

SB 2168

Measure Title: RELATING TO INSURANCE.
Report Title: Surplus Lines Insurance; Surplus Lines Insurance Multi-State Compliance Compact
Description: Directs the insurance commissioner to join the surplus lines insurance multi-state compliance compact. Enacts the surplus lines insurance multi-state compliance compact into law.
Companion:
Package: None
Current Referral: CPN, WAM
Introducer(s): BAKER

Sort by Date		Status Text
1/20/2012	S	Introduced.
1/20/2012	S	Passed First Reading.
1/20/2012	S	Referred to CPN, WAM.
1/27/2012	S	The committee(s) on CPN has scheduled a public hearing on 02-02-12 9:00AM in conference room 229.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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KEALI' S. LOPEZ
DIRECTOR

GORDON I. ITO
INSURANCE COMMISSIONER

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-SIXTH LEGISLATURE
Regular Session of 2012

Thursday, February 2, 2012
9:00 a. m.

TESTIMONY ON SENATE BILL NO. 2168 – RELATING TO INSURANCE.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR, AND MEMBERS OF THE
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner ("Commissioner"), testifying on behalf of the Department of Commerce and Consumer Affairs ("Department"). The Department wishes to comment on this bill.

The Insurance Commissioner defers to the judgment of the Legislature in its proposal to join only one multi-state arrangement, SLIMPACT. We suggest, however, that flexibility to join another compact or to continue membership in the Nonadmitted Insurance Multi-state Agreement ("NIMA") may be advantageous to the State. As you are aware SLIMPACT's commission becomes effective approximately 12 to 18 months after the 10th state becomes a member. During that intervening period, changes may occur. For example, a SLIMPACT member has proposed a "Kentucky Compromise" with the goal of eliminating structural differences and creating a working agreement with NIMA. Furthermore, we should not rule out the possibilities that an alternative to both NIMA and SLIMPACT may be created, or that enrollment in multiple organizations may prove to be beneficial to the State.

Therefore, the Department suggests that the bill be amended to permit the Insurance Commissioner to join other agreements if the State will benefit.

We thank this Committee for the opportunity to present testimony on this matter.



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

1415 L Street, Suite 670, Sacramento, CA 95814 Telephone 916-449-1370 Facsimile 916-449-1378 www.pciaa.net

To: The Honorable Rosalyn Baker, Chair
Senate Committee on Commerce and Consumer Protection

From: Mark Sektnan, Vice President

Re: **SB 2168- Relating to Insurance**
PCI Position: Support

Date: Thursday, February 2, 2012
9:00 a.m.; Conference Room 229

Aloha Chair Baker and Members of the Committee:

The Property Casualty Insurers Association of American (PCI) supports SB 2168 which would enact the National Conference of Insurance Legislators' (NCOIL) Surplus Lines Insurance Multistate Compliance Compact (SLIMPACT). PCI is a national trade association representing over 1,000 insurance companies, including over 125 surplus lines insurers. In Hawaii, PCI members write over 32% of the total property casualty insurance in the state.

PCI supports this legislation because SLIMPACT is a comprehensive legislative model that rightly conforms to the intent and spirit of the Nonadmitted and Reinsurance Reform Act (NRRA). There is a national and international movement to modernize and coordinate insurance regulation, and Congress is looking to the states to respond accordingly to that call. As we pass the six month mark since the NRRA took effect on July 21, 2011, if states continue to be unable to adopt a comprehensive solution as intended, Congress could take further action to broaden the preemptive provisions. This would be burdensome and costly for the surplus market that provides critical coverage for hard-to-place business, professional, and property insurance risks.

In addition, without the specific adherence to the NRRA state requirements provided in this legislation, surplus lines markets will continue to be burdened with inconsistent state requirements and exposure to litigation to resolve conflicting regulations and authorities. Not only would that adversely impact surplus lines insurance costs, but it also sends the wrong message to Congress.

