

# Annual Report

## 1999



*Excess Line Association of New York*



# Chairman's Report



Lee A. Orabona

As I conclude my term as Chairman of the Excess Line Association, I am pleased to report that the association remains in excellent shape to service its members. Much has been accomplished legislatively. Our committee chairmen and the entire Board continue to work on issues which will enable this

association to serve its members and the industry well.

As the new millennium begins, many interesting challenges are presented to the industry. Today, blending the Internet into our customer service and marketing operations has become attainable with the passage of electronic signature legislation. I'm confident that interacting with ELANY and the entire compliance process will become more efficient as the association reengineers its systems to embrace this new technology.

In 1999, ELANY processed 80,000-plus transactions, 22% more than prior years and all the signs are pointing to a return to the non-admitted market place. Look around you and you will see signs of change. Several admitted and non-admitted carrier ratings were downgraded. Insurers are either forcing price increases or at least in some instances walking away from the business. Solvency security and review in this market are beginning to take center stage. Perhaps this is long overdue. Companies are eliminating or modifying their approach to various classes of business. Contractors,

nursing homes, school boards and workers compensation are taking a severe turn. While workers compensation is probably the most statistically sound class of business, carriers have found ways to reduce premium through managed care credits and various other techniques, however, such actions have not reduced claims as expected. The market is turning and it is incumbent upon the industry to avoid repeating the missteps of prior market cycles, which pushed large volumes of business to the alternative market and generally alienated large market segments.

I would be remiss if I did not mention the recent news of the passing of Cindy Failey, which has affected all who knew her. Her work and dedication helped ELANY function well from the association's beginning. Those who came in contact with her always felt her warmth and her desire to serve. She will be missed.

As my term as Chairman comes to an end, I will remain active in ELANY and encourage anyone who has a desire to serve and help in planning the future

direction of our industry to get involved in your local or national associations. The industry needs talented people to continue to be involved in shaping the future through association participation. We should be proud of our industry and encourage young people to consider the insurance

industry as a possible career choice. Working to bring new talent into the industry and encouraging talented people to participate in the good works of the various industry associations such as ELANY have been rewarding personal experiences.

I look forward to the future with these thoughts in mind. ●

*"In 1999, ELANY processed 80,000-plus transactions, 22% more than prior years and all the signs are pointing to a return to the non-admitted marketplace."*

# Executive Director's Report

"Smooth" is a word which aptly describes ELANY's calendar year 1999.

Personnel turnover during 1998 was addressed early in 1999. After a functional analysis, ELANY organized, hired, trained and then delegated work to new staff accordingly. The ultimate result of ELANY's efforts was a return to its 48-hour turnaround goal while concomitantly processing a record 80,000-plus documents, 22% more than in any other year of operation. Moreover, the so-called year 2000 glitch was avoided by early corrective action.

The substantial increase in transactions did not



Daniel F. Mabey, Jr.

standpoint, several projects discussed in ELANY's 1998 Annual Report have come to fruition. New York enacted legislation in 1999 to legalize electronic signatures. This is one spoke in the wheel of ELANY's plan to establish an electronic document filing platform for its members. On the federal level, financial services modernization legislation was passed, now known as the Gramm-Leach-Bliley Act. While its reach will be pervasive, the immediate effect on licensed insurance producers, including excess line brokers, is to force states to ease nonresident licensing laws by creating

reciprocity or uniformity. Failing this, the federal law will preempt state law on producer licensing. This has created a great impetus among the states and boosts ELANY's year 2000 effort promoting the creation of reciprocal nonresident excess line licenses to ease the burdens on our members attempting to do business in states other than New York.

Other ELANY legislative initiatives in 1999 included a proposal to incorporate automatic export or waiver of declinations for exempt commercial purchasers in any deregulation legislation enacted. ELANY also proposed eliminating the forced use of New York's residual market, Medical Malpractice Insurance Association (MMIA), which prevents the voluntary use of the excess line market for primary medical malpractice insurance.

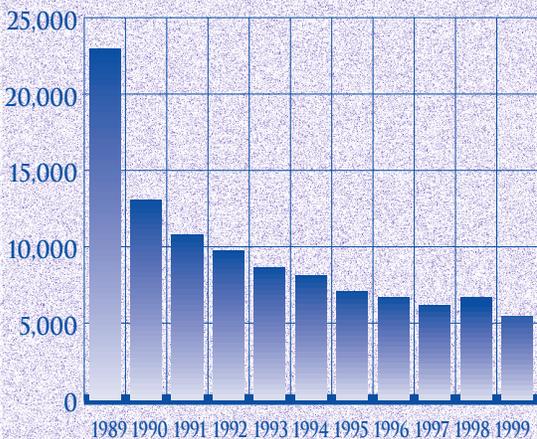
While the Senate passed the Governor's program deregulation bill which included automatic export, the bill was not voted on by the Assembly. The bill has been carried over to the year 2000 legislative session; however, it remains to be seen whether the Assembly and Senate will mutually agree on a deregulation bill.

