

## **SB 331 - Revising Surplus Lines Insurance Law**

SB 331 revising surplus lines insurance law became effective on May 6, 2011. SB 331 revises the surplus lines insurance law for consistency with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). The federal NRRA provides that the home state of the insured has exclusive taxing and regulatory authority over surplus lines insurance transactions regardless of whether a multistate risk is involved. The federal NRRA does allow for revenue generated from multistate surplus lines insurance transactions to be allocated and distributed among states if the states have entered a compact or other agreement.

SB 331 grants authority to the Commissioner to enter a multistate agreement for collecting, allocating and distributing taxes and fees related to multistate surplus lines insurance transactions provided that certain requirements are met. SB 331 also establishes a single, blended tax rate for multistate risks subject to a multistate agreement. Prior to entering a multistate agreement, the Commissioner would be required to promulgate new administrative rules which would provide opportunities for comment from surplus lines insurance producers, insurers, and other interested parties.

### **How Does SB 331 Effect Surplus Lines Insurance Transactions?**

**Diligent Search:** Generally, a diligent search of the admitted market will still be required before placing coverage for a risk in the surplus lines (nonadmitted) market.

**Approved Risk List:** The CSI will continue to prepare an approved risk list and publish it on the website. For risks appearing on the approved risk list, a diligent search of the admitted market is not necessary before placing coverage for the risk in the surplus lines market.

**Risks That Eligible Surplus Lines Insurers are Permitted to Place:** The CSI will prepare a list of risks that each eligible surplus lines insurer is permitted to write based on authority approved in that insurer's home state. Alien surplus lines insurers are permitted to write property, casualty (excluding workers' compensation) and marine.

**Exempt Commercial Purchasers:** If the insured qualifies as an exempt commercial purchaser under the federal NRRA and SB 331, a diligent search of the admitted market may not be required before placing coverage in the surplus lines market. CSI staff will develop an exempt commercial purchaser form to be used by surplus lines insurance producers.

**Filing Requirements and Taxes and Fees Imposed:** The filing requirements and taxes and fees imposed for surplus lines insurance transactions will be effected as described below.

**Before July 1, 2011:** For surplus lines insurance issued or renewed prior to July 1, 2011, there will be no changes to the current filing requirements or the current taxes and fees imposed.

**On or after July 1, 2011:** For surplus lines insurance issued or renewed on or after July 1, 2011, the following changes will occur:

- For single-state risks located or to be performed in Montana, there will be no changes to the current filing requirements or the current taxes and fees imposed.
- For multistate risks where the home state of the insured is Montana, the filing requirements and the taxes and fees imposed will apply to the entire premium (including the premium attributed to any portion of the covered risk outside of Montana).
- For multistate risks where the home state of the insured is not Montana, the home state's filing requirements and tax and fee system will apply.

The home state of the insured is governed by the federal NRRA and SB 331. If you need help determining the home state for a particular insured, please contact the CSI staff for assistance.