

# H.B. NO. 1052

---

## A BILL FOR AN ACT

RELATING TO INSURANCE.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The purpose of this act is to amend chapter  
2 431, Hawaii Revised Statutes, to comply with the federal  
3 Nonadmitted and Reinsurance Reform Act of 2010 relating to  
4 surplus lines insurance and to participate in a multi-state  
5 cooperative to collect surplus lines premium taxes and fees and  
6 distribute to the individual states their taxes and fees.

7           SECTION 2. Section 431:8-101, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§431:8-101 Scope.** This article shall apply to the  
10 placement of insurance [~~on any subject resident, located, or to~~  
11 ~~be performed in this State,~~] in insurers not authorized to  
12 transact insurance in [~~this State.~~] the state in which the  
13 subject resident is located or in which the insurance contract  
14 will be performed."

15           SECTION 3. Section 431:8-102, Hawaii Revised Statutes, is  
16 amended as follows:

1 (1) By amending the definitions of "authorized insurer",  
2 "surplus lines insurance", and "unauthorized insurer" to read as  
3 follows:

4 "Authorized insurer" means an insurer holding a valid  
5 certificate of authority to transact an insurance business in  
6 ~~[this State.]~~ the state in which the subject resident is located  
7 or in which the insurance contract will be performed.

8 "Surplus lines insurance" means any property and casualty  
9 insurance on risks ~~[resident, located or to be performed in this~~  
10 ~~State,]~~ procured from or placed with an unauthorized insurer  
11 under the laws of the insured's home state. Surplus lines  
12 insurance when this State is the home state of the insured shall  
13 be in accordance with part III of this article.

14 "Unauthorized insurer" means an insurer not holding a valid  
15 certificate of authority to transact an insurance business in  
16 ~~[this State.]~~ the state in which the subject resident is located  
17 or in which the insurance contract will be performed."

18 (2) By adding definitions for "exempt commercial  
19 purchaser", "home state", "home state of affiliated group",  
20 "home state of group insurance", "independently procured  
21 insurance", "multi-state risk", "principal place of business",

1 "principal residence", and "single state risk" to read as  
2 follows:

3 "Exempt commercial purchaser" means any person purchasing  
4 commercial insurance which, at the time of placement, employs or  
5 retains a qualified risk manager to negotiate insurance  
6 coverage; and has paid aggregate nationwide commercial property  
7 and casualty insurance premiums in excess of \$100,000 in the  
8 immediately preceding twelve months. The person shall possess a  
9 net worth in excess of \$20,000,000, or the person shall generate  
10 annual revenues in excess of \$50,000,000, or the person shall  
11 employ more than five hundred full time or full time equivalent  
12 employees per individual insured or is a member of an affiliated  
13 group employing more than 1,000 employees in the aggregate, or  
14 the person is a not-for-profit organization or public entity  
15 generating annual budgeted expenditures of at least \$30,000,000,  
16 or the person is a municipality with a population in excess of  
17 50,000 persons. Effective on January 1, 2015 and every five  
18 years thereafter, the amount of net worth, annual revenues, and  
19 budgeted expenditures shall be adjusted to reflect the  
20 percentage change for that five-year period in the Consumer  
21 Price Index for All Urban Consumers published by the Bureau of  
22 Labor Statistics of the federal Department of Labor.

1       "Home State", with respect to an insured, means the state  
2 in which an insured maintains the insured's principal place of  
3 business or, in the case of an individual, the state in which  
4 the individual maintains the individual's principal residence;  
5 except that if one hundred per cent of the insured risk is  
6 located out of the state where the insured maintains the  
7 insured's principal place of business or the state where the  
8 individual maintains the principal residence, the home state  
9 shall be the state where the greatest percentage of the  
10 insured's taxable premium for that insurance contract is  
11 allocated.

12       "Home state of affiliated group" means the home state of  
13 the member of the affiliated group that has the largest  
14 percentage of premium attributed to it under an insurance  
15 contract, which has more than one insured from the affiliated  
16 group listed as named insureds on a single nonadmitted insurance  
17 contract.

