



## LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON  
COMMISSIONER

### ADVISORY LETTER 2018-05

**TO: ALL INSURERS, INSURANCE ISSUERS, HEALTH MAINTENANCE ORGANIZATIONS, PRODUCERS, AND SURPLUS LINES BROKERS**

**FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE**

**RE: NOTICE FOR SURPLUS LINES PRACTICES AND REVISION OF FORM FOR ACKNOWLEDGEMENT OF APPLICANT FOR PERSONAL LINES INSURANCE COVERAGE IN THE SURPLUS LINES MARKET**

**DATE: DECEMBER 27, 2018**

The purpose of Advisory Letter 2018-05 is to advise all insurers, insurance issuers, health maintenance organizations, producers, and surplus lines brokers of amendments to La. R.S. 22:46, La. R.S. 22:433 and La. R.S. 22:438 made by Act 7 of the 2018 regular session, effective January 1, 2019.

Louisiana law requires that each surplus lines insurance policy or contract procured and delivered in Louisiana provide notice to the applicant, as set forth in La. R.S. 22:433. Louisiana law further requires that any licensed surplus lines broker that procures a personal lines policy with a surplus lines insurer shall obtain an acknowledgment from the applicant, no later than the date of binding coverage, on a form promulgated by the commissioner of insurance as set forth in La. R.S. 22:438. The required form was promulgated previously by Bulletin No. 2013-06.

Act 7 of the 2018 regular session amended La. R.S. 22:46(17) by expanding the definition of "surplus lines insurance" as follows (emphasis added):

- (17) "Surplus lines insurance" means any property and casualty or health and accident insurance in this state on property, risk, or exposure located or to be performed in this state, permitted to be placed through a licensed surplus lines broker with a surplus lines insurer.

Act 7 of the 2018 regular session also amended La. R.S. 22:46(17.1) to clarify that the definition of "surplus lines insurer" does not include a health maintenance organization.

Act 7 of the 2018 regular session amended the notice required by La. R.S. 22:433 for each insurance policy or contract procured and delivered as surplus lines coverage as follows (emphasis added):

## NOTICE

This insurance policy is delivered as surplus lines coverage under the Louisiana Insurance Code.

In the event of the insolvency of the company issuing this contract, the policyholder or claimant is not covered by the Louisiana Insurance Guaranty Association or the Louisiana Life and Health Insurance Guaranty Association, which guarantees only specific types of policies issued by insurance companies authorized to do business in Louisiana.

This surplus lines policy has been procured by the following licensed Louisiana surplus lines broker:

\_\_\_\_\_  
**Signature of Licensed Louisiana Surplus Lines Broker  
or Authorized Representative**


\_\_\_\_\_  
**Printed Name of Licensed Louisiana Surplus Lines Broker**

Any surplus lines insurance policy or contract procured on or after January 1, 2019, should include the notice language as amended by Act 7 of the 2018 regular session.

The form being amended is specific to the surplus lines market, and these changes will not apply to any health and accident insurance not issued as surplus lines policies.

Act 7 of the 2018 regular session also made a change to the form required by La. R.S. 22:438, to add language similar to that added to the notice required by La. R.S. 22:433. Accordingly, please take notice that any licensed surplus lines insurer or broker that procures a personal lines policy with a surplus lines insurer on or after January 1, 2019 shall use the attached acknowledgement form to verify compliance with La. R.S. 22:438. The acknowledgement form shall also be available on the LDI website ([www.ldi.la.gov](http://www.ldi.la.gov)) beginning January 1, 2019, and shall replace the acknowledgement form previously promulgated by the Department. Bulletin No. 2013-06 is hereby rescinded, as is the form promulgated by that Bulletin. Questions regarding Advisory Letter 2018-05 should be directed to Mr. Thomas Coco, Office of Management & Finance, at (225) 342-1012.

Baton Rouge, Louisiana, this 27<sup>th</sup> day of December, 2018.

  
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**JAMES J. DONELON  
COMMISSIONER OF INSURANCE**

LOUISIANA DEPARTMENT OF INSURANCE

LA. R.S. 22:438 FORM

ACKNOWLEDGEMENT OF APPLICANT FOR PERSONAL LINES AND  
HEALTH AND ACCIDENT INSURANCE COVERAGE IN THE SURPLUS LINES MARKET

I am applying for personal lines or health and accident insurance coverage in the surplus lines market. By placing my initials on the four (4) statements below, and dating and signing this form, I hereby acknowledge the following in accordance with La. R.S. 22:438, to wit:

\_\_\_\_\_ The insurance may be placed with an approved unauthorized insurer or  
Initial eligible unauthorized insurer.

\_\_\_\_\_ In the event of insolvency of the insurer, losses shall not be paid by the  
Initial Louisiana Insurance Guaranty Association or the Louisiana Life and Health  
Insurance Guaranty Association.

\_\_\_\_\_ I expressly authorize the procurement of surplus lines coverage.  
Initial

\_\_\_\_\_ Any surplus lines coverage shall be procured through a duly licensed surplus  
Initial lines broker.

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Printed Name of Applicant

\_\_\_\_\_  
Date

Name of Insurance Producer: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

This form shall be maintained by the surplus lines broker.

NOTICE:  
The language and format of this Form shall not be altered.

Revised: December 27, 2018