National Association of Professional Surplus Lines Offices, Ltd.

200 N.E. 54th Street • Suite 200 • Kansas City, MO 64118 • 816/741-3910 • Fax 816/741-5409
www.napslo.org

Brady R. Kelley
Executive Director

August 9, 2013

Dear Commissioner:

On behalf of the National Association of Professional Surplus Lines Offices (NAPSLO) we appreciate the opportunity to share our views on the implementation of the Nonadmitted and Reinsurance Reform Act (NRRA).

NAPSLO is a national trade association representing the surplus lines industry and the wholesale insurance distribution system. NAPSLO is unique among insurance trade groups in that it represents both surplus lines brokers and surplus lines insurers. NAPSLO members play an important role in the economy by insuring hard to place risks and creating innovative insurance solutions in response to ever-changing social, business and insurance needs. The NAPSLO membership consists of approximately 400 wholesale brokerage member firms, 100 company member firms and 200 associate member firms. NAPSLO member firms operate over 1,500 offices representing approximately 15,000 to 20,000 individual brokers, insurance company professionals, underwriters and other insurance professionals in 50 states and the District of Columbia.

The surplus lines marketplace has proven to be an essential part of the national and international insurance market. It operates effectively within the state-based regulatory system and NAPSLO continues to strongly support the state-based system for insurance regulation.

The NRRA, included in Title V, Part 1 of the Dodd-Frank Wall Street Reform Act, provides a national framework for the regulation and taxation of surplus lines and has produced tremendous benefits for the industry. Its purpose was to bring efficiency, clarity and uniformity to the regulation and taxation of surplus lines insurance nationwide. It has dramatically reduced the frequent conflict of law issues that once existed by ensuring one state, the home state of the insured, has the sole and exclusive authority to tax and regulate a surplus lines transaction. Instead of trying to comply with as many sets of rules, disclosures and requirements as there are states, and the filings to document compliance with them, the industry now has one standard– the requirements of the home state. We believe this approach benefits surplus lines brokers, carriers and consumers, and our members are very appreciative of the work and support provided by the states in implementing the NRRA.

Tax Sharing

Immediately following the NRRA's enactment, many states began important work towards its implementation, focusing primarily on the development of uniform national tax sharing mechanisms. Two models evolved from this work – the Nonadmitted Insurance Multi-State Agreement (NIMA) and the Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT). Many industry representatives, including NAPSLO, worked hard and collaborated extensively to develop the SLIMPACT proposal as an option for uniformity in national tax sharing and uniformity in other areas of surplus lines regulation. However, while the NRRA contained Congressional recognition "the states may enter into a compact or establish other procedures" to allocate the premium taxes paid to the insured's home state, Congress did not mandate or require the states to create such a compact or tax mechanism. Any sharing of surplus lines tax revenue among the states was, as remains, strictly voluntary.

To date, only six jurisdictions are working to implement NIMA, and SLIMPACT has not achieved the baseline number of states required to commence operations. Instead, the home state approach, where the home state of the insured taxes and retains 100% of a multistate risk at their rate in accordance with their laws and regulations, is currently implemented and working in 46 states representing more than 80% of nationwide surplus lines premium[1]. We strongly support these 46 states and believe the home state approach is the only viable and uniform national solution.

Since early 2012, we have studied all data available to better understand the economics of tax-sharing, beginning with data published by the Florida Office of Insurance Regulation's (FLOIR) report to the Florida Legislature dated December 30, 2011. Our analysis of the FLOIR report suggested the costs of building and administering the tax sharing clearinghouse far exceeded any apparent benefit of tax sharing to the states. Based on this initial report, we found $52.4 million of multi-state premium represented 1.6% of total Florida surplus lines premium and resulted in tax allocations from Florida to other NIMA jurisdictions of just $125,555. Further, this amount would have been offset by taxes flowing back to Florida from other NIMA states, such that net taxes ultimately shared would be even smaller. Six states withdrew from NIMA before its July 1, 2012 operational start.

