

By: Lucio
(Miller of Erath)

S.B. No. 1806

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

(e) For an agent who files a surplus lines policy after the 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
8 this section, the changes in law made by this Act apply only to a
9 surplus lines policy filed on or after the effective date of this
10 Act. A surplus lines policy filed before the effective date of this
11 Act is governed by the law in effect immediately before that date,
12 and that 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:

16 (1) pending on the effective date of this Act;

17 (2) brought on or after the effective date of this Act
18 against a surplus lines agent for policies filed after the filing
19 deadline prescribed by Subsection (a), Section 981.105, Insurance
20 Code, and filed during the 2010 calendar year; or

21 (3) brought on or after the effective date of this Act
22 against a surplus lines agent for policies filed after the filing
23 deadline prescribed by Subsection (a), Section 981.105, Insurance
24 Code, and filed during the 2011 calendar year.

25 (c) Not later than December 1, 2011, the Texas Department of
26 Insurance shall provide notice to each surplus lines agent to which
27 Subdivisions (1) and (2) of Subsection (b) of this section apply of

1 the amount of fees assessed. The surplus lines agent shall pay the
2 fee not later than the 30th day after the date of the notice.

3 (d) The notice and payment provisions described by
4 Subsection (i), Section 981.105, Insurance Code, as added by this
5 Act, apply to policies filed during or after the 2011 calendar year.

6 SECTION 3. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2011.