

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 837**

Introduced by Scheer, 19.

Read first time January 08, 2016

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Surplus Lines Insurance Act; to amend
- 2 sections 44-5506 and 44-5515, Revised Statutes Cumulative
- 3 Supplement, 2014; to change provisions relating to premium taxes and
- 4 quarterly statements; to harmonize provisions; to provide an
- 5 operative date; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-5506, Revised Statutes Cumulative Supplement,  
2 2014, is amended to read:

3 44-5506 ~~(1) For purposes of carrying out the Nonadmitted and~~  
4 ~~Reinsurance Reform Act of 2010, which is Subtitle B of the Dodd-Frank~~  
5 ~~Wall Street Reform and Consumer Protection Act, Public Law 111-203, as~~  
6 ~~such act existed on January 1, 2011, the director may enter into the~~  
7 ~~Nonadmitted Insurance Multi-State Agreement in order to facilitate the~~  
8 ~~collection, allocation, and disbursement of premium taxes attributable to~~  
9 ~~the placement of nonadmitted insurance, provide for uniform methods of~~  
10 ~~allocation and reporting among nonadmitted insurance risk~~  
11 ~~classifications, and share information among states relating to~~  
12 ~~nonadmitted insurance premium taxes.~~

13 ~~(2) The director may participate in the clearinghouse established~~  
14 ~~through the Nonadmitted Insurance Multi-State Agreement for the purpose~~  
15 ~~of collecting and disbursing to reciprocal states any funds collected~~  
16 ~~applicable to properties, risks, or exposures located or to be performed~~  
17 ~~outside of this state. To the extent that other states where portions of~~  
18 ~~the properties, risks, or exposures reside have failed to enter into a~~  
19 ~~compact or reciprocal allocation procedure with the State of Nebraska,~~  
20 ~~the net premium tax shall be retained by the State of Nebraska. If the~~  
21 ~~director chooses to participate in the clearinghouse for the purpose~~  
22 ~~authorized by this subsection, the director may also participate in such~~  
23 ~~clearinghouse for purposes of surplus lines policies applicable to risks~~  
24 ~~located solely within this state.~~

25 ~~(1 3) Every surplus lines licensee transacting business under the~~  
26 ~~Surplus Lines Insurance Act shall, on or before March 1 ~~February 15~~ for~~  
27 ~~the quarter ending the preceding December 31, June 1 ~~May 15~~ for the~~  
28 ~~quarter ending the preceding March 31, September 1 ~~August 15~~ for the~~  
29 ~~quarter ending the preceding June 30, and December 1 ~~November 15~~ for the~~  
30 ~~quarter ending the preceding September 30 of each year, make and file~~  
31 ~~with the department a verified statement upon a form prescribed by the~~

1 department or a designee of the director which shall exhibit the true  
2 amount of all such business transacted during that period.

3 ~~(2)(a)~~ ~~(4)(a)~~ Every surplus lines licensee transacting business  
4 under the Surplus Lines Insurance Act shall collect and pay to the  
5 director or the director's designee, at the time the statement required  
6 under subsection ~~(1 3)~~ of this section is filed, a sum based on the total  
7 gross premiums charged, less any return premiums, for surplus lines  
8 insurance provided by the licensee pursuant to the license on behalf of  
9 an insured whose home state is the State of Nebraska. In no event shall  
10 such taxes be determined on a retaliatory basis pursuant to section  
11 44-150.

12 ~~(b) The~~ ~~When the insurance covers properties, risks, or exposures~~  
13 ~~located or to be performed solely in this state on behalf of an insured~~  
14 ~~whose home state is the State of Nebraska, the sum payable shall be~~  
15 ~~computed based on an amount equal to three percent of the premiums for~~  
16 ~~insurance that covers properties, risks, or exposures located or to be~~  
17 ~~performed in the United States, to be remitted to the State Treasurer in~~  
18 ~~accordance with section 77-912.~~

19 ~~(c) When the insurance covers properties, risks, or exposures~~  
20 ~~located or to be performed both in and out of this state, the sum payable~~  
21 ~~shall be computed based on:~~

22 ~~(i) For purposes of the portion that is attributable to in-state risks, an~~  
23 ~~amount and rate equal to that set forth in subdivision (4)(b) of this~~  
24 ~~section; plus~~

25 ~~(ii) For purposes of the portion that is attributable to out-of-state~~  
26 ~~risks, an amount equal to the portion of the premiums allocated to each~~  
27 ~~of the other states or territories and at a rate as established by each~~  
28 ~~state or territory as being applicable to the properties, risks, or~~  
29 ~~exposures located or performed outside of this state. The tax on any~~  
30 ~~portion of the premium unearned at termination of insurance having been~~  
31 ~~credited by the state to the licensee shall be returned to the~~

1 ~~policyholder directly by the surplus lines licensee or through the~~  
2 ~~producing broker, if any.~~ The surplus lines licensee is prohibited from  
3 rebating, for any reason, any portion of the tax.

4 ~~(5) The director may utilize or adopt the allocation schedule~~  
5 ~~included in the Nonadmitted Insurance Multi-State Agreement for the~~  
6 ~~purpose of allocating risk and computing the tax due on the portion of~~  
7 ~~premium attributable to each risk classification and to each state in~~  
8 ~~which properties, risks, or exposures are located.~~

9 Sec. 2. Section 44-5515, Revised Statutes Cumulative Supplement,  
10 2014, is amended to read:

11 44-5515 Every exempt commercial purchaser whose home state is the  
12 State of Nebraska shall, on or before March 1 ~~February 15~~ for the quarter  
13 ending the preceding December 31, June 1 ~~May 15~~ for the quarter ending  
14 the preceding March 31, September 1 ~~August 15~~ for the quarter ending the  
15 preceding June 30, and December 1 ~~November 15~~ for the quarter ending the  
16 preceding September 30 of each year, pay to the department a tax in the  
17 amount required by subsection (2) subdivision (4)(a) of section 44-5506.  
18 The calculation of the taxes due pursuant to this section shall be based  
19 only on those premiums remitted for the placement or procurement of  
20 insurance by an exempt commercial purchaser whose home state is the State  
21 of Nebraska. The department shall prescribe a form for an exempt  
22 commercial purchaser tax filing.

23 Sec. 3. This act becomes operative on January 1, 2017.

24 Sec. 4. Original sections 44-5506 and 44-5515, Revised Statutes  
25 Cumulative Supplement, 2014, are repealed.