



# 1998 ANNUAL REPORT

EMPLOYER-SPONSORED GROUP EXCESS

CONTRACT FRUSTRATION

PRIZE INDEMNIFICATION

BINDING AUTHORITY

EXPORT LIST

PART B ELIMINATED

ASSOCIATION CREATED

M I L E S T O N E S

'89

'90

'91

'92

'93

'94

'95

'96

'97

'98

# Chairman's Report

LEE A. ORABONA

This last year at ELANY has been quite satisfying to me and our Board. Since the inception of our association, ELANY has been a strong, but respectful voice to our legislators and the Insurance Department. We have built on the foundation of our predecessors and created a true working business partnership, that has enabled ELANY to achieve major legislative and regulatory reforms which have made New York the leader it should be in the insurance arena, particularly in the much-needed excess and surplus marketplace.

*"We have built on the foundation of our predecessors and created a true working business partnership, that has enabled ELANY to achieve major legislative and regulatory reforms which have made New York the leader it should be in the insurance arena."*

## TEN YEARS OF SERVICE

1989–1998

Total Premiums Processed	\$4,138,500,000
Total Documents Processed	476,663
Total Purchasing Group Premium	\$63,484,779
Total Excess Line Premium Taxes	\$150,903,643

ELANY created and maintains a data base that provides a window for our regulators and legislators to understand the classes and volume of business being placed. ELANY also scrutinizes the markets to assure the financial strength of the eligible companies assuming those risks. These are not only value-added services to the association members but they help build confidence in the E&S marketplace among regulators and legislators.

ELANY also has been extremely fortunate to have Dan Maher, Jr. as the Executive Director. He has represented our Board and the association with complete knowledge of the issues and a clear focus of our mission in managing the association.



ELANY completed its tenth year of operations in December of 1998. Rather than review the significant number of achievements attained by ELANY during that time, attention should remain on the bigger picture. ELANY must continue to be the strong but respectful representative voice on the issues affecting the E&S industry and continue to work with other associations to educate and resolve issues in a manner beneficial to our members and their clients.

As the new millennium approaches, ELANY remains truly committed to voicing your concerns and achieving further legislative and regulatory reforms for the greater good of the industry.

I am confident that, as you review the reports of our various chairpersons, you will share with me the good feelings we have about our association.

I appreciate your comments and concerns and invite you to visit the ELANY offices to see the fine work your association is doing. ■

# Executive Director's Report

DANIEL F. MAHER, JR.

ELANY completed 1998, its tenth year of operations, with a number of noteworthy accomplishments. On the legislative and regulatory front, the binding authority law was amended and expanded, employer-sponsored group excess insurance was created by statute, and ELANY's existence was extended for three additional years.

ELANY processed 66,558 documents in 1998. While this is the highest annual document processed count in ELANY history, it did not come as a surprise. However, given current chronic soft market conditions, it was somewhat surprising that ELANY processed more New York premium, \$443,800,000 in calendar year 1998, than in any other year except 1990. Notwithstanding the premium increase, both revenues and premiums per stamped insurance document remain very low. ELANY has continuously met the challenge of reducing its per-document processing cost.

This tenth anniversary annual report provides a look back on where ELANY has been, where it is today, and also provides a look ahead. Set forth below are some key proposals under consideration by ELANY as it begins a second decade of service.

One proposal, perhaps more than all others combined, will represent a sea change in the E&S industry. The creation of a completely electronic, paperless filing system will eliminate numerous inefficiencies which plague the current process. The key attributes of such a system include: the elimination of postage costs and delays caused by mail service; the elimination of duplicate data entry efforts; reduction in the number of keystrokes to complete a submission; reduction in staff cost and time to members and ELANY; and faster overall turnaround time. Two major hurdles to creating such a system in New York currently exist. New York law will have to be amended to allow electronic signature in place of the current wet affidavit signature requirement. Also, the currently required stamp on all original policies will have to

be amended to allow a substitute for the stamp.

Other initiatives under discussion include creating non-resident E&S broker licenses in New York and other states. The license would be reciprocal and granted only to non-residents in states where New York excess line brokers could be licensed as non-residents. This approach could alleviate a number of existing problems involving placements of multi-state risks, national program business, and courtesy filing prohibitions.

