Volume 7
January - March 2001

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Lone Star Lines

The Quarterly Publication of the Surplus Lines Stamping Office of Texas

INSIDE:

New Surplus Lines Regulations Adopted

On November 22, 2000, the Texas Department of Insurance (TDI) adopted new surplus lines regulations, replacing all existing rules. The new regulations became effective December 12, 2000, and can be found as Chapter 15 of Title 28, Texas Administrative Code. Since these are the most extensive update to the rules in more than a decade, they deserve careful scrutiny. (A summary follows.)

Reduced Policy Filing Requirements

Agents are no longer required to report a complete copy of surplus lines policies. Sec. 15.23(c) clarifies that, for purposes of filing with the Stamping Office, a "true and correct copy" of a policy includes the following parts:

-- A declarations page

-- A listing of all participating insurers (plus their respective percentages of participation, totaling exactly 100%)

-- All coverage parts and schedules (if containing policy specific information)

-- Extended coverage exclusions (for reporting by SLSOT to the Texas Windstorm Insurance Association)

-- All premium-bearing documents/endorsements

-- Any other parts as may be required by the Stamping Office to process the policy

Agents may continue to file a complete copy of the policy if preferred, but this is no longer mandatory.

Also, agents must file certain non-premium endorsements:

-- Policy number changes

-- Named insured changes

-- Date changes (effective date, inception date, expiration date)

-- Security changes/corrections

Finally, both premium and non-premium cancellations and reinstatements must be filed.

Electronic Filing Authorized

Section 15.23(b) authorizes agents to file policy data electronically, if the "electronic method" has been pre-approved by TDI. While the Stamping Office is keenly interested in this, we are not yet able to receive and process electronically submitted information. However, we have created an Electronic Filing Advisory Committee, which will consist of selected agents and technology staff. The committee will meet at the end of January. Our goal is to initiate an electronic filing project at the conclusion of our current computer systems upgrade, scheduled to be completed around August of 2001.

Reporting of Allocated Non-Texas Premium

If a policy includes exposures located both within and outside Texas, or if a portion of the premium is tax-exempt, Section 15.20 (b) requires an agent to report the allocated distribution of the premium to the Stamping Office. The premium must be properly identified as "Texas", "Other States", and "Non-Taxable". For example, if you have a policy with 60% of the premium covering Texas risks and the remainder covering exposures located outside the state, you will have to report the 40% as "Other States", in addition to the Texas premium. Similarly, if part of the premium was exempt from tax, this portion would need to be reported as "Non-Taxable". (Note: Previously, only

See RULES, Pages 2 & 3

What the gm has to say...

The next step in the evolution of surplus lines regulation occurred in December, with TDI's adoption of an extensive update to the rules governing surplus lines insurance. These are substantive revisions, the first in many years, and deserve your close review.

Agent filing was one area seeing important changes. As you know, prior to 1988, agents filed affidavits of diligent effort with TDI for each policy written. With the creation of the Stamping Office, agents reported "true and correct" copies of policies in lieu of those affidavits. Now, in recognition of the increasing quality of policies reviewed by the Stamping Office, the new rules permit agents to file certain parts of policies. Most importantly, electronic filing of policy data is also authorized, opening the door for paperless reporting. To this end, the Stamping Office has formed an Advisory Committee on Electronic Filing, which includes technology staff from several surplus lines agencies. This committee will give us agents' perspectives on how best to achieve an efficient and workable e-filing system. H

Phil Ballinger, CPCU, ASLI
General Manager

E-Bulletins & E-News Available Soon

The Surplus Lines Stamping Office of Texas monthly bulletins and quarterly newsletter *Lone Star Lines*, will soon be available electronically. A request form was mailed with the December Bulletin SO-2000-13 to all licensed surplus lines agents and insurers.

Initial implementation of this e-mail distribution system will be limited to one e-mail address per licensed agent or listed surplus lines insurer, as well as those entities that have paid for additional bulletins. If you need additional information, please call (512) 346-3274 x 226. H

Rules, *continued from page 1*

the Texas portion of the premium on a policy was reported. However, frequently agents would also report the non-Texas portion to the Stamping Office as 100% "Texas" premium, as permitted under Article 1.14-2, Section 12, Texas Insurance Code. If you prefer, you may continue to report the entire premium as "Texas", regardless of the actual location of the exposures, under the new regulation.)

The following categories of policies need not be reported to the Stamping Office:

-- 100% of the premium is on exposures located entirely outside Texas and the premium is allocated to the other states and reported to them if required.

-- 100% of the premium is tax-exempt under state law (i.e., for exposures located in federal waters, international waters, or under the jurisdiction of a foreign government).

