

Summary of HR 1065/S 929 –
The Nonadmitted and Reinsurance Reform Act of 2007
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S. 929 is identical to the 2006 House bill, HR 5637.
H.R. 1065 has a few substantive changes from the 2006 House bill, which are highlighted in RED.

Effective Date: 12 months after enactment

Title 1. Nonadmitted Insurance

Sec. 101. Reporting, Payment, and Allocation of Premium Taxes

- Only the home state of the insured may collect premium tax payments
 - “home state” is defined as the state where the insured maintains its principal place of business, or in the case of an individual, the principal place of residence
 - “state” includes all U.S. states, D.C., and the territories (for both titles of this bill)
- The states may enter into a compact or procedure to allocate premium taxes among different states. Congress intends that each state adopt this procedure within 330 days after enactment to provide for reporting, payment, collection, and allocation of premium taxes. NAIC reports back to Congress on the status of the compact.
- The home state may require surplus lines brokers and insureds to submit tax allocation reports detailing the portion of risk in various states and the value of premium attributable to those risks in order to facilitate premium tax allocation.

Sec. 102. Regulation of Nonadmitted Insurance by Insured’s Home State

- Only the home state of the insured has authority over regulatory requirements for the surplus lines placement.
- Only the home state of the insured can require a surplus lines broker to be licensed in order to sell nonadmitted insurance to that insured.
- Nothing in the Act preempts states from prohibiting the placement of worker’s comp insurance, or excess insurance for self-funded worker’s comp insurance, with a nonadmitted insurer.

Sec. 103. Participation in National Producer Database

- After 2 years from the date of enactment, a state cannot collect licensing fees from a surplus lines broker unless the state participates in the NAIC producer database or some equivalent database.

Sec. 104. Uniform Standards for Surplus Lines Eligibility

- A state may not impose eligibility requirements on a U.S. nonadmitted insurer other than:
 1. the insurer must be authorized to sell nonadmitted insurance by its domiciliary state; **and**

2. the insurer must have minimum capital and surplus requirements determined by the domiciliary state, **or** \$15,000,000, **or** an amount above \$4,500,000 if approved by the commissioner.
- A state may not prohibit a surplus lines broker from conducting business with a nonadmitted insurer outside the U.S. if that insurer is listed on the NAIC Quarterly Listing of Alien Insurers.

Sec. 105. Streamlined Application for Commercial Purchasers

- When procuring nonadmitted insurance for an “exempt commercial purchaser,” a surplus lines broker does not need to conduct a due diligence search to determine whether the insurance coverage requested can be provided by the admitted market if:
 - The broker has disclosed to the purchaser that coverage may be available in the admitted market with greater protection and regulatory oversight; and
 - The purchaser has specifically requested nonadmitted insurance in writing

Sec. 106. GAO Study of Nonadmitted Insurance Market

- The GAO will conduct a study, in consultation with the NAIC, to determine any change in the size of the nonadmitted market or an unhealthy shift from the admitted market to the nonadmitted market as a result of the Act in the 18 month period following the effective date of the Act (note: effective date is 12 months after enactment). The GAO will issue the report to Congress no later than 30 months after the effective date.

Sec. 107. Definitions

- “home state” is the state in which the insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence.
- “qualified risk manager” definition has been modified slightly, and now gives deference to state regulators to determine whether a person is qualified for certain provisions within this definition
- “exempt commercial purchaser” must meet the 3 following requirements:
 1. must employ a “qualified risk manager”
 2. must have paid at least \$100,000 in annual aggregate P/C premiums in the proceeding 12 months
 3. must meet one of the following
 - net worth of \$20,000,000
 - annual revenues of \$50,000,000
 - employ more than 500 full time employees
 - is a non-profit with a budget of \$30,000,000
 - is a municipality with a population in excess of 50,000 persons
 - the amounts in the above criteria will be adjusted roughly every 5 years in line with change in the Consumer Price Index (Senate Bill does not have this provision)
- other definitions include “independently procured insurance,” “nonadmitted insurer,” and “state.”

Title II – Reinsurance

Sec. 201. Regulation of Credit for Reinsurance and Reinsurance Agreements

- Credit for Reinsurance – if the domiciliary state of the ceding insurer recognizes credit for reinsurance and is NAIC-accredited or has requirements substantially similar to NAIC accreditation, then no other state can deny such credit for reinsurance
- No state other than the domiciliary state of the ceding insurer can apply its laws or restrictions to the reinsurance agreements of that ceding insurer, **except with respect to taxes and assessments on insurance companies or insurance income.** (Senate Version does not contain this language)

Sec. 202. Regulation of Reinsurer Solvency

- The state of domicile of a reinsurer shall be solely responsible for governing that reinsurer's financial solvency if the state is NAIC-accredited or has requirements substantially similar to NAIC accreditation.
- No state may require a reinsurer to provide any additional financial information other than what is required by the reinsurer's domiciliary state. However, non-domiciliary states are not prohibited from receiving a copy of any financial statement filed with the domiciliary state.

Sec. 203. Definitions

- Ceding insurer: an insurer that purchases reinsurance
- Domiciliary state: the state in which the insurer or reinsurer is incorporated or entered through, and licensed
- Reinsurance: the assumption by an insurer of all or part of a risk undertaken originally by another insurer
- Reinsurer: an insurer to the extent that the insurer is principally engaged in the business of reinsurance; does not conduct significant amounts of direct insurance as a percentage of its net premiums; and is not soliciting direct insurance in an ongoing basis. The determination of whether an insurer is a reinsurer shall be made under the laws of the State of domicile.