

SUBJECT: Surplus insurance lines

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Smithee, Duncan, Averitt, De La Garza, Driver, Dutton, Shields

0 nays

2 absent — Counts, G. Lewis

WITNESSES: None

BACKGROUND: Eligible surplus lines insurers are companies that are not licensed to sell insurance in the state, but are allowed to sell a particular type of insurance if it cannot be obtained from a licensed insurer within the state. Surplus lines insurers must meet minimum capital and surplus requirements, hold a license in the state in which they are located and be authorized to write the same coverage in the state in which they are licensed that they seek to write in Texas. The minimum capital and surplus of eligible surplus lines insurers is verified by the stamping office.

DIGEST: CSHB 1987 would not require a surplus lines agent to file evidence that a diligent effort has been performed, only that a true and correct copy of a contract for surplus lines insurance had been made.

The stamping office and its records would not be subject to the state archives laws, and individual surplus lines insurance contracts filed with the stamping office would be confidential and not subject to the open records law. A state agency would not be denied access to an individual surplus lines insurance contract filed with the stamping office.

The bill would make certain requirements for an insurer to be eligible to be a surplus lines insurer if the insurer is created under the laws of another state, including total exchange capital and surplus of at least \$75 million, maintaining at least 50 percent of the policyholder surplus in a custodial account and minimum capital and surplus requirements for individual insurers in the surplus insurers exchange.

The bill would take effect September 1, 1995 and would apply only to eligible surplus lines insurers on or after than date.

**SUPPORTERS  
SAY:**

CSHB 1987 would not affect an agent's responsibility to diligently attempt to procure coverage in a given market. It would permit the insurance department to make rules establishing diligent effort.

Insurance agents are required to file all surplus lines contracts acquired in the state with the Surplus Lines Stamping Office. No other agent must file a copy of each policy issued. The bill would clarify that the stamping office is not required to submit these documents to the state archive. The stamping office keeps these documents on file for the public inspection and stamping office employees would be available to respond to requests by consumers, agents, and insurers for copies of filed policies. Individual policies are not public records and should not be subject to the open records act.

The bill would make the Illinois Insurance Exchange eligible for surplus lines insurance in Texas provided its met certain minimum solvency requirements.

**OPPONENTS  
SAY:**

No apparent opposition.

**NOTES:**

The original version did not include the provision making stamping office documents exempt from the archives law and individual surplus contracts confidential.