1999 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1177

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HBO 1177

House Industry, Business and Labor Committee

❑ Conference Committee

Hearing Date 1-26-99

Tape Number	Side A	Side B	Meter #
1	x		19.8
Committee Clerk Signature Lisa Horner			

Minutes:

HBO 1177 Relating to insurance contracts issued to industrial concerns, exempt commercial policyholders, rate filings, filing of policy forms, cancellation and non renewal of commercial insurance, and surplus lines of insurance.

Chairman Berg opened the hearing on the bill.

Mr. Larry Maslowski, ND Dept. of Insurance, testified in support to the bill.

(see attached written testimony)

Questions and discussion followed. Berg asked about large employers such as Melroe co. can bid insurance and have it approved by the insurance dept. Maslowski said the insurance dept. would not approve that under this bill.

Mr. Gary R. Thune, American Insurance Association, testified in support of the bill provided that an amendment is also approved. The association represents approximately 300 companies nationwide. They strongly support the concept of the bill. The coverage is only deregulated if the policy holder elects to do so. The association is requesting deregulation to expanding that number to less than 1 %. Berg asked how many employees would qualify with less than 25 employees. It would be just under 10%.

Mr. Tom Smith, Domestic Insurance Companies of ND, testified in support of the bill. Smith is with a company of 16 lawyers and would qualify under this criteria. Representative Martinson asked how many people qualify for certify eligibility. Response was that at present time no limits apply. The risk managers for large companies can look at the risk closer. Representative Glassheim asked about this new area possibly harming someone. One of the key elements is the risk manager making good decisions.

Larry Maslowsky responded to questions from the committee. The risk manager may not be an expert on insurance, however, experts are available to assist with those question. Bankers are the key to analyzing the risks involved because money is involved. Berg requested that Chris Edison with the ND Insurance Dept. put some information on paper to explain some of the aspects of the bill such as what is not covered by insurance or the bill.

Chairman Berg closed the hearing on the bill.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1177 2-2-99

House Industry, Business and Labor

☐ Conference Committee

Hearing Date 2-2-99

Tape Number	Side A	Side B	Meter #
2	x		4.2-20.0
Committee Clerk Signature	Lisa Horner		

Minutes: Chairman Berg brought this bill back for discussion.

Rep. Klein : We had two sets of amendments of which the last set is the updated one.

The committee went through the amendments with question and answer session.

ACTION: Rep. Klein made a motion to DO PASS the amendments and Vice Chair Kempenich seconded the motion. VOICE VOTE with 14 YES and 1 NO. Passed.

Rep. Klein made a motion of DO PASS as amended and Vice Chair Kempenich seconded the motion. ROLL CALL VOTE: 15 YES and 0 NO with 0 ABSENT. Passed. Rep. Klein will carry the bill.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: ______ Amendment to: HB 1177

Requested by Legislative Council Date of Request: 2-24-99

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

   Narrative:

   See attached.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	**Special Funds**	**General Fund**	**Special Funds**	**General Fund**	**Special Funds**
Revenues:	N/A		N/A		N/A	
Expenditures:	N/A		N/A		N/A	

3. What, if any, is the effect of this measure on the appropriation for your agency or department:
   a. For rest of 1997-99 biennium: N/A
   b. For the 1999-2001 biennium: N/A
   c. For the 2001-03 biennium: N/A

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	**Cities**	**School Districts**	**Counties**	**Cities**	**School Districts**	**Counties**	**Cities**	**School Districts**
	N/A			N/A			N/A	

If additional space is needed, attach a supplemental sheet.

Signed [signature]

Typed Name Trent C. Heinemeyer

Department Insurance Department

Phone Number 328-2440

Date Prepared: 3/1/99

Currently, the Insurance Department reviews filings of policy forms and rates on a prior approval basis. While the Department does not charge a fee for each such filing, we do charge a retaliatory fee for any filing submitted by an insurance company domiciled in a state which does charge a fee for these types of filings. The Department has no control over the volume of such filings, and the resultant fee revenue, both of which fluctuate from year to year, as much as 22 percent. For your reference, the property and casualty filings received in 1998 totaled 4,572 and the retaliatory fees received for 1998 were $151,115.

House Bill No. 1177 allows insurance companies to issue insurance policies to certain qualified exempt commercial risks without first having to file the policy form and rate for prior approval with the Insurance Commissioner. Any reduction in the number of such filings resulting from this bill could result in a reduction in revenues.

It is not possible to predict with any degree of certainty the number of commercial risks that will elect to request an exemption pursuant to this bill. Nor is it possible to predict the number of insurance companies that will elect to issue policies to these qualified exempt commercial risks, and avoid the need to file their policy forms and rates with the Insurance Commissioner for prior approval. Also, for those companies that will avoid the need to file their policy forms and rates pursuant to this bill, it is not possible to predict their state of domicile which determines the amount of retaliatory fee charged by the Department. Each of these factors are determinants in any fiscal impact this bill would have on the state. Due to the unpredictability of these factors, an attempt to determine the fiscal impact would be based on pure speculation and guesswork and would not be appropriate.

It is not anticipated that any change in the number of filings submitted to the Insurance Department would impact the staffing needs of the Department, as the volume of filings received by the Department has historically fluctuated, and the Department has absorbed these fluctuations internally with existing resources.

Prepared by the American Insurance Association
January 26, 1999

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1177

Page 3, line 15, replace “fifty” with “twenty-five”

Page 3, line 16, replace “one hundred” with “fifty”

Page 3, line 17, replace “five hundred” with “twenty-five”

Page 3, line 18, replace “thousand” with “hundred”

Page 3, line 20, replace “five hundred” with “twenty-five”

Page 3, line 23, replace “forty-five” with “twenty-five”

Page 3, line 24, replace “fifty” with “twenty-five”

Renumber accordingly

Date: 2-2-99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1177

House Industry, Business and Labor Committee

☐ Subcommittee on
or
☐ Conference Committee

Legislative Council Amendment Number

Action Taken do pass as amended

Motion Made By Klein Seconded By Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chair - Berg	✓		Rep. Thorpe	✓	
Vice Chair - Kempenich	✓				
Rep. Brekke	✓				
Rep. Eckstrom	✓				
Rep. Froseth	✓				
Rep. Glassheim	✓				
Rep. Johnson	✓				
Rep. Keiser	✓				
Rep. Klein	✓				
Rep. Koppang	✓				
Rep. Lemieux	✓				
Rep. Martinson	✓				
Rep. Severson	✓				
Rep. Stefonowicz	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1177: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1177 was placed on the Sixth order on the calendar.

Page 3, line 15, replace "fifty" with "twenty-five "

Page 3, line 16, replace "one hundred" with "fifty "

Page 3, line 17, replace "five hundred" with "seventy-five"

Page 3, line 18, replace "thousand" with "hundred fifty"

Page 3, line 20, replace "five hundred" with "seventy-five"

Page 3, line 23, replace "forty-five" with "twenty-five"

Page 3, line 24, replace "fifty" with "twenty-five"

Renumber accordingly

1999 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1177

1999 SENATE STANDING COMMITTEE MINUTES

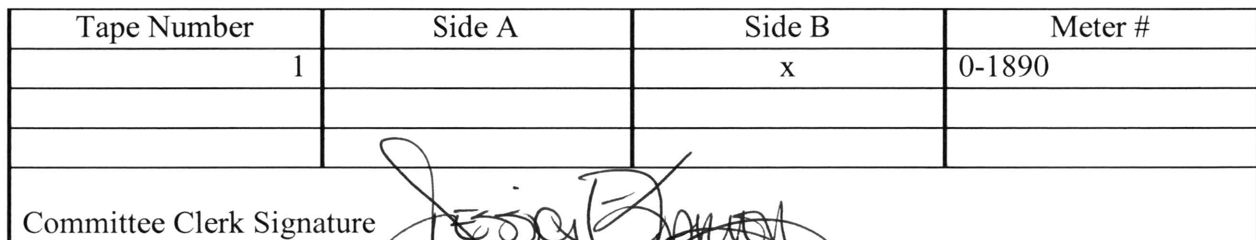
BILL/RESOLUTION NO. HB1177

Senate Industry, Business and Labor Committee

❑ Conference Committee

Hearing Date February 15, 1999

Tape Number	Side A	Side B	Meter #
1		x	0-1890
Committee Clerk Signature			



Minutes:

Senator Mutch opened the hearing on HB1177. All senators were present.

Larry Maslowski, North Dakota Insurance Department, testified in support of HB1177. His testimony is included. Senator Mutch asked him if they would have to come to him first. He said that yes they would have to come to him to get on a list.

Gary Thune, American Insurance Association, testified in support of the first engrossment of HB1177. Senator Mutch asked him if this would preclude the ability to self-insure. Mr. Thune told him that it would not.

Tom Smith, Domestic Insurance Companies, testified in support of HB1177.

Senator Mutch closed the hearing on HB1177.

Senator Heitkamp motioned to amend HB1177. Senator Thompson seconded his motion. The motion carried with a 6-1-0 vote.

Senator Klein motioned to accept the Wald amendments. Senator Krebsbach seconded his motion.

Committee discussion took place.

Both senators withdrew their motions.

Senator Sand motioned for a do not pass with amendments committee recommendation on HB1177. Senator Thompson seconded his motion. The motion carried with a 4-3-0 vote.

Senator Mutch will carry the bill.