PCI is a long-time advocate of the NRRA because it sets a framework to bring about needed modernization of the state regulation of surplus lines insurance. We believe that the SLIMPACT model, endorsed by all three national state government associations: NCOIL, NCSL, and CSG,

represents a well-vetted effort to adhere to the full intent of the federal legislation; including, exclusive home state authority for the taxation and regulation of nonadmitted insurance, the efficient allocation of tax dollars among states on multi-state insurance risks, and the adoption of uniform surplus lines eligibility requirements.

PCI is committed to working with state legislators and regulators to implement the necessary changes to state insurance laws and regulations in compliance with the NRRRA. We believe that the passage of this legislation would ensure that Hawaii can meet those compliance obligations and help to demonstrate to Congress that this state-based regulatory system can work together to modernize the regulation of insurance.

For the foregoing reasons, PCI urges your Committee to favorably advance SB 2168.

NCOIL

National Conference of Insurance Legislators

...for the States

PRESIDENT: SEN. CARROLL LEAVELL, NM
PRESIDENT-ELECT: SEN. VE SIMPSON, IN
VICE PRESIDENT: REP. CHARLES CURTIS, TN
SECRETARY: REP. GREG WREN, AL
TREASURER: SEN. NEIL BRESLIN, NY

VIA E-MAIL

February 1, 2012

Hawaii Senate Committee on Commerce
and Consumer Protection
c/o The Honorable Rosalyn Baker, Chair
Hawaii State Capitol, Room 230
Honolulu, HI 96813

Dear Senate Commerce and Consumer Protection Committee:

As National Conference of Insurance Legislators (NCOIL) President, I applaud your consideration of Senator Baker's bill to join a Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT)—a state-based insurance regulatory reform effort that NCOIL strongly supports. I stand ready—along with NCOIL legislators from compacting states—myself included—to welcome Hawaii into SLIMPACT when Senate Bill 2168 becomes law. Legislators believe that SLIMPACT represents the only state solution that fully answers Congressional intent stated in the 2010 *Dodd-Frank Wall Street Reform and Consumer Protection Act*.

SLIMPACT enjoys widespread support from the key organizations of state officials dealing with insurance public policy, including NCOIL, The Council of State Governments (CSG) and the National Conference of State Legislatures (NCSL). Key industry interested parties that advocated for Dodd-Frank Act surplus lines provisions in Congress also have been enthusiastic supporters of the compact in the states. *Attached are CSG and NCSL resolutions endorsing SLIMPACT.*

SLIMPACT is a critical modernization effort because Dodd-Frank effectively prevents any state from collecting tax on a multi-state surplus lines risk if the state is not the "home state" of the insured. SLIMPACT will preserve Hawaii's ability to collect state premium tax revenue from such policies by creating a nationwide mechanism that provides for the uniform "reporting, payment, collection, and allocation of premium" urged under the legislation.

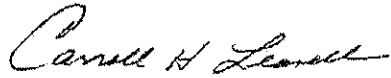
SLIMPACT, as an interstate compact designed to streamline surplus lines insurance taxation and regulation, provides accountability and transparency in its operations. It also limits the Commission's scope of power, which state legislators look for when delegating authority. Through an inclusive process, a SLIMPACT Commission will adopt "rules for the road" regarding tax allocation formulas, reporting requirements, and uniform eligibility/solvency standards and policyholder notices, as was Dodd-Frank's intent.

Already, the SLIMPACT Commission—which is comprised of one voting member per state—has developed draft bylaws and rules for rulemaking. Commission members have also tentatively approved a formula for sharing premium tax revenue among states that—because of its simplicity and practicality—has garnered the support of many insurance regulators inside and outside of the compact and industry representatives alike.

Hawaii would be greeted with open arms should it join Alabama, Indiana, Kansas, Kentucky, New Mexico, North Dakota, Rhode Island, Tennessee, and Vermont in SLIMPACT. Hawaii's Commission member would immediately be able to vote on key Commission determinations. Hawaii's membership would put SLIMPACT over its 10-state threshold—a self-imposed threshold to maintain accountability and balance—to become fully operational.