18       "Home state of group insurance" means the home state of the  
19 group policyholder who pays one hundred per cent of the premium  
20 from the policyholder's own funds. When the group policyholder  
21 does not pay one hundred per cent of the premium from the

1 policyholder's own funds, the term "home state" means the home  
2 state of the group member.

3 "Independently procured insurance" means insurance obtained  
4 by an insured directly from an unauthorized insurer as permitted  
5 by the laws of the insured's home state.

6 "Multi-state risk" means a risk covered by an unauthorized  
7 insurer with insured exposures in more than one state.

8 "Principal place of business" means, with respect to  
9 determining the home state of the insured, means (1) the state  
10 where the insured maintains the insured's headquarters and where  
11 the insured's high-level officers direct, control, and  
12 coordinate the business activities; or (2) if the insured's  
13 high-level officers direct, control, and coordinate the business  
14 activities in more than one state, the state in which the  
15 greatest percentage of the insured's taxable premium for that  
16 insurance contract is allocated; or (3) if the insured maintains  
17 the insured's headquarters or the insured's high-level officers  
18 direct, control, and coordinate the business activities outside  
19 any state, the state in which the greatest percentage of the  
20 insured's taxable premium for that insurance contract is  
21 allocated.

1       "Principal residence", with respect to determining the home  
2 state of the individual insured, means (1) the state where the  
3 individual insured resides for the greatest number of days  
4 during a calendar year; or (2) if the insured's principal  
5 residence is  
6 located outside any state, the state in which the greatest  
7 percentage of the insured's taxable premium for that insurance  
8 contract is allocated.

9       "Single state risk" means a risk with insured exposures in  
10 only one state. "

11       SECTION 4. Section 431:8-201, Hawaii Revised Statutes, is  
12 amended to read as follows:

13       "**§431:8-201 Transacting insurance business without**  
14 **certificate of authority prohibited.** It shall be unlawful for  
15 any insurer to transact an insurance business in this State, as  
16 defined in section 431:1-215, without a certificate of  
17 authority, except that this section shall not apply to:

- 18       (1) The lawful transaction of surplus lines insurance;  
19       (2) The lawful transaction of reinsurance by insurers;  
20       (3) Transactions in this State involving a policy lawfully  
21       solicited, written, and delivered outside of this  
22       State covering only subjects of insurance not

1 resident, located, or expressly to be performed in  
2 this State at the time of issuance, and which  
3 transactions are subsequent to the issuance of such  
4 policy;

5 (4) Attorneys acting in the ordinary relation of attorney  
6 and client in the adjustment of claims or losses;

7 (5) Transactions in this State involving group life and  
8 group accident and health or sickness or blanket  
9 accident and health or sickness insurance or group  
10 annuities where the master policy of such groups was  
11 lawfully issued and delivered in and pursuant to the  
12 laws of a state in which the insurer was authorized to  
13 do an insurance business;

14 (6) Transactions in this State involving any policy of  
15 insurance or annuity contract issued prior to July 1,  
16 1988; [~~and~~]

17 (7) Transactions in this State involving ocean marine  
18 insurance[-]; and

19 (8) Transactions of contracts of insurance for property  
20 and casualty multi-state risks; provided that the  
21 producer is licensed to sell, solicit, or negotiate  
22 that insurance in the home state of the insured."

1 SECTION 5. Section 431:8-205, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§431:8-205 Insurance independently procured; duty to**  
4 **report and pay tax.** (a) Nothing in this part shall prohibit a  
5 person from independently procuring, continuing, or renewing  
6 insurance from an insurer which is not authorized to transact  
7 insurance in this State.

