

By: Frullo, et al.

H.B. No. 2492

A BILL TO BE ENTITLED

AN ACT

relating to domestic surplus lines insurers; authorizing and imposing a tax.

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

SECTION 1. The heading to Subtitle I, Title 6, Insurance Code, is amended to read as follows:

SUBTITLE I. SURPLUS LINES INSURERS; COMPANIES [~~THAT ARE~~] NOT ORGANIZED IN TEXAS

SECTION 2. Section 981.002(4), Insurance Code, is amended to read as follows:

(4) "Eligible surplus lines insurer" means an insurer that is not an authorized insurer, but that is eligible under Subchapter B or B-1, in which surplus lines insurance is placed or may be placed under this chapter.

SECTION 3. Section 981.004(a), Insurance Code, is amended to read as follows:

(a) An eligible surplus lines insurer may provide surplus lines insurance only if:

(1) the full amount of required insurance cannot be obtained, after a diligent effort, from an insurer authorized to write and actually writing that kind and class of insurance in this state;

(2) the insurance is placed through a surplus lines agent; and

1 (3) the insurer meets the eligibility requirements of
2 Subchapter B or B-1 as of the inception date and annual anniversary
3 date of each insurance contract, cover note, or other confirmation
4 of insurance.

5 SECTION 4. Section 981.006, Insurance Code, is amended to
6 read as follows:

7 Sec. 981.006. SANCTIONS. Chapter 82 applies to a surplus
8 lines agent or an eligible surplus lines insurer that violates:

9 (1) this chapter;

10 (2) Chapter 225; or

11 (3) a rule or order adopted under Subchapter B or B-1
12 or Section 981.005.

13 SECTION 5. Chapter 981, Insurance Code, is amended by
14 adding Subchapter B-1 to read as follows:

15 SUBCHAPTER B-1. DOMESTIC SURPLUS LINES INSURER

16 Sec. 981.071. DEFINITION. In this subchapter, "domestic
17 surplus lines insurer" means an insurance company designated as a
18 domestic surplus lines insurer under Section 981.072.

19 Sec. 981.072. DESIGNATION AS DOMESTIC SURPLUS LINES
20 INSURER. (a) A property and casualty insurance company organized
21 under Chapter 822 that has capital and surplus in an amount
22 described by Section 981.057 may apply to the department in a form
23 and manner prescribed by the commissioner for designation as a
24 domestic surplus lines insurer.

25 (b) On approval of an application under Subsection (a), the
26 commissioner shall designate an applicant as a domestic surplus
27 lines insurer and issue to the applicant a domestic surplus lines

1 insurer certificate.

2 (c) Notwithstanding Section 822.101, a domestic surplus
3 lines insurer is not entitled to a certificate of authority to
4 engage in the business of insurance in this state in the admitted
5 market.

6 Sec. 981.073. APPLICABILITY OF OTHER LAW; CONFLICTS. (a)
7 Except as provided by Subsection (b), a domestic surplus lines
8 insurer is subject to:

9 (1) this chapter; and

10 (2) all other insurance laws, including Title 4,
11 applicable to a property and casualty insurance company organized
12 under Chapter 822.

13 (b) A domestic surplus lines insurer is not subject to:

14 (1) Section 38.003;

15 (2) Chapter 462;

16 (3) Chapter 463;

17 (4) Chapter 501;

18 (5) Section 981.051;

19 (6) Section 981.101(b);

20 (7) Chapter 2007;

21 (8) Chapter 2301;

22 (9) Chapter 2251; and

23 (10) Article 4413(37), Revised Statutes.

24 (c) To the extent that this subchapter conflicts with any
25 other insurance law, this subchapter controls.

26 Sec. 981.074. AUTHORIZED BUSINESS. (a) A domestic surplus
27 lines insurer may only insure a risk in this state if:

1 (1) the insurance is procured as eligible surplus
2 lines insurance under this chapter; and

3 (2) the insurance is a kind of insurance the insurer is
4 authorized to write under the insurer's articles of incorporation.

5 (b) A domestic surplus lines insurer may not issue:

6 (1) a policy in the admitted market; or

7 (2) a policy to satisfy the financial responsibility
8 requirements of Chapter 601, Transportation Code, insurance
9 requirements of Chapter 406, Labor Code, or requirements of any
10 other law of this state mandating insurance coverage by an
11 insurance company authorized to engage in the business of insurance
12 in this state.

13 Sec. 981.075. TAXES IMPOSED. (a) The premium for a surplus
14 lines policy written under this subchapter is subject to the
15 premium tax, if applicable, imposed under Chapter 225.

16 (b) A domestic surplus lines insurer is subject to an
17 applicable maintenance tax as if the domestic surplus lines insurer
18 were an authorized insurer under Subtitle C, Title 3.

19 Sec. 981.076. REQUIREMENTS FOR DOMESTIC SURPLUS LINES
20 DOCUMENTS. (a) In this section, "surplus lines document" has the
21 meaning assigned by Section 981.101.

22 (b) A surplus lines document issued by a domestic surplus
23 lines insurer must include a statement in the form and manner
24 provided by commissioner rule.

25 Sec. 981.077. REDOMESTICATION. A foreign insurer may
26 redomesticate to this state as a domestic surplus lines insurer as
27 provided by Chapter 983 if the foreign insurer qualifies under

1 Section 981.072.

2 SECTION 6. Section 981.210, Insurance Code, is amended to
3 read as follows:

4 Sec. 981.210. PLACEMENT OF COVERAGE. A surplus lines agent
5 may not place surplus lines coverage with an insurer unless:

6 (1) the insurer meets the eligibility requirements of
7 Subchapter B or B-1; and

8 (2) the stamping office provides evidence to the
9 department that the insurer meets those requirements.

10 SECTION 7. This Act takes effect January 1, 2018.