

By: Smithee

H.B. No. 1405

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the collection of surplus lines insurance premium taxes  
3 for insurance placed with a managing underwriter.

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

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

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

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

19 (c) A surplus lines agent and a managing underwriter may  
20 enter into an agreement to provide that the surplus lines agent  
21 shall collect, report, and pay the tax imposed by this chapter. An  
22 agreement under this subsection must be in writing and must be  
23 entered into at or before the time coverage is bound under the  
24 policy. The agreement may apply to multiple policies or all

1 policies between a surplus lines agent and a managing underwriter.

2 SECTION 2. Section 981.215(a), Insurance Code, is amended  
3 to read as follows:

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

7 (1) a copy of the daily report;

8 (2) the amount of the insurance and risks insured  
9 against;

10 (3) a brief general description of the property  
11 insured and the location of that property;

12 (4) the gross premium charged;

13 (5) the return premium paid;

14 (6) the rate of premium charged on the different items  
15 of property;

16 (7) the contract terms, including the effective date;

17 (8) the insured's name and post office address;

18 (9) the insurer's name and home office address;

19 (10) the amount collected from the insured; ~~and~~

20 (11) an agreement under Section 225.006(c); and

21 (12) any other information required by the department.

22 SECTION 3. Section 981.223(a), Insurance Code, is amended  
23 to read as follows:

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

- 1 (1) the name and address of the insured;
- 2 (2) the policy number and policy period;
- 3 (3) the name of the eligible surplus lines insurer;
- 4 (4) the gross premium charged for the insurance;
- 5 (5) the name of the surplus lines agent who placed the
- 6 policy with the managing underwriter;
- 7 (6) the license number of the surplus lines agent who
- 8 placed the policy with the managing underwriter; and
- 9 (7) an agreement, if any, under Section 225.006(c)
- 10 that applies to the policy [~~documentation that the managing~~
- 11 ~~underwriter has transmitted to the surplus lines agent written~~
- 12 ~~confirmation of the agent's written agreement to act as the agent~~
- 13 ~~for the placement of the policy and be responsible for all filing,~~
- 14 ~~reporting, collection, and payment requirements imposed by this~~
- 15 ~~chapter and by Chapter 225].~~

16 SECTION 4. This Act takes effect September 1, 2013.