
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 431:1-213, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§431:1-213 State defined.** State means any state of the
10 United States and the governments of Puerto Rico, American
11 Samoa, Guam, the Northern Mariana Islands, the United States
12 Virgin Islands, and the District of Columbia."

13 SECTION 3. Section 431:1-214, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§431:1-214 United States defined.** United States, when
16 used to signify a place, means the states of the United States
17 and the governments of Puerto Rico, American Samoa, Guam, the



1 Northern Mariana Islands, the United States Virgin Islands, and
2 the District of Columbia."

3 SECTION 4. Section 431:8-101, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§431:8-101 Scope.** This article shall apply to the
6 placement of insurance [~~on any subject resident, located, or to~~
7 ~~be performed in this State,~~] in insurers not authorized to
8 transact insurance in [~~this State.~~] the state in which the
9 subject resident is located or in which the insurance contract
10 will be performed."

11 SECTION 5. Section 431:8-102, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By adding definitions for "exempt commercial
14 purchaser", "home state", "home state of affiliated group",
15 "home state of group insurance", "independently procured
16 insurance", "multi-state risk", "principal place of business",
17 "principal residence", and "single state risk" to read:

18 "Exempt commercial purchaser" means any person purchasing
19 commercial insurance which, at the time of placement, employs or
20 retains a qualified risk manager to negotiate insurance
21 coverage; and has paid aggregate nationwide commercial property
22 and casualty insurance premiums in excess of \$100,000 in the



1 immediately preceding twelve months. The person shall possess a
2 net worth in excess of \$20,000,000, or the person shall generate
3 annual revenues in excess of \$50,000,000, or the person shall
4 employ more than five hundred full time or full time equivalent
5 employees per individual insured or shall be a member of an
6 affiliated group employing more than 1,000 employees in the
7 aggregate, or the person shall be a not-for-profit organization
8 or public entity generating annual budgeted expenditures of at
9 least \$30,000,000, or the person shall be a municipality with a
10 population in excess of 50,000 persons. Effective January 1,
11 2015, and every five years thereafter, the amount of net worth,
12 annual revenues, and budgeted expenditures shall be adjusted to
13 reflect the percentage change for that five-year period in the
14 Consumer Price Index for All Urban Consumers published by the
15 Bureau of Labor Statistics of the federal Department of Labor.

16 "Home state", with respect to an insured, means the state
17 in which an insured maintains the insured's principal place of
18 business or, in the case of an individual, the state in which
19 the individual maintains the individual's principal residence;
20 except that if one hundred per cent of the insured risk is
21 located out of the state where the insured maintains the
22 insured's principal place of business or the state where the



1 individual maintains the principal residence, the home state
2 shall be the state where the greatest percentage of the
3 insured's taxable premium for that insurance contract is
4 allocated.

5 "Home state of affiliated group" means the home state of
6 the member of the affiliated group that has the largest
7 percentage of premium attributed to it under an insurance
8 contract, which has more than one insured from the affiliated
9 group listed as named insureds on a single nonadmitted insurance
10 contract.

11 "Home state of group insurance" means the home state of the
12 group policyholder who pays one hundred per cent of the premium
13 from the policyholder's own funds. When the group policyholder
14 does not pay one hundred per cent of the premium from the
15 policyholder's own funds, the term "home state" means the home
16 state of the group member.

17 "Independently procured insurance" means insurance obtained
18 by an insured directly from an unauthorized insurer as permitted
19 by the laws of the insured's home state.

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



1 "Principal place of business" with respect to determining
2 the home state of the insured, means:

3 (1) The state where the insured maintains the insured's
4 headquarters and where the insured's high-level
5 officers direct, control, and coordinate the business
6 activities;

7 (2) If the insured's high-level officers direct, control,
8 and coordinate the business activities in more than
9 one state, the state in which the greatest percentage
10 of the insured's taxable premium for that insurance
11 contract is allocated; or

12 (3) If the insured maintains the insured's headquarters or
13 the insured's high-level officers direct, control, and
14 coordinate the business activities outside any state,
15 the state in which the greatest percentage of the
16 insured's taxable premium for that insurance contract
17 is allocated.

18 "Principal residence", with respect to determining the home
19 state of the individual insured, means:

20 (1) The state where the individual insured resides for the
21 greatest number of days during a calendar year; or



1 (2) If the insured's principal residence is located
 2 outside any state, the state in which the greatest
 3 percentage of the insured's taxable premium for that
 4 insurance contract is allocated.

