GOV. MSG. NO. 1171

EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

May 26, 2011

The Honorable Shan Tsutsui, President
and Members of the Senate
Twenty-Sixth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Calvin Say, Speaker
and Members of the House
Twenty-Sixth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Tsutsui, Speaker Say and Members of the Legislature:

This is to inform you that on May 26, 2011, the following bill was signed into law:

HB1052 HD2 SD1 CD1 — RELATING TO INSURANCE
Act 068 (11)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

Approved by the Governor
on MAY 26 2011

ORIGINAL

ACT 068

HOUSE OF REPRESENTATIVES
TWENTY-SIXTH LEGISLATURE, 2011
STATE OF HAWAII

H.B. NO. 1052 H.D. 2 S.D. 1 C.D. 1

A BILL FOR AN ACT

RELATING TO INSURANCE.

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

SECTION 1. The purpose of this Act is to amend chapter 431, Hawaii Revised Statutes, to comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 relating to surplus lines insurance and to enable participation in a multi-state cooperative for the purpose of collecting surplus lines insurance premium taxes and fees and distributing those taxes and fees to the proper states.

SECTION 2. Section 431:1-213, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

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

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

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

1. By adding nine new definitions to read:

""Exempt commercial purchaser" means any person purchasing commercial insurance which, at the time of placement, employs or retains a qualified risk manager to negotiate insurance coverage; and has paid aggregate nationwide commercial property and casualty insurance premiums in excess of $100,000 in the immediately preceding twelve months. The person shall possess a net worth in excess of $20,000,000; generate annual revenues in excess of $50,000,000; employ more than five hundred full-time or full-time equivalent employees per individual insured or be a

1 member of an affiliated group employing more than 1,000
2 employees in the aggregate; be a not-for-profit organization or
3 public entity generating annual budgeted expenditures of at
4 least $30,000,000; or be a municipality with a population in
5 excess of 50,000 persons. Effective January 1, 2015, and every
6 five years thereafter, the amount of net worth, annual revenues,
7 and budgeted expenditures shall be adjusted to reflect the
8 percentage change for that five-year period in the Consumer
9 Price Index for All Urban Consumers published by the Bureau of
10 Labor Statistics of the federal Department of Labor.
11 "Home state" means, with respect to an insured, the state
12 in which an insured maintains the insured's principal place of
13 business or, in the case of an individual, the state in which
14 the individual maintains the individual's principal residence;
15 provided that if one hundred per cent of the insured risk is
16 located out of the state where the insured maintains the
17 insured's principal place of business or the state where the
18 individual maintains the principal residence, the home state
19 shall be the state where the greatest percentage of the
20 insured's taxable premium for that insurance contract is
21 allocated.

1 "Home state of affiliated group" means the home state of
2 the member of the affiliated group that has the largest
3 percentage of premium attributed to it under an insurance
4 contract that has more than one insured from the affiliated
5 group listed as named insureds on a single unauthorized
6 insurance contract.
7 "Home state of group insurance" means the home state of the
8 group policyholder who pays one hundred per cent of the premium
9 from the policyholder's own funds. When the group policyholder
10 does not pay one hundred per cent of the premium from the
11 policyholder's own funds, the term "home state of group
12 insurance" means the home state of the group member.
13 "Independently procured insurance" means insurance obtained
14 by an insured directly from an unauthorized insurer as permitted
15 by the laws of the insured's home state.
16 "Multi-state risk" means a risk covered by an unauthorized
17 insurer with insured exposures in more than one state.
18 "Principal place of business" means, with respect to
19 determining the home state of the insured:
20 (1) The state where the insured maintains the insured's
21 headquarters and where the insured's high-level

officers direct, control, and coordinate the business activities;

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

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

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

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

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

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

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

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

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

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

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

"**§431:8-201 Transacting insurance business without certificate of authority prohibited.** It shall be unlawful for

any insurer to transact an insurance business in this State, as defined in section 431:1-215, without a certificate of authority[~~, except~~]; provided that this section shall not apply to:

(1) The lawful transaction of surplus lines insurance;

