Lone Star Lines

Volume 5, 1999 ~ July - September Issue ~ Surplus Lines Stamping Office of Texas

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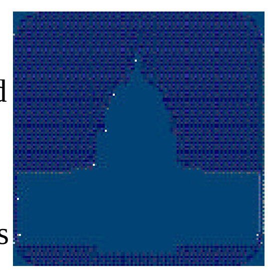
Texas Legislative Update for Surplus Lines Professionals

The following comments based on the 76th Texas Legislature were written by Alex Gonzales, Attorney for Hughes & Luce, L.L.P. , representing the Surplus Lines Stamping Office of Texas as General Counsel.

The prospective shadow of presidential politics and the glow of a $6.5 billion budget surplus made the 76th Texas Legislative Session different in many ways from the relatively contentious prior sessions. The Legislature spent a great deal of its time on economic issues, such as a record $99 billion budget that included a $3,000 pay raise for teachers and a franchise tax reduction of $1.5 billion.

Legislative efforts in regulatory matters included electric utility deregulation, restructuring of the telecommunications industry in Texas and collective bargaining agreements between physicians. The Legislature spent less time on insurance issues than in prior sessions.



The majority of insurance legislation enacted this session was primarily related to health insurance and to the regulation of insurance companies. As in 1997, health maintenance organizations and managed care were the focus of several bills.

The list of enacted legislation directly related to surplus lines appears to be limited to two bills: (1) a provision in a bill (H.B. 2035) that permits commercial transportation carriers to meet workers' compensation requirements by purchasing accidental health insurance from a surplus lines carrier; and (2) provisions in the Comptroller of Public Accounts "legislative package" (H.B. 3211) that relate to surplus lines insurance taxes. H.B. 3211 (1) sets May 15th as filing date for independently procured insurance tax payments; (2) revises Article 1.14-2 of the Insurance Code to adjust the basis of surplus lines insurance taxation to either premiums written or premiums received; (3) requires prepayment of surplus lines taxes whenever accrued taxes due exceed $70,000; and (4) eliminates the requirement for surplus lines agents to maintain a tax trust account.

The Legislature also passed H.B. 1837, eliminating the prior tiered premium tax system and imposing new flat tax rates of 1.6 percent for licensed property and casualty insurers and 1.35 per cent for title insurers. The bill also removes the lower rate for insurers investing in Texas-based

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investments and amends the current retaliatory tax statute.

Although the Legislature additionally passed numerous bills with limited scope in the area of property and casualty insurance, this session's story for property and casualty insurance was the legislation that did not pass. The list of topics for failed legislation includes rate deregulation in personal lines (S.B. 600 and H.B. 1637), uninsured motorists insurance (S.B. 1787), flex-rating for county mutuals (H.B. 1092), claims handling (H.B. 3041), and the abolition of surplus lines (S.B. 922).

The major disappointment for the insurance industry was the Governor's veto of S.B. 956, which would have revamped Texas' antiquated and inflexible insurance agent licensing statutes. For instance, the bill would have removed the requirement that all officers, shareholders and directors of corporate insurance agencies be individually licensed. The bill also would have removed many of the restrictions placed on non-resident agents. These current restrictions on non-residents have resulted in retaliatory restrictions by other states against Texas agents.

S.B. 956 had everything going for it: general consensus within the industry, support of the Texas Department of Insurance, overwhelming support of both the House of Representatives and the Senate, and the personal support of former Commissioner of Insurance, and current Secretary of State, Elton Bomer. TDI and other proponents put over a year and a half of hard work into the effort. However, the bill was vetoed because of a small amendment in the House that would have extended the period of time for a bail bondsman to retrieve fugitives without forfeiting bonds from six months to one year. The use of the term "surety," rather than "bail bond", as well as the fact that no prior statutory language was repealed or amended in the amendment evidently prevented most of the participants in the bill's passage from detecting its true effect. Most legislative observers expect a reprise of this bill during the next legislative session.

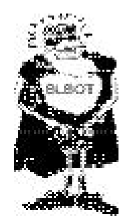
A list and analysis of all insurance legislation passed by the 76th Legislature is available via e-mail from Hughes & Luce, L.L.P. Please send your request and e-mail address to gonzala@hughesluce.com c/o Alex Gonzales to receive a copy.

Surplus Lines Agent Licensing on the Rise

As of June 1st, there were 678 individuals, partnerships, or corporations holding a Texas resident surplus lines agent license. This total has grown dramatically the past few years (and by 40 just since the beginning of 1999).

Texas Surplus Lines Insurance Regulation Seminar 1999

Batchman's Helpful Hints



1. When responding to tags for a missing "Non-participation in the Guaranty Fund Notice" or "Complaint Notice", please submit the items on a non-premium Transmittal & Verification Slip to prevent duplication of premium.

2. If you are correcting something within the policy (at the time of the policy submission) put the correcting endorsement on top of the policy so it won't be overlooked.

Preparations are under way for our annual surplus lines regulation seminars. A full agenda is scheduled for these sessions that will include speakers from the Texas Department of Insurance, the Texas Comptroller of Public Accounts, and the Surplus Lines Stamping Office of Texas. The seminars will focus on a wide variety of issues, including a review of recent legislative changes to insurance laws, future proposals affecting the surplus lines industry, tax issues, and an overview of market conditions and related statistics.

