



SURPLUS LINES ASSOCIATION OF NEW JERSEY

June 23, 2009

Dear New Jersey Surplus Lines Association Member,

We wanted to report on some significant developments arising from New Jersey's budget shortfall. As you may be aware, in connection with the State's Fiscal Year 2010 budget, the Legislature is currently considering a proposal to increase the surplus lines tax from 3% to 5%. (The bills also include the same tax increase for other unauthorized insurance, as well as tax increases on other insurance premiums.). The bills, A-4108 and S-2016, were essentially heard in their respective committees upon introduction.

The NLSLA has been in contact with the Legislature, and legislators have been made aware that this tax increase will be borne solely by New Jersey consumers, imposing an even greater financial burden on them with respect to their insurance costs. We were scheduled to testify at the Assembly Budget Committee hearing yesterday to oppose the bill, including on the basis that the increase would make the New Jersey surplus lines market less competitive, particularly in comparison with our surrounding states. Unfortunately, we did not get the opportunity, as the Committee met into the evening before voting the legislation out of Committee last night. The vote in the Assembly Budget Committee was along party lines - Democrats voted for the tax increase; Republicans voted against it. We were also looking forward to testifying before the Senate Budget Committee, but last night that Committee also voted to pass the legislation. The Senate Budget Committee vote - also along the same party lines - came after about 30 minutes of consideration, we understand.

We were also informed last night that the legislation now includes a proposal to transfer \$60 million from the Surplus Lines Guaranty Fund (of its current \$73 million balance) to the State's Health Care Subsidy Fund. We understand the Health Care Subsidy Fund is a program under which New Jersey hospitals receive funds for providing care to the uninsured. The legislation also includes a provision for the State to reinject up to \$27 million back into the Guaranty Fund if a determination is made that the balance remaining after the transfer of \$60 million is insufficient to satisfy existing covered claims. You will recall the State appropriated \$40 million from the Guaranty Fund to the State's General Fund in 2002, to close the State's budget deficit at that time. If it was not apparent before, it is now clear that the Guaranty Fund is not viewed in Trenton as providing support for the surplus lines market, but rather is considered to be a rainy day fund that is subject to the State government's needs at any given time.

The bills must now be voted on by their full respective houses. We understand these votes will take place this Thursday, June 25. Reports indicate both houses will vote to pass the legislation. If that occurs, the Governor will be presented with the legislation to sign into law. If enacted into law, based on the current text of the legislation, the surplus lines tax increase would be effective immediately. It is unclear at this time how the increase will be implemented, including with respect to outstanding quotes. The Department of Banking and Insurance has indicated that it would issue a Bulletin if the legislation is enacted in its current form. If enacted, the tax rate change will most likely be implemented very quickly and could potentially have an effect on business already quoted/bound. You may wish to advise your clients. This is uncharted territory for the NJ DOBI.

We will keep you posted on further developments. In the meantime, do not hesitate to contact either of us.

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Steve Powell, Chair-Legislative Committee (732-679-3700)

Sincerely,

Dennis Pellegrino, Jr.

Dennis Pellegrino Jr.
President