

SUBCHAPTER A. GENERAL PROVISIONS
28 TAC §§15.1 - 15.9

~~[SUBCHAPTER A. GENERAL REGULATION OF SURPLUS LINES INSURANCE]
[28 TAC §§15.1-15.25]~~

SUBCHAPTER B. SURPLUS LINES AGENTS
28 TAC §§15.101 - 15.115

~~[SUBCHAPTER B. SURPLUS LINES STAMPING OFFICE OF TEXAS]
[28 TAC §15.101]~~

SUBCHAPTER C. SURPLUS LINES STAMPING OFFICE PLAN OF OPERATION
28 TAC §15.201

SUBCHAPTER D. SURPLUS LINES INSURERS
28 TAC §15.301

INTRODUCTION. The Texas Department of Insurance proposes the repeal of 28 TAC Chapter 15, Subchapter A §§15.1 – 15.25 and Subchapter B §15.101, concerning surplus lines insurance. In conjunction, TDI proposes to replace the existing chapter with new 28 TAC Chapter 15, Subchapter A §§15.1 – 15.9, Subchapter B §§15.101 – 15.115, Subchapter C §15.201 and Subchapter D §15.301, concerning surplus lines insurance.

EXPLANATION.

Statutory. The proposed repeal of existing Chapter 15 and proposed new Chapter 15 are necessary to implement legislation that amended Insurance Code Chapter 981, concerning surplus lines insurance. Specifically, the repeal and new sections implement: Senate Bill 951, 83rd Legislature, Regular Session (2013); House Bill 1405, 83rd Legislature, Regular Session (2013); SB 697, 83rd Legislature, Regular Session (2013); HB 1559, 85th Legislature, Regular Session (2017); and HB 2492, 85th Legislature, Regular Session (2017).

SB 951 amended Insurance Code Chapter 981 to comply with the Non-admitted and Reinsurance Reform Act (NRRA). The NRRA is a section of the Dodd-Frank Act that governs surplus lines insurance. SB 951 clarified that Chapter 981 applies to surplus lines insurance if the insured's home state is Texas, provides applicable definitions, exempts commercial purchasers, and states that agreements regarding uniform surplus lines insurance standards made between

Texas and other states are binding. The proposed repeal of sections conflicting with SB 951 and proposed new §§15.1, 15.4, 15.110, 15.111, 15.301 address requirements of SB 951.

HB 1405 amended Insurance Code Chapters 225 and 981 and relates to the collection of surplus lines insurance premium taxes for insurance placed with a managing underwriter. HB 1405 clarifies that in instances where more than one individual with a surplus lines license is involved in the transaction, the parties may enter into a written agreement at or before the time coverage is bound under the policy stipulating which party is responsible for the typical agent's duties. HB 1405 requires the surplus lines agent and the managing underwriter maintain a record of the agreement in connection with each policy to which the agreement applies. Proposed new §15.108 addresses requirements of HB 1405.

SB 697 amended Insurance Code Chapter 981 to allow non-resident surplus lines agents to do business in Texas without a property and casualty license provided they are in compliance with their domiciliary state's licensure requirements. To qualify, the non-resident surplus agent must also have a professional relationship with a licensed property and casualty agent in Texas who first conducts a search for available coverage from an admitted insurer in Texas before placing insurance through the non-resident surplus lines agent. The non-resident surplus lines agent must also supply sufficient information to the Commissioner demonstrating that the agents' home state does not require property and casualty licensure in order to obtain a surplus lines license. Proposed new §15.4 and §15.5 address requirements of HB 697.

HB 1559 amended Chapter 981 authorizes a surplus lines agent to offer coverage to an industrial insured that employs or retains a qualified risk manager, and either pays annual premiums of at least \$25,000 or employs at least 25 employees, without first satisfying Insurance Code §981.004(a)(1), relating to the availability of the full amount of required insurance and diligent effort. The bill also requires that the surplus lines agent keep certain records related to the insured's qualifications as an industrial insured. Proposed new §15.110 and §15.112 address requirements of HB 1559.

HB 2492 amended Chapter 981 to authorize a property and casualty insurance company organized under statutory provisions of the Insurance Code that has capital and surplus in an amount of at least \$15 million dollars to apply to TDI for designation as a domestic surplus lines insurer. Proposed new §15.5 and §15.301 address requirements of HB 2492.

Rule Review. TDI reviewed all sections of current Chapter 15 to assess whether the reasons for initially adopting the sections continue to exist in accordance with Government Code §2001.039. TDI determined that in most, but not all cases, the reasons for initially adopting the sections continue to exist. In those cases, TDI is proposing to repeal these sections and readopt the text in new sections, with changes necessary for consistency with current statutes. Following its review, the department determined that the reasons for adopting §§15.4, 15.6, 15.8, 15.18 – 15.20 and 15.101 no longer exist, so these sections are repealed.

Proposed Repeal. The proposed repeal of Chapter 15 is necessary so TDI can reorganize the chapter and adopt updated language. Currently, Chapter 15 has two subchapters: subchapter A is titled general provisions and contains 25 sections relating to multiple topics and subchapter B contains one long section relating to the Surplus Lines Stamping Office's plan of operation. Repealing these two subchapters and creating four new subchapters improves the chapter's organization by grouping sections by subject and it will also improve compliance because surplus lines agents, insurers, and the Surplus Lines Stamping Office (stamping office) will be able to easily identify requirements applicable to them.