5 "Single state risk" means a risk with insured exposures in
 6 only one state."

7 2. By amending the definitions of "authorized insurer",
 8 "surplus lines insurance", and "unauthorized insurer" to read:

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

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

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



1 SECTION 6. Section 431:8-201, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§431:8-201 Transacting insurance business without**
4 **certificate of authority prohibited.** It shall be unlawful for
5 any insurer to transact an insurance business in this State, as
6 defined in section 431:1-215, without a certificate of
7 authority, except that this section shall not apply to:

- 8 (1) The lawful transaction of surplus lines insurance;
- 9 (2) The lawful transaction of reinsurance by insurers;
- 10 (3) Transactions in this State involving a policy lawfully
11 solicited, written, and delivered outside of this
12 State covering only subjects of insurance not
13 resident, located, or expressly to be performed in
14 this State at the time of issuance, and which
15 transactions are subsequent to the issuance of such
16 policy;
- 17 (4) Attorneys acting in the ordinary relation of attorney
18 and client in the adjustment of claims or losses;
- 19 (5) Transactions in this State involving group life and
20 group accident and health or sickness or blanket
21 accident and health or sickness insurance or group
22 annuities where the master policy of such groups was



1 lawfully issued and delivered in and pursuant to the
2 laws of a state in which the insurer was authorized to
3 do an insurance business;

4 (6) Transactions in this State involving any policy of
5 insurance or annuity contract issued prior to July 1,
6 1988; ~~and~~

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

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

13 SECTION 7. Section 431:8-205, Hawaii Revised Statutes, is
14 amended by amending subsections (b) and (c) to read as follows:

15 "(b) Each insured who in this State, before July 1, 2011,
16 procures ~~[of]~~, continues, or renews ~~[insurance with an~~
17 ~~unauthorized insurer]~~ surplus lines insurance on a risk located
18 or to be performed in whole ~~[or in part]~~ in this State, other
19 than insurance procured through a surplus lines broker pursuant
20 to part III of this article shall, within sixty days after the
21 date the insurance was ~~[se]~~ procured, continued, or renewed,
22 file a written report ~~[of the same]~~ with the commissioner~~[-, upon~~



1 ~~forms prescribed by the commissioner, showing:].~~ Each insured
2 who in this State, after June 30, 2011, procures, continues, or
3 renews surplus lines insurance for which this State is the home
4 state of the insured, other than insurance procured through a
5 surplus lines broker pursuant to part III of this article shall,
6 within forty-five days after the end of the calendar quarter in
7 which the insurance was procured, continued, or renewed, file a
8 written report with the commissioner. The report shall be on
9 forms prescribed by the commissioner, showing:

- 10 (1) The name and address of the insured or insureds;
11 (2) The name and address of the insurer;
12 (3) The subject of the insurance;
13 (4) A general description of the coverage;
14 (5) The itemized amount of [~~premium~~] premiums, taxes, and
15 fees currently charged [~~therefor; and~~] for each state;
16 (6) The policy number, effective date of the policy, and
17 home state of the insured; and
18 (7) [~~Such~~] Other additional, pertinent information [~~as is~~
19 ~~reasonably~~] requested by the commissioner.
- 20 (c) Gross premiums charged for the surplus lines
21 insurance[~~7~~] allocable to this State, less any return premiums,
22 are subject to a tax at the rate of 4.68 per cent. At the time



1 of filing the report required in subsection (b), for insurance
2 procured, continued, or renewed before July 1, 2011, the insured
3 shall pay the tax to the commissioner. At the time of filing
4 the report required in subsection (b) for insurance procured,
5 continued, or renewed after June 30, 2011, when this State is
6 the home state of the insured, the insured shall pay the tax and
7 fees of this State and all other states to the director of
8 finance, through the commissioner. When this State is not the
9 home state of the insured, the insured shall pay the tax and
10 fees of this State to the home state of the insured.

11 As used in this subsection, "gross premiums" [~~mean~~] means
12 the amount of the policy or coverage premium charged by the
13 insurer in consideration for the insurance contract. Any
14 charges for policy, survey, inspection, service, or similar fees
15 or other charges added by the broker shall not be considered
16 part of gross premiums."

