

**ONE HUNDRED SECOND LEGISLATURE - FIRST SESSION - 2011**  
**COMMITTEE STATEMENT**  
**LB70**

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**Hearing Date:** Tuesday January 18, 2011  
**Committee On:** Banking, Commerce and Insurance  
**Introducer:** Pahls  
**One Liner:** Change the Surplus Lines Insurance Act

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**Roll Call Vote - Final Committee Action:**  
Advanced to General File with amendment(s)

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**Vote Results:**

**Aye:** 8 Senators Christensen, Gloor, Langemeier, McCoy, Pahls, Pankonin,  
Pirsch, Utter

**Nay:**

**Absent:**

**Present Not Voting:**

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**Proponents:**

Senator Rich Pahls  
Bruce Ramage

**Representing:**

Introducer  
NE Dept. of Insurance

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

OVERVIEW

LB70 (Pahls), introduced at the request of the Director of Insurance, would amend various sections of the Surplus Lines Insurance Act to conform it to the requirements of the federal Non-Admitted and Reinsurance Reform Act of 2010 ("NRRRA") passed as part of Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub.L. 111-203, H.R. 4173).

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would amend section 44-5502 of the Surplus Lines Insurance Act to enact new definitions: "affiliated group;" "control;" "exempt commercial purchaser;" "home state;" "nonadmitted insurance;" and "qualified risk manager."

Section 2 would amend section 44-5504 of the Surplus Lines Insurance Act to change the standard for the requirement of licensure as a surplus lines licensee under the act from placement of insurance for a risk located in Nebraska to placement of insurance for an insured whose home state is Nebraska. Section 2 would replace the reference to "industrial insured" with a reference to "exempt commercial purchaser" for purposes of exemption from the licensure requirement.

Section 3 would amend section 44-5505 of the Surplus Lines Insurance Act to require surplus lines licensees to retain in their records the address of the principal residence of the insured or the address at which the insured maintains its principal place of business.

Section 4 would amend section 44-5506 of the Surplus Lines Insurance Act to specify that the licensee report shall include the amount of insurance placed for an insured whose home state is Nebraska. Section 4 would specify that the basis of taxation is on those premiums received by the licensee for the placement of insurance on behalf of an insured whose home state is Nebraska with any nonadmitted insurer.

Section 5 would amend section 44-5508 of the Surplus Lines Insurance Act to conform it to the requirements of the federal Non-Admitted and Reinsurance Reform Act by replacing the existing requirements with which a surplus lines licensee must comply before placing insurance with a nonadmitted insurer. Section 5 would require surplus lines licensees to determine that the insurer is authorized to write such insurance in its domiciliary jurisdiction, has sufficient evidence of good business repute and financial integrity, and has minimum capital and surplus of the greater of that required in Nebraska or fifteen million dollars. If the insurer does not have the required minimum capital and surplus, section 5 would allow placement with a finding of acceptability by the Director of Insurance if the insurer has minimum capital and surplus of more than \$4.5 million. Section 5 would prohibit placement of coverage with an insured domiciled outside of the United States unless the insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners.

Section 6 would amend section 44-5510 of the Surplus Lines Insurance Act to exempt a surplus lines licensee from performing a due diligence search on behalf of an exempt commercial policyholder to determine whether insurance is available on an admitted basis if the licensee discloses that admitted market coverage may be available and the exempt commercial purchaser requests in writing procurement from a nonadmitted insurer.

Section 7 would amend section 44-5511 of the Surplus Lines Insurance Act to exempt surplus lines licensees reporting insurance placed or procured on behalf of an exempt commercial purchaser from the quarterly report of business placed by the licensee.

Section 8 would amend section 44-5515 of the Surplus Lines Insurance Act to change references from "industrial insured" to "exempt commercial purchaser."

Section 9 would provide for an operative date of July 21, 2011.

Section 10 would provide for repealers of amendatory sections.

Section 11 would provide for the emergency clause.

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**Explanation of amendments:**

The committee amendments (AM82) would allow the Nebraska Director of Insurance to enter the Nonadmitted Insurance Multi-State Agreement - known as NIMA. NIMA has been developed by the National Association of Insurance Commissioners.

NIMA would allow states which join it to allocate surplus lines taxes among themselves on the basis of the location of the risk, rather than on the basis of the home state of the insured, as otherwise required by the federal Dodd-Frank law. This would allow Nebraska to continue to collect surplus lines taxes on the existing basis to the fullest extent.

NIMA requires participating states to adopt a single tax rate. To accomplish this, the committee amendments would repeal a small additional tax levied on surplus lines policies that cover fire risks. The amount of the additional fire tax has been minimal.

The committee amendments would make other changes in the bill to facilitate tax allocation between the states, including synchronizing reporting dates and providing specific authorization for the use of the NAIC insurance producer date base.

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Rich Pahls, Chairperson