Specifically, the proposal repeals Subchapter A, relating to general regulation of surplus lines insurance, because the subchapter has become too long and difficult to navigate and contains too many subjects. Subchapter A consists of §§15.1 – 15.25. TDI has repealed all these sections and readopted the text from some of the current sections in the proposed new subchapters as new sections. The proposal identifies whether a new proposed section contains text from a repealed section.

The proposal also repeals Subchapter B, relating to stamping office, which consists of §15.101, relating to the stamping office's plan of operation, so that the plan can be more efficiently amended. Insurance Code §981.153 requires the Commissioner approve by order the plan of operation, but it does not require the text of the plan be a rule. Procedures to amend the plan of operation are included in the proposed new rule in §15.201. Section 15.201 allows for public comment and requires approval of amendments by Commissioner order.

The current plan of operation will be approved by Commissioner order and posted on the stamping office's website at the same time the adoption of the repeal of Subchapter B occurs. If the current plan of operation is amended, the prior version will be maintained as required under the Texas State Records Retention Schedule in 13 TAC Chapter 6.

The proposal also repeals all tax rules related to the calculation or allocation of premium taxes because taxes are under the scope of the Texas Comptroller of Public Accounts. Repealing the tax rules in Chapter 15 avoids potential conflicts between TDI's and the Comptroller's rules. All tax rules related to surplus lines insurance are in 34 TAC Part 1.

Definitions for terms that are not used in the rules are not included in the proposed new chapter.

Proposed New. The proposed new Chapter 15 updates language contained in current Chapter 15 to clarify rule requirements for the industry and consumers. In addition to organizing sections into four subchapters, it also breaks requirements into new shorter subsections and paragraphs to improve readability.

In total, there are six completely new sections: §15.3, relating to regulation of policies; §15.7, relating to submission of applications, notices, and correspondence; §15.111, relating to required documentation supporting exempt commercial purchaser status; §15.112, relating to required documentation supporting industrial insured status; §15.114, relating to untimely filed policies; and §15.201, relating to Commissioner approval of the stamping office's plan of operation.

Additionally, some of the proposed new sections contain updated provisions from the repealed rules, update references to statutes and rules, and improve readability. The nonsubstantive changes do not alter the meaning of the rules. The detailed explanation of each section below will cross-reference to the current rule if the proposed new rule incorporates text from a rule proposed for repeal.

Subchapter A. General Provisions. TDI proposes new subchapter A titled "General Provisions" that contains nine sections consisting of §§15.1 – 15.9. In subchapter A, there are two sections that include completely new provisions: §15.3, relating to regulation of policies and §15.7, relating to submission of applications, notices and correspondence. The other sections proposed in new subchapter A are sections that propose text based on the repealed sections. These will be identified in the descriptions below.

Section 15.1. Effective Date of Rules and Regulations. New §15.1(a) provides an effective date of the chapter and adds clarification that the chapter applies to transactions if Texas is the home state of the insured.

New §15.1(b) establishes that transactions in effect before the effective date of the chapter are adjudicated under the rules in effect at the time of the transaction.

Section 15.2. Definitions. New §15.2 includes new definitions and incorporates some of the definitions from repealed §15.2 in subsections (a) and (b).

New §15.2(a) clarifies that the definitions in Insurance Code §981.002 and §981.071 apply to the chapter.

New §15.2(b)(1) defines "admitted or authorized insurer" as an insurer doing the business of insurance as defined in Insurance Code §101.051 and licensed under the Insurance Code. "Admitted or authorized insurer" is currently defined under §15.2(1).

New §15.2(b)(2) defines "client," as any person to whom a surplus lines agent sells or attempts to sell a surplus lines insurance policy, or from whom an application for surplus lines insurance is accepted, or to whom advice and counsel on a surplus lines insurance policy is given for the purpose of selling a surplus lines insurance policy. "Client" is currently defined under §15.2(11).

New §15.2(b)(3) defines "Commissioner" as "The Texas Commissioner of Insurance."

New §15.2(b)(4) defines "comptroller" as "The office of the Texas Comptroller of Public Accounts."

New §15.2(b)(5) defines "person," which is currently defined under §15.2(4). The proposed definition references the definition in Insurance Code § 541.002(2).

New §15.2(b)(6) defines "stamping office" by citing the rule referencing its plan of operation. The definition includes language to clarify that the stamping office is also referred to in the industry as a service office. "Stamping Office" is currently defined under §15.2(6).

New §15.2(b)(7) defines "state" as any state, district, commonwealth, territory, and insular possession of the United States and any area subject to the legislative authority of the United States of America.

New §15.2(b)(8) defines "surplus lines agent." It clarifies that a surplus lines agent can be an individual or entity if it has a surplus lines license issued by TDI under Insurance Code Chapter 981. "Surplus lines agent or agency" is currently defined under §15.2(7).

New §15.2(b)(9) defines "TDI" as the Texas Department of Insurance.

New §15.2(b)(10) defines "timely filed" as a transaction filed with the stamping office that meets the requirements of Insurance Code §981.105(a).

New §15.2(b)(11) defines "untimely filed" as a transaction filed with the stamping office that does not meet the requirements of Insurance Code §981.105(a).

