

## **BILL ANALYSIS**

C.S.S.B. 697  
By: Carona  
Insurance  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Surplus lines agents in Texas must be licensed through the Texas Department of Insurance and, unless they hold a managing general agent license, are additionally required to hold a separate property and casualty agent license. Interested parties contend that this additional license requirement is consistent with laws in a majority of other states but that there are a small number of states where surplus lines agents can do business without a property and casualty agent license. The parties assert that this inconsistency in licensure requirements has become an impediment to the growing number of insurance transactions that cross state lines.

Interested parties further assert that, in order to minimize friction in the marketplace and avoid inconsistencies, federal legislation is being considered as a mechanism to streamline agent and broker licensing systems among states but has not yet become law. The parties observe that, in an effort to avoid the possibility of federal preemption of the licensing industry, guidelines developed by the National Association of Insurance Commissioners (NAIC) recommend that states adopt uniform licensing laws as a means of achieving goals similar to those outlined by the proposed federal legislation. In an effort to be consistent with the NAIC guidelines relating to surplus lines licensure, C.S.S.B. 697 seeks to establish that nonresident surplus lines agents are not required to obtain a property and casualty agent license to do business in Texas under certain conditions.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 697 amends the Insurance Code to exempt an individual from the requirement to obtain a general property and casualty agent license to hold a surplus lines agent license if the home state of each insured is Texas; the individual is a nonresident of Texas; the individual is licensed as a surplus lines agent in the individual's state of residence; 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; 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; 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; 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; the individual has a professional relationship with, and each transaction is conducted through, a person who is a licensed general property and casualty agent in Texas or in the state of each transaction and who searches for the availability of insurance in Texas before the insurance is placed through a surplus lines agent; and each transaction complies with the laws of the state in which it occurs.

## EFFECTIVE DATE

January 1, 2014.

## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 697 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

### SENATE ENGROSSED

SECTION 1. Section 981.203, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding Subsection (a)(1)(B), an individual is not required to obtain a general property and casualty **or a managing general** 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 does not hold a managing general agent license in this state;**

(5) the individual is not required by the individual's state of residence to hold a general property and casualty license to become licensed as a surplus lines agent;

(6) the individual has provided information acceptable to the commissioner that the individual's state of residence does not require a property and casualty agent license for a surplus lines agent license;

(7) 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;

(8) 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;

(9) 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

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 981.203, Insurance Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) 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 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  
(10) each transaction complies with the laws of the state in which it occurs.

SECTION 2. The change in law made by this Act applies to a license application submitted on or after the effective date of this Act. A license application submitted before the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect **September 1, 2013.**

(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. Same as engrossed version.

SECTION 3. This Act takes effect **January 1, 2014.**