

Lone Star Lines

The Quarterly Publication of the Surplus Lines Stamping Office of Texas



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82nd Texas Legislature

The following are bills affecting surplus lines insurance being considered in the current Texas legislative general session, which is scheduled to end May 30.

HB 1535 By Eiland

Enabling legislation for Texas to participate in the Surplus Lines Insurance Multi-State Compliance Compact, better known as SLIMPACT.

Status: Left pending in the House Insurance Committee.

SB 425 By Carona

Provides that an insurer or agent may not issue a certificate of insurance unless the form of the certificate has been filed with and approved by TDI or is a standard form deemed approved by TDI. Surplus lines agents and insurers are specifically included in the provisions of the bill. No certificate can be issued if it alters, amends, or extends the coverage or terms and conditions provided by the insurance policy referenced on the certificate. A person may not require an agent or insurer to issue any other document or record in addition to or in lieu of a certificate of insurance. The Commissioner of Insurance may take various actions against an agent or insurer violating the certificate of insurance requirements. A person, agent, or insurer who willfully violates the certificate provisions is also subject to a civil penalty.

Status: Passed Senate and voted out of the House Insurance Committee.

HB 1804 By Hancock

Provides that the certificate of insurance that a master plumber must provide to the State Board of Plumbing Examiners may be issued by an eligible surplus lines insurer.

Status: Passed House. Pending committee hearing in the Senate.

HB 2698 By Eiland

Amends and repeals sections of the surplus lines insurance statutes, based on requirements of the federal Nonadmitted and Reinsurance Reform Act (NRRRA). Provides that the surplus lines laws apply to insurance issued to an insured whose home state is Texas. Adds definitions of exempt commercial purchaser and qualified risk manager, consistent with the NRRRA. Requires an alien surplus lines insurer to be listed on the NAIC's Quarterly Listing of Alien Insurers. Provides that a surplus lines agent procuring insurance for an exempt commercial purchaser where no diligent effort was performed must file with the Stamping Office on a form prescribed by the Commissioner proof that the agent complied with the legal requirements permitting direct export to the surplus lines market.

Status: Voted out of the House Insurance Committee.

(Continued, Legislation, page 2)

HB 3062 By Smithee

Provides that a surplus lines insurer must pay a third-party claim under a commercial or personal auto liability policy not later than 20 business days after (1) the insurer notifies the claimant that the insurer will pay all or part of the claim, or (2) the claimant performs a required act, if payment is conditioned on performance of the act.

Status: No action.

HB 3410 By Smithee

Adds definition of “managing underwriter” to surplus lines statute (Chapter 981). Provides that a managing underwriter may hold both a surplus lines license and MGA license. Provides that a surplus lines agent placing a policy with a managing underwriter is responsible for collecting, reporting, and paying premium taxes. A managing underwriter must maintain certain records and make the records available for inspection by TDI and the Comptroller.

Status: Voted out of the House Insurance Committee.

CSHB 3790 by Pitts

Article 13 of the bill amends the surplus lines premium tax and independently procured tax statutes

(Sections 225 and 226, Texas Insurance Code) to be consistent with the requirements of the NRRRA. Adds definitions for “affiliate,” “affiliated group,” “control,” “home state,” and “independently procured insurance.” Provides that Texas may not impose a tax on nonadmitted insurance other than premiums paid for insurance in which Texas is the home state of the insured. If Texas has not entered into a tax agreement or compact, tax is computed on the entire policy premium when Texas is the home state. If Texas does enter into an interstate agreement or compact for the allocation of taxes, tax is allocated and reported in accordance with the terms of the agreement.

Status: Voted out of House Appropriations Committee.