Section 15.3. Regulation of Policies. New §15.3 implements SB 951, 83rd Legislature, Regular Session (2013) by clarifying that a surplus lines policy is subject to Texas regulation if the insured's home state is Texas. Under Insurance Code §981.002(5), an insured's home state is the insured's principal place of business or principal residence. Section 15.3(1) clarifies that the principal place of business is the location from which the officers of an insured that is not an individual directs, controls, and coordinates the insured's activities, which is generally the insured's headquarters. Section 15.3(2) clarifies that the principal residence is the state where the insured who is an individual resides for the greatest number of days during a calendar year.

Section 15.4. Sanctions. New §15.4 restates current §15.5, relating to sanctions. Like current §15.5, new §15.4 allows for the assessment of administrative penalties against a surplus lines agent. The revocation or suspension of a license continues as an option for TDI after notice and an opportunity for hearing. The grounds for sanctions under new §15.4(a) remain the same as under current §15.5(a) and include: any action that would form the basis for sanctions against a general property and casualty agent or managing general agent, as applicable to the surplus lines agent's other license; failure to allow the inspection of records; failure to file reports; failure to collect and pay required taxes and stamping fee; failure to maintain qualifications for a surplus lines agent license; or violation of any insurance law or regulation.

New §15.4(b) clarifies that except for a nonresident surplus lines agent licensed under Insurance Code §981.203(a-1), a surplus lines agent may not renew their surplus lines license or act as a surplus lines agent if the agent fails to maintain or renew the agent's license as a general

property and casualty agent or managing general agent, as appropriate to the license status of the agent.

New §15.4(c) clarifies that a surplus lines agent whose license has been revoked must have all fines, penalties, delinquent taxes, and delinquent stamping fees paid before a license will be issued or renewed, or the suspension lifted.

Section 15.5. Minimum Content of Contracts. New §15.5 restates current §15.21, relating to minimum content of contracts. New §15.5 sets out the minimum content required for every new or renewal surplus lines insurance contract, policy, certificate, cover note, or other confirmation of insurance purchased and delivered. Section 15.5(a)(1) – (3) lists the requirements as: the information required by Insurance Code §981.101, a statement designating the name and address of the person to whom service of process will be made, and a stamping fee. Of these requirements, only §15.5(a)(1), referring to the information required under Insurance Code §981.101, is not in current §15.21.

New §15.5(b) clarifies that the requirement under Insurance Code §981.101(b) is not applicable to a contract issued by a domestic surplus lines insurer. New §15.5(c) provides the language that must appear on every domestic surplus lines insurer contract. This implements HB 2492, 85th Legislature, Regular Session (2017), relating to domestic surplus lines insurers. Specifically, it implements Insurance Code §981.076(b), which states that a surplus lines document issued by a domestic surplus lines insurer must include a statement in the form and manner provided by Commissioner rule.

Section 15.6. Forms. New §15.6 restates current §15.11, relating to uniformity of reporting forms, though as proposed the new section is titled simply "Forms." New §15.6 states that all required applications, reports, and memorandums required under the Insurance Code or 28 TAC Chapter 15 must include all required information.

Section 15.7. Submission of Applications, Notices, and Correspondence. New §15.7(a) states that all submissions to the Commissioner or to TDI must be sent to the appropriate physical, mailing, or electronic address. New §15.7(b) states that all submissions to the stamping office must be sent by a method acceptable to the stamping office.

Section 15.8. Correct Execution Required for Filing. New §15.8 restates current §15.13, relating to correct execution required for filing. As proposed, the new section breaks the provisions from the current section into four subsections, (a) – (d).

The requirements in new §15.8(a) reflect those in current §15.13. New §15.8(a) requires that all reports must comply with new §15.6 before they will be deemed filed with TDI or the stamping office.

New §15.8(b) states that a correct surplus lines policy submitted to the stamping office will be deemed filed the day the transaction is posted by the stamping office. New §15.8(b) does not include a reference to submitting a surplus lines policy by fax or other electronic means. The acceptable submission methods are now stated under proposed new §15.7.

The requirements in §15.8(c) reflect those in current §15.13. New §15.8(c) requires the surplus lines agent responsible for the filing to maintain the contract file at the agent's place of business, and the contract file must be available for inspection by the stamping office upon request.

The requirements in new §15.8(d) reflect those in current §15.13. New §15.8(d) clarifies that nothing in the section limits the requirements to submit information or reports under the Insurance Code or 28 TAC Chapter 15 to TDI.

Section 15.9. Eligibility Requirements for Surplus Lines Insurance. New §15.9 restates current §15.7, relating to eligibility requirements for surplus lines insurance. However, new §15.9 does not include the provision in current §15.7(c). The requirements in §15.9(a) reflect those in current §15.7, which requires that the stamping office evaluate all surplus lines documents for eligibility and compliance and permits the stamping office to request additional information needed to complete their evaluation.

New §15.9(b) restates current §15.7(b). New §15.9(b) requires the stamping office report certain instances of noncompliance to TDI. New §15.9(b)(1) requires the stamping office to report within 60 days of discovery: a) surplus lines insurance policies that the stamping office received, or is aware of, that were issued by ineligible insurers; b) surplus lines insurance policies or contracts that the stamping office receives, or is aware of, that are not compliant with the Insurance Code, whether it is due to the type of insurance policy issued or for any other reasons; and, c) any

action by an unlicensed agent that requires a license, such as issuing a surplus lines policy, filing the policy with the stamping office, or any other prohibited unlicensed activity.

