

[Second Reprint]

**ASSEMBLY, No. 2670**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED MAY 13, 2010

**Sponsored by:**

**Assemblyman GARY S. SCHAER**

**District 36 (Bergen, Essex and Passaic)**

**Assemblywoman DENISE M. COYLE**

**District 16 (Morris and Somerset)**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Co-Sponsored by:**

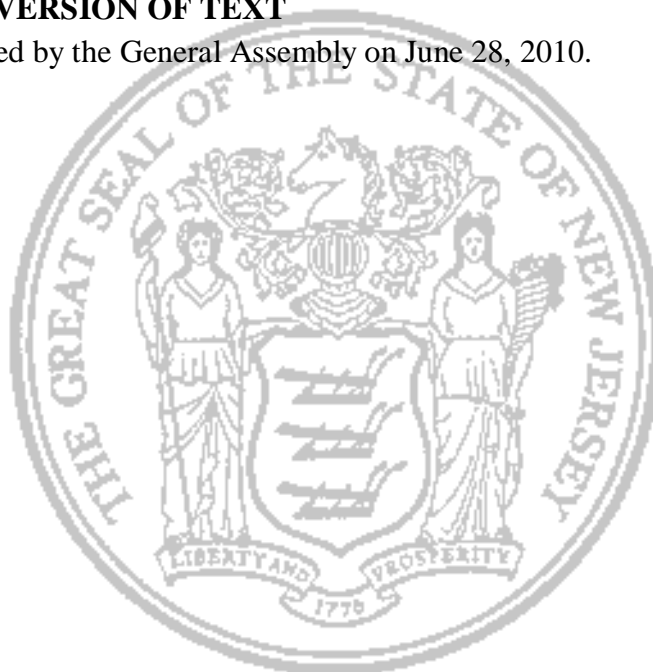
**Assemblyman Chivukula, Senators T.Kean and Gill**

**SYNOPSIS**

The “Reinsurance and Surplus Lines Stimulus and Enhancement Act.”

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 28, 2010.



**(Sponsorship Updated As Of: 2/18/2011)**

1 AN ACT concerning reinsurance and surplus lines requirements,  
2 supplementing <sup>1</sup>and amending<sup>1</sup> P.L.1960, c.32 (C.17:22-6.40 et  
3 seq.) and amending P.L.1993, c.243.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. (New section) Sections 1 and 2 of this amendatory and  
9 supplementary act shall be known and may be cited as the  
10 “Reinsurance and Surplus Lines Stimulus and Enhancement Act.”

11  
12 2. (New section) a. Notwithstanding any other provision of  
13 law to the contrary, a domestic insurer possessing policyholder  
14 surplus of at least \$15,000,000 may, pursuant to a resolution by its  
15 board of directors, and upon the written approval of the  
16 Commissioner of Banking and Insurance, be designated as a  
17 domestic surplus lines insurer. <sup>1</sup>A domestic surplus lines insurer  
18 shall be considered an eligible, unauthorized insurer for purposes of  
19 writing surplus lines insurance coverage.<sup>1</sup>

20 b. A domestic surplus lines insurer shall only insure in this  
21 State a New Jersey risk procured from a surplus lines **[producer]**  
22 agent<sup>1</sup> in accordance with the provisions of “the surplus lines law,”  
23 P.L.1960, c.32 (C. 17:22-6.40 et seq.).

24 c. A domestic surplus lines insurer shall not issue policies of  
25 private passenger automobile insurance, workers’ compensation or  
26 workers’ occupational disease insurance.