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

19 "**§431:8-301 Insurance placed with unauthorized insurer**
20 **permitted.** (a) In addition to section 431:8-205, insurance may
21 be procured from an unauthorized insurer; provided[+] that:



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

3 (2) The full amount or kind of insurance cannot be
4 obtained from insurers who are authorized to do
5 business in this State; provided that a diligent
6 search is made among the insurers who are authorized
7 to transact and are actually writing the particular
8 kind and class of insurance in this State each time
9 such insurance is placed or renewed;

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

13 (4) The insurance is not procured at a rate lower than the
14 lowest rate which is generally acceptable to
15 authorized insurers transacting that kind of business
16 and providing insurance affording substantially the
17 same protection.

18 (b) A surplus lines broker is not required to make a due
19 diligence search to determine whether the full amount or type of
20 insurance can be obtained from admitted insurers when the broker
21 is seeking to procure or place nonadmitted insurance for an
22 exempt commercial purchaser; provided that:



- 1 (1) The broker procuring or placing the surplus lines
- 2 insurance has disclosed to the exempt commercial
- 3 purchaser that such insurance may or may not be
- 4 available from the admitted market which may provide
- 5 greater protection with more regulatory oversight; and
- 6 (2) The exempt commercial purchaser has subsequently
- 7 requested in writing for the broker to procure or
- 8 place the insurance from a nonadmitted insurer."

9 SECTION 9. Section 431:8-302, Hawaii Revised Statutes, is
 10 amended to read as follows:

11 "**§431:8-302 Surplus lines [in solvent] insurers.** (a) No
 12 surplus lines broker shall, either knowingly or without
 13 reasonable investigation of the financial condition and general
 14 reputation of the insurer, place insurance with a financially
 15 unsound [~~insurers~~] insurer or with [~~insurers~~] an insurer
 16 engaging in an unfair [practices.] practice.

17 [~~(b) Before placing insurance with any unauthorized~~
 18 ~~insurer, the broker shall ascertain the financial condition of~~
 19 ~~the insurer and:~~

20 ~~(1) In the case of a foreign insurer, shall maintain in~~
 21 ~~the broker's office a current certificate, in proper~~
 22 ~~form, from the regulatory authority in the domicile of~~



1 ~~the unauthorized insurer, to the effect that the~~
2 ~~insurer has capital and surplus, or its equivalent~~
3 ~~under the laws of its domiciliary jurisdiction, which~~
4 ~~equals the minimum capital and surplus requirements of~~
5 ~~this State for that kind of insurer as set out in~~
6 ~~article 3; or~~

7 (2) ~~In the case of an alien insurer, shall maintain in the~~
8 ~~broker's office evidence of the financial~~
9 ~~responsibility of the insurer. Evidence satisfactory~~
10 ~~to the commissioner that the insurer maintains in the~~
11 ~~United States an irrevocable trust fund in either a~~
12 ~~national bank or a member of the Federal Reserve~~
13 ~~System in an amount not less than \$5,400,000 for the~~
14 ~~protection of all its policyholders in the United~~
15 ~~States consisting of cash, securities, letters of~~
16 ~~credit, or of investments of substantially the same~~
17 ~~character and quality as those which are eligible~~
18 ~~investments for the capital and statutory reserves of~~
19 ~~authorized insurers writing like kinds of insurance in~~
20 ~~this State, shall constitute prima facie evidence of~~
21 ~~responsibility.~~



1 ~~Upon request by the commissioner, the broker shall immediately~~
2 ~~submit to the commissioner the items described in this~~
3 ~~subsection.~~

4 ~~(c) The requirements of this section may be satisfied by~~
5 ~~an insurer possessing less than the capital and surplus set~~
6 ~~forth in subsection (b) upon an affirmative finding of~~
7 ~~acceptability by the commissioner. The finding shall be based~~
8 ~~upon such factors as quality of management, capital and surplus~~
9 ~~of parent company, company underwriting profit and investment~~
10 ~~income trends, and company record and reputation within the~~
11 ~~industry. In no event shall the commissioner make an~~
12 ~~affirmative finding of acceptability when the surplus lines~~
13 ~~insurer's capital and surplus is less than \$500,000.]~~

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

17 (c) A surplus lines broker shall not place coverage with a
18 nonadmitted insurer unless, at the time of placement, the
19 surplus lines broker has determined that:

20 (1) The nonadmitted insurer has capital and surplus or its
21 equivalent under the laws of its domiciliary state
22 that equal the greater of the minimum capital



1 requirement of this State or a minimum of \$15,000,000.