New §15.9(b)(2) requires the stamping office report promptly upon discovery any surplus lines policy or contract that has uncorrected administrative or technical errors that the stamping office has asked the surplus agent to correct if the surplus lines agent fails to do so.

Subchapter B. Surplus Lines Agents. TDI proposes new subchapter B titled "Surplus Lines Agents" that contains 16 sections consisting of §§15.101 – 15.115. There are three sections that include completely new provisions: §15.111, relating to required documentation supporting exempt commercial purchasers; §15.112, relating to required documentation supporting industrial insureds; and §15.115, relating to untimely filed policies. The other remaining sections proposed in new subchapter B are sections that propose text based on the repealed sections. These will be identified in the descriptions below.

Section 15.101. Licensing of Surplus Lines Agents. New §15.101 restates current §15.3, relating to licensing of surplus lines agents.

New §15.101(a) lists the type of surplus lines insurance activities that require a surplus lines agent license under Insurance Code Chapter 981, which are the same as those listed under the current rules in §15.3(a)(1) – (3).

New §15.101(b) lists activities that may be performed by unlicensed individuals if supervised by a licensed surplus lines agent. The activities listed in §15.101(b)(1) – (3) are the same as those listed under current §15.3(b)(1) – (4).

New §15.101(c) clarifies that agency profits may be distributed to unlicensed persons, including shareholders, partners, or employees. Section 15.101(c) duplicates current §15.3(c).

New §15.101(d) lists licensing submission requirements. Proposed new §15.101(d) lists the same requirements listed under current §15.3(d).

New §15.101(e) clarifies licensing requirements for Texas residents and nonresident applicants who do not hold a surplus lines license or are residents of a non-reciprocal state. Section 15.101(e) is the same requirement as current §15.3(e).

New §15.101(f) clarifies licensing requirements for nonresident applicants holding surplus lines licenses in reciprocal states. Section 15.101(f) is the same requirement as current §15.3(f).

New §15.101(g) implements a new statutory requirement. It clarifies that nonresident applicants are not required to obtain a general property and casualty agent license if they meet the requirements of Insurance Code §981.203(a-1). This implements SB 697, 83rd Legislature, Regular Session (2013), which allows non-resident surplus lines agents to do business in Texas without a property and casualty license provided they are in compliance with their domiciliary state's licensure requirements and meet the requirements under Insurance Code §981.203(a-1).

New §15.101(h), which is based on current §15.101(g), clarifies license expiration and renewal procedures. Section 15.101(h) is the same requirement as current §15.3(g).

Section 15.102. Conduct of Agent's Business. Proposed new §15.102 restates current §15.6, relating to conduct of agent's business.

New §15.102(a) restates current §15.6(a) with only nonsubstantive differences. The section clarifies that a surplus lines agent doing business as an individual may be licensed only in his or her name and may not hold more than one surplus lines license. Additionally, a surplus lines agent doing business under an assumed name must comply with 28 TAC §19.902, relating to one agent, one license. The requirements in §15.102(a) reflect those in current §15.6(a).

New §15.102(b) restates current §15.6(b) with only nonsubstantive differences. The section clarifies that an insurance agent doing business as a partnership, corporation, or limited liability company may obtain a surplus lines agent license if it has the qualifications and has been issued a license under the Insurance Code for either a general property and casualty agent or a managing general agent. The surplus lines agent license will be issued in the same name as the underlying license. A partnership, corporation, or limited liability company is permitted to have only one surplus lines agent license. Additionally, a partnership, corporation, or limited liability company doing business under an assumed name must comply with 28 TAC §19.902, relating to one agent, one license. The requirements in §15.102(b) reflect those in current §15.6(b).

New §15.102(c) restates current §15.6(c). The section clarifies that if a surplus lines agent acts under an assumed name, that the true name of the surplus lines agent must also clearly be disclosed. The requirements in §15.102(c) reflect those in current §15.6(c).

New §15.102(d) restates current §15.6(d). The section clarifies that a surplus lines agent is prohibited from shifting, transferring, delegating, or assigning his or her responsibility to a person not licensed as a surplus lines agent. New §15.102(d) further clarifies a surplus lines agent may

not file with the stamping office a policy for a transaction in which the surplus lines agent did not place the policy.

New §15.102(e) is a new requirement and clarifies that the surplus lines agent remains responsible for the timeliness and accuracy of filings regardless of whether the surplus lines agent has contracted with a third party to meet the filing requirements under Insurance Code §981.105(a) and (b) and that the licensed surplus lines agent must pay any fees owed or penalties assessed on untimely filed policies.

New §15.102(f) restates current §15.6(e). The section clarifies that a surplus lines agent may exercise underwriting authority only if there is a current written agreement from each eligible surplus insurer granting the authority, lists the elements that must be contained in the agreement, and requires the agreement be available for review by TDI. The requirements in §15.102(f) reflect those in current §15.6(e).

Due to its length, current §15.6(f) is restated into one proposed new subsection, §15.102(g), and two proposed new paragraphs, §15.102(g)(1) and (2). New §15.102(g) states that there must be a current written agreement in place for a surplus lines agent to exercise claims authority on behalf of an eligible surplus lines insurer, a Texas-licensed adjuster must perform all claims adjustments, and the agreement must be available for review by TDI. It includes a clarification that a Texas-licensed adjuster is not required if the policy covers risks in multiple states and the claim is for a loss on a non-Texas risk. Here, the adjuster must be licensed in the state where the risk is located.

