Broker Procedures Manual* for more specific instructions on proper compliance procedures.

1. **Licensing Problems** -- All surplus lines business must be procured through a surplus lines broker duly licensed by the Delaware Insurance Department (§ 1904)

**Any current insurance producer, non-resident SL broker, or business entity who needs to become licensed in DE for surplus lines in order to be brought into compliance with Delaware law, must do so before April 1, 2007 to avoid administrative penalties.** Online license applications may be obtained at these links for both individuals and business entities:

Residents: [www.delawareinsurance.gov](http://www.delawareinsurance.gov) (click on link for the “Producer Licensing” section)

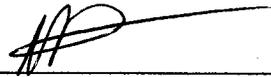
Non-residents: [www.licenseregistry.com](http://www.licenseregistry.com)

2. **All individual surplus lines brokers must submit tax and fees reports, regardless of business volume.** So called “No business” or “Zero business” reports are required. Reports are required from each individual SL broker, not business entities. Individual SL brokers are “linked” to business entities for reporting purposes and should list the business entity name and address as their place of business.
3. **Surplus Lines policies on DE risks should not be placed with companies that are not listed as eligible insurers on the Surplus Lines Bulletin No. 5 listing.** All surplus lines business must be procured from eligible surplus lines insurers. (§1907(b)) The Department publishes Bulletin # 5 on its website as a list of insurers deemed eligible to transact business in Delaware on a surplus lines basis.
4. **Delaware does not have an “Export List”.** For all surplus lines business, the Department requires a **minimum of three (3) declinations** from representatives of admitted insurers as evidence that a diligent effort to procure the coverage from an authorized insurer was made prior to placing the coverage with an unauthorized insurer. Although §1906 empowers the Commissioner to declare any class or classes of insurance coverage eligible for export, the Commissioner has not done so as of this date.
5. **The full amount of premium tax must be remitted.** A tax of 2% is due on all insurance premiums written on Delaware risks. Surplus Lines Bulletin No. 6, effective February 11, 2004, clarifies the Department’s definition of taxable premium to include associated policy fees. SL Bulletin No. 6 also instructs all surplus lines licensees to “consistently include

associated policy fees in the calculation of taxable premium, and submit payment of insurance premium taxes based on policy premium including policy fees as required in Title 18.”

**Penalties:**

All brokers and business entities have until April 1, 2007 to bring their business and reporting practices into compliance with the rules set forth in this Bulletin and in 18 *Del. C.* Ch. 19. After April 1, 2007, all surplus lines licensees found to be in violation of these rules and procedures will be subject to such penalties as are specified in §1918, or §106, and may also be ordered to appear for hearing to show-cause why their insurance license should not be revoked or otherwise subject to the penalties in §1712.



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INSURANCE COMMISSIONER