

Lone Star Lines

The Quarterly Publication of the Surplus Lines Stamping Office of Texas

79th Texas Legislature

Texas Insurance Legislation Passed in 2005

The following comments were written by Jana Lee Pruitt and Alex Gonzales, Winstead, Sechrest and Minick. Mr. Gonzales serves as General Counsel to the Surplus Lines Stamping Office of Texas.

The 79th Texas Legislature (2005) sent over 1,300 bills to Governor Perry, but bills related to insurance were fewer in number than in past legislative sessions. Of course, some parts of the insurance industry were affected much more this legislative session than others. For instance, the Legislature abolished the Texas Workers Compensation Commission and made it part of the Texas Department of Insurance. There are also some major changes in the procedures for handling insurance company insolvencies.

The relative lack of major insurance legislation this past legislative session can be attributed in great part to the far reaching insurance reforms and changes enacted by the Legislature in 2003. Additionally, the Legislature's attention in 2005 was absorbed by issues of broader reach, such as school finance and tax reform, the two top priorities of the regular legislative session and a special called session.

The Legislature did pass a \$139.4 billion two-year state budget, as well as significant workers' compensation and asbestos litigation reform bills. Both the House and Senate passed workers' compensation reform bills in the spring, then deadlocked for weeks over which bill would serve as the primary vehicle for reform. Governor Perry issued a compromise proposal that brought conferees to the table, ultimately passing a reform bill during the last week of the session.

The new system will be primarily governed by a single, appointed commissioner within the Department of Insurance,

although the regulation of provider networks will be administered by the insurance commissioner.

The cap on weekly benefits for injured workers will increase to no more than 88% of the average weekly wage for most of the state's employees, though it could escalate under certain circumstances. The new cap puts Texas around the national average for injury benefits. The new system also provides for a managed care network of doctors, and creates an Office of Injured Employee Counsel to serve as an advocate for injured workers. Advocates hope the lower workers' compensation costs for employers will encourage Texas businesses to opt in to the only voluntary workers' compensation program in the country.

Legislation limiting litigation resulting from exposure to asbestos and silica was also enacted. Plaintiffs will now have to show demonstrable illness, not just prove they inhaled asbestos or silica. The legislation provides a method for obtaining the dismissal of lawsuits in which the exposed person has no functional impairment, and extends the statute of limitations to preserve the rights of those who have been exposed, but are not yet impaired.

The Legislature also passed a bill requiring insurers that challenge a TDI order regarding excessive or discriminatory rates to pay any refunds and interest ultimately found owing from the date the insurer receives written notice from the TDI that the rate is excessive or unfairly discriminatory. The legislation also includes market conduct exam provisions based on a draft model bill favored by

INSIDE:

SLSOT
Employee News
page 2

2005
Seminar
Schedule
Announced
page 3

EFS Help Desk
Expands to Meet
the Needs
of Users
page 3

EFS Data
Validation
Program
Continues
page 3

EFS
Quick Tips
page 3

Helpful Hints
page 3

Premium
Comparison
page 4

Rep. Craig Eiland. Finally, the bill clarifies the meaning of "property insurance surcharge" for purposes of administering the 15% territorial rate cap, and stipulates that the rate cap does not apply to commercial policies. Rep. Eiland was also successful in obtaining passage of producer compensation legislation. The Legislature also passed bills based on draft and adopted model acts of the NAIC, including a bill amending insurance company receivership procedures.

The bond requirement for surplus lines agents was eliminated.

Bills applicable to all or multiple lines of insurance that were enacted include those to increase from 250 to 500 the number of temporary insurance agents an insurer or HMO is permitted to appoint during a calendar year, relating to insurance fraud reporting requirements, and relating to accountant practice

requirements for certain audits of insurer financial reports. Several bills relating to identity theft and to the disclosure of certain information were also enacted.

The Legislature passed several bills in addition to the asbestos reform bill designed to stem lawsuit abuse. Reform of the forum non conveniens doctrine in 2003 left a loophole allowing plaintiffs to block a motion to dismiss on forum non conveniens grounds if the plaintiff could merely allege that any part of an act or omission giving rise to a cause of action occurred in Texas. This loophole, which prevented the dismissal of out-of-state asbestos claims with no substantial connection to Texas, has now been closed. Legislation prohibiting a cause of action for weight gain related to the consumption of food products was also passed.