Most recently, we analyzed the data published as part of NIMA's Associate Membership offering, which included data reported through the NIMA Surplus Lines Clearinghouse during its first year of operation from July 1, 2012 to June 30, 2013. Our analysis includes an assessment of the NIMA-reported premium and related tax impacts in all non-NIMA jurisdictions, and it indicates the following[2]:

1. The top nine states, as a percentage of premium reported through NIMA, were Texas, California, New York, Georgia, Illinois, North Carolina, Pennsylvania, South Carolina and Mississippi, with premium for Non-U.S. risks rounding out the top ten. We believe it is unlikely these states, which represent 56% of the non-NIMA state premium reported through the Clearinghouse through June 30, 2013, will participate in any tax-sharing arrangement.
2. The premium reported through NIMA for these top 10 jurisdictions represents just 0.79% of the total 2011 surplus lines premium in these jurisdictions and would appear to result in a maximum $5.2 million in taxes in the reported period, representing just 0.46% of total 2011 surplus lines taxes collected nationwide.
3. The premium reported through NIMA for all non-NIMA jurisdictions represents just 0.90% of the total 2011 surplus lines premium in these jurisdictions and would appear to result in a maximum $9.2 million in taxes in the reported period, representing just 0.81% of total 2011 surplus lines taxes collected nationwide.
4. The $533 million of premium reported through NIMA represents just 1.66% of 2011 surplus lines premium volume nationwide.
5. The $24.9 million of taxes reported through NIMA represents just 2.19% of 2011 surplus lines taxes collected nationwide.
6. The Clearinghouse filing fee of 0.30% would have generated $1.6 million in fees to NIMA filers on the $533 million of premium in NIMA's first year. This equates to near 6.5% of the $24.9 million in taxes reported through NIMA and represents an additional fee to the industry for reporting to NIMA. It is important to note these figures do not represent the actual amount of taxes "allocated,"

[1] See Appendix A for summary of current state surplus lines tax approaches.
[2] See Appendix B for summary of NAPSLO financial analysis of NIMA reported surplus lines premium and taxes from July 1, 2012 to June 30, 2013.

but represents the amount of taxes reported. In fact, the amount of taxes "allocated" would be much less than the $24.9 million total, because the allocation of taxes only applies to the amount of multi-state premium ultimately allocated among various jurisdictions, which we believe represents a relatively small proportion of total surplus lines premium.

We believe the above points illustrate the reality of insignificant tax allocations to non-NIMA states, even before accounting for any taxes flowing back out of these states to the NIMA states, making the net tax reallocations even more insignificant.

We encourage all states to carefully consider these economics before considering any participation in NIMA's Associate Membership or any tax sharing mechanism. We also encourage the states to further consider the amount of taxes that have actually been allocated among the existing NIMA jurisdictions. We are anxious for this data to be made available by NIMA and we look forward to reviewing it. We believe any taxes ultimately allocated will represent a very insignificant portion of total state surplus lines tax budgets. In relation to the burden on the industry in terms of multi-state reporting and compliance with tax sharing requirements, and the resulting cost to consumers, the impact of net taxes shared will be recognized as not meaningful.

Finally, upon review of surplus lines premium volume and tax collections by state from 2009 to 2011, we are not aware of any significant variances directly attributable to the implementation of the NRRA and home state taxation. For these reasons, we strongly support the NRRA's home state tax approach and encourage all states to fully implement it.

Insurer Eligibility
We continue to work with the NAIC Surplus Lines (C) Task Force, states and fellow insurance trade associations regarding the need for uniform implementation of the NRRA's insurer eligibility standards nationwide. The NRRA provided clear criteria for determining an insurer's eligibility to provide surplus lines insurance in each state. While some states have eliminated many pre-NRRA eligibility requirements such as "white lists," a number of states continue to impose eligibility requirements beyond those outlined in the NRRA.

NAPSLO recognizes many states will continue to maintain local surplus lines insurer eligibility lists, with the understanding that inclusion on such lists is voluntary. Surplus lines brokers will continue to rely on such listings as a tool in fulfilling their responsibility. The NAPSLO membership and the surplus lines industry benefit from strong carrier solvency and we support strong solvency review by domiciliary states for U.S. domestic surplus lines carriers and by the NAIC's International Insurers Department (IID) and the regulators who oversee the IID for non-U.S. based surplus lines carriers. NAPSLO also recognizes that many states have developed strong and sophisticated analytical processes and tools to ensure strong carrier solvency – something NAPSLO members and the industry have come to heavily rely upon. While NAPSLO supports this process, we encourage states conducting additional solvency reviews limit such reviews to information readily available through the domiciliary state or the NAIC database. No additional information beyond data collected for domiciliary state solvency regulation should be required.