As to the MMIA, ELANY's legislative effort was mooted when the Governor and the legislature passed a budget bill which included the mandate to dissolve MMIA. Whether excess line brokers will now be free to place medical malpractice insurance without a residual market declination is an open question, the answer to which ELANY is pursuing.

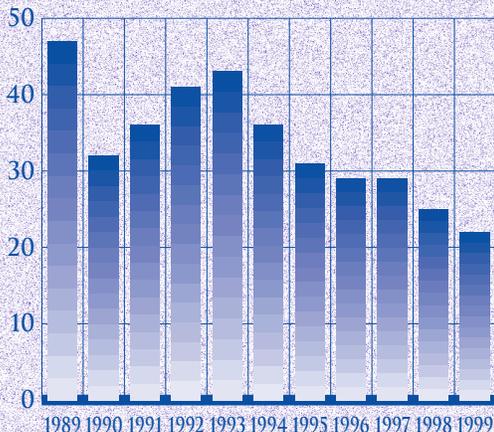
ELANY's staff and its Board of Directors continue to commit substantial time, energy and resources to improving the methods, systems and requirements to help the E&S marketplace prosper. In this regard, Nancy Born and Theresa Hetherington

*continued on page 4*

PREMIUMS PER STAMPED INSURANCE DOCUMENT



COST PER STAMPED ITEM



overtax ELANY operationally or financially. While there was virtually no growth in premium, which translated into the lowest premium per transaction rate in eleven years of operation, ELANY met this challenge by reducing the cost to process a transaction to its lowest rate in history. ELANY is a not-for-profit association, where profit is not an operational goal. Nevertheless, ELANY has been able to add revenues in excess of expenses to its fund balance in both 1998 and 1999. An adequate fund balance adds stability and flexibility to ELANY's list of strengths. Pretty smooth.

From a legislative and regulatory



“From a legislative and regulatory standpoint, several projects...have come to fruition. New York enacted legislation in 1999 to legalize electronic signatures...On the federal level, financial services modernization legislation was passed...”

— ANIEL F. MAHER, JR.

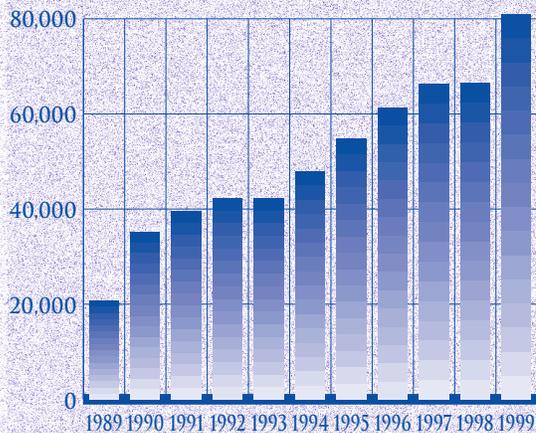
EXECUTIVE DIRECTOR'S REPORT *continued from page 3*

should be commended for their efforts as the senior managers keeping ELANY humming.

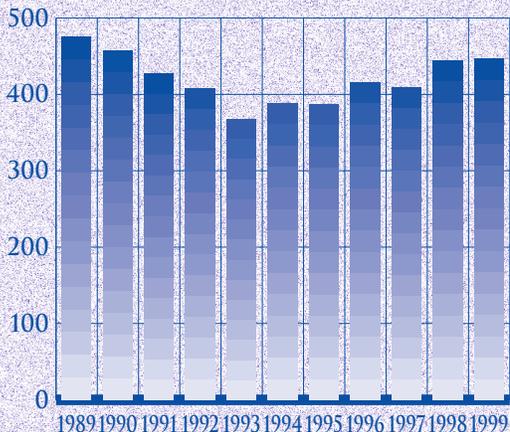
ELANY continues to focus on its core goals of facilitating and encouraging compliance. Through educational programs and

publications, ELANY continues to reach out to its members and their producing brokers with information to ease the compliance burden. Likewise, the association is working with the insurance department to streamline documentation and reporting requirements, while simultaneously acting as the architect of new software which will form the foundation of ELANY's electronic submission system. ●

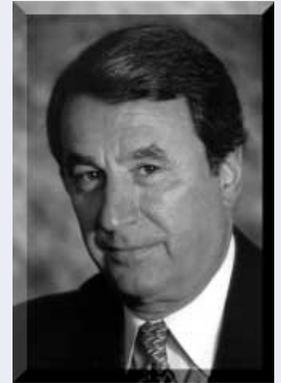
POLICIES & ENDORSEMENTS PROCESSED



TOTAL PREMIUMS (IN MILLIONS)



INDUSTRY LIAISON, LEGISLATION & REGULATION



Guy Migliaccio, Chairman

In 1999, ELANY's Industry Liaison, Legislative and Regulatory Committee has been proactive in a number of areas.