27 <sup>1</sup>d. Insurance written by a domestic surplus lines insurer shall be  
28 subject to the tax on premiums provided by section 25 of P.L.1960,  
29 c.32 (C.17:22-6.59).<sup>1</sup>

30  
31 <sup>1</sup>3. (New section) Whenever any insurance risk or any part  
32 thereof is placed with a domestic surplus lines insurer, the policy,  
33 binder, or cover note shall bear conspicuously on its face in  
34 boldface, the following notation:

35 “Notice to policyholder: This policy is written by a domestic  
36 surplus lines insurer, an eligible unauthorized insurer pursuant to  
37 section 2 of P.L. c. (C. ), (pending before the Legislature as  
38 this bill), and is not subject to the rate or form filing or approval  
39 requirements of the New Jersey Department of Banking and  
40 Insurance. This policy may contain conditions, limitations,  
41 exclusions and different terms than a policy otherwise issued by a  
42 New Jersey authorized or admitted insurer. This policy is not  
43 covered by the New Jersey Property-Liability Guaranty

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AFI committee amendments adopted June 10, 2010.

<sup>2</sup>Assembly floor amendments adopted June 28, 2010.

1 Association. This policy may be covered by the New Jersey Surplus  
2 Lines Insurance Guaranty Fund, but only to the extent provided  
3 pursuant to section 2 of P.L.1984, c.101 (C.17:22-6.71).”<sup>1</sup>  
4

5 <sup>1</sup>[3.] 4.<sup>1</sup> Section 2 of P.L.1993, c.243 (C.17:51B-2) is amended  
6 to read as follows:

7 2. Credit for reinsurance ceded by an insurer which is  
8 domiciled in New Jersey, or which is either licensed in New Jersey  
9 or eligible to write surplus lines insurance in New Jersey and which  
10 in either case is domiciled in a state or country which does not  
11 employ standards regarding credit for reinsurance substantially  
12 similar, as determined by the commissioner, to those applicable  
13 under this act, shall be allowed as either an asset or a deduction  
14 from liability only when:

15 a. The reinsurance is ceded to an assuming insurer which is  
16 licensed to transact insurance or reinsurance in this State; or

17 b. The reinsurance is ceded to an assuming insurer which is  
18 accredited as a reinsurer in this State. An accredited reinsurer is  
19 one which:

20 (1) Files with the commissioner evidence of its submission to  
21 this State's jurisdiction;

22 (2) Submits to this State's authority to examine its books and  
23 records;

24 (3) Is licensed to transact insurance or reinsurance in at least  
25 one state, or in the case of a United States branch of an assuming  
26 alien insurer, is entered through, and licensed to transact insurance  
27 or reinsurance in, at least one state;

28 (4) Files annually with the commissioner a copy of its annual  
29 statement filed with the insurance department or other regulatory  
30 authority of its state of domicile and a copy of its most recent  
31 audited financial statement; and either:

32 (a) Maintains a surplus in regard to policyholders in an amount  
33 which is not less than \$20,000,000 and whose accreditation has not  
34 been denied by the commissioner within 120 days of its submission  
35 therefor; or

36 (b) Maintains a surplus in regard to policyholders in an amount  
37 less than \$20,000,000 and whose accreditation has been approved  
38 by the commissioner;

39 (5) Submits a filing fee in an amount established by the  
40 commissioner; and

41 (6) Provides any additional information, which may include, but  
42 may not be limited to, information regarding the concentration of  
43 the insurer's exposures, geographic or otherwise, and satisfies such  
44 additional requirements as the commissioner deems necessary to  
45 ensure that the particular insurer's condition and methods of  
46 operation are not such as would render its operations hazardous to  
47 the public or policyholders in this State.

1 No credit shall be allowed a ceding licensed insurer or  
2 unauthorized eligible surplus lines insurer if the assuming insurer's  
3 accreditation has been revoked by the commissioner after notice  
4 and hearing; or

5 c. The reinsurance is ceded to an assuming insurer which is  
6 domiciled and licensed in, or in the case of a United States branch  
7 of an assuming alien insurer, is entered through, a state which  
8 employs standards regarding credit for reinsurance substantially  
9 similar to those applicable under this act, as determined by the  
10 commissioner, and that assuming insurer or United States branch of  
11 an assuming alien insurer:

12 (1) Maintains a surplus in regard to policyholders in an amount  
13 of not less than \$20,000,000;

14 (2) Submits to the authority of this State to examine its books  
15 and records; and