These seminars are sponsored by the Surplus Lines Stamping Office of Texas at no cost to you. By attending you will receive a seminar manual to keep as a reference tool and a Certificate of Completion for 3 CETIAA credit hours.

There are still seats available; however, seating is limited. Please register now. Call the Stamping Office at (512) 346-3274 ext. 223 to request a registration form. You can e-mail your information to us at:

info@slsot.org

or register on-line through our web site at:

www.slsot.org

San Antonio
September 1, 1999
Omni San Antonio Hotel
1:00 p.m. - 4:30 p.m.

Houston
September 8, 1999
Adam's Mark Hotel
8:30 a.m. - 12 noon

Dallas/Ft. Worth
September 15, 1999
Grapevine Convention Center
8:30 a.m. - 12 noon

Suit Challenges Texas Independently Procured Tax

The first significant constitutional challenge in many years to Texas' independently procured insurance tax has been filed in Travis County district court by Dow Chemical Company (*Dow Chemical Co. v. Rylander et al*). Dow bases its argument on the US Supreme Court *Todd Shipyards* decision of 1962. In that case, the court declared that "Texas tax on premiums paid out-of-state on out-of-state insurance is invalid under due process clause, where only connection between Texas and insurance transaction is fact that property covered by insurance is physically located in Texas." While the Texas statute authorizing taxation of independently procured transactions changed not long after the *Todd Shipyards* decision, the substance of the Texas law did not. Texas received more than $6 million in independently procured taxes in 1997. Dow is protesting a tax liability of more than $427,000. H

Commercial Lines Deregulation

The movement to commercial lines "deregulation" continues across the nation. Eight states passed some form of deregulation this year, with many more believed to be preparing similar legislation. NAPSLO has declared that commercial risks deregulated in the admitted market should also be open to competition from the surplus lines market through automatic export. This would eliminate the diligent effort requirement for surplus lines agents and provide consumers equal access to the broadest possible choice of markets. In effect, the risks would be treated as if they appeared on a state-approved export list. NAPSLO has formally presented the automatic export concept to the NAIC for its consideration. H

Who's New ?

The Stamping Office is pleased to introduce Tiffanie Bolero (below).

Tiffanie joins our staff as a Prep Clerk in the Document Processing Department.

We would also like to recognize the various job promotions several of our employees have received over the last few months: Peggy Bell, promoted to Analyst, Technical Services Department; Isabel Bowie promoted to Office Clerk, Administration Department; Sandy Christian, promoted to Team Leader, Document Processing Department; Judy Braswell, promoted to Mail Administrator, Document Processing Department; and Dana Strunk, promoted to Indexing Clerk, Document Processing Department. H

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Comparison of SLSOT Premium Processed by Line of Business

Annual Statement Line of Business	Premium through 6/99	Premium through 6/98	Percent Change
1 Fire(incl. allied lines)	$110,162,683	$105,031,738	4.89%
2 Allied lines	$3,739,705	$3,832,110	-2.41%
3 Farmowners multiple peril	$1,183,538	$939,241	26.01%
4 Homeowners multiple peril	$20,066,668	$19,569,291	2.54%
5 Commercial multiple peril	$11,186,558	$10,061,865	11.18%
6 Mortgage guaranty	$0	$0	0.00%
8 Ocean marine	$5,011,673	$5,784,730	-13.36%
9 Inland marine	$9,775,056	$9,232,980	5.87%
10 Financial guaranty	$0	$0	0.00%
11 Medical malpractice	$5,942,649	$4,596,551	29.29%
12 Earthquake	$176,834	$537	2829.98%
13 Group accident & health	$33,205,302	$35,882,291	-7.46%
14 Credit A&H(group & indiv)	$0	$0	0.00%
15 All other A&H	$9,338	$24,695	-62.19%
16 Workers' compensation	$0	$0	0.00%
17 Other liability	$225,970,212	$232,302,683	-2.73%
18 Products liability	$10,497,191	$10,907,763	-3.76%
19.1 Priv pass auto no fault	$0	$0	0.00%
19.2 Other priv pass auto lia	$31,142	$43,045	-27.65%
19.3 Comm. auto no fault PIP	$0	$0	0.00%
19.4 Other comm. auto liab	$14,902,110	$17,600,916	-15.33%
21.1 Priv pass auto physical	$472,023	$507,803	-7.05%
21.2 Comm auto phys.damage	$16,728,697	$15,532,451	7.70%
22 Aircraft (all perils)	$2,097,666	$1,231,099	70.39%
23 Fidelity	$220,264	$945,791	-76.71%
24 Surety	$552,835	$57,411	862.94%
26 Burglary & theft	$755,893	$290,644	160.07%
27 Boiler & machinery	$125,956	$507,111	-75.16%
28 Credit	$16,347,893	$15,964,021	2.40%
31 Aggregate/other business	$102,675	$54,143	89.64%
TOTAL	$489,264,561	$490,900,910	-0.33%

Note: Due to rounding figures may not total

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The "Lone Star Lines" is published quarterly by the Surplus Lines Stamping Office of Texas for surplus lines agents, companies, and others involved in surplus lines business.

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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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