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Annual Report of Maine's Superintendent of Insurance on the Availability of Property & Casualty Insurance

EXECUTIVE DIRECTOR'S OFFICE

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Pursuant to 24-A M.R.S.A. § 2325-A (5), the Superintendent of Insurance is pleased to submit this report to the Joint Standing Committee on Insurance and Financial Services. The report addresses the question of whether there is currently, or may be during 2008, a lack of availability in any line of property and casualty insurance.

During 2007, the insurance market for most lines of property and casualty insurance became somewhat less restrictive. There was some easing of pricing, and coverage was generally available, although certain applicants had to obtain insurance in the surplus lines market, as discussed in greater detail in the next section of this report.

The cost of reinsurance[1], which has pushed up the cost of primary insurance in recent years, has stabilized, except for coastal exposures. Reinsurers have forced primary insurers to maintain more restrictive underwriting criteria. Primary insurers continue to assume a greater portion of risk than in the past, which leads to increased premium levels commensurate with that risk.

Since November 2002, the Terrorism Risk Insurance Act (TRIA) has required insurers to offer terrorism coverage with property and casualty coverages. Under TRIA, the federal government shares in certain losses resulting from acts of terrorism. In 2005, Congress extended this program through 2007 and changed the eligible lines. TRIA no longer covers commercial auto, professional liability, surety, burglary/theft and farmowners multi-peril lines. Congress recently amended and extended TRIA through 2014. One significant change revised the

[1] A primary insurer uses reinsurance to insure a portion of the risk it has assumed from policyholders. Reinsurance allows an insurer to improve its risk profiles and contributes to the insurer's solvency by dispersing risk concentration.

definition of a certified act of terrorism to eliminate the requirement that the responsible parties have acted on behalf of any foreign person or interest.

In short, although insurance is generally available, some applicants continue to experience difficulty in finding affordable coverage in certain property and liability lines. The following discussion focuses on those lines.

Surplus Lines Market

Insurance in Maine may be written by admitted or non-admitted insurers. The non-admitted market is known also as the surplus lines market. The Bureau of Insurance licenses admitted insurers to write specific lines of business, such as life, health, homeowners, liability or worker's compensation. The Bureau determines the eligibility of non-admitted insurers to write in the surplus market, subject to solvency requirements and satisfactory claims-handling practices. The law specifically prohibits some coverages from being written in surplus lines, such as life or health insurance. Surplus lines insurers write business that admitted insurers are unwilling to write. Admitted insurers are subject to form and, in some cases, rate regulation by the Bureau, and are backed by the Maine Insurance Guaranty Fund to protect policyholders in the event of insolvency. Insurance written through surplus lines insurers has no such protection. In 2006, the most recent year for which data are available, surplus lines premiums were only 2.9 % of the entire Maine insurance market.[2] As of January 4, 2008, 112 companies were eligible as surplus lines insurers.

Surplus lines coverage is often more expensive, does not provide the same level of consumer protections, and covers fewer perils than in the admitted market. However, the surplus

[2] This does not include alien insurers, as the NAIC does not track that information. An alien insurer is a company formed according to the laws of a foreign country.

lines market does serve an important function in Maine's insurance market by providing coverage that is otherwise not available. In 2007, some commercial risks, including excess workers' compensation, all risk property, libel, wet marine, surety bond, and commercial property, found coverage in the surplus lines market. Other risks going into this market would include the personal risks itemized at the end of the next section of this Report.

Homeowners

The homeowners insurance market has changed in recent years, both locally and nationally, and is expected to remain difficult in 2008 for some applicants and policyholders, particularly coastal property owners. In 2007, some insurers increased base rates in response to increased cost of claims. Other companies decreased their rates. The overall cost trend for this line is level. This trend reflects Maine's competitive homeowners insurance market. Sixty insurance companies wrote this coverage in 2006. The top ten companies wrote only 55% of the market, and the number one carrier only 11%.

Many insurers continue to focus on efforts to assure that a property's coverage amount is 100 % of replacement cost. This coverage encourages policyholders to match their property coverage with their property values and usually comes with an inflation rider. Replacement cost coverage avoids the coinsurance penalty and allows full indemnity for partial and total losses. Another option is to buy actual cash value (ACV) coverage. ACV coverage is generally less expensive than replacement cost coverage and saves premium for homeowners whose homes would be costly to replace. However, ACV decreases personal property coverage, which is generally written as a percentage of the value of the home's structure coverage. ACV also decreases coverage for garages, sheds and outbuildings for the same reason.

Insurers have taken various steps to lower exposures and reduce premiums. For example, some insurers offer deductible options for windstorm, water and hail coverages. Other insurers have increased deductibles from a flat amount such as $500 or $1,000 per loss to a percentage of the amount of insurance[3] on the home for all losses, or a percentage deductible for certain named perils, such as windstorm or water damage. While such moves increase the policyholder's obligation if a loss occurs, larger deductibles do lower premiums. One of the first insurers to employ this approach, however, eliminated mandatory windstorm deductibles on coastal property in 2006. Another major insurer restricted its new coastal property exposures. It continues to be difficult to predict the direction of this market segment.

Because of issues associated with climate change, coastal and island property insurance availability remains problematic. Windstorm damage is a major peril for such properties. New coastal property insurance applicants have some difficulty finding coverage in the admitted market. The Bureau received fewer inquiries in 2007 than in 2006 about this coverage.

Many insurers use loss surcharges, which increase the premium for those insureds who have incurred specific types of losses. This practice appears to have helped keep overall rates from increasing and also may be reducing the number of nonrenewals based on loss activity.

In addition to new coastal and island coverages, new applicants continue to experience difficulty in obtaining coverage for the following types of risks:

- Insureds with prior claims;
- Properties that are not well-maintained;
- Homes with daycare facilities or other businesses on premises;
- Insureds with certain breeds of dog;
- Homes that are vacant or unoccupied; and

[3] For example, a 1% deductible on a $175,000 policy would result in a deductible of $1,750 for any loss.

- Homes that have been uninsured for a period of time.

The surplus lines market has provided coverage for many of these types of exposures.

Medical Liability (Medical Malpractice)

The medical malpractice insurance market is highly concentrated for physicians and hospitals, with the majority of the coverage provided by Medical Mutual of Maine (Medical Mutual). Medical Mutual's hospital rates increased in 2006 and remained the same in 2007. Medical Mutual's rates for physicians' and surgeons' professional liability were unchanged in 2007. Physicians' and surgeons' professional liability rate changes are usually made mid-year effective October 1. Many facilities, especially nursing homes, and some physicians remain dependent upon the surplus lines market at higher premiums and on less favorable terms.

Other Lines

Coverage is available for other lines of insurance, such as general liability, inland marine, non-medical professional liability, and employment practices liability. However, insurers' more restrictive underwriting practices could cause individual risks to seek alternative insurers for better price or coverage. Insurance for such specialty exposures such as kayak rentals and tanning salons is available but costly.

Summary

In summary, property and casualty coverages are generally available in the admitted market. The greatest problem area is affordability, not availability, for some homeowners and professional/medical liability for nursing homes and similar facilities. Where coverage is not readily available in the admitted market, the surplus lines market provides coverage, although at a higher cost and on generally less favorable terms.