

1-1 By: Lucio S.B. No. 1806
1-2 (In the Senate - Filed March 11, 2011; March 24, 2011, read
1-3 first time and referred to Committee on Business and Commerce;
1-4 April 28, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 28, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1806 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to timely filing of a surplus lines policy; providing
1-11 penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 981.105, Insurance Code, is amended by
1-14 adding Subsections (c) through (i) to read as follows:

1-15 (c) The commissioner may assess a fee against an agent who
1-16 files a surplus lines policy after the filing deadline specified by
1-17 Subsection (a).

1-18 (d) For an agent who files a surplus lines policy on or
1-19 before the 180th day after the effective date or issue date
1-20 described by Subsection (a), the amount of the fee is:

1-21 (1) \$50 for each late-filed policy if, in the calendar
1-22 year immediately preceding the year in which the policy is
1-23 late-filed, the agent has filed not more than five percent of the
1-24 policies the agent was required to file after the filing deadline
1-25 specified by Subsection (a); or

1-26 (2) \$100 for each late-filed policy if, in the
1-27 calendar year immediately preceding the year in which the policy is
1-28 late-filed, the agent has filed more than five percent of the
1-29 policies the agent was required to file after the filing deadline
1-30 specified by Subsection (a).

1-31 (e) For an agent who files a surplus lines policy after the
1-32 180th day but before the 365th day after the effective date or issue
1-33 date described by Subsection (a) and who, during the immediately
1-34 preceding calendar year, filed not more than two percent of the
1-35 policies the agent was required to file after the filing deadline
1-36 specified by Subsection (a), the amount of the fee for the
1-37 late-filed policy is \$200.

1-38 (f) Notwithstanding any other provision of this section,
1-39 for an agent who not later than January 1, 2012, files a late-filed
1-40 policy with an effective date before January 1, 2010, that, at the
1-41 time the policy is filed, has not been listed in a previous
1-42 late-filed policy report of the stamping office, the amount of the
1-43 fee is \$50 for each late-filed policy.

1-44 (g) The assessment, imposition, or payment of a fee under
1-45 this section does not establish a violation for purposes of Section
1-46 81.004, 82.051, 82.052, 82.054, 82.056, or 84.022(b)(3).

1-47 (h) An agent who files a surplus lines policy after the
1-48 filing deadline specified by Subsection (a) is subject to Chapters
1-49 81, 82, and 84 only if the agent:

1-50 (1) fails to timely pay a fee assessed under this
1-51 section;

1-52 (2) files a surplus lines policy on or after the 365th
1-53 day after the effective date or issue date; or

1-54 (3) files a surplus lines policy after the 180th day
1-55 but before the 365th day of the effective date or issue date, and in
1-56 the calendar year immediately preceding the year in which the
1-57 policy is late-filed, filed more than two percent of the policies
1-58 the agent was required to file after the filing deadline specified
1-59 in Subsection (a).

1-60 (i) The department shall provide notice to each agent of the
1-61 amount of fees assessed under this section during each calendar
1-62 year not later than June 15 of the year immediately following the
1-63 year for which fees are assessed, and each agent shall pay the

2-1 assessed fees not later than the 30th day after the date of the
2-2 notice.

2-3 SECTION 2. (a) Except as provided by Subsection (b) of
2-4 this section, the changes in law made by this Act apply only to a
2-5 surplus lines policy filed on or after the effective date of this
2-6 Act. A surplus lines policy filed before the effective date of this
2-7 Act is governed by the law in effect immediately before that date,
2-8 and that law is continued in effect for that purpose.

2-9 (b) Section 981.105, Insurance Code, as amended by this Act,
2-10 applies to an action to enforce Section 981.105, Insurance Code,
2-11 that is brought against a surplus lines agent for a policy or
2-12 policies filed after the filing deadline prescribed by Subsection
2-13 (a), Section 981.105, Insurance Code, that:

- 2-14 (1) is pending on the effective date of this Act; or
- 2-15 (2) was filed during the 2010 calendar year.

2-16 (c) Not later than December 1, 2011, the Texas Department of
2-17 Insurance shall provide notice to each surplus lines agent to which
2-18 Subsection (b) of this section applies of the amount of fees
2-19 assessed. The surplus lines agent shall pay the fee not later than
2-20 the 30th day after the date of the notice.

2-21 SECTION 3. This Act takes effect immediately if it receives
2-22 a vote of two-thirds of all the members elected to each house, as
2-23 provided by Section 39, Article III, Texas Constitution. If this
2-24 Act does not receive the vote necessary for immediate effect, this
2-25 Act takes effect September 1, 2011.

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