-- 100% of the exposure is preempted from tax by federal law (i.e., coverage for federally chartered credit unions or the National Credit Union Administration when acting as conservator or liquidating agent for federal credit unions) and100% of the coverage is on exposures located entirely outside Texas. Any premium preempted from tax but covering exposures located in Texas must be reported to the Stamping Office and identified as "Non-Taxable". Stamping fees are still applicable on such premium.

Agents do not need to begin reporting allocated premium at this time. This reporting will not be required until the new Stamping Office computer system is on-line. We will provide further instructions, probably including a special transmittal sheet to assist in reporting allocated premium for policies with multi-state exposures, at an appropriate point in the future.

These are complicated issues. Please call our Technical Services Dept. if we can assist you with questions or concerns. Again, agents are not required to report the complete allocation of premium ("Other States" or "Non-Taxable") on a multi-state policy until the Stamping Office provides further notice.

Surplus Lines Agent of Record

Section 15.2(8) defines the agent of record as the licensed surplus lines agent placing the coverage with the surplus lines insurer or the licensed surplus lines agent dealing directly with an out-of-state agent/ underwriting manager/general agent in order to access the insurer. This clarifies the historical interpretation of state regulators that the agent responsible for diligent effort, filing the policy, payment of taxes, etc. is the agent with the Texas surplus lines license that is highest in the distribution chain and closest to the insurer. (Note that if Texas passes law authorizing the issuance of surplus lines licenses to non-residents, the agent of record may not necessarily be a Texas resident.)

Removal of Surplus Lines Agent Residency Requirement

In anticipation of passage of TDI's Agent Licensing Reform Bill during the

Surplus Lines Taxes Due March 1

All surplus lines premium taxes collected during 2000 are due to the Texas Comptroller of Public Accounts by March 1, 2001. If you held a surplus lines agent's license at any point during 2000, you are required to file a tax report. This applies even if you wrote no surplus lines business during the year. Tax forms will be mailed to each surplus lines agent by the Comptroller during the month of January. If you do not receive a form, please call the Comptroller at (512) 463-4074.

By now, you should have received a summary of all business processed for your agency by the Stamping Office during 2000. If you have not received your Agents Annual Tax Report by this date, please call our office at (512) 346-3274 x 228. H current session of the Texas Legislature, the requirement that only Texas residents can hold a surplus lines license is eliminated from the new regulations.

l Commissioner Has Authority to Waive Surplus Lines Bond

Section 15.3(a)(3) authorizes the Commissioner of Insurance to waive part or all of the surplus lines agent's bond if it is found to violate the licensing uniformity provisions of federal law (specifically the Gramm-Leach-Bliley Act of 1999).

l Commissioner's Authority to Assess Administrative Penalties Broadened

Under Section 15.5, the Commissioner's express ability to impose sanctions against surplus lines agents for certain offenses is broadened so as to be comparable with his sanctioning authority over other categories of licensees.

l Responsibilities of Stamping Office in Evaluating Policy Eligibility Clarified

Under Section 15.7, the evaluation of policy rates and forms to determine eligibility of surplus lines policies is eliminated as a responsibility of the Stamping Office. Also, SLSOT must report "major and improper" conduct to TDI, even if the conduct is later corrected.

l Filing of Insurer Eligibility Information Identified

Section 15.8 lists the information that an unlicensed insurer must file with TDI and the Stamping Office to be evaluated for surplus lines eligibility. The information is identical to that listed in the eligibility filing requirements letter drafted each January by TDI and recently distributed by the Stamping Office via bulletin.

l Record Retention Period Extended to Five Years for Surplus Lines Agents

Section 15.14(b) extends the time that an agent must keep records to 5 years following expiration/termination of an insurance contract. The previous retention period was 3 years.

l Changes to SLSOT Plan of Operation

There are various updates to the Stamping Office Plan of Operation under Section 15.101, including:

-- Meetings of the Board of Directors fall under the Open Meetings Act and will be held at least quarterly. (Note: Board meetings were always deemed to fall under the Open Meetings Act, although there was no express provision so stating. Also, previous language provided for monthly Board meetings.)

-- A director absent from 4 meetings in one year automatically vacates his position on the Board (previously 6 meetings).

-- The Board must approve by 2/3 vote all contracts exceeding $15,000 not originally contemplated in the annual budget (previously $5,000).

-- Competitive bidding procedures must be used by the Board of Directors for contracts of a material amount.

-- Stamping fees overdue by more than 90 days are considered delinquent and must be reported to TDI (previously 60 days). H

SLSOT Employee of the Year

Regina Jackson was honored during a December luncheon as the Surplus Lines Stamping Office of Texas Employee of the Year. In her first year at the Stamping Office, Ms. Jackson was nominated for her exemplary service and dedication as a Records Prep Clerk in the Document Processing Department. H

Batchman's Helpful Hints

1. Be sure the procuring surplus lines agent's name and address are shown on each policy, binder, covernote or other confirmation of coverage.

