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Sarah M. LaTourette
Assistant Majority Floor Leader

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Sponsor Testimony on House Bill 749
House Insurance Committee

Chairman Brinkman, Vice-Chair Henne, Ranking Member Boccieri and members of the House Insurance Committee, thank you for the opportunity to offer sponsor testimony on House Bill 749. This legislation would create the opportunity to form a Domestic Surplus Lines Insurance (DSLI) Licensure. Simply put, this bill is about streamlining and modernizing regulations for some of Ohio's property and casualty insurance companies.

A DSLI Licensure is an alternative licensing option by which surplus lines insurers may write coverage in the state where they are domiciled. Currently, in most jurisdictions, a surplus lines insurer may not write coverage in the state of domicile. Sixteen states have amended their statutes to allow surplus lines insurers to write coverage in their domiciliary state. In short—the states have adopted a DSLI.

Surplus lines insurance is insurance coverage not available from an admitted company in the regular market. A surplus lines agent representing an applicant seeks coverage in the surplus lines market, only after attempting to secure coverage in the admitted market. Traditionally, surplus lines insurance is used to cover risk exposures that are hard to underwrite. Think of fireworks plants, certain environmental risks, or hard-to-place risks. Also, note that surplus lines are commercial lines and do not intrude on personal lines.

The benefits of the proposal largely flow to the surplus line insurer. Currently, the owner likely must manage multiple regulatory relationships in terms of financial regulation -- the relationship in their domiciliary state and the state of domicile for the surplus lines company. If adopted, this proposal would allow a company to streamline their organization into fewer domiciliary

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jurisdictions. Please note, companies with surplus lines currently domiciled outside of Ohio can currently write coverage in Ohio. Nothing in this proposal changes the ability to write coverage in Ohio except for companies currently domiciled in Ohio. Those surplus lines companies currently domiciled in Ohio—if they adopt the DSLI approach—will then be able to write policies in Ohio.

This proposal will not have any negative effects on the market. The Ohio Department of Insurance was consulted prior to the bill's introduction and has no objections to adopting a DSLI. Sixteen other states have passed legislation allowing DSLIs, and are listed as follows:

Arizona
Arkansas
Connecticut
Delaware
Georgia
Illinois
Louisiana
Missouri
New Hampshire
New Jersey
North Carolina
North Dakota
Oklahoma
Texas
Virginia
Wisconsin

Chairman and members of the committee, thank you again for affording me the opportunity to provide sponsor testimony on House Bill 749. I will gladly answer any questions you may have on this legislation.

Surplus Lines Insurance

THE SURPLUS LINE ASSOCIATION OF | CALIFORNIA

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NEVADA SURPLUS LINES ASSOCIATION

NSLA

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Property Casualty Insurers
Association of America

Advocacy. Leadership. Results.

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American Association of
Managing General Agents

Surplus Lines Insurance

What's in a Name ...

It's easy to see why the words "unauthorized" or "unlicensed", when used in conjunction with Surplus Lines Insurance (Non-admitted Insurance), would give the impression that this type of insurance is not regulated, but that would be a mistake.

Surplus Lines Insurance is regulated!

Every state, including yours, has rules and regulations within its Insurance Code that are specifically written to govern Surplus Lines Insurance. In addition, the same statutory and common law rules that govern bad faith for licensed, admitted insurers apply equally to non-admitted insurers.

While the non-admitted insurance company may not be 'licensed' in the same state as its customer's operations, it is licensed in either the state or the country in which it is domiciled.

Non-admitted insurers have to be 'eligible' in the state where the customer is located in order to accept business. Part of the eligibility standard required under state law, and reinforced by federal law, includes meeting capitalization thresholds. In most cases, a non-admitted insurer has to put more money in reserve to meet the required capitalization threshold than its licensed, admitted insurer counterpart.

Any surplus lines business placed with a non-admitted insurance company must be handled through a surplus lines broker who is required to meet state licensing standards. These specially trained professionals are responsible for paying taxes and ascertaining that their customers' insurance needs may only be met by a non-admitted insurance company in accordance with the surplus lines laws of your state.

Why do Consumers Need Surplus Lines Insurance?

