Volume 9
April - June 2003

www.slsot.org

Lone Star Lines

The Quarterly Publication of the Surplus Lines Stamping Office of Texas

INSIDE:

Stamping Fee Rate Decrease Requested

On March 13, 2003 the Board of Directors of the Surplus Lines Stamping Office of Texas (Stamping Office) unanimously approved a motion requesting that the Commissioner of Insurance reduce the stamping fee rate to .1% (.0010) from its current rate of .15% (.0015). This motion was passed after a report and recommendation from a special Stamping Fee Committee, which was appointed by the Chairman in December 2002. The Board asked the General Manager and legal counsel to work with the Texas Department of Insurance (TDI) to accomplish the rate decrease.

With the assistance and agreement of Senior Associate Commissioner Betty Patterson, Staff Attorney Jimmy Atkins and Kathy Wilcox, Notice of Application to Decrease the Stamping Fee appeared in the Texas Register on April 4, 2003. The notice as well as our April Bulletin SO-2003-04.1 indicates a proposed effective date of **July 1, 2003**. The Stamping Office's long-standing goal is to maintain a stable stamping fee rate that allows us to perform the functions required in our Plan of Operation while at the same time not accumulating excess funds. Due to the volatility of the surplus lines market, precise estimates of premium volume and revenue for the Stamping Office are difficult to determine with accuracy. In an effort to maintain a stable rate, the Board of Directors made the Stamping Fee Committee permanent. The Board also agreed with the committee's recommendation to change the Plan of Operation by providing flexibility in the maximum accumulation of excess funds. The TDI now has this request under consideration.

If regulatory approval proceeds as expected, the lower rate will apply to each new or renewal surplus lines policy with an effective date on or after July 1, 2003. H

78th Texas Legislative Update

Widespread concerns over the affordability and availability of homeowners insurance resulted in Governor Perry declaring insurance to be an emergency matter for the 78th Legislature. In fact, the first bill passed by both houses and signed by the governor was SB 310, which required an immediate rate filing with the Commissioner by insurers writing residential property insurance. The Commissioner then issued a summary report to the Legislature, estimating the rates were up to 25% excessive. Prior to the bill's passage, there was some question as to whether surplus lines insurers were to be included in the rate filing. Ultimately, only licensed insurers were required to file.

Currently, the following bills, if passed would affect the surplus lines industry:

...continued **Legislation**, page 2

Legislation, continued from page 1

SB 14 by Jackson et al.

Passed by the Senate April 2.

Makes major revisions to the regulation of residential property and personal auto insurance. Revises both rate and form regulation for these lines of insurance to a prior approval system. Brings county mutuals and Texas Lloyd's plans under rate regulation. Two articles in the bill specifically apply to surplus lines insurers:

Article 3, Use of Credit Scoring. Adds Article 21.21-10 to the Insurance Code. Restricts the use of credit scoring when used in underwriting. Identifies improper uses of credit scoring. Requires an insurer to explain to an insured when use of a credit score results in an adverse result. Requires an insurer to file its credit score model with the Commissioner. The filing then becomes public information. Provides that the insured may appeal the use of credit scoring under certain instances and the insurer must reconsider the matter. Makes the insurer subject to sanctions from TDI if it violates provisions of the article.

Article 5, Regulation of Underwriting Guidelines. Requires an insurer to file its underwriting guidelines with TDI and update the filing whenever it changes the guidelines. OPIC may obtain a copy of the filing. The filing is public information. Also, TDI and OPIC may obtain a copy of an insurer's underwriting guidelines for lines of insurance other than residential property and personal auto. These guidelines remain confidential.

Changes to SB 14 in the House Insurance Committee Substitute (CSSB 14):

Requirements to file credit scoring models and underwriting guidelines filings are restricted to authorized (licensed) insurers. However, for residential property insurance a provision requires that an insurer affiliated with an eligible surplus lines insurer must add all surplus lines coverage written by the affiliate to the insurer's total writings to determine if the insurer's market share is 5% or more. If that threshold is reached, all residential property insurance rates, including those of the SL insurer, are subject to filing and approval.