Circular Letter 22 (Contingent commissions):

ELANY has been part of a coalition of trade associations which are maintaining a dialogue with the New York Insurance Department on this issue. The goal of this loose coalition is to achieve a modification or at least clarification of the scope of the circular letter.

**Commercial Deregulation:** The 1999 bill, which would achieve broad rate/form deregulation in the commercial market, passed in the Senate but stalled in the Assembly. There are limited ideological differences remaining. Our best hope is that a compromise is reached before the end of the session. ELANY has actively promoted and was successful in adding automatic export to the Senate bill.

**Privacy Protection:** Superintendent Levin has announced that his department will promulgate regulations to implement the privacy protection mandate of the Gramm-Leach-Bliley Act. All brokers will need to review the regulations carefully as they may impact our handling of certain client information.

NAIC

On the NAIC front, the Insurance Fraud Task Force is in the early stages of drafting a model law on Agents Trust Accounts. This is the first incursion by the NAIC into the sensitive area of fiduciary funds investment and management. The first draft contained a provision which would require the maintenance of funds in an account physically located in each state where the broker does business. ELANY will work with other trade associations toward achieving a reasonable model.

Also, the NAIC is actively promoting the modification of licensing laws and other impediments to the interstate transaction of insurance. These laws affect surplus lines as well as the licensed market. Dan Maher has testified before the relevant NAIC committees in

# Committee Reports

favor of requiring states to offer reciprocal nonresident surplus lines licenses in this context.

Finally, the NAIC is focusing on the implementation of the federal Violent Crime Control Act (18 U.S.C. #1033) which was enacted in 1994 but is only now getting the attention it deserves. This law makes the employment in the business of insurance of any person who was ever convicted of a state or federal felony involving a breach of trust or dishonesty, a federal violation. The regulators are focusing on the process for granting waivers to individual employees on a one-by-one basis. There is no 'grandfather' provision for old convictions or long-term employees. Insurers and intermediaries are all struggling with the issue of compliance.

In these dynamic times, changes to the laws and regulations as well as how brokers conduct their businesses are occurring rapidly. ELANY will continue to monitor, inform and work towards effective and necessary solutions for its members as these developments unfold. ●



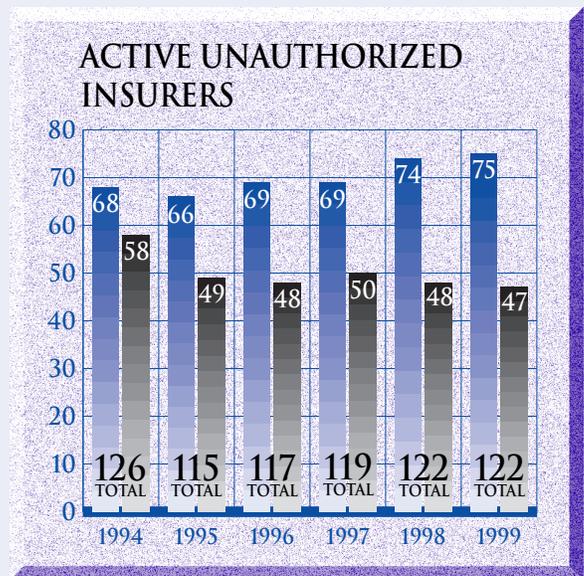
Margaret M. Beirne,  
Chairman

## INFORMATION RESOURCES & SECURITY

The surplus lines market in 1999 witnessed major legislative/regulatory changes as well as rating downgrades and solvency issues in a chronically competitive pricing environment, all of which have raised the level of financial scrutiny in the property/casualty marketplace.

Passage of the Financial Services Modernization Act will change the complexion of the industry as banks acquire or merge with insurance companies and vice versa. The "FSMA" will bring about changes in distribution and will present opportunities for some companies and obstacles for other companies. The question of state versus federal insurance regulation has yet to be fully determined.

