



February 5, 2025

Senator Jeff Barta
Senate Industry and Business Committee
600 East Boulevard
Bismarck, ND 58505-0360

Re: SB 2374

Dear Chairman Barta,

The Wholesale & Specialty Insurance Association¹ (WSIA) appreciate the opportunity to provide comments on SB 2374. WSIA has some concerns with Section 7 of the bill regarding binding arbitration, however, we have been in discussions with the North Dakota Department of Insurance, and we believe those discussions will result in an amendment that will alleviate our concerns.

Binding arbitration is an effective method of resolving disputes outside of the courtroom. It allows parties to settle their differences in a more efficient and cost-effective manner than traditional litigation, often preserving business relationships and providing a faster resolution. This process is widely used in both the private and public sectors and serves to reduce the burden on our court system while ensuring that disputes are handled fairly and impartially.

Some of the current restrictions in Section 7 that mandate the venue of law and location where arbitration must be conducted are particularly challenging for commercial surplus lines contracts and would conflict with the goal of bringing down insurance costs. The surplus lines market serves as the safety valve of the insurance industry for consumers. In order to cover hard-to-place risks, surplus lines contracts must have the freedom to be negotiated between the producer and the insured. In many cases, negotiating a different venue for arbitration can result in a reduced premium, higher levels of coverage or other terms that are favorable to the insured.

¹ WSIA is the U.S. professional trade association representing the wholesale and specialty insurance market and the wholesale distribution system. WSIA presents approximately 400 wholesale broker member firms, 100 surplus lines insurance companies, and 200 associates and service providers to the surplus lines market, our membership operates in more than 1,500 offices representing tens of thousands of individual brokers, insurance company professionals, underwriters and other insurance professionals worldwide – all of whom are committed to the wholesale distribution system and U.S. surplus lines market.

Additionally, surplus lines insurance policies frequently cover risk in multiple states. Often the insured covered by a commercial surplus lines policy does not even reside in the state where the risk is located. As such, insureds will often negotiate arbitration venues or governing laws that are different from the state where the risk resides. As SB 2374 is presently drafted, insureds would no longer have the ability to negotiate the forum for arbitration at the inception of an insurance contract.

For these reasons, we would suggest the following sentence be added to Section 7, subsection 6 of the bill (after line 2 on page number 16).

c. Commercial surplus lines insurance policies placed in accordance with section 26.1-44-03.

Thank you for the opportunity to provide comments on SB 2374. We would also like to thank the Department of Insurance for their willingness to work with us on this issue and we will commit to continued dialogue if necessary. If there are any questions, please don't hesitate to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "John Meetz", with a stylized flourish at the end.

John H. Meetz
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