8 (b) Each insured who in this State procures [~~or~~] ,  
9 continues, or renews insurance with an unauthorized insurer on a  
10 risk located or to be performed in whole [~~or in part~~] in this  
11 State, and unauthorized insurance for which this State is the  
12 home state of the insured, other than insurance procured through  
13 a surplus lines broker pursuant to part III of this article  
14 shall, within [~~sixty~~] forty-five days after the [~~date~~] end of  
15 the calendar quarter in which the insurance was [~~so~~] procured,  
16 continued, or renewed, file a written report [~~of the same~~] with  
17 the commissioner, upon forms prescribed by the commissioner,  
18 showing:

- 19 (1) The name and address of the insured or insureds;
- 20 (2) The name and address of the insurer;
- 21 (3) The subject of the insurance;
- 22 (4) A general description of the coverage;



1 (5) The amount of premium currently charged [~~therefor,~~]  
2 for each state that assesses taxes or fees; and

3 (6) [~~Such~~] Other additional, pertinent information [~~as is~~  
4 ~~reasonably~~] requested by the commissioner.

5 (c) Gross premiums charged for the unauthorized  
6 insurance[~~7~~] allocable to this State, less any return premiums,  
7 are subject to a tax at the rate of 4.68 per cent. Gross  
8 premiums, less any return premiums, charged for the insurance  
9 allocable to other states, are subject to the taxes and fees of  
10 those other states. At the time of filing the report required  
11 in subsection (b), the insured shall pay the tax and fees of  
12 this State and all other states to the director of finance,  
13 through the commissioner[~~-~~], for insurance for which this State  
14 is the home state of the insured. The insured shall pay the tax  
15 and fees of this State to the home state of the insured when  
16 this State is not the home state of the insured.

17 As used in this subsection, "gross premiums" mean the  
18 amount of the policy or coverage premium charged by the insurer  
19 in consideration for the insurance contract. Any charges for  
20 policy, survey, inspection, service, or similar fees or other  
21 charges added by the broker shall not be considered part of  
22 gross premiums.

H.B. NO. 1052

1       ~~[(d) If an independently procured policy covers risks or~~  
2 ~~exposures only partially located or to be performed in this~~  
3 ~~State, the tax payable to this State shall be computed on the~~  
4 ~~portion of the premium properly attributable to the risks or~~  
5 ~~exposures located or to be performed in this State.~~

6       ~~(e)]~~ (d) Delinquent taxes shall bear interest at the rate  
7 of ten per cent per annum.

8       ~~[(f)]~~ (e) This section does not abrogate or modify, and  
9 shall not be construed or deemed to abrogate or modify, any  
10 provision of section 431:8-202 or any other provision of this  
11 code.

12       ~~[(g)]~~ (f) This section shall not apply to life  
13 insurance, accident and health or sickness insurance, or  
14 annuities."

15       SECTION 6. Section 431:8-300, Hawaii Revised Statutes, is  
16 amended to read as follows:

17       "**§431:8-300 Exemptions from surplus lines law.** This part  
18 shall not apply to reinsurance or to the following insurance  
19 when placed by a licensed producer of this State:

20       (1) Ocean marine insurance; or

21       ~~[(2) Insurance on subjects located, resident, or to be~~  
22       ~~performed wholly outside this State, or on vehicles or~~

H.B. NO. 1052

1           ~~aircraft owned and principally garaged outside this~~  
2           ~~State; or~~

3           ~~(3)]~~ (2) Insurance of aircraft or cargo of such aircraft,  
4           or against liability, other than workers' compensation  
5           and employer's liability, arising out of the  
6           ownership, maintenance, or use of such aircraft."

7           SECTION 7. Section 431:8-301, Hawaii Revised Statutes, is  
8           amended to read as follows:

9           "**§431:8-301 Insurance placed with unauthorized insurer**  
10          **permitted.** (a) In addition to section 431:8-205, insurance may  
11          be procured from an unauthorized insurer provided:

12           (1) [~~The~~] That the insurance is procured through a  
13           ~~[licensed]~~ surplus lines broker licensed in the  
14           insured's home state;

15           (2) The full amount or kind of insurance cannot be  
16           obtained from insurers who are authorized to do  
17           business in this State; provided that a diligent  
18           search is made among the insurers who are authorized  
19           to transact and are actually writing the particular  
20           kind and class of insurance in this State each time  
21           such insurance is placed or renewed;

1 (3) The surplus lines insurance procured is in addition to  
2 or in excess of the amount and coverage which can be  
3 procured from the authorized insurers; and

4 (4) The insurance is not procured at a rate lower than the  
5 lowest rate which is generally acceptable to  
6 authorized insurers transacting that kind of business  
7 and providing insurance affording substantially the  
8 same protection.