SB 1468 by West

Revises current law regarding regulation of rates for professional liability insurance coverage written by authorized insurers for physicians and other health care providers. Section 6 of the bill amends Section 981.004(a) of the Insurance Code by including the Joint Underwriting Association (JUA) and the Texas Medical Liability Trust (TMLT) in the diligent effort search by a surplus lines agent before the risk could be exported to the surplus lines market.

HB 119 by Burnam

Adds Article 21.56A to the Insurance Code. Provides that in a suit for recovery of damages against an insured, the insurance company that issued the policy is a proper party to the suit. Specifically includes surplus lines insurers.

HB 747 by Smithee

Adds Article 21.55A to the Insurance Code. Requires insurers to implement numerous procedures in the adjusting and payment of water damage claims. Specifically includes surplus lines insurers.

HB 750 by Smithee

Amends the Unfair Competition and Unfair Practices statute (Article 21.21). Prohibits the use of an underwriting guideline based solely upon a single previous claim for water damage, either by the applicant or on the covered property, in determining whether to decline to write a residential property insurance policy. Permits an insurer to cancel a residential property policy falling under the above circumstances if a water damage claim is filed during the first 90 days the policy is in effect.

HB 1085 by Smithee

Provides the Commissioner of Insurance authority to issue an emergency order against an insurer that has a record of unreasonable delays in claims handling. The emergency order would impose claim response requirements in addition to those existing under Article 21.55.

HB 3390 by Burnam

Requires an insurer, within two business days after receiving notice of a mold or water damage claim on a residential property policy, to acknowledge the claim, commence an investigation, and request from the claimant all information and forms the insurer reasonably believes at that time is necessary to settle the claim.

Two final notes:

HB 2922 by Marchant recodifies the surplus lines premium tax statute to Title 3, Section 225.

A major tort reform bill, **HB 4** by Nixon et al., passed the House March 31. It includes a cap of $250,000 on the awarding of non-economic damages and a rate rollback provision for authorized insurers writing medical liability insurance.

Updates to legislative information are available on the SLSOT website at www.slsot.org. H

SLSOT Electronic Filing System Update

We are fast approaching the implementation of the Electronic Filing System. Currently, surplus lines agencies that volunteered to perform beta testing are working with the specifications for constructing file packages for programmatic submission of policy data. The EFS incorporates the latest information technology advances for both web-based data entry and programmatic file uploads to help agents file transactions with the Stamping Office more efficiently. Users will be able to reduce paper handling and mailing costs, receive real-time notifications regarding submission status, and be able to access reports and statistical information online. All policy data submitted to the Stamping Office is secured through the Secured Sockets Layer (SSL) and review and update access is restricted to the agent originating the submission. We believe the EFS offers a comprehensive, user-friendly approach to submitting surplus lines policy data. An additional benefit is provided by the flexibility to file some items through the EFS while continuing to file others manually, by submitting the paper batches. You may "pick and choose" the best mechanism for filing different types of policies. For further updates, please visit our website at www.slsot.org. H

Helpful Hints

- Have you moved? If so, did you notify the Texas Department of Insurance? The Insurance Code requires every surplus lines agent to notify TDI of any change of address. Also, please remember to include the Stamping Office in this notification.

- If the premium on a binder was allocated, remember to include the Other States/Exempt premium allocation form again when submitting the policy replacing the binder.

- If a policy includes fees that are specific to other states, please be sure you include those amounts on the Other States/Exempt premium allocation form. H

Texas Surplus Lines Insurance Regulation

The Surplus Lines Stamping Office of Texas will host seminars in Houston, Dallas, and San Antonio in September. These seminars will feature speakers from the SLSOT, Texas Department of Insurance, and the Comptroller of Public Accounts. Topics will focus on the 78th Texas Legislature and issues pertaining to the surplus lines industry, tax filing problems, and the new SLSOT Electronic Filing System. A seminar brochure and registration form will be distributed to Texas surplus lines agents and companies in June. More information and on-line registration can be found on our web site at www.slsot.org.

