

By: Frullo

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

SUBCHAPTER B-1. DOMESTIC SURPLUS LINES INSURER

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

Sec. 981.072. DESIGNATION AS DOMESTIC SURPLUS LINES INSURER. (a) A property and casualty insurance company organized under Chapter 822 that has capital and surplus in an amount described by Section 981.057 may apply to the department in a form

1 and manner prescribed by the commissioner for designation as a  
2 domestic surplus lines insurer.

3 (b) On approval of an application under Subsection (a), the  
4 commissioner shall designate an applicant as a domestic surplus  
5 lines insurer and issue to the applicant a domestic surplus lines  
6 insurer certificate.

7 (c) Notwithstanding Section 822.101, a domestic surplus  
8 lines insurer is not entitled to a certificate of authority to  
9 engage in the business of insurance in this state in the admitted  
10 market.

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

14 (1) this chapter; and

15 (2) all other insurance laws, including Title 4,  
16 applicable to a property and casualty insurance company organized  
17 under Chapter 822.

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

19 (1) Section 38.003;

20 (2) Chapter 462;

21 (3) Chapter 463;

22 (4) Section 981.051;

23 (5) Section 981.101(b);

24 (6) Chapter 2301; and

25 (7) Chapter 2251.

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

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

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

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

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

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

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

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

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

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

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

27 Sec. 981.077. REDOMESTICATION. A foreign insurer may

1 redomesticate to this state as a domestic surplus lines insurer as  
2 provided by Chapter 983 if the foreign insurer qualifies under  
3 Section 981.072.

4 SECTION 4. This Act takes effect January 1, 2018.