

SENATE AMENDMENTS

2nd Printing

By: Smithee

H.B. No. 3410

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the managing underwriters for surplus lines insurance
3 transactions and to the collection of surplus lines insurance
4 premium taxes for those transactions.

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

6 SECTION 1. Section 225.006, Insurance Code, is amended to
7 read as follows:

8 Sec. 225.006. COLLECTION OF TAX BY AGENT. (a) The surplus
9 lines agent shall collect from the insured the tax imposed by this
10 chapter at the time of delivery of the cover note, certificate of
11 insurance, policy, or other initial confirmation of insurance and
12 the full amount of the gross premium charged by the eligible surplus
13 lines insurer for the insurance.

14 (b) Notwithstanding any other law, a surplus lines agent
15 that places an insurance policy with a managing underwriter, as
16 defined by Section 981.002, shall collect, report, and pay the tax
17 imposed by this chapter.

18 SECTION 2. Section 981.002, Insurance Code, is amended by
19 adding Subdivision (1-a) and amending Subdivision (4) to read as
20 follows:

21 (1-a) "Managing underwriter" means a surplus lines
22 agent or agency that exercises, pursuant to a written agreement
23 with an eligible surplus lines insurer, underwriting authority for
24 the eligible surplus lines insurer and that derives the agent or

1 agency's business from a surplus lines agent.

2 (4) "Surplus lines insurance" means insurance
3 coverage:

4 (A) for a subject that is resident, located, or
5 to be performed in this state; and

6 (B) that may be placed, in accordance with this
7 chapter, with an eligible surplus lines insurer or the insurer's
8 managing underwriter.

9 SECTION 3. Subchapter E, Chapter 981, Insurance Code, is
10 amended by adding Section 981.223 to read as follows:

11 Sec. 981.223. MANAGING UNDERWRITERS. (a) A managing
12 underwriter with whom an insurance policy is placed in the manner
13 described by Section 225.006(b) shall maintain appropriate records
14 and make the records available for inspection by the department and
15 the comptroller, including records of:

16 (1) the name and address of the insured;

17 (2) the policy number and policy period;

18 (3) the name of the eligible surplus lines insurer;

19 (4) the gross premium charged for the insurance;

20 (5) the name of the surplus lines agent who placed the
21 policy with the managing underwriter;

22 (6) the license number of the surplus lines agent who
23 placed the policy with the managing underwriter; and

24 (7) documentation that the managing underwriter has
25 transmitted to the surplus lines agent written confirmation of the
26 agent's written agreement to act as the agent for the placement of
27 the policy and be responsible for all filing, reporting,

1 collection, and payment requirements imposed by this chapter and by
2 Chapter 225.

3 (b) A managing underwriter who acts as a surplus lines agent
4 for a policy issued by an eligible surplus lines insurer shall
5 maintain appropriate records and make the records available for
6 inspection by the department and the comptroller, including the
7 information listed in Subdivisions (a)(1) through (6). The records
8 must reflect the name and license number of the managing
9 underwriter as the surplus lines agent placing the policy.

10 (c) A managing underwriter may hold both a surplus lines
11 agent license and a managing general agent license.

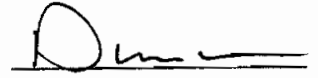
12 SECTION 4. This Act takes effect September 1, 2011.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 20 2011

BY:



- 1 Amend H.B. 3410 (committee ~~report~~) on page 2, line 5 by
- 2 striking "September 1, 2011" and inserting "January 1, 2012".

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 21, 2011

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

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

IN RE: HB3410 by Smithee (Relating to the managing underwriters for surplus lines insurance transactions and to the collection of surplus lines insurance premium taxes for those transactions.), **As Passed 2nd House**

<p>There is an indeterminate fiscal impact to the state from the provisions of this bill because of the potential change in premium tax revenue cannot be determined.</p>
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The bill would amend the Insurance Code relating to the managing underwriters for surplus lines insurance transactions and to the collection of surplus lines insurance premium taxes for those transactions. The bill would require that a surplus lines agent that places a policy with a managing underwriter collect, report, and pay the premium tax due on that policy, and would require that the managing underwriter maintain and make available for inspection by the Department of Insurance and the Comptroller's Office certain records. The bill would take effect January 1, 2012.

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. This bill would change how the agent of record is determined for purposes of reporting and paying premium tax due on certain surplus lines transactions. This change would alter the Comptroller's audit process in that more entities would be subject to audit with total less premium per entity. From calendar 2008 to 2010 the Comptroller assessed more than \$8,542,000 in additional surplus lines premium tax, not including interest and penalties.

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, AG, KJG, MW, CH

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 17, 2011

TO: Honorable John Carona, Chair, Senate Committee on Business & Commerce

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

IN RE: HB3410 by Smithee (Relating to the managing underwriters for surplus lines insurance transactions and to the collection of surplus lines insurance premium taxes for those transactions.), **As Engrossed**

<p>There is an indeterminate fiscal impact to the state from the provisions of this bill because of the potential change in premium tax revenue cannot be determined.</p>
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The bill would amend the Insurance Code relating to the managing underwriters for surplus lines insurance transactions and to the collection of surplus lines insurance premium taxes for those transactions. The bill would require that a surplus lines agent that places a policy with a managing underwriter collect, report, and pay the premium tax due on that policy, and would require that the managing underwriter maintain and make available for inspection by the Department of Insurance and the Comptroller's Office certain records. The 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. This bill would change how the agent of record is determined for purposes of reporting and paying premium tax due on certain surplus lines transactions. This change would alter the Comptroller's audit process in that more entities would be subject to audit with total less premium per entity. From calendar 2008 to 2010 the Comptroller assessed more than \$8,542,000 in additional surplus lines premium tax, not including interest and penalties.

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, AG, KJG, MW, CH

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: HB3410 by Smithee (Relating to the managing underwriters for surplus lines insurance transactions and to the collection of surplus lines insurance premium taxes for those transactions.), **Committee Report 1st House, Substituted**

<p>There is an indeterminate fiscal impact to the state from the provisions of this bill because of the potential change in premium tax revenue cannot be determined.</p>
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The bill would amend the Insurance Code relating to the managing underwriters for surplus lines insurance transactions and to the collection of surplus lines insurance premium taxes for those transactions. The bill would require that a surplus lines agent that places a policy with a managing underwriter collect, report, and pay the premium tax due on that policy, and would require that the managing underwriter maintain and make available for inspection by the Department of Insurance and the Comptroller's Office certain records. The 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. This bill would change how the agent of record is determined for purposes of reporting and paying premium tax due on certain surplus lines transactions. This change would alter the Comptroller's audit process in that more entities would be subject to audit with total less premium per entity. From calendar 2008 to 2010 the Comptroller assessed more than \$8,542,000 in additional surplus lines premium tax, not including interest and penalties.

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

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

April 11, 2011

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

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

IN RE: HB3410 by Smithee (Relating to the underwriting authority of certain surplus lines insurance agents and to the collection of surplus lines insurance premium taxes in certain circumstances.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Insurance Code relating to the underwriting authority of certain surplus lines insurance agents and to the collection of surplus lines insurance premium taxes in certain circumstances. 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.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 454 Department of Insurance

LBB Staff: JOB, KJG, MW, CH