

BILL ANALYSIS

Senate Research Center

S.B. 697
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 981 (Surplus Lines Insurance), Insurance Code, governs surplus lines insurance, which is a type of insurance available for a unique or complex risk that an admitted carrier will not insure. Surplus lines agents in Texas must be licensed through the Texas Department of Insurance and are additionally required to hold a separate property and casualty license. This additional licensure is required so that the agent can show that there is no available property and casualty coverage from an admitted insurer in Texas prior to insuring risk through a surplus lines carrier. This provision is consistent with laws in a majority of other states; however, there are a small number of states where surplus lines agents can do business without a property and casualty license. This inconsistency in licensure requirements has become an impediment to the growing number of insurance transactions that cross state lines.

In order to minimize friction in the marketplace and avoid inconsistencies, federal legislation, referred to as the National Association of Registered Agents and Brokers (NARAB-II), is being considered as a mechanism to streamline agent and broker licensing systems among states, but has not yet become law. In an effort to avoid the possibility of federal preemption of the licensing industry, the National Association of Insurance Commissioners (NAIC) Producer Licensing Uniformity Guidelines recommend that states adopt uniform licensing laws as a means of achieving goals similar to those outlined by NARAB-II.

Consistent with the NAIC Producer Licensing Uniformity Guidelines relating to surplus lines licensure, S.B. 697 allows non-resident surplus lines agents to do business in Texas without a property and casualty license, provided they are in compliance with their domiciliary state's licensure requirements. In order to qualify, the non-resident surplus agent must also have a professional relationship with a licensed property and casualty agent in Texas who first conducts a diligent search for available coverage from an admitted insurer in Texas before placing insurance through the non-resident surplus lines agent. The non-resident surplus lines agent must also supply sufficient information to the Texas insurance commissioner demonstrating that the agents' home state does not require property and casualty licensure in order to obtain a surplus lines license.

S.B. 697 amends current law relating to the qualifications of certain nonresident individuals to hold a surplus lines agent license.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 981.203, Insurance Code, by adding Subsection (a-1), as follows:

(a-1) Provides that, notwithstanding Subsection (a)(1)(B), an individual is not required to obtain a general property and casualty agent license to hold a surplus lines agent license if:

- (1) the home state of each insured is Texas;

- (2) the individual is a nonresident of this state;
- (3) the individual is licensed as a surplus lines agent in the individual's state of residence;
- (4) the individual is not required by the individual's state of residence to hold a general property and casualty agent license to become licensed as a surplus lines agent;
- (5) the individual has provided information acceptable to the commissioner of insurance that the individual's state of residence does not require a general property and casualty agent license for a surplus lines agent license;
- (6) the individual's state of residence does not require a surplus lines agent to search for the availability of insurance in the individual's state of residence before the insurance is placed through a surplus lines agent;
- (7) the individual's state of residence allows a licensed general property and casualty agent to search for the availability of insurance in the individual's state of residence;
- (8) the individual has a professional relationship with, and each transaction is conducted through, a person who:
 - (A) is a licensed general property and casualty agent in this state or in the state of each transaction; and
 - (B) searches for the availability of insurance in this state before the insurance is placed through a surplus lines agent; and
- (9) each transaction complies with the laws of the state in which it occurs.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: January 1, 2014.