

# Bill Summary

**COMMITTEE:** Banking and Insurance

**DATE:** 6/6/11

**PRIME SPONSOR:** D. White

**BILL NO:** SB1096

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**PRINTER'S NO:** 1278

## **A. Synopsis:**

SB1096 amends The Insurance Company Law to implement changes required by Federal law relating to surplus lines premium tax.

## **B. Summary:**

In July 2010, Congress enacted the Nonadmitted and Reinsurance Reform Act of 2010 (NRRA). NRRA affects surplus lines premium tax, independently procured insurance tax, and nonadmitted insurance contracts tax. NRRA prohibits states from collecting these premium taxes unless the state is the home state of the insured. It also encourages states to adopt uniform rules and multi-state agreements for reporting, payment, collection, and allocation of these taxes.

In order to comply with the NRRA, PA must amend The Insurance Company Law in SB1096 to impose these premium taxes only when PA is the home state and change the taxation of multi-state risks from an allocation method to a gross premiums method.

Specifically, the following amendments to Title 40 are in SB1096 which address the provisions of the NRRA:

1. NRRA (Sec. 522) subjects the placement of surplus lines and independently procured insurance to the statutory and regulatory requirements of the insured's home State. A scope was added to Section 1601 and definitions from the NRRA for "home State," "affiliate," "affiliated group," "control," and "state" were added to Section 1602.
2. NRRA (Sec. 524) sets out specified standards for eligibility of nonadmitted insurers along with the notion of additional or alternative uniform nationwide standards. These standards were incorporated into Section 1605.
3. NRRA (Sec. 525) provides that surplus lines brokers seeking to procure or place nonadmitted insurance on behalf of an "exempt commercial purchaser" are not required to satisfy any diligent search requirements. Definitions of "exempt commercial purchaser" and "qualified risk manager" were added to Section 1610.
4. NRRA (Sec. 522) provides that only the insured's home State may require a surplus lines broker to be licensed to sell, solicit or negotiate nonadmitted insurance with respect to that insured. An amendment was made to Section 1615.
5. Reference was added in Section 1615 to the definition of "home state" as it relates to licensing which differs from the NRRA definition of "home State" as it relates to the

insured.

6. NRRA (Sec. 521) provides that “no state other than the home State of an insured may require any premium tax payment for nonadmitted insurance.” The Commonwealth is currently an allocation state in that, in the case of a multi-state risk, tax is levied only on that portion of the premium ascribable to that portion of the risk situated in the Commonwealth. Significant changes are proposed to Sections 1621 and 1622 to conform surplus lines and independently procured premiums taxation to the NRRA requirements, and to authorize the Commonwealth to collect tax on 100% of the premium for a home State insured.
7. An amendment was made to Section 1623 to clarify the Department’s current authority to suspend, revoke or nonrenew a surplus lines licensee for failure to collect premium tax.