

# Lone Star Lines

The Quarterly Publication of the Surplus Lines Stamping Office of Texas



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## 83rd Texas Legislature Update

by Carrie Rupprath, Winstead PC

In contrast to the multibillion dollar deficit lawmakers were presented with at the start of the 82nd legislative session, lawmakers of the 83rd Legislature started with more than an \$8 billion surplus and a state savings account at an all-time high. The Texas economy was in good shape, in large part because of the oil drilling boom.

During the regular session, lawmakers were able to reach consensus on restoring some of the deep reductions made in the 2011 budget and expanding financing for water infrastructure, women's health, public education, and the mentally ill. They were able to navigate almost entirely clear of the normally divisive ideological issues. Many close to the political process have commented that the regular session was one of the most productive and least contentious in memory. Before lawmakers could go home, however, the governor called three back-to-back special sessions, wherein ideological battles on redistricting and abortion emerged.

Throughout the regular and special sessions, there was strong support for addressing the state's growing infrastructure needs (water & transportation), although there was considerable discussion as to what mechanism was superior. Ultimately, lawmakers approved two constitutional amendments that will need to be approved by voters over the next two years—a proposal for \$2 billion in water funding that will be on the 2013 ballot and a proposal to direct \$1.2 billion annually in transportation funding that will be



on the 2014 ballot. They also approved major reforms to public education regarding high school diploma requirements and reducing the number of end-of-course exams and found \$1.8 billion in tax relief for consumers and businesses.

The Legislature passed nearly 70 bills related to insurance, several of which directly affect the surplus lines industry. Of particular interest to the surplus lines industry are SB 951, SB 697, HB 500, and HB 1405. SB 951 amends Chapter 981 of the Insurance Code to

comply with the federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRRA). It implements four key changes. First and foremost, it limits the scope of Chapter 981 to insurance that is issued to an insured whose home state is Texas. Second, it adopts the NRRRA's exempt commercial purchaser exception, which provides that surplus lines agents issuing insurance to certain large commercial purchasers are excused from the requirement in § 981.004 to undertake a diligent effort to obtain such insurance from an admitted insurer if the agent makes certain disclosures and receives a written request from the purchaser to place the insurance with an eligible surplus lines insurer. Third, the bill repeals Chapter 981's current trust fund requirement for alien insurers and adopts instead a requirement that alien insurers be included on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners. Notwithstanding this amendment, the bill includes a grandfather provision that indefinitely extends the eligibility of any alien insurer that is currently eligible under the trust fund requirement provided the insurer continues to comply with such requirement and complies with the minimum capital and surplus requirement in § 981.057. Finally, SB 951 repeals several eligibility requirements imposed on surplus lines insurers and incorporates any uniform nationwide eligibility standards that may be established in the future.

SB 697 removes the requirement in Chapter 981 that a nonresident surplus lines agent hold a property and casualty agent license in order to do business in Texas, provided certain conditions are met. Specifically, under the bill's amendments, a nonresident surplus lines agent may not be required to hold a property and casualty license if the individual is not required by the individual's state of residence to hold a property and casualty agent license and

the individual has a professional relationship with a licensed general property and casualty agent in Texas who searches for the availability of insurance in the admitted market before the insurance is placed through the surplus lines agent.

Among a variety of other changes to the state franchise tax, HB 500 clarifies that the existing exemption for insurance companies that pay premium tax extends to out-of-state surplus lines insurers that pay premium or occupation taxes to other states or foreign jurisdictions. As exempt entities, these companies are not included in the combined group of any non-exempt affiliate filing a franchise tax return in Texas.

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Another surplus lines bill, HB 1405, followed in the footsteps of HB 3410 from the previous legislative session, which addressed the premium tax and reporting responsibilities in a surplus lines insurance transaction involving a managing underwriter and a retail agent. While HB 3410 placed the burden on the retail agent, HB 1405 modifies this allocation by requiring the managing underwriter to collect, report, and pay the premium tax unless the managing underwriter and retail agent agree in writing that the retail agent will assume these responsibilities along with all other requirements imposed by Chapters 225 and 981 of the Insurance Code. The bill further specifies that the agent who bears the premium tax responsibilities also bears the responsibility of filing a copy of the policy with the Stamping Office and complying with all other statutory requirements imposed on surplus lines agents, such as the diligent effort requirement in § 981.004.