Surplus Lines Insurance (non-admitted insurance) is sometimes referred to as the 'market of last resort' by the business community and the safety valve of the insurance industry. This label recognizes the important role that Surplus Lines Insurance plays in protecting consumers.

Agents and brokers generally place insurance coverage with standard (admitted) insurers. When those admitted insurers decline to offer coverage or when the coverages an applicant may be seeking are not available, it is the surplus lines insurance market with its capacity and innovative underwriting that is able to fill the gap. By stepping in to provide coverage, non-admitted insurers keep businesses from purchasing coverage that doesn't meet their needs, seeking coverage outside the insurance markets, self-insuring against their risks, or from simply going without the financial protection insurance provides to business and their customers.

So, what circumstances would cause a standard insurance company to decline offering coverage to a business?

New business start-ups: According to Forbes Magazine, over 540,000 Americans start businesses every month. These hopeful entrepreneurs fuel our economy and keep our towns and cities vibrant. One of the first things these new business owners need is an insurance policy to protect their investment, but without a track record, standard insurers may decline offering coverage. The Surplus Lines Insurance market is where these budding enterprises turn for help in making their dreams realities.

Innovative products and new technology: Standard insurers look to standardized, regulated forms and rates to address the needs of their business customers. This model takes time and a sure knowledge of both the risks and all the possible consequences involved in insuring both products and services. But what if there is a business that wants to introduce cutting edge technology or has developed something so new and innovative that it will change everything? Surplus Lines Insurance is the place that can structure insurance protection for what is unique, new and different, freeing our best minds to find that next breakthrough that will move us all forward.

A risk that is too big to consider: Businesses face risks every day. There are risks they understand, like building niche markets. There are risks they choose to transfer, like the risk of losing their offices to fire. Then there are other kinds of risks that by their very nature would be devastating, like losing all their customer records to computer hackers (data breach). Standard insurers may decline to write these 'catastrophic' types of exposures. It is the surplus lines insurance market that one typically finds the knowledge and capacity necessary to insure these very real concerns for the business community.

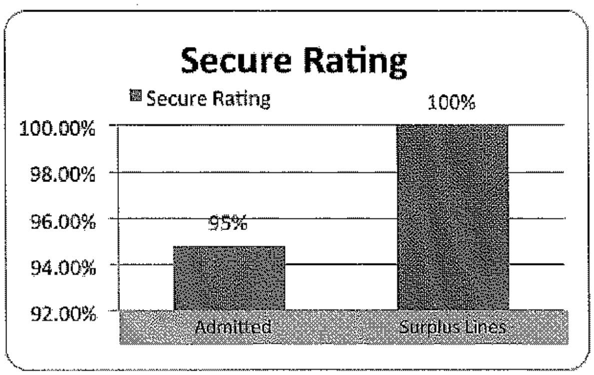
Who is the Surplus Lines Market?

There is a perception that Surplus Lines Insurance (non-admitted insurance) represents a 'Wild West' of temporary insurers charging irresponsible premiums for questionable coverage.

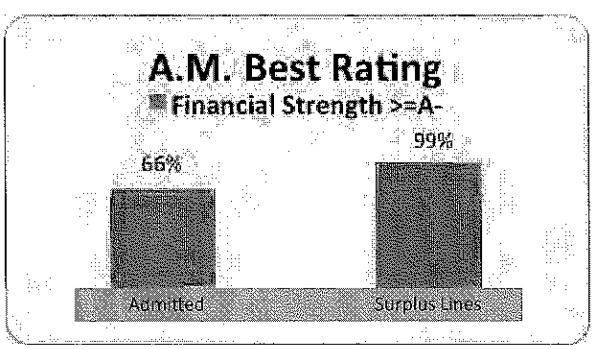
The reality proves that this perception couldn't be further from the truth.

A.M. Best, a credit rating agency with a focus on the insurance industry, has monitored and reported on the non-admitted insurance market for the past twenty years. They publish an annual special report providing information to both those involved in the insurance industry and insurance regulators and legislators.

Here's what A.M. Best had to say about Surplus Lines Insurance:



A.M. Best reports that non-admitted insurers have a higher Secure Rating than their admitted counterparts, an important factor for businesses whose unique and innovative risks brought them to this market for insurance.