9 (b) A surplus lines broker is not required to make a due  
10 diligence search to determine whether the full amount or type of  
11 insurance can be obtained from admitted insurers when the broker  
12 is seeking to procure or place nonadmitted insurance for an  
13 exempt commercial purchaser provided:

14 (1) The broker procuring or placing the surplus lines  
15 insurance has disclosed to the exempt commercial  
16 purchaser that such insurance may or may not be  
17 available from the admitted market that may provide  
18 greater protection with more regulatory oversight; and

19 (2) The exempt commercial purchaser has subsequently  
20 requested in writing for the broker to procure or place  
21 the insurance from a nonadmitted insurer. "

1 SECTION 8. Section 431:8-302, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "**§431:8-302 Surplus lines [in-solvent] insurers.** (a) No  
4 surplus lines broker shall, either knowingly or without  
5 reasonable investigation of the financial condition and general  
6 reputation of the insurer, place insurance with a financially  
7 unsound [~~insurers~~] insurer or with [~~insurers~~] an insurer  
8 engaging in an unfair [practices] practice.

9 [~~(b) Before placing insurance with any unauthorized~~  
10 ~~insurer, the broker shall ascertain the financial condition of~~  
11 ~~the insurer and:~~

12 [~~(1) In the case of a foreign insurer, shall maintain in~~  
13 ~~the broker's office a current certificate, in proper~~  
14 ~~form, from the regulatory authority in the domicile of~~  
15 ~~the unauthorized insurer, to the effect that the~~  
16 ~~insurer has capital and surplus, or its equivalent~~  
17 ~~under the laws of its domiciliary jurisdiction, which~~  
18 ~~equals the minimum capital and surplus requirements of~~  
19 ~~this State for that kind of insurer as set out in~~  
20 ~~article 3; or~~

21 [~~(2) In the case of an alien insurer, shall maintain in the~~  
22 ~~broker's office evidence of the financial~~

1           ~~responsibility of the insurer. Evidence satisfactory~~  
2           ~~to the commissioner that the insurer maintains in the~~  
3           ~~United States an irrevocable trust fund in either a~~  
4           ~~national bank or a member of the Federal Reserve~~  
5           ~~System in an amount not less than \$5,400,000 for the~~  
6           ~~protection of all its policyholders in the United~~  
7           ~~States consisting of cash, securities, letters of~~  
8           ~~credit, or of investments of substantially the same~~  
9           ~~character and quality as those which are eligible~~  
10           ~~investments for the capital and statutory reserves of~~  
11           ~~authorized insurers writing like kinds of insurance in~~  
12           ~~this State, shall constitute prima facie evidence of~~  
13           ~~responsibility.~~

14   ~~Upon request by the commissioner, the broker shall immediately~~  
15   ~~submit to the commissioner the items described in this~~  
16   ~~subsection.~~

17           ~~(c) The requirements of this section may be satisfied by~~  
18   ~~an insurer possessing less than the capital and surplus set~~  
19   ~~forth in subsection (b) upon an affirmative finding of~~  
20   ~~acceptability by the commissioner. The finding shall be based~~  
21   ~~upon such factors as quality of management, capital and surplus~~  
22   ~~of parent company, company underwriting profit and investment~~

1 ~~income trends, and company record and reputation within the~~  
2 ~~industry. In no event shall the commissioner make an~~  
3 ~~affirmative finding of acceptability when the surplus lines~~  
4 ~~insurer's capital and surplus is less than \$500,000.]~~

5 (b) A surplus lines broker may place surplus lines  
6 insurance only with insurers who are authorized to write that  
7 type of insurance in the insurer's domiciliary state.

