



**State of New Jersey**  
**DEPARTMENT OF BANKING AND INSURANCE**  
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**HOLLY C. BAKKE**  
*Commissioner*

**BULLETIN NO. 03-03**

TO: ALL LICENSED INSURANCE PRODUCERS WITH SURPLUS LINES  
AUTHORITY

FROM: HOLLY C. BAKKE, COMMISSIONER OF BANKING AND INSURANCE

RE: ADOPTION OF NEW RULES – SURPLUS LINES INSURANCE: POLICY  
FORM APPROVAL PROCEDURE, STANDARDS AND PLACEMENTS OF  
COVERAGE WITH SURPLUS LINES INSURERS AND INELIGIBLE  
UNAUTHORIZED INSURERS, N.J.A.C. 11:1-33

On February 3, 2003, a Notice of the adoption by the Department of Banking and Insurance (“Department”) of new rules governing Surplus Lines Insurance: Policy Form Approval Procedure, Standards and Placements of Coverage with Surplus Lines Insurers and Ineligible Unauthorized Insurers, N.J.A.C. 11:1-33 was published in the New Jersey Register (See 35 N.J.R. 612(a)).

The complete text of the adopted new rules may be viewed on the Department’s website at [www.njdoib.org](http://www.njdoib.org) (From the homepage, click on “Bulletins, Rules, Notices”. To view the text of the new rules as proposed, click on “Proposed New Rules – Comment Period Expired”. Then scroll down to “Policy Form Approval Procedures, Standards and Placements of Coverage with Surplus Lines Insurers and Ineligible Unauthorized Insurers” and click on that. To view the small number of non-substantive changes made to the text of the rules upon their adoption, click

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on “Adopted Rules”. Then scroll down to “Surplus Lines Insurance: Policy Form Approval Procedures (December 20, 2002)” and click on that.)

Please be advised that these rules set forth and codify the Department’s procedures for the procurement of insurance from surplus lines insurers and from ineligible unauthorized insurers. These rules also set forth standards for the filing, renewal or refiling of forms that exclude or limit certain types of coverage. These rules permit surplus lines producers who are unable to place insurance with admitted insurers or surplus lines insurers to place the coverage with ineligible unauthorized insurers, provided the requirements of these rules are met at least 5 working days prior to binding of coverage.

Some key provisions of these rules are outlined below:

1. Surplus lines agents and/or organizations may file a maximum of 10 policy modification forms per month. The Department may grant a waiver to this requirement conditioned upon the insurer’s agreement to extend the Department’s 30 day review period.

2. In order to obtain the information necessary to evaluate each form/policy modification, the Department has revised the Surplus Lines Policy Form Filing Questionnaire. A copy of the new Questionnaire is attached. This Questionnaire should accompany each form/modification filing.

3. A copy of the new “Certification of Effort to Place Risk with Authorized Insurer” (SLPS-6-CERT1) is attached. This form is required to be completed by the originating producer and submitted to the surplus lines agent any time there is a surplus line placement (other than those risks on the Exportable List).

4. When coverage on behalf of a New Jersey insured cannot be obtained from authorized insurers, nor eligible unauthorized insurers, it may be obtained from ineligible unauthorized insurers only if the 5 express conditions (A-E) set forth below are fully satisfied at least five working days prior to the binding of insurance coverage.

A. The producer shall complete form SLPS-6-CERT1 and file it with the surplus lines agent and retain a copy.

B. The surplus lines agent shall complete form SLPS-8-AFF3 “Supplemental Certification” (copy attached) and attach form SLPS-6-CERT1 submitted by the originating producer pursuant to 4.(A) above.