NCOIL looks forward to working with Hawaii to expand SLIMPACT and hopes that you will soon join this collaborative state effort. Please feel free to contact NCOIL staff at the National Office at 518-687-0178 or at the Washington, DC Office at 202-220-3014 should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Carroll H. Leavell".

Sen. Carroll Leavell, NM
NCOIL President

K/NCOIL/2012/2007629b

THE COUNCIL OF STATE GOVERNMENTS

RESOLUTION IN SUPPORT OF THE SURPLUS LINES INSURANCE MULTI-STATE COMPLIANCE COMPACT

Resolution Summary

President Barack Obama signed the *Dodd-Frank Wall Street Reform and Consumer Protection Act* on July 21, 2010. Congress incorporated the *Nonadmitted Insurance and Reinsurance Reform Act (NRRA)* as Title V, Subtitle B, Part I, of the Dodd-Frank Act and made many of the non-admitted insurance provisions effective upon the expiration of the 12-month period following enactment. The NRRA preempts certain state laws and provides a minimal window of opportunity within which states must act to address NRRA requirements or risk losing millions of dollars in premium tax revenue.

The NRRA relies in large part on the laws and regulations of an insured's home state and preempts the application of laws and regulations by any other state. Specifically, the NRRA permits only an insured's home state to require premium tax payment for non-admitted insurance and to require a surplus lines broker to be licensed in that state to transact business with the insured. The NRRA stipulates that only the insured's home state laws and regulations shall apply to the placement of non-admitted insurance. It also outlines exemptions to state due diligence requirements for brokers seeking to place non-admitted insurance for exempt commercial purchasers. The NRRA also prohibits a state:

- after two years, from collecting surplus lines broker licensing fees if the state does not participate in a national insurance producer database;
- from imposing eligibility requirements on U.S.-domiciled non-admitted insurers, except in conformance with select provisions of the National Association of Insurance Commissioners (NAIC) *Nonadmitted Insurance Model Act*, unless the state has adopted nationwide uniform standards that include eligibility requirements; and
- from prohibiting a broker from placing non-admitted insurance with an alien non-admitted insurer listed on the NAIC *Quarterly Listing of Alien Insurers*

Congress recommends in the NRRA that states adopt uniform requirements, forms, and procedures, such as an interstate compact, to facilitate the reporting, payment, collection, and allocation of premium taxes for non-admitted insurance. The National Conference of Insurance Legislators (NCOIL), the surplus and excess lines industry, and major national property-casualty and producer organizations have endorsed a *Surplus Lines Insurance Multistate Compliance*

Compact (SLIMPACT)—an interstate compact developed over several years by non-admitted insurance experts, with input from insurance legislators, regulators, and industry representatives.

As the NRRA requirements take effect in June 2011, states must act quickly to address NRRA requirements. The failure by the states to streamline non-admitted insurance taxation and regulation would not only cause some states to lose vital premium tax revenue but could also invite further federal preemption, and possibly federal oversight, with respect to the business of insurance.

Additional Resources

- National Conference of Insurance Legislators – www.ncoil.org
- National Association of Professional Surplus Lines Offices, Ltd. – www.naplso.org

CSG Management Directives

- **Management Directive #1:** Support efforts by state legislators and policymakers to implement the intent of Congress in the *Dodd-Frank Wall Street Reform and Consumer Protection Act*.
- **Management Directive #2:** Encourage the adoption of a comprehensive interstate surplus lines insurance compact that would streamline surplus lines taxation and regulation.
- **Management Directive #3:** Demonstrate to Congress and the Administration that the states, collectively, will modernize insurance regulation, when appropriate.