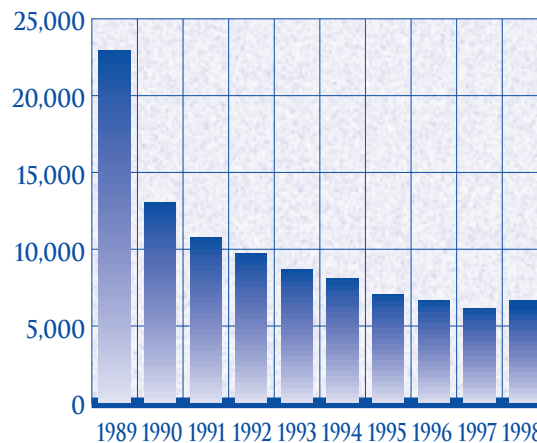
New York's approach to regulating the sale of new insurance products is also being discussed. New products, which do not clearly fall into one of the defined "kinds" of insurance under Insurance Law §1113, must be enacted as new "kinds" of insurance by the legislature. This leaves the insurance industry in the unenviable position of being the only industry which requires legislation to sell new products. A method to authorize the sale of newly created products without legislation for each new product is needed.

Illinois enacted a law recently to allow domestic surplus line insurers to incorporate, reside in, and write surplus lines business in Illinois. New York currently does not allow a non-admitted company to have a presence or office in New York.

Amending the law to allow a company to have a New York office or presence, as long as it limits its



PREMIUMS PER STAMPED INSURANCE DOCUMENT



## Operations & Procedure

DAVE ISENBERG

*Chairman*

Over the past ten years, ELANY has changed the way E&S business is conducted in the State of New York. To appreciate the quality of ELANY's services, look back to the pre-ELANY days. In those days, E&S brokers had to obtain a signed affidavit from the insured verifying that their broker had informed the insured of the "risk" of purchasing a policy from a carrier not licensed in the State of New York. The E&S broker had to attest that he or she had conducted a thorough investigation of the non-admitted insurer's financial and claims handling integrity and to verify that, in his or her opinion, the non-admitted insurer was financially stable and capable of paying claims in a timely fashion. Ten years ago, ELANY was not there to assist this investigation. Data record keeping in the pre-ELANY days was quite burdensome. Tracing premium transactions with no central verification system was both time-consuming and fraught with potential errors. Filing the excess lines tax was a long, arduous process. Incomplete or incorrect affidavits were summarily returned by the Insurance Department, while the forty-five day clock continued to tick. E&S brokers were prohibited from binding or canceling coverage.



Today, there is no insured affidavit requirement.

Today, ELANY supplements the broker's due diligence regarding non-admitted insurers.

Today, record keeping has been significantly streamlined.

Today, the ELANY staff provides training to E&S brokers, reducing the filing burden.

Today, a non-admitted insurer can extend authority to an E&S broker to bind coverage on its behalf and issue most cancellation notices.

Before joining the Board of ELANY and assuming the Chairmanship of the Operations Committee, I did not fully appreciate the amount of time and energy required by the ELANY staff to keep the

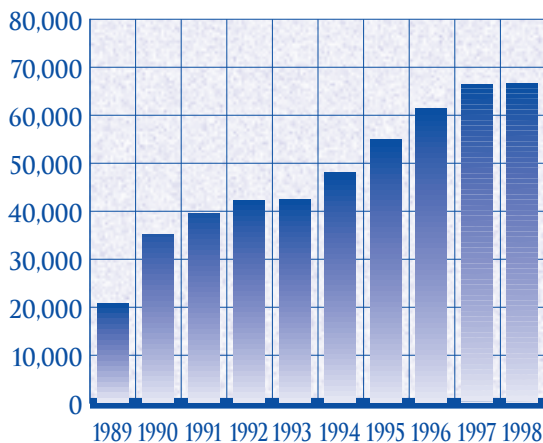
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underwriting to the same risks it can write through excess line brokers from an out-of-state location, would be beneficial to New York's employment market, economy, tax base, and insurance industry.

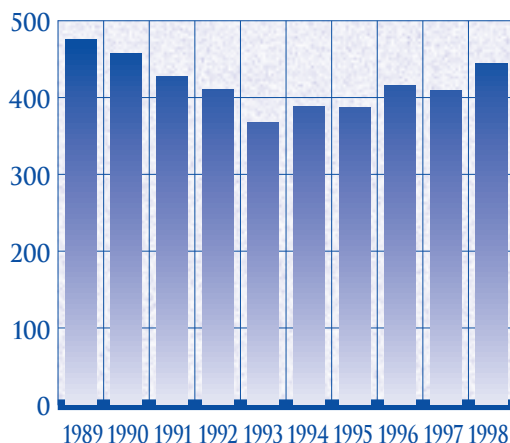
On this tenth anniversary of ELANY's existence, it is indeed appropriate to express sincere gratitude to several parties. First, we thank the industry leaders, and both PIWA and IBA for having the foresight to understand the positive effect creating an organization like ELANY could have on the industry; and second, the members of the Board and staff of ELANY, past and present, who collectively are responsible for ELANY's contributions to the marketplace.

