



National Association of  
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Representative Tom Leonard  
Chair, House Insurance Committee  
124 North Capitol Avenue  
P.O. Box 30014  
Lansing, MI 48909-7514

**Re: House Bill 4532 – The Surplus Lines Insurance Act**

Chairman Leonard and Members of the House Insurance Committee:

On behalf of the National Association of Professional Surplus Lines Offices (NAPSLO)<sup>1</sup>, we appreciate the opportunity to provide comments regarding HB 4532. This bill attempts to modify Michigan statute toward compliance with the Federal Nonadmitted and Reinsurance Reform Act (NRRA), which was passed by Congress in July of 2011. NAPSLO appreciates the pursuit of NRRA compliance and we stand willing to work with Michigan legislators and regulators to achieve a law that complies with the intent of NRRA.

#### **Surplus Lines and the NRRA**

Often called the “safety valve” of the insurance industry, surplus lines insurers (otherwise known as nonadmitted insurers) fill the need for coverage in the marketplace by insuring those risks that are declined by the standard underwriting and pricing processes of admitted insurance carriers. With the ability to accommodate a wide variety of risks, the surplus lines market acts as an effective supplement to the admitted market.

In passing the NRRA, Congress sought to achieve a simpler and more efficient system of regulation and taxation of the surplus lines industry by establishing the insured’s “home state” as the one and only jurisdiction to regulate and tax surplus lines transactions. NAPSLO

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<sup>1</sup> The National Association of Professional Surplus Lines Offices (NAPSLO) is the professional trade association representing the surplus lines industry and the wholesale insurance distribution system. The NAPSLO membership consists of approximately 400 wholesale brokerage member firms, 100 company member firms and 200 associate member firms. NAPSLO member firms operate more than 1,500 offices representing tens of thousands of individual brokers, insurance company professionals, underwriters and other insurance professionals worldwide conducting business in the U.S. surplus lines market.

believes the greatest benefit of the NRRRA is the efficiency brought about by home state regulation and taxation. In the law, Congress also clearly expressed its desire that states establish a uniform, nationwide approach to the regulation and taxation of the surplus lines industry.

Another key reformation intended by the NRRRA relates to the “national standards” for eligibility of surplus lines insurers. Before the NRRRA, states imposed inconsistent standards to determine whether a surplus lines insurer would be included as an “eligible” or “listed” insurer. Consequently, brokers and clients often found they were frustrated and confused when confronted with the fact that, for multi-state risks, companies would meet the “eligibility” and “listing” requirements in one state but not others. To solve this problem, in Section 524 of the NRRRA Congress set forth uniform national criteria for determining the eligibility of U.S. based companies to write surplus lines insurance.

### **Comments on HB 4532**

NAPSLO applauds the intent of HB 4532 to the extent that it codifies NRRRA standards. However, it should be noted that some provisions of the bill go beyond the intent of the NRRRA. In cooperation with the Property and Casualty Insurers Association of America (PCI) we would suggest several changes that would maintain the spirit of the NRRRA and bring clarity to Michigan’s surplus lines law. Those changes are summarized below:

- Standardize definitions and references for the terms “unauthorized” and “nonadmitted.” Currently HB 4532 uses the two terms interchangeably and with definitions that vary across different sections of the Michigan’s *Insurance Code of 1956*. We would suggest eliminating references to “unauthorized” and replacing them with the word “nonadmitted.” Further, it would be prudent to eliminate the multiple definitions of unauthorized and have the NRRRA definition for nonadmitted apply to each reference throughout the insurance codes.
- Definitions for “affiliated group”, “control”, “home state” and “state” should also be amended to adhere to their respective NRRRA definitions.
- Modify definition for “exempt commercial purchaser” to adhere to NRRRA definition with the monetary thresholds appropriately adjusted for the statutory CPI adjustment as advised by the NAIC.
- Modify section 1920 so that eligibility standards for nonadmitted insurers do not exceed federal law as specified by section 524 of the NRRRA. This would preclude Michigan law from permitting the director to maintain a mandatory “white list” of eligible nonadmitted insurers as stated in section 1920 (4).
- Section 1920 also contains a new reporting requirement for nonadmitted insurance that is placed with a surplus lines broker. We would like to point out that this is a new requirement and the similar requirement in Section 1950 only applies to direct procurement of nonadmitted policies and not to brokered transactions.

- We would also like to point out that this bill contains three additional regulatory filing requirements regarding diligent effort (Section 1910(B)), policyholder disclosure (1920(5)(A)), and tax allocation reports (Section 1920(6)). We would request that if the diligent effort requirement remain in the bill it be amended so that the that the licensee simply maintain proof of that attempt in their own files for viewing by the Director upon request rather than having to file proof of that effort with the director. None of these requirements are contained in the NRRRA.

### **Conclusion**

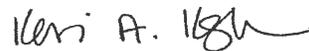
We are encouraged by the effort made by Michigan policymakers to begin the process of legislating a streamlined approach to surplus lines that adheres with the NRRRA and with some modifications we believe that HB 4532 can become effective surplus lines legislation. We pledge to work with legislators and regulators to achieve a bill that serves Michiganders and the surplus lines industry in kind.

We look forward to working with the Michigan Legislature on this issue and are available to address any questions or concerns you might have with the attached industry recommendations.

Sincerely,



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