Much of the remaining insurance-related legislation focused on changes

to health insurance laws necessitated by the implementation of the federal Patient Protection and Affordable Care Act. Several bills relate to the financial solvency and regulation of certain insurers. For example, Senate Bill 841 exempts certain insurers from the prohibition against investing in residential real estate and Senate Bill 734 authorizes pure domestic captive insurance companies in Texas.

Although several bills were introduced to reform the Texas Windstorm Insurance Association (TWIA)—reform that the Legislature agreed was necessary for TWIA and its policyholders to survive another storm season—none actually passed. One bill affecting TWIA that did pass was SB 1702. SB 1702 amends TWIA's

waiver program to allow TWIA to insure additional residential structures. Specifically, it authorizes TWIA to insure a residential structure that was constructed, altered, remodeled, enlarged, repaired, or added to on or

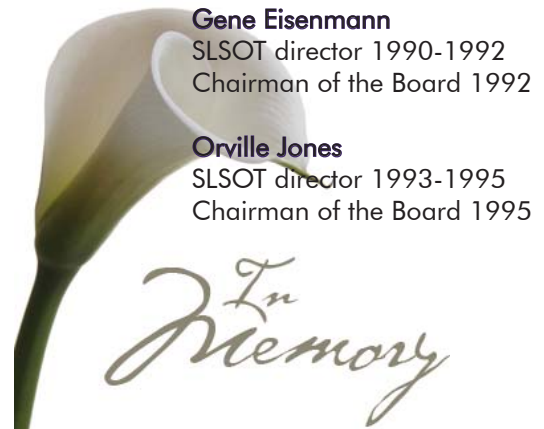
after June 19, 2009, and is not in compliance with applicable building code standards. To qualify, the structure must have been insured on or after June 19, 2009, by a private insurer who canceled or failed to renew the coverage before September 1, 2013, and no such changes to the structure occurred after the cancellation or nonrenewal or before the submission of an application for coverage through TWIA. Notwithstanding this provision, on or after December 31, 2015, TWIA may no longer issue or renew coverage for a structure unless the structure complies with applicable building codes, as set forth in TWIA's plan of operation.

Once again, the insurance industry was significantly impacted by the Texas Legislature. Even more changes could be seen before next session, as it is anticipated by many that the governor will call yet another special session in 2014 to address TWIA reform issues that did not pass during the regular session.

## SLSOT Board of Director News

Two members of SLSOT's Board of Directors have recently taken new positions. Board Vice-Chair Tim Martin is now Senior Vice President of Field Operations for Morstan General Agency in Brandon, Florida. Public member Jennifer Hall was named Executive Director of the Political Subdivision Workers' Compensation Alliance in Austin. The Alliance is the trade

name for a group of five Texas intergovernmental risk pools that have joined together to exercise the option to directly contract with health care providers for the provision of workers' compensation medical benefits to the injured employees of the member political subdivisions of each pool. Congratulations to both Tim and Jennifer.



## Elimination of Paper Reports For EFS

In the near future, the Stamping Office will eliminate the process of mailing paper copies of our End-of-Month (EOM) and End-of-Year (EOY) reports for agencies that file electronically. Each surplus lines agent/agency that files electronically will be required to view, download and/or print their reports directly from the Electronic Filing System (EFS) website. We encourage each agent/agency to become familiar with this process as soon as possible to ensure that you have continuous access to your monthly reports.

Rather than waiting days for these reports to be mailed to you, via EFS access, copies of these reports are available on the 1st of each month

for the previous month's reports. If your accounting personnel do not currently have access to these reports through the EFS, we encourage you to assign them their own user ids and passwords so they too can become familiar with the process of accessing your EOM reports as soon as possible. This will ensure continuous and immediate access to your monthly reports (including invoices).

The scheduled date for the elimination of End-of-Month paper reports will be forthcoming. Please contact the EFS Help Desk at (800) 681-5848 with any questions, concerns, or to schedule any report access training.

