

SLTX Plan of Operation

SLTX is governed by the Plan of Operations of the Surplus Lines Stamping Office of Texas. This plan document produces guidelines that SLTX must administer in the oversight of the organization, Board of Directors, state responsibilities, and more.

(a) The Plan of Operation of the Surplus Lines Stamping Office of Texas (Plan of Operation) and any amendment thereto shall become effective upon written approval of the Commissioner of Insurance (commissioner), and shall constitute the manner in which the Surplus Lines Stamping Office of Texas (stamping office) shall operate and discharge its responsibilities in accordance with the Texas Insurance Code and the rules of the Texas Department of Insurance (department).

(b) All persons licensed as surplus lines agents under the Texas Insurance Code shall be subject to the provisions of the Plan of Operation.

(c) The board and its directors are subject to the following provisions:

(1) The management of all the affairs, property, and business of the stamping office shall be vested in the board of directors, which shall consist of nine persons who serve terms as established in the Plan of Operation. Four of the members of the board of directors must represent the general public and must be qualified under the Texas Insurance Code §981.152 and §981.153 (formerly Article 1.14-2, §6A(c)).

(2) The board of directors shall be appointed by the commissioner. The commissioner may remove a director for willful misconduct or absence from three meetings of the board of directors during a calendar year. A director who is absent from four or more meetings of the board of directors during a calendar year automatically vacates his or her position on the board of directors.

(3) Directors will serve for a term of three years. Directors may not serve consecutive full terms. Directors shall serve until their successors are duly appointed except when removed from office or upon resignation accepted by the commissioner. The minutes of the stamping office board meetings shall show the names of the directors attending and the term of office for each, and the actions taken by the board of directors. Upon approval of the minutes of each meeting of the board of directors, a copy shall be provided to the department.

(4) The commissioner may appoint successors for the remaining period of a vacating director's term. A person appointed to replace a public member must be a public representative.

(5) A quorum, consisting of a majority of the board of directors, is required for the transaction of official business by the board of directors. The board of directors shall act upon majority vote of those directors present, and such actions shall be recorded in the minutes. However, an affirmative vote of two-thirds of the directors present shall be required to take the following actions:

(A) adopt an annual budget;

(B) approve contracts with an obligation of \$15,000 or more, which are not contemplated within the approved annual budget;

(C) recommend for adoption by the commissioner a schedule for stamping fees and other fees;

(D) borrow money;

(E) officially recommend to the commissioner an amendment to the Plan of Operation; or

(F) authorize bank signatures.

(6) A director, upon approval of the chair, may participate in a meeting of the board of directors by telephone conference call or video conference call. However, the medium for such participation, such as a speakerphone or computer teleconference screen and

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speaker, must be accessible by members of the general public attending the open meetings and must be placed in a location specified in the notice of the meeting.

(7) The first regular meeting of the board of directors in the calendar year is designated as the Annual Meeting, during which the board of directors shall:

(A) elect officers, including a chair, a vice-chair and a secretary;

(B) review the Plan of Operation and proposed amendments, if any;

(C) review operating expenses, schedule of fees, and annual report for submission to the commissioner;

(D) review, consider, and act on any other matters deemed by the board of directors as necessary to the administration and purposes of the stamping office under the Texas Insurance Code Chapter 981 (formerly Article 1.14-2) and the rules adopted thereunder by the commissioner that are applicable to the stamping office.

(8) The chair, vice-chair, and secretary shall hold office until the next Annual Meeting, or until their successors are elected and installed, unless removed pursuant to paragraph (2) of this subsection.

(A) the chair shall preside at all meetings and perform all duties customary to such office, including the appointment of committees. The chair shall be an ex officio member of all committees.

(B) the vice-chair shall perform all duties of the chair during the absence of the chair.

(C) the secretary shall keep full minutes of the proceedings of the board of directors and perform such other duties customary to such office or as may be assigned by the chair.

(9) The board of directors shall hold regular meetings at least quarterly and the Texas Department of Insurance shall be notified. The board of directors shall comply in all respects with the Texas Open Meetings Act. All board meetings shall be held in the State of Texas. Special meetings of the board of directors may be called by the chair and shall be called at the request of any three directors upon not less than five days written notice to each director and to the commissioner or the commissioner's designee of the time and place. The written notice shall state the purpose or purposes of any special meeting. Such notice for any special meeting may be waived by unanimous consent, provided the requirements of the Texas Open Meetings Act have been met.