HB 3799 By Miller / SB 1806 By Lucio

Legislation sponsored by TSLA that revises the disciplinary actions taken by the state when a surplus lines policy is reported late to the Stamping Office. Provides that the Commissioner may assess a fee against an agent who files a policy late. The amount of the fee varies, depending upon the lateness of the filing and upon the percent of policies filed late in the preceding calendar year. However, an agent remains subject to TDI formal enforcement actions if the agent (1) fails to timely pay an assessed fee; (2) files a

policy on or after 365 days after the effective or issued date; or (3) files a policy after the 180th day but before the 365th day of the effective or issue date, and in the preceding calendar year more than two percent of the filings were late.

Status: HB 3799 voted out of the House Insurance Committee. SB 1806 voted out of the Business & Commerce Committee.

The following are not surplus lines bills per se, but authorize continuation of the Texas Department of Insurance.

HB 1951 By Taylor / SB 644 By Hegar

Texas Department of Insurance sunset bill – provides for the continuation of TDI until September 1, 2023. Also provides for negotiated rulemaking, abolishes certain advisory committees, clarifies certain aspects of rate filings and disapproval of those filings, authorizes electronic transactions by insurers, and requires all insurers writing personal automobile or residential property insurance in Texas to file aggregate claims information with TDI annually.

Status: HB 1951 voted out of the House Insurance Committee. SB 644 voted out of the Government Organization Committee. ★



The Surplus Lines Law Group met in Austin on March 24-25. Co-hosted by SLSOT and Winstead PC (legal counsel to SLSOT), the meeting drew a record 90 attendees. Discussion topics focused on the requirements of the federal Nonadmitted and Reinsurance Reform Act and the response of the various states to those requirements. The next meeting of the Law Group is scheduled for September in Charleston, South Carolina. The Surplus Lines Law Group is an informal group consisting of individuals from industry trade associations, counsels from surplus lines insurers, attorneys from major firms, and stamping office managers.★

Commissioner Appoints SLSOT Directors

Board Elects 2011 Officers

Commissioner Mike Geeslin has named Steve R. Franke, CPCU, ARe, Vice President - Marketing, Scottsdale Insurance Company, and Timothy P. Martin, CPCU, AU, Vice President - Underwriting, The Burlington Insurance Company, to the SLSOT Board of Directors. Each director will serve a 3-year term. We congratulate Mr. Franke and Mr. Martin on their appointments and look forward to their participation on our Board!

The SLSOT Board of Directors elected Len Kaplan, CPA, CIC, Executive Vice President & Chief Financial Officer, Delta



**Kaplan
Chairman**



**Dendy
Vice-Chairman**



**Parks
Secretary**



**Franke
Director**



**Kapatos
Director**



**Martin
Director**



**Miller
Director**



**Stucky
Director**

General Agency Corporation, as Chairman for 2011 at the Annual Meeting held in March. Phillip B. Dendy, Director, Risk Management, The University of Texas System, will serve as Vice-Chairman, and Lana Parks, CPCU, President, The Parks Group, will serve as Secretary. In addition to those mentioned above, other directors include Nancy Stucky, Risk Manager, The Mitchell Family Corp.; Nikolas G. Kapatos, Sr. Vice President, Sterling Bancshares, Inc.; and Evelyn Miller, Director of Insurance & Contract Services, Baylor

University. One director's position is pending Commissioner's appointment to complete the nine member Board.★

SLSOT Seminars Coming Soon!

In an effort to help simplify implementation of the NRRRA provisions incorporated into Texas insurance law, we plan to hold a web seminar in June to discuss those provisions that affect you and the filing procedures – as we currently know them.

These procedures for filing with the SLSOT (both through our Electronic Filing System (EFS) and paper filings) will address Texas as the Home State and a pending new requirement for providing a breakdown of all the states on multi-states risks.

