

Lone Star Lines

The Quarterly Publication of the Surplus Lines Stamping Office of Texas



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80th Texas Legislature Review

From the perspective of the insurance industry, the last session will be remembered for what did not pass, rather than what did. In the waning hours, key compromise legislation died that was to reform & provide critical sources of funding for the Texas Windstorm Insurance Association. TWIA is projected to have total liabilities in excess of \$60 billion by the end of 2007, while having available funds to pay claims of roughly \$1 billion. Since insurers can recover assessments imposed by TWIA to pay claims in the event of a large hurricane through premium tax credits, there is significant exposure to the Texas treasury. One component of the proposed legislation would have imposed a 5% assessment on surplus lines property policies in Tier 1 counties. Like the bill, that proposal is dead for this year.



Two bills affected surplus lines taxes:

HB 3315

(Effective date: June 15, 2007)

The Comptroller by rule may change the accrued amount for which prepayment of surplus lines premium taxes is required, as well as the prepayment deadline. Currently, a surplus lines agent must make a tax

prepayment by the 15th of the month that follows any month in which accrued surplus lines taxes equal or exceed \$70,000. The prepayment amount must equal the accrued liability at the end of the month in which the \$70,000 prepayment threshold is reached. This revision arose because tax auditors were finding numerous agencies that failed to make timely prepayments, in some cases resulting in significant penalty and interest assessments by the Comptroller.

The Comptroller may by rule enter into an interstate compact or other agreement for the collection and sharing of multi-state surplus lines and

independently procured insurance premium taxes. If entering into such an agreement is not to the benefit of the state, the Comptroller by rule may establish that all surplus lines, independently procured, and unauthorized insurance premiums are considered to be on Texas risks:

— *if the insured's home office or state of domicile or residence is in Texas,*

— *or to accommodate changes in federal statutes or regulations that would otherwise limit the Comptroller's ability to directly collect taxes due.*

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SB 377

(Effective date: June 15, 2007)

The Comptroller by rule shall require a taxpayer who paid \$10,000 or more during the preceding fiscal year to pay taxes by means of electronic funds transfer (EFT). This is applicable to a variety of taxes, including all insurance premium taxes. The current threshold for remitting taxes by EFT is \$100,000.

(Effective date: September 1, 2008)

SB 377 also provides that the Comptroller by rule may require a taxpayer who paid \$50,000 or more

during the preceding fiscal year to file tax reports electronically. This can be done using software provided by the Comptroller or commercially available software that satisfies Comptroller requirements.

HB 2636

(Effective date: April 1, 2009)

This bill makes "non-substantive" revisions to the Insurance Code to correct cross references in statutes, due to rewriting of the code. Included are amendments to numerous statutory references in Sections 101 and 981, including the mandatory wording in the surplus lines guaranty fund disclosure notice. ★



**Surplus
Lines
Law
Group**

The SLLG will meet in Austin October 18-19 to review current important issues facing the surplus lines industry, including status of proposed federal legislation and development of an interstate agreement for handling taxes on multi-state risks. The meeting is hosted by Winstead PC, Gardere Wynne Sewell LLP, and SLSOT. ★

Texas Taxpayer Amnesty Program



Get a fresh start from June 15 to August 15, 2007, when the Comptroller offers a unique, limited-time waiver of penalties and interest.

Need a fresh start?

You do if you find yourself with past-due tax reports and delinquent taxes. From June 15 to August 15, 2007, the Comptroller is offering a unique waiver of penalties and interest for taxpayers who underreported or are not yet permitted for tax.

The amnesty is available for all state taxes administered by the Comptroller, except unclaimed property and the Public Utility Commission gross receipts assessment. Eligible liabilities can relate to sales or purchases of taxable items.

Reports originally due before April 1, 2007, are eligible for this limited-time amnesty. It does not, however, apply to assessments already identified by the Comptroller, taxpayers currently under audit or review, or taxpayers the Comptroller has already contacted about an audit or possible deficiency.

• Didn't file tax reports, or report or pay tax due?

Simply file the reports and pay the tax.

• Made an error on a previously filed report that resulted in underpaid taxes or additional tax due?

Just file an amended report.

• Don't have a permit for collecting and remitting Texas taxes?

If you have a tax collection responsibility, you must register.

• Didn't pay the full amount due for all reports or amendments filed?

This is your chance.

If you fail to take advantage of this opportunity, you will be responsible for all taxes, penalties and interest. Penalties can be as high as 60 percent of tax due, plus interest.

Visit website at: <http://freshstart.texas.gov>

Independently Procured?

Reminder: Texas imposes significant restrictions on how nonadmitted markets can be accessed.