(2) The lawful transaction of reinsurance by insurers;

(3) Transactions in this State involving a policy lawfully solicited, written, and delivered outside of this State covering only subjects of insurance not resident, located, or expressly to be performed in this State at the time of issuance, and [~~which transactions are~~] subsequent to the issuance of [~~such~~] the policy;

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

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

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

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

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

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

"(b) Each insured who in this State, before July 1, 2011, procures [~~or~~], continues, or renews surplus lines insurance [~~with an unauthorized insurer~~] on a risk located or to be performed in whole [~~or in part~~] in this State, other than insurance procured through a surplus lines broker pursuant to part III of this article shall[~~,~~] file within sixty days after the date the insurance was [~~so~~] procured, continued, or renewed, [~~file~~] a written report [~~of the same~~] with the commissioner[~~, upon forms prescribed by the commissioner, showing:~~]. Each insured who in this State, after June 30, 2011, procures, continues, or renews surplus lines insurance for which this

State is the home state of the insured, other than insurance procured through a surplus lines broker pursuant to part III of this article shall file within forty-five days after the end of the calendar quarter in which the insurance was procured, continued, or renewed, a written report with the commissioner. The report shall be on forms prescribed by the commissioner, showing:

(1) The name and address of the insured or insureds;

(2) The name and address of the insurer;

(3) The subject of the insurance;

(4) A general description of the coverage;

(5) The itemized amount of [~~premium~~] premiums, taxes, and fees currently charged [~~therefor; and~~] for each state;

(6) The policy number, effective date of the policy, and home state of the insured; and

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

(c) Gross premiums charged for the surplus lines insurance[~~,~~] allocable to this State, less any return premiums, are subject to a tax at the rate of 4.68 per cent. At the time of filing the report required in subsection (b)[~~,~~] for insurance procured, continued, or renewed before July 1, 2011, the insured

shall pay the tax to the commissioner. At the time of filing the report required in subsection (b) for insurance procured, continued, or renewed after June 30, 2011, if this State is the home state of the insured, the insured shall pay the tax and fees of this State and all other states to the director of finance, through the commissioner. If this State is not the home state of the insured, the insured shall pay the tax and fees of this State to the home state of the insured.

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

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

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

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

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

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

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

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

(1) The broker procuring or placing the surplus lines insurance has disclosed to the exempt commercial

purchaser that the insurance may or may not be available from the admitted market which may provide greater protection with more regulatory oversight; and

(2) The exempt commercial purchaser has subsequently requested in writing for the broker to procure or place the insurance from an unauthorized insurer."

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

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

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

~~(1) In the case of a foreign insurer, shall maintain in the broker's office a current certificate, in proper form, from the regulatory authority in the domicile of the unauthorized insurer, to the effect that the insurer has capital and surplus, or its equivalent~~

~~under the laws of its domiciliary jurisdiction, which equals the minimum capital and surplus requirements of this State for that kind of insurer as set out in article 3; or~~

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

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

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

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

(c) A surplus lines broker shall not place coverage with an unauthorized insurer unless, at the time of placement, the surplus lines broker has determined that:

(1) The unauthorized insurer has capital and surplus or its equivalent under the laws of its domiciliary state that equal the greater of the minimum capital requirement of this State or a minimum of $15,000,000; provided that:

1 (A) Minimum capital requirements may be satisfied by
2 the insurer's possessing less than the minimum
3 capital and surplus upon an affirmative finding
4 of acceptability by the commissioner;
5 (B) A finding of acceptability pursuant to
6 subparagraph (A) shall be based upon factors such
7 as quality of management, capital and surplus of
8 any parent company, company underwriting profit
9 and investment income trends, market
10 availability, and company record and reputation
11 within the industry; and
12 (C) The commissioner shall not make an affirmative
13 finding of acceptability pursuant to subparagraph
14 (A) if the unauthorized insurer's capital and
15 surplus is less than $4,500,000; or
16 (2) For an insurer not domiciled in the United States or
17 its territories, the insurer shall be listed on the
18 Quarterly Listing of Alien Insurers maintained by the
19 National Association of Insurance Commissioners
20 International Insurers Department; provided that:
21 (A) If an alien insurer is not in the Quarterly
22 Listing of Alien Insurers, the surplus lines

broker shall maintain in the broker's office evidence of the financial responsibility of the insurer; and