2. When filing a tag correction on premium-bearing endorsements, the premium should be shown on the Transmittal and Verification Slip. If it's not shown, the total at the bottom of the T & V will be incorrect and the item will be tagged. H

Evidence Filing Requirements for Surplus Lines Insurers

The annual "Evidence Filing Requirements for 2001" letter has been released by the Texas Department of Insurance (TDI) and distributed via bulletin #SO-2001-02 by the Stamping Office. These filing requirements are in accordance with the Texas Insurance Code, Article 1.14-2 and related provisions of the Texas Administrative Code (28 TAC Section 15.8). Subsection 15.8 (j) requires the Texas Department of Insurance to maintain the "Surplus Lines Insurers List" compiled from the information submitted to meet the eligibility requirements. The minimum capital and surplus requirement remains at $15 million. All surplus lines insurers wishing to retain or gain Texas surplus lines eligibility must file complete and legible evidence by the due dates contained in the TDI letter. The first filing deadline for foreign (US) insurers is March 31, 2001.

You can locate a full copy of the filing requirements on our web site at www.slsot.org or request a copy by mail by calling the Technical Services Department, (512) 346-3274, ext. 220. H

Data Processing 2001 Closing Dates

JANUARY......January 26
FEBRUARY.....February 23
MARCH........March 30
APRIL...........April 27
MAY.............May 25
JUNE...........June 29
JULY.............July 27
AUGUST.......August 31
SEPTEMBER...September 28*
OCTOBER.....October 31*
NOVEMBER...November 30*
DECEMBER....December 31*

* Subject to implementation of new computer system. H

Lone Star Lines
Surplus Lines Stamping Office of Texas
P.O. Box 9906
Austin, Texas 78766-0906

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Comparison of SLSOT Premium Processed by Line of Business

Annual Statement Line of Business	Premium through 12/00	Premium through 12/99	Percent Change
1 Fire (incl. allied lines)	$243,845,986	$225,666,869	8.1%
2 Allied lines	$8,904,240	$7,364,987	20.9%
3 Farmowners multiple peril	$1,868,636	$2,161,128	-13.5%
4 Homeowners multiple peril	$41,868,534	$40,601,416	3.1%
5 Commercial multiple peril	$32,403,273	$26,906,084	20.4%
6 Mortgage guaranty	$0	$0	
8 Ocean marine	$10,645,967	$10,637,599	0.1%
9 Inland marine	$28,451,500	$20,461,896	39.1%
10 Financial guaranty	$0	$0	
11 Medical malpractice	$23,175,060	$19,281,405	20.2%
12 Earthquake	$47,688	$173,939	-72.6%
13 Group accident & health	$61,937,673	$68,977,721	-10.2%
14 Credit A&H (group & indiv)	$0	$0	
15 All other A&H	$51,503	$51,038	0.9%
16 Workers' compensation	$0	$0	
17 Other liability	$523,384,442	$474,938,715	10.2%
18 Products liability	$17,491,039	$18,371,032	-4.8%
19.1 Priv pass auto no fault	$0	$0	
19.2 Other priv pass auto lia	$51,405	$53,007	-3.0%
19.3 Comm. auto no fault PIP	$0	$0	
19.4 Other comm. auto liab	$34,255,613	$30,962,652	10.6%
21.1 Priv pass auto physical	$946,576	$861,067	9.9%
21.2 Comm auto phys.damage	$47,869,336	$35,864,712	33.5%
22 Aircraft (all perils)	$2,789,402	$6,458,350	-56.8%
23 Fidelity	$977,658	$956,348	2.2%
24 Surety	$512,061	$669,944	-23.6%
26 Burglary & theft	$2,064,794	$1,341,018	54.0%
27 Boiler & machinery	$197,149	$591,165	-66.7%
28 Credit	$42,975,459	$34,291,766	25.3%
31 Aggregate/other business	$660,558	$1,507,996	-56.2%
TOTAL	$1,127,375,550	$1,029,151,854	9.5%

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.

Lone Star Lines Staff:
Phil Ballinger, CPCU, ASLI
Dalén Chisholm
Elaine White, ASLI
Brian Wilds, CPA, ASLI

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:

Lone Star Lines
SLSOT
P.O. Box 9906
Austin, Texas 78766-0906
phone (512) 346-3274
fax (512) 346-3422

SLSOT web site:
http://www.slsot.org
Internet E-Mail address:
info@slsot.org

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