Commercial lines deregulation is gathering momentum. To date, approximately 15 states have passed laws which enable admitted carriers to provide coverage

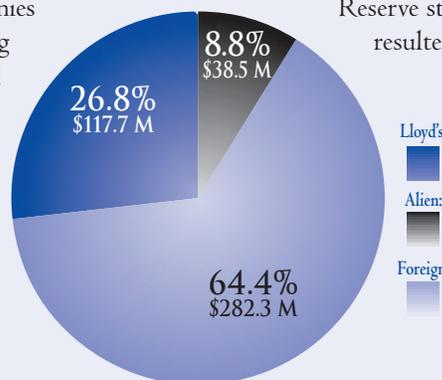


without rate and form filing for large, commercial insureds. Several states have legislation pending. The growth of the alternative market has siphoned business from both the admitted and non-admitted market. Consolidation and the increased use of the Internet will present further challenges. Several insurance groups have announced plans to explore various strategic alternatives, which could include the sale of one or more of their group companies and/or books of business.

As insurers release 1999 results, the evident deterioration in loss reserves made the inadequate pricing levels of past years quite apparent. A. M. Best reports that premium and surplus growth were flat for the year, and the combined ratio deteriorated more than two points to 107.7% for the 1999 year. While the deterioration was across all sectors, reinsurance and commercial lines were the most affected.

Reserve strengthening in commercial lines resulted in a combined ratio of 109.6%

for the year compared with 107.5% for the prior year. Signs of rate increases have started to appear, but whether these increases will be sufficient to show improvement in the year 2000 underwriting results remains an open question. Rating agencies have



PERCENTAGE OF PREMIUM BY  
ACTIVE UNAUTHORIZED INSURERS

continued on page 6

**INFORMATION  
RESOURCES  
& SECURITY** *continued from page 5*

responded with downgrades on a number of companies and have a negative outlook for the industry at large.

ELANY's list of companies eligible to write surplus lines business in New York remained at 122 in 1999, despite the withdrawal of six companies. The breakdown is currently 75 foreign and 47 alien companies, compared with 74 foreign and 48 alien companies last year. 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. The Committee benefits from various resources including staff expertise, member feedback, as well as assistance from and coordination with New York insurance department personnel. 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. ●



*Dave Isenberg,  
Chairman*

**OPERATIONS &  
PROCEDURE**

The Operations Committee proactively addressed several important issues in 1999. The potential year 2000 computer issue was put to rest with programming changes. The association met its 48-hour turnaround goal in the second quarter of 1999 and maintained it throughout the rest of the year, notwithstanding a record high number of transactions processed.

In 1999, ELANY drafted, printed and distributed specific "How to prepare affidavit" instructions to its members. The instructions, combined with the late and erroneous stamping fees, have led to a definitive improvement in the quality and timeliness of filings. While further improvement can and should be made, late and erroneous filings have materially decreased.

ELANY worked in 1999 to simplify the amount of information required in each affidavit. Progress has been made in this endeavor due in large part to the insurance department's cooperation. Ultimately, changes will be made to streamline the affidavit.

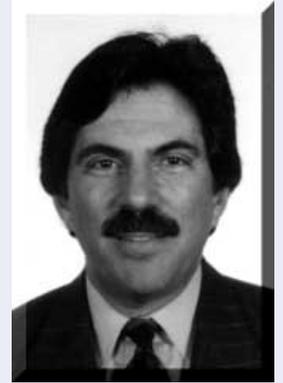
Part and parcel to streamlining the affidavit, ELANY and its Operations Committee has been working to develop a system to allow members to file with ELANY electronically. Progress has been made especially with New York's adoption of electronic signature legislation. While legal and mechanical barriers remain to creating and implementing such a system, the creation of such a system is one of ELANY's greatest priorities. ●

**FINANCE**

The 1999 year of operation saw the processing of a record 80,982 documents with a virtually flat premium volume of \$447,300,000. These figures represent increases over 1998 results of approximately 22% and 1%, respectively. There was a commensurate 1% growth in stamping fees to \$1,789,337.

Total revenues were up 5% to \$1,939,817, while total expenses increased approximately 6% to \$1,788,748. In regard to the latter, additional expenses were mainly incurred due to year 2000 programming changes.

Finally, it should be noted that in spite of the challenges presented by the increase in processed documents, ELANY was able to keep the cost per stamped document down to \$22.10, while building the Fund Balance by \$151,000 to \$1,509,114.