98204.0201
Title.

Prepared by the Legislative Council staff for
Representative Wald
March 2, 1999

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1177

Page 3, line 13, after "it" insert "employs the services of a ~~resident~~ licensed insurance agent or broker," and after "criteria" insert an underscored comma

Page 3, line 14, remove both underscored commas

Page 3, line 17, replace "Has" with "Employs" and remove "per individual company or one"

Page 3, line 18, remove "hundred fifty employees per holding company aggregate"

Page 3, line 19, replace "use of a" with "an employee acting as a full-time", remove ", employed", and replace "retained" with "qualified consulting risk manager"

Page 3, line 24, after "Is" insert "in", replace "municipality" with "city", and replace "twenty-five thousand" with "fifty thousand"

Renumber accordingly

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To GARY THUNE | From F. WALD
Co. | Co. SPEAKERS OFFICE
Dept. | Phone # 328-3525
Fax # 223-2825 | Fax # 328-1271

Mar-03-99 08:05am From-ND HOUSE MAJORITY LEADER 701-328-1271 T-350 P.01/01 F-642

98204.0203
Title.0300

Adopted by the Industry, Business, and Labor Committee
March 8, 1999

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1177

Page 3, line 13, after "it" insert "employs the services of an insurance agent or broker,", replace "two" with "three", and after "criteria" insert an underscored comma

Page 3, line 14, remove ~~both~~ the first underscored comma~~s~~ and remove the second underscored comma

Page 3, line 17, replace "seventy-five" with "five hundred"

Page 3, line 18, replace "hundred fifty" with "thousand"

Page 3, line 19, replace "use of a" with "an employee acting as a full-time", remove ", employed" and replace "retained" with "qualified consulting risk manager"

Page 3, line 20, after "annual" insert "property casualty" and replace "seventy-five" with "five hundred"

Page 3, line 21, after "dollars" insert ", excluding contract bonds, crop insurance premiums, and workers' compensation premiums"

Page 3, line 24, after "Is" insert "in"

Page 7, line 3, after "changes" insert "may be made only once in any twelve-month period and"

Renumber accordingly

Proposed Amendments to H.B. 1177

Page 3, line 13, after "it" insert "employs the services of an insurance agent or broker,', replace "two" with "three", and after "criteria" insert an underscored comma

Page 3, line 14, remove both underscored commas

Page 3, line 17, replace "seventy-five" with "thousand"

Page 3, line 18, replace "hundred fifty" with "thousand"

Page 3, line 19, replace "use of a" with "an employee acting as a full-time", remove ", employed", and replace "retained" with "qualified consulting risk manger"

Page 3, line 20, after "annual" insert "property casualty" and replace "seventy-five" with "five hundred"

Page 3, line 21 after "dollars" insert ", excluding contract bonds, crop insurance premiums, and worker's compensation premiums"

Page 3, line 24, after "Is" insert "in"

Page 7, line 3, after "changes" insert "may be made only once in any twelve-month period and"

Renumber accordingly

Moved to adopt

Heitkamp / 2d Thompson

6 - 1

Date: 3/08

Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES

HOUSE **BILL/RESOLUTION NO.** 1177

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

☐ Subcommittee on ______

or

☐ Conference Committee

Legislative Council Amendment Number ______

Action Taken AMEND (COMMITTEE)

Motion Made By HEITKAMP Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein	X				
Senator Mathern		X			
Senator Heitkamp	X				
Senator Thompson	X				

Total (Yes) 6 No 1

Absent 0

Floor Assignment ______

WITHDRAWN

Date: 3/8

Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES

HOUSE **BILL/RESOLUTION NO.** 1177

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

☐ Subcommittee on ______

or

☐ Conference Committee

Legislative Council Amendment Number ______

Action Taken FURTHER AMEND (WAND BUT STRIKE RESURGE)

Motion Made By KLEIN Seconded By KREBSBACH

Senators	Yes	No	Senators	Yes	No
Senator Mutch					
Senator Sand					
Senator Krebsbach					
Senator Klein					
Senator Mathern					
Senator Heitkamp					
Senator Thompson					

Total (Yes) ______ No ______

Absent ______

Floor Assignment ______

WITHDRAWN

WITHDRAWN

WITHDRAWN

Date: 3/08 SR47H8L8

Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
HOUSE BILL/RESOLUTION NO. 1177

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

☐ Subcommittee on ______

or

☐ Conference Committee

Legislative Council Amendment Number ______

Action Taken DO NOT PASS AS AMENDED

Motion Made By SAND Seconded By THOMPSON

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Krebsbach	X				
Senator Klein		X			
Senator Mathern		X			
Senator Heitkamp		X			
Senator Thompson	X				

Total (Yes) 4 No 3

Absent 0

Floor Assignment MUTCH

REPORT OF STANDING COMMITTEE

HB 1177, as engrossed: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1177 was placed on the Sixth order on the calendar.

Page 3, line 13, after "it" insert "employs the services of an insurance agent or broker,", replace "two" with "three", and after "criteria" insert an underscored comma

Page 3, line 14, remove the first underscored comma and remove the second underscored comma

Page 3, line 17, replace "seventy-five" with "five hundred"

Page 3, line 18, replace "hundred fifty" with "thousand"

Page 3, line 19, replace "use of a" with "an employee acting as a full-time", remove ", employed", and replace "retained" with "qualified consulting risk manager"

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Page 3, line 24, after "Is" insert "in"

Page 7, line 3, after "changes" insert "may be made only once in any twelve-month period and"

Renumber accordingly

1999 TESTIMONY

HB 1177

HOUSE BILL NO. 1177
TESTIMONY BEFORE THE HOUSE
INDUSTRY, BUSINESS AND LABOR COMMITTEE

LARRY MASLOWSKI
SENIOR ANALYST
NORTH DAKOTA INSURANCE DEPARTMENT

The Problem

The insurance industry has argued over the years that the current system of regulatory oversight creates obstacles and inefficiencies for large sophisticated commercial insurance buyers who may not need the consumer protections provided by the Insurance Department. According to the industry, the current structure, which includes prior regulatory approval of policies, forms, and rates, impedes a rapid response by a competitive insurance industry to consumer needs. Secondly, it has been argued that large commercial enterprises have sufficient internal expertise and knowledge in dealing with insurance matters so as to not require an intervening regulator to level the playing field.

The Solution

Regulators have listened to the industry and recognized that there could be some changes made in the current regulatory system to permit more flexibility and less oversight for sophisticated insurance buyers. The National Association of Insurance Commissioners has published a white paper developed by industry and regulators which responds to the industry's concerns and puts forth recommendations and guidelines for the deregulation of this segment of the industry, i.e., the large sophisticated commercial insurance buyer. House Bill No. 1177 follows very closely these recommendations. It is important to emphasize that the Insurance Department does not advocate the total deregulation of all commercial insurance nor does this proposed legislation attempt to do that. The Department urges that prudence and caution be exercised in taking this initial step.

Bill Summary

Section 1 - This section of Chapter 26.1-02 currently allows certain "industrial insureds" to buy insurance from insurance carriers who do not have a Certificate of Authority. This does not relieve the insured or the insurance company from all other statutory requirements such as rate and form filing and cancellation and nonrenewal requirements. This section is being repealed as it conflicts with the new proposed exemption for "exempt commercial policyholder" (ECP).

Section 2 – Chapter 26.1-25 gives the state the statutory authority to require filing of rates on a prior approval basis. This amendment to Section 26.1-25-02 would exempt from this chapter insurance issued to "exempt commercial policyholders" (ECPs).

Section 3 – Section 26.1-25-02.1 is amended to add the new definition of an "exempt commercial policyholder" (ECP). A large sophisticated commercial risk who meets two of the seven standards set forth can request exemption from regulatory oversight from the Commissioner of Insurance.

The standards are:

1. A net worth of over $50 million.
2. Net revenue or sales of over $100 million.
3. More than 500 employees per individual company or 1,000 employees per holding company aggregate.
4. Procures insurance through use of a risk manager, employed or retained.
5. Generate aggregate annual insurance premiums of over $500,000.
6. A not-for-profit or public entity with an annual budget or assets of at least $45 million.
7. A municipality with a population of over 50,000.

These standards are significant thresholds affecting only large, sophisticated commercial risks. The committee of the NAIC which drafted the white paper put considerable research into and deliberated at great length on what standards to recommend. These standards reflect what would be referred to as Fortune 4000 entities. Through the white paper, regulators throughout the country made recommendations for the appropriate deregulation of commercial lines. They recommended this deregulation only for those types of risks who because of their ability and resources have the same negotiating power as insurance companies. Commissioner Pomeroy, who was active as President of the NAIC in 1998 and who promoted modernization and efficiencies in the regulation of the insurance industry feels the intent of the white paper was clear in this regard and is comfortable with this proposed legislation as a first, but cautious, step.

Page 4, line 29, is an editorial correction changing "date" to "data".

Section 4 – This section of the rate making chapter, Section 26.1-25-04, requires the filing of manuals, minimum class rates, rating schedules, rating plans, and rating rules. The "exempt commercial policyholder (ECP) risk" class of business would be exempted. Therefore, insurance companies would not be required to files rates to use with ECPs.

Page 6, line 12, is an editorial change due to the introduction of a new subsection on commercial risk rate changes.

Page 7, line 1, is a new subsection. This subsection applies to all commercial rate filings other than those exempted ECPs. Commercial risk rate filings with a change of no more than five percent (increase or decrease) will no longer have to submit the rate filing on a prior approval

basis but rather can use the changed rate, and file the change with the Department on an informational basis within 60 days of implementation. This proposed change was not specifically recommended by the white paper. However, the paper did recommend that each state assess its own comfort level with the deregulation of rate approval for those nonexempt commercial risks. The proposal to allow "use and file" for minor rate changes we feel is a fair and logical relaxation of our current prior approval requirement.