## TSLA Honors SLSOT for 25th Anniversary

On July 23, at its mid-year meeting in Vail, Colorado, TSLA presented Phil Ballinger, Executive Director, with a plaque honoring the Stamping Office for its 25th anniversary. Ballinger also was given a proclamation declaring July 21-24 as "Surplus Lines Stamping Office of Texas Days," signed by Austin Mayor Lee Leffingwell.



## SLSOT Employee News

The Stamping Office welcomed Sholonda Stone to our office in May. Sholonda is employed as a Data Services Analyst/System Support in the Data Services Department.

## EFS Quick Tips

Electronic Policy Filing  
EFS Help Desk (800) 681-5848

- A Date Extension endorsement is to be reported to the Stamping Office as a Renewal Policy. This allows our office to check the company eligibility (as of the date of the extension) as well as apply the appropriate tax and stamping fee rates. The procedure allows our office to comply with the sections of the Texas Insurance Code and Texas Administrative Code that pertain to "an extension of an insurance contract beyond its original expiration date."
- A date extension endorsement is not the same as an extended reporting period endorsement. A date extension endorsement is to be processed as a Renewal Policy. An extended reporting period endorsement is to be processed as an Endorsement-Premium Change.
- The Re-Entry Due to Correction option should be utilized when re-entering an item that has been reversed; this will assist in eliminating false positive late filings that are due to a reversal and re-entry on policy filings.

## Helpful Hints

Paper Policy Filing

- Always refer to your agency name, license id, and validation number when calling or emailing regarding an EFS Data Validation.
- If you received coverage/class code assistance via email for a policy or binder that is being requested for EFS Data Validation, please be certain to include this email correspondence with your policy/binder submission. This allows our office to account for and accept the coding that was provided to you.

# Comparison of SLSOT Premium Processed by Line of Business

Annual Statement Line of Business	Premium through 7/31/2013	Premium through 7/31/2012	Percent Change
1 Fire (including allied lines)	\$939,316,289	\$823,445,338	14.07%
2 Allied lines	\$52,025,884	\$49,948,215	4.16%
3 Farmowners multiple peril	\$904,103	\$555,042	62.89%
4 Homeowners multiple peril	\$83,452,461	\$66,501,267	25.49%
5 Commercial multiple peril	\$185,335,345	\$130,377,058	42.15%
8 Ocean marine	\$13,002,658	\$14,466,424	-10.02%
9 Inland marine	\$50,868,596	\$45,410,659	12.02%
11 Medical malpractice	\$30,979,244	\$31,261,336	0.90%
12 Earthquake	\$218,522	\$387,108	-43.55%
13 Group accident & health	\$46,747,822	\$43,027,195	8.65%
15 All other A&H	\$3,542,267	\$2,862,679	23.74%
17 Other liability	\$1,166,904,470	\$884,149,891	31.98%
18 Products liability	\$18,454,839	\$17,095,825	7.95%
19.2 Other private passenger auto liability	\$831	\$2,306	-63.96%
19.4 Other commercial auto liability	\$49,941,763	\$47,089,302	6.06%
21.1 Private passenger auto physical	\$1,896,037	\$1,756,782	7.93%
21.2 Commercial auto physical damage	\$40,968,544	\$31,227,716	31.19%
22 Aircraft (all perils)	\$9,677,770	\$950,152	918.55%
23 Fidelity	\$2,741,950	\$708,120	287.22%
24 Surety	\$3,042,506	\$1,330,389	128.69%
26 Burglary & theft	\$1,083,178	\$902,851	19.97%
27 Boiler & machinery	\$34,008	(\$578,276)	105.88%
28 Credit	\$167,248,421	\$55,587,011	200.88%
31 Aggregate/other business	\$503,284	\$228,190	120.55%
TOTAL	\$2,868,890,792	\$2,248,692,580	27.58%

Note: Totals subject to rounding

Texas market data reports are updated monthly and available to view and print on our website at [www.slsot.org](http://www.slsot.org) under the link Texas Market Data.



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

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

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