

**EXAMINATION REPORT  
OF**

**PENINSULAR SURETY COMPANY  
(N.K.A. NATIONAL BAIL AND SURETY COMPANY)**

**Miami, Florida  
as of  
December 31, 2015**

**BY THE  
FLORIDA OFFICE OF INSURANCE REGULATION**

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October 14, 2016

David Altmaier  
Commissioner  
Office of Insurance Regulation  
State of Florida  
Tallahassee, Florida 32399-0326

Dear Sir:

Pursuant to your instructions, in compliance with Section 624.316, Florida Statutes, Rule 69O-138.005, Florida Administrative Code, and in accordance with the practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC), we have conducted an examination as of December 31, 2015, of the financial condition and corporate affairs of

**Peninsular Surety Company**  
**(N.K.A. National Bail and Surety Company)**  
7005 NW 41<sup>st</sup> Street  
Miami, Florida 33166

hereinafter referred to as the "Company." Such report of examination is herewith respectfully submitted.

## **SCOPE OF EXAMINATION**

This examination covered the period of January 1, 2011, through December 31, 2015. The Company was last examined by representatives of the Florida Office of Insurance Regulation (Office) covering the period of January 1, 2010, through December 31, 2010. This examination commenced with planning at the Office on April 20, 2016, to April 22, 2016. The fieldwork commenced on April 25, 2016, and concluded as of October 5, 2016.

The examination was a single state examination conducted in accordance with the NAIC Financial Condition Examiners Handbook. The Handbook requires that the examination be planned and performed to evaluate the financial condition, assess corporate governance, identify current and prospective risks of the Company and evaluate system controls and procedures used to mitigate those risks. An examination also includes identifying and evaluating significant risks that could cause an insurer's surplus to be materially misstated both currently and prospectively.

All accounts and activities of the Company were considered in accordance with the risk-focused examination process. This may include assessing significant estimates made by management and evaluating management's compliance with Statements of Statutory Accounting Principles (SSAP).

This examination report includes significant findings of fact, as mentioned in Section 624.319, Florida Statutes and general information about the insurer and its financial condition. There may be other items identified during the examination that, due to their nature (for example, subjective conclusions and proprietary information), are not included within the examination report but separately communicated to other regulators and/or the Company.

## **SUMMARY OF SIGNIFICANT FINDINGS**

### **Current Examination Findings**

The following is a summary of material adverse findings, significant noncompliance findings or material changes in the financial statements.

### **Changes in Management**

In accordance with Section 628.261, Florida Statutes, the Company is to notify the Office of all changes amongst principal management and directors within forty-five (45) days of such change. Based upon review of quarterly and annual Jurat pages submitted by the Company

during the examination period, it was noted that the Office was not notified of the removal of two officers, and the addition of another officer.

### **Corporate Records**

The Company did not keep as permanent records the minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the Company. Therefore, the Company was not in compliance with Section 607.1601, Florida Statutes.

### **Directors**

It was found during the examination that the Company did not elect its directors at the annual meeting of the stockholders, thus the Company was not in compliance with Section 628.231, Florida Statutes.

### **Prior Examination Findings**

The following is a summary of material adverse findings, significant noncompliance findings or material changes in the financial statements in the Office's prior examination report as of December 31, 2010, along with resulting action taken by the Company in connection therewith.

### **Accounts and Records**

During the examination review of 2010 premiums, the examiner noted a total of fifteen (15) insureds who had surety bonds issued that exceeded the limitations imposed by Section 624.609, Florida Statutes.

**Resolution:** The Company incorporated procedures to ensure that bonds are not written which exceed limitations imposed by Section 624.609, Florida Statutes.

### **Managing General Agent Agreements**

Upon review of the Company's two Managing General Agency (MGA) agreements of 2010, it was noted that certain content of mandatory provisions, specifically those of subsections 4, 5 and 6 of Section 626.7451, Florida Statutes, were omitted.