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

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

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

"(a) Upon placing surplus lines insurance, the surplus lines broker shall as soon as reasonably possible deliver to the insured the policy[~~,~~] or, if the policy is not available, the surplus lines broker's certificate, cover note, binder, or other evidence of insurance. Any confirmation of insurance shall be executed by the surplus lines broker and shall show [~~the following~~]:

(1) The policy number, effective date, home state, and a description and location of the subject of the insurance[~~,~~];

(2) A general description of the coverages, including any material limitations other than those in standard forms[~~,~~];

(3) The premium and rate charged, itemized by each state;

(4) The taxes and fees to be collected from the insured, itemized by each state;

(5) The name and address of the insured[~~,~~];

(6) The name and address of the insurer[~~,~~];

(7) If the direct risk is assumed by more than one insurer, the certificate shall state the name and

address and proportion of the entire direct risk assumed by each insurer[~~,~~]; and

(8) The name of the surplus lines broker and such broker's license number."

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

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

(1) Amount of the insurance and perils insured;

(2) Brief description of the property insured and its location;

(3) Gross premium, taxes, and fees charged[~~,~~], itemized by each state;

(4) Any return premium, taxes, and fees paid[~~,~~], itemized by each state;

(5) Rate of premium charged upon the several items of property;

(6) Effective date of the contract[~~,~~] and [~~the~~] its terms [~~thereof~~];

(7) Name [~~and~~], address, and home state of the insured;

(8) Name and address of the insurer;

(9) Amount of tax and other sums to be collected from the insured[~~,~~], itemized by each state; and

(10) Any additional information required by the commissioner."

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

"**§431:8-313 Surplus lines broker's [~~annual statement.~~] reports to commissioner.** (a) Each surplus lines broker shall file with the commissioner on or before March 15 [~~of each year~~], 2011, a verified statement of all surplus lines insurance transacted during [~~the preceding calendar year.~~] 2010. Each surplus lines broker shall file with the commissioner on or before September 15, 2011, a verified statement of all surplus lines insurance transacted after December 31, 2010, and before July 1, 2011. After June 30, 2011, each surplus lines broker shall file with the commissioner within forty-five days of the end of each calendar quarter a verified statement of all surplus

lines insurance transacted during the calendar quarter as follows:

(1) The statement for the quarter ending March 31 shall be filed on or before May 15;

(2) The statement for the quarter ending June 30 shall be filed on or before August 15;

(3) The statement for the quarter ending September 30 shall be filed on or before November 15; and

(4) The statement for the quarter ending December 31 shall be filed on or before February 15.

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

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

(2) Aggregate gross premiums charged[~~;~~], itemized by each state;

(3) Aggregate of returned premiums paid to insureds[~~;~~], itemized by each state;

(4) Aggregate of net premiums[~~;~~] and fees, itemized by each state;

(5) Amount of aggregate [~~tax~~] remitted[~~;~~] taxes and fees, itemized by each state; and

(6) Additional information as required by the commissioner."

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

"**§431:8-315 Tax on surplus lines.** (a) On or before March 15, [~~of each year,~~] 2011, each surplus lines broker shall pay to the director of finance, through the commissioner, a premium tax on surplus lines insurance transacted by the broker during [~~the preceding calendar year.~~] 2010. On or before September 15, 2011, each surplus lines broker shall pay to the director of finance, through the commissioner, a premium tax on surplus lines insurance transacted by the broker after December 31, 2010, and before July 1, 2011. After June 30, 2011, within forty-five days after the end of each calendar quarter, each surplus lines broker shall pay to the director of finance, through the commissioner, a premium tax on surplus lines insurance transacted by the broker during the calendar quarter for insurance for which this State is the home state of the insured. The tax rate shall be in the amount of 4.68 per cent of gross premiums, less return premiums, on [~~taxable~~] surplus lines insurance[~~.~~] allocated to this State. The tax

rate and fees of other states shall be applied to the gross premiums, less return premiums, allocated to those states.

