

From: [Maria Muzea](#)
To: [Insurance Regulation](#); [Todd Rich](#); [Scott J. Kipper](#)
Cc: nick.rossi@lpins.net
Subject: NSLA Comments Re: AB 398 and Proposed Regulation R029-23
Date: Monday, September 25, 2023 5:05:42 PM
Attachments: Commissioner AB 398.pdf
Importance: High

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good afternoon,

Attached please find the Nevada Surplus Lines Association's comments regarding Assembly Bill 398 and Proposed Regulation R029-23.

Thank you,



Maria Muzea
Executive Director
Nevada Surplus Lines Association
Main (775) 826-7898
Toll Free (888) 334-4577
www.nsla.org



Nevada Surplus Lines Association

6490 S. McCarran Blvd Bldg D-2 #39 Reno, NV 89509

Ph. (775) 826-7898 Fx. (775) 826-7003 Toll Free 1-888-334-4577 Web www.nsla.org

The Honorable Scott J. Kipper
Commissioner of Insurance
Department of Business and Industry
Nevada Division of Insurance
1818 East College Parkway, Suite 103
Carson City, NV 89706

September 25, 2023



Re: Support for Proposed Regulation following Emergency Regulation pertaining to Assembly Bill 398

Dear Commissioner Kipper,

As you know, the Nevada Surplus Lines Association (NSLA) assists the Nevada of Division of Insurance in the regulation of surplus lines insurance and encourages compliance by surplus lines agents and insurers with the Nevada Revised Statutes (NRS) and Nevada Administrative Code (NAC) pertaining to surplus lines laws. The statutory provisions of NRS 685A allow consumers access to insurance purchased from a non-admitted/unauthorized insurer through specialty licensed agents when Nevada's admitted/authorized insurers are unable to fulfill the consumer's insurance needs.

Within our capacity as Director and Executive Officer members of the NSLA, we bring this letter to your attention. As you are well aware, the NSLA has proudly performed its mission since our 1995 inception. In the process of fulfilling our primary purpose, we diligently work to assist the Insurance Commissioner in the regulation of surplus lines insurance for the benefit of the Nevada consumer. In the process of conducting that broad duty, we often find ourselves compelled to provide advice on current statutory changes. Some which may, in our collective professional opinion, negatively impact the availability of significant coverage lines.

Assembly Bill 398 (AB 398) which prohibits liability policies from including defense costs within a specific "limit of liability" is one such statute that threatens to severely impact the availability and affordability of critical liability contracts for many Nevadans. Therefore, it is our advice that we urge you to continue making every effort to implement this statute conservatively and with an empathetic eye towards the Nevada insurance buyer.

From our perspective, enacting a permanent order that seeks to clarify the scope of AB 398 is of vital urgency. Specifically, in our capacity as NSLA representatives, we humbly request you include language within any permanent order that clearly states AB 398 does not apply to unauthorized insurers or risk retention groups.

Our fellow Nevada surplus lines brokers, who transact business within the unauthorized insurers space, have accurately viewed this segment of the insurance marketplace as one of "last resort." Many of the surplus lines insurance products that are procured for the benefit of Nevada consumers represent some of

the toughest lines of liability risk anywhere in the world. AB 398 would only serve to dramatically restrict, or potentially eliminate, the availability and pricing of already difficult liability placements.


Our state's economy depends upon an effective and efficient unauthorized surplus lines marketplace to ensure Nevada businesses can continue to implement their respective liability risk transfer programs. AB 398 would negatively impact vast swaths of our business environment. Those who would be immediately affected include but are by no means limited to home builders/subcontractors, the entire professional liability marketplace, cyber liability and the wide array of management liability products. Simply put, extending AB 398 into the surplus lines marketplace would place countless Nevada businesses at an unnecessary and dangerous level of uncompetitiveness compared to their peers in the remaining 49 states.

Building upon the clarity of a proposed permanent order that seeks to define the non-applicability of AB 398 to surplus lines/unauthorized insurers, we also request that many liability contracts within this space be designated as "open lines for export." Beginning with the examples of liability products outlined in the above paragraph presents a productive start to this important complementary process.


Finally, in addition to our role as NSLA Directors and Officers, we also serve as Nevada independent agents, brokers and direct writers. In that collective capacity, of the licensed Nevada agents and brokers who write millions of liability insurance contracts, the vast majority are placed within the admitted/authorized marketplace. While that arena sits outside the role of the NSLA, we request you review the admitted market's relationship to AB 398 and include exceptions similar to those suggested for surplus lines within your permanent order language.

Thank you in advance for your consideration. We respect the magnitude and difficulty of this process and stand by to offer any additional assistance as may be required of us by you or your able staff.

Sincerely,



Nick Rossi (Sep 25, 2023 13:38 PDT)
Nick Rossi, Chairman



Cynthia Fleischer (Sep 25, 2023 06:12 PDT)
Cynthia Fleischer, Secretary/Treasurer

Thomas F. Kerestesi
Thomas Kerestesi, Director

Justin Manning

Justin Manning (Sep 25, 2023 15:30 PDT)
Justin Manning, Director

Quincy Branch
Quincy Branch, Director

Steven T. Wilkins
Steven Wilkins, Vice Chairman

John Drakulich

John Drakulich (Sep 22, 2023 16:02 PDT)
John Drakulich, Director

Greg McKinley

Greg McKinley (Sep 24, 2023 20:38 PDT)
Greg McKinley, Director

Francie Stocking

Francie Stocking (Sep 25, 2023 14:05 CDT)
Francie Stocking, Director

Maria A. Muzea
Maria Muzea, Executive Director