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MISSISSIPPI DEPARTMENT OF INSURANCE BULLETIN 2015-5

RETAIL INSURANCE PRODUCER NONADMITTED INSURANCE FORM

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I. Purpose.

During the 2012 Regular Legislative Session, the Mississippi Legislature passed Senate Bill 2628, which amended Miss. Code Ann. § 83-21-23, to require surplus lines insurance producers to execute a form prescribed by the Commissioner when making a nonadmitted market placement. Bulletin 2012-4 was issued on May 18, 2012, to provide surplus lines insurance producers with the Nonadmitted Insurance Form to be used when making a nonadmitted market placement. However, the Bulletin and the Form did not address those instances where a retail insurance producer makes a submission to a surplus lines insurance producer. This Bulletin is being circulated to provide guidance for such instances.

II. Retail Insurance Producer

For the purposes of this Bulletin, a retail insurance producer is defined as a duly licensed insurance producer who is not licensed as a surplus lines insurance producer and who has tried unsuccessfully to place a client's business in the admitted market. In such cases, the retail insurance producer would submit the client and the risk to a surplus lines insurance producer in order to place the business in the nonadmitted market. The retail insurance producer would not deal directly with the nonadmitted insurer.

III. Diligent Search

Miss Code Ann. § 83-21-19(1)(c) states, as follows: "(1) Surplus lines insurance may be placed by a surplus lines insurance producer if: (c) The full amount or type of insurance cannot be obtained from insurers who are admitted to do business in this state. The full amount or type of

insurance may be procured from eligible surplus lines insurers, provided that a diligent search is made among the insurers who are admitted to transact and are actually writing the particular type of insurance in this state, if any are writing it; ...”

Further, Miss. Code Ann. § 83-21-23(1) states, in part, “... there shall be executed by the surplus lines insurance producer a form setting forth facts in complete detail as to what was done to place such kind of insurance and showing that such surplus lines insurance producer therein was unable, after diligent effort, to procure from a licensed company or companies the full amount of insurance required to protect the property, liability, or risk desired to be insured.”

While the surplus lines insurance producer is responsible for complying with the diligent search requirements of Miss. Code Ann. § 83-21-19(1)(c) and § 83-21-23(1), and the provisions of MID Bulletin 2012-4, the diligent search conducted by a retail insurance producer may be relied upon by the surplus lines insurance producer. More specifically, the “Retail Agent Nonadmitted Insurance Form” prescribed in Section IV. of this Bulletin may be attached by the surplus lines insurance producer to the certification form completed by the surplus lines insurance producer in satisfaction of the diligent search requirements mandated by Miss. Code Ann. § 83-21-19(1)(c) and § 83-21-23(1).

IV. Retail Insurance Producer Nonadmitted Insurance Form

In submitting business to a surplus lines insurance producer, retail insurance producers may execute a Retail Insurance Producer Nonadmitted Insurance Form as prescribed by the Commissioner of Insurance and attached hereto as Attachment “A”. Surplus lines insurance producers that use the Retail Insurance Producer Nonadmitted Insurance Form to satisfy the diligent search requirements discussed above are directed to maintain a copy of the executed form for a period of five (5) years after the termination of the policy, unless the surplus lines insurance producer has been notified that the form is subject to an examination or investigation by the Mississippi Insurance Department or the Mississippi Surplus Lines Association, or unless the producer has been notified that the form is subject to pending litigation. The form shall be subject to review upon the request of the Commissioner of Insurance.

The form required herein may be produced, signed and stored electronically.

V. Exempt Commercial Purchaser

A surplus lines insurance producer is not required to perform a due diligence search when the surplus lines insurance producer is seeking to procure or place nonadmitted insurance for an exempt commercial purchaser under the conditions provided in Miss. Code Ann. § 83-21-23(2), and such a transaction is not subject to the provisions of this Bulletin. Therefore, if the risk is for an exempt commercial purchaser, there is no need for the retail insurance producer to complete the Retail Insurance Producer Nonadmitted Insurance Form.

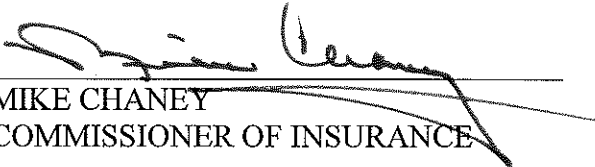
VI. Commission to Retail Insurance Producer

A retail insurance producer as defined in Section II. above is not required to hold a surplus lines insurance producer's license in order to receive a commission on a surplus lines placement.

VII. Effective Date.

The provisions of this Bulletin are effective upon issuance.

If there are any questions concerning this Bulletin, please contact the Mississippi Department of Insurance at (601) 359-3569.


MIKE CHANEY
COMMISSIONER OF INSURANCE

**MISSISSIPPI DEPARTMENT OF INSURANCE
RETAIL INSURANCE PRODUCER NONADMITTED INSURANCE FORM**

Miss. Code Ann. § 83-21-19(1)(c) and § 83-21-23(1) provide that certain insurance coverages that cannot be procured from admitted insurers may be procured from eligible nonadmitted insurers after a diligent search. This form sets forth the supporting information provided by a retail insurance producer as to the diligent search the retail insurance producer conducted before determining the necessity of placing the business in the nonadmitted market. Upon completion by the retail insurance producer, this form may be retained by the surplus lines insurance producer that places the risk in the nonadmitted market in satisfaction of the diligent search requirements mandated by Miss. Code Ann. § 83-21-19(1)(c) and § 83-21-23(1).

If used to satisfy the diligent search requirements, this form must be attached by the surplus lines insurance producer to the certification form completed by the surplus lines insurance producer pursuant to MID Bulletin 2012-4. This form is subject to review by the Commissioner upon request. The licensed Mississippi retail insurance producer must expressly advise the insured that, in the event of the insolvency of the nonadmitted insurer, **CLAIMS OR LOSSES WILL NOT BE PAID BY THE MISSISSIPPI INSURANCE GUARANTY ASSOCIATION.**

RETAIL INSURANCE PRODUCER CERTIFICATION

As required by Miss. Code Ann. § 83-21-19(1)(c) and § 83-21-23(1), a diligent effort must be conducted to place the risk with an admitted company. The insurance producer signing below certifies that he or she engaged in a diligent effort to place the risk with an admitted company or companies before the risk was submitted to a surplus lines insurance producer.

Please state in detail the reason for placing the coverage with an eligible nonadmitted insurer or insurers:

Retail Insurance Producer's Name: _____

Retail Insurance Producer's Mississippi License Number: _____

Insured's Name: _____

Signature: _____ Date _____ Phone () _____
(Retail Insurance Producer)

Attachment "A"