16 (3) Provides any additional information, which may include, but  
17 may not be limited to, information regarding the concentration of  
18 the insurer's exposures, geographic or otherwise, and satisfies such  
19 additional requirements as the commissioner deems necessary to  
20 ensure that the particular insurer's condition and methods of  
21 operation are not such as would render its operations hazardous to  
22 the public or policyholders in this State; except that the requirement  
23 of paragraph (1) of this subsection shall not apply to reinsurance  
24 ceded and assumed pursuant to pooling arrangements among  
25 insurers in the same holding company system; or

26 d. The reinsurance is ceded to an assuming insurer which  
27 maintains a trust fund in a qualified United States financial  
28 institution for the payment of the valid claims of its United States  
29 policyholders and ceding insurers, their assigns and successors in  
30 interest. The assuming insurer shall report annually to the  
31 commissioner information substantially the same as that required to  
32 be reported on the NAIC Annual Statement form by licensed  
33 insurers to enable the commissioner to determine the sufficiency of  
34 the trust fund. In addition to the requirements of this subsection,  
35 the assuming insurer shall provide any additional information,  
36 which may include, but may not be limited to, information  
37 regarding the concentration of the insurer's exposures, geographic  
38 or otherwise, and satisfy such additional requirements as the  
39 commissioner deems necessary to ensure that the particular insurer's  
40 condition and methods of operation are not such as would render its  
41 operations hazardous to the public or policyholders in this State.

42 (1) In the case of a single assuming insurer, the trust shall  
43 consist of a trusteed account representing the assuming insurer's  
44 liabilities attributable to business written in the United States and in  
45 addition, the assuming insurer shall maintain a trusteed surplus of  
46 not less than \$20,000,000.

47 (2) In the case of a group of insurers, which group includes  
48 individual unincorporated underwriters, the trust shall consist of a

1    trusteed account representing the group's liabilities attributable to  
2    business written in the United States and, in addition, the group  
3    shall maintain a trusteed surplus of which not less than  
4    \$100,000,000 shall be held jointly for the benefit of United States  
5    ceding insurers of any member of the group; and the group shall  
6    make available to the commissioner an annual certification of the  
7    solvency of each underwriter for the fiscal period immediately  
8    preceding, which shall not be less than one year, by the group's  
9    domiciliary regulator and its independent certified public  
10   accountant.

11       (3) In the case of a group of incorporated insurers under  
12   common administration which complies with the filing  
13   requirements contained in this section, has continuously transacted  
14   an insurance business outside the United States for at least three  
15   years immediately prior to making application for accreditation,  
16   submits to this State's authority to examine its books and records  
17   and bears the expense of the examination, and which has aggregate  
18   policyholders' surplus of not less than \$10,000,000,000: the trust  
19   shall be in an amount equal to the group's several liabilities  
20   attributable to business ceded by United States ceding insurers to  
21   any member of the group pursuant to reinsurance contracts issued in  
22   the name of such group; plus a joint trusteed surplus of which not  
23   less than \$100,000,000 shall be held jointly and exclusively for the  
24   benefit of United States ceding insurers of any member of the group  
25   as additional security for any such liabilities; and each member of  
26   the group shall make available to the commissioner an annual  
27   certification of the member's solvency for the fiscal period  
28   immediately preceding, which shall not be less than one year, by the  
29   member's domiciliary regulator and its independent certified public  
30   accountant.

31       Any trust established pursuant to this subsection shall be in a  
32   form approved by the commissioner, and the content, location, legal  
33   currency and financial institutions shall be acceptable to the  
34   commissioner. The trust instrument shall provide that contested  
35   claims shall be valid and enforceable upon the final order of any  
36   court of competent jurisdiction in the United States. The trust shall  
37   vest legal title to its assets in the trustees of the trust for its United  
38   States policyholders and ceding insurers, their assigns and  
39   successors in interest. The trust and the assuming insurer shall be  
40   subject to examination as determined by the commissioner. The  
41   trust shall remain in effect for as long as the assuming insurer has  
42   outstanding obligations due under the reinsurance agreements  
43   subject to the trust. No later than February 28 of each year the  
44   trustees of the trust shall report to the commissioner in writing  
45   setting forth the balance of the trust and listing the trust's  
46   investments at the preceding year's end and shall certify the date of  
47   termination of the trust, if so planned, or certify that the trust shall  
48   not expire prior to the next following December 31; or