THE COUNCIL OF STATE GOVERNMENTS

**RESOLUTION IN SUPPORT OF A COMPREHENSIVE
SURPLUS LINES INSURANCE COMPACT**

WHEREAS, Congress passed and President Barack Obama signed into law on July 21, 2010, the *Dodd-Frank Wall Street Reform and Consumer Protection Act*;

WHEREAS, Title V, Subtitle B, Part I of Dodd-Frank, the *Nonadmitted Insurance and Reinsurance Reform Act (NRRA)*, calls for states to streamline regulation of excess and surplus lines insurance;

WHEREAS, states need to act to achieve modernization and uniformity where necessary or the federal government will likely step in and preempt state regulation of insurance;

WHEREAS, Congress in NRRA authorizes states to enter into an interstate compact as a means for adopting uniform requirements, forms, and procedures and facilitating the reporting, payment, collection, and allocation of premium taxes for non-admitted insurance;

WHEREAS, the *Surplus Lines Insurance Multi-State Compliance Compact (SLIMPACT)*—a compact developed over the past several years by non-admitted insurance experts, with input from insurance legislators, regulators, and industry representatives—establishes a mechanism that would fully respond to NRRA requirements;

WHEREAS, to date, other proposals brought forward do not go far enough to respond to NRRA provisions regarding uniform requirements, forms and procedures, but instead would continue the burdensome system that Congress seeks to eliminate and invite further federal preemption;

WHEREAS, as the NRRA requirements take effect in June 2011, states must act quickly or risk losing millions of dollars in premium tax revenue; and

WHEREAS, The Council of State Governments (CSG), the National Conference of Insurance Legislators (NCOIL), and the National Conference of State Legislatures (NCSL) support compacts as a way for states to modernize and achieve uniformity, while at the same time preserve state authority.

NOW, THEREFORE BE IT RESOLVED, that The Council of State Governments (CSG) supports the The Surplus Lines Insurance Multi-State Compliance Compact, also supported by the National Conference of Insurance Legislators (NCOIL), the surplus and excess lines industry,

and major national property-casualty and producer organizations—to comply with the NRRA and maximize state non-admitted insurance premium tax collection; and

BE IT FURTHER RESOLVED, that The Council of State Governments (CSG) urges states to take the appropriate measures to ensure compliance with NRRA, including joining the The Surplus Lines Insurance Multi-State Compliance Compact to streamline and make more uniform non-admitted insurance regulation and to demonstrate to Congress that states can and will modernize when and where necessary.

Adopted this ____ Day of December, 2010 at CSG's 2010 National Conference in Providence, Rhode Island.

Governor M. Michael Rounds, SD
2010 CSG President

Senate President David L. Williams, KY
2010 CSG Chairman

1 **TITLE:** **NCSL SUPPORTS AMENDING STATE INSURANCE LAW**
2 **TO CONFORM TO THE NONADMITTED AND**
3 **REINSURANCE REFORM ACT (NRRRA) AND ENACTING**
4 **THE SURPLUS LINES INSURANCE MULTISTATE**
5 **COMPLIANCE COMPACT (SLIMPACT)**

6 **COMMITTEE:** **COMMUNICATIONS, FINANCIAL SERVICES &**
7 **INTERSTATE COMMERCE**

8
9 **TYPE:** **ACTION CALENDAR**

10

11

12 WHEREAS, the *Dodd-Frank Wall Street Reform and Consumer Protection Act*
13 was signed into law by President Obama on July 21, 2010; and

14

15 WHEREAS, the *Nonadmitted and Reinsurance Reform Act of 2009 (NRRRA)* was
16 incorporated into and signed into law as part of the *Dodd-Frank Act*; and

17

18 WHEREAS, the NRRRA, by its various provisions will preempt or supercede
19 portions of the excess and surplus lines law as they exist today in each of the
20 United States when most of the NRRRA's provisions becomes effective on July 21,
21 2011; and

22

23 WHEREAS, only the Home State of the insured will be authorized to tax a
24 surplus lines transaction on and after July 21, 2011, and the states will not be
25 able to allocate the tax revenue unless the states adopt an interstate compact or
26 other uniform, national tax allocation procedures, leaving precious little time for
27 states to act; and

28

29 WHEREAS, an interstate compact (SLIMPACT) was drafted with input from state
30 insurance regulators, state legislators, industry trade organizations and others