Section 5 – This section of Chapter 26.1-30 is the statutory authority for requiring policies and forms to be filed with the state. If rates are required to be filed, then forms must also be filed. This section is amended to clarify that even though the commercial risk rate filings are to be filed only on an informational basis, the policies and forms for these nonexempt commercial risks are still required to be filed on a prior approval basis.

Section 6 – This section of Chapter 26.1-30.1 lists those types of insurance products that are not subject to the commercial insurance cancellation and nonrenewal requirements set forth in this chapter. The "exempt commercial policyholder" (ECP) is added to this list. Therefore, this chapter and its requirements will not apply to ECPs. Accordingly, cancellation and nonrenewal provisions would be open to negotiation between ECPs and the insurance company.

Section 7 - This section of Chapter 26.1-44 sets forth the general process for accessing the surplus lines insurance market. This amendment would permit the "exempt commercial policyholder" (ECP) to access the surplus lines market without restriction.

Under current statute, an insurance purchaser could only access the surplus lines market if they were unable to procure insurance through a regular "admitted" insurance company after conducting a diligent search. This change would permit an ECP to seek insurance from the surplus lines market without the diligent search requirement thus providing even more market freedom. Please note that this proposal was not one of the recommendations of the white paper but was felt necessary to provide a completely free market to ECPs.

The exemption would apply both to rate and form approval.

Maine Draft Legislation – entities must meet two of the following seven criteria:

1. Net worth of $10 million.
2. Net revenue or sales of $5 million.
3. More than 25 employees per company or more then 50 employees in the aggregate per holding company.
4. Use of employed or retained risk manager to get insurance.
5. Status as a nonprofit or public entity with an annual budget or assets of $25 million.
6. Status as a municipality with a population of 20,000.
7. Minimum annual P/C premium of $25,000.

The exemption would apply both to rate and form approval.

White Paper on Regulatory Re-engineering of Commercial Lines Insurance

Streamlining of Commercial Lines Insurance Regulation

June 23, 1998

NAIC

National Association of Insurance Commissioners

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Table of Contents

Streamlining of Commercial Lines Insurance Regulation

- Introduction 1
- Commercial Insurance Buyers 1
- Commercial Insurance Buyers & the Regulation of Insurance 3
  - I. Property and Casualty Rate and Form Regulation 4
    - Rate Regulation: The Current System 4
    - Form Regulation: The Current System 5
    - Recommendations for Commercial Lines Rate and Reform 6
      - Rate Regulation: The Proposed System 6
      - Form Regulation: The Proposed System 7
      - Large Commercial Policyholders: The Proposed Exemption 8
      - Scope of Exemption 9
      - Definition of Exempt Commercial Policyholder 9
      - ECP Criteria 9
      - Rationale 9
      - Net Worth/Shareholder Equity 10
      - Annual Revenues 10
      - Premium 10
      - Number of Employees 11
      - Not for Profit and Public Entities 11
      - Certification by Insured 11
  - II. Multistate Insureds 11
    - Inconsistent Policy Cancellation and Non-renewal Laws 11
    - Problems with Mandatory Coverages by State 12
    - Problems with Insurance Department Forms and Endorsements 13
    - Recommendations for Multistate Insureds 13
  - III. Surplus Lines Regulation 13
    - Recommendations on Surplus Lines 14
  - IV. Company Licensing 15
    - Reciprocation 15
    - Recommendations on Company Licensing 16
  - V. Producer Licensing 16
    - Multistate Producer Licensing 16
    - Continuing Education 17
    - Countersignature Laws 18
    - Recommendations for Producer Licensing 18

Summary and Conclusion 20

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A White Paper on the Streamlining of Commercial Lines Insurance Regulation

INTRODUCTION

In 1995, the National Association of Insurance Commissioners (NAIC) appointed the Committee on Regulatory Efficiency. In 1996, this was reconstituted as the Special Committee on Regulatory Re-engineering (the Special Committee). The Special Committee was charged to evaluate regulatory practices to promote efficiency and coordination among regulators and industry and to explore possible means of streamlining certain aspects of commercial lines insurance regulation.

During 1996, the Special Committee continued various activities in an effort to fulfill its charges. The Special Committee surveyed insurance regulators regarding their efforts at regulatory re-engineering, held a public hearing at the Summer National Meeting on problems related to the regulation of commercial lines insurance, received written comments from interested parties on streamlining specific areas of insurance regulation, received recommendations from the Commercial Lines—Property and Casualty Insurance (D) Committee regarding commercial lines deregulation, and held a series of meetings throughout the year to discuss the issues and proposals that were brought to the Special Committee's attention.

This 1996 NAIC survey of the states revealed that approximately half the states had initiated some type of study to identify ways to streamline state laws and regulations. Six state studies focused on specific areas of regulation. Another sixteen states conducted broad studies and four states focused on automation reforms. The detailed chart of the survey results in Appendix One indicates that 21 states undertook efforts to streamline their regulations on a broad spectrum of regulatory issues.

A survey conducted by the (D) Committee revealed that the regulatory re-engineering efforts in many states were limited to commercial lines rather than personal lines. Moreover, the 1996 recommendations from the (D) Committee to the Special Committee stated that (D) Committee members believed that purchasers of personal lines products may need a different level of regulatory protection than purchasers of commercial lines products.

In 1997, the NAIC's Executive Committee charged the Special Committee to develop a White Paper to explore important efficiencies that were felt to be available in the area of P&C commercial lines regulation. This charge arose largely from a growing consensus within the regulatory community that some regulatory practices may be cumbersome and less well suited for commercial buyers of insurance. As such, while this White Paper shall touch upon various topics relating to regulatory efficiencies, its thrust shall be towards commercial insureds.

COMMERCIAL INSURANCE BUYERS

To evaluate the insurance regulatory needs of the business community, one must first understand what types of business entities are seeking coverage.

This country is characterized by a large number of small businesses. There are over 5.6 million companies with less than 20 employees and another 700,000 with between 20 and 100 employees. Although some of these small businesses may transact business across state or national borders, most operate within a single

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city or state serving local consumers. There is no reason to believe that these small business owners understand any more about insurance than does the average personal lines consumer. Complaints from these small business owners to insurance regulators typically relate to availability and affordability of commercial insurance coverage and to claims and coverage issues. This segment of American business continues to require a higher degree of regulatory protection than large, sophisticated insurance buyers.

On the other end of the business spectrum are the multi-state and multi-national concerns that form the Fortune 500 or Fortune 1000. Many of these businesses are larger than most insurers. These businesses typically employ loss control and risk management personnel to evaluate, reduce and finance their exposures to loss. It is this segment of American business that often uses self-insurance or captive insurers to meet its risk management needs. The level of sophistication of the risk management departments of such large businesses makes it unlikely that state rate and form protection is necessary to protect them. In addition, while large businesses still benefit from state solvency regulation of licensed insurers, it is questionable whether the protections provided by access barriers to surplus lines and other nontraditional markets justify the application of these barriers to large businesses.

In addition to small and large businesses, there are many businesses that make up what Conning & Company calls the middle tier or middle commercial market that might also benefit from regulatory reform. Conning & Company defines these companies as those with revenues between $1 million and $750 million. Their characteristics are diverse. While some of these businesses limit themselves geographically, many do not. They are involved in a wide variety of business enterprises providing a wide range of goods and services. Some have a sophisticated understanding of risk management needs and techniques while others are more limited in knowledge and ability to evaluate insurance proposals. It is this segment of the business community that is the target market of many commercial lines insurers.

The table on the next page shows business establishments by employee size for 1994, based on data available from the U.S. Bureau of the Census.

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Business Establishments By Employee Size, 1994			
Number of Employees	Number of Businesses	Percent of Total Number of Businesses	Percent of Total Employees
1 – 19	5,661, 525	87.0%	28%*
20 – 99	704,499	10.8%	15%*
100 - 499	127,676	2.0%	14%
500+	15,576	0.2%	37%

* These percentages were taken from another table developed from the same data. This table indicated 30% for employers with 1-24 employees and 13% for employers with 25-99 employees. The percentages shown represent a slight extrapolation from those figures.

The table shows that while large, sophisticated insurance buyers make up only a small portion of the total number of businesses, they employ a large part of the total workforce and are therefore a significant portion of the U.S. economy. These numbers also illustrate the large numbers of insurance transactions involving small employers that cannot be expected to understand every nuance of insurance coverages. This suggests that commercial insurance regulation directed at the small employer is relevant for the great majority of commercial insurance transactions. However, while the number of transactions involving large commercial insureds is much less, it is a very significant number in premium dollars. In addition, large employers constitute such a large share of the economy that it is imperative that the impact of insurance regulation upon them be considered. The Special Committee notes the necessity to consider the needs of businesses of different sizes as it reconsiders commercial insurance regulation for businesses of all sizes.

COMMERCIAL INSURANCE BUYERS & THE REGULATION OF INSURANCE

Regulation plays an exceedingly important function in making insurance markets work. This is done not simply by imposing controls, but by representing the interests of policyholders through the enforcement of insurance laws designed to accomplish that purpose. Generally, policyholders have little or no ability to collect, analyze, and properly assess the financial condition of an insurer. Absent a regulatory structure, policyholders would have few effective means to bargain with insurers. Given that insurance tends to be a contract between parties that are not equal, there is an obvious demand for representation—a demand for insurance regulation.

Insurance companies understand the extent of coverage and the exact meaning of insurance policies better than individual insureds. Insurers handle thousands of claims from thousands of policyholders on a continuous basis and therefore have more experience in handling individual claims and assessing the extent of damages. Insurers understand their own internal procedures for claims handling and the degree to which they may contest an individual claim or negotiate a settlement. In fact, there is a marked lack of "perfect information" (in the economic sense) in insurance markets. This lack of information on the part of the

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policyholders requires insurance regulation be an important component in the maintenance of a competitive marketplace.

