

By: Smithee

H.B. No. 3410

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the underwriting authority of certain surplus lines  
3 insurance agents and to the collection of surplus lines insurance  
4 premium taxes in certain circumstances.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 225.006, Insurance Code, is amended to  
7 read as follows:

8 Sec. 225.006. COLLECTION OF TAX BY AGENT. (a) The surplus  
9 lines agent shall collect from the insured the tax imposed by this  
10 chapter at the time of delivery of the cover note, certificate of  
11 insurance, policy, or other initial confirmation of insurance and  
12 the full amount of the gross premium charged by the eligible surplus  
13 lines insurer for the insurance.

14 (b) Notwithstanding any other law, a surplus lines agent who  
15 obtains insurance from another surplus lines agent exercising  
16 underwriting authority for an eligible surplus lines insurer under  
17 Section 981.209 may by written contract agree to collect, report,  
18 and pay the tax imposed by this chapter.

19 (c) A surplus lines agent who enters into a contract  
20 described by Subsection (b) shall keep a copy of the contract and  
21 make the contract available for inspection by the comptroller.

22 (d) A surplus lines agent who contracts to collect, report,  
23 and pay the tax in the manner described by Subsection (b) shall:

24 (1) maintain appropriate records, including a record

1 of each surplus lines contract with respect to which duties under  
2 the contract have been performed; and

3 (2) not later than the 30th day after the date on which  
4 the tax is paid to the comptroller, provide the surplus lines agent  
5 exercising underwriting authority:

6 (A) the name and address of the insured;

7 (B) the policy number and policy period;

8 (C) the name of the eligible surplus lines  
9 insurer;

10 (D) the gross premium charged for the insurance;

11 (E) the amount of the tax collected; and

12 (F) the date on which the tax was paid to the  
13 comptroller.

14 SECTION 2. Subchapter E, Chapter 981, Insurance Code, is  
15 amended by adding Section 981.209 to read as follows:

16 Sec. 981.209. UNDERWRITING AUTHORITY ON BEHALF OF OTHER  
17 AGENT. (a) A surplus lines agent may exercise underwriting  
18 authority for an eligible surplus lines insurer, including  
19 exercising the authority to rate and accept risks, bind coverage,  
20 issue formal evidence of coverage, and cancel coverage, only under  
21 a current written agreement between the underwriting surplus lines  
22 agent and the eligible surplus lines insurer. The agreement must:

23 (1) identify the insurer;

24 (2) describe the scope of the underwriting authority  
25 granted; and

26 (3) reserve the final underwriting review authority to  
27 the insurer.

1        (b) A surplus lines agent or eligible surplus lines insurer  
2 who enters into an agreement under Subsection (a) shall keep a copy  
3 of the agreement and make the agreement available for review by the  
4 department.

5        SECTION 3. This Act takes effect September 1, 2011.