31 over the course of 2006 and 2007, which provides a tax allocation system by
32 which the states can allocate taxes consistent with the NRRRA; and

33

34 WHEREAS, the adoption of SLIMPACT will streamline regulatory requirements
35 by providing for: uniform premium tax allocation formulae; a clearinghouse to
36 facilitate the correct calculation and reporting of premium taxes due to the
37 compacting states; and improved coordination of regulatory resources and
38 expertise between state insurance departments and other state agencies, as well
39 as state surplus lines stamping offices; and

40

41 WHEREAS, the adoption of SLIMPACT will protect and facilitate the collection of
42 premium tax revenue on surplus lines and independently procured insurance
43 placements by the compacting states; and

44

45 WHEREAS, the failure of the states to modernize this important area of
46 insurance regulation will add momentum to proponents of a greater federal role
47 in the regulation of insurance industry; and

48

49 WHEREAS, additional federal initiatives could impinge on the state's authority to
50 regulate insurance, and ultimately affect the state's ability to collect insurance
51 premium tax; and

52

53 WHEREAS, the excess and surplus lines insurance statutes in all states must be
54 amended to conform to the mandatory provisions and definitions contained in the
55 NRRRA, in order to expressly set forth the current law clearly and unambiguously;
56 and

57

58 WHEREAS, licensed excess and surplus lines brokers need to change their
59 operating procedures, technology systems and compliance protocols in order to
60 operate properly under the laws as amended due to the enactment of the NRRRA;
61 and

62

63 WHEREAS, licensed excess and surplus lines brokers need as much lead time
64 as is reasonably possible to make changes to their operating procedures,
65 technology systems and compliance protocols in advance of July 21, 2011; and
66

67 NOW, THEREFORE BE IT RESOLVED that the National Conference of State
68 Legislatures (NCSL), in an effort to preserve states' sovereignty in the regulation
69 of the business of insurance, urges state legislatures to draft, introduce and seek
70 passage of legislation to implement the mandatory provisions of the NRRRA, in
71 order to assure a timely implementation and smooth transition for all persons and
72 licensees who will be materially impacted by the required statutory changes, and;
73

74 BE IT FURTHER RESOLVED that NCSL supports the adoption of SLIMPACT by
75 all state legislatures in order to protect state tax revenues and meet the NRRRA
76 requirements to establish such tax revenue protection.

77

78 BE IT FURTHER RESOLVED that NCSL, concerned that the deadline for
79 compliance set forth in the NRRRA affords states only one legislative session to
80 act, supports an extension of the effective date of the NRRRA to July 21, 2012.



EXCESS LINE ASSOCIATION
OF NEW YORK

One Exchange Plaza / 55 Broadway (29th Floor)
New York, New York 10006-3728

Daniel F. Maher
Executive Director

January 31, 2012

VIA EMAIL

Senator Rosalyn H. Baker
Senate Commerce and Consumer
Protection Committee
Hawaii State Capitol, Room 230
415 South Beretania Street
Honolulu 96813

**Re: Non-Admitted and Reinsurance Reform Act (NRRA)
Surplus Lines Insurance Multistate Compliance Compact (SLIMPACT) (Hawaii SB2168)**

Dear Senator Baker,

For the reasons set forth below the Excess Line Association of New York fully supports your sponsorship of the referenced legislation (SB2168) and your efforts to enact SLIMPACT.

- The NRRA empowers the states to create an equitable uniform method by interstate compact or other procedure to allocate and share taxes on multistate surplus lines risks. If the states do not act, the NRRA preempts your state's authority to collect surplus lines, direct procurement or other taxes on multistate risks whenever the insured is "home-stated" in a state other than Hawaii. Significant state tax revenue is at stake in this matter because some brokers which allocated and paid taxes on multistate risks to all states before the NRRA's enactment are no longer compelled to do so.
- SLIMPACT is designed to create a transparent, efficient system via a clearinghouse which provides one stop shopping where surplus lines brokers can calculate and allocate taxes for each state. For the states, each state will receive data and taxes even when the risk is home-stated in another state. The allocations will be based on fair, objective, uniform allocation formulas.
- SLIMPACT will be funded by a charge on each policy and therefore cost the state nothing.
- Every state which adopts SLIMPACT will have an equal vote on the commission which designs, implements and oversees the clearinghouse and its operations.

