

**HOUSE OF REPRESENTATIVES
COMPILATION OF PUBLIC COMMENTS**

Submitted to the Committee on Insurance
For SB 796

Compiled on: Tuesday, April 18, 2023 9:48 PM

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Hearing Date: April 18, 2023 8:00 AM

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We must make this a priority!

Islam Shahin, MD
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Please consider

Lee Alexander

American Property Casualty Insurance Association

Austin, TX

APCIA believes that Senate Bill 796 would erode some of the flexibility necessary for insurers to optimally operate in and preserve the strong insurance market that currently exists in Texas. Accordingly, APCIA opposes the legislation.

It is by design that the surplus lines market has fewer regulations and restrictions than the admitted market. This freedom allows for insurance purchasers and insurers to develop risk management solutions that will best serve both parties to the transaction. This freedom enables a surplus lines carrier to be innovative, creative, and responsive in developing products that provide the level of coverage a given consumer is seeking, while pricing the product in a financially responsible manner commensurate with the risk. Surplus lines policies cover gaps that admitted companies cannot or will not insure. To support a robust and efficient surplus lines marketplace, APCIA believes the Legislature should strive to make insurance in the non-admitted market more flexible, not less so.

Surplus line carriers are permitted to insure those risks that a traditional authorized carrier will not, so they serve a critical function in the marketplace. The resulting “symbiotic relationship” between insurer and insured necessitates a give-and-take for both sides. The carrier is willing to insure against higher risks, and the insured acknowledges that the insurance policy will be tailored to enable the insurer to take on those higher risks. SB 796 would negatively impact this relationship.

The parties involved in surplus lines insurance transactions are negotiating at arms’ length and should be allowed flexibility to negotiate contract terms to best accomplish the goals of the insurance transaction. The currently existing flexibility that allows parties to a surplus lines insurance contract to include arbitration clauses of the type that this law would prohibit will be negatively impacted if this legislation passes. This loss of freedom would constrain the surplus lines marketplace and thus, APCIA fears, ultimately harm the insureds that this law is intended to protect, by making it more challenging for surplus lines carriers to offer desired coverages to surplus lines customers in Texas. To best serve the marketplace, the parties to the contract should be able to negotiate regarding the location and controlling law of the contract's arbitration provisions.

In summary, allowing surplus lines insurance consumers and insurers to negotiate the alternative dispute resolution venue of choice is one of the many benefits in the Texas surplus lines marketplace and should be preserved. APCIA respectfully urges the committee members to vote in opposition to SB 796.