HEARING ON "COMMERCIAL INSURANCE MODERNIZATION"
STATEMENT BY JANICE OCHENKOWSKI
ON BEHALF OF THE RISK AND INSURANCE MANAGEMENT SOCIETY
BEFORE THE SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE AND GOVERNMENT SPONSORED ENTERPRISES
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES

RICHARD BAKER, CHAIR

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Good afternoon Mr. Chairman and Members of the Subcommittee. My name is Janice Ochenkowski. I am the Vice-President for the Risk and Insurance Management Society (RIMS), which is the country's largest professional risk management organization. I am also a Senior Vice-President, Director of Global Risk Management for Jones Lang LaSalle, a global real estate and financial services company based in Chicago. I appreciate the opportunity to appear before you today on behalf of RIMS to speak about the issue of modernization of commercial insurance; specifically, the Nonadmitted and Reinsurance Reform Act of 2006.

RIMS is in a unique position to participate in this hearing, as we represent the commercial consumers of insurance. RIMS membership spans the country and consists of entities of all different industries and sizes, including 84 percent of the Fortune 500 companies, as well as approximately 950 "small businesses," those companies with less than 500 employees. Our members, corporations, public entities, and municipalities buy insurance and so have a strong view on how the process should proceed. RIMS member companies, which number roughly 4,000, support the modernization of commercial insurance.

In this increasingly competitive global marketplace, commercial insurance consumers, like myself, need choices, flexibility, and speed in the process of purchasing insurance. Operating throughout the country and the world as the primary insurance buyer for Jones Lang LaSalle, I am witness everyday to the numerous inefficiencies in the current United States state based insurance system. Commercial consumers should no longer have to struggle with a hobbled system; we should use the proposals within this bill to address current inefficiencies. I applaud the members of this subcommittee for presenting us with the Nonadmitted and Reinsurance Reform Act of 2006 as a meaningful blueprint for reform of surplus lines insurance.

RIMS believes the Nonadmitted and Reinsurance Reform Act of 2006 is necessary to address regulatory problems that are causing disruptions in the surplus lines insurance marketplace. Disruptions have a tendency to increase ineffectiveness and add costs. Specifically, there is confusion among agents and brokers placing surplus lines business about the process because states have various premium tax allocation and remittance schedules. For example, even the manner in which applicable taxes are sent to states varies. In some states, a broker or agent calculates and sends taxes to the state as part of his transaction service for a client. In other states, the broker may calculate the tax due, but I must send it; while in a third type of state, I must calculate and send taxes. My company is a commercial property manager and advisor, with the responsibility to buy insurance for almost 400 buildings in over 30 states. We collect premium from each property and send hundreds of premium checks to our broker, as ERISA law does not permit a licensed advisor to commingle client funds. Our broker separates premium from tax and returns some funds to us with advice on which states we have to send the taxes. A third series of checks is then issued by my firm to the appropriate states. There has to be a better way. Many states have also implemented licensing rules that discriminate against out of state agents and brokers, and also require our brokers to pay local brokers to stamp approval on an already negotiated insurance program. Furthermore, state declination rules impede access to the surplus lines marketplace.

RIMS experience is that in a free, open and transparent competitive market, risk managers will be able to negotiate the best rates and the best terms and conditions for coverages needed by their companies. Currently, surplus lines policies' rates and forms are not regulated by the states; however, we think it is prudent to include freedom from rate and form regulation for surplus lines policies in a federal statute governing commercial property and casualty insurance because it would promote a more competitive marketplace.

Some states require that before an insurance buyer can obtain insurance from the surplus lines market, a diligent search of authorized insurers must be made to determine if the insurance is available through an authorized insurer. This slows the procurement process, and, at times, adds costs that are eventually passed on to the purchasers. RIMS believes that commercial consumers should be allowed access to the surplus lines market through the best supplier for its markets, regardless of whether the supplier is authorized by that state. At least eight states have enacted provisions in their commercial lines insurance deregulation laws permitting certain commercial buyers automatic access through a licensed surplus lines broker to the surplus lines market, as well as to the admitted market.

The Nonadmitted and Reinsurance Reform Act of 2006 provides answers to problems commercial insurance buyers are experiencing in obtaining surplus lines insurance by placing authority in the home state of the insured. This bill will fix the inconsistent and contradictory rules that govern the surplus lines marketplace, and allow insurers and brokers to serve their clients more efficiently and effectively. The bill sets up a uniform system of premium tax remittance and allocation by establishing a clear requirement that all surplus lines premium taxes be paid to the insured's home state; the states can then determine how they want to allocate the premium tax. The bill also provides an exemption for sophisticated commercial policyholders who are more likely to have either unique or large risks for which surplus lines insurance is necessary and the necessary expertise to evaluate options. The exemption is appropriate for sophisticated buyers of insurance and is one of common sense as it allows such policyholders to bypass the regulatory hurdles currently imposed by the states which add no meaningful value to the process. RIMS plans to provide the subcommittee with some recommendations for improving the exemption provision.

In conclusion, RIMS strongly supports the Nonadmitted and Reinsurance Reform Act of 2006 and looks forward to working with your committee and the Congress on this important piece of legislation. Thank you for the opportunity to speak today. I appreciate your time, interest, and leadership, and welcome any questions by the Subcommittee.