December 8, 2010

Senator Richard Moore
NCSL President
Capitol Office
State House, Room 111
24 Beacon Street
Boston, MA 02133-1099

Senator Delores Kelley
NCSL Communications, Financial Services and Interstate Commerce Standing Committee Chair
James Senate Office Building, Room 302
11 Bladen Street
Annapolis, MD 21401

Dear Senators Moore and Kelley,

We write to urge you to vote against a resolution to be considered at the upcoming National Conference of State Legislators meeting that supports the Surplus Lines Insurance Multistate Compliance Compact (also known as "SLIMPACT-Lite").

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 included provisions from the Nonadmitted and Reinsurance Reform Act of 2010 (NRRA) regarding the future taxation and regulation of surplus lines insurance. While such insurance is currently subject to taxation and regulation in each state covered by a policy, the NRRA will put in place a system in mid-2011 whereby only the *home state* of the insured will have the authority to tax and regulate the placement of such policies, regardless of where portions of the risk is located. In order to preserve state tax revenues, the NRRA authorizes states to work together to develop a system where taxes are more easily collected and allocated among the states.

State insurance regulators and the NAIC are developing an interstate agreement known as the Nonadmitted Insurance Multi-State Agreement ("NIMA"), which we believe is appropriately tailored to the most urgent issues created by the NRRA. Under NIMA:

- A central clearinghouse would be established.
- Surplus lines licensees and individuals independently procuring nonadmitted insurance would have access to a web-based software program for ease of filing and reporting.
- Uniform allocation formulas and reporting methods would be prescribed.
- A role for stamping offices, in those states that have them, would be preserved.
- States would be required to establish a "blended tax rate" encompassing applicable taxes and fees across lines of business, which has been considered crucial to streamlining the compliance obligations of the broker community.

We are concerned that the SLIMPACT-Lite proposal goes well beyond the urgent, timely remedy regarding streamlining tax collection and allocation, and introduces regulatory preemption beyond what Congress intended.

- **Overly Broad Preemptive Power:** SLIMPACT-Lite would establish a central commission with the authority to promulgate rules that could preempt contrary state laws in areas not necessarily required by NRRA, taking power away from state legislators and regulators. Such unnecessary delegation of legislative authority would be contrary to the constitutional provisions of some states.
- **Governance Structure Permits Industry to Vote to Preempt State Law**: Many regulators object to the governance structure of SLIMPACT-Lite. Under the most recent iteration, SLIMPACT-Lite would establish an Executive Committee and an Operations Committee whose members could be comprised of insurance

industry professionals, lawyers in private practice and surplus lines stamping offices. This potentially creates a scenario where the regulated are establishing the rules by which they will be regulated with such rules potentially having the effect of preempting state law.

- **Passing Complex Enabling Legislation in Next Seven Months Is All But Impossible:** Further, there is a legitimate concern about the ability of all states to enter into a formal interstate compact in the short time frame allowed by the NRRA, and failure to agree on a common system may cause some states to lose tax revenues.

To be sure, NIMA is not a broad regulatory compact and it does not go as far as some regulators and industry may have preferred, but given the tough budget conditions that exist nationwide, we believe it is imperative to preserve the ability of states to receive surplus lines premium taxes for risks located in their state. We are advocating NIMA as a practical solution to meet short-term, immediate needs of our states, but remain open to working with legislators on a comprehensive approach in the future.

Again, we urge you to oppose the broad regulatory giveaway envisioned by SLIMPACT-Lite, and we thank you for your consideration.

Sincerely,

Jane L. Cline
West Virginia Insurance Commissioner
NAIC President

Therese M. Vaughan, Ph.D.
NAIC Chief Executive Officer

CC: NCSL Officers
NCSL Communications, Financial Services and Interstate Commerce Standing Committee Officers
Registered NCSL CFI Committee Legislators
William Pound, Neal Osten, James Ward, Heather Morton, Jo Anne Bourquard