**Resolution:** The Company amended the MGA agreements to comply with the requirements set forth in Section 626.7451, Florida Statutes. Subsequently, the Company terminated the two (2) MGA agreements that previously had omitted the mandatory provisions.

## **COMPANY HISTORY**

### **General**

The Company was incorporated in Florida on March 7, 2007, and commenced business on April 15, 2008, as Peninsular Surety Company.

The Company was party to two Consent Orders regarding the application for the issuance of a Certificate of Authority, 89163-07-CO and 91247-07-CO. The Company was in compliance with each of these two Consent Orders as of December 31, 2010.

The Company was authorized to transact insurance coverage in Florida on August 16, 2007, and is currently authorized for the following coverage as of December 31, 2015:

#### **Bail Bonds**

The Company commenced writing business midway through 2008, but has been in runoff since 2013. On October 1, 2012, the Company was acquired by Lexon Insurance Company, a Florida admitted, Texas domiciled property and casualty insurer. The Company's current runoff position came about after Ironshore Surety Holdings Inc. acquired Lexon Insurance Company and moved to exit from the bail bond business.

The Articles of Incorporation and the Bylaws were not amended during the period covered by this examination.

### **Dividends**

The Company did not declare or pay any dividends during the period of this examination.

### **Capital Stock and Capital Contributions**

As of December 31, 2015, the Company's capitalization was as follows:

Number of authorized common capital shares	25,000
Number of shares issued and outstanding	25,000
Total common capital stock	\$2,500,000
Par value per share	\$100.00

Additionally, as of December 31, 2015, the Company had a total of \$100,000 of gross paid in and contributed surplus.

## **Surplus Notes**

The Company did not have any surplus notes during the period of this examination.

## **Acquisitions, Mergers, Disposals, Dissolutions and Purchase or Sales through Reinsurance**

On October 1, 2012, the Company was acquired by Lexon Insurance Company, a Florida admitted, Texas domiciled property and casualty insurer. The Company had no mergers, disposals, dissolutions and purchase or sales through reinsurance during the period of this examination.

## **CORPORATE RECORDS**

The recorded minutes of the shareholders' Board of Directors (Board) and certain internal committees were reviewed for the period under examination. The recorded minutes of the Board adequately documented a majority of its meetings and approval of Company transactions and events, in compliance with the NAIC Financial Condition Examiners Handbook adopted by Rule 69O-138.001, Florida Administrative Code, including the authorization of investments as required by Section 625.304, Florida Statutes. However, the company was not in accordance with Section 607.1601, Florida Statutes, the Company did not keep as permanent records minutes of all meetings of its shareholders and board, a record of all actions taken by the shareholders or board without a meeting, and a record of all actions taken by a committee of the board in place of the board on behalf of the Company.

In accordance with Section 628.261, Florida Statutes, the Company is to notify the Office of all changes amongst principal management and directors within forty-five (45) days of such change. Based upon review of quarterly and annual Jurat pages submitted during the exam period, it was noted that the Office was not notified of the removal of Sarah Burt as Secretary, nor the addition of Sheri Dwyer as Assistant Treasurer, nor the addition of David E. Campbell as Chief Executive Officer.

## **Conflict of Interest**

The Company adopted a policy statement requiring periodic disclosure of conflicts of interest in accordance with the NAIC Financial Condition Examiners Handbook adopted by Rule 69O-138.001, Florida Administrative Code.



## MANAGEMENT AND CONTROL

### Management

The annual shareholder meeting for the election of directors was held in accordance with Section 628.231, Florida Statutes. Directors serving as of December 31, 2015, are shown below.

