

Chapter 854

H.B. No. 2492

1 AN ACT
2 relating to domestic surplus lines insurers; authorizing and
3 imposing a tax.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

7 SUBTITLE I. SURPLUS LINES INSURERS; COMPANIES [~~THAT ARE~~] NOT
8 ORGANIZED IN TEXAS

9 SECTION 2. Section 981.002(4), Insurance Code, is amended
10 to read as follows:

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

15 SECTION 3. Section 981.004(a), Insurance Code, is amended
16 to read as follows:

17 (a) An eligible surplus lines insurer may provide surplus
18 lines insurance only if:

19 (1) the full amount of required insurance cannot be
20 obtained, after a diligent effort, from an insurer authorized to
21 write and actually writing that kind and class of insurance in this
22 state;

23 (2) the insurance is placed through a surplus lines
24 agent; and

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

5 SECTION 4. Section 981.006, Insurance Code, is amended to
6 read as follows:

7 Sec. 981.006. SANCTIONS. Chapter 82 applies to a surplus
8 lines agent or an eligible surplus lines insurer that violates:

- 9 (1) this chapter;
10 (2) Chapter 225; or
11 (3) a rule or order adopted under Subchapter B or B-1
12 or Section 981.005.

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

15 SUBCHAPTER B-1. DOMESTIC SURPLUS LINES INSURER

16 Sec. 981.071. DEFINITION. In this subchapter, "domestic
17 surplus lines insurer" means an insurance company designated as a
18 domestic surplus lines insurer under Section 981.072.

19 Sec. 981.072. DESIGNATION AS DOMESTIC SURPLUS LINES
20 INSURER. (a) A property and casualty insurance company organized
21 under Chapter 822 that has capital and surplus in an amount
22 described by Section 981.057 may apply to the department in a form
23 and manner prescribed by the commissioner for designation as a
24 domestic surplus lines insurer.

25 (b) On approval of an application under Subsection (a), the
26 commissioner shall designate an applicant as a domestic surplus
27 lines insurer and issue to the applicant a domestic surplus lines

1 insurer certificate.

2 (c) Notwithstanding Section 822.101, a domestic surplus
3 lines insurer is not entitled to a certificate of authority to
4 engage in the business of insurance in this state in the admitted
5 market.

6 Sec. 981.073. APPLICABILITY OF OTHER LAW; CONFLICTS. (a)
7 Except as provided by Subsection (b), a domestic surplus lines
8 insurer is subject to:

9 (1) this chapter; and

10 (2) all other insurance laws, including Title 4,
11 applicable to a property and casualty insurance company organized
12 under Chapter 822.

13 (b) A domestic surplus lines insurer is not subject to:

14 (1) Section 38.003;

15 (2) Chapter 462;

16 (3) Chapter 463;

17 (4) Chapter 501;

18 (5) Section 981.051;

19 (6) Section 981.101(b);

20 (7) Chapter 2007;

21 (8) Chapter 2301;

22 (9) Chapter 2251; and

23 (10) Article 4413(37), Revised Statutes.

24 (c) To the extent that this subchapter conflicts with any
25 other insurance law, this subchapter controls.

26 Sec. 981.074. AUTHORIZED BUSINESS. (a) A domestic surplus
27 lines insurer may only insure a risk in this state if:

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

3 (2) the insurance is a kind of insurance the insurer is
4 authorized to write under the insurer's articles of incorporation.

5 (b) A domestic surplus lines insurer may not issue:

6 (1) a policy in the admitted market; or

7 (2) a policy to satisfy the financial responsibility
8 requirements of Chapter 601, Transportation Code, insurance
9 requirements of Chapter 406, Labor Code, or requirements of any
10 other law of this state mandating insurance coverage by an
11 insurance company authorized to engage in the business of insurance
12 in this state.

13 Sec. 981.075. TAXES IMPOSED. (a) The premium for a surplus
14 lines policy written under this subchapter is subject to the
15 premium tax, if applicable, imposed under Chapter 225.

16 (b) A domestic surplus lines insurer is subject to an
17 applicable maintenance tax as if the domestic surplus lines insurer
18 were an authorized insurer under Subtitle C, Title 3.

19 Sec. 981.076. REQUIREMENTS FOR DOMESTIC SURPLUS LINES
20 DOCUMENTS. (a) In this section, "surplus lines document" has the
21 meaning assigned by Section 981.101.

22 (b) A surplus lines document issued by a domestic surplus
23 lines insurer must include a statement in the form and manner
24 provided by commissioner rule.