2 These requirements may be satisfied by the insurer's

3 possessing less than the minimum capital and surplus

4 upon an affirmative finding of acceptability by the

5 commissioner. The finding shall be based upon factors

6 such as quality of management, the capital and surplus

7 of any parent company, company underwriting profit and

8 investment income trends, market availability, and

9 company record and reputation within the industry. In

10 no event shall the commissioner make an affirmative

11 finding of acceptability when the nonadmitted

12 insurer's capital and surplus is less than \$4,500,000;

13 (2) For an insurer not domiciled in the United States or

14 its territories, the insurer is listed on the

15 Quarterly Listing of Alien Insurers maintained by the

16 National Association of Insurance Commissioners

17 International Insurers Department; or

18 (3) In the case of an alien insurer that is not in the

19 Quarterly Listing of Alien Insurers, the surplus lines

20 broker shall maintain in the broker's office evidence

21 of the financial responsibility of the insurer.

22 Evidence satisfactory to the commissioner that the



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

12 (d) The commissioner is authorized to enter into a
13 cooperative agreement or interstate agreement or compact to
14 establish additional and alternative nationwide uniform
15 eligibility requirements that shall be applicable to nonadmitted
16 insurers domiciled in another state."

17 SECTION 10. Section 431:8-305, Hawaii Revised Statutes, is
18 amended by amending subsection (a) to read as follows:

19 "(a) Upon placing surplus lines insurance, the surplus
20 lines broker shall as soon as reasonably possible deliver to the
21 insured the policy, or if the policy is not available, the
22 surplus lines broker's certificate, cover note, binder or other



1 evidence of insurance. Any confirmation of insurance shall be
2 executed by the surplus lines broker and shall show the
3 following:

- 4 (1) The policy number, effective date, home state, and the
5 description and location of the subject of the
6 insurance[];
- 7 (2) A general description of the coverages, including any
8 material limitations other than those in standard
9 forms[];
- 10 (3) The premium and rate charged, itemized by each state;
- 11 (4) The taxes and fees to be collected from the insured,
12 itemized by each state;
- 13 (5) The name and address of the insured[];
- 14 (6) The name and address of the insurer[];
- 15 (7) If the direct risk is assumed by more than one
16 insurer, the certificate shall state the name and
17 address and proportion of the entire direct risk
18 assumed by each insurer[]; and
- 19 (8) The name of the surplus lines broker and such broker's
20 license number."

21 SECTION 11. Section 431:8-312, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



1 "(a) Each licensed surplus lines broker shall keep in the
2 broker's office in this State a full and true record of each
3 surplus lines contract placed by the broker including a copy of
4 the policy, certificate, cover note, or other evidence of
5 insurance showing such of the following items as may be
6 applicable:

- 7 (1) Amount of the insurance and perils insured;
- 8 (2) Brief description of the property insured and its
9 location;
- 10 (3) Gross premium, taxes, and fees charged[+], itemized by
11 each state;
- 12 (4) Any return premium, taxes, and fees paid[+], itemized
13 by each state;
- 14 (5) Rate of premium charged upon the several items of
15 property;
- 16 (6) Effective date of the contract, and the terms thereof;
- 17 (7) Name [and], address, and home state of the insured;
- 18 (8) Name and address of the insurer;
- 19 (9) Amount of tax and other sums to be collected from the
20 insured[+], itemized by each state; and
- 21 (10) Any additional information required by the
22 commissioner."



1 SECTION 12. Section 431:8-313, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§431:8-313 Surplus lines broker's [~~annual statement.~~]**
4 **reports to commissioner.** (a) Each surplus lines broker shall
5 file with the commissioner on or before March 15 [~~of each year]~~
6 , 2011 a verified statement of all surplus lines insurance
7 transacted during [~~the preceding calendar year.~~] 2010. Each
8 surplus lines broker shall file with the commissioner on or
9 before September 15, 2011, a verified statement of all surplus
10 lines insurance transacted after December 31, 2010, and before
11 July 1, 2011. After June 30, 2011, each surplus lines broker
12 shall file with the commissioner within forty-five days of the
13 end of each calendar quarter a verified statement of all surplus
14 lines insurance transacted during the calendar quarter. The
15 statement for the quarter ending September 30 shall be filed
16 before or on November 15. The statement for the quarter ending
17 December 31 shall be filed before or on February 15. The
18 statement for the quarter ending March 31 shall be filed before
19 or on May 15. The statement for the quarter ending June 30
20 shall be filed before or on August 15.