September
5 ,16, & 25

Continuing Education Credit

Attendees will receive a certificate for 3 CE credit hours from TDI and TSBPA for the CPA credit if needed.

No registration fees!

Who should attend?

Agency staff involved with:
- Regulatory compliance
- Tax filings
- Stamping Office filings

What will be covered?

Texas Department of Insurance:
- Insurance legislation passed by the 78th Texas Legislature that affects the surplus lines market
- Disciplinary actions against agents

Texas Comptroller
- Audits of surplus lines agencies
- Tax filing problems & issues

SLSOT
- Electronic Filing System

Houston
Friday, September 5, 2003
Registration check-in: 7:30 a.m.
Seminar: 8:30 a.m. - 11:30 a.m.
Omni Hotel
Four River Way
Houston, Texas 77056

Dallas
Tuesday, September 16, 2003
Registration check-in: 7:30 a.m.
Seminar: 8:30 a.m. - 11:30 a.m.
Wyndham Anatole Hotel
2201 Stemmons Freeway
Dallas, Texas 75207

San Antonio
Thursday, September 25, 2003
Registration check-in: 12:30 p.m.
Seminar: 1:30 p.m. - 4:30 p.m.
San Antonio Convention Center
200 E. Market Street
San Antonio, Texas 78205

Lone Star Lines
Surplus Lines Stamping Office of Texas
P.O. Box 160170
Austin, Texas 78716-0170

Presorted Standard
U.S. Postage
PAID
Austin, Texas
Permit #216

Return Service Requested

Comparison of SLSOT Premium Processed by Line of Business

Annual Statement Line of Business	Premium through 3/03	Premium through 3/02	Percent Change
1 Fire (incl. allied lines)	$181,190,402	$122,495,275	47.9%
2 Allied lines	$6,451,364	$5,483,978	17.6%
3 Farmowners multiple peril	$343,261	$229,979	49.3%
4 Homeowners multiple peril	$39,179,095	$14,559,469	169.1%
5 Commercial multiple peril	$19,624,389	$3,317,093	491.6%
8 Ocean marine	$1,542,991	$1,048,502	47.2%
9 Inland marine	$12,205,003	$10,299,375	18.5%
11 Medical malpractice	$8,778,128	$11,509,191	-23.7%
12 Earthquake	$100	$37,176	-99.7%
13 Group accident & health	$30,965,850	$34,455,844	-10.1%
15 All other A&H	$7,666	$4,550	68.5%
17 Other liability	$294,938,757	$229,448,115	28.5%
18 Products liability	$10,041,419	$8,083,816	24.2%
19.2 Other priv pass auto lia	$2,252	$791	184.7%
19.4 Other comm. auto liab	$23,218,744	$16,938,032	37.1%
21.1 Priv pass auto physical	$230,398	$230,077	0.1%
21.2 Comm auto phys.damage	$18,853,626	$17,340,819	8.7%
22 Aircraft (all perils)	$1,153,793	$113,898	913.0%
23 Fidelity	$535,465	($5,128)	10542.0%
24 Surety	$0	$15,750	-100.0%
26 Burglary & theft	$116,546	$431,612	-73.0%
27 Boiler & machinery	$8,542	$45,884	-81.4%
28 Credit	$14,326,257	$13,399,045	6.9%
31 Aggregate/other business	$74,124	$489,790	-84.9%
TOTAL	$663,788,172	$489,972,933	35.5%

Note: Due to rounding figures may not total

Volume 9, 2003
April - June

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 160170
Austin, Texas 78716-0170
phone (512) 346-3274
fax (512) 346-3422

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

You can locate a text copy of this and previous issues of this newsletter on our web site at:
http://www.slsot.org/slsotpub.htm