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- SLIMPACT legislation provides authority for the SLIMPACT Commission to create uniform eligibility standards for the purpose of verifying insurer financial solvency, the most important consumer protection.
- SLIMPACT legislation is the only proposal in existence which attempts to create a level of simple, modern, uniform and efficient national standards contemplated by the NRRA.

For the foregoing reasons, ELANY thanks you for introducing SLIMPACT legislation and fully supports the enactment of this bill.

Excess Line Association of New York

By Daniel F. Maher
Daniel F. Maher
Executive Director





National Association of Professional Surplus Lines Offices, Ltd.

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Brady R. Kelley
Executive Director

February 1, 2012

The Honorable Rosalyn Baker
Chair, Senate Commerce and Consumer Protection Committee
Hawaii State Capitol
Room 230
415 South Beretania Street
Honolulu, HI 96813

Regarding: S. 2168

Dear Chairwoman Baker:

On behalf of the National Association of Professional Surplus Lines Offices (NAPSLO), I want to thank you and the members of the Hawaii Senate Commerce and Consumer Protection Committee for the opportunity for NAPSLO to present its views on S. 2168 and have those views included in the hearing record.

NAPSLO is a national trade association representing the wholesale surplus lines insurance industry. NAPSLO's membership consists of approximately 400 wholesale brokerage member firms, 100 company member firms and 200 associate member firms. NAPSLO member firms operate over 1,600 offices representing approximately 15,000 to 20,000 individual brokers, insurance company professionals, underwriters and other insurance professionals in 50 states and the District of Columbia. NAPSLO's membership includes 800 surplus lines brokers and companies having over 1,500 offices worldwide that broker or underwrite surplus lines insurance. In providing insurance through seven NAPSLO member brokerage offices located in Hawaii, virtually every eligible Hawaii surplus lines insurer is a member of NAPSLO.

Surplus lines is a specialized segment of the insurance business that is also referred to as nonadmitted, specialty and/or excess lines insurance. Risks are placed in this market when they cannot be placed in the admitted/licensed market. Surplus lines, therefore, serves as the essential "safety valve" of the property/casualty insurance industry providing insurance to those who otherwise might not be able to secure it.

Senate Bill 2168 would implement an interstate compact, called the Surplus Lines Insurance Multistate Compliance Compact (SLIMPACT), for the sharing of surplus lines (nonadmitted) tax revenue by Hawaii with other SLIMPACT member states. The impetus for S. 2168 is the passage, by the federal government, of the Nonadmitted and Reinsurance Reform Act (NRRRA), which was included in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

The NRRRA became effective on July 21, 2011 and provides that only one state, the 'home state' of the insured, may collect a tax on nonadmitted/surplus lines insurance premiums. As a result of this provision, some states have initiated an effort to allow for the surplus lines tax/nonadmitted revenue collected by the insured's 'home state' to be shared among other states wishing to share their surplus lines/nonadmitted tax

revenue. Two proposals for such tax sharing are currently being discussed among some states. One of these models is SLIMPACT and the other is the Nonadmitted Insurance Multistate Agreement (NIMA).

NAPSLO has supported the SLIMPACT model for tax sharing of nonadmitted premium tax among the states, because SLIMPACT offers the best way to create the efficiency and uniformity Congress intended to achieve through the NIRA. By contrast, the NIMA model allows each participating state to impose unique tax requirements, forms, data requirements and state-specific procedures that make it more difficult to calculate and remit surplus lines taxes. If Hawaii is to participate in a tax sharing arrangement, SLIMPACT provides a structure that will create the uniformity Congress intended for the surplus lines tax remittance process. SLIMPACT also has an identifiable and transparent governance structure and offers the opportunity for its participating states to implement additional consumer protections particularly in the area of company eligibility and consumer information. NAPSLO believes NIMA must do more to promote uniformity and efficient taxation and regulation of surplus lines insurance.

