

1-1 By: Smithee (Senate Sponsor - Carona) H.B. No. 1405
 1-2 (In the Senate - Received from the House April 29, 2013;
 1-3 April 30, 2013, read first time and referred to Committee on
 1-4 Business and Commerce; May 14, 2013, reported favorably by the
 1-5 following vote: Yeas 9, Nays 0; May 14, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the collection of surplus lines insurance premium taxes
 1-20 for insurance placed with a managing underwriter.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 225.006, Insurance Code, is amended to
 1-23 read as follows:

1-24 Sec. 225.006. COLLECTION OF TAX BY AGENT. (a) Except as
 1-25 otherwise provided by this section, the [The] surplus lines agent
 1-26 shall collect from the insured the tax imposed by this chapter at
 1-27 the time of delivery of the cover note, certificate of insurance,
 1-28 policy, or other initial confirmation of insurance and the full
 1-29 amount of the gross premium charged by the eligible surplus lines
 1-30 insurer for the insurance.

1-31 (b) Subject to Subsection (c) and notwithstanding
 1-32 [Notwithstanding] any other law, if a surplus lines agent [that]
 1-33 places an insurance policy with a managing underwriter, as defined
 1-34 by Section 981.002, the managing underwriter shall collect, report,
 1-35 and pay the tax imposed by this chapter.

1-36 (c) A surplus lines agent and a managing underwriter may
 1-37 enter into an agreement to provide that the surplus lines agent is
 1-38 responsible for filing, reporting, collection, payment, and all
 1-39 other requirements imposed by this chapter and Chapter 981,
 1-40 including the requirement to pay the tax and file the tax report
 1-41 imposed by this chapter. An agreement under this subsection must be
 1-42 in writing and must be entered into at or before the time coverage
 1-43 is bound under the policy. The agreement may apply to multiple
 1-44 policies or all policies between a surplus lines agent and a
 1-45 managing underwriter.

1-46 SECTION 2. Sections 981.105(a) and (b), Insurance Code, are
 1-47 amended to read as follows:

1-48 (a) Not later than the 60th day after the later of the
 1-49 effective date or the issue date of new or renewal surplus lines
 1-50 insurance, a surplus lines agent responsible under Section 225.006
 1-51 for the filing, reporting, collection, payment, and other
 1-52 requirements imposed by Chapter 225 shall file with the stamping
 1-53 office:

- 1-54 (1) a copy of the policy issued; or
- 1-55 (2) if the policy has not been issued, a copy of the
 1-56 certificate, cover note, or other confirmation of insurance
 1-57 delivered to the insured.

1-58 (b) The [A] surplus lines agent described by Subsection (a)
 1-59 shall also promptly file with the stamping office:

- 1-60 (1) a copy of each substitute certificate, cover note,
 1-61 or other confirmation of insurance delivered to an insured;

2-1 (2) a copy of each endorsement of an original policy,
2-2 certificate, cover note, or other confirmation of insurance
2-3 delivered to an insured; and

2-4 (3) a memorandum from the agent informing the stamping
2-5 office of the substance of any change represented by a document
2-6 described by Subdivision (1) or (2), as compared with the original
2-7 coverage.

2-8 SECTION 3. Section 981.213, Insurance Code, is amended to
2-9 read as follows:

2-10 Sec. 981.213. FILING CONTRACT WITH STAMPING OFFICE. A
2-11 surplus lines agent responsible under Section 225.006 for the
2-12 filing, reporting, collection, payment, and other requirements
2-13 imposed by Chapter 225 shall report to and file with the stamping
2-14 office a copy of each surplus lines insurance contract as provided
2-15 in the stamping office's plan of operation. The department may
2-16 accept that filing instead of the filings required under Section
2-17 981.105.

2-18 SECTION 4. Section 981.215(a), Insurance Code, is amended
2-19 to read as follows:

2-20 (a) A surplus lines agent shall maintain a complete record
2-21 of each surplus lines contract obtained by the agent, including any
2-22 of the following, if applicable:

- 2-23 (1) a copy of the daily report;
- 2-24 (2) the amount of the insurance and risks insured
2-25 against;
- 2-26 (3) a brief general description of the property
2-27 insured and the location of that property;
- 2-28 (4) the gross premium charged;
- 2-29 (5) the return premium paid;
- 2-30 (6) the rate of premium charged on the different items
2-31 of property;
- 2-32 (7) the contract terms, including the effective date;
- 2-33 (8) the insured's name and post office address;
- 2-34 (9) the insurer's name and home office address;
- 2-35 (10) the amount collected from the insured; ~~and~~
- 2-36 (11) an agreement under Section 225.006(c); and
- 2-37 (12) any other information required by the department.

2-38 SECTION 5. Section 981.223(a), Insurance Code, is amended
2-39 to read as follows:

2-40 (a) A managing underwriter with whom an insurance policy is
2-41 placed in the manner described by Section 225.006(b) shall maintain
2-42 appropriate records and make the records available for inspection
2-43 by the department and the comptroller, including records of:

- 2-44 (1) the name and address of the insured;
- 2-45 (2) the policy number and policy period;
- 2-46 (3) the name of the eligible surplus lines insurer;
- 2-47 (4) the gross premium charged for the insurance;
- 2-48 (5) the name of the surplus lines agent who placed the
2-49 policy with the managing underwriter;
- 2-50 (6) the license number of the surplus lines agent who
2-51 placed the policy with the managing underwriter; and
- 2-52 (7) an agreement, if any, under Section 225.006(c)
2-53 that applies to the policy ~~[documentation that the managing~~
2-54 ~~underwriter has transmitted to the surplus lines agent written~~
2-55 ~~confirmation of the agent's written agreement to act as the agent~~
2-56 ~~for the placement of the policy and be responsible for all filing,~~
2-57 ~~reporting, collection, and payment requirements imposed by this~~
2-58 ~~chapter and by Chapter 225].~~

2-59 SECTION 6. This Act takes effect January 1, 2014.

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