A.M. Best Surplus Lines Market Review

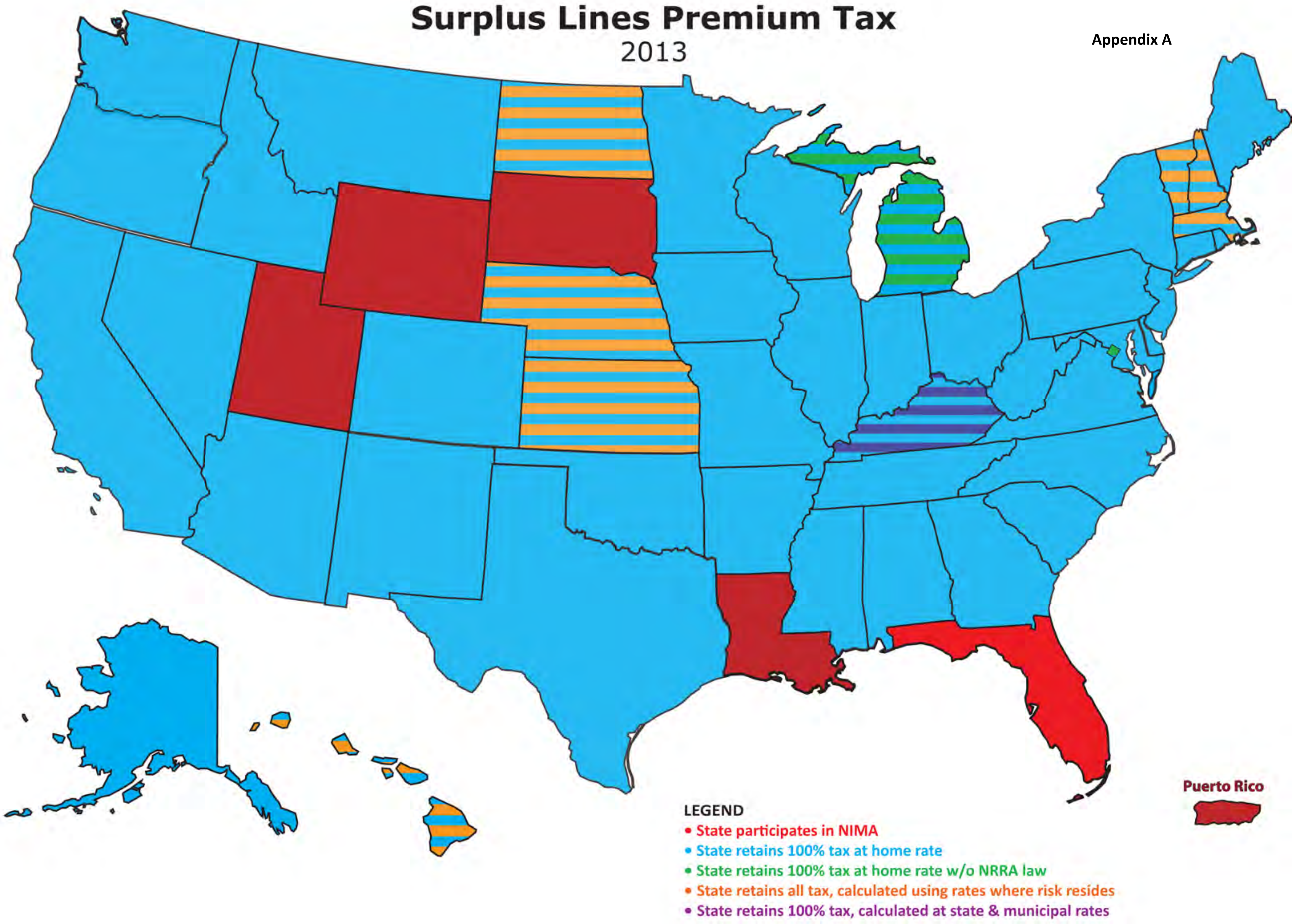
Since 1994, the Derek Hughes/NAPSLO Educational Foundation has provided a grant to the A.M. Best Company to study and publish a special report on the surplus lines market. We are pleased to present you with a copy of A.M. Best's 2012 report noting that, for the eighth year in a row, the surplus lines industry reported no financially impaired companies, in contrast to the admitted property/casualty industry's 34 disclosed financial impairments, and domestic professional surplus lines insurers continue to maintain a higher proportion of secure ratings than the overall property/casualty industry. We hope you find the report useful and informative, and we look forward to sharing A.M. Best's 2013 report soon.

