

**PROPOSED REGULATION OF THE
COMMISSIONER OF INSURANCE**

LCB File No. R161-06

July 25, 2006

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1 and 2, NRS 685A.210; §3, NRS 685A.075 and 685A.210.

A REGULATION relating to surplus lines insurance; revising provisions concerning the duty of brokers to file an affidavit and report of coverage; revising provisions concerning the duty of a nonprofit organization of surplus line brokers to file a survey of insurance transactions; revising the fee for a review of surplus lines coverage; and providing other matters properly relating thereto.

Section 1. NAC 685A.240 is hereby amended to read as follows:

685A.240 1. The following provisions apply to the broker's affidavit and report of coverage:

(a) Except as otherwise provided in subsection 3, the affidavit and report of coverage must bear the original signature of the broker.

(b) The affidavit and report constitutes the broker's statement of compliance with NRS 685A.040, 685A.070, 685A.080 and 685A.090.

(c) A separate affidavit and report of coverage must be filed with the broker's organization upon any renewal *or extension of coverage* of a contract of insurance.

(d) An amended affidavit and report of coverage must be filed with the broker's organization for each cancellation and each endorsement which changes the named insured, the description or location of the subject of insurance, or the coverage, conditions, terms, premium, or participating insurers.

(e) If all the information which is required to be stated on the affidavit and report of coverage is not available within 90 days after the insurance becomes effective, an affidavit and report of coverage listing all the information which is available must be filed with the broker's organization. ~~[An amended affidavit and report of coverage listing any information which was previously omitted must be filed with the broker's organization within 30 days after the initial filing.]~~

(f) The broker shall exercise due care in accounting for the premium, including any inspection fee charged as part of the premium, and for the premium tax on each affidavit and report of coverage. The premium tax must be computed upon the total premium or deposit premium, plus the fee allowed by NRS 685A.155, minus any return premium. The premium must include policy, membership, and other fees and assessments charged by the insurer as considerations for the insurance.

(g) If a type of coverage is on the list of open lines eligible for export which is approved by the Commissioner, statements of declinations from admitted insurers pursuant to subsection 1 of NAC 685A.215 are not required on the affidavit and report of coverage.

(h) The Commissioner may require a broker to file with the broker's organization a complete copy of the policy, certificate, or cover note to substantiate information which he has provided in an affidavit or report of coverage.

2. The annual statement must:

- (a) Except as otherwise provided in subsection 3, bear the original signature of the broker;
- (b) Include the total direct premiums written on surplus lines coverage, calculated in the same manner as premiums are calculated pursuant to NRS 685A.180;

(c) Include a report, in a form prescribed by the Commissioner, showing the allocation of premiums as required by NRS 680B.030; and

(d) Include a calculation of the premium taxes due to each state or other jurisdiction.

3. If a broker's affidavit and report of coverage or an annual statement is filed electronically, the broker's affidavit and report of coverage or the annual statement must be signed with an electronic signature of the broker pursuant to the provisions of chapter 719 of NRS.

Sec. 2. NAC 685A.350 is hereby amended to read as follows:

685A.350 An organization shall:

1. Establish and maintain an office in this State to carry out the applicable provisions of this chapter and chapter 685A of NRS.

2. Maintain a plan of operation which ensures that the members of the organization and all associated surplus lines insurance transactions comply with the provisions of title 57 of NRS and all other applicable rules and regulations adopted by the Commissioner.

3. Require each broker who is a member of the organization to file with the organization:

(a) The broker's affidavit and report of coverage required by NRS 685A.050 and NAC 685A.240;

(b) A copy of the broker's cover note, declarations page, or certificate;

(c) A copy of the annual statement required by NRS 685A.170; and

(d) A copy of the quarterly tax report required by NRS 685A.175.

4. Maintain each document filed with the organization pursuant to subsection 3.

5. Distribute to the members of the organization the current list of eligible surplus lines insurers and open lines eligible for export.

6. Prepare and submit to the Commissioner on or before May 1 of each year a report summarizing the premiums written in this State as of December 31 of the previous year through eligible surplus lines insurers. The report must identify for each premium written:

(a) The name of the insurer, including the identification number issued to the insurer by the National Association of Insurance Commissioners;

(b) The broker; and

(c) The line of coverage provided.

7. Cooperate with the Commissioner to resolve inquiries concerning the availability of coverage with admitted insurers and provide assistance in the placement of coverage with an eligible surplus lines insurer.

8. ~~Perform an annual survey of surplus lines~~ *If requested by the Commissioner, perform a survey of* insurance transacted in this State that reflects coverage placed in this State which involves major risks. The organization shall submit the results of the survey to the Commissioner with the report required by subsection 6.

9. Hold a meeting at least annually.

Sec. 3. NAC 685A.370 is hereby amended to read as follows:

685A.370 Each broker who is a member of an organization shall pay to the organization a fee for the review of surplus lines coverage. The fee must be paid within 30 days after the broker receives an invoice from the organization. The fee for each policy ~~[, regardless of whether the policy is a new policy or a renewal of a policy, is \$25 or one-half of 1 percent of the premium, whichever is greater.]~~ *is 0.4 percent of the amount subject to tax pursuant to NRS 685A.180.*