New §15.102(g)(1) states the types of claims authority that may be delegated to a surplus lines agent by an insurer. The requirements in §15.102(g)(1) reflect those in current §15.6(f).

New §15.102(g)(2) states that surplus lines insurers are not relieved of any continuing obligations to the insured if partial payments are made by the surplus lines agent, that a current written agreement must exist if a surplus lines agent is authorized to and does directly pay claims on behalf of the eligible surplus lines insurer, and that the agreement must be available for review by TDI. The requirements in new §15.102(g)(2) reflect those in current §15.6(f).

Section 15.103. Surplus Lines Stamping Fee. New §15.103 restates current §15.10. The section states that a surplus lines agent must pay a stamping fee for each surplus lines policy, contract, or

other detailed evidence of coverage issued on Texas risks and the fees are due and payable as provided in §15.106. The requirements in new §15.103 reflect those in current §15.10.

Section 15.104. Duty of Reasonable Effort by Surplus Lines Agents to Ascertain Financial Condition and Other Practices of Eligible Surplus Lines Insurers. New §15.104 restates current §15.9.

New §15.104(a) restates §15.9(a) and clarifies that a surplus lines agent must make a reasonable inquiry into the financial condition and operating history of the insurer before placing insurance. The requirements in new §15.105(a) reflect those in current §15.9(a).

New §15.104(b) restates §15.9(b) and clarifies that a surplus lines agent has a continuous duty to stay informed of the insurer's solvency, soundness of its financial strength, and ability to process claims and pay losses promptly and efficiently. The requirements in new §15.104(b) reflect those in current §15.9(b).

New §15.104(c) restates §15.9(c) and clarifies that a surplus lines agent must immediately inform TDI and the stamping office if there is doubt to the capacity, competence, stability, claims practices, or business practices of an insurer. The requirements in new §15.104(c) reflect those in current §15.9(c).

New §15.104(d) restates §15.9(d) and clarifies that a surplus lines agent must immediately inform TDI and the stamping office if the agent has reasonable grounds to believe that an insurer that is not admitted, not on the NAIC's alien insurer list, or is not an eligible surplus lines insurer and is doing the business of insurance in this state. The requirements in new §15.104(d) reflect those in current §15.9(d).

New §15.104(e) restates §15.9(e) and clarifies that a surplus lines agent placing insurance on Texas risks must only do so with an eligible insurer under the Insurance Code and TDI's rules. The requirements in new §15.104(e) reflect those in current §15.9(e).

Section 15.105. Furnishing Evidence of Insurance. New §15.105 restates current §15.22.

New §15.105(a) restates §15.22(a) and clarifies that to avoid misunderstanding, the surplus lines agent must give the insured a complete written copy of the evidence of insurance and a temporary confirmation must be replaced as quickly as possible. The requirements in new §15.105(a) reflect those in current §15.22(a).

New §15.105(b) restates §15.22(b) and clarifies that if there is a change in the insurer, the portion of the direct risk assumed by the insurer, or any other major changes, the surplus lines agent must promptly send a substitute document that accurately shows the current status of coverage and the responsible insurers. The requirements in new §15.105(b) reflect those in current §15.22(b).

Section 15.106. Policy Forms and Stamping Office Fees. New §15.106 restates current §15.23.

New §15.106(a) clarifies that the surplus lines agent must file a true and correct copy of each executed surplus lines policy, contract, or other detailed evidence of coverage within 60 days of issuance or the effective date, whichever later, with the stamping office. If evidence of coverage other than the policy is initially filed, the policy must be filed within 60 days of it becoming available. This is to ensure that the stamping office receives all executed policies, contracts, or other detailed evidences of coverage, including additions, deletions, or cancellations in a timely manner.

The provision in current §15.23(b) is not restated in the new section as it is no longer applicable. That addresses ways to file the information required by §15.23(a). However, under the proposed rules, the only acceptable means to file the required information is under new §15.7.

New §15.106(b) restates current §15.23(c) and clarifies the items that comprise the term "true and correct copy of a surplus lines insurance policy." New §15.106(b) adds two new items to those copied from §15.23(c): all coverage parts and schedules (including limits) and risk ZIP code location.

New §15.106(c) restates current §15.23(d) and clarifies that the stamping office will compile the information obtained under new §15.106(b) within 10 days after the end of the month and will provide the surplus lines agent with a notice of the total stamping fees due. The fees are due to the stamping office by the end of the month in which the notice is received. The requirements in new §15.106(c) reflect those in current §15.23(c).

Current §15.23(e) is not restated in a proposed new section as it relates to filing information under proposed new §15.106(b) in lieu of filing an affidavit of diligent effort or other evidence of diligent effort by the surplus lines agent to place the coverage with an admitted carrier.

Section 15.107. Surplus Lines Insurance Requests for Information, Examination, and Complaints. New §15.107 restates current §15.12, splitting its provisions into four subsections labeled (a) – (d) to make it easier to read. The requirements in §15.107 reflect those in §15.12.

New §15.107(a) clarifies that the stamping office may need to ask the surplus lines agent for information to evaluate the eligibility of the surplus lines policies, contracts, or other detailed evidence of coverage.

New §15.107(b) clarifies that TDI will be notified if the surplus lines agent does not provide the information to the stamping office in a timely manner.