### Directors

Name and Location	Principal Occupation
Thomas Anthony Dieruf Louisville, Kentucky	Chairman of the Board Peninsular Surety Company (N.K.A National Bail and Surety Company)  Lexon Insurance Company Bond Safeguard Insurance Company
John Francis Troy Naples, Florida	President Peninsular Surety Company (N.K.A. National Bail and Surety Company)
Philip Gregory Lauer Louisville, Kentucky	Vice President, Chief Financial Officer, Secretary, Treasurer Peninsular Surety Company (N.K.A. National Bail and Surety Company)
David Edward Campbell Old Hickory, Tennessee	President, Chief Executive Officer Lexon Insurance Company President Bond Safeguard Insurance Company  Chief Executive Officer Peninsular Surety Company (N.K.A. National Bail and Surety Company)
Andrew Gibson Smith Mt. Juliet, Tennessee	Assistant Secretary, Director of Compliance Lexon Insurance Company Bond Safeguard Insurance Company

In accordance with the Company's bylaws, the Board appointed the following senior officers:

### **Senior Officers**

<b>Name</b>	<b>Title</b>
John Francis Troy Naples, Florida	President
Thomas Anthony Dieruf Louisville, Kentucky	Chairman of the Board
David E. Campbell Old Hickory, Tennessee	Chief Executive Officer
Philip Gregory Lauer Louisville, Kentucky	Vice President, Chief Financial Officer Secretary, Treasurer

The Company's Board appointed several internal committees. Following were the principal internal board committees and their members as of December 31, 2015:

### **Audit Committee**

Thomas A. Dieruf Louisville, Kentucky	Chairman of the Board
Philip Gregory Lauer Louisville, Kentucky	Chief Financial Officer
Andrew Gibson Smith Nashville, Tennessee	Director of Compliance

### **IS & Steering Committee**

Thomas A. Dieruf Louisville, Kentucky	Chairman of the Board
David E. Campbell Nashville, Tennessee	President, and Chief Executive Officer Lexon Lexon
Philip Gregory Lauer Louisville, Kentucky	Chief Financial Officer

### **Investment Committee**

Thomas A. Dieruf  
Louisville, Kentucky

Chairman of the Board

David E. Campbell  
Nashville, Tennessee

President and Chief Executive Officer  
Lexon

Philip Gregory Lauer  
Louisville, Kentucky

Chief Financial Officer

Rose Culbertson  
Nashville, Tennessee

Chief Information Officer

The Company maintained an audit committee, as required by Section 624.424(8) (c), Florida Statutes. An Anti-Fraud Committee, a combination of individuals located throughout the “Lexon” group of insurance companies and agencies, was also maintained.

### **Affiliated Companies**

The most recent holding company registration statement was filed with the Office on March 16, 2016, pursuant to Sections 628.801, Florida Statutes, and Rule 69O-143.046, Florida Administrative Code.

A simplified organization chart as of December 31, 2015, reflecting the ownership structure is shown on the following page (percentages indicated is the percentage of ownership of the lower entity shown):

**PENINSULAR SURETY COMPANY**  
**(N.K.A. NATIONAL BAIL AND SURETY COMPANY)**

**<sup>1</sup>ORGANIZATIONAL CHART**

**DECEMBER 31, 2015**



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<sup>1</sup>Additional organizational chart information on the following page.

\*The remaining ownership of Lexon Surety Group, LLC as of December 31, 2015, is as follows:

- 20.00% Ironshore Surety Holdings (a Delaware Company).
- 17.60% David Edward Campbell (an individual and director of the Company: a director and President and Chief Executive Officer of Lexon Insurance Company; and, a director and President of Bond Safeguard Insurance Company (an affiliate of Lexon Surety Group, LLC).
- 31.77% All Others – none owning 5% or more.

The following agreements were in effect between the Company and its affiliates:

### **Management and Administrative Agreement**

The Company entered into a Management and Administrative Agreement with Bond Specialists Holding Co., LLC, for management, administrative and advice services on October 1, 2012, effective upon the closing of the acquisition of the Company by Lexon Insurance Company. The agreement provides for investment management advice and services, some electronic data processing services, use of computer equipment, officer services, administrative services, personnel, and facilities. The Company agreed to pay \$40,000 monthly for these management and administrative services.