8 (c) A surplus lines broker shall not place coverage with a  
9 nonadmitted insurer unless, at the time of placement, the  
10 surplus lines broker has determined that the nonadmitted insurer  
11 has capital and surplus or its equivalent under the laws of its  
12 domiciliary state that equal the greater of:

13 (1) The minimum capital requirement of this State or a  
14 minimum of \$15,000,000. These requirements may be  
15 satisfied by the insurer's possessing less than the  
16 minimum capital and surplus upon an affirmative  
17 finding of acceptability by the commissioner. The  
18 finding shall be based upon such factors as quality of  
19 management, capital and surplus of any parent company,  
20 company underwriting profit and investment income  
21 trends, market availability, and company record and  
22 reputation within the industry. In no event shall the

H .B. NO. 1052

1 commissioner make an affirmative finding of  
2 acceptability when the nonadmitted insurer's capital  
3 and surplus is less than \$4,500,000.

4 (2) For an insurer not domiciled in the United States or  
5 its territories, the insurer shall be listed on the  
6 Quarterly Listing of Alien Insurers maintained by the  
7 National Association of Insurance Commissioners  
8 International Insurers Department. In the case of an  
9 alien insurer that is not in the Quarterly Listing of  
10 Alien Insurers, the surplus lines broker shall  
11 maintain in the broker's office evidence of the  
12 financial responsibility of the insurer. Evidence  
13 satisfactory to the commissioner that the insurer  
14 maintains in the United States an irrevocable trust  
15 fund in either a national bank or a member of the  
16 Federal Reserve System in an amount of not less than  
17 \$5,400,000 for the protection of all its policyholders  
18 in the United States, consisting of cash, securities,  
19 letters of credit, or of investments of substantially  
20 the same character and quality as those which are  
21 eligible investments for the capital and statutory  
22 reserves of authorized insurers writing like kinds of



1           insurance in this State, shall constitute prima facie  
2           evidence of responsibility.

3           (d) The commissioner is authorized to enter into a  
4           cooperative agreement or interstate agreement or compact to  
5           establish additional and alternative nationwide uniform  
6           eligibility requirements that shall be applicable to nonadmitted  
7           insurers domiciled in another state."

8           SECTION 9. Section 431:8-313, Hawaii Revised Statutes, is  
9           amended to read as follows:

10           "**§431:8-313 Surplus lines broker's [annual statement]**  
11           quarterly reports to commissioner. (a) Each surplus lines  
12           broker shall file with the commissioner [~~on or before March 15~~  
13           ~~of each year a verified statement of all surplus lines insurance~~  
14           ~~transacted during the preceding calendar year.~~] within forty-  
15           five days of the end of each calendar quarter a verified  
16           statement of all surplus lines insurance transacted during the  
17           calendar quarter.

18           (b) The statement shall be on forms as prescribed and  
19           furnished by the commissioner and shall show:

20           (1) Gross amount of premiums for each kind of insurance  
21           transacted;

- 1           (2) Aggregate gross premiums charged[+] and itemized by
- 2                 state;
- 3           (3) Aggregate of returned premiums paid to insureds[+] and
- 4                 itemized by state;
- 5           (4) Aggregate of net premiums[+] and fees and itemized by
- 6                 state;
- 7           (5) Amount of aggregate [~~tax~~] remitted[+] taxes and fees
- 8                 and itemized by state; and
- 9           (6) Additional information as required by the
- 10                commissioner."

