



## Surplus Lines Brokers



### Information Regarding the NRRA and Delaware Premium Taxes

The federal Nonadmitted and Reinsurance Reform Act of 2010 ("NRRA") became effective on July 21, 2011, and placed surplus lines taxation, regulation, and licensing authority under the exclusive oversight of the home state of the insured (see 18 Del. C. §1904(a)(9) for definition of home state).

The NRRA, among other changes, stipulates that:

- The placement of nonadmitted (surplus lines) insurance shall be subject to the statutory and regulatory requirements solely of the insured's home state, as defined in the NRRA.
- No state other than the home state of an insured may require any premium tax payment for nonadmitted insurance.
- No State other than an insured's home state may require a surplus lines broker to be licensed in order to sell, solicit, or negotiate nonadmitted insurance with respect to such insured.

**IMPORTANT:** In accordance with 18 Del. C. §§ 1925 and 1926, if Delaware is the home state of the insured, the amount of tax paid to Delaware is calculated on the entire premium for the policy, not just the portion that applies to risks located within Delaware.

The Department collects 2% tax on 100% of the policy premium when the policy is procured for a Delaware home state insured. In the past, reports were made to the state in which the covered risk was located, but the NRRA stipulates that all reporting and tax payment shall now be made to the state that is by definition the home state of the insured.

All surplus lines licensees should take whatever measures are necessary to ensure that the proper amount of premium tax is paid to this state when Delaware is the home state of the insured.



## **THE FOLLOWING INFORMATION MAY HELP ESTABLISH IF DELAWARE IS THE “HOME STATE” OF THE INSURED:**

**Delaware is considered the home state of the insured if any of the following conditions apply:**

1. Delaware is the principal place of business or principal state of residence of the insured and all of the risk is located in Delaware. (single-state policy)
2. Delaware is the principal place of business of the insured or the principal state of residence of the insured and any part of the risk is located in Delaware. (multi-state policy)
3. Another state is the principal place of business or principal state of residence of the insured but all of the risk is located in Delaware. (multi-state policy)
4. Another state is the principal place of business or principal residence of the insured but none of the risk is located in that state and the majority of the risk is located in Delaware. (multi-state policy)
5. More than 1 insured from an affiliated group are named insureds on a single nonadmitted insurance contract, and the insured is the member of that affiliated group that has the largest percentage of premium attributed to it under the insurance contract and that premium is for risks located in Delaware.

If none of these conditions apply to the policy, then Delaware is **not** the home state of the insured, and no report or tax should be sent to the Delaware Department of Insurance.

Use these tips to help determine which state is the home state of the insured and make your filing according to that state's requirements.

**Premium tax questions can be directed to Ann Fletcher, Tax Coordinator at**  
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