

By: Miller of Erath

H.B. No. 3799

Substitute the following for H.B. No. 3799:

By: Eiland

C.S.H.B. No. 3799

A BILL TO BE ENTITLED

1 AN ACT

2 relating to timely filing of a surplus lines policy; providing  
3 penalties.

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

5 SECTION 1. Section 981.105, Insurance Code, is amended by  
6 adding Subsections (c) through (i) to read as follows:

7 (c) The commissioner may assess a fee against an agent who  
8 files a surplus lines policy after the filing deadline specified by  
9 Subsection (a).

10 (d) For an agent who files a surplus lines policy on or  
11 before the 180th day after the effective date or issue date  
12 described by Subsection (a), the amount of the fee is:

13 (1) \$50 for each late-filed policy if, in the calendar  
14 year immediately preceding the year in which the policy is  
15 late-filed, the agent has filed not more than five percent of the  
16 policies the agent was required to file after the filing deadline  
17 specified by Subsection (a); or

18 (2) \$100 for each late-filed policy if, in the  
19 calendar year immediately preceding the year in which the policy is  
20 late-filed, the agent has filed more than five percent of the  
21 policies the agent was required to file after the filing deadline  
22 specified by Subsection (a).

23 (e) For an agent who files a surplus lines policy after the  
24 180th day but before the 365th day after the effective date or issue

1 date described by Subsection (a) and who, during the immediately  
2 preceding calendar year, filed not more than two percent of the  
3 policies the agent was required to file after the filing deadline  
4 specified by Subsection (a), the amount of the fee for the  
5 late-filed policy is \$200.

6 (f) Notwithstanding any other provision of this section,  
7 for an agent who not later than January 1, 2012, files a late-filed  
8 policy with an effective date before January 1, 2010, that, at the  
9 time the policy is filed, has not been listed in a previous  
10 late-filed policy report of the stamping office, the amount of the  
11 fee is \$50 for each late-filed policy.

12 (g) The assessment, imposition, or payment of a fee under  
13 this section does not establish a violation for purposes of Section  
14 81.004, 82.051, 82.052, 82.054, 82.056, or 84.022(b)(3).

15 (h) An agent who files a surplus lines policy after the  
16 filing deadline specified by Subsection (a) is subject to Chapters  
17 81, 82, and 84 only if the agent:

18 (1) fails to timely pay a fee assessed under this  
19 section;

20 (2) files a surplus lines policy on or after the 365th  
21 day after the effective date or issue date; or

22 (3) files a surplus lines policy after the 180th day  
23 but before the 365th day of the effective date or issue date, and in  
24 the calendar year immediately preceding the year in which the  
25 policy is late-filed, filed more than two percent of the policies  
26 the agent was required to file after the filing deadline specified  
27 in Subsection (a).

1       (i) The department shall provide notice to each agent of the  
2 amount of fees assessed under this section during each calendar  
3 year not later than June 15 of the year immediately following the  
4 year for which fees are assessed, and each agent shall pay the  
5 assessed fees not later than the 30th day after the date of the  
6 notice.

7       SECTION 2. (a) Except as provided by Subsection (b) of this  
8 section, the changes in law made by this Act apply only to a surplus  
9 lines policy filed on or after the effective date of this Act. A  
10 surplus lines policy filed before the effective date of this Act is  
11 governed by the law in effect immediately before that date, and that  
12 law is continued in effect for that purpose.

13       (b) Section 981.105, Insurance Code, as amended by this Act,  
14 applies to an action to enforce Section 981.105, Insurance Code,  
15 that is pending on the effective date of this Act, with respect to  
16 the assessment of fees against a surplus lines agent for policies  
17 filed after the filing deadline prescribed by Section 981.105(a),  
18 Insurance Code, during the 2010 calendar year.

19       (c) Not later than December 1, 2011, the Texas Department of  
20 Insurance shall provide notice to each surplus lines agent to which  
21 Subsection (b) of this section applies of the amount of fees  
22 assessed. The surplus lines agent shall pay the fee not later than  
23 the 30th day after the date of the notice.

24       SECTION 3. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2011.