(10) Directors shall serve without compensation, but they may be reimbursed for reasonable expenses incurred by them in carrying out their duties and responsibilities as members of the board of directors.

(d) The board of directors shall employ a general manager who will be responsible for the operation and management of the stamping office in accordance with policy established by the board of directors. The general manager shall serve at the pleasure of the board of directors.

(e) The stamping office is subject to the following provisions:

(1) The stamping office may employ such persons, or contract with such firms or corporations, individuals, attorneys, or accountants, as are necessary for the performance of its duties. Contracts shall be subject to policies adopted by the board of directors. The board of directors shall utilize appropriate competitive bidding procedures for any contract or group of related contracts of a material amount.

(2) The stamping office may open one or more bank accounts. The board of directors shall recommend for approval by the commissioner an investment and cash management policy

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for the stamping office. Such policy may provide for reasonable delegation of deposit and withdrawal authority to such accounts for stamping office business as may be consistent with prudent fiscal policy. The stamping office may borrow money upon the approval of the board of directors.

(3) Prior to November 1 of each year, the board of directors shall adopt, subject to review by the commissioner, a budget for the stamping office's operating and capital expenses and contingent expenses for the following calendar year. The budget shall take into account unknown and unanticipated expenses as may reasonably occur and make provision for such expenses in accordance with prudent business practice, but projected reserves, excluding funds for asset replacement, shall not exceed two times the average of audited operating expenses for the five-year period immediately preceding the budget year. However, in the event that the reserve balance is projected to exceed this limit in an upcoming year, the board of directors shall submit to the commissioner within thirty days after the Annual Meeting a written plan for reducing the amount of actual reserves in compliance with this section within a reasonable time given the then existing market conditions. Based upon the anticipated volume of surplus lines premium during the upcoming calendar year, the board of directors shall recommend for adoption by the commissioner a stamping fee to be charged on all surplus lines filings, as measured by premium, submitted to the stamping office.

(4) All surplus lines agents shall submit surplus lines insurance documents to the stamping office as required by the Texas Insurance Code and the rules of the department and shall pay the fees therefore as permitted by law and as required by the stamping office. If submitted by electronic means, the electronic means used must have been approved by the department in writing and otherwise comply with all applicable laws. Pursuant to the Texas Insurance Code §§981.002, 981.151, and 981.213 (formerly Article 1.14-2, §6A(a)), the portions of the surplus lines insurance contract required to be filed with the stamping office are:

- (A) a declarations page;
- (B) a listing of all participating insurers on the policy;
- (C) all coverage parts and schedules;
- (D) extended coverage exclusions;
- (E) all premium-bearing documents; and
- (F) any other parts as may be required by the stamping office to review and record the policy.

(5) Any surplus lines agent who is delinquent in the payment of stamping fees may be reported to the commissioner; provided, however, that any delinquency of more than 90 days shall be reported to the commissioner.

(6) The stamping office shall record all surplus lines insurance filings and reports submitted to it pursuant to the Texas Insurance Code and rules of the department and shall prepare reports to the commissioner and to surplus lines agents as required. Reports shall also be prepared for such other purposes as approved by the board of directors, or as the department or the Comptroller of Public Accounts of Texas (comptroller) may reasonably request. The stamping office will furnish records and/or documents to staff of the department or the comptroller upon request, for purposes of regulation, examination, or tax collection. The following shall be submitted to the commissioner:

