

# LEGISLATIVE BUDGET BOARD

Austin, Texas

## FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 5, 2011

**TO:** Honorable John T. Smithee, Chair, House Committee on Insurance

**FROM:** John S O'Brien, Director, Legislative Budget Board

**IN RE: HB2698** by Eiland (Relating to surplus lines insurance.), **As Introduced**

**Implementing the provisions of the bill would result in an indeterminate gain to the state due to the increase in premium tax revenue.**

This bill would amend Chapter 981 of the Insurance Code, regarding surplus lines insurance. The bill would limit the applicability of this chapter to insurance that is issued to an insured whose home state is this state; exempt certain commercial purchasers from certain restrictions on the purchasing of surplus lines insurance; and provide that a person that issues a policy of surplus lines insurance and, at the time the policy is issued, has failed to pay a statutory penalty or premium tax due is engaged in the unauthorized business of insurance.

The bill would replace certain capital requirements for alien surplus lines insurers with a requirement that an alien surplus line insurer be listed on the Quarterly Listing of Alien Insurers maintained by the National Association of Insurance Commissioners, except that an alien surplus lines insurer eligible under Insurance Code Section 981.058 as it existed immediately prior to the effective date of this act would continue to be an eligible surplus lines insurer until January 1, 2013.

The bill would repeal Insurance Code Sections 981.052, 981.053, 981.055, 981.056, 981.060, 981.061, and 981.062.

The bill would take effect immediately upon receiving a two-thirds majority vote in each house. If the bill does not receive a two-thirds vote in each house, the bill would take effect September 1, 2011.

The Nonadmitted and Reinsurance Reform Act (NRRA) of 2010 takes effect July 21, 2011 and limits the authority to tax multi-state surplus lines transactions to the insured's home state. The provisions of this bill that limit the applicability of Chapter 981 to insurance that is issued to an insured whose home state is this state would conform to the requirements of NRRA and have no fiscal impact.

Repealed Sections 981.052 and 981.053 mandate that surplus lines insurers have a "good reputation" and "provide reasonably prompt service" and that their management not be "incompetent or untrustworthy" or "so lacking in insurance company managerial experience as to make the insurer's proposed operations hazardous to the insurance-buying public." Based on the analysis provided by the Comptroller of Public Accounts, repeal of these sections would conform with the language of NRRA and have no fiscal impact.

Repealed Sections 981.055 and 981.056 prohibit the issuance of surplus line insurance by insurers who have failed to pay a statutory penalty or premium tax obligation. Based on the analysis provided by the Comptroller of Public Accounts, repeal of these sections would conform to the language of NRRA and have no fiscal impact.

Repealed Sections 981.060, 981.061, and 981.062 allow the Commissioner of Insurance to exempt certain surplus line insurers from the minimal capital and surplus requirements of Section 981.057. Based on the analysis provided by the Comptroller of Public Accounts, repeal of these sections would have no fiscal impact.

Provisions of the bill that exempt certain commercial purchasers from certain restrictions on the purchasing of surplus lines insurance could increase the amount and proportion of surplus lines insurance issued. To the extent that this occurred, premium tax revenue would increase. The amount of this increase, if any, cannot be estimated.

Based on the analysis provided by the Comptroller of Public Accounts, the other provisions of the bill would have no fiscal impact. Based on the analysis provided by the Texas Department of Insurance, it is assumed that all duties and responsibilities associated with implementing the provisions of the bill could be accomplished by utilizing existing resources.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 454 Department of Insurance

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