We always appreciate the opportunity to discuss these important issues and look forward to seeing you at the NAIC's 2013 Summer National Meeting in Indianapolis. Please do not hesitate to contact us should you have questions or need additional information. Thank you in advance for your consideration.

Sincerely,

Brady R. Kelley
Executive Director
brady@napslo.org
(816) 799-0860

Keri A. Kish
Director of Government Relations
keri@napslo.org
(816) 799-0855


Surplus Lines Premium Tax
2013
Appendix A
Puerto Rico
LEGEND
• State participates in NIMA
• State retains 100% tax at home rate
• State retains 100% tax at home rate w/o NRRA law
• State retains all tax, calculated using rates where risk resides
• State retains 100% tax, calculated at state & municipal rates

NAPSLO Analysis of Surplus Lines Clearinghouse Report for Year Ending June 30, 2013

	Top 10 Non-NIMA Jurisdictions	NIMA Reported Premium	% of U.S. Total	2011 Premium (1)	%	Tax Rate	Estimated Tax Impact	2011 Taxes (1)	%
1.	TX	$ 33,601,802	13.9%	$ 4,220,187,772	0.80%	4.90%	$ 1,646,488	$ 159,161,015	1.03%
and	CA	23,471,429	9.7%	4,998,686,446	0.47%	3.00%	704,143	133,493,424	0.53%
2.	NY	12,436,908	5.2%	3,499,787,795	0.36%	3.60%	447,729	88,771,420	0.50%
	GA	16,434,613	6.8%	775,730,100	2.12%	4.00%	657,385	31,029,204	2.12%
	IL	12,838,470	5.3%	1,004,600,363	1.28%	3.50%	449,346	35,164,581	1.28%
	Non-U.S.	10,817,342							
	NC	9,345,749	3.9%	480,208,218	1.95%	5.00%	467,287	24,009,588	1.95%
	PA	7,798,020	3.2%	870,444,911	0.90%	3.00%	233,941	25,980,000	0.90%
	SC	7,740,064	3.2%	480,427,307	1.61%	4.00%	309,603	19,217,092	1.61%
	MS	7,547,763	3.1%	326,092,318	2.31%	4.00%	301,911	13,042,592	2.31%
		$ 142,032,160		$ 16,656,165,230			$ 5,217,832	$ 529,868,916	
	U.S.	$ 131,214,818		$ 16,656,165,230	**0.79%**		$ 5,217,832	$ 529,868,916	**0.98%**
							0.46% of 2011 SL Tax Nationwide		

Other Non-NIMA States	NIMA Reported Premium	% of U.S. Total	2011 Premium (1)	%	Tax Rate	Estimated Tax Impact	2011 Taxes (1)	%
AL	$ 7,116,980	2.9%	$ 477,707,650	1.49%	6.00%	$ 427,019	$ 28,662,459	1.49%
AK	1,075,285	0.4%	118,723,951	0.91%	2.70%	29,033	2,639,285	1.10%
AZ	5,985,061	2.5%	364,782,188	1.64%	3.00%	179,552	11,413,752	1.57%
AR	1,871,069	0.8%	184,099,000	1.02%	4.00%	74,843	7,363,961	1.02%
CO	4,692,912	1.9%	455,822,138	1.03%	3.00%	140,787	13,370,310	1.05%
CT	1,823,558	0.8%	320,182,481	0.57%	4.00%	72,942	12,130,109	0.60%
DE	2,885,398	1.2%	47,087,633	6.13%	2.00%	57,708	941,753	6.13%
DC	2,531,438	1.0%	213,460,100	1.19%	2.00%	50,629	4,269,202	1.19%
HI	3,644,745	1.5%	204,416,094	1.78%	4.70%	171,303	9,549,602	1.79%
ID	544,685	0.2%	61,251,476	0.89%	1.50%	8,170	915,065	0.89%
IN	3,598,081	1.5%	368,310,377	0.98%	2.50%	89,952	9,207,759	0.98%
IA	1,130,364	0.5%	166,367,311	0.68%	1.00%	11,304	1,663,673	0.68%
KS	2,199,965	0.9%	160,113,057	1.37%	6.00%	131,998	9,562,627	1.38%
KY	4,007,480	1.7%	154,065,744	2.60%	3.00%	120,224	4,695,297	2.56%
ME	494,617	0.2%	61,106,175	0.81%	3.00%	14,839	1,701,001	0.87%
MD	4,085,615	1.7%	360,852,597	1.13%	3.00%	122,568	10,825,578	1.13%
MA	4,520,109	1.9%	633,781,165	0.71%	4.00%	180,804	23,326,882	0.78%
MI	4,698,078	1.9%	544,422,366	0.86%	2.50%	117,452	13,549,829	0.87%
MN	3,169,447	1.3%	281,473,171	1.13%	3.00%	95,083	8,444,195	1.13%
MO	4,072,252	1.7%	468,567,116	0.87%	5.00%	203,613	22,878,945	0.89%

