LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 18, 2005

TO: Honorable John T. Smithee, Chair, House Committee on Insurance

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **HB2615** by Eiland (Relating to the distinction between surplus lines insurance and unauthorized insurance.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2615, As Introduced: a negative impact of ($25,515,000) through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	($4,472,000)
2007	($21,043,000)
2008	($21,344,000)
2009	($21,656,000)
2010	($21,980,000)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *FOUNDATION SCHOOL FUND* 193
2006	($3,354,000)	($1,118,000)
2007	($15,782,000)	($5,261,000)
2008	($16,008,000)	($5,336,000)
2009	($16,242,000)	($5,414,000)
2010	($16,485,000)	($5,495,000)

Fiscal Analysis

The bill would amend Chapter 101 of the Insurance Code relating to the distinction between surplus lines insurance and unauthorized insurance. The bill would amend various sections of the Insurance Code to prohibit the application of Chapter 101, which relates to unauthorized insurance, to eligible surplus lines insurers. In addition, the bill would repeal Insurance Code Section 981.056 which forbids an insurer from issuing surplus lines insurance if the insurer is obligated to pay a premium tax and has not paid the tax. Based on the analysis of the Department of Insurance and the Comptroller of Public Accounts, it is assumed that any duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

This bill would take effect September 1, 2005.

Methodology

Based on the analysis by the Comptroller of Public Accounts (CPA), the bill would prevent both the Texas Department of Insurance (TDI) and the Comptroller's Office from enforcing unauthorized insurance provisions against an "eligible" surplus lines insurer, regardless of any violations the insurer committed. The bill's provisions in sections 7, 8, and 10 would limit TDI's regulatory and Comptroller's Office taxation measures in reviewing the activities of surplus lines insurers.

The estimated fiscal impact reflected above was based on the estimates for licensed Property & Casualty (P&C), Independently Procured, and Surplus Lines insurance premium tax revenues used in the Comptroller's 2006-07 Biennial Revenue Estimate. It is assumed that by 2007 at least 0.5 percent of the licensed P&C, 45 percent of the Independently Procured, and 10 percent of the Surplus Lines insurance premium tax base would be lost under this bill. It is also assumed that similar losses would be experienced in each subsequent year. For the purposes of this analysis, the estimate for fiscal 2006 was adjusted for a partial year implementation.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance, 304 Comptroller of Public Accounts

LBB Staff: JOB, JRO, SD, NV, MW