Nonetheless, in making its decision in regard to joining a tax sharing agreement, NAPSLO would urge the State to carefully evaluate the reasons it wishes to join an arrangement or compact and the impact its participation will have on the State and its citizens.

NAPSLO Concerns with NIMA

As you know, Hawaii joined the NIMA tax sharing arrangement last year. NIMA is not yet operational and it is not clear when it will be able to begin operations as a clearinghouse and would be capable of accepting filings from brokers. Our interpretation of the language in S. 2168 would require Hawaii to withdraw from NIMA in order to implement SLIMPACT. However, if the intent of S. 2168 is to allow Hawaii to participate in SLIMPACT as well as NIMA, NAPSLO would be very concerned with the creation of two separate tax sharing mechanisms with two separate and inconsistent matrices of payment rules, allocation formulas and regulations for surplus lines brokers. We are not certain if brokers could navigate the inconsistency of multiple approaches in order to remit the taxes due the State on surplus lines/nonadmitted insurance transactions. Not only do NAPSLO members oppose such an onerous tax collection framework, but the taxing structure would be far afield from the efficient and uniform approach to surplus lines taxation Congress intended the states to create when it passed the NIRA, if not outright prohibited by the NIRA.

NAPSLO is also concerned with certain aspects of NIMA as it is currently being applied in the State of Hawaii. The major problem is that, even without NIMA implementing a clearinghouse or sharing state tax revenues, Hawaii surplus lines brokers are being required to calculate and pay the surplus lines tax on multistate policies at the rates of other states where exposures reside when Hawaii is the 'home state' of the insured. This creates a burden on and confuses brokers and insureds alike because:

- (1) It requires brokers to comply with an anticipated allocation methodology that is still open for discussion and potential revision; and
- (2) It requires brokers to comply with an anticipated clearinghouse system, whose operations are not yet finalized and for which no specific instructions have been provided.

Until these issues are fully resolved, compliance with the inconsistent and unresolved NIMA requirements will be extremely difficult for surplus lines brokers in Hawaii. NAPSLO has recommended the Hawaii Insurance Division issue clarifying guidance to surplus lines insurance producers to use the Hawaii tax rate on 100% of the gross premium for Hawaii home state policies effective on or after July 21, 2011, until which time Hawaii's participation in tax sharing and its resulting allocation methodology is finalized and a clearinghouse is ready to accept filings with clear instructions to and expectations of surplus lines brokers.

NAPSLO Concerns with Current Hawaii Statute

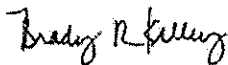
In addition to NAPSLO's concerns regarding NIMA, NAPSLO respectfully requests the Legislature consider the following issues in connection with the 2012 legislation, regarding amendments and clarifications with respect to House Bill 1052, which became effective June 1, 2011:

1. HB 1052 includes definitions that are not consistent with the NRRA, specifically definitions of "group insurance", "group policyholder", "principal place of business" and "principal residence".
2. HB 1052 does not limit its application to insureds for which Hawaii is the "home state".
3. HB 1052 requires brokers and insureds to apply tax rates that are different than Hawaii's current rate to premiums allocated outside Hawaii, even premiums that are allocated to states that are not sharing tax revenues with Hawaii. For example, surplus lines premiums paid by a Hawaii home state insured that are allocated to New York would be taxed at New York's rate rather than Hawaii's rate, yet that tax revenue would be collected and retained by Hawaii, because New York is not currently participating in a tax sharing system. Thus, Hawaii is unnecessarily collecting tax revenues at different rates, which is increasing the compliance and administrative burden on brokers and insureds.

We encourage you to consider these issues as you consider S. 2168 this session.

Again, NAPSLO appreciates the opportunity to provide comments on S. 2168 and would appreciate the opportunity to address any questions or concerns you may have.

Sincerely,



Brady R. Kelley
Executive Director