

November 9, 1998

Directive No. 2-98A

TO: ALL SURPLUS LINES COMPANIES

FROM: ARKANSAS INSURANCE DEPARTMENT

SUBJECT: APPROVAL AND USE OF YEAR 2000 ENDORSEMENTS
COMMERCIAL POLICIES WHICH CONTAIN GENERAL
LIABILITY COVERAGE

The Department recently issued its Directive No. 2-98 regarding the approval and use of Year 2000 endorsements for commercial policies which contain general liability coverage. Since then, the Department has received several inquiries as to whether or not the Directive applied to surplus lines companies since it was addressed to "all licensed property and casualty insurers". While it is not clear that the heading address encompasses surplus lines companies, it is the Department's intent that surplus lines companies be covered by this Directive. To that end, this Directive is being sent to surplus lines companies with the text of Directive 2-98 contained below.

It has been predicted the Year 2000 computer problem may result in an unprecedented volume of losses and litigation. To save memory space and increase processing speed, most computer systems and embedded chips were designed to identify calendar dates using only the last two digits of the year. Without software conversion, computer systems may not be able to recognize "00" as the Year 2000. If these systems are unable to recognize this two-digit year field correctly, programs will fail, or, at the very least, will fail to operate properly. This situation will affect computations that calculate age, sort or compare by date, measure distance or flow, or perform other specialized tasks. Since computer systems, as well as computer chips embedded in automated equipment, affect virtually all aspects of our lives, the Year 2000 problem is a very serious one. The Department encourages the business community to quickly resolve its Year 2000 problems, and recognizes the public policy concerns of shifting liabilities to the insurance mechanism.

The Department has received numerous filings from both insurers and advisory organizations that contain endorsements that address coverage for liability losses arising out of the Year 2000 problem. The very nature of Year 2000, and the uncertainties surrounding the exposure, have lead the Department to determine that it is in the best interest of policyholders located in the state of Arkansas to require that policyholders be informed when Year 2000 endorsements are attached to commercial liability policies. In order to promote the public welfare, insurers that utilize Year 2000 endorsements on commercial liability policies at renewal shall mail to the agent of record and the first named insured a policyholder notice that clearly explains the changes. Such notice shall be mailed at least 60 days prior to the effective date of the renewal policy to which it is first attached. Insurers who use a captive agency system of marketing shall only be required to provide a Year 2000 endorsement notice once to each agent/agency and shall mail notice to policyholder at least thirty (30) days prior to the effective date of the renewal policy to which it is first attached.

The Department has approved an array of endorsements that can be used by insurers, and insurers are encouraged to choose the endorsement that is appropriate to the risk being written. The Department will use its authority to carefully monitor the marketplace and how the industry addresses the Year 2000 problem. The Department considers it inappropriate to apply Year 2000 liability endorsements indiscriminately on a blanket basis. If the Department determines that inappropriate Year 2000 activities are taking place, the Department will rigidly enforce all existing laws and regulations.

This Directive will terminate automatically at 12:01 a.m. January 1, 2002.

If you have any questions regarding this Directive, please contact the Arkansas Insurance Department Property and Casualty Division 501-371-2800.

Mike Pickens
Insurance Commissioner