New §15.107(c) clarifies that the stamping office may review the information at the surplus lines agent's place of business if agreed to by both parties.

New §15.107(d) clarifies that §15.107 does not limit TDI's ability to request information or reports required under the Insurance Code or 28 TAC Chapter 15.

Section 15.108. Recordkeeping. New §15.108 restates current §15.14.

New §15.108(a) restates current §15.14(a). It also clarifies what insurance and accounting records surplus lines agents must maintain. These include a policy register, a contract file, general books of account, and any other insurance or accounting records that are required under the Insurance Code or 28 TAC Chapter 15. The only requirement in the new section that is not found in current §15.14(a) is §15.108(a)(4), which requires that a list of all agreements entered into with a managing underwriter under Insurance Code §225.006(c) and copies of the agreements be maintained by each surplus lines agent.

New §15.108(b) restates §15.14(a) and clarifies that the surplus lines agent's records that are required to be kept by the Insurance Code and 28 TAC Chapter 15 are subject to examination by TDI and the comptroller at all times and without notice. Additionally, the records and accounts must be available for inspection and review by TDI for five years following the expiration or termination of an insurance contract, unless specified otherwise in the Insurance Code.

Section 15.109. Policy Number. New §15.109 restates current §15.15.

New §15.109(a) restates current §15.15(a) and clarifies that the surplus lines agent must record the policy number and name of the insured immediately upon procuring the insurance for the insured. New §15.109(a) does not include the chronological policy requirement found in

§15.15(a) because of a change in industry practice relating to how policy numbers are generated. Other than this, the requirements in new §15.109(a) reflect those in §15.15(a).

New §15.109(b) restates current §15.15(b) and clarifies that if the surplus lines agent can issue policies on behalf of the eligible surplus lines agent, or if there is a policy that is voided or not used, the agent must document an explanation in the policy number register. New §15.109(b) does not include the §15.15(b) requirement for a chronological sequence in the assignment of policy numbers, because of a change in industry practice on how policy numbers are generated. Other than this, the requirements in proposed new §15.109(b) reflect those in §15.15(b).

Section 15.110. Contract File. New §15.110 restates current §15.16.

New §15.110 lists the items that the contract file on each individual surplus lines contract must contain in order to be a complete and true record.

New §15.110(1) – (14) restates §15.16(1) – (12), adds clarification to current requirements and adds two requirements not present in current §15.16(1) – (12). No requirements are proposed for deletion.

The current requirements duplicated in new §15.110(1) – (14) include maintaining records related to: amount of insurance and perils insured against; description of property and location; gross premium; return premium paid, if any; premiums charged; effective date of contract and terms; name and mailing address of the insured; name and home office address of the insurer, underwriting syndicate or other risk-bearing entity; amount collected from insured; record of losses or claims filed and payments made; true and correct copy of the insurance policy, contract, and other detailed evidence of coverage, as issued to the insured; and all correspondence relating to the specific insurance coverage of that contract file.

In addition, new §15.110(2) has a requirement to include the ZIP code when identifying the location of the subject of the insured. New §15.110(5) clarifies that all premiums charged should be maintained. New §15.110(13) includes a requirement to maintain the support for the exempt commercial status, if applicable to the insured. Exempt commercial purchaser was added by SB 951. New §15.110(14) includes a requirement to maintain the support for the industrial insured status, if applicable to the insured. Industrial insured was added by HB 1559. Other than these, the requirements in new §15.110 reflect those in §15.16(1) – (12).

Section 15.111. Required Documentation Supporting Exempt Commercial Purchaser Status.

New §15.111 does not duplicate any of the sections proposed for repeal. It clarifies the type of support required when an insured qualifies as an exempt commercial purchaser. New §15.111(1) requires the surplus lines agent retain a copy of the document described in Insurance Code §981.004(c)(2) and new §15.111(2) requires the surplus lines agent retain a signed statement from the insured identifying which provisions of Insurance Code §981.0031(a)(3) and §981.0032(3) are applicable to the insured. Provisions addressing exempt commercial purchasers were added by SB 951. They permit an exemption from Insurance Code §981.004(a)(1) for insureds meeting certain criteria under Insurance Code Chapter 981. New §15.111 requires the surplus lines agent maintain documentation to support the exemption.

Section 15.112. Required Documentation Supporting Industrial Insured Status.

New §15.112 does not duplicate any of the sections proposed for repeal. It clarifies the type of support required when an insured qualifies as an industrial insured. New §15.112(1) requires the surplus lines agent retain a copy of the document described in Insurance Code §981.004(d)(3) and new §15.112(2) requires the surplus lines agent retain a signed statement from the insured identifying which provisions of Insurance Code §981.0032(3) and §981.0033(2) are applicable to the insured. Provisions addressing industrial insureds were added by HB 1559. They permit an exemption from Insurance Code §981.004(a)(1) for insureds meeting certain criteria under Insurance Code Chapter 981. New §15.112 requires the surplus lines agent maintain documentation to support the exemption.

Section 15.113. Agent Accounting Records.

New §15.113 restates current §15.17. New §15.113(a) requires each surplus lines agent to maintain accounting records, and new §15.113(b) requires the records show a summary of operation for month-end and year-to-date. The records also must be kept in accordance with generally accepted accounting principles. The requirements in new §15.113 reflect those in current §15.17.

Section 15.114. Untimely Filed Policies.