As ELANY begins its second decade of service to its members, it remains truly committed to its charge to facilitate and encourage compliance with the law. ELANY's legislative and regulatory agenda, its educational programs and all other services will focus on and foster, wherever possible, simplification, streamlining and creating an efficient compliance system. ■

### POLICIES & ENDORSEMENTS PROCESSED



### TOTAL PREMIUMS (IN MILLIONS)



# Information Resources & Security

MARGARET M. BEIRNE

*Chairman*

It can be said that 1998 was anything but a dull year for the insurance industry. Consolidation, catastrophes and price cutting were dominant themes. It has been reported that, globally, more than 300 mergers had been announced or completed by the end of the third quarter. While consolidation decreased the overall number of insurance companies, ELANY's list of companies eligible to write surplus lines business in New York increased to 122 (74 foreign/48 alien) from 119 (69 foreign/50 alien) in 1997.



Defying all logic, price cutting did not diminish throughout the year. Excess capacity and increasing use of alternative markets have prolonged the soft market and have now encouraged the spread of rate reductions into the personal lines segment. Several carriers have recently announced they will forego writing certain classes of business unless it is adequately priced. A. M. Best reports the property/casualty insurance industry's net income fell 16% in 1998, and total return on equity was 12.7%, down from 23.3% in 1997. Lack of premium growth combined with widely fluctuating and/or diminished investment returns will continue to put pressure on a number of carriers. Deregulation is beginning to intensify as more states sign legislation exempting carriers from rate and form filings for commercial insureds. Increased competition from the admitted market will put further pressure on pricing. Despite the overall lack of premium growth in the industry, ELANY's premium volume increased 8.5% in 1998, after a modest decline of 2.5% in 1997.

Increased catastrophe losses, costs associated with systems upgrades, and the emergence of adverse development in commercial lines, all contributed to an increase in the industry's combined ratio for 1998 to 105.6, compared with 101.6 for 1997. The increased underwriting losses combined with lower investment income and capital gains, will force a number of companies to merge or face regulatory action.

The Information Resource & Security Committee is responsible for screening all new applicants, in addition to monitoring the financial strength and viability of those companies currently on the Insurer Data File eligibility list. ELANY places great emphasis on this responsibility as insureds covered under policies issued by surplus lines carriers do not have access to any guaranty fund protection. In this endeavor, the Committee benefits from the expertise of ELANY's staff, who coordinate their efforts with the New York State Insurance Department.

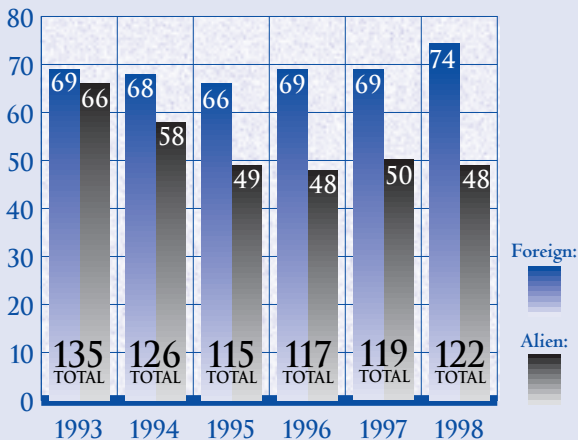
paper flow from breaking down under the weight of the tens of thousands of transactions processed every year. This past year, the staff of ELANY processed over 66,000 transactions. ELANY's personnel should be congratulated on the fine effort that they have put forth. ELANY's ability to retain and attract qualified staff has been hampered by a robust economy with nearly full employment. Nevertheless, management has taken steps to insure a stable and efficient work force for the future.

The efficiency of the E&S broker has a direct bearing on the ability of ELANY to do its job. Incomplete or erroneous paperwork results in a slowdown in processing all documents. This problem came to a head in 1998. Largely as a result of the lack of attention to details by some E&S brokers, ELANY requested, and received approval for a late and erroneous filing fee, as an alternative to the insurance department's indication that it intended to institute disciplinary proceedings against members. Although these fees will discourage some of the offenders, others may look at the fees as just another cost of doing business. Those who do not file properly completed paperwork on time are subject not only to the late fee but also to additional penalties imposed by the State of New York Insurance Department, including fines and possible loss of license. In an effort to assist the E&S broker in his or her duty to comply with the law, ELANY recently issued a "How To Guide" for the preparation of affidavits. As a membership organization, ELANY will strive to find positive approaches to encourage compliance.

