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TESTIMONY OF  
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EXECUTIVE DIRECTOR OF THE  
AMERICAN ASSOCIATION OF MANAGING GENERAL AGENTS

BEFORE THE

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE  
AND GOVERNMENT SPONSORED ENTERPRISES  
OF THE U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON FINANCIAL SERVICES

ON

COMMERCIAL INSURANCE MODERNIZATION AND  
THE NONADMITTED AND REINSURANCE REFORM ACT OF 2006

**Introduction**

Good afternoon Chairman Baker, Ranking Member Kanjorski, and Members of the Subcommittee. My name is Bernd G. Heinze. I am the Executive Director of the American Association of Managing General Agents (AAMGA), headquartered in King of Prussia, Pennsylvania, just west of Philadelphia.

The AAMGA is an international trade association comprised of 503 member agents, brokers, insurance, captive and reinsurance companies, Lloyd's of London syndicates and underwriters, state stamping and surplus line offices and related professional entities all engaged in the wholesale insurance marketplace in the United States and the United Kingdom. Since 1926 AAMGA members have been committed to serving the non-admitted or excess and surplus lines and admitted markets, with reliable integrity, and in offering creative, dependable insurance products, services and solutions to specialty and unique risk exposures. Collectively, these efforts identify the Association as the professional standard to the wholesale insurance market, and as a credible authority to matters of importance to the global insurance community.

The AAMGA's 262 member managing general agents are located in all 50 states and are called upon to work with retail agents and their policyholder customers in all lines of insurance business. In 2004, they wrote in excess of \$23.9 billion in annual written premium, or approximately 72% of the gross excess and surplus lines premium written in the non-admitted market. Our member agents employ over 10,000 employees in over 350 storefronts across America.

Thus, we see each day the challenges and opportunities that exist in this market, and are honored to have the privilege to share our views in support of the Committee's on-going efforts. We have reviewed the "Non-admitted and Reinsurance Reform Act of 2006" and today provide comment in support of its provisions generally, while also offering to provide supplemental remarks on items for further consideration. The AAMGA commends you Mr. Chairman, and this Committee, on the continuing focus to modernize commercial insurance markets and, thereby, implement procedures and regulations that will enhance uniformity and competition, while maintaining the state based system of insurance regulation and the surplus lines market's fundamental precept of freedom from rate and form to benefit the consumer in the protection of its risk exposures.

### **Overview into the Excess & Surplus Lines Insurance Market**

All states and jurisdictions have promulgated surplus lines laws to protect the insurance consumer by controlling eligibility standards of surplus lines insurers and requiring specialty licensed brokers and agents to assist the consumer. These standards facilitate the open market, enhance competition, allow agents, brokers and insurers to be more responsive to consumer needs and provide the flexibility in the buying decisions being made.

The surplus lines market is essential to our nation's economic infrastructure. It provides protection and security to national industrial and local commercial businesses, those associated with operation of major public facilities like airports, schools, municipal utilities, and some of the largest port facilities in the country.

In the private sector, key commercial enterprises and consumers similarly rely on the surplus lines marketplace. These risks include, for example, those associated with electrical generation, oil production and refining, heavy construction, private aviation, ski resorts, trucking companies, restaurants and small businesses, aerospace manufacturing, mining, and agriculture, nursing homes and day care centers, large and small commercial and residential construction projects; maritime risks from jet skis to tanker vessels and every day risks from Main Street to Wall Street.

AAMGA managing general agent members include professional insurance facilities of varying size and multi-state operations to small and family businesses vital to maintaining the spirit of entrepreneurial growth in the insurance industry and our economy.

### **Current Issues Impacting the Non-admitted Market**

While the premium growth of the surplus lines market now comprises 14.14% of the gross written property and casualty premium in the United States, our managing general agent, broker and company members, as well as their customers and consumers, face increasing processing and compliance costs due to inefficiencies and inconsistent standards now existing in the various states. For example, depending on rules of a home state and the nature of a multi-state risk, volumes of affidavits confirming the completion of a diligent search, the completion and filing of state tax payment forms and related materials are necessary to adhere to individual state requirements.

Further, for multi-state managing general agents, brokers and insurance companies, the various state licensing, continuing education requirements and non-reciprocal state regulations place added burdens and unnecessary costs on to the insurance transaction, without a commensurate increase in value to the consumer.

### **Benefits of the Non-admitted and Reinsurance Reform Act of 2006**

Insurance is the DNA of capitalism and free market entrepreneurship. Providing the availability of varying levels of security from risk stimulates the growth of business and opportunities, provides incentives for research and development that help to create jobs and positive returns on investment and equity; and, for the public and private consumer, affords continuity and recovery from fortuitous events based on the terms and conditions of coverage.