1 e. The commissioner may, in his discretion, allow credit for  
2 reinsurance if the reinsurance is ceded to an assuming insurer not  
3 meeting the requirements of subsection a., b., c. or d. of this section  
4 but only with respect to the insurance of risks located in  
5 jurisdictions where such reinsurance is required or provided by  
6 applicable law or regulation of that jurisdiction ; or

7 f. The commissioner may, in his discretion, allow credit for  
8 reinsurance if the reinsurance is ceded to an assuming insurer not  
9 meeting the requirements of subsection a., b., c. or d. of this section  
10 but only if the assuming insurer holds surplus or equivalent in  
11 excess of \$250,000,000 <sup>2</sup> [<sup>1</sup>and only if the reinsurance is negotiated  
12 at least in part by a reinsurance intermediary or representative of the  
13 reinsurer acting in this State<sup>1</sup>]<sup>2</sup>. In determining whether credit  
14 should be allowed, the commissioner shall consider the following:  
15 (1) that the reinsurer has a secure financial strength rating from at  
16 least two nationally recognized statistical rating organizations  
17 deemed acceptable by the commissioner; (2) the domiciliary  
18 regulatory jurisdiction of the assuming insurer; (3) the structure and  
19 authority of the domiciliary regulator with regard to solvency  
20 regulation requirements and the financial surveillance of the  
21 reinsurer; (4) the substance of financial and operating standards for  
22 reinsurers in the domiciliary jurisdiction; (5) the form and substance  
23 of financial reports required to be filed by the reinsurer in the  
24 domiciliary jurisdiction or other public financial statements filed in  
25 accordance with generally accepted accounting principles; (6) the  
26 domiciliary regulator's willingness to cooperate with United States  
27 regulators in general and the commissioner, in particular; (7) the  
28 history of performance by reinsurers in the domiciliary jurisdiction;  
29 (8) <sup>1</sup>the reinsurer's <sup>2</sup>or an affiliate's<sup>2</sup> use of in-State professional  
30 service providers <sup>2</sup>[to carry out the business services]<sup>2</sup> related <sup>2</sup>or  
31 unrelated<sup>2</sup> to the reinsurance, including, but not limited to,  
32 attorneys, accountants, managers, actuaries, brokers or  
33 intermediaries; (9)<sup>1</sup> any documented evidence of substantial  
34 problems with the enforcement of valid United States judgments in  
35 the domiciliary jurisdiction; and <sup>1</sup>[(9)] (10)<sup>1</sup> any other matters  
36 deemed relevant by the commissioner. The commissioner shall  
37 give appropriate consideration to insurer group ratings that may  
38 have been issued. The commissioner may, in lieu of granting full  
39 credit under this subsection, reduce the amount required to be held  
40 in trust under subsection d. of this section.

41 The provisions of this subsection shall apply only to reinsurance  
42 contracts entered into or renewed on or after the effective date of  
43 P.L. , c. (pending before the Legislature as this bill), except that  
44 the provisions applicable to life reinsurance contracts shall not  
45 become effective until the earlier of 24 months from the effective  
46 date of P.L. , c. (pending before the Legislature as this bill), or

1 the implementation of principles-based standards of life insurance  
2 reserving by the National Association of Insurance Commissioners .

