

INSURANCE LAW ALERT

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Reinsurance and Surplus Lines Stimulus and Enhancement Act

On March 22, 2011, Governor Christie signed into law P.L. 2011, c.39, the "Reinsurance and Surplus Lines Stimulus and Enhancement Act," (the "Act") concerning reinsurance and surplus lines requirements, supplementing P.L. 1960, c. 32 and amending P.L. 1993, c.243. The Assembly Bill which became law is attached as a link to this document.

The new law reflects amendments to the existing law as follows: (1) clarifies that a domestic insurer possessing policyholder surplus of \$15,000,000 or more and upon resolution of its board may be designated by the Commissioner of Banking and Insurance under the terms of the Act as a "domestic" surplus lines insurer and further designated as an "eligible, unauthorized insurer" for purposes of writing surplus lines insurance coverage; (2) states that coverage written through a domestic surplus lines insurer is subject to the existing premium tax for surplus lines coverage; (3) requires certain disclosures to policyholders of domestic surplus lines insurers, including disclosure as to the status of New Jersey Property-Liability Insurance Guaranty Association and New Jersey Surplus Lines Insurance Guaranty Fund coverage; and (4) provides for certain conditions on the Commissioner's determination as to whether to allow credit for reinsurance if reinsurance is ceded to an assuming insurer either domiciled or licensed in New Jersey or eligible to write surplus lines insurance in New Jersey, and which, in either case, is domiciled in a state or country which employs standards regarding credit for reinsurance substantially similar to those applicable under the New Jersey Act. Credit will be allowed even if the reinsurer is domiciled in a state or country which employs dissimilar credit standards under appropriate circumstances. For instance, credit may be provided for reinsurance ceded to non-U.S. reinsurers if these assuming insurers satisfy certain financial thresholds and regulatory requirements.

The upshot of the law is to allow reinsurers to dramatically reduce the amount of collateral non-U.S. reinsurers will be required to post. New Jersey's law is consistent with similar regulatory initiatives in New York and Florida.

The Act takes effect on the 90th day after enactment, but the Commissioner may take such anticipatory administrative action in advance as shall be necessary for implementation, such as the issuance of bulletins and the proposal of regulations. ■

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