Finally, ELANY also is researching state-of-the-art computer systems to further refine all operations.

The members of the Board of Directors and staff of ELANY are always available to the E&S community to answer questions or provide assistance. ■

## ACTIVE UNAUTHORIZED INSURERS



In the 1998 policy year, 293.6 million (64.2%) in premium was placed with foreign insurers and \$163.4 million (35.8%) in premium was placed with alien insurers.

While the work of the Committee continues to serve ELANY, its members and the State, it is important to note that this oversight process is intended as a complement, not a substitute, for the due diligence of each broker. ■

## Industry Liaison Legislation & Regulation

GUY MIGLIACCIO

Chairman

Commercial lines insurance deregulation took center stage and became a dominant legislative issue in 1998. Arizona and New Hampshire passed commercial lines deregulation laws in 1998, and Georgia adopted certain deregulation provisions under the authority of the insurance commissioner. Arkansas became the first state to enact a major commercial lines deregulation law in 1999, exempting most property/casualty coverage from rate-filling requirements and freeing "large commercial risks" from form-filing rules.

The thrust of commercial lines deregulation is to exempt certain insurance transactions involving sophisticated buyers from regulatory constraints which impede competition and offer little value to the sophisticated purchaser. Deregulation for sophisticated, well-capitalized insurance buyers, is designed to allow the purchaser freedom of choice in the selection of insurers, and to allow regulated licensed or surplus line insurers to compete with alternative, unregulated, off-shore markets.

In New York State, ELANY is vigorously pursuing commercial lines deregulation as part of its legislative agenda. The fundamental goal is to incorporate in any New York commercial lines deregulation bill, a waiver of the declinations requirement for excess line brokers when placing insurance for certain sophisticated commercial purchasers. ELANY also has been active in trying to remove the requirement to place "hospital" risks with MMIA before accessing eligible non-admitted markets.

ELANY has made presentations advocating its legislative agenda to legislators, regulators, the governor's insurance counsel, as well as to industry trade organizations and companies, on its own and along with PIWA representatives, with whom ELANY is working closely.

ELANY's first goal has been bolstered recently by the inclusion of the waiver of declinations in a model deregulation bill adopted by the National Conference of Insurance Legislators and by having obtained the support

of a coalition of national and state trade associations and companies to include the declinations waiver in New York's proposed deregulation legislation. We will keep you informed as the legislative session progresses.

ELANY continues to work at both the state and national levels to improve the business environment for transacting insurance in our state. Our members can be assured that we are passionate about continuing New York's leadership position in the global insurance industry. ■

## Finance

LES ROSS

Chairman

The 1998 year of operation saw net premiums grow 8.5%

to \$443,800,000 with commensurate growth in stamping fees to \$1,775,269. The number of documents processed remain virtually flat, at 66,558.

Total revenues were up 6.3% to \$1,849,720, while total expenses decreased 12.5% to \$1,679,380 (the latter due primarily to reductions in employee costs resulting from staff turnover and certain efficiencies initiated by the Executive Director).

The result was an increase in the Fund Balance of \$166,812 to a total of \$1,358,045.

### 1998 REVENUES

Stamping Fees.....	\$1,775,269
Other Income.....	10,700
Interest & Gains on Investments.....	63,751
<b>TOTAL.....</b>	<b>\$1,849,720</b>

### 1998 EXPENSES

Payroll.....	\$785,630
Computer Charges.....	21,859
Rent & Utilities.....	147,867
Professional Fees.....	116,867
Postage/Printing/Stationery.....	106,023
All Other.....	501,134
<b>TOTAL.....</b>	<b>\$1,679,380</b>

**FUND BALANCE ..... \$1,358,045**

The annual independent audit of the Association's books and records has been completed and copies are available at the ELANY offices for members to review. ■



# STATISTICS '98

## E & S TAX

Total excess line taxes (based on a 3.6% rate) paid to the State on business placed through licensed excess line brokers follows:

1998	\$16,452,984
1997	\$14,705,600
1996	\$14,976,689
1995	\$13,915,443
1994	\$13,960,157

