

1-1 By: Frullo, et al. (Senate Sponsor - Zaffirini) H.B. No. 2492
1-2 (In the Senate - Received from the House May 8, 2017;
1-3 May 19, 2017, read first time and referred to Committee on
1-4 Administration; May 23, 2017, reported favorably by the following
1-5 vote: Yeas 7, Nays 0; May 23, 2017, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to domestic surplus lines insurers; authorizing and
1-18 imposing a tax.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. The heading to Subtitle I, Title 6, Insurance
1-21 Code, is amended to read as follows:

1-22 SUBTITLE I. SURPLUS LINES INSURERS; COMPANIES [THAT ARE] NOT
1-23 ORGANIZED IN TEXAS

1-24 SECTION 2. Section 981.002(4), Insurance Code, is amended
1-25 to read as follows:

1-26 (4) "Eligible surplus lines insurer" means an insurer
1-27 that is not an authorized insurer, but that is eligible under
1-28 Subchapter B or B-1, in which surplus lines insurance is placed or
1-29 may be placed under this chapter.

1-30 SECTION 3. Section 981.004(a), Insurance Code, is amended
1-31 to read as follows:

1-32 (a) An eligible surplus lines insurer may provide surplus
1-33 lines insurance only if:

1-34 (1) the full amount of required insurance cannot be
1-35 obtained, after a diligent effort, from an insurer authorized to
1-36 write and actually writing that kind and class of insurance in this
1-37 state;

1-38 (2) the insurance is placed through a surplus lines
1-39 agent; and

1-40 (3) the insurer meets the eligibility requirements of
1-41 Subchapter B or B-1 as of the inception date and annual anniversary
1-42 date of each insurance contract, cover note, or other confirmation
1-43 of insurance.

1-44 SECTION 4. Section 981.006, Insurance Code, is amended to
1-45 read as follows:

1-46 Sec. 981.006. SANCTIONS. Chapter 82 applies to a surplus
1-47 lines agent or an eligible surplus lines insurer that violates:

1-48 (1) this chapter;

1-49 (2) Chapter 225; or

1-50 (3) a rule or order adopted under Subchapter B or B-1
1-51 or Section 981.005.

1-52 SECTION 5. Chapter 981, Insurance Code, is amended by
1-53 adding Subchapter B-1 to read as follows:

1-54 SUBCHAPTER B-1. DOMESTIC SURPLUS LINES INSURER

1-55 Sec. 981.071. DEFINITION. In this subchapter, "domestic
1-56 surplus lines insurer" means an insurance company designated as a
1-57 domestic surplus lines insurer under Section 981.072.

1-58 Sec. 981.072. DESIGNATION AS DOMESTIC SURPLUS LINES
1-59 INSURER. (a) A property and casualty insurance company organized
1-60 under Chapter 822 that has capital and surplus in an amount
1-61 described by Section 981.057 may apply to the department in a form
1-62 and manner prescribed by the commissioner for designation as a

2-1 domestic surplus lines insurer.

2-2 (b) On approval of an application under Subsection (a), the
2-3 commissioner shall designate an applicant as a domestic surplus
2-4 lines insurer and issue to the applicant a domestic surplus lines
2-5 insurer certificate.

2-6 (c) Notwithstanding Section 822.101, a domestic surplus
2-7 lines insurer is not entitled to a certificate of authority to
2-8 engage in the business of insurance in this state in the admitted
2-9 market.

2-10 Sec. 981.073. APPLICABILITY OF OTHER LAW; CONFLICTS. (a)
2-11 Except as provided by Subsection (b), a domestic surplus lines
2-12 insurer is subject to:

2-13 (1) this chapter; and

2-14 (2) all other insurance laws, including Title 4,
2-15 applicable to a property and casualty insurance company organized
2-16 under Chapter 822.

2-17 (b) A domestic surplus lines insurer is not subject to:

2-18 (1) Section 38.003;

2-19 (2) Chapter 462;

2-20 (3) Chapter 463;

2-21 (4) Chapter 501;

2-22 (5) Section 981.051;

2-23 (6) Section 981.101(b);

2-24 (7) Chapter 2007;

2-25 (8) Chapter 2301;

2-26 (9) Chapter 2251; and

2-27 (10) Article 4413(37), Revised Statutes.

2-28 (c) To the extent that this subchapter conflicts with any
2-29 other insurance law, this subchapter controls.

2-30 Sec. 981.074. AUTHORIZED BUSINESS. (a) A domestic surplus
2-31 lines insurer may only insure a risk in this state if:

2-32 (1) the insurance is procured as eligible surplus
2-33 lines insurance under this chapter; and

2-34 (2) the insurance is a kind of insurance the insurer is
2-35 authorized to write under the insurer's articles of incorporation.

2-36 (b) A domestic surplus lines insurer may not issue:

2-37 (1) a policy in the admitted market; or

2-38 (2) a policy to satisfy the financial responsibility
2-39 requirements of Chapter 601, Transportation Code, insurance
2-40 requirements of Chapter 406, Labor Code, or requirements of any
2-41 other law of this state mandating insurance coverage by an
2-42 insurance company authorized to engage in the business of insurance
2-43 in this state.

2-44 Sec. 981.075. TAXES IMPOSED. (a) The premium for a surplus
2-45 lines policy written under this subchapter is subject to the
2-46 premium tax, if applicable, imposed under Chapter 225.

2-47 (b) A domestic surplus lines insurer is subject to an
2-48 applicable maintenance tax as if the domestic surplus lines insurer
2-49 were an authorized insurer under Subtitle C, Title 3.

2-50 Sec. 981.076. REQUIREMENTS FOR DOMESTIC SURPLUS LINES
2-51 DOCUMENTS. (a) In this section, "surplus lines document" has the
2-52 meaning assigned by Section 981.101.

2-53 (b) A surplus lines document issued by a domestic surplus
2-54 lines insurer must include a statement in the form and manner
2-55 provided by commissioner rule.

2-56 Sec. 981.077. REDOMESTICATION. A foreign insurer may
2-57 redomesticate to this state as a domestic surplus lines insurer as
2-58 provided by Chapter 983 if the foreign insurer qualifies under
2-59 Section 981.072.

2-60 SECTION 6. Section 981.210, Insurance Code, is amended to
2-61 read as follows:

2-62 Sec. 981.210. PLACEMENT OF COVERAGE. A surplus lines agent
2-63 may not place surplus lines coverage with an insurer unless:

2-64 (1) the insurer meets the eligibility requirements of
2-65 Subchapter B or B-1; and

2-66 (2) the stamping office provides evidence to the
2-67 department that the insurer meets those requirements.

2-68 SECTION 7. This Act takes effect January 1, 2018.

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