The larger story for insurance legislation in 2005 relates to bills that did not pass. These included bills creating JUAs for surety and for private security personnel, bills to diminish the use of arbitration as an alternate means of dispute resolution, and adverse automobile insurance bills on direct repair, total loss valuations, towing, and auto rating.

Bills pushed by subcontractor groups to prohibit broad-form indemnity agreements, abolish additional insurance provisions in construction contracts, and limit the use of owner-controlled insurance programs to control litigation costs in construction projects were defeated.

TDI proposed legislation to repeal the prohibition on regulated automobile insurers applying surcharges for moving violations, but the legislation failed to pass. The defeat was prompted by displeasure voiced by legislators throughout the session over the failure of insurers to lower rates as

promised in 2003 after the Legislature passed several bills to diminish regulation of the industry. A bill to more clearly delineate differences between surplus lines insurers and unauthorized insurers failed to pass, although it did not die until the closing minutes of the regular session.

An expansive bill to enact a state version of the Sarbanes-Oxley Act – subjecting insurance company officers and directors (among others) to severe penalties for providing false or misleading information to outside auditors – was also defeated in the Legislature's final hours.

School finance and tax reform are now being debated, as of the date of this article, in a 30-day special session called by Governor Perry that convened on June 21. A state district court judge has ruled the current school finance system unconstitutional, and that ruling will be before the Texas Supreme Court on July 6 unless agreement is reached quickly in the Legislature. Governor Perry increased pressure on the Legislature by vetoing the \$35.3 billion public education budget passed earlier this year. On the first day of special session, the Governor presented a proposal, calling for a \$5 billion increase in school funding, and a \$7 billion reduction in property taxes, funded by increased sales and cigarette taxes, and by subjecting more businesses to the franchise tax. The House passed its own iteration of a school finance bill on June 28 by a vote of 77-69, splitting largely along party lines. The tax bill that would provide most of the funding for schools by lowering some taxes but raising others is still wending its way through the process. As of the date of this article, several bills related to the taxation of insurance companies had been filed but none had made the floor of either chamber. ★

SLSOT Employee News

The Stamping Office welcomes two new employees to our office.



Kathy Barton is the most recent addition to the Data Services Department and is employed as a Document Processing Clerk.

Valerie Quarles joins the Administration Department as Mail Clerk. ★



SLSOT Announces 2005 Seminar Schedule

Speakers from the Texas Department of Insurance, the Comptroller, and the Surplus Lines Stamping Office of Texas will discuss the following topics during the seminars scheduled for October. Please plan to attend to hear the latest surplus lines news and information available.

Highlighted Topics:

- 79th Texas Legislature
- Agent licensing / Non-resident
- Disciplinary actions
- Unauthorized insurance
- Purchasing groups
- Tax filing requirements
- Audits of SL agents
- Penalties and interest
- Voluntary disclosure agreements
- EFS vs paper filing of s/lines policies

No Registration Fees!

Attendees can receive 3 CE credit hours pending approval from TDI and TSBPA for CPA credit.

Online registration is available through our website at www.slsot.org through Sept. 30, 2005.

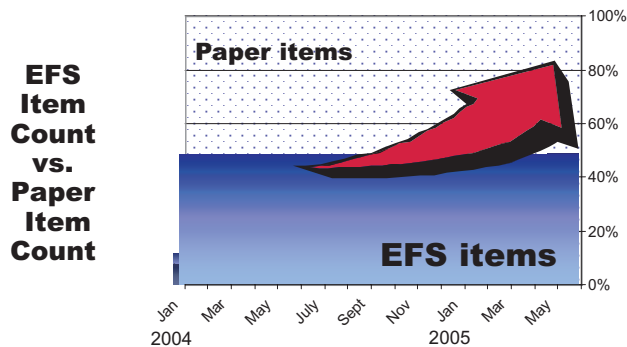
San Antonio, October 11, 2005
 Registration: 12:30 p.m.
 Seminar: 1:30 p.m. - 4:30 p.m.
 Hyatt Regency
 123 Losoya
 San Antonio, Texas 78205

Dallas, October 20, 2005
 Registration: 7:30 a.m.
 Seminar: 8:30 a.m. - 11:30 a.m.
 Hilton Dallas Lincoln Centre
 5410 LBJ Freeway
 Dallas, Texas 75240

Houston - October 27, 2005
 Registration: 7:30 a.m.
 Seminar: 8:30 a.m. - 11:30 a.m.
 Omni Hotel
 Four River Way
 Houston, Texas 77056