*Les Ross,  
Chairman*

**1999 REVENUES**

Stamping Fees.....	\$1,789,337
Investment & Miscellaneous Income .....	150,480
<b>TOTAL.....</b>	<b>\$1,939,817</b>

**1999 EXPENSES**

Payroll .....	759,788
Computer Charges.....	45,409
Rent & Utilities .....	146,645
Professional Fees .....	180,176
Postage/Printing/Stationery.....	112,521
All Other .....	544,209
<b>TOTAL.....</b>	<b>\$1,788,748</b>

**FUND BALANCE ..... \$1,509,114**

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. ●



# 1999 Statistics\*

\*The following statistics are on a 1999 risk attaching basis.

## TOP 10 INSURERS

INSURER	NEW YORK PREMIUM	%
1. Lloyd's of London	\$ 117,661,053	42%
2. Lexington Insurance Company	\$ 34,344,924	12%
3. Executive Risk Specialty Insurance Company	\$ 19,690,889	7%
4. American International Specialty Lines Insurance Company	\$ 18,419,975	7%
5. Agricultural Excess & Surplus Insurance Company	\$ 17,195,159	6%
6. Steadfast Insurance Company	\$ 15,226,635	5.5%
7. U.S. Underwriters Insurance Company	\$ 15,200,525	5.5%
8. General Star Indemnity Company	\$ 13,662,580	5%
9. CGU International	\$ 13,480,408	5%
10. Reliance Insurance Company of Illinois	\$ 13,016,121	5%
<b>TOTAL</b>	<b>\$ 277,898,269</b>	<b>100%</b>

The top 10 insurers accounted for 63.4% of total premiums written in 1999, compared to 65.8% in 1998, 63.9% in 1997, and 63.3% in 1996. ●

## PURCHASING GROUP ACTIVITY

Of the \$438 million in premiums written and reported to ELANY, \$7.3 million of written premium was attributable to purchasing groups. Past years' premiums attributable to purchasing groups were as follows:

1999 . . . \$ 7,289,724	1996 . . . \$ 85,000
1998 . . . \$ 6,886,396	1995 . . . \$ 4,800,000
1997 . . . \$ 4,700,000	●

## ELANY ACTIVE MEMBERS

ELANY had 336 active licensees submit business in 1999. ●

## TOP 10 PERILS

PERIL	NEW YORK PREMIUM	1998 RANKING
1. Errors and Omissions	\$ 163,054,033	1
2. General Liability	\$ 95,729,779	2
3. Multiple Peril	\$ 45,718,844	3
4. Inland Marine	\$ 26,541,609	4
5. All Risk	\$ 15,958,662	6
6. Additional Property Coverage	\$ 14,307,591	8
7. Auto Physical Damage	\$ 13,571,974	7
8. Residual Value	\$ 13,097,370	—
9. Miscellaneous Professional	\$ 10,585,948	9
10. Medical Malpractice (Excess)	\$ 7,588,999	—
<b>SUBTOTAL</b>	<b>\$ 406,154,809</b>	
All Others	\$ 32,301,840	
<b>TOTAL</b>	<b>\$ 438,456,649</b>	

## 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:

1999 . . . \$15,784,439	1996 . . . \$14,976,689
1998 . . . \$16,452,984	1995 . . . \$13,915,443
1997 . . . \$14,705,600	●

## 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, *Executive Secretary*

Lorraine Chin, *Coder/Data Entry Operator*

Maria Lilia Fajardo, *Junior Examiner*

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, *Senior Examiner*

Jose Torres, *Mail Clerk*

Elena Turano, *Reception*

Marshall Pinnix, *Consulting Financial Analyst*

# Board of Directors

LEE A. ORABONA

*Chairman*

New Century Global Inc.

GUY R. MIGLIACCIO

*Vice Chairman*

Seabury & Smith, Inc.

LES ROSS

*Treasurer*

Tri-City Insurance Brokers, Inc.

JOHN A. BUCKLEY

*Secretary*

NIF Services of New York Inc.

MARGARET M. BEIRNE

AON Group, Inc.

KURT C. BINGEMAN, CPCU

Russell Bond & Co., Inc.

GARRY F. HUMPHREY

Uni-Service Excess Facilities, Inc.

DAVID ISENBERG

DC White Agency

DONALD PRIVETT

Privett Special Risk Services, LLC

ROBERT SHAPIRO

*Immediate Past Chairman*

Global Facilities, Inc.

JAY B. MARTIN, ESQ.

*Association Counsel*

LeBoeuf, Lamb, Greene & MacRae

JOHN MCPARLAND, CPA

*Independent Accountant*

Edward Isaacs & Company

*Excess Line Association of New York*

80 Maiden Lane, 22nd Floor, New York, New York 10038

Tel: 212-425-1022 800-435-4352 Fax: 212-425-1736

E-mail: [elany@concentric.net](mailto:elany@concentric.net) Web site: [www.elany.org](http://www.elany.org)

