

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 26, 2011

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

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

IN RE: HB3799 by Miller, Sid (Relating to timely filing of surplus lines policy; providing penalties.), **As Introduced**

There is an indeterminate fiscal impact to the state from the provisions of this bill because of the change in fee and penalty revenue cannot be determined.

The bill would amend the Insurance Code relating to timely filing of surplus lines policy and provide penalties. The bill would allow the Commissioner of Insurance to assess fees for the late filing of surplus lines policies by stating that agents who, in the calendar year immediately preceding the year in which the policy is filed, late-filed more than 5 percent of their policies would be assessed a fee of \$50 per late-filed policy; other agents would be assessed a fee of \$25 per late-filed policy. Additionally, the bill would amend statute to state that the assessment of the late filing fee would not establish a violation for purposes of certain penalties and sanctions. However, an agent who in each of two successive calendar years late-filed more than 5 percent of their policies would be subject to an administrative violation penalty of up to \$25,000. This bill would take effect September 1, 2011.

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 agency resources.

Based on the analysis provided by the Comptroller, the bill's fiscal impact cannot be determined due to the change in fines and penalties. Under current law, surplus lines agents who fail to timely file are subject to administrative penalties not to exceed \$25,000 per incident. In calendar year 2010, the Department of Insurance imposed penalties of \$68,000 for failure to timely file surplus lines policies. The fiscal implications of this bill would depend on the proportion of late filers who would be assessed the \$25 or \$50 per policy fee, the number of filers who in two successive calendar years late-filed more than 5 percent of their policies, and the administrative penalties assessed those late filers.

Local Government Impact

No fiscal implication to units of local government is anticipated.

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

LBB Staff: JOB, KJG, MW, CH, AG