3 g. If the assuming insurer is not licensed or accredited to  
4 transact insurance or reinsurance in this State, the credit permitted  
5 by subsections c. and d. of this section shall not be allowed unless  
6 the assuming insurer agrees in the reinsurance agreements: (1) that  
7 in the event of the failure of the assuming insurer to perform its  
8 obligations under the terms of the reinsurance agreement, the  
9 assuming insurer, at the request of the ceding insurer, shall submit  
10 to the jurisdiction of any court of competent jurisdiction in any state  
11 of the United States, shall comply with all requirements necessary  
12 to give such court jurisdiction, and shall abide by the final decision  
13 of such court or any appellate court in the event of an appeal; and  
14 (2) to designate the commissioner or a designated attorney as its  
15 true and lawful attorney upon whom may be served any lawful  
16 process in any action, suit or proceeding instituted by or on behalf  
17 of the ceding company. This provision is not intended to conflict  
18 with or override the obligation of the parties to a reinsurance  
19 agreement to arbitrate their disputes, if such an obligation is created  
20 in the agreement.

21 (cf: P.L.1993, c.243, s.2)

22

23 '5. Section 11 of P.L.1960, c.32 (C.17:22-6.45) is amended to  
24 read as follows:

25 11. No surplus lines agent shall place any coverage with any  
26 unauthorized insurer which is not then an eligible surplus lines  
27 insurer as provided for under this section. No unauthorized insurer  
28 shall be or become an eligible surplus lines insurer unless made  
29 eligible by the commissioner in accordance with the following  
30 conditions:

31 (a) Eligibility of the insurer must be requested in writing by a  
32 licensed surplus lines agent;

33 (b) The insurer must be currently an authorized insurer in the  
34 state or country of its domicile as to the kind or kinds of insurance  
35 proposed to be so placed, and must have been such an insurer for  
36 not less than one full year preceding; or must be the subsidiary of  
37 an admitted insurer or of an already eligible surplus lines insurer  
38 that has been so admitted or eligible for a period of not less than  
39 one full year preceding or must be a domestic surplus lines insurer  
40 as provided by section 2 of P.L. c. (C. ) (pending before the  
41 Legislature as this bill);

42 (c) Before granting eligibility the requesting surplus lines agent  
43 or the insurer shall furnish the commissioner with duly  
44 authenticated copies of its current annual financial statement, one in  
45 the language and monetary values of the country of the insurer, and  
46 the other in the English language and with all monetary values  
47 therein expressed in United States dollars, at the current exchange

1 rate shown in the statement, and with such additional information  
2 relative to the insurer as the commissioner may require;

3 (d) The insurer shall establish satisfactory evidence of financial  
4 integrity, and:

5 (1) Have capital and surplus, or its equivalent under the laws of  
6 its domiciliary jurisdiction, which is not less than twice the amount  
7 of minimum capital and surplus required for like admitted insurers  
8 or \$15,000,000, whichever is greater; except that unauthorized  
9 insurers already eligible under this act shall have at least  
10 \$10,000,000 by December 31, 1996; at least \$12,500,000 by  
11 December 31, 1997; and \$15,000,000 by December 31, 1998. In  
12 addition, an alien insurer shall maintain in the United States, as the  
13 sole security requirement to qualify for eligibility in this State, an  
14 irrevocable trust fund in a state or federally chartered bank in an  
15 amount not less than \$2,500,000 for the protection of all of its  
16 policyholders in the United States; provided, however, that an alien  
17 insurer eligible for surplus lines may be required to deposit  
18 securities in New Jersey in an amount deemed appropriate by the  
19 commissioner as a condition of maintaining its eligibility status.  
20 The trust fund shall consist of cash, securities, letters of credit, or of  
21 investments of substantially the same character and quality as those  
22 which are eligible investments for the capital and statutory reserves  
23 of admitted insurers authorized to write like kinds of insurance in  
24 this State. The trust fund shall not be included in any calculation of  
25 capital and surplus or its equivalent and shall have an expiration  
26 date which at no time shall be less than five years. In lieu of the  
27 above capital and surplus requirements, and trust fund amount, any  
28 Lloyd's or other similar group of alien insurers, which group  
29 includes unincorporated individual insurers shall maintain a trust  
30 fund of not less than \$50,000,000.00 as security to the full amount  
31 thereof for all policyholders and creditors in the United States of  
32 each member of the group, and the trust shall likewise comply with  
33 the terms and conditions hereinabove set forth. The credit for  
34 reinsurance requirements of sections 2 and 3 of P.L.1993, c.243  
35 (C.17:51B-2 and 17:51B-3) shall not apply to an eligible alien  
36 surplus lines insurer that appears on the quarterly listing prepared  
37 by the International Insurers Department (IID) of the National  
38 Association of Insurance Commissioners and that provides the  
39 commissioner annually with a copy of such insurer's current  
40 Schedule R filing and such other information concerning ceded  
41 reinsurance that the International Insurers Department or the  
42 commissioner may from time to time require. Any insurance  
43 exchange created by the laws of an individual state may be  
44 approved by the commissioner as an eligible insurer under the  
45 provisions of this section, and shall maintain capital and surplus, or  
46 the substantial equivalent thereof, of not less than \$35,000,000.00  
47 in the aggregate. For insurance exchanges which maintain funds in  
48 an amount acceptable to the commissioner for the protection of all