New §15.114 does not duplicate any of the sections proposed for repeal. It clarifies the process for handling policies that were not filed timely with the stamping office.

New §15.114(a) clarifies that the stamping office must provide or make obtainable to the surplus lines agent a report of late filed policies on or before the 15th day of each month.

New §15.114(b) clarifies that the surplus lines agent must take action to any policy listed in the report under §15.114(a) that it believes was filed timely within the earlier of 90 days of the report or February 15th of the following year. New §15.114(b)(1) and (2) clarify that the surplus lines agent must either correct the errors or, if the error cannot be corrected, notify the stamping office of its objection and identify the filing at issue, describe any special factors or unique circumstances, and provide any additional supporting documentation they believe supports their position.

New §15.115(b)(3) clarifies that the stamping office must review and research the notification provided by the surplus lines agent under new §15.115(b)(2) and provide TDI with a summary and its opinion on whether the policy should be considered timely within the earlier of either 30 days or March 1st. TDI will make the final determination on the policy's timeliness by the earlier of 45 days after receipt of the stamping office's analysis or March 15 and the stamping office will make any necessary changes to the records.

New §15.115(c) clarifies that the surplus lines agent waives the right to later dispute the timeliness of a filing unless the process under proposed new §15.115(b) is followed.

New §15.115(d) clarifies that the stamping office will provide TDI with a report no later than the first business day of April that lists all the policies that were not filed on time in the previous calendar year. Filings that were corrected under new §15.115(b)(1) or determined to be on time under new §15.115(b)(3) will not be included in the annual report.

Section 15.115. Purchase of Insurance by Purchasing Groups through Surplus Lines Agents.

New §15.115 restates current §15.25 and clarifies statutory requirements.

New §15.115(a) restates §15.25(a) and defines purchasing group. New §15.115(a)(1) clarifies that a purchasing group must have one of its purposes the purchase of liability insurance on a group basis. New §15.115(a)(2) clarifies that a purchasing group must be a group that purchases liability insurance only for its group members and only to cover their similar or related liability exposure. New §15.115(a)(3) clarifies that a purchasing group must be made of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, service, premise,

or operation and New §15.115(a)(4) clarifies they must be domiciled in a state. There are no differences between the definition of purchasing group under new §15.115(a)(1) – (4) and current §15.25.

The current rule at §15.25(b) and §15.25(c) provides an exemption that is inconsistent with the statute, so the new rule corrects this. Proposed new §15.115(b) restates §15.25(b) and clarifies the requirement that the surplus agent must submit the filings required under Insurance Code §981.105 and the stamping fees to the stamping office for insurance purchased by registered purchasing groups. This is a change from what is required by current §15.25(b), which states that the purchasing group or the surplus lines agent must submit all registration forms, fees, or taxes required under the Insurance Code directly to the comptroller or TDI. Insurance Code §981.105 requires filing with the stamping office.

New §15.115(c) restates §15.25(c) and clarifies that the surplus lines agent must stamp or write the words "Purchasing Group" conspicuously on every policy, contract, or other detailed evidence of coverage issued to a purchasing group or its members. It does not include the requirement in current §15.25(c) that all copies must be marked the same way, because it is redundant. It also does not include the provision in current §15.25(c) that copies of the policies, contracts, or other detailed evidences of coverage need not be filed with the stamping office or TDI unless requested, because under new §15.115(b) these documents must be filed with the stamping office. There is no statutory exemption regarding the filing of purchasing group documents with the stamping office.

Proposed new §15.115(5) clarifies that a surplus lines agent may only sell insurance to a registered purchasing group, unless the purchasing group is exempt from registering under Insurance Code §2201.256. Registered purchasing groups are listed on TDI's website. Purchasing groups are required to register under Insurance Code §2201.256.

Subchapter C. Surplus Lines Stamping Office Plan of Operation. New subchapter C is titled "Surplus Lines Stamping Office of Texas Plan of Operation" and consists of one section, §15.201.

The stamping office's plan of operation is currently in subchapter B, relating to the Surplus Lines Stamping Office of Texas. Current subchapter B contains one section, §15.101, relating to the stamping office's plan of operation, and contains the text of the plan. Insurance Code §981.153(a) requires the Commissioner approve the plan of operation, and Insurance Code

§981.153(b) requires the Commissioner approve amendments by Commissioner order. Because the plan of operation is currently part of the rule text, amendments to the plan of operation require a rule amendment. New subchapter C does not include the plan of operation in the rule text. Instead, it establishes a more efficient process for approving amendments by Commissioner order in compliance with Insurance Code §981.153(b).

Section 15.201. Commissioner Approval. New §15.201 describes the process for approval of amendments to the stamping office's plan of operation.

New §15.201(a) clarifies that the stamping office's plan of operation and any amendments made to it are effective once approved by Commissioner order. It also clarifies that the stamping office must operate under the plan of operation.

New §15.201(b) clarifies that amendments to the plan of operation must be submitted by the stamping office to the Commissioner for approval. New §15.201(b)(1) clarifies that the Commissioner may accept or reject some or all of the amendments and new §15.201(b)(2) clarifies that TDI will provide an opportunity for public comment on the amendments to the plan of operation. Detailed instructions on how to submit comments will be provided on TDI's website along with the proposed amendments. Finally, new §15.201(b)(4) clarifies that the Commissioner will approve amendments to the plan of operation by Commissioner order, which complies with Insurance Code §981.153(b).