## TOP 10 INSURERS

INSURER	NEW YORK PREMIUM
1. Lloyd's of London . . . . .	\$129,787,192
2. Lexington Insurance Co. . . . .	35,631,155
3. Steadfast Insurance Co. . . . .	22,677,221
4. Columbia Casualty . . . . .	19,008,586
5. American International Specialty Lines . . . . .	18,974,335
6. Reliance Insurance Company of Illinois . . . . .	18,587,235
7. General Star Indemnity Co. . . . .	17,219,513
8. Chubb Custom Insurance Co. . . . .	14,488,492
9. U.S. Underwriters Insurance Co. . . . .	13,938,342
10. Scottsdale Insurance Company . . . . .	10,248,111
<b>TOTAL:</b> . . . . .	<b>\$300,560,182*</b>

\* 1998 risk attaching basis

The top 10 insurers accounted for 65.8% of total premiums written in 1998, compared to 63.9% in 1997, 63.3% in 1996 and 66.2% of total premiums in 1995.

## TOP 10 PERILS

The top 10 Perils written in 1998 were:

1. Errors & Omissions . . . . .	\$191,171,883 (1)*
2. General Liability . . . . .	86,367,254 (2)
3. Multiple Peril . . . . .	37,978,822 (3)
4. Inland Marine . . . . .	31,242,819 (4)
5. Fidelity & Surety . . . . .	21,144,815 (-)
6. All Risk . . . . .	21,049,817 (5)
7. Auto Physical Damage . . . . .	13,488,970 (6)
8. Additional Property Coverage . . . . .	11,280,079 (8)
9. Miscellaneous Professional . . . . .	9,152,443 (7)
10. Umbrella Liability . . . . .	7,214,883 (9)
<b>SUBTOTAL:</b> . . . . .	<b>\$430,091,785</b>
All Others: . . . . .	\$26,935,536
<b>TOTAL:</b> . . . . .	<b>\$457,027,321**</b>

\* Indicates 1997 ranking.

\*\* 1998 risk attaching basis

## ELANY ACTIVE MEMBERS

ELANY had 325 active licensees submitting business in 1998.

## PURCHASING GROUP ACTIVITY

Of the \$457 million\* in premiums written and reported to ELANY, \$6.9 million of written premium was attributable to purchasing groups. Past years' premiums attributable to purchasing groups were as follows:

1997	\$4,700,000
1996	\$ 85,000
1995	\$4,800,000
1994	\$7,900,000

\* 1998 risk attaching basis

*"As ELANY begins its second decade of service to its members, it remains truly committed to its charge to facilitate and encourage compliance with the law...and foster, whenever possible, simplification, streamlining and creating an efficient compliancy system."*

DANIEL F. MAHER, JR.

*ELANY Executive Director*

## EXCESS LINE ASSOCIATION STAFF

- Daniel F. Maher, Jr., *Executive Director*
- Theresa Hetherington, *Stamping Office Manager*
- Nancy Born, *Office Manager*
- Rosabel Allende, *Examiner*
- Carmen Allende, *Examiner*
- Lorraine Canny, *Examiner*
- Timothy Croft, *Mail Clerk*
- Maria Lilia Fajardo, *Data Entry Operator/Coder*
- Noreen Hansen, *Examiner*
- Djenaba McCullough, *Examiner*
- Lillian Muniz, *Data Entry Operator/Coder*
- Carlos Padilla, *Coder*
- Erna Perz, *Senior Coder*
- Beth Pfluger, *Examiner*
- Dana Rathje, *Examiner*
- Theresa Ryan, *Examiner*
- Elena Turano, *Receptionist/Coder*
- Linda Vizzotti, *Executive Secretary.*
- Marshall Pinnix, *Consulting Financial Analyst*

ELANY

# BOARD OF DIRECTORS

LEE A. ORABONA

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New Century Global Inc.

GUY R. MIGLIACCIO

*Vice Chairman*

Seabury & Smith, Inc.

LES ROSS

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Tri-City Insurance Brokers, Inc.

JOHN A. BUCKLEY

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KURT C. BINGEMAN, CPCU

Russell Bond & Co., Inc.

GARRY F. HUMPHREY

Uni-Service Excess Facilities, Inc.

DAVID ISENBERG

DC White Agency

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ROBERT SHAPIRO

*Immediate Past Chairman*

Global Facilities, Inc.

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JAY B. MARTIN, ESQ.

*Association Counsel*

LeBoeuf, Lamb, Greene & MacRae

JOHN MCPARLAND, CPA

*Independent Accountant*

Edward Isaacs & Company



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