

By: Smithee

H.B. No. 1405

Substitute the following for H.B. No. 1405:

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C.S.H.B. No. 1405

A BILL TO BE ENTITLED

AN ACT

relating to the collection of surplus lines insurance premium taxes for insurance placed with a managing underwriter.

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

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

Sec. 225.006. COLLECTION OF TAX BY AGENT. (a) Except as otherwise provided by this section, the ~~[The]~~ surplus lines agent shall collect from the insured the tax imposed by this chapter at the time of delivery of the cover note, certificate of insurance, policy, or other initial confirmation of insurance and the full amount of the gross premium charged by the eligible surplus lines insurer for the insurance.

(b) Subject to Subsection (c) and notwithstanding ~~[Notwithstanding]~~ any other law, if a surplus lines agent ~~[that]~~ places an insurance policy with a managing underwriter, as defined by Section 981.002, the managing underwriter shall collect, report, and pay the tax imposed by this chapter.

(c) A surplus lines agent and a managing underwriter may enter into an agreement to provide that the surplus lines agent is responsible for filing, reporting, collection, payment, and all other requirements imposed by this chapter and Chapter 981, including the requirement to pay the tax and file the tax report imposed by this chapter. An agreement under this subsection must be

1 in writing and must be entered into at or before the time coverage
2 is bound under the policy. The agreement may apply to multiple
3 policies or all policies between a surplus lines agent and a
4 managing underwriter.

5 SECTION 2. Sections 981.105(a) and (b), Insurance Code, are
6 amended to read as follows:

7 (a) Not later than the 60th day after the later of the
8 effective date or the issue date of new or renewal surplus lines
9 insurance, a surplus lines agent responsible under Section 225.006
10 for the filing, reporting, collection, payment, and other
11 requirements imposed by Chapter 225 shall file with the stamping
12 office:

13 (1) a copy of the policy issued; or

14 (2) if the policy has not been issued, a copy of the
15 certificate, cover note, or other confirmation of insurance
16 delivered to the insured.

17 (b) The [A] surplus lines agent described by Subsection (a)
18 shall also promptly file with the stamping office:

19 (1) a copy of each substitute certificate, cover note,
20 or other confirmation of insurance delivered to an insured;

21 (2) a copy of each endorsement of an original policy,
22 certificate, cover note, or other confirmation of insurance
23 delivered to an insured; and

24 (3) a memorandum from the agent informing the stamping
25 office of the substance of any change represented by a document
26 described by Subdivision (1) or (2), as compared with the original
27 coverage.

1 SECTION 3. Section 981.213, Insurance Code, is amended to
2 read as follows:

3 Sec. 981.213. FILING CONTRACT WITH STAMPING OFFICE. A
4 surplus lines agent responsible under Section 225.006 for the
5 filing, reporting, collection, payment, and other requirements
6 imposed by Chapter 225 shall report to and file with the stamping
7 office a copy of each surplus lines insurance contract as provided
8 in the stamping office's plan of operation. The department may
9 accept that filing instead of the filings required under Section
10 981.105.

11 SECTION 4. Section 981.215(a), Insurance Code, is amended
12 to read as follows:

13 (a) A surplus lines agent shall maintain a complete record
14 of each surplus lines contract obtained by the agent, including any
15 of the following, if applicable:

- 16 (1) a copy of the daily report;
- 17 (2) the amount of the insurance and risks insured
18 against;
- 19 (3) a brief general description of the property
20 insured and the location of that property;
- 21 (4) the gross premium charged;
- 22 (5) the return premium paid;
- 23 (6) the rate of premium charged on the different items
24 of property;
- 25 (7) the contract terms, including the effective date;
- 26 (8) the insured's name and post office address;
- 27 (9) the insurer's name and home office address;

- 1 (10) the amount collected from the insured; ~~[and]~~
- 2 (11) an agreement under Section 225.006(c); and
- 3 (12) any other information required by the department.

4 SECTION 5. Section 981.223(a), Insurance Code, is amended
5 to read as follows:

6 (a) A managing underwriter with whom an insurance policy is
7 placed in the manner described by Section 225.006(b) shall maintain
8 appropriate records and make the records available for inspection
9 by the department and the comptroller, including records of:

- 10 (1) the name and address of the insured;
- 11 (2) the policy number and policy period;
- 12 (3) the name of the eligible surplus lines insurer;
- 13 (4) the gross premium charged for the insurance;
- 14 (5) the name of the surplus lines agent who placed the
15 policy with the managing underwriter;
- 16 (6) the license number of the surplus lines agent who
17 placed the policy with the managing underwriter; and
- 18 (7) an agreement, if any, under Section 225.006(c)

19 that applies to the policy ~~[documentation that the managing~~
20 ~~underwriter has transmitted to the surplus lines agent written~~
21 ~~confirmation of the agent's written agreement to act as the agent~~
22 ~~for the placement of the policy and be responsible for all filing,~~
23 ~~reporting, collection, and payment requirements imposed by this~~
24 ~~chapter and by Chapter 225]~~.

25 SECTION 6. This Act takes effect January 1, 2014.