### **Expense Sharing Agreement and Tax Allocation Agreement**

The Company, along with its parent, Lexon Insurance Company, and with Surety Acquisition Corporation and Lexon Holding Company, entered into an Expense Sharing Agreement and Tax Sharing Agreement on October 1, 2012. The agreement provides for all joint expenses, such as rent, utilities, and payroll that are paid by Surety Acquisition Corporation, on a semi-monthly basis, shall be reconciled and reimbursement made to Surety Acquisition Corporation from the applicable entity. The agreement also allocates taxes as filed on a consolidated federal income tax return. On December 31, 2015, the method of allocation between the Company and the other parties to the agreement contribution to consolidated taxable income on a separate-entity basis. Each member of the group recorded an inter-company income tax receivable or payable with Surety Acquisition Corporation.

Within thirty (30) days of the remittance by Surety Acquisition Corporation of any income tax payment to the taxing authorities, all inter-company tax receivables/payables will be settled.

## **TERRITORY AND PLAN OF OPERATIONS**

The Company was authorized to transact insurance only in the State of Florida.

### **Treatment of Policyholders**

The Company established procedures for handling written complaints in accordance with Section 626.9541(1) (j), Florida Statutes.

The Company maintained a claims procedure manual that included detailed procedures for handling each type of claim in accordance with Section 626.9541(1) (i) 3.a, Florida Statutes.

## **REINSURANCE**

### **Assumed**

The Company assumed no risks through reinsurance.

### **Ceded**

The Company ceded no risks through reinsurance. However, effective November 1, 2012, the Company entered into an Excess of Loss Reinsurance Agreement with its parent company, Lexon Insurance Company (as Reinsurer), for bail and immigration bonds written directly by the Company with a bond limit in excess of \$250,000. The agreement provides for a net pro-rata liability based on the Reinsurer's retention of the total bond limit minus \$250,000 and the Company's retention of \$250,000. The agreement shall only apply to single bonds with a limit of up to and including \$2,000,000. Any bond in excess of \$2,000,000 requires submission by the Company to the Reinsurer for special acceptance approval.

The original term of this agreement was from November 1, 2012, to December 31, 2012, the agreement automatically renews for 12 month periods each subsequent January 1<sup>st</sup>, unless terminated by either party. As of the date of this examination, neither party had terminated the agreement. Further, it is noted that no business had been ceded to the Reinsurer during the period covered by this examination as the Company's business is in runoff.

## **ACCOUNTS AND RECORDS**

The Company maintained its principal operational offices in Miami, Florida.

The Company and non-affiliates had the agreements on the following page:

### **Clearing and Custodial Agreement**

The Company maintained a settlement, clearing, and custodial agreement with J. P. Morgan Clearing Corp. executed on January 7, 2013. The agreement complied with Rule 69O-143.042, Florida Administrative Code.

### **Software License and Database Agreement**

The Company utilized a nonaffiliated entity to utilize software, licensing, and database maintenance. On June 11, 2012, the Company entered into this agreement with Captria Analytical (Captria), to use Captria's software, documentation and database collected by Captria for the Company as part of its bail bond database. The agreement also covers public records applications, and TransUnion membership and services. Captria will provide automated clearing house transactions as incurred, credit card charges as incurred, and for insurance functions information gathering and use in claims investigation activities, antifraud activities, rating or underwriting. The fee for the Captria surety database is \$450 monthly plus credit requests obtained at \$3.75 per report.

### **Independent Auditor Agreement**

An independent CPA, Mountjoy Chilton Medley, LLP (CPA), audited the Company's statutory basis financial statements annually for the years 2012, 2013, 2014 and 2015, in accordance with Section 624.424(8), Florida Statutes. Supporting work papers were prepared by the CPA in accordance with Rule 69O-137.002, Florida Administrative Code. Prior statutory basis financial statement audits were conducted by the independent CPA, Thomas Howell Ferguson, LLP (CPA), for the years 2010 and 2011.