11           SECTION 10. Section 431:8-315, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "**§431:8-315 Tax on surplus lines.** (a) [~~On or before~~  
14 ~~March 15 of each year,~~] On or before March 15, 2011, each  
15 surplus lines broker shall pay to the director of finance,  
16 through the commissioner, a premium tax on surplus lines  
17 insurance transacted by such broker during [~~the preceding~~  
18 ~~calendar year.~~] 2010. Beginning on January 1, 2011, within  
19 sixty days after the end of each calendar quarter, each surplus  
20 lines broker shall pay to the director of finance, through the  
21 commissioner, a premium tax on surplus lines insurance  
22 transacted by the broker during the calendar quarter for

1 insurance for which this State is the home state of the  
2 insured. The tax rate shall be in the amount of 4.68 per cent  
3 of gross premiums, less return premiums, on [~~taxable~~] surplus  
4 lines insurance[-] allocated to this State. The tax rate and  
5 fees of other states shall be applied to the gross premiums,  
6 less return premiums, allocated to those states.

7 (b) The commissioner shall collect the taxes and fees on  
8 independently procured surplus lines insurance and from surplus  
9 lines licensees and disburse to the other states the funds  
10 earned by each state, provided that the other state has a  
11 reciprocal allocation and disbursement procedure for the benefit  
12 of this State. To the extent that other states, where portions  
13 of the properties, risks, or exposures reside, have failed to  
14 establish a reciprocal allocation and disbursement procedure  
15 with this State, the net premium tax collected shall be retained  
16 by this State.

17 As used in this subsection, "gross premiums" mean the  
18 amount of the policy or coverage premium charged by the insurer  
19 in consideration for the insurance contract. Any charges for  
20 policy, survey, inspection, service, or similar fees or other  
21 charges added by the broker shall not be considered part of  
22 gross premiums.

1           ~~(b)~~ (c) If a surplus lines policy covers risks or  
2 exposures only partially resident in this State, the tax so  
3 payable shall be computed upon the proportion of the premium  
4 which is properly allocable to the risks or exposures located in  
5 this State. The taxes and fees payable to this State on  
6 policies that cover risks and exposures only partially resident  
7 in this State shall be remitted, on the quarterly schedule, to  
8 the home state of the insured for disbursement to this State.

9           ~~(e)~~ (d) The tax on any portion of the premium unearned  
10 at the termination of the insurance contract shall be returned  
11 to the policyholder.

12           (e) The commissioner may enter into a cooperative  
13 agreement, reciprocal agreement, or compact with other states to  
14 facilitate and provide for the collection, allocation, and  
15 disbursement of premium taxes attributable to the placement of  
16 surplus lines insurance; provide for uniform methods of  
17 allocation and reporting among surplus lines insurance risk  
18 classifications; conform to the requirements of the federal  
19 Nonadmitted and Reinsurance Reform Act of 2010; and share  
20 information among states relating to surplus lines insurance  
21 premium taxes.

- 1        (1) The commissioner may establish a uniform statewide  
2        rate of taxation applicable to surplus lines insurance  
3        that shall be collected by other states. This rate  
4        shall encompass all existing rates of taxation, fees,  
5        and assessments imposed by this State and any of its  
6        political subdivisions. The commissioner shall  
7        document the method by which the statewide rate is  
8        calculated.
- 9        (2) The commissioner may utilize a method adopted in  
10       cooperation with other states to allocate risk and  
11       compute the tax due on the portion of premium  
12       attributable to each risk classification and to each  
13       state where properties, risks, or exposures are  
14       located.
- 15       (3) The commissioner shall assess the insured for the cost  
16       of the cooperative agreement, reciprocal agreement, or  
17       compact to collect and distribute the premium taxes.
- 18       (4) Upon application of the insured, the commissioner  
19       shall refund the insured for excess payments of taxes  
20       received by the State that are the result of the  
21       statewide tax rate."

1 SECTION 11. Section 431:8-316, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§431:8-316 Penalty for failure to file statement or remit**  
4 **tax.** (a) If any surplus lines broker fails to:

5 (1) File [~~an annual statement,~~] a quarterly statement; or

6 (2) Pay the premium tax required by section 431:8-315 when  
7 the tax is due,

8 the surplus lines broker may be liable for a fine of up to \$25  
9 for each day of delinquency.

