

MARTIN O'MALLEY
Governor

ANTHONY G. BROWN
Lt. Governor



THERESE M. GOLDSMITH
Commissioner

KAREN STAKEM HORNIG
Deputy Commissioner

NEIL A. MILLER
Associate Commissioner
Examination and Auditing

200 St. Paul Place, Suite 2700, Baltimore, Maryland 21202
Direct Dial: 410-468-2122 Fax: 410-468-2101
Email: nmiller@mdinsurance.state.md.us
1-800-492-6116 TTY: 1-800-735-2258
www.mdinsurance.state.md.us

MIA BULLETIN 11-31

DATE: November 9, 2011

TO: All Insurers Eligible to Write Nonadmitted Insurance in Maryland and All Licensed Surplus Lines Brokers

All Insureds Who Independently Procure Insurance with a Nonadmitted Insurer

RE: Revised Procedures to the Payment of Premium Receipts Tax on Nonadmitted Insurance in Maryland

On May 19, 2011, Governor O'Malley signed into law Chapters 520 and 521, Acts 2011, which provide for the implementation of the Nonadmitted and Reinsurance Reform Act of 2010 ("NRRA")¹ in Maryland and conform Maryland's nonadmitted insurance laws to federal law. Chapters 520 and 521 took effect July 1, 2011.

On September 1, 2011, the Maryland Insurance Administration issued MIA Bulletin 11-26 entitled Implementation of the Federal Nonadmitted Reinsurance Reform Act in Maryland. That Bulletin outlined nationwide regulatory changes made under the NRRA that will affect the placement of nonadmitted insurance on Maryland risks. The purpose of this Bulletin is to provide additional information regarding the process for paying premium receipts taxes on nonadmitted insurance placements under these new laws.²

One of the most significant provisions of the NRRA is the way nonadmitted insurance premiums are to be allocated between states for reporting and tax purposes. While premiums for placements where the risk is located entirely within Maryland continue to be allocated entirely to Maryland for reporting and tax purposes, effective July 21, 2011, the allocation of premiums on

¹ Congress enacted the NRRA last year as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Title V, Subtitle B, §§511 *et seq.*). The provisions regulating the nonadmitted insurance market, NRRA §§521-525 & 527, are codified at 15 U.S.C. 8201-8206.

² "Nonadmitted insurance," as defined in the NRRA, includes both surplus lines and independently procured insurance, but is restricted to property and casualty insurance.

multi-state placements changed. Until July 21, 2011, only the portion of the premium attributable to Maryland risk was allocated to Maryland, and this applied whether or not Maryland was the insured's Home State.³ For policies effective on or after July 21, 2011, if Maryland is the insured's Home State the entire premium is allocated to Maryland.⁴

The Administration has not made any changes to its reporting forms to reflect the change in how premiums on multi-state placements are allocated between states. However, it is expected that surplus lines brokers and persons independently procuring insurance with a nonadmitted insurer will properly allocate premiums and remit the appropriate taxes to Maryland under the laws in effect on the policy effective dates.

Additional Reporting Guidance - Surplus Lines Brokers

In accordance with Title 3, Subtitle 3 of the Insurance Article of the Annotated Code of Maryland, surplus lines brokers are required to make periodic filings with the Administration related to their surplus lines business, and to remit to the Administration the premium receipts taxes they collected on that business. The Administration will not be making any significant changes to its reporting forms and tax payment processes at this time. However, the Administration has made certain changes to make these processes more efficient, as follows:

- We have revised the filing instructions on our web site. Please see these revised instructions at:

<http://www.mdinsurance.state.md.us/sa/docs/documents/insurer/premium-tax/surpluslinesfilinginstructions.doc>

- We are asking all surplus lines brokers to file their Quarterly Affidavits and Premium Receipts Tax Reports electronically rather than in paper form;
- We have added a schedule to the Surplus Lines Quarterly Report to allow reporting of Tax Exempt Premiums (i.e., premiums on risks of the Federal Government, State or political subdivision of Maryland); and

³ The NRRA defines "Home State" as:

(A) In General.—Except as provided in subparagraph (B), the term "Home State" means, with respect to an insured—

(i) the State in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or

(ii) if 100 percent of the insured risk is located out of the State referred to in clause (i), the State to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(B) Affiliated Groups.—If more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the term "Home State" means the Home State, as determined pursuant to subparagraph (A), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract. (NRRA § 527(6) (15 U.S.C. § 8206(6)).

⁴ Sections 3-324(d) and (e) and 4-209(b)(3) of the Insurance Article, Annotated Code of Maryland.

- We have implemented a new Surplus Lines Tax Payment Voucher to be attached to premium receipts tax payments. These forms will allow us to quickly apply tax payments to the proper accounts.

Additional Reporting Guidance – Persons Independently Procuring Insurance

In accordance with Title 4, Subtitle 2 of the Insurance Article, each insured that procures or causes to be procured insurance with a nonadmitted insurance company, other than surplus lines insurance, is required to file with the Administration a report on the insurance procured and remit to the Administration the premium receipts taxes due on that insurance. Chapters 520 and 521 significantly changed the reporting and tax payment deadlines for these procurements. In order to assist insureds in meeting these requirements, we have posted filing instructions on our web site. Linked to those instructions is a revised Report of Independently Procured Insurance with Unauthorized Insurer form to be used in reporting this business. Please see these instructions at:

<http://www.mdinsurance.state.md.us/sa/docs/documents/insurer/premium-tax/independprocuredinsfilinginstructions.doc>

Any questions about this bulletin should be directed to Neil A. Miller, Associate Commissioner, Examination and Auditing, at (410) 468-2122.

THERESE M. GOLDSMITH
INSURANCE COMMISSIONER

By: Signature on original
Neil A. Miller
Associate Commissioner
Examination and Auditing