## **INFORMATION TECHNOLOGY REPORT**

Joanna Latham, AES, CISA, CPA, CFE, CRISC, IT Specialist of Jennan Enterprises, LLC, performed an evaluation of the information technology and computer systems of the Company. Results of the evaluation were noted in the Information Technology Report provided to the Company.

## STATUTORY DEPOSITS

The following securities were deposited with the State of Florida as required by Section 624.411, Florida Statutes:

State	Description	Par Value	Market Value
FL	Cash	<u>\$100,000</u>	<u>\$100,000</u>
TOTAL, FLORIDA DEPOSITS		<u>\$100,000</u>	<u>\$100,000</u>
TOTAL SPECIAL DEPOSITS		<u>\$100,000</u>	<u>\$100,000</u>

## FINANCIAL STATEMENTS

The examination does not attest to the fair presentation of the financial statements included herein. If an adjustment is identified during the course of the examination, the impact of such adjustment will be documented separately following the Company's financial statements. Financial statements, as reported and filed by the Company with the Florida Office of Insurance Regulation, are reflected on the following pages:



**Peninsular Surety Company (N.K.A. National Bail and Surety Company)**

**Assets**

**December 31, 2015**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Bonds	\$814,439		\$814,439
Cash and Short-Term Investments	1,274,876		1,274,876
Build Up Funds	97,539		97,539
Investment income due and accrued	4,702		4,702
Net deferred tax asset	48,930		48,930
Totals	<u>\$2,240,486</u>		<u>\$2,240,486</u>

**Peninsular Surety Company (N.K.A. National Bail and Surety Company)**

**Liabilities, Surplus and Other Funds**

**December 31, 2015**

	<b>Per Company</b>	<b>Examination Adjustments</b>	<b>Per Examination</b>
Losses	\$50,000		\$50,000
Other expenses	103,319		103,319
Taxes, licenses and fees	1,742		1,742
Current federal income taxes	3,361		3,361
Unearned Premiums	167		167
Amounts withheld			
Payable to parent, subsidiaries and affiliates	111		111
Aggregate write-ins for liabilities	97,539		97,539
Total Liabilities	\$256,239		\$256,239
Common capital stock	\$2,500,000		\$2,500,000
Gross paid in and contributed surplus	100,000		100,000
Unassigned funds (surplus)	(615,753)		(615,753)
Surplus as regards policyholders	\$1,984,247		\$1,984,247
Total liabilities, surplus and other funds	\$2,240,486		\$2,240,486

**Peninsular Surety Company (N.K.A. National Bail and Surety Company)**

**Statement of Income and Capital and Surplus Account**

**December 31, 2015**

**Underwriting Income**

Premiums earned	\$27,340
<b>Deductions:</b>	
Losses incurred	\$0
Loss expenses incurred	0
Other underwriting expenses incurred	(2,829)
Aggregate write-ins for underwriting deductions	0
Total underwriting deductions	<u>(\$2,829)</u>
Net underwriting gain or (loss)	\$30,169

**Investment Income**

Net investment income earned	\$14,947
Net realized capital gains or (losses)	0
Net investment gain or (loss)	<u>\$14,947</u>

**Other Income**

Net gain or (loss) from agents' or premium balances charged off	\$0
Finance and service charges not included in premiums	0
Aggregate write-ins for miscellaneous income	0
Total other income	<u>\$0</u>
Net income before dividends to policyholders and before federal & foreign income taxes	\$45,116
Dividends to policyholders	0
Net Income, after dividends to policyholders, but before federal & foreign income taxes	\$45,116
Federal & foreign income taxes	2,488
Net Income	<u><u>\$42,628</u></u>