For all these reasons, the AAMGA supports the Non-admitted and Reinsurance Reform Act of 2006, and appreciates the efforts of Ms. Brown-Waite and the co-sponsors of the Bill in utilizing this opportunity to focus on the need for insurance regulatory reform. The AAMGA's independent insurance adjuster members also strongly support reform efforts to break down antiquated state-by-state barriers. Through their work with non-admitted insurers, reinsurers, and other industry partners, independent adjusters know all too well that needlessly restricting insurance services across state lines is inefficient and, ultimately, unsustainable.

Specifically, we believe the Bill and this Committee's other efforts on commercial insurance modernization will:

- enhance the speed to market of new and needed insurance products and services;
- stimulate open competition and the creation of innovative risk products specifically addressing or manuscripted to the needs of the consumer;
- establish and mandate a uniform, simple tax allocation formula and system for multi-state risks, making the payment of proportionate tax more equitable and efficient;
- allow for automatic export for exempt commercial purchasers – the sophisticated insurance buyers as defined in the Act – without the burdensome diligent search requirements, thus allowing the surplus lines marketplace to work more efficiently and specifically to the needs of the consumer, insurance companies, wholesale and retail agents and brokers;
- facilitate uniform and consistent compliance requirements for the surplus lines agents and brokers now that the insured's home state will have authority and regulatory primacy;
- encourage individual initiatives toward sustained growth to protect increased risk exposures;
- establish a uniform and consistent licensing system created by the national insurance producer database; and
- allow a more equitable and efficient framework within which an insurance purchaser can work with their agent or broker of choice, without being forced to engage in time consuming and wasteful transactions in an inefficient network borne solely by the perceived need of multi-state compliance.

### Conclusion

Mr. Chairman, this Act is an important step in sustaining the non-admitted insurance market's effective, efficient and economical services to the public and private sector, while streamlining the processing, licensing and compliance components of insurance transactions. Most importantly, it will develop and create a uniform and consistent foundation on which essential state based regulation can continue without restraining the creativity, investment and security provided by the surplus lines market.

The AAMGA looks forward to working with you Mr. Chairman, Ms. Brown-Waite, Ranking Member Kanjorski, and our other Pennsylvania representatives on the Committee, Mr. Fitzpatrick and Mr. Gerlach, Members of the Committee and co-sponsors of the Non-admitted and Reinsurance Reform Act of 2006, in furthering to develop the specifics and implementation of commercial insurance reform and modernization.

Thank you for the opportunity to provide the views of the American Association of Managing General Agents. We look forward to responding to any questions you may have, and providing additional information.

**Bernd G. Heinze, Esquire**  
**Biographical Summary**

Bernd G. Heinze, Esquire is executive director of the American Association of Managing General Agents (AAMGA), representing the 503 premier companies involved in the international wholesale insurance distribution marketplace, and its University. He is certified by all 50 state insurance departments to provide continuing education courses on insurance and litigation matters, and is regularly called upon to render expert witness testimony in state and federal courts.

Mr. Heinze has served as Vice-President and Chief Litigation Counsel for the Reliance Insurance Company in Philadelphia, where he was responsible for the management of all property and casualty litigation nationwide, outside panel and 12 staff counsel operations of the company, and its environmental and mass tort, compliance and bad faith units, with an over \$120 million annual budget.

Prior thereto, Mr. Heinze was an equity partner with the Wilson, Elser, Moskowitz, Edelman & Dicker law firm, where his practice was concentrated in the resolution of insurance related litigation, including professional errors and omissions, third-party products, fire, wrongful death, municipal and employment liability, commercial automobile, medical malpractice, social services, construction defect, advertising injury, asbestos, toxic/mass tort, class action, transportation, and bad faith claims, ADR/arbitration matters, subrogation and declaratory judgment/coverage actions.

Mr. Heinze graduated with a BA in International Relations and Economics from the Canisius College (1978) in Buffalo, NY, and obtained his Juris Doctor degree with honors from the Temple University School of Law (1983) in Philadelphia where he was editor in chief of the law school magazine. He is licensed to practice before the United States and Pennsylvania Supreme Courts, and the federal courts of Pennsylvania.

Prior to his legal practice, he was a Congressional Assistant to Congressman Jack Kemp in the Washington, DC and Buffalo, NY offices, and executive assistant and deputy press secretary to Erie County (NY) Executive Edward J. Rutkowski. He also worked as weekend anchor for WAVA NewsRadio in Washington, DC.

Mr. Heinze serves on the Board of Directors of the International Litigation Management Association and the American Association of Independent Claim Professionals. He has been named as one of the "100 Most Powerful People in the Insurance Industry – North America" since 2001 by the *Insurance Letter* and *Insurance Distribution Magazine*.

Living in Montgomery Township, PA with his wife and two daughters, Mr. Heinze began and serves as president and an active firefighter with the Fire Department of Montgomery Township, and a member of the Industrial Development Authority.