C. The ineligible unauthorized insurer shall have made a deposit or deposits with the Commissioner as follows:

i. The amount of the deposit must be 125 percent of expected losses, but not less than \$100,000, in United States Government Bonds pursuant to the instructions set forth in N.J.A.C. 11:2-32, including all supporting documents and calculations used to determine the amount of the deposit; and

ii. The deposit set forth in 4.(C)i. above shall be separately made for each individual policy; in the case of a group policy or plan of insurance, a deposit shall be separately made for each individual New Jersey citizen or resident who is insured through such group policy or plan, or who has received a certificate or other evidence of coverage under such group policy or plan; and

iii. Upon good cause shown, the amount of the deposit provided in 4.(C)i above shall be reduced or waived, in the Commissioner's discretion. A showing of good cause requires:

(1) A rating in one of the four highest rating categories from a company listed in N.J.A.C. 11:1-41.3; except that a Weiss Rating must be in its highest category;

(2) Domicile in a National Association of Insurance Commissioner (NAIC) accredited jurisdiction; and

(3) No more than five new or renewal placements per year.

D. The surplus lines agent shall have filed a certified copy of the ineligible unauthorized insurer's annual statement of financial condition, current as of the date of filing, which evidences net assets of at least \$5,000,000, consisting of at least \$1,500,000 liquid assets with:

Surplus Lines Examining Office (SLEO)  
New Jersey Department of Banking and Insurance  
20 West State Street  
P.O. Box - 325  
Trenton, New Jersey 08625-0325

E. The surplus lines agent shall maintain the records of each placement with an ineligible unauthorized insurer required to be maintained in accordance with N.J.S.A. 17:22-6.57(j) and shall make the records available for inspection by the Commissioner for five years next following expiration or cancellation of the contract.

5. All policies shall include the statement prescribed at N.J.A.C. 11:1-33.8 (c) that provides that there is no New Jersey Insurance Guaranty Fund or New Jersey Surplus Lines Guaranty Fund protection. The said statement shall be clearly stamped in boldface type on the policy, binder or cover note.

6. These requirements also apply to renewals.

Any questions on this Bulletin or any other surplus lines issues may be addressed to the Surplus Lines Examining Office at (609) 292-5350 extension 50106.

2/20/03

Date

/s/ Holly C. Bakke

Holly C. Bakke, Commissioner

DHT03-03/INOORD

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

Property Casualty Office  
P.O. Box 325, Trenton, NJ 08625-0325

SURPLUS LINES POLICY FORM FILING QUESTIONNAIRE

The following information must be completed and this questionnaire attached to the front of each surplus lines policy form or endorsement submitted to the Department for approval pursuant to N.J.A.C. 11:1-33.4.

1. Name, address and the phone number of the surplus lines agent.

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2. Policy or Endorsement Name \_\_\_\_\_

3. Form #/Edition \_\_\_\_\_

4. To the best of your knowledge, has this policy or endorsement been approved by the Department for use by admitted companies with non-special risk?

YES \_\_\_\_\_ NO \_\_\_\_\_

5. Will this policy or endorsement be used solely with special risks pursuant to N.J.S.A. 17:29AA-3(k), except risks that are special solely because the premium is \$10,000 or greater?

YES \_\_\_\_\_ NO \_\_\_\_\_

Note: if the answer to either 4 or 5 is yes, you do not need approval from the Department, nor do you have to complete or file this questionnaire and the accompanying policy form or endorsement.

6. (a) To the best of your knowledge, has this policy form or endorsement been disapproved by the Department for use by admitted companies with non-special risks?

YES \_\_\_\_\_ NO \_\_\_\_\_

- (b) If yes, explain in detail how this form differs from policies or endorsements disapproved by the Department for use by admitted insurers with non-special risks.

7. Approval is being requested for what type of risks?

\_\_\_\_\_ A Particular Subject of Insurance single risk (provide details).

\_\_\_\_\_ Risks of a Particular Class (provide details).

\_\_\_\_\_ All Risks

Is this form a "modification" of an approved form? YES \_\_\_\_\_ No \_\_\_\_\_

8. Attach a statement by the surplus lines agent or insurer demonstrating that:

(a) the modification(s) is reasonable, giving consideration to past and prospective loss experience of the risk or risks to be insured and the modification facilitates the availability of coverage for such risk or risks, which coverage would otherwise not be available at a reasonable cost; or

(b) the modification renders the form unique and designed for use with respect to a particular subject of insurance (single insured).

9. If approval is being requested to use the policy or endorsement with a single insured, attach a letter from the insured stating that:

(a) the insured has been informed of the provisions that are different from the policies approved by the Department for use by admitted insurers and

(b) the insured is willing to accept these differences.