EFS Help Desk Expands to Meet the Need of Users

As the number of EFS users is increasing, the volume of calls to the Help Desk is rising as well. Since February, the number of calls has grown by 54%. Angelica Perez has joined the Help Desk staff to assist in answering your questions. Congratulations are in order for Cheyenne Norment, who has been promoted to the position of EFS Help Desk Supervisor. The EFS Help Desk is available to assist you with EFS filings Monday-Friday (Central time) from 8:00 a.m. to 5:00 p.m. The toll-free number is (800) 681-5848. ★



EFS Data Validation Program Continues

Last year, the Stamping Office initiated a program to validate the accuracy of data reported through the EFS. Correct electronic submissions are essential to the integrity of the EFS and accuracy of statistical reporting. Each agency using the EFS is asked to provide copies of randomly selected policies for comparison with the data submitted electronically. During the policy examination, we compare information on 21 different data elements in addition to verifying that applicable notices are correct and that there are no other discrepancies. Each quarter, a different group of agencies is selected for the validation process. Upon completion of the policy review, the results are communicated to each agency and any necessary corrections are identified. ★

EFS

■ If you have any outstanding tags (errors) in the EFS, those transactions have not been accepted (posted) and are not deemed as filed with our office. Failure to resolve transaction errors may result in items being considered as "late filed" – more than 60 days past the effective date or issue date, whichever is later. We encourage you to make any necessary corrections to resolve these errors.



- You can check the status of the Electronic Filing System at www.slsot.org. Just follow the links!
- An EFS administrative user in your office must make changes to your agency's contact information or users. (ie: EFS Contact Name, email address, phone number, adding new users, etc.) The EFS Help Desk cannot update this information for you. ★

Helpful Hints - paper filing

- When submitting multiple batches, be certain they are not mixed together. Keep all items for a batch together by use of a rubber band or clip.
- Make sure there is a Total Gross Amount of all items at the bottom of the Transmittal and Verification Slip. Widen your column if necessary.
- Verify that the premium shown on an item matches the premium shown on the Transmittal and Verification Slip. ★



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Return Service Requested

**Comparison of SLSOT Premium Processed
by Line of Business**

Annual Statement Line of Business	Premium through 06/05	Premium through 06/04	Percent Change
1 Fire (incl. allied lines)	\$353,105,421	\$431,178,260	-18.11%
2 Allied lines	\$11,983,878	\$16,820,609	-28.75%
3 Farmowners multiple peril	\$1,078,716	\$846,245	27.47%
4 Homeowners multiple peril	\$55,287,880	\$74,201,232	-25.49%
5 Commercial multiple peril	\$37,220,862	\$42,444,044	-12.31%
8 Ocean marine	\$3,116,263	\$3,347,469	-6.91%
9 Inland marine	\$31,569,482	\$33,344,616	-5.32%
11 Medical malpractice	\$42,039,487	\$38,238,109	9.94%
12 Earthquake	\$8,816	(\$11,461)	176.92%
13 Group accident & health	\$42,534,738	\$52,140,672	-18.42%
15 All other A&H	\$567,118	\$473,592	19.75%
17 Other liability	\$773,532,957	\$795,216,531	-2.73%
18 Products liability	\$18,870,508	\$27,902,309	-32.37%
19.2 Other priv pass auto lia	\$12,354	\$8,829	39.93%
19.4 Other comm. auto liab	\$66,636,279	\$67,610,217	-1.44%
21.1 Priv pass auto physical	\$655,454	\$770,806	-14.97%
21.2 Comm auto phys.damage	\$30,196,525	\$38,834,334	-22.24%
22 Aircraft (all perils)	\$5,892,949	\$4,995,006	17.98%
23 Fidelity	\$834,413	\$1,252,189	-33.36%
24 Surety	\$3,418,300	\$0	0.00%
26 Burglary & theft	\$550,374	\$1,147,986	-52.06%
27 Boiler & machinery	\$10,944	\$88,472	-87.63%
28 Credit	\$44,442,673	\$41,814,029	6.29%
31 Aggregate/other business	\$242,004	\$1,385,248	-82.53%
TOTAL	\$1,523,808,395	\$1,674,049,343	-8.97%

Updated monthly premium totals can be found on-line at www.slsot.org/premium.htm

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We invite readers to suggest topics for articles that may be of interest to others. Any submissions or inquiries should be sent to the following address:

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<http://www.slsot.org/slsotpub.htm>

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