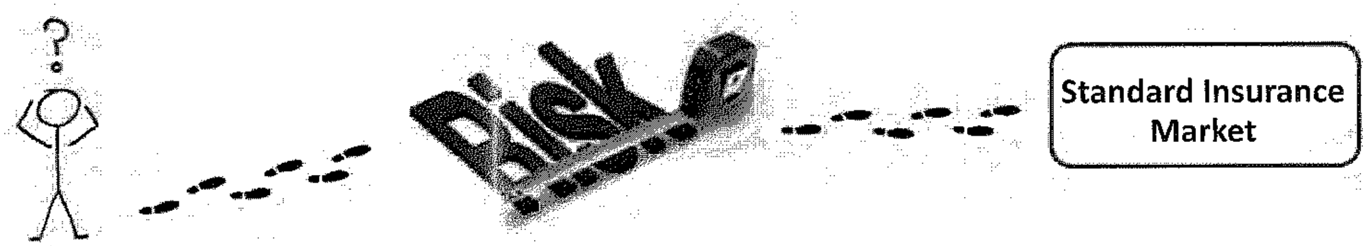


Financial capacity and a deep underwriting expertise result in better than average financial ratings for non-admitted insurers

Consumer Options for Hard-to-Place Insurance Risks

The laws of every U.S. state provide some alternative means for insurance consumers that are unable to secure coverage from the standard admitted insurance market. State surplus lines laws permit the placement of insurance under certain conditions to be placed with nonadmitted insurers that meet certain eligibility standards. The U.S. Congress enacted the Nonadmitted and Reinsurance Reform Act of 2010 to enhance the private market efficacy to provide consumers access to a robust surplus lines market when seeking insurance coverage for hard-to-place risks.

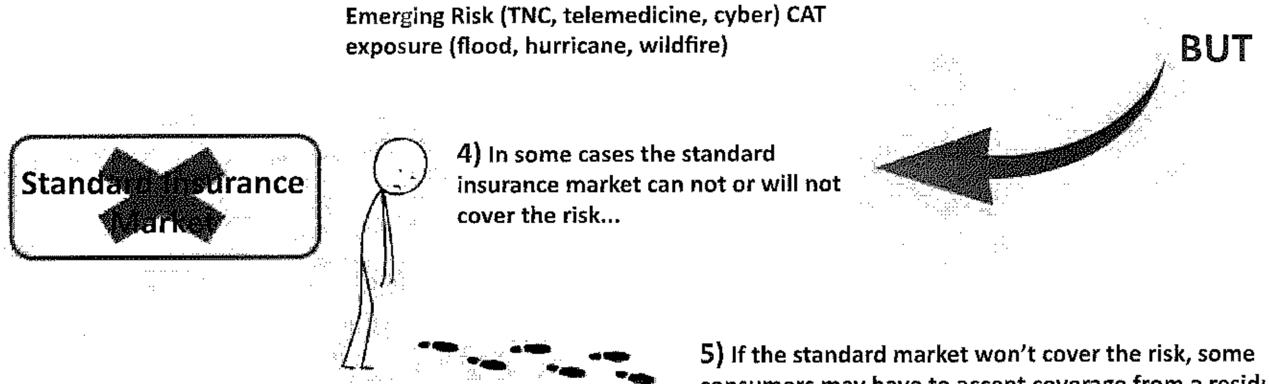
If the surplus lines option for insurance coverage is not preserved...



1) Consumer needs insurance ...

2) Non-Standard Risk: Individual, Business or Professional presents an insurance risk that is new (startup business); distressed (vacant property); unique (haz-mat); high-capacity (art collection); or, Emerging Risk (TNC, telemedicine, cyber) CAT exposure (flood, hurricane, wildfire)

3) Consumer may obtain insurance from the standard insurance market but the consumer's options to tailor coverage or service required for the risk may be limited.



4) In some cases the standard insurance market can not or will not cover the risk...

5) If the standard market won't cover the risk, some consumers may have to accept coverage from a residual market plan or government program that offers no specialized coverage or services. But other consumers will be left with no further insurance options, leaving them uninsured.

Preserve Consumer Options for Hard-to-Place Insurance

If the surplus lines option for insurance coverage is preserved...