

By: Frullo

H.B. No. 2492

Substitute the following for H.B. No. 2492:

By: Phillips

C.S.H.B. No. 2492

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to domestic surplus lines insurers; authorizing and  
3 imposing a tax.

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

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

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

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

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

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

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

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

23 (2) the insurance is placed through a surplus lines  
24 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.