



General Bulletin #16 Illinois Domestic Surplus Line Insurers

To: All Illinois Surplus Line Producers & Interested Parties
From: David L. Ocasek

This is to advise you of some recent changes to the Illinois Insurance Code that could affect you. These changes were effective August 14, 1998.

Section 445a has been added to the Illinois Insurance Code creating a new category of Insurer called an Illinois Domestic Surplus Line Insurer. Until now, in Illinois and all other states, a surplus line insurer was always an admitted insurer in its own state of domicile. This provision, the first such provision in the 50 states, provides for an Illinois-domiciled insurer to be treated as non-admitted in Illinois for certain purposes.

Here are some questions you might have:

Will such insurers still be subject to the \$15,000,000 capital and surplus standard applicable to non-Illinois domiciled surplus line insurers?

Yes. They must still meet this standard.

Must policies placed with a Domestic Surplus Line Insurer be presented to the Surplus Line Association for stamping?

Yes, and the stamping fee still applies.

What tax implications will there be for placements we make with such insurers?

- It is the position of the Illinois Division of Insurance that the 3.5% Surplus Line tax will apply.
- It is the position of the Illinois Division of Insurance that the Fire Marshal tax will apply.

Do we still need to obtain declinations from admitted insurers?

Yes, but note that the declinations cannot be from a Domestic Surplus Line Insurer.

Will these insurers be free from rate and form filings, like any other surplus line insurer?

Yes.

Will the policies issued by these insurers be covered by the state guaranty fund?

No. For policies issued by these insurers, the Division of Insurance has indicated that rule 2801.120 will be amended to require the following legend:

NOTICE TO POLICYHOLDER: This contract is issued by a domestic surplus line insurer, as defined in Section 445a, pursuant to Section 445 and as such is not covered by the Illinois Insurance Guaranty Fund.

Will the Service of Suit requirements of Section 445 apply to these insurers?

The Illinois Division of Insurance has indicated that the Service of Suit required by Section 445 will not apply to placements with Illinois Domestic Surplus Line Insurers.

How can we find out which insurers are Illinois Domestic Surplus Line Insurers?

The insurer should be able to tell you if they fall into this category. For an up-to-date list of Domestic Surplus Line Insurers registered with the Illinois Division of Insurance, click here. Additionally, you may contact the Surplus Line Association to inquire about the status of specific insurers.

The Domestic Surplus Line Insurer provision is part of Senate Bill 1728 which made several changes to the Insurance Code including such subjects as Risk Based Capital, Industrial Insureds and Lloyd's. For a full copy you can contact Senate Enrolling at (217) 782-6970. They charge 10¢ per page plus a handling fee.

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