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



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

13 SECTION 13. Section 431:8-315, Hawaii Revised Statutes, is
14 amended to read as follows:

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



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

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

19 As used in this subsection, "gross premiums" [~~mean~~] means
20 the amount of the policy or coverage premium charged by the
21 insurer in consideration for the insurance contract. Any
22 charges for policy, survey, inspection, service, or similar fees



1 or other charges added by the broker shall not be considered
2 part of gross premiums.

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

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

14 (e) The commissioner may:

- 15 (1) Enter into a cooperative agreement, reciprocal
16 agreement, or compact with other states to facilitate
17 and provide for the collection, allocation, and
18 disbursement of premium taxes attributable to the
19 placement of surplus lines insurance;
- 20 (2) Provide for uniform methods of allocation and
21 reporting among surplus lines insurance risk
22 classifications;



- 1 (3) Conform to the requirements of the federal Nonadmitted
2 and Reinsurance Reform Act of 2010;
- 3 (4) Share information among states relating to surplus
4 lines insurance premium taxes; and
- 5 (5) Utilize a method adopted in cooperation with other
6 states to allocate risk and compute the tax due on the
7 portion of premium attributable to each risk
8 classification and to each state where properties,
9 risks, or exposures are located.

10 The commissioner shall assess the insured for the cost of
11 the cooperative agreement, reciprocal agreement, or compact to
12 collect and distribute the premium taxes. Upon application of
13 the insured, the commissioner shall refund the insured for
14 excess payments of taxes received by the State that are the
15 result of the statewide tax rate."

16 SECTION 14. Section 431:8-316, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§431:8-316 Penalty for failure to file statement or remit**
19 **tax.** (a) If any surplus lines broker fails to:

20 (1) File [~~an annual statement;~~] statements required by
21 section 431:8-313; or



1 (2) Pay the premium tax required by section 431:8-315 when
 2 the tax is due,
 3 the surplus lines broker may be liable for a fine of up to \$25
 4 for each day of delinquency.

5 (b) The commissioner may:

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

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

12 (3) Recover the fine for failure to file the [~~annual~~]
 13 statement by instituting an action in any court of
 14 competent jurisdiction."

15 SECTION 15. Section 431:8-317, Hawaii Revised Statutes, is
 16 amended by amending subsection (a) to read as follows:

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



- 1 (1) Failure to file [~~the annual statement~~] statements
2 required by section 431:8-313 or to pay the tax
3 required by section 431:8-315;
- 4 (2) Failure to keep records or to allow the commissioner
5 to examine the surplus lines broker's records as
6 provided in this article;
- 7 (3) Removal of office accounts and records from this State
8 during the period in which the accounts are required
9 to be maintained under this article;
- 10 (4) Any of the causes for which a producer's license may
11 be suspended or revoked under article 9A;
- 12 (5) Any cause for which issuance of the license could have
13 been refused had it then existed and been known to the
14 commissioner;
- 15 (6) If the licensee wilfully violates or knowingly
16 participates in the violation of any provision of this
17 code;
- 18 (7) If the licensee has obtained or attempted to obtain
19 the license through wilful misrepresentation or fraud,
20 or has failed to pass any examination required by
21 section 431:9A-105;



1 (8) If the licensee has misappropriated, converted to the
2 licensee's own use, or illegally withheld moneys
3 required to be held in a fiduciary capacity;

4 (9) If the licensee, with intent to deceive, has
5 materially misrepresented the terms or effect of any
6 insurance contract, or has engaged or is about to
7 engage in any fraudulent transaction;

8 (10) If the licensee has been guilty of any unfair practice
9 or fraud as defined in article 13;

10 (11) If in the conduct of the licensee's affairs under the
11 license, the licensee has been a source of injury and
12 loss to the public;

13 (12) If the licensee issues or purports to issue any binder
14 as to any insurer named therein as to which the
15 licensee is not then authorized so to bind; or

16 (13) If the licensee has dealt with, or attempted to deal
17 with, insurance or to exercise powers relative to
18 insurance outside the scope of the licensee's
19 licenses."

20 SECTION 16. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.

22 SECTION 17. This Act shall take effect on July 1, 2030.



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. Effective July 1, 2030. (HB1052 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

