

AMENDED IN SENATE MAY 17, 2011
AMENDED IN SENATE MAY 3, 2011
AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 131

**Introduced by Senator Gaines
(Principal coauthor: Senator Calderon)**

January 27, 2011

An act to amend Section 1774 of the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 131, as amended, Gaines. Insurance: surplus line brokers: statement of business transacted.

Existing law requires, on or before the first day of March of each year, the surplus line broker to file with the Insurance Commissioner a sworn statement of all business transacted under his or her surplus line license during the last preceding calendar year. "Business done" or "business transacted" under a surplus line broker's license means all insurance regarding which that surplus line broker is required to file a confidential written report with the commissioner or the commissioner's designee, as provided. Existing law further provides that if 2 or more persons licensed as surplus line brokers are involved in placing an insurance policy, only the one responsible for negotiating, effecting the placement, remitting the premium to the nonadmitted insurer to its representatives, and filing the confidential written report is considered transacting under his or her surplus line broker's license.

This bill would instead require that when 2 or more persons licensed as surplus line brokers are involved in placing an insurance policy *only*

the one who is responsible for filing the confidential written report shall be considered transacting business and only one licensed surplus line broker shall include the policy in his or her sworn statement, as specified.

The bill would also provide that the surplus line broker who is required to include the policy in his or her sworn statement is either the one who is responsible for filing the confidential written report, or the one who is delegated the responsibility for filing the report pursuant to a written agreement between those two surplus line brokers, as provided.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1774 of the Insurance Code is amended
2 to read:
3 1774. (a) On or before the first day of March of each year, the
4 surplus line broker shall file with the commissioner a sworn
5 statement of all business transacted under his or her surplus line
6 license during the last preceding calendar year. That statement
7 shall contain an account of the business done by the surplus line
8 broker for the prior year.
9 (b) For purposes of this chapter, “business done” or “business
10 transacted” under a surplus line broker’s license means all
11 insurance regarding which that surplus line broker is required to
12 file a confidential written report with the commissioner or the
13 commissioner’s designee pursuant to subdivision (a) of Section
14 1763. If two or more persons licensed as surplus line brokers are
15 involved in placing a policy, *only the one who is responsible for*
16 *filing the confidential written report pursuant to subdivision (a)*
17 *of Section 1763 shall be considered transacting business and then*
18 *only one licensed surplus line broker shall include the policy in*
19 *his or her sworn statement. The surplus line broker who is required*
20 *to include the policy in his or her own statement is either (1) the*
21 *one who is responsible for negotiating, effecting the placement,*
22 *remitting the premium to the nonadmitted insurer or its*
23 *representatives, and filing the confidential written report pursuant*
24 *to subdivision (a) of Section 1763, or (2) the one surplus line broker*
25 *who is delegated the responsibility for the filing of the confidential*

1 written report pursuant to subdivision (a) of Section 1763 pursuant
2 to a written agreement that is (A) by and among ~~all~~ of the surplus
3 line brokers *referenced in (1) and (2)* involved in the transaction,
4 (B) signed by ~~all~~ the surplus line brokers *referenced in (1) and (2)*
5 involved in the transaction, and (C) provides by its terms that the
6 agreement shall be made available to the commissioner or his or
7 her designee, upon request.

8 (c) The date on which the surplus line broker transacting a policy
9 prepares a bill or invoice for payment of all or part of the premiums
10 due, shall be considered the date on which that business was done
11 or transacted, subject to paragraph (d). This date shall be shown
12 on the face of the bill or invoice and shall be referred to as the
13 “invoice date.”

14 (d) (1) The invoice date shall be no more than 60 days after the
15 policy effective date and no more than 60 days after the insurance
16 was placed with a nonadmitted insurer, except as provided in
17 paragraph (2) of this section.

18 (2) For purposes of this chapter, the amount of gross premium
19 to be reported, if premiums are billed and payable in installments,
20 shall be the amount of the installment premium, provided the
21 amount and due date of each installment, or the basis for
22 determining each installment, is identifiable in the policy or an
23 endorsement, and either of the following conditions is satisfied:

24 (A) Installments under the policy are not billed more frequently
25 than once per month.

26 (B) If more than one installment is billed in any month, the
27 commissioner determines, in his or her discretion, that the
28 installment billing method used does not unduly burden the
29 commissioner’s ability to accurately determine the amount of
30 premium paid by the insured.