10 (b) The commissioner may:

11 (1) Collect the premium tax required by section 431:8-315  
12 by distraint;

13 (2) Recover the premium tax required by section 431:8-315  
14 and fine for failure to pay the premium tax by  
15 instituting an action in any court of competent  
16 jurisdiction; or

17 (3) Recover the fine for failure to file the annual  
18 statement by instituting an action in any court of  
19 competent jurisdiction."

20 SECTION 12. Section 431:8-317, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:

1           "(a) The commissioner may suspend, revoke, or refuse to  
2 extend any surplus lines broker's license for any cause  
3 specified in any other provision of this chapter, or for any of  
4 the following causes:

- 5           (1) Failure to file the annual or quarterly statement  
6                 required by section 431:8-313 or to pay the tax  
7                 required by section 431:8-315;
- 8           (2) Failure to keep records or to allow the commissioner  
9                 to examine the surplus lines broker's records as  
10                provided in this article;
- 11           (3) Removal of office accounts and records from this State  
12                during the period in which the accounts are required  
13                to be maintained under this article;
- 14           (4) Any of the causes for which a producer's license may  
15                be suspended or revoked under article 9A;
- 16           (5) Any cause for which issuance of the license could have  
17                been refused had it then existed and been known to the  
18                commissioner;
- 19           (6) If the licensee wilfully violates or knowingly  
20                participates in the violation of any provision of this  
21                code;

H .B. NO. 1052

- 1           (7) If the licensee has obtained or attempted to obtain  
2           the license through wilful misrepresentation or fraud,  
3           or has failed to pass any examination required by  
4           section 431:9A-105;
- 5           (8) If the licensee has misappropriated, converted to the  
6           licensee's own use, or illegally withheld moneys  
7           required to be held in a fiduciary capacity;
- 8           (9) If the licensee, with intent to deceive, has  
9           materially misrepresented the terms or effect of any  
10          insurance contract, or has engaged or is about to  
11          engage in any fraudulent transaction;
- 12          (10) If the licensee has been guilty of any unfair practice  
13          or fraud as defined in article 13;
- 14          (11) If in the conduct of the licensee's affairs under the  
15          license, the licensee has been a source of injury and  
16          loss to the public;
- 17          (12) If the licensee issues or purports to issue any binder  
18          as to any insurer named therein as to which the  
19          licensee is not then authorized so to bind; or
- 20          (13) If the licensee has dealt with, or attempted to deal  
21          with, insurance or to exercise powers relative to



H.B. NO. 1052

1 insurance outside the scope of the licensee's  
2 licenses."

3 SECTION 13. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 15. This Act shall take effect upon its approval.

6  
7  
8

INTRODUCED BY: Calvin K. Ray

BY REQUEST

JAN 24 2011

**Report Title:**

Insurance

**Description:**

Adopts amendments to the insurance code to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 relating to surplus lines insurance and participate in a multi-state cooperative to collect surplus lines premium taxes and fees and distribute to the individual states the taxes and fees they assessed.

JUSTIFICATION SHEET

DEPARTMENT: Commerce and Consumer Affairs

TITLE: A BILL FOR AN ACT RELATING TO INSURANCE

PURPOSE: Amends the Insurance Code to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 relating to surplus lines insurance and authorizes the State's participation in a multi-state cooperative to collect surplus lines taxes and fees, to distribute to the individual states the taxes and fees they have assessed, and receive taxes and fees collected by other states for Hawaii.

MEANS: Amends sections 431:8-101, 431:8-102, 431:8-201, 431:8-205, 431:8-300, 431:8-301, 431:8-302, 431:8-313, 431:8-315, 431:8-316, and 431,8-317(a), Hawaii Revised Statutes.

JUSTIFICATION: Enabling legislation is necessary to comply with the provisions of the Nonadmitted and Reinsurance Reform Act of 2010.

Impact on the public: This bill will authorize the Commissioner to enter multi-state agreements to collect and distribute the taxes and fees earned by the respective states on surplus lines insurance.

Impact on the department and other agencies: This bill will allow the State to receive taxes and fees that are assessed on surplus lines insurance.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: CCA-106.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE:       Upon approval.