

BILL ANALYSIS

Senate Research Center
85R20799 SCL-F

H.B. 2492
By: Frullo (Zaffirini)
Administration
5/22/2017
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

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

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Subtitle I, Title 6, Insurance Code, to read as follows:

SUBTITLE I. SURPLUS LINES INSURERS; COMPANIES NOT ORGANIZED IN
TEXAS

SECTION 2. Amends Section 981.002(4), Insurance Code, to redefine "eligible surplus lines insurer."

SECTION 3. Amends Section 981.004(a), Insurance Code, as follows:

(a) Authorizes an eligible surplus lines insurer to provide surplus lines insurance only if:

(1) and (2) makes no changes to these subdivisions;

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

SECTION 4. Amends Section 981.006, Insurance Code, as follows:

Sec. 981.006. SANCTIONS. Provides that Chapter 82 (Sanctions) applies to a surplus lines agent or an eligible surplus lines insurer that violates:

(1) and (2) makes no changes to these subdivisions; or

(3) a rule or order adopted under Subchapter B or B-1 or Section 981.005 (Validity of Contracts).

SECTION 5. Amends Chapter 981, Insurance Code, by adding Subchapter B-1, as follows:

SUBCHAPTER B-1. DOMESTIC SURPLUS LINES INSURER

Sec. 981.071. DEFINITION. Defines "domestic surplus lines insurer."

Sec. 981.072. DESIGNATION AS DOMESTIC SURPLUS LINES INSURER. (a) Authorizes a property and casualty insurance company organized under Chapter 822 (General Incorporation and Regulatory Requirements for Insurance Companies Other Than Life, Health, or Accident Insurance Companies) that has capital and surplus in an

amount described by Section 981.057 (Minimum Capital and Surplus Requirements) to apply to the Texas Department of Insurance (TDI) in a form and manner prescribed by the commissioner of insurance for designation as a domestic surplus lines insurer.

(b) Requires the commissioner of insurance, on approval of an application under Subsection (a), to designate an applicant as a domestic surplus lines insurer and issue to the applicant a domestic surplus lines insurer certificate.

(c) Provides that, notwithstanding Section 822.101 (Certificate of Authority), a domestic surplus lines insurer is not entitled to a certificate of authority to engage in the business of insurance in this state in the admitted market.

Sec. 981.073. **APPLICABILITY OF OTHER LAW; CONFLICTS.** (a) Provides that, except as provided by Subsection (b), a domestic surplus lines insurer is subject to this chapter and all other insurance laws, including Title 4, applicable to a property and casualty insurance company organized under Chapter 822 (already defined).

(b) Provides that a domestic surplus lines insurer is not subject to certain statutes.

(c) Provides that, to the extent that this subchapter conflicts with any other insurance law, this subchapter controls.

Sec. 981.074. **AUTHORIZED BUSINESS.** (a) Authorizes a domestic surplus lines insurer to only insure a risk in this state if the insurance is procured as eligible surplus lines insurance under this chapter and the insurance is a kind of insurance the insurer is authorized to write under the insurer's articles of incorporation.

(b) Prohibits a domestic surplus lines insurer from issuing a policy in the admitted market or a policy to satisfy certain financial and insurance responsibility requirements.

Sec. 981.075. **TAXES IMPOSED.** (a) Provides that the premium for a surplus lines policy written under this subchapter is subject to the premium tax, if applicable, imposed under Chapter 225 (Surplus Lines Insurance Premium Tax).

(b) Provides that a domestic surplus lines insurer is subject to an applicable maintenance tax as if the domestic surplus lines insurer were an authorized insurer under Subtitle C (Insurance Maintenance Taxes), Title 3 (Department Funds, Fees, and Taxes).

Sec. 981.076. **REQUIREMENTS FOR DOMESTIC SURPLUS LINES DOCUMENTS.** (a) Defines "surplus lines document."

(b) Requires that a surplus lines document issued by a domestic surplus lines insurer include a statement in the form and manner provided by commissioner of insurance rule.

Sec. 981.077. **REDOMESTICATION.** Authorizes a foreign insurer to redomesticate to this state as a domestic surplus lines insurer as provided by Chapter 983 (Redomestication of Insurers and Health Maintenance Organizations) if the foreign insurer qualifies under Section 981.072.

SECTION 6. Amends Section 981.210, Insurance Code, as follows:

Sec. 981.210. **PLACEMENT OF COVERAGE.** Prohibits a surplus lines agent from placing surplus lines coverage with an insurer unless the insurer meets the eligibility requirements of Subchapter B or B-1, rather than the requirements of Subchapter B, and the stamping office provides evidence to TDI that the insurer meets those requirements.

SECTION 7. Effective date: January 1, 2018.

