

By: Frullo

H.B. No. 1559

A BILL TO BE ENTITLED

AN ACT

relating to the provision of surplus lines insurance to certain commercial insureds.

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

SECTION 1. Subchapter A, Chapter 981, Insurance Code, is amended by adding Section 981.0033 to read as follows:

Sec. 981.0033. INDUSTRIAL INSURED DEFINED. For purposes of this chapter, "industrial insured" means a person who purchases commercial insurance and, at the time of placement:

(1) employs or retains a qualified risk manager to negotiate insurance coverage;

(2) has paid aggregate nationwide commercial property and casualty insurance premiums of more than \$25,000 in the immediately preceding 12 months; and

(3) has at least 25 full-time employees.

SECTION 2. Section 981.004, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) Subsection (a)(1) does not apply to insurance procured for an industrial insured if:

(1) the agent procuring or placing the insurance discloses to the industrial insured that:

(A) comparable insurance may be available from the admitted market that is subject to more regulatory oversight than the surplus lines market; and

1                   (B) a policy purchased in the admitted market may  
2 provide greater protection than the surplus lines insurance policy;

3                   (2) the surplus lines company offering the coverage  
4 has a financial strength rating of A- or better from the A. M. Best  
5 Company; and

6                   (3) after receiving the notice described by  
7 Subdivision (1), the industrial insured requests in writing that  
8 the agent procure the insurance from or place the insurance with an  
9 eligible surplus lines insurer.

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

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

15                   (1) a copy of the daily report;  
16                   (2) the amount of the insurance and risks insured  
17 against;

18                   (3) a brief general description of the property  
19 insured and the location of that property;

20                   (4) the gross premium charged;

21                   (5) the return premium paid;

22                   (6) the rate of premium charged on the different items  
23 of property;

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

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

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

27                   (10) the amount collected from the insured;

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

(12) evidence establishing that:

(A) the insured qualified as an exempt commercial purchaser and that the surplus lines agent complied with the requirements of Section 981.004(c) if a diligent effort to obtain insurance in the admitted market was not made pursuant to Section 981.004(a)(1); or

(B) the insured qualified as an industrial insured and that the surplus lines agent complied with the requirements of Section 981.004(d) if a diligent effort to obtain insurance in the admitted market was not made pursuant to Section 981.004(a)(1); and

(13) any other information required by the department.

SECTION 4. The changes in law made by this Act apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2018. A policy delivered, issued for delivery, or renewed before January 1, 2018, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 2017.