

BILL ANALYSIS

Senate Research Center
82R23896 TJS-F

H.B. 3410
By: Smithee (Duncan)
Business & Commerce
5/18/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 3410 amends current law relating to the managing underwriters for surplus lines insurance transactions and to the collection of surplus lines insurance premium taxes for those transactions.

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 Section 225.006, Insurance Code, as follows:

Sec. 225.006. COLLECTION OF TAX BY AGENT. (a) Creates this subsection from existing text and makes no further changes.

(b) Requires that, notwithstanding any other law, a surplus lines agent that places an insurance policy with a managing underwriter, as defined by Section 981.002 (Definitions), collect, report, and pay the tax imposed by this chapter.

SECTION 2. Amends Section 981.002, Insurance Code, by adding Subdivision (1-a) and amending Subdivision (4) to define "managing underwriter" and redefine "surplus lines insurance."

SECTION 3. Amends Subchapter E, Chapter 981, Insurance Code, by adding Section 981.223, as follows:

Sec. 981.223. MANAGING UNDERWRITERS. (a) Requires a managing underwriter with whom an insurance policy is placed in the manner described by Section 225.006(b) (relating to requiring the surplus tax agent to collect from the insured the tax imposed by this chapter) to maintain appropriate records and make the records available for inspection by the Texas Department of Insurance (TDI) and the comptroller of public accounts (comptroller), including records of:

- (1) the name and address of the insured;
- (2) the policy number and policy period;
- (3) the name of the eligible surplus lines insurer;
- (4) the gross premium charged for the insurance;
- (5) the name of the surplus lines agent who placed the policy with the managing underwriter;
- (6) the license number of the surplus lines agent who placed the policy with the managing underwriter; and

(7) documentation that the managing underwriter has transmitted to the surplus lines agent written confirmation of the agent's written agreement to act as the agent for the placement of the policy and be responsible for all filing, reporting, collection, and payment requirements imposed by this chapter and by Chapter 225 (Insurance Premium Taxes).

(b) Requires a managing underwriter who acts as a surplus lines agent for a policy issued by an eligible surplus lines insurer to maintain appropriate records and make the records available for inspection by TDI and the comptroller, including the information listed in Subdivisions (a)(1) through (6). Requires that the records reflect the name and license number of the managing underwriter as the surplus lines agent placing the policy.

(c) Authorizes a managing underwriter to hold both a surplus lines agent license and a managing general agent license.

SECTION 4. Effective date: September 1, 2011.