1 insurance exchange policyholders, each individual syndicate, except  
2 those syndicates which have elected and qualify for S corporation  
3 status pursuant to subsection (a) of section 1362 of the federal  
4 Internal Revenue Code of 1986, 26 U.S.C. 1362, shall maintain  
5 minimum capital and surplus, or the substantial equivalent thereof,  
6 of not less than \$2,000,000.00. Any syndicate which has elected and  
7 qualified for S corporation status pursuant to subsection (a) of  
8 section 1362 of the federal Internal Revenue Code of 1986, 26  
9 U.S.C. 1362, need not maintain the minimum capital and surplus  
10 required under the provisions of this section and the failure of any  
11 such syndicate to meet these minimum requirements shall not  
12 render the exchange ineligible for approval under this section;  
13 except that so long as such syndicate fails to maintain the minimum  
14 capital and surplus required under the provisions of this section,  
15 such syndicate shall not transact the business of insurance in this  
16 State and shall not be approved by the commissioner as an eligible  
17 insurer under the provisions of this section. In the event the  
18 insurance exchange does not maintain funds in an amount  
19 acceptable to the commissioner for the protection of all insurance  
20 exchange policyholders, each individual syndicate shall have capital  
21 and surplus, or its equivalent under the laws of its domiciliary  
22 jurisdiction, which is not less than twice the amount of minimum  
23 capital and surplus required for like admitted insurers. No  
24 insurance exchange approved as an eligible insurer by the  
25 commissioner shall be a member of the New Jersey Surplus Lines  
26 Insurance Guaranty Fund created pursuant to P.L.1984, c.101  
27 (C.17:22-6.70 et seq.) nor shall any claim against an exchange be  
28 deemed to be a covered claim pursuant to the provision of that act;  
29 and

30 (2) Have caused to be provided to the commissioner a copy of  
31 its current annual statement certified by the insurer, which, relative  
32 to the period reported upon, is no more than 18 months old, and  
33 which is either: (A) filed with and approved by the regulatory  
34 authority in the domicile of the unauthorized insurer; or (B)  
35 certified by an accounting or auditing firm licensed in the  
36 jurisdiction of the insurer's domicile. In the case of an insurance  
37 exchange, the statement may be an aggregate combined statement  
38 of all underwriting syndicates operating during the period reported  
39 upon;

40 (e) The condition or methods of operation of the insurer must  
41 not be such as would render its operation hazardous to the public or  
42 its policyholders in this State;

43 (f) The insurer must be of good reputation as to the providing of  
44 service to its policyholders and the payment of losses and claims;

45 (g) No insurer shall be eligible the management of which is  
46 found by the commissioner to be incompetent or untrustworthy, or  
47 so lacking in insurance company managerial experience as to make  
48 the proposed operation hazardous to the insurance-buying public; or

1 which the commissioner has good reason to believe is affiliated  
2 directly or indirectly through ownership, control, reinsurance  
3 transactions or other insurance or business relations, with any  
4 person or persons whose business operations are or have been  
5 detrimental to policyholders, stockholders, investors, creditors or to  
6 the public;