NAPSLO Analysis of Surplus Lines Clearinghouse Report for Year Ending June 30, 2013

Other Non-NIMA States	NIMA Reported Premium	% of U.S. Total	2011 Premium [(1)]	%	Tax Rate	Estimated Tax Impact	2011 Taxes [(1)]	%
MT	$ 1,769,976	0.7%	60,180,432	2.94%	2.80%	49,559	1,643,543	3.02%
NE	1,517,829	0.6%	115,635,238	1.31%	3.00%	45,535	3,609,000	1.26%
NV	4,659,164	1.9%	200,073,340	2.33%	3.50%	163,071	7,002,605	2.33%
NH	601,162	0.2%	63,185,952	0.95%	3.00%	18,035	1,899,798	0.95%
NJ	4,548,507	1.9%	1,096,107,216	0.41%	5.00%	227,425	52,716,610	0.43%
NM	890,309	0.4%	8,926,561	9.97%	3.00%	26,709	2,972,548	0.90%
ND	1,317,872	0.5%	58,747,972	2.24%	1.80%	23,722	1,045,251	2.27%
OH	6,184,674	2.6%	563,806,553	1.10%	5.00%	309,234	29,989,447	1.03%
OK	2,095,653	0.9%	244,566,108	0.86%	6.00%	125,739	18,915,136	0.66%
OR	3,289,277	1.4%	233,825,874	1.41%	2.00%	65,786	4,772,703	1.38%
RI	470,965	0.2%	22,215,421	2.12%	4.00%	18,839	888,617	2.12%
TN	5,185,540	2.1%	419,425,973	1.24%	5.00%	259,277	10,793,000	2.40%
VT	199,568	0.1%	52,539,000	0.38%	3.00%	5,987	1,037,000	0.58%
VA	6,384,304	2.6%	525,538,320	1.21%	2.30%	146,839	11,974,967	1.23%
WA	2,557,703	1.1%	592,322,031	0.43%	2.00%	51,154	11,846,437	0.43%
WV	1,480,817	0.6%	103,837,169	1.43%	4.60%	68,118	4,484,768	1.52%
WI	2,787,694	1.2%	226,720,192	1.23%	3.00%	83,631	6,817,157	1.23%
	$ 110,088,153	100.0%	$ 10,234,245,142			$ 3,988,482	$ 369,519,871	
3. U.S.	$ 241,302,971		$ 26,890,410,372	**0.90%**		$ 9,206,314 **0.81%** of 2011 SL Tax Nationwide	$ 899,388,787	**1.02%**

	NIMA Reported Premium	$ 533,202,022	Based on estimate from NIMA press release dated 7/8/13.
	Non-NIMA Premium	252,202,022	
		56.32%	Top 10 Non-NIMA states account for over 50% of all Non-NIMA premium.
	NIMA Reported Premium	$ 533,202,022	
4.	2011 Total SL Premium	32,143,421,551	
		1.66%	
	NIMA Taxes To-Date	$ 24,900,000	
5.	2011 Total SL Taxes	1,135,450,907	
		2.19%	
	FSLSO Filing Fee	$ 1,599,606	
6.	NIMA Taxes To-Date	24,900,000	
		6.42%	

[(1)] Business Insurance was source of 2011 premium and taxes.