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- (A) the adopted budget;
- (B) copy of the annual audit; and
- (C) an annual summary of operations which contains information on transactions, conditions, operations, and investments during the preceding year, such report to contain such matters and information as prescribed by and in such form as approved by the board of directors. The commissioner may at any time require the stamping office to furnish additional information with respect to any matter connected therewith and considered to be material in evaluating the economic, efficient, fair, and nondiscriminatory operation of the stamping office.
- (7) The stamping office shall prepare and distribute a procedures manual to each surplus lines agent setting forth the procedure for submitting surplus line insurance documents to the stamping office and other matters germane to the operation of the stamping office. The manual shall be prepared in cooperation with the department.
- (8) The stamping office shall procure such bonds and insurance covering the stamping office, the directors, officers, employees, and agents of the stamping office, and its properties and activities, as it deems appropriate.
- (9) The stamping office shall perform those functions specifically enumerated in the Texas Insurance Code §§981.152, 981.154, 981.155, and 981.160 (formerly Article 1.14-2, §6A(b)).
- (10) The stamping office shall assist the department and facilitate compliance with the insurance laws of the state and the rules promulgated thereunder by conducting the following functions:
- (A) identifying technical deficiencies in policy preparation and submission, and seeking correction of such deficiencies;
- (B) identifying potential non-fraudulent violations;
- (C) notifying surplus lines agents of such potential non-fraudulent violations and seeking information related to the potential violations when necessary to fulfill the stamping office's duties;
- (D) compiling information on the eligibility of surplus lines insurers and immediately reporting to the department all potentially fraudulent and willful violations of law or rules, including unauthorized transactions of the business of insurance; and
- (E) reporting to the department, within specified and agreed upon time frames, the following information:
- (i) evaluations of eligibility under §15.7 and §15.8 of this title (relating to Eligibility Requirements for Surplus Lines Insurance and Eligibility Requirements of Surplus Lines Insurers);
- (ii) summaries of stamping office activities, including actions relating to deficiencies and potential violations;
- (iii) results of inquiries relating to complaints;
- (iv) results of any other actions under §15.12 of this title (relating to Surplus Lines Insurance Requests for Information, Examination, and Complaints);
- (v) patterns and practices of any surplus lines agent that may constitute lack of compliance with the applicable insurance laws of the state;
- (vi) compilations of premiums for property coverage written under a separate policy by a surplus lines insurer affiliated with a licensed insurer, including the total policy premium, the portion of the premium that is actual extended coverage and other allied lines, if available, and where the risk is located; and
- (vii) compilations of premium volume by surplus lines agent, insurer, and kinds and class of surplus lines insurance coverage;

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- (F) providing seminars and other educational programs relating to the Texas Insurance Code, this chapter, and the procedures of the stamping office;
- (G) collecting information as provided in this chapter and the Texas Insurance Code §981.002 (formerly Article 1.14-2, §6A);
- (H) maintaining communications with agents, surplus lines insurers, insurance industry advisory associations, and related trade associations;
- (I) maintaining communication with the commissioner, the department and the comptroller;
- (J) providing information, including tax reports, to surplus lines agents; and
- (K) conducting other activities required by this chapter.

(11) The stamping office is authorized by §15.12 of this title to make inquiries to effect its function under this chapter.

(12) Any information collected under this chapter that indicates potential non-fraudulent violation of the laws of this state or the rules adopted thereunder that has not been determined by inquiries for information to be nonexistent or corrected as a technical deficiency shall be reported to the department, or in the case of information relating to taxes, reported to the comptroller.

(13) Stamping office recommendations against eligibility under §15.8 of this title shall be considered by the department. The stamping office may change an eligibility recommendation based on new or corrected information.

(f) The board of directors shall, once each year, provide for an independent audit of all the books and records of the stamping office, and a copy of the audit report shall be provided to the commissioner.

(g) Each member of the board of directors, officer, or employee of the stamping office shall be indemnified by the stamping office against all expenses, judgments, decrees, fines, penalties, and amounts paid in settlement, or incurred in the defense, of any action taken or not taken by such person in the performance of such person's powers and duties under the Texas Insurance Code and the rules of the department and this plan of operation, unless such person shall be finally adjudged to have committed a breach of duty involving gross negligence, bad faith, dishonesty, willful misfeasance, malfeasance, or reckless disregard of such person's responsibilities. In the event of settlement before final adjudication, such indemnity shall be provided only if the stamping office is advised by independent counsel that such person did not, in counsel's opinion, commit such a breach of duty. The stamping office may purchase and maintain insurance on behalf of any person who is or was a director, officer, or employee of the stamping office against any liability asserted against such person and incurred by such person in such capacity or arising out of such person's status as such, whether or not the stamping office can indemnify such person against such liability under this chapter.

(h) In the event the stamping office is dissolved, the commissioner shall take charge of and transfer the remaining assets, books, and records of the stamping office to the department or to another organization established for the same or similar purpose as the stamping office and which organization shall be exempt under the Internal Revenue Code, §501(c)(3).