While some may argue that regulation dampens competition or promotes the interests of one particular interest group over another, insurance regulation represents a series of compromises between competing interest groups. Some insurance regulation is decidedly pro-consumer, while other facets of insurance regulation may be characterized as pro-insurer or pro-third party. The business of insurance regulation must involve a continuous rebalancing of benefits to competing interest groups. To the extent that regulators are successful in their balancing efforts, a vigorously competitive marketplace can co-exist with reasonable controls designed to protect consumers and other parties to insurance transactions.

As was indicated in this Paper's introductory remarks, the purpose of the recommendations contained herein is to achieve an appropriate rebalance. Toward that end, this Paper will discuss a number of topics where rebalancing of regulation appears advisable. It will outline the problems or concerns that the Special Committee's two-year process has identified in these areas. It will then suggest, for each issue, ways that this rebalancing might be best accomplished. The Committee recognizes that not every state will be ready now for all of these proposals. Yet, the Committee hopes that its focus on these areas will begin a process for states to explore how, when, how far, or, indeed, whether they should go down the road that this Paper maps out.

The regulation of insurance covers a very broad spectrum. This Paper does not attempt to address the full range of issues that have been raised in the areas of commercial insurance or regulatory re-engineering. Nor does it purport to provide an exhaustive discussion of every included topic. Rather, it provides a concise discussion on property and casualty rate and form regulation, multi-state insureds, surplus lines regulation and company and producer licensing, some of the most important features of commercial lines regulation that require streamlining. That discussion follows.

I. PROPERTY AND CASUALTY RATE AND FORM REGULATION

Rate Regulation: The Current System

Rate regulation generally involves the oversight of loss costs, rates and rating factors used to develop the price of insurance for a particular policy. It can also involve the monitoring of competition, market activity and other relevant statistical indications.

Price development in the insurance industry is somewhat unique in that sellers are allowed to share pricing information and to use cooperatively developed prices, a practice that is prohibited under federal anti-trust laws. Under the provisions of the McCarran-Ferguson Act, insurance companies are allowed to conduct these activities as long as these activities are adequately regulated by the states. This means that coordinated pricing activities by insurers must be actively regulated by state insurance departments to maintain this antitrust exemption.

Most state insurance codes provide that insurance rates "shall not be inadequate, excessive, or unfairly discriminatory." State insurance departments are charged with the enforcement of various regulatory requirements designed to achieve this goal. With many lines and in most states, these laws require that insurers and advisory organizations file rates or loss costs with the state insurance department. Approaches utilized by the states to regulate P&C insurance rates tend to fall into one of the following categories:

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- Prior Approval: Rates must be submitted to the state insurance regulator and formally approved prior to their use.
- Flex Rating: Rate changes within a specified band (e.g., plus or minus 10 percent) may be taken without prior approval, but changes outside of the band require prior approval.
- File and Use: Rates must be filed with the state insurance regulator some specified time prior to their use (e.g., 30 or 60 days).
- Use and File: Rates must be filed with the state insurance regulator within a specific time frame after they are implemented (e.g., 10 days after they become effective).
- Competitive Rating: Rates are determined by the competitive market with regulatory intervention as needed.

This rate regulatory authority is generally applied through a combination of statutory and administrative authority. The extent to which rates are regulated often differs significantly from one line to the next and from one state to the next. Generally, rate regulation is more stringently applied to those lines of business that are compulsory coverages, such as workers compensation and private passenger automobile liability.

One of the goals of the Special Committee is to explore whether less restrictive rating approaches could produce a fair market for a wide range of commercial consumers. If that were possible, these approaches would need to be considered seriously in light of the costs to industry and the states for the current system of rate and form filing compliance.

Data collected by the NAIC's PIN Oversight Working Group indicates that these costs exceed $1 billion for industry and between $40-55 million annually for states and are escalating. The current system is largely inefficient, paper intensive, manual, time-consuming and not in keeping with modern technology. It slows insurers as they try to respond to the demands of competitive markets.

Research suggests that the benefits of the current system may not justify its costs and that less restrictive approaches to rate regulation can be just as effective in producing healthy, competitive markets. Recent studies of the current market structure under different regulatory systems by Dr. Robert Klein and Dr. William Feldhaus of Georgia State University appear to find no discernable advantage in the more restrictive approaches to rate regulation. While noting some very limited exceptions such as credit and title insurance, they recommend a competitive rating system for commercial insurance rates.

Form Regulation: The Current System

Like rates, insurance contracts are generally subject to regulation to ensure compliance with state laws and to promote fairness. In addition, the McCarran-Ferguson Act is also relevant to form regulation, particularly to the regulation of activities by advisory organizations. Under the current system, many states require prior approval of most commercial forms. Others have a "file and use" or "use and file" system. A number of states exempt manuscripted or unique coverages from filing requirements and a very few states require companies to self-certify that their forms meet the form requirements of state law.

Insurance contracts are legal documents that, typically, are not easy to read and require experience to interpret. Even legal experts can have difficulty agreeing on the interpretation of an insurance policy, as witnessed by litigation over the details of coverage. This leads to a demand for regulation by the great majority of consumers who are unable to perform that function by themselves. Again, however, the Special Committee considered whether all commercial insureds require the same degree of form protection and what efficiencies and streamlining can help reduce the costs and burdens that the current form filing compliance

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system places on both industry and states. Such efficiencies must, of course, permit the proper balance with necessary consumer protections.

RECOMMENDATIONS FOR COMMERCIAL LINES RATE AND FORM REFORM:

1. **It is proposed that the NAIC replace the prior model rating laws with a single model that will address both rate and form filing. The new law will provide the commissioner with both the authority and the charge to recognize the effectiveness of competition as a means to regulate rates. It will also provide the authority and the charge to recognize situations where the benefits of filing and/or prior approval of forms are outweighed by the burden and costs these review procedures place upon commercial lines insurers and insureds. Flexibility contained in the law will allow filing and approval requirements to differ for rates and forms and for different types and sizes of insureds as well as different lines and classes of insurance. Filing approaches available under the law will include, but not be limited to, prior approval, flex rating, file and use, use and file, self-certification and advisory and informational filings. The law will also address, at least for the specific class of large commercial buyer that will be described herein, the applicability of no requirements at all.**

2. **The NAIC should promote among its members the development of technology, especially the System for Electronic Rate and Form Filing (SERFF), to streamline filing and reduce costs.**

Recommendation 1: The Special Committee believes that commercial insurance consumers will generally be better served by less restrictive regulatory schemes than are now used by many states. To facilitate this shift, the Committee recommends that the NAIC model rating laws be replaced with a single comprehensive law. This will encompass both rate and form and will provide the authority, the charge and the tools for the state to adopt flexible regulatory stances based on the need for regulation rather than a single approach.

While the Commercial Lines (D) Committee should give careful consideration to all recommendations of the Special Committee, it bears emphasizing the (D) Committee should have the discretion to reconsider these matters as its detailed work proceeds and specific issues arise. The Special Committee notes that the (D) Committee's work may ultimately contain ideas not contemplated in this White Paper, and it may not embrace every aspect of these recommendations.

Rate Regulation: The Proposed System

The purpose of the rating law should be—in the most cost-effective fashion—to encourage and assure that rates are in compliance with statutory standards. The best means to accomplish this may vary for different markets or classes of buyer. For the largest commercial buyers, the most cost-effective regulation is generally none at all. For noncompetitive lines, the costs of regulatory involvement are expected to be justified by the benefits. For most segments of the market, the Committee believes that less intrusive regulatory approaches are likely to be the most cost effective and to produce markets that are healthy and competitive.

The rating section of the model law should charge the state to consider these factors and to select the approaches that are most appropriate for various markets and insureds. The following considerations are offered for the Commercial Lines (D) Committee:

- For most commercial lines scenarios, a "competitive rating" approach should be best for the consumer. With this approach, insurers can adopt and change rates without the need for regulatory approval.

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Regulators can monitor trends to ensure the competitiveness of the markets. The experiences of such states as Illinois, Colorado and Texas may be instructive with regard to appropriate monitoring and market conduct tools and intervention authority. It may be that informational filings may assist in monitoring trends or problem markets.

- Flex rating can be a reasonable approach. However, this approach may subject the regulator to pressures to reduce swing limits when prices most need to be raised or to intervene more quickly, rather than let the market stabilize as would likely happen under the competitive rating system.

- Prior approval, if used, should generally be restricted to noncompetitive lines and to loss costs submitted by advisory organizations.

The basic filing approaches outlined above can be modified in various fashions. Possibilities include modifications applied generally or on a line-specific basis. One suggestion is "self-certification." This can be combined with several different regulatory approaches. For example, in Colorado, companies certify annually as that their rates are competitive in the context of a structure where rates and manuals are not regularly submitted, but may be requested. Self-certification could also be combined with a "file and use" approach. This would provide regulators with an assurance that the material submitted does not require immediate review but can be checked if questions arise.

Form Regulation: The Proposed System

The section of the model law governing forms should encourage and assure that consumers receive the coverage they need on forms free of deceptive or unreasonable provisions. As with the sections of the law that will address rates, the state should be able to look to the most efficient ways to achieve these goals. The Special Committee is concerned that, unlike with rates, market forces may not be sufficient to eliminate the need for regulatory involvement in many commercial products. It believes that this may be especially true for smaller commercial purchasers who may not have an adequate understanding of the subtleties of policy wordings and coverages.

