

## **BILL ANALYSIS**

Senate Research Center  
85R6543 SCL-F

S.B. 1491  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Surplus lines insurance refers to coverage of non-standard or unique risks that are difficult for traditional insurers to underwrite or to coverage of risks in an amount that exceeds the capacities of traditional insurers. Current law in Texas prohibits insurers domiciled in Texas from writing surplus lines coverage in Texas. As a result, billions of dollars in surplus lines premiums are paid to out of state insurers.

S.B. 1491 would allow a property and casualty insurance company organized under the Texas Insurance Code that has capital and surplus of at least \$15 million to apply to be a domestic surplus lines insurer. If approved, these companies would enjoy relief from certain laws applicable to admitted insurers (for example, they would not be subject to statutory underwriting guidelines, liability for guaranty assessments, or Texas Department of Insurance approval of forms or rates) but could not compete in the admitted market or sell automotive liability or worker's compensation insurance. Allowing insurers to provide surplus lines coverage would make it easier for purchasers in Texas to obtain surplus lines coverage, and would potentially bring billions of premium dollars into the Texas economy.

As proposed, S.B. 1491 amends current law relating to domestic surplus lines insurers, and authorizes and imposes a tax.

### **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 the heading to Subtitle I, Title 6, Insurance Code, to read as follows:

SUBTITLE I. SURPLUS LINES INSURERS; COMPANIES NOT ORGANIZED IN TEXAS

SECTION 2. Amends Section 981.002(4), Insurance Code, to redefine "eligible surplus lines insurer."

SECTION 3. Amends Chapter 981, Insurance Code, by adding Subchapter B-1, as follows:

#### **SUBCHAPTER B-1. DOMESTIC SURPLUS LINES INSURER**

Sec. 981.071. DEFINITION. Defines "domestic surplus lines insurer."

Sec. 981.072. DESIGNATION AS DOMESTIC SURPLUS LINES INSURER. (a) Authorizes a property and casualty insurance company organized under Chapter 822 (General Incorporation and Regulatory Requirements for Insurance Companies Other than Life, Health, or Accident Insurance Companies) that has capital and surplus in an amount described by Section 981.057 (Minimum Capital and Surplus Requirements) to apply to the Texas Department of Insurance (TDI) in a form and manner prescribed by the commissioner of insurance (commissioner) for designation as a domestic surplus lines insurer.

(b) Requires the commissioner, on approval of an application under Subsection (a), to designate an applicant as a domestic surplus lines insurer and issue to the applicant a domestic surplus lines insurer certificate.

(c) Provides that, notwithstanding Section 822.101 (Certificate of Authority), a domestic surplus lines insurer is not entitled to a certificate of authority to engage in the business of insurance in this state in the admitted market.

Sec. 981.073. **APPLICABILITY OF OTHER LAW; CONFLICTS.** (a) Provides that, except as provided by Subsection (b), a domestic surplus lines insurer is subject to this chapter and all other insurance laws, including Title 4 (Regulation of Solvency), applicable to a property and casualty insurance company organized under Chapter 822.

(b) Provides that a domestic surplus lines insurer is not subject to Section 38.003 (Underwriting Guidelines for Other Lines; Confidentiality), Chapter 462 (Texas Property and Casualty Insurance Guaranty Association), Chapter 463 (Texas Life and Health Insurance Guaranty Association), Section 981.051 (Authorization Required), Section 981.101(b) (relating to the required contents of a surplus lines document), Chapter 2301 (Policy Forms), and Chapter 2251 (Rates).

(c) Provides that to the extent that this subchapter conflicts with any other insurance law, this subchapter controls.

Sec. 981.074. **AUTHORIZED BUSINESS.** (a) Authorizes a domestic surplus lines insurer to only insure a risk in this state if the insurance is procured as eligible surplus lines insurance under this chapter and the insurance is a kind of insurance the insurer is authorized to write under the insurer's articles of incorporation.

(b) Prohibits a domestic surplus lines insurer from issuing a policy in the admitted market or a policy to satisfy the financial responsibility requirements of Chapter 601 (Motor Vehicle Safety Responsibility Act), Transportation Code, insurance requirements of Chapter 406 (Workers' Compensation Insurance Coverage), Labor Code, or requirements of any other law of this state mandating insurance coverage by an insurance company authorized to engage in the business of insurance in this state.

Sec. 981.075. **TAXES IMPOSED.** (a) Provides that the premium for a surplus lines policy written under this subchapter is subject to the premium tax, if applicable, imposed under Chapter 225 (Surplus Lines Insurance Premium Tax).

(b) Provides that a domestic surplus lines insurer is subject to an applicable maintenance tax as if the domestic surplus lines insurer were an authorized insurer under Subtitle C (Insurance Maintenance Taxes), Title 3 (Department Funds, Fees, and Taxes).

Sec. 981.076. **REQUIREMENTS FOR DOMESTIC SURPLUS LINES DOCUMENTS.**

(a) Defines "surplus lines document."

(b) Requires a surplus lines document issued by a domestic surplus lines insurer to include a statement in the form and manner provided by commissioner rule.

Sec. 981.077. **REDOMESTICATION.** Authorizes a foreign insurer to redomesticate to this state as a domestic surplus lines insurer as provided by Chapter 983 (Redomestication of Insurers and Health Maintenance Organizations) if the foreign insurer qualifies under Section 981.072.

SECTION 4: Effective date: January 1, 2018.