**Capital and Surplus Account**

Surplus as regards policyholders, December 31 prior year	\$1,948,364
Net Income	\$42,628
Net unrealized capital gains or losses	0
Change in net deferred income tax	(12,539)
Change in non-admitted assets	5,790
Change in provision for reinsurance	0
Change in excess statutory over statement reserves	0
Surplus adjustments: Paid in	0
Aggregate write-ins for gains and losses in surplus	4
Examination Adjustment	0
Change in surplus as regards policyholders for the year	<u>\$35,883</u>
Surplus as regards policyholders, December 31 current year	<u><u>\$1,984,247</u></u>

**Peninsular Surety Company (N.K.A. National Bail and Surety Company)**

**Reconciliation of Capital and Surplus**

**December 31, 2015**

Surplus as regards policyholders			
December 31, 2010 per Examination			\$2,683,946
	Gain in	Loss in	
	Surplus	Surplus	
Net Income (loss)		\$737,701	
Change in net deferred income tax	\$31,214		
Change in non-admitted assets	\$6,787		
Total Gains and Losses	\$38,000	\$737,701	
Net Increase/(Decrease) in surplus as regards policyholders			(\$699,700)
Surplus as regards policyholders			
December 31, 2015 per Examination			\$1,984,246

## **COMMENTS ON FINANCIAL STATEMENTS**

### **Liabilities**

#### **Losses and Loss Adjustment Expenses**

An actuarial firm, CAI Casualty Actuaries, Inc., appointed by the Board, rendered an opinion that the amounts carried in the balance sheet as of December 31, 2015, made a reasonable provision for all unpaid loss and loss expense obligations of the Company under the terms of its policies and agreements.

The Office consulting actuary, Brent M. Sallay, FCAS, MAAA of Taylor-Walker Consulting, LLC., reviewed the loss and loss adjustment expense work papers provided by the Company and he was in concurrence with the opinion of CAI Casualty Actuaries, Inc.

#### **Capital and Surplus**

The amount of capital and surplus reported by the Company of \$1,984,247, exceeded the minimum of \$1,500,000 required by Section 624.408, Florida Statutes.

## **SUBSEQUENT EVENTS**

The Company changed its name from Peninsular Surety Company to National Bail and Surety Company on March 22, 2016. The Company additionally changed its Articles of Incorporation and By-Laws to reflect the name change.

## **SUMMARY OF RECOMMENDATIONS**

### **Changes in Management**

We recommend that the Company comply with Section 628.261, Florida Statutes, by notifying the Office of all changes amongst principal management and directors within forty-five (45) days of such change.

### **Corporate Records**

We recommend that the Company comply with Section 607.1601, Florida Statutes, and keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the Company.

### **Directors**

We recommend that the Company comply with Section 628.231, Florida Statutes, and elect its directors at the annual meeting of the stockholders.

## CONCLUSION

The insurance examination practices and procedures as promulgated by the NAIC have been followed in ascertaining the financial condition of **Peninsular Surety Company (N.K.A. National Bail and Surety Company)** as of December 31, 2015, consistent with the insurance laws of the State of Florida.

Per examination findings, the Company's surplus as regards policyholders was \$1,948,247, which exceeded the minimum of \$1,500,000 required by Section 624.408, Florida Statutes.

In addition to the undersigned, Eric C. Dercher, CFE, Examiner-in-Charge, of ProInsurance Consulting Group, LLC, also participated in the examination. Members of the Office who participated in the examination include Jeffrey Rockwell, Financial Examiner/Analyst Supervisor, Examination Manager and Paula Bowyer, APIR, Financial Examiner/Analyst II, Participating Examiner. Additionally, Brent M. Sallay, FCAS, MAAA and Solomon L. Frazier, FSA, ACAS, MAAA, actuaries, of Taylor-Walker Consulting, LLC and Joanna Latham, AES, CISA, CPA, CFE, CRISC, IT Specialist, of Jennan Enterprises, LLC are recognized for participation in the examination.

Respectfully submitted,



Brian Sewell, CFE, MCM  
Chief Examiner  
Florida Office of Insurance Regulation