10. CERTIFIED STATEMENT OF FILER:

\_\_\_\_\_ hereby certifies as follows:

(a) I am the \_\_\_\_\_ of \_\_\_\_\_  
(Name of Surplus Lines Agent) (Name of Filer)

(b) I am personally familiar with the contents of this filing.

- (c) **The attached filing complies with all statutory and regulatory requirements and the information it contains is true and accurate.**
- (d) **I certify that the foregoing statements made by me are true and that the New Jersey Department of Banking and Insurance may rely upon them in its review of the filing.**

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(Date)

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(Signature)

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
SURPLUS LINES EXAMINING OFFICE
P.O. BOX 325 Trenton, New Jersey 08625-0325

CERTIFICATION OF EFFORT TO PLACE RISK WITH AUTHORIZED INSURER

This certification shall be submitted by the originating producer with the surplus lines agent within 30 business days after the effectuation of any surplus lines insurance. The original of the certification must be maintained in the files of the surplus lines agent and a copy in the files of the producer and both must be available for inspection by the Commissioner for a period of at least five years.

(Name of insured)

(Address of insured)

(Location of Property or Risk)

(Insurance Coverage: Description and Amount)

Separator line of slashes

(Originating producer- Corporate or partnership)

(Originating producer- Individual name and/or Title)

(Originating producer-Complete Address)

The above hereby certifies that he/she is duly licensed as an insurance producer under the laws of New Jersey, and that: On or about \_\_\_\_\_, 2003, I was engaged by the insured named herein to procure insurance of the kind described herein and in the amount shown. There is no renewal offer/quote or existing coverage for this risk in the admitted market. I have made a diligent effort first to place this coverage with authorized insurers, each of which is authorized in New Jersey to write insurance of the kind requested and is an insurer that I had a good faith reason to believe might consider writing the type of coverage described herein. The following insurers are among those that declined to accept all or any part of the risk.



**INSURER  
DATE**

**REPRESENTATIVE**

**TELEPHONE No.**

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**I certify that the foregoing statements made by me are true to the best of my knowledge and belief. I am aware that if any of the statements are willfully false, I am subject to civil and criminal penalties.**

\_\_\_\_\_  
**(Date)**

\_\_\_\_\_  
**(Signature)**

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE
THE SURPLUS LINES EXAMINING OFFICE
P.O. Box 325 TRENTON, NEW JERSEY 08625-325

SUPPLEMENTAL CERTIFICATION BY SURPLUS LINES AGENT FOR
PROCUREMENT OF INSURANCE FROM INELIGIBLE UNAUTHORIZED INSURER

Name of Insured

(Street Address) (City or Town) (State) (Zip Code)

Location of Risk

(Street Address) (City or Town) (State) (Zip Code)

Insurance Coverage (Type of Coverage) (Policy Limits)

(Name of Surplus Lines Agent Representing Insured Above)

(Title of Representative for Corporation or Partnership)

(Name of Business, Corporation or Partnership)

(Street Address) (City or Town) (State) (Zip Code)

The above named individual is duly licensed as an insurance producer with surplus lines
authority pursuant to N.J.S.A. 17:22-1 et seq.

Name of Ineligible Unauthorized Insurer that business was placed with:
NAIC # ISI #
1.
2.

3. \_\_\_\_\_

4. \_\_\_\_\_

Attach additional listings if needed.

The named ineligible unauthorized insurer has deposited with the Commissioner in accordance with N.J.A.C. 11:2-32, securities in the amount acceptable to the Commissioner, which are held by the Commissioner for the benefit of New Jersey policyholders; and

(I) (We) have procured from such ineligible unauthorized insurer and filed with the Commissioner a certified copy of its current annual statement of financial condition in accordance with N.J.S.A. 17:22-6.45(h).

(I) (We) do not know of this coverage(s) being offered by companies I represent or by other companies in the admitted market.

(I) (We) certify that the foregoing statements made by me are true. I am aware that if any of the statements are willfully false, I am subject to civil and criminal penalties.

\_\_\_\_\_  
Name of Surplus Lines Agent

By: \_\_\_\_\_  
(Signature)