Thus, while the Special Committee believes that reforms and flexibility are necessary to reduce the costs and inefficiencies of form filing, the Committee has not abandoned prior approval as an appropriate, perhaps preferred, regulatory tool, especially for such market segments. The Commercial Lines (D) Committee should explore opportunities for flexibility and streamlining in form filing. The Committee suggests that they consider how self-certification of compliance with state form requirements such as is used in Colorado might work, together with a continuum of other options such as prior approval, file and use with self-certification and enhanced flexibility for manuscripted policies.

The Special Committee also recommends that the (D) Committee also consider a self-certification process that will ensure a meaningful review and affidavit by company officers. This will help not only companies understand the level of self-regulation they must engage in to have the greater freedom, but also give the regulator a greater comfort level that the company sign-off is not merely another piece of paper. This might include the development of a model instruction with a clear statement of form filing requirements against which policies can be reviewed. (Perhaps the SERFF consortium could be helpful here as this information will have been gathered and formatted for each state.) As with rate approvals, the model law should also ensure the commissioner's full market conduct authority to intervene on a company or market basis and to move appropriately to any level along the continuum. The (D) Committee might also choose to address the regulatory tools, skills or refocusing that this flexibility might require of states to ensure effective regulation

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for both the consumers and McCarran-Ferguson considerations. Those experiences in states that have already moved to more flexible approaches could be helpful here. The Special Committee believes that just because rate and form regulation is done differently, it needn't be less active or thorough.

Recommendation 2: For those lines and situations where filings are required, the Special Committee encourages states to make SERFF available as a filing option for insurers. To date, sixteen states and 41 insurers representing 200 licensed individual companies, are customers of SERFF. The SERFF system provides a number of efficiencies to the states and the insurance industry. Therefore, the Committee recommends that states participate in SERFF when filings are required.

Large Commercial Policyholders: The Proposed Exemption

The Special Committee agrees with the (D) Committee's finding that large commercial buyers do not require the same level of protection as other buyers. It is apparent that the costs outweigh the benefits of such regulation. The Special Committee believes that the model law should allow an exemption from rate and form requirements for this group, which it calls "Exempt Commercial Policyholders"("ECPs"). Under rules adopted by states pursuant to authority contained in the new model law, any admitted policy sold to an ECP would not be subject to rate or form compliance requirements. These buyers would be free to negotiate for terms and price.

There are several concerns that present themselves in the consideration of this recommendation. These include the possibility that buyers will encounter policies with untested language and the fact that any definition of exempt commercial policyholder will necessarily be both underinclusive and overinclusive. The Special Committee believes, however, that these concerns are outweighed by the benefits of this proposal.

In addition to recognizing the difference in regulatory needs between this market segment and the rest of the property/casualty market, exempting the large commercial buyer from rate and form regulation will allow it to get coverage more specifically tailored to its needs and without delay. It will allow insurers to recognize all relevant risk characteristics better, some of which may be unusual or unique. This proposed reform might also serve to stop or reverse the growing migration of large commercial risks to offshore markets where the coverage is contracted outside of state regulation.

Moreover, the above concerns are addressed by limiting the ability to exercise this option to entities of such economic worth that there is no question they can afford the experts necessary to negotiate contractual language and terms. This limit would also ensure that these entities would also have the economic clout to bargain as equals with an insurer. In addition to defining whom should be an exempt commercial policyholder, the scope of this exemption and how it is best implemented to address a variety of regulatory concerns must also be addressed.

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Scope of Exemption
Merely stating that policies of large commercial buyers exercising this option would be exempt from rate and form regulation is insufficient. Because of the interrelationship of rate and form requirements with other areas of the insurance law, it is necessary to explore what is appropriate to include within an exemption intended to remove the regulator from the course of contract dealings between a large commercial buyer and the insurer.

The only requirement for rates would be that they could not threaten solvency. There would be no need, however, to subject these contracts to the other overarching insurance law requirements that rates cannot be excessive or unfairly discriminatory. It is unlikely that rates actively bargained for by these buyers would be excessive. Since these risks would be uniquely rated, unfair discrimination would be somewhat unlikely.

State insurance commissioners should be granted the authority to exempt policies sold to ECPs from provisions regarding renewals, cancellations and notices as well as mandatory policy wording or endorsements, where deemed appropriate. Statutes relating to the conduct of contractual relations between the insurer and the insured should also be reviewed to determine if they are necessary. These may not be needed because ECPs would demand a level of service from their insurers that should make such protections redundant. If they do not get this level of service, they will simply take their business elsewhere. It would be illogical to suppose that ECPs can manage their own contracts but not the services provided under these contracts.

Mandatory coverages such as auto and workers compensation must still provide for the substantive rights or protections accorded individuals and third parties under the insurance or other law. The ECP and its insurer would still be free to negotiate all other terms and conditions of these policies. Other unfair trade practices statutes governing antitrust and fraud would apply, as would all criminal sanctions.

There would, therefore, be very limited market conduct oversight of these transactions.

Definition of Exempt Commercial Policyholder
The Committee has identified some criteria that may be considered as fairly strong indicators that an entity has the economic clout and insurance buying expertise to negotiate with insurers in a largely unregulated environment. In addition, the Committee recommends that such entities self-certify that they meet the qualifying criteria. The following definition is offered:

An "ECP" is an entity that meets any two of the following criteria:

- Net worth of over $50 million;
- Net Revenues/ Sales of over $100 million;
- More than 500 employees per individual company/1000 per holding company aggregate;
- Procures its insurance through use of a Risk Manager, employed or retained;
- Aggregate Premiums of over $500,000;
- Is a not for profit, or public entity with an annual budget or assets of at least $45 million, or
- Is a municipality with a population of over 50,000.

Rationale
The most recent Conning study of the alternative insurance market divided the insurance buying market into three groups. It identified the largest commercial buyers as those entities with annual revenues in excess of

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$750 million, roughly the Fortune 1000. These buyers, Conning noted, were largely out of the traditional insurance buying market and using alternative risk transfer mechanisms and non-insurance products. While it was possible that some of these buyers could be lured back to the traditional market, it was more likely that, with their alternative market infrastructure already in place, they would stay.

It was the next group of buyers who typically purchased traditional commercial insurance, Conning concluded, but who were also at risk to leave the traditional insurance market, forever, if the current soft market with its low prices were to change. This group, that Conning called the middle market, was identified as having annual revenues between $1 million and $750 million. This is a very diverse group of companies with a considerable range of insurance buying characteristics, as noted by the Conning report. The Committee therefore proposes limiting the group that can choose to exercise the ability to purchase products free from rate and form regulation to the upper third of all commercial buyers below the Fortune 1000. This, the Committee believes, will tend to include only substantial companies that typically use risk managers and buy large amounts of insurance for multi-state, if not global risks. These companies clearly have the economic clout to negotiate with insurers at arm's length and the expertise, either employed or retained to do so. They are buyers that know their risks and its costs.

The Committee believes that there is a compelling reason to include at least this group in this recommended reform. This is a large segment of the buyers identified as most likely to abandon the admitted or regulated surplus lines market if prices rise. The Committee believes that this reform could prevent that from happening.

Net Worth/ Shareholder Equity

There are approximately 10,000 publicly traded companies in this country. Thus, the Committee's limit would include, approximately, the Fortune 4000. An analysis of the financial characteristics of publicly traded companies shows that a minimum net worth requirement of $50 million produces just over 4,000 companies. The Committee therefore recommends this as one identifying criterion.

Annual Revenues

The top 4,000 publicly traded companies by revenues are those with a minimum of $100 million in net sales/revenues. The Committee therefore recommends this as another criteria that can serve to identify those commercial policyholders that can safely buy admitted products without regulatory restraint.

Premium

The 1996 Cost of Risk Survey published by Tillinghast and RIMS shows a weighted average cost of insurance of $2.54 per $1,000 of revenue for commercial buyers. This, however, is based on gross revenues rather than net revenues used in the above criteria. Because of this difference and because the Committee does not believe that it is an extraordinary premium amount for insureds of this size, it suggests an aggregate annual premium criteria of $500,000. It is our view that such an annual premium aggregate represents a large risk that would typically involve a risk manager.

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Number of Employees
The average number of employees for the ten companies just above the minimum annual net sales/revenue of $100 million was slightly more than 500 employees. This is therefore recommended as the individual company floor. Examining the list of publicly traded companies, it becomes clear that a number of very large companies, in terms of revenues, have a very small numbers of employees. It is also clear, however, that many of these are also part of larger holding companies that might very well buy combined insurance. The Committee, therefore, suggests the alternative of a holding company aggregate of at least 1,000 employees.

Not for Profit and Public Entities
The Committee believes that the requirement of a $45 million annual budget is a criteria that identifies not for profit and municipal entities of comparable economic clout to those of Fortune 4000 companies. This requirement is based on a comparative ratio of revenues of for profit and not for profit and government entities included in the lowest quartile of the 1996 Cost of Risk Survey. As municipalities' revenues are also derivative of their ability to tax, the Committee recommends an alternative test of 50,000 residents for them.

As these criteria are derivative in part or fairly equally weighted, the Committee believes that meeting any two at the time of purchase would seem likely to ensure that the policyholder would be included in this class. Since this is so, and since the multiple criteria are intended to address the potential for variation over time, it is reluctant to eliminate that flexibility and require more than two.

Certification by Insured
Because the insured alone can exercise the option to buy unregulated policies, the Committee believes that it is the insured which must assert the right to do so. Thus, it recommends that there be a self-certification by the insured that it meets the appropriate criteria for an exempt commercial policyholder. This self-certification should also contain a statement by the policyholder that it is aware that the policy is unregulated for rates and forms and that it has the necessary expertise to negotiate its own policy language. The Commercial Lines (D) Committee should develop this self-certification wording.