Surplus lines insurance is one legitimate method, "independently procured" coverage another. The Texas Insurance Code permits a policy to be independently procured by an insured from an unauthorized, ineligible insurance company if negotiations occurred entirely outside Texas and the policy is reported and the premium taxes paid. If various insurance activities occur within the state during such a procurement, including solicitation and negotiation, and

particularly if the acts involve an agent, there is serious doubt that the transaction is truly IP. Coverage obtained through an unlicensed insurer that is not in compliance with law could be unauthorized insurance and subject to significant punitive action by Texas courts and regulators.

Be wary of the enticement "we can do it as direct procurement" -- offshore markets may not understand fully what is permissible and what is not. ★

SLSOT Agent Seminar Scheduled for October



The SLSOT 2007 annual agents seminar will be held in mid-October. Due to the success and positive feedback from attendees of last year's on-line seminar, we will again present the seminar electronically via the Internet. No travel issues, no traffic or parking hassles, no worries about the temperature. You and your staff can attend from the comfort and convenience of your own office.

Speakers from the Texas Department of Insurance, the Comptroller, and the Surplus Lines Stamping Office of Texas will discuss relevant topics, so please plan to attend.

This seminar is presented to you at no charge. You will need a computer with speakers, internet access, and a telephone to attend. The session will also be recorded for accessing afterwards. Registration information will be provided on www.slsot.org as soon as details are available. ★

EFS Quick Tips

- Filing electronically allows you to immediately see and correct any errors or "tags" that occur.
- For a quicker response, please e-mail your questions to efshelp@slsot.org instead of an individual's e-mail address.
- For security purposes, we DO NOT give new passwords via e-mail or leave them in voicemail. New passwords are given verbally only to the user.
- For security purposes, every time you call or e-mail the EFS Help Desk, we will ask for your name, your User ID, and the name of your agency. This information is necessary to safeguard your employer's confidential information.
- Each EFS user MUST have his own, unique, User ID and password. Sharing of User IDs and/or passwords is a violation of our security procedures. Violation of this procedure can result in suspension of your agency's EFS access.
- To avoid Preliminary Edit Errors, make sure the item count and total gross shown in the Batch Header matches what is actually in the batch. ★

Helpful Hints Paper Filing of Policies

- Effective 07-01-07, the mandatory Texas Complaint Notice must include the Texas Department of Insurance website and e-mail address. Refer to www.slsot.org, bulletin SO2007-09 for a printable pdf version.
- When filing corrections, return the tag memo along with the item you submit for processing. This will insure removal of the suspense and prevent further "Late Tags" being sent to you.
- By using our "Checklist for Submitting Items to the Stamping Office," you can greatly reduce or even eliminate tags. This Checklist can be found on our website www.slsot.org under Filing Forms. ★

Comparison of SLSOT Premium Processed by Line of Business

Annual Statement Line of Business	Premium through 7/31/2007	Premim through 7/31/2006	Percent Change
1 Fire (incl. allied lines)	\$498,779,663	\$413,220,978	20.71%
2 Allied lines	\$22,201,256	\$17,386,996	27.69%
3 Farmowners multiple peril	\$622,841	\$770,139	-19.13%
4 Homeowners multiple peril	\$49,683,088	\$53,043,158	-6.33%
5 Commercial multiple peril	\$104,476,707	\$52,030,616	100.80%
8 Ocean marine	\$5,092,157	\$3,557,560	43.14%
9 Inland marine	\$47,405,532	\$43,800,864	8.23%
11 Medical malpractice	\$35,949,776	\$32,591,193	10.31%
12 Earthquake	\$315,680	\$140,556	124.59%
13 Group accident & health	\$47,112,414	\$52,493,224	-10.25%
15 All other A&H	\$979,158	\$1,423,120	-31.20%
17 Other liability	\$997,182,359	\$936,785,345	6.45%
18 Products liability	\$21,910,767	\$22,248,224	-1.52%
19.2 Other priv pass auto lia	\$22,798	\$2,817	709.30%
19.4 Other comm. auto liab	\$76,198,336	\$80,324,861	-5.14%
21.1 Priv pass auto physical	\$1,045,120	\$1,127,270	-7.29%
21.2 Comm auto phys.damage	\$38,823,937	\$39,310,871	-1.24%
22 Aircraft (all perils)	\$4,716,801	\$8,412,984	-43.93%
23 Fidelity	\$209,441	\$760,345	-72.45%
24 Surety	\$203,361	\$0	0.00%
26 Burglary & theft	\$738,736	\$1,069,205	-30.91%
27 Boiler & machinery	\$914,905	(\$62,326)	1567.93%
28 Credit	\$148,481,994	\$100,354,130	47.96%
31 Aggregate/other business	\$72,854	\$219,366	-66.79%
TOTAL	\$2,103,139,681	\$1,861,011,496	13.01%

Note: Due to rounding figures may not total



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

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