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

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

[~~(b)~~] (c) If a surplus lines policy covers risks or exposures only partially resident in this State, the tax [~~so~~] payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in

this State. The taxes and fees payable to this State on policies that cover risks and exposures only partially resident in this State shall be remitted on the quarterly schedule established by subsection (a) to the home state of the insured for disbursement to this State.

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

(e) The commissioner may:

(1) Enter into a cooperative agreement, reciprocal agreement, or compact with other states to facilitate and provide for the collection, allocation, and disbursement of premium taxes attributable to the placement of surplus lines insurance;

(2) Provide for uniform methods of allocation and reporting among surplus lines insurance risk classifications;

(3) Conform to the requirements of the federal Nonadmitted and Reinsurance Reform Act of 2010;

(4) Share information among states relating to surplus lines insurance premium taxes; and

(5) Utilize a method adopted in cooperation with other states to allocate risk and compute the tax due on the portion of premium attributable to each risk classification and to each state where properties, risks, or exposures are located.

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

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

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

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

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

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

(b) The commissioner may:

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

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

(3) Recover the fine for failure to file the [~~annual statement~~] statements required by section 431:8-313 by instituting an action in any court of competent jurisdiction."

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

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

(1) Failure to file [~~the annual statement~~] statements required by section 431:8-313 or to pay the tax required by section 431:8-315;

(2) Failure to keep records or to allow the commissioner to examine the surplus lines broker's records as provided in this article;

(3) Removal of office accounts and records from this State during the period in which the accounts are required to be maintained under this article;

(4) Any of the causes for which a producer's license may be suspended or revoked under article 9A;

(5) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner;

(6) [~~If the licensee wilfully violates or knowingly participates~~] Wilful violation or knowing participation in the violation of any provision of this code;

(7) [~~If the licensee has obtained or attempted~~] Obtaining or attempting to obtain [~~the~~] a license under this chapter through wilful misrepresentation or fraud, or [~~has failed~~] failure to pass any examination required by section 431:9A-105;

(8) [~~If the licensee has misappropriated, converted~~] Misappropriation, conversion to the licensee's own use, or illegally [~~withheld~~] withholding moneys required to be held in a fiduciary capacity;

(9) [~~If the licensee, with intent to deceive, has materially misrepresented~~] Material misrepresentation with intent to deceive of the terms or effect of any insurance contract, or [~~has engaged or is about~~] engagement or intent to engage in any fraudulent transaction;

(10) [~~If the licensee has been guilty~~] Commission of any unfair practice or fraud as defined in article 13;

(11) [~~If in the conduct of the licensee's affairs under the license, the licensee has been a source of~~] Conduct of affairs under a license issued pursuant to this chapter in a manner that causes injury and loss to the public;

(12) [~~If the licensee issues or purports to issue~~] The issuance or purported issuance of any binder as to any insurer named [~~therein as to which~~] in the binder if the licensee is not [~~then~~] authorized [~~so~~] to bind[~~,~~] the insurer; or

(13) [~~If the licensee has dealt with, or attempted to deal with,~~] Dealing or attempting to deal with insurance or [~~to exercise~~] exercising powers relative to insurance outside the scope of the licensee's licenses."

SECTION 16. The insurance commissioner shall submit recommendations for legislation pertaining to and enabling the insurance commissioner to participate fully in the multi-state cooperative agreement, interstate agreement, reciprocal agreement, or compact for the collection and distribution of surplus lines insurance premium taxes and fees created pursuant to the Nonadmitted and Reinsurance Reform Act of 2010 to the legislature no later than twenty days prior to the convening of the regular session of 2012.

SECTION 17. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 18. This Act shall take effect on June 1, 2011.

APPROVED this 26 day of MAY, 2011

Neil Abercrombie

GOVERNOR OF THE STATE OF HAWAII