



## National Association of Professional Surplus Lines Offices, Ltd.

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Richard M. Bouhan  
Executive Director

February 4, 2009

The Honorable James J. Donelon  
Louisiana Department of Insurance  
P.O. Box 94214  
Baton Rouge, LA 70804-9214

**RE: Bulletin No. 08-01**

Dear Commissioner Donelon:

The Louisiana Surplus Lines Association, NAPSLO and the AAMGA are jointly writing this letter to address a legislative proposal to mandate that only one deductible may be charged per year. Without commenting on the merits of the legislation in general, we are concerned that you have expressed your intent to apply this legislation to the surplus lines market. We believe the insureds of Louisiana would be better served if surplus lines insurance were left out of the scope of the bill. We believe that virtually all insured's in Louisiana will purchase insurance from the admitted markets if they are able to do so. If the admitted markets offer a policy with a "one deductible" limit then the admitted companies have an even greater competitive advantage over the surplus lines markets. Insureds would have yet another reason to gravitate to the admitted policies and agents will steer their insureds to admitted companies because the form is superior.

If, however, a risk is distressed, already damaged, vacant, in a risky area, or has a poor claims history, they will find it difficult to obtain insurance in the admitted markets. The surplus lines market was designed to cover these "hard-to-place" risks. By placing restrictions upon the surplus lines companies, the "one deductible" rule will actually make it more difficult for the most distressed risks to purchase insurance. We would request that surplus lines insurance be left out of the scope of such a bill so the surplus lines market can continue to serve the distressed risks in Louisiana.

The proposed legislation will also likely result in more policies making their way into the Louisiana Citizens market, because the surplus lines carriers will refuse to cover them. All underwriters will tighten the underwriting standards because the "one deductible" rule increases the loss exposure. We don't believe this is in the long term best interest of the state because the surplus lines companies will be displaced to a greater degree.

We are also concerned about the infringement on the ability of a surplus lines insurer to craft a policy that will cover the hard to place risks. The surplus lines market was designed as a supplemental market and to serve its intended function the surplus lines market was intended to be free from regulation of policy forms in all states. The surplus lines industry is concerned about further encroachment of policy form regulation because its ability to survive depends upon its ability to craft a policy for the distressed risks. Because it can only insure risks declined by the admitted markets, and was intended as a supplemental market, it simply cannot survive if it is regulated like an admitted company.

The safety valve that surplus lines provides for hard-to place risks depends upon the ability to craft a policy unique to the insured's' circumstances. Given the fact that surplus lines insurance is designed as a supplemental market, it is critical that the freedom to develop a form for even the most hard-to-place risks be maintained. It is the hard-to place risk that are served by the surplus lines market, not the routine insureds that will be able to purchase the standardized forms. We would urge you to leave surplus lines out of the

February 4, 2009  
Page Two

scope of the legislation for the good of Louisiana insureds with hard-to-place risks and the health of the surplus lines market.

For all the reasons stated above we would suggest you add the word "authorized insurer" so that the revised paragraph B of the bill reads as follows:

"The named-storm, hurricane, or windstorm or hail deductible of any homeowners insurance policy issued or renewed by authorized insurers in Louisiana on or after January 1, 2010, shall be applied on an annual basis to all named-storm or hurricane losses that are subject to the named-storm, hurricane or windstorm or hail deductible that occur during the calendar year."

Thank you for the opportunity to comment. We would be interested in meeting with you to discuss these matters at your earliest convenience.



A handwritten signature in black ink that reads "Earl Morrison III".

Earl Morrison  
President  
Louisiana Surplus Lines Association



A handwritten signature in black ink that reads "Richard M. Bouhan".

Richard M. Bouhan  
Executive Director  
National Association of Professional Surplus lines Offices, Ltd.



A handwritten signature in black ink that reads "Bernd G. Heinze".

Bernd G. Heinze, Esq.  
Executive Director  
American Association of Managing General Agents