The Committee believes that once the policyholder has met the exemption criteria for the purchase of the policy, the insured should be considered exempt for the duration of the policy and any renewals thereof.

II. MULTISTATE INSUREDS

Because of differences in state laws and in coverage or market problems that state insurance departments may have encountered over the years, insurers filing forms in multiple states will commonly find that they must attach various state-specific amendments or clarifications to their policies. These state-specific endorsements may result in inconsistent mandatory coverage requirements, cancellation requirements, settlement or valuation provisions, notice requirements, etc. Compliance with these varying requirements can be a complex and confusing process for both insurers and insureds.

Inconsistent Policy Cancellation and Non-renewal Laws:
States seek to protect their citizens by providing ample notice periods for cancellation and non-renewal. States have individually determined at various times what is sufficient notice for businesses so that they may make plans to find replacement coverage. But for insurers writing business in more than one state, these differing state requirements add to the administrative time and cost of issuing a multi-state policy. More than one provision governing a single policy, moreover, appears unnecessary merely because an insured has multi-state risks.

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A recent survey for commercial liability policies, shown in the table below, illustrates the variety in states' determinations for these time frames.

Time frame for Advance Notice	Number of States with Cancellation Period	Number of States with Non-renewal Period
None	2	2
10 Days	3	
10 Days +	6	
14 Days +	1	
15 Days	1	
20 Days		
20 Days +	5	
30 Days	4	13
30 Days +	9	
>30 & < 120 Days	1	1
45 Days	2	12
45 Days +	7	
60 Days	3	16
60 Days +	7	
60 - 120 Days	1	4
75 Days		1

Note: A time frame with a "+" sign indicates exceptions/additional provision for certain types of commercial policies.
Source: Alliance of American Insurers Survey

Problems with Mandatory Coverages by State
Individual states' mandatory coverage requirements can be problematic for multi-state insureds. The problem is often not that auto liability or workers' compensation coverage must be carried, but that policies cannot be provided without the attachment of certain ancillary coverages or mandatory endorsements, like uninsured or underinsured motorist coverages (that may often make little sense for commercial insureds).

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Problems with Insurance Department Forms and Endorsements
Owing either to specific legal requirements, interpretations of laws, or simply a specific state's experience with apparent deficiencies in commonly used forms, state insurance departments may develop mandatory forms and endorsements. For a policy providing coverage in many states, however, this creates problems for insurers and insureds as they strive to have a single sensible and cohesive contract

RECOMMENDATIONS FOR MULTISTATE INSUREDS

1. **Amend the NAIC's model rating laws to include form provisions and include provisions to grant the commissioner the authority to waive his/her state's requirements for those insureds that are primarily located in another state.**

2. **The NAIC should facilitate efforts by states to achieve greater uniformity in cancellation, nonrenewal and other statutory form requirements.**

Recommendation 1: State regulators should be able to waive redundant, burdensome or overly restrictive regulatory requirements to the greatest extent possible for multi-state insureds. Authority for this action will be placed in the combined rate and form act to be developed by the Commercial Lines (D) Committee. If widely adopted and applied, this can alleviate many of the problems stemming from differences in state requirements. It is recognized that many details regarding this proposal remain to be settled.

Recommendation 2: Common form regulatory provisions, like cancellation, non-renewal, etc. will be incorporated into the new model rate and form act with the goal that states will be encouraged to be as uniform as possible in these areas. As it considers these provisions, the (D) Committee should examine requirements now most commonly in use by the states.

III. SURPLUS LINES REGULATION

Surplus lines insurance is insurance provided by an insurer that is not licensed in the state where the coverage is being provided. The major role of the surplus lines market is to provide coverage or capacity not available from admitted insurers. The regulation of surplus lines insurance has been intended to assure that coverage available from admitted insurers is not placed in the surplus lines market; that taxes are collected on surplus lines insurance; and that surplus lines insurers, although not examined by the state in which they are not admitted, are legitimate insurance entities. However, the details of how states attempt to accomplish these ends vary to a considerable degree.

Significant problems have been identified by the Special Committee in the surplus lines area. Procedures designed to confirm that coverage is not available in the licensed market are often unreasonably burdensome and imposed on surplus lines brokers when it can be well-established that licensed markets for certain types of coverages simply do not exist.

The proper payment of surplus lines taxes can be especially difficult when the coverage is provided on a multi-state basis. This is in part due to the fact that many states that require the allocated payment of surplus lines taxes will not accept the payment of the tax on that portion of the multi-state risk resident or located in their state from a non-resident broker who is not licensed in that state. Yet, they do not typically license non-residents surplus lines brokers.

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Another complicating factor from the industry's perspective is an approach taken by some states which requires the payment of the taxes on the entire premium to the state in which the broker is licensed. It is not possible to pay 100 percent of the tax to one state by license and then allocate to the remaining states without double taxation on the insured or broker.

The Committee believes that there is a need to change this system and acknowledges that multi-state surplus lines tax collection problems impact more heavily on large commercial buyers. The Committee notes, however, that the entire subject of surplus lines taxes has been discussed several times in the past. Most recently the Nonadmitted Insurer Model Act and Regulation was amended to provide for an equitable allocation formula, although industry has expressed concern about its complexity. Another effort, the Nonadmitted Insurance Tax Clearing House (NITCH) was abandoned due to lack of sufficient funding and concerns that it would not resolve the problem of double taxation.

The Special Committee believes, however, that this is an area for change that could provide substantial relief to insureds and brokers.

RECOMMENDATIONS ON SURPLUS LINES

1. **The Nonadmitted Insurance Model Act and Regulation should be modified to incorporate a simplified allocation formula.**

2. **The NAIC should encourage states not using a surplus lines tax allocation method to do so.**

3. **The NITCH Project should be reevaluated after work on the above recommendations is underway to determine whether there is a need for a clearinghouse and whether the barriers to its success have been removed.**

4. **The expanded role of stamping offices should be explored as a means to gain additional efficiencies in the tax payment process.**

5. **The expanded use of "export lists" as a means to eliminate unnecessary admitted market searches should be explored.**

Discussion
The Special Committee recommends that the Surplus Lines Task Force be charged to work with the Special Committee on these issues. The Task Force's history and expertise on these issues will be critical to develop meaningful approaches to streamline the market. It is also hoped that the overall focus on regulatory re-engineering can give a new synergy to the process of tackling old problems that are not easy to resolve.

Recommendation 1: The Surplus Lines Task Force should consider whether a more streamlined allocation formula can be developed that would also lend itself to easy verification. One suggestion raised was the approach by Texas. The Special Committee urges the Task Force to consider this.

Recommendation 2: The Surplus Lines Task Force might consider forming a working group that includes a number of the nonallocation states. A legal analysis of the conflicting tax provisions might be considered as a first step.

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Recommendation 3: After there is some indication of whether the double taxation and simplified allocation issues can be resolved, the Surplus Lines Task Force may wish to reevaluate the NITCH Project to explore what efficiencies this technology could offer and whether it is feasible. The Special Committee notes the time and effort that was spent on the Project before it was indefinitely tabled.

Recommendation 4: A number of states use "stamping offices" to assist in the oversight of compliance and to aid tax reporting. The Task Force might consider a white paper that discusses how these operate and their benefit to states and industry. This might aid states in deciding whether to pursue this means.

Recommendation 5: A similar approach might be considered by the Task Force on the use of "White Lists."

IV. COMPANY LICENSING

Under the current state regulatory structure, foreign insurance companies that wish to write insurance must obtain a separate license from each non-domiciliary state. The requirements for licensing can differ significantly from one jurisdiction to the next, which can lead to significant delays in obtaining the requisite approvals.

In an effort to streamline the license approval process, several states have joined together in a multi-state task force to develop the ALERT initiative. The ALERT project, an acronym that stands for Accelerated Licensure and Evaluation Review Techniques, has developed a uniform license application that will be accepted in each of the participating states. As of September 1997, the states of Alaska, California, Kansas, Maine, Michigan, Nebraska, North Dakota and Pennsylvania will all accept the Uniform Certificate of Authority Application developed specifically through the ALERT project to address the inconsistencies in the licensing format. Each state still performs its own independent review of each application. The need to complete and file different applications, in different formats, has been eliminated for all states that accept the uniform application. While there are currently eight states participating in this pilot program, it is anticipated that this number will grow over time.

The Special Committee notes, however, that the ALERT application has tended to include the states' varying requirements rather than eliminate or streamline them. It is unknown how this will trend out as additional states join. Also, the ALERT Project will not necessarily shorten company start up time as each state still does its own complete review and processing.

Reciprocation

In addition to the ALERT project, some states are also exploring the idea of reciprocation in licensing. That is, a state that agrees to reciprocation with another state would extend a Certificate of Authority to foreign insurers domiciled in that other state.

It has become increasingly apparent that the states must do more to increase cooperation and reliance upon each other in order to reduce the burdens of inconsistent and duplicative regulation. This will allow scarce regulatory resources to be prioritized and re-allocated to tasks that are more important and to regulatory methods that may be more effective. Hopefully, this will also reduce transactional costs for licensees and result in savings for insurance buyers

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RECOMMENDATIONS ON COMPANY LICENSING

1. **The NAIC should charge the Special Committee with developing a model for reciprocal enabling authority for consideration by the states.**

2. **The members of the ALERT Project should continue their work as a Working Group or Subgroup of the Special Committee to develop a uniform, streamlined company licensing application that can be integrated into the reciprocation plan or used independently by states.**

Recommendation 1: The Special Committee believes that work on developing a uniform, efficient and streamlined application needs to continue to evolve. As the ALERT Project has been undertaken by a voluntary consortium of states, it has no official status at the NAIC. The expertise of this group in exploring the issues surrounding company licensing is invaluable and should be tapped for this.

