

1-1 By: Smithee (Senate Sponsor - Duncan) H.B. No. 3410
1-2 (In the Senate - Received from the House May 16, 2011;
1-3 May 16, 2011, read first time and referred to Committee on Business
1-4 and Commerce; May 18, 2011, reported favorably by the following
1-5 vote: Yeas 8, Nays 0; May 18, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the managing underwriters for surplus lines insurance
1-9 transactions and to the collection of surplus lines insurance
1-10 premium taxes for those transactions.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 225.006, Insurance Code, is amended to
1-13 read as follows:

1-14 Sec. 225.006. COLLECTION OF TAX BY AGENT. (a) The surplus
1-15 lines agent shall collect from the insured the tax imposed by this
1-16 chapter at the time of delivery of the cover note, certificate of
1-17 insurance, policy, or other initial confirmation of insurance and
1-18 the full amount of the gross premium charged by the eligible surplus
1-19 lines insurer for the insurance.

1-20 (b) Notwithstanding any other law, a surplus lines agent
1-21 that places an insurance policy with a managing underwriter, as
1-22 defined by Section 981.002, shall collect, report, and pay the tax
1-23 imposed by this chapter.

1-24 SECTION 2. Section 981.002, Insurance Code, is amended by
1-25 adding Subdivision (1-a) and amending Subdivision (4) to read as
1-26 follows:

1-27 (1-a) "Managing underwriter" means a surplus lines
1-28 agent or agency that exercises, pursuant to a written agreement
1-29 with an eligible surplus lines insurer, underwriting authority for
1-30 the eligible surplus lines insurer and that derives the agent or
1-31 agency's business from a surplus lines agent.

1-32 (4) "Surplus lines insurance" means insurance
1-33 coverage:

1-34 (A) for a subject that is resident, located, or
1-35 to be performed in this state; and

1-36 (B) that may be placed, in accordance with this
1-37 chapter, with an eligible surplus lines insurer or the insurer's
1-38 managing underwriter.

1-39 SECTION 3. Subchapter E, Chapter 981, Insurance Code, is
1-40 amended by adding Section 981.223 to read as follows:

1-41 Sec. 981.223. MANAGING UNDERWRITERS. (a) A managing
1-42 underwriter with whom an insurance policy is placed in the manner
1-43 described by Section 225.006(b) shall maintain appropriate records
1-44 and make the records available for inspection by the department and
1-45 the comptroller, including records of:

1-46 (1) the name and address of the insured;

1-47 (2) the policy number and policy period;

1-48 (3) the name of the eligible surplus lines insurer;

1-49 (4) the gross premium charged for the insurance;

1-50 (5) the name of the surplus lines agent who placed the
1-51 policy with the managing underwriter;

1-52 (6) the license number of the surplus lines agent who
1-53 placed the policy with the managing underwriter; and

1-54 (7) documentation that the managing underwriter has
1-55 transmitted to the surplus lines agent written confirmation of the
1-56 agent's written agreement to act as the agent for the placement of
1-57 the policy and be responsible for all filing, reporting,
1-58 collection, and payment requirements imposed by this chapter and by
1-59 Chapter 225.

1-60 (b) A managing underwriter who acts as a surplus lines agent
1-61 for a policy issued by an eligible surplus lines insurer shall
1-62 maintain appropriate records and make the records available for
1-63 inspection by the department and the comptroller, including the
1-64 information listed in Subdivisions (a)(1) through (6). The records

2-1 must reflect the name and license number of the managing
2-2 underwriter as the surplus lines agent placing the policy.

2-3 (c) A managing underwriter may hold both a surplus lines
2-4 agent license and a managing general agent license.

2-5 SECTION 4. This Act takes effect September 1, 2011.

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