25 Sec. 981.077. REDOMESTICATION. A foreign insurer may
26 redomesticate to this state as a domestic surplus lines insurer as
27 provided by Chapter 983 if the foreign insurer qualifies under

1 Section 981.072.

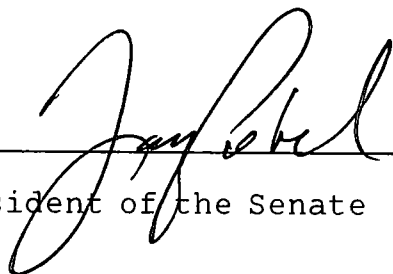
2 SECTION 6. Section 981.210, Insurance Code, is amended to
3 read as follows:

4 Sec. 981.210. PLACEMENT OF COVERAGE. A surplus lines agent
5 may not place surplus lines coverage with an insurer unless:

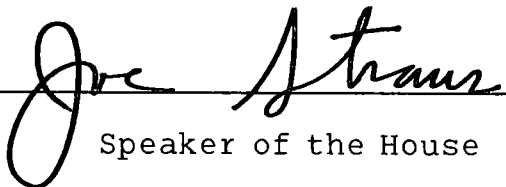
6 (1) the insurer meets the eligibility requirements of
7 Subchapter B or B-1; and

8 (2) the stamping office provides evidence to the
9 department that the insurer meets those requirements.

10 SECTION 7. This Act takes effect January 1, 2018.

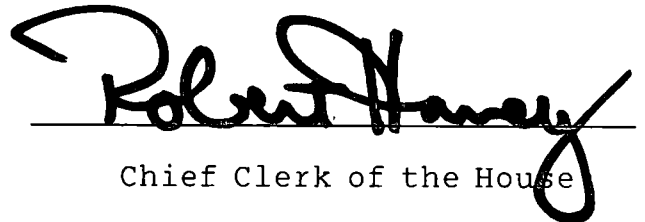


President of the Senate



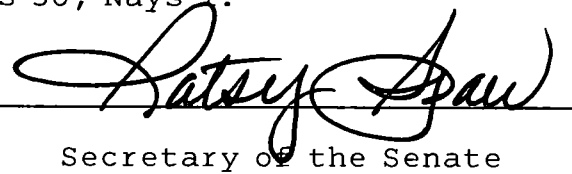
Speaker of the House

I certify that H.B. No. 2492 was passed by the House on May 6, 2017, by the following vote: Yeas 142, Nays 0, 2 present, not voting.



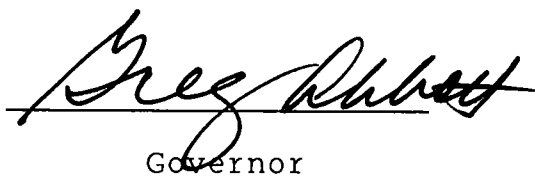
Chief Clerk of the House

I certify that H.B. No. 2492 was passed by the Senate on May 24, 2017, by the following vote: Yeas 30, Nays 1.



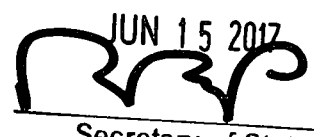
Secretary of the Senate

APPROVED: 6-10-2017
Date



Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
3 PM O'CLOCK

JUN 15 2017


Secretary of State

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 22, 2017

TO: Honorable Lois W. Kolkhorst, Chair, Senate Committee on Administration

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2492 by Frullo (Relating to domestic surplus lines insurers; authorizing and imposing a tax.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Chapter 981 of the Insurance Code, regarding surplus lines insurance, to add new Subchapter B-1, regarding domestic surplus lines insurers.

The bill would allow a property and casualty insurance company to apply to the Department of Insurance for designation as a domestic surplus lines insurer. On approval of the application the Commissioner of Insurance would designate the applicant as a domestic surplus lines insurer and issue the applicant a certificate. Domestic surplus lines insurers would not be able to engage in the business of insurance in the admitted market.

The bill would exempt domestic surplus lines insurers from certain requirements applicable to admitted insurance companies.

The bill would impose certain restrictions on the risks that a domestic surplus lines insurer could insure. Domestic surplus lines insurers would be subject to the surplus lines premium tax of 4.85 percent and to the maintenance tax applicable to the risk insured. Surplus lines documents issued by a domestic surplus lines insurer would include a statement in the form and manner provided by the Commissioner.

The bill would allow a foreign insurer to redomesticate to this state as a domestic surplus lines insurer.

The bill would change the heading to Subtitle I, Title 6, of the Insurance Code, to "Surplus Lines Insurers; Companies Not Organized in Texas."

It is assumed that the provisions of the bill would not effect the amount of surplus lines insurance provided to insureds whose home state is Texas and would, therefore, have no effect on premium tax revenue collected. Insurance maintenance taxes are allocated to GR Account 0036 - Texas Department of Insurance Operating to fund the operations of the Texas Department of Insurance. As this is a self-leveling account, any increase in maintenance taxes paid by domestic surplus lines insurers would result in an equivalent decrease in maintenance tax paid by admitted insurers. The bill, therefore, would have no effect on insurance maintenance tax revenue collected.

The Texas Department of Insurance indicated that any increased costs associated with the bill

could be absorbed within existing resources.

The bill would take effect January 1, 2018.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 454 Department of Insurance

LBB Staff: UP, AG, SD, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 20, 2017

TO: Honorable Larry Phillips, Chair, House Committee on Insurance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2492 by Frullo (Relating to domestic surplus lines insurers; authorizing and imposing a tax.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

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LBB Staff: UP, AG, SD, KK

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

March 31, 2017

TO: Honorable Larry Phillips, Chair, House Committee on Insurance

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB2492 by Frullo (Relating to domestic surplus lines insurers; authorizing and imposing a tax.), **As Introduced**

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