Recommendation 2: One way to improve allocation of regulatory resources while preserving state sovereignty is for the states to enter into reciprocal agreements. Reciprocation is defined as "reciprocal state or relationship; mutual action, dependence." Reciprocal means "done, felt, given in return; as reciprocal tolerance." Reciprocation is not new to insurance, but has not been widely used. Examples of reciprocation include: (1) recognition of actions by reciprocal states in receivership matters as provided for in the Model Rehabilitation and Liquidation Act; and (2) the Unauthorized Insurers Act. Limited use of reciprocation can also be found in the areas of producer licensing and producer continuing education. Hawaii has actually adopted and implemented limited reciprocation in the area of insurer licensing.

Not all areas of insurance regulation lend themselves to reciprocation, but insurer and producer licensing are matters where reciprocation is appropriate. Although the ALERT project which is intended to streamline the insurer admission process is needed and a good first step, the states need to go further and find a way to enter into reciprocal agreements in both insurer and producer licensing. With the advent and success of the Financial Accreditation Program, states can justifiably place more reliance upon each other in licensing insurers. This may be an appropriate item for the Alert project to consider.

V. PRODUCER LICENSING

Agents and brokers play a significant role in bridging the information gap between the insurance industry and the people and businesses that it insures. An insurance producer can thus reduce friction costs and help make markets more competitive.

Regulatory requirements and restrictions are used to ensure that producers have at least a minimum level of expertise and to protect consumers from unscrupulous producers. Producers must be licensed by the state, and the license must be renewed on a regular basis. In 1995, there were over 1.7 million licensed resident producers and another 700,000 non-resident licensed producers distributed among the NAIC member states. The fees associated with licensing and renewal of producer licenses are a significant source of state revenue.

Multi-State Producer Licensing

Currently, each state insurance department has different forms, fees, and requirements for producer licensing. Therefore, if a producer wants to be licensed in more than one state, he or she must fill out the proper form from each state, write a check to each state, ensure that he or she has met each state's requirements, and mail the forms and fees to each state. Much time is spent by producers filling out duplicate

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information across multiple forms and complying with fee and licensing requirements in the various states. Insurance companies must follow a similar process when appointing a producer in multiple states.

Despite the general use of data processing technology throughout the business world, many aspects of producer licensing continue to be conducted via paper and manual processing. It is estimated that 3 million new licenses and license renewals are processed per year and over 14 million appointments and terminations. Industry costs, not including payment of state fees, are approximately $350 million per year for preparing and submitting appointments, terminations, license applications and license renewals.

Regulators are affected by inefficiencies as well. It is estimated that 5%-10% of each state insurance department's budget is dedicated to licensing and enforcement, resulting in an annual regulatory expense of $30-$60 million. Many states have not yet implemented fully automated licensing systems.

The manual nature of today's producer licensing process has led to numerous problems. Some of these include:

- Backlogs and delays in license and appointment approval
- Discrepancies between state and company records
- High administrative costs
- Redundant data entry and information

The concept of a Producer Information Network (PIN) to ease some of these problems has been in development since 1994. Insurance regulators and industry representatives spent hundreds of hours assessing the technical feasibility, economic viability and market demand for PIN. PIN will offer a communication network that will support the electronic transmission of producer information between industry and states, such as license and appointment forms and fees, thus eliminating much of the paperwork and redundancy that exists in today's licensing process. Clearly, the streamlining of state producer licensing must involve the use of regulatory tools like PIN.

The Committee notes, however, that while the PIN will create great efficiencies in the way the licensing is processed, it does not remove the underlying inconsistencies in state licensing requirements nor remove the restrictions on licensing and authority that non-residents encounter in many states. To address these concerns, the PIN Working Group has begun work on the development of a Uniform Treatment of Non-Resident Producers agreement.

Continuing Education

In 1996, the Continuing Education Clearinghouse Working Group was created to investigate methods and practices that would encourage the standardization of the continuing education process and to enhance the quality, efficiency and cost controls of the evaluation process for continuing education providers, instructors and courses. The Special Committee has held hearings on this issue and problems surrounding the continuing education requirements for producer licensing imposed by a majority. Issues include such things as conflicting credit hours, course approval process delay and inefficiencies. They were also asked to explore that feasibility of incorporating such a clearinghouse into the Insurance Regulatory Information Network along with PIN. The Working Group delivered its report to this Special Committee in September, 1997 (see Attachment B to the Continuing Education Clearinghouse Working Group dated 9/20/97). This included a number of recommendations that NAIC members should consider.

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The Special Committee also notes that there are several developments that could resolve many of the problems if implemented by the states. These include the reciprocal declaration on uniform treatment of nonresident producers being developed by the PIN Working Group and the agreement being developed by the Midwestern Zone States to grant reciprocal approval to courses that have been reviewed and approved by another state that is party to the agreement.

Countersignature Laws

Countersignature laws are also candidates for reform. A countersignature law requires that an insurance policy be signed by a resident agent in the state in which the insurance coverage is in force. Countersignature laws are frequently quite old, predating rate and form regulation as well as electronic data processing. In theory, by having a resident agent sign the policy and review its provisions, an insurance regulator could be reassured that the policy met that state's legal requirements and statutory provisions. The countersignature requirement also was (and is) protectionist to some degree, as it was intended to ensure that each state's resident agency force was included in each insurance transaction and would receive part of the commissions as a countersignature fee.

RECOMMENDATIONS FOR PRODUCER LICENSING

1. **The NAIC should continue its efforts to simplify producer licensing via PIN and to encourage states to participate fully in this effort.**

2. **The PIN Working Group's work on the uniform treatment of non-resident producers declaration and implementation plan should continue. The Working Group should coordinate with the Special Committee as the Working Group continues to explore and monitor the issues of reciprocal licensing, countersignature and continuing education issues.**

3. **Countersignature laws should be eliminated. The PIN Working Group's work on this issue as a market entry barrier to non-resident producers under the declaration of uniform treatment should continue.**

4. **To the extent that the reciprocal declaration agreement does not address countersignature and continuing education issues, the NAIC should charge the Special Committee with developing model reciprocal agreements for states to consider.**

Discussion

Although producer licensing and continuing education requirements remain the prerogative of each state, this is an area where the "enhanced mutual cooperation between states" discussed earlier should be pursued vigorously. It is of note that a number of the problems and possible solutions have been studied and made before.

The entry of the banking industry as insurance producers has raised new concerns about the extent to which state regulators can supervise and regulate the conduct of insurance business by the banking industry. Currently, the U.S. Congress is debating changes in the financial services area that may broaden bank insurance powers and threaten to transfer some of the regulatory functions to alternative regulatory bodies. The debate over changes in the financial services industry will continue, but any change in the status quo will affect today's regulatory structure. It is important that this challenge be used as a means to move

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insurance regulation of producers into a more efficient and service-oriented mode, while preserving the functional regulation of insurance so important to insurance consumers.

Recommendations 1 and 2: The Special Committee recognizes that current initiatives to streamline the producer licensing process are already underway. It supports these initiatives and urges the NAIC to give these efforts a high priority. The overall goal of producer licensing reform should be to improve the effectiveness and efficiency of the state licensing process through increased coordination, standardization and reciprocity. The Committee recognizes that these are multi-faceted issues that need to be evaluated on an on-going basis and believes that coordination with the PIN Working Group will permit that to happen.

Recommendations 3 and 4: The requirement for countersignatures is currently in effect in 36 states. For multi-state risks, these laws may require a number of agents to be involved in the issuance of a single policy. Countersignatures may have once served a limited purpose for personal lines coverages written by an out-of-state agent, by having the in-state agent "countersign" to guarantee that coverages were correct for the in-state resident.

However, countersignatures no longer serve any useful purpose and there is no proof of value added for the cost to obtain the countersignature. Since the insurer and not the producer bears the responsibility of certifying compliance with state laws, countersignature producers are put at risk with no authority on risk placement or service. In addition, the financial guaranty on a policy belongs to the insurer not the producer. Countersignature requirements delay the production of the policy and its delivery to the insured.

This clearly argues against the continuance of countersignatures. While the Special Committee would encourage states to consider seriously their outright repeal, it recognizes that states may prefer to explore eliminating these through reciprocal agreements that produce a corresponding benefit to resident producers. The Committee believes that the PIN Working Group's Declaration of Uniform Treatment of Nonresident Producers is an appropriate vehicle that will provide a corresponding benefit of streamlined and simplified licensing in other states. Only if that does not prove the case does the Special Committee request that the NAIC develop an alternative reciprocal agreement. This will, of course, also require coordination with the PIN Working Group.

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SUMMARY AND CONCLUSION

Opportunities exist for the streamlining and rebalancing of commercial insurance regulation. The purpose of these recommendations is to present a package worthy of strong support from the NAIC and the individual states. It should be made clear, however, that this package is not presented as the answer to all regulatory problems that the Special Committee has discussed. The improvement of insurance regulation must be an ongoing process, with these recommendations being viewed as a modest, but important, first step.

