The NAIC Nonadmitted Insurance Model Act

- *The NAIC Nonadmitted Insurance Model Act (#870) was designed to facilitate state regulation of nonadmitted (surplus lines) insurance.*
- *In 2023, the NAIC adopted revisions to the Nonadmitted Insurance Model Act to bring it into compliance with the federal Nonadmitted and Reinsurance Reform Act (NRRA) of 2010.*
- *The revised model, like the NRRA, establishes that only an insured's "home state" is permitted to collect premium taxes for nonadmitted insurance.*

Background

The surplus lines market is a specialized segment of the insurance industry consisting of nonadmitted insurance companies that assume unique risks that admitted insurers often will not cover. The surplus lines market includes U.S.-domiciled insurers, Lloyd's syndicates, and non-U.S. insurers that have been admitted to the NAIC *Quarterly Listing of Alien Insurers*.

In 1994, the NAIC adopted the *Nonadmitted Insurance Model Act* (#870) to facilitate state regulation of surplus lines insurers, combining three previous NAIC surplus lines models dating back to 1983: 1) the *Unauthorized Insurers Model Act*; 2) the *Model Surplus Lines Law*; and 3) the *Model Nonadmitted Insurance Act*. In 2011, the federal Nonadmitted and Reinsurance Reform Act (NRRA) was enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The purpose of the NRRA was to simplify the payment of surplus lines premium taxes by placing regulatory authority of surplus lines transactions with the "home state" of the insured. At the time of the NRRA's enactment, the NAIC chose not revise Model #870; instead, it drafted, adopted, and distributed to state insurance departments the *Nonadmitted Insurance Reform Sample Bulletin*. The bulletin outlined the federally mandated regulatory changes within NRRA that affect the placement of nonadmitted insurance. Specifically, the bulletin addressed the scope of NRRA, the application of "home state" for the purposes of jurisdictional authority and payment of premium taxes, licensure requirements for brokers, diligent search requirements, and eligibility requirements for nonadmitted insurers.

In 2020, the NAIC Surplus Lines (C) Task Force, recognizing the need to modernize Model #870, which had last been updated in 2002, agreed to pursue amendments, including those that would conform with NRRA. In 2021, the Task Force created a drafting group to begin work on the revisions. Following the exposure of multiple drafts and receiving input from various stakeholders, during the 2023 Summer National Meeting, the NAIC adopted revisions to Model #870. The key amendments address (1) the role of the *Quarterly Listing of Alien Insurers* and eligibility requirements for nonadmitted insurers; (2) the collection of the surplus lines premium tax; (3) domestic surplus lines insurers; and (4) NRRA concepts such as "home state" and "exempt commercial purchaser."

Adoption/Enactment

✓ To date, 31 jurisdictions have implemented previous versions of the NAIC *Nonadmitted Insurance Model Act* (#870) but none have yet incorporated the latest 2023 revisions.

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