7 (h) No insurer shall be eligible the voting control or ownership  
8 of which is held in whole or substantial part by any government or  
9 governmental agency, or which is operated for or by any such  
10 government or agency. Membership in a mutual insurer, or  
11 subscribership in a reciprocal insurer, or ownership of stock of an  
12 insurer by the alien property custodian or similar official of the  
13 United States, or supervision of an insurer by public insurance  
14 supervisory authority shall not be deemed to be an ownership,  
15 control, or operation of the insurer for the purposes of this  
16 subsection;

17 (i) The insurer shall constitute, by a duly executed instrument  
18 filed with the department, the commissioner and his successor in  
19 office its true and lawful attorney, upon whom all original process  
20 in any action or legal proceeding against it may be served, and  
21 therein agree that any original process against it which may be  
22 served upon the commissioner shall be of the same force and  
23 validity as if served on the insurer, and that the authority thereof  
24 shall continue in force irrevocable so long as any liability of the  
25 insurer remains outstanding in this State.

26 The commissioner shall annually publish a list of all currently  
27 eligible surplus lines insurers, and shall mail a copy thereof to each  
28 licensed surplus lines agent at his office last of record with the  
29 commissioner.

30 This section shall not be deemed to cast upon the commissioner  
31 any duty or responsibility to determine the actual financial  
32 condition or claims practices of any unauthorized insurer; and the  
33 status of eligibility, if granted by the commissioner, shall indicate  
34 only that the insurer appears to be sound financially and to have  
35 satisfactory claims practices, and that the commissioner has no  
36 credible evidence to the contrary.

37 Where it appears that any particular insurance risk which is  
38 eligible for export, but insurance coverage thereon, in whole or in  
39 part, is not procurable from the eligible surplus lines insurers, then  
40 the surplus lines agent may file a supplemental affidavit stating  
41 such facts and advising the commissioner that such part of the risk  
42 as shall be unprocurable, as aforesaid, is being placed with named  
43 unauthorized insurers, in the amounts and percentages set forth in  
44 the affidavit. Such named unauthorized insurer shall, however,  
45 before accepting any risk in this State, deposit with the  
46 commissioner United States government bonds in an amount  
47 acceptable to the commissioner, which shall be held by said  
48 commissioner for the benefit of New Jersey policyholders only and

1 the surplus lines agent shall procure from such unauthorized insurer  
2 and file with the commissioner a certified copy of its current annual  
3 statement of financial condition. If such deposit is made and the  
4 statement reveals, including both capital and surplus, net assets of  
5 at least \$5,000,000 consisting of at least \$1,500,000 liquid assets,  
6 then the surplus lines agent may proceed to consummate the  
7 contract of insurance. Whenever any insurance risk or any part  
8 thereof is placed with an unauthorized insurer, as provided herein,  
9 the policy, binder or cover note shall bear conspicuously on its face  
10 in boldface type the following notation:

11 "All or some of the insurers participating in this risk have not  
12 been admitted to transact business in the State of New Jersey, nor  
13 have they been approved as a surplus lines insurer by the insurance  
14 commissioner of this State. The placing of such insurance by a duly  
15 licensed surplus lines agent in this State shall not be construed as  
16 approval of such insurer by the insurance commissioner of the State  
17 of New Jersey. Such insurance is not covered by the New Jersey  
18 Property-Liability Insurance Guaranty Association or the New  
19 Jersey Surplus Lines Insurance Guaranty Fund." All other  
20 provisions of this Title , except the provisions of P.L.1984, c.101  
21 (C.17:22-6.70 et seq.), shall apply to such placement the same as if  
22 such risks were placed with an eligible surplus lines insurer.<sup>1</sup>  
23 (cf: P.L.1996, c.69, s.4)

24  
25 **'[4.] 6.'**<sup>1</sup> This act shall take effect on the 90th day after  
26 enactment but the commissioner may take such anticipatory  
27 administrative action in advance as shall be necessary for the  
28 implementation of this act.