In the Fall we plan to hold live seminars in Houston and Dallas to further discuss these and other issues. The presentations will include representatives from the Texas Department of Insurance and the Comptroller's Office. Please watch for bulletins as well as "Hot News" on our website, www.slsot.org, for dates and additional details.★

EFS Quick Tips

Electronic Policy Filing

- Please keep in mind that all new EFS users are required to complete testing in our test environment, prior to being given access to the live environment.
- In recent months, we have seen an increase in users calling the Help Desk for assistance with filings while attempting to use another person's User ID and Password. This is a violation of our security policy. All users are required to have their own EFS User ID and password. If you are using the Electronic Filing System (EFS) and do not have your own User ID, please contact the EFS Help Desk to discuss the procedure for getting a new User ID.

Helpful Hints

Paper Policy Filing

- It is important that you reconcile each of your edits when received to be sure all items were processed as intended and to identify any corrections that need to be made. If you don't reconcile your information until months or years later, it will be too late to have corrections made in a timely manner, which may result in an item being listed on the Late Filing Report.
- Reminder: SLSOT closed Post Office Box 160170 on December 31, 2009. Please use our physical address of 805 Las Cimas Parkway, Suite 150, Austin, Texas 78746. Transmittals and other forms reflecting the physical address can be found on our website www.slsot.org under Agent Information>S/L Policy Filing>Filing Forms.
- Be sure each policy, binder, or cover-note includes the Agent Name and Address. This requirement is statutory. Section 981.101 (c)(4), Texas Insurance Code, states: "A surplus lines document must show:...The name and address of (C) the insurance agent who obtained the surplus lines coverage..." It provides the insured with the ability to identify you if they need to contact you and verifies the policy was procured by a licensed surplus lines agent under the Texas surplus lines law. If items become separated from the Transmittal and Verification Slip or if they are submitted without one, then we can identify you and contact you.★

Comparison of SLSOT Premium Processed by Line of Business

Annual Statement Line of Business	Premium through 4/30/2011	Premium through 4/30/2010	Percent Change
1 Fire (including allied lines)	\$249,615,652	\$261,154,562	-4.47%
2 Allied lines	\$11,585,847	\$6,323,960	83.21%
3 Farmowners multiple peril	\$295,045	\$297,249	0.74%
4 Homeowners multiple peril	\$33,325,577	\$28,691,975	16.15%
5 Commercial multiple peril	\$50,151,026	\$30,301,958	65.50%
8 Ocean marine	\$6,075,416	\$4,431,160	37.11%
9 Inland marine	\$12,641,113	\$16,379,090	-22.82%
11 Medical malpractice	\$13,087,857	\$17,042,245	-23.20%
12 Earthquake	\$3,286	(\$86,919)	103.78%
13 Group accident & health	\$21,857,524	\$30,879,840	-29.22%
15 All other A&H	\$1,788,903	\$1,450,998	23.29%
17 Other liability	\$395,483,299	\$405,319,752	-2.43%
18 Products liability	\$9,078,690	\$6,266,314	44.88%
19.2 Other private passenger auto liability	\$0	\$919	-100.00%
19.4 Other commercial auto liability	\$26,947,373	\$21,943,880	22.80%
21.1 Private passenger auto physical	\$858,347	\$656,091	30.83%
21.2 Commercial auto physical damage	\$13,498,490	\$21,149,946	-36.18%
22 Aircraft (all perils)	\$53,716	\$1,339,729	-95.99%
23 Fidelity	\$765,476	\$974,241	-21.43%
24 Surety	(\$1,604)	\$359,555	-100.45%
26 Burglary & theft	\$1,741,432	\$736,810	136.35%
27 Boiler & machinery	(\$15,500)	(\$2,133,467)	99.27%
28 Credit	\$71,111,631	\$85,812,969	-17.13%
31 Aggregate/other business	\$11,673	\$239,231	-95.12%
TOTAL	\$919,960,269	\$939,532,088	-2.08%

Note: Due to rounding figures may not total



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The Lone Star Lines staff includes Phil Ballinger, CPCU, ASLI; Dalén Keith, CIW; Elaine White, ASLI; and Brian Wilds, CPA, ASLI.

We invite readers to suggest topics for articles that may be of interest to others.

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