One of the important opportunities that this package seizes upon relates to multi-state considerations-producers doing business in more than one state and insureds requiring multi-state coverage. Other opportunities relate to better recognition of the differing needs of various sizes of commercial insurance buyers for rate, form and market access regulation. However, unlike many opportunities that one may be offered, the NAIC cannot assume that the status quo will not deteriorate if it fails to seize these opportunities. This is especially evident in the producer licensing area, but other consequences of inaction could include the continued shift of insurance business away from licensed markets

Drafting of model laws and regulations will take some time, but that should be the easy step. The difficult step will be to get the necessary legislation passed. This will first require openly expressed NAIC support. In addition, the insurance industry must take a more proactive role at the state level in offering and supporting the reform proposals recommended by the Special Committee. Absent strong support and cooperation from the insurance industry, meaningful reform of commercial lines regulation in a timely manner is unlikely. Most important, however, will be the support by the commissioners acting individually in their own states. The support of the NAIC and of the insurance industry will be for naught unless individual commissioners make regulatory reform a priority in their states.

This report was intended to address specific issues and to outline specific regulatory initiatives to be acted upon by the appropriate committees, subcommittees and task forces of the NAIC. The Special Committee believes that it has met that goal. However, as said by Winston Churchill in referring to an important battle of World War II:

> "Now this is not the end.
> It is not even the beginning of the end.
> But it is, perhaps, the end of the beginning."

The same can be said of this work product. This report should not be misconstrued as the "final report" on regulatory re-engineering of commercial lines. Regulatory re-engineering is an ongoing, dynamic process. This report and the recommendations contained herein are not the end of the Special Committee's work. Regulatory re-engineering will continue to go forward from this point. It is imperative that trade associations, insurance companies, producers and other interested parties continue to work with state regulators to see that priority issues are addressed expeditiously.

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Comparison of Deregulation Proposals as of 12-31-98

White Paper Recommendations – must certify to two of the following:

1. Net worth of over $50 million.
2. Net Revenue / Sales of over $100 million.
3. More then 500 employees per individual company or 1000 employees per holding company aggragate.
4. Procures its insurance through use of a Risk Manager, employed or retained.
5. Generates aggregate annual insurance premiums of over $500,000.
6. Is a not for profit, or public entity with an annual budget or assets of a least $45 million, or
7. Is a municipality with a population of over 50,000.

This exemption would apply to both rate and form approval.

Give authority to Commissioner to waiver conflicting multistate cancellation and non-renewal laws.

North Dakota's Proposal - must certify to two of the following:

1. Net worth of over $50 million.
2. Net Revenue / Sales of over $100 million.
3. More then 500 employees per individual company or 1000 employees per holding company aggregate.
4. Procures its insurance through use of a Risk Manager, employed or retained.
5. Generates aggregate annual insurance premiums of over $500,000.
6. Is a not for profit, or public entity with an annual budget or assets of a least $45 million, or
7. Is a municipality with a population of over 50,000.

This exemption would apply to both rate and form approval

Exempt entities would be waived from having to comply with cancellation and non-renewal requirements for commercial risks.

Exempt entities would be waived from any restrictions from accessing the surplus lines market.

Note: For other non-exempt commercial risk rate filings prior approval would still apply, with the following exception that rate changes of no more then 5% (+or-) would be on a use and file basis.

New Hampshire Enacted – entities with more then $500,000 of aggregate insurance premium must meet one of the following:

1. Net worth of over $50 million.
2. Net Revenue / Sales of over $100 million.
3. More then 500 employees per individual company or 1000 employees per holding company aggregate.
4. Procures its insurance through use of a full time Risk Manager.
5. Is a not for profit, or public entity with an annual budget or assets of a least $45 million, or
6. Is a municipality with a population of over 50,000.

This exemption would apply to both rate and form approval.

Pennsylvania Enacted – entities must meet one of the following:

1. $25,000 in annual premium.
2. Have 25 employees and use a risk manager or insurance buyer.

This exemption would apply to both rate and form approval.

Note: For other non-exempt commercial risks, rate changes that don't exceed 10% of previously approved rate can be used without prior approval if filed within 45 days. Form filings for the non-exempt commercial risk must be filed 45 days before the effective date and are subject to prior approval.

Georgia Enacted – entities must meet four criteria as follows:

1. Must have at least 25 employees.
2. Must have assets of more than $3 million.
3. Must have annual revenues of more then $5 million.
4. Must pay out P/C premiums of $100,000 annually for Georgia operations or pay out P/C premiums of $500,000 for multi-state operations.

This exemption applies to rate approval only.

Oklahoma Defeated – Deregulation bill defeated 4/98. Prior approval of rates is required.

Kansas Draft Legislation Under Discussion Only – entities must meet one the following:

1. Total property values of $5 million or more.
2. Total gross revenues of $10 million or more.
3. Minimum total premiums of at least $50,000 for property insurance, $50,000 for liability insurance or $100,000 for multiple lines.

HOUSE BILL NO. 1177
TESTIMONY BEFORE THE SENATE
INDUSTRY, BUSINESS AND LABOR COMMITTEE

LARRY MASLOWSKI
SENIOR ANALYST
NORTH DAKOTA INSURANCE DEPARTMENT

The Problem

The insurance industry has argued over the years that the current system of regulatory oversight creates obstacles and inefficiencies for large sophisticated commercial insurance buyers who may not need the consumer protections provided by the Insurance Department. According to the industry, the current structure, which includes prior regulatory approval of policies, forms, and rates, impedes a rapid response by a competitive insurance industry to consumer needs. Secondly, it has been argued that large commercial enterprises have sufficient internal expertise and knowledge in dealing with insurance matters so as to not require an intervening regulator to level the playing field.

The Solution

Regulators have listened to the industry and recognized that there could be some changes made in the current regulatory system to permit more flexibility and less oversight for sophisticated insurance buyers. The National Association of Insurance Commissioners has published a white paper developed by industry and regulators which responds to the industry's concerns and puts forth recommendations and guidelines for the deregulation of this segment of the industry, i.e., the large sophisticated commercial insurance buyer. As introduced, House Bill No. 1177 followed very closely these recommendations. However, some significant changes were made in the House of Representatives. It is important to emphasize that the Insurance Department does not advocate the total deregulation of all commercial insurance nor does this proposed legislation attempt to do that. The Department urges that prudence and caution be exercised in taking this initial step.

Bill Summary

Section 1 - This section of Chapter 26.1-02 currently allows certain "industrial insureds" to buy insurance from insurance carriers who do not have a Certificate of Authority. This does not relieve the insured or the insurance company from all other statutory requirements such as rate and form filing and cancellation and nonrenewal requirements. This section is being repealed as it conflicts with the new proposed exemption for "exempt commercial policyholder" (ECP).

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companies would not be required to files rates to use with ECPs.

Page 6, line 12, is an editorial change due to the introduction of a new subsection on commercial risk rate changes.

Page 7, line 1, is a new subsection. This subsection applies to all commercial rate filings other than those exempted ECPs. Commercial risk rate filings with a change of no more than five percent (increase or decrease) will no longer have to submit the rate filing on a prior approval basis but rather can use the changed rate, and file the change with the Department on an informational basis within 60 days of implementation. This proposed change was not specifically recommended by the white paper. However, the paper did recommend that each state assess its own comfort level with the deregulation of rate approval for those nonexempt commercial risks. The proposal to allow "use and file" for minor rate changes we feel is a fair and logical relaxation of our current prior approval requirement.

Section 5 – This section of Chapter 26.1-30 is the statutory authority for requiring policies and forms to be filed with the state. If rates are required to be filed, then forms must also be filed. This section is amended to clarify that even though the commercial risk rate filings are to be filed only on an informational basis, the policies and forms for these nonexempt commercial risks are still required to be filed on a prior approval basis.

Section 6 – This section of Chapter 26.1-30.1 lists those types of insurance products that are not subject to the commercial insurance cancellation and nonrenewal requirements set forth in this chapter. The "exempt commercial policyholder" (ECP) is added to this list. Therefore, this chapter and its requirements will not apply to ECPs. Accordingly, cancellation and nonrenewal provisions would be open to negotiation between ECPs and the insurance company.

Section 7 - This section of Chapter 26.1-44 sets forth the general process for accessing the surplus lines insurance market. This amendment would permit the "exempt commercial policyholder" (ECP) to access the surplus lines market without restriction.

Under current statute, an insurance purchaser could only access the surplus lines market if they were unable to procure insurance through a regular "admitted" insurance company after conducting a diligent search. This change would permit an ECP to seek insurance from the surplus lines market without the diligent search requirement thus providing even more market freedom. Please note that this proposal was not one of the recommendations of the white paper but was felt necessary to provide a completely free market to ECPs.

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March 8, 1999

Senator Karen Krebsbach
Senate IBL Committee
State Capitol
Bismarck, ND 58505-0360

HAND DELIVERED

RE: Proposed Amendments to Engrossed H.B. 1177

Dear Senator Krebsbach:

On February 15th, your Committee heard House Bill 1177, on which you have not yet acted. It has come to my attention that many Senators have received letters from insurance agents and their representatives which are in opposition to House Bill 1177. The concerns of these agents have been addressed by House Speaker Wald's submission of amendments to your Committee. This mandatory inclusion of insurance agents in the commercial policy exemption process will ensure their involvement in protecting consumers.

Speaker Wald's amendments do present one significant problem for the Insurance Department, namely the use of the provincial phrase "**resident agent**" in the first sentence of the Proposed Amendments. If "**resident**" were changed to "**licensed**" (see attached), I believe this problem would be solved and a bill which was approved 94-0 could be salvaged.

The American Insurance Association urges you to adopt Speaker Wald's proposed amendments, with a one word change, and to then vote a "Do Pass" recommendation on House Bill 1177. Thank you for your consideration of this request.

Sincerely,

PEARCE & DURICK, P.L.L.P.

By
Gary R. Thune
For American Insurance Association

Enclosure.
GRT/jf