New §15.201(c) clarifies that the Commissioner will amend the plan of operation under Insurance Code §981.153(c) in the event that amendments proposed by the stamping office are unacceptable.

New §15.201(d) clarifies that the most recent version of the plan of operation will be posted on the stamping office's website.

New §15.201(e) clarifies the process for changing the stamping fee.

Subchapter D. Surplus Lines Insurers. New subchapter D is titled "Surplus Lines Insurers" and consists of one section, §15.301. New §15.301 restates current §15.8, with changes to address text that is no longer relevant regarding what a surplus lines insurer domiciled in another state must submit to TDI.

New §15.301(a) clarifies that surplus lines insurers not designated as domestic surplus lines insurers must submit certain information to TDI and the stamping office. New §15.301(a)(1) clarifies that surplus lines insurers domiciled in other states must only provide evidence of authorization from their domiciliary jurisdiction to write the same kind of business it proposes to write in Texas and that it meets the capital and surplus requirements in Insurance Code §981.057.

New §15.301(a)(2) clarifies that alien insurers listed with the NAIC's International Insurer Department are not required to submit anything to TDI, but are encouraged to submit the address and phone number of a contact in the United States and identify the types of insurance the company will write in Texas.

New §15.301(b) requires domestic surplus lines insurers to provide a copy of the certificate issued to them by TDI to the stamping office and documentation supporting the required capital and surplus.

TDI received comments on an informal draft posted on TDI's website on July 22, 2016. TDI considered those comments when drafting this proposal.

FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT. Jeff Hunt, director, Company Licensing and Registration Office, Licensing and Services Section, Financial Regulation Division, has determined that for each year of the first five years the proposed new sections and repealed sections are in effect, there will be no measurable fiscal impact on state and local governments as a result of the enforcement or administration of this proposal.

Mr. Hunt does not anticipate any measurable effect on local employment or the local economy as a result of this proposal.

PUBLIC BENEFIT AND COST NOTE. For each year of the first five years the proposed sections and repeals are in effect, Mr. Hunt expects that enforcing the proposed sections and repeals will have the public benefit of ensuring that TDI's rules conform to Insurance Code Chapter 981 and also expects the public benefit of clearer, updated surplus lines insurance rules that are easier to understand and administer consistently.

Mr. Hunt anticipates that surplus lines agents required to comply with proposed new sections and repeals will not increase the cost of compliance with Insurance Code Chapter 981 because it does not impose requirements beyond those in the statute.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.

TDI has determined that the new sections and repeals will not have an adverse economic effect or a disproportionate economic impact on small or micro businesses, or on rural communities. TDI estimates that the proposed new sections and repeals may affect all surplus lines agents and agencies the same. The total surplus lines agents and agencies totaled 5,503 and 1,472, respectively, as of February 2018. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.

TDI has determined that the proposed amendments do not require another rule or rules to be amended or repealed in order to reduce the total costs imposed on regulated persons. The effect of the proposed new sections or repeals is not expected to increase the cost of compliance with Insurance Code Chapter 981 because it does not impose requirements beyond those in the amended statutes. Even if the proposed new sections and repeals were to impose additional costs, Government Code §2001.0045 does not apply to the proposed amendments because the changes are necessary to implement Insurance Code Chapter 981.

GOVERNMENT GROWTH IMPACT STATEMENT. TDI has determined that each year of the first five years the proposed amendments and repeals are in effect, the rules will not positively or adversely affect this state's economy. The rules:

- will not create or eliminate a government program;
 - will not require the creation of new employee positions or the elimination of existing employee positions;
 - do not require an increase or decrease in future legislative appropriations to TDI;
 - do not require an increase or decrease in fees paid to TDI;
 - create new regulations to implement;
 - repeal existing regulations;
 - do not increase or decrease the number of individuals subject to the rule's applicability;
- and
- do not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

REQUEST FOR PUBLIC COMMENT. Submit any written comments on the proposal no later than 5 p.m., Central time, on July 23, 2018. TDI requires two copies of your comments. Send one copy to ChiefClerk@tdi.texas.gov; or to the Office of the Chief Clerk, Mail Code 113-2A, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104. Send the other copy to Chris.Osuna@tdi.texas.gov; or to Chris Osuna, Team Lead, Company Licensing and Registration Office, Mail Code 103-CL, Texas Department of Insurance, P.O. Box 149104, Austin, Texas 78714-9104.

The Commissioner will also consider written and oral comments on the proposal in a public hearing under Docket No. 2806 at 1:30 p.m., Central time, on July 10, 2018, in Room 100 of the William P. Hobby Jr. State Office Building, 333 Guadalupe Street, Austin, Texas 78701.

REPEAL OF SUBCHAPTER A.

28 TAC §§15.1 – 15.25.

STATUTORY AUTHORITY. TDI proposes the repeal of §§15.1 – 15.25 under Insurance Code §§981.009, 981.204 and 36.001.

Insurance Code §981.009 provides that the Commissioner may adopt rules to implement Insurance Code Chapter 981 or to satisfy requirements under federal law or regulations.

Insurance Code §981.204 provides that the Commissioner may classify surplus lines agents and issue a surplus lines license to an agent in accordance with a classification created under Insurance Code §981.204 and reasonable rules of the Commissioner.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Repealed §§15.1 - 15.25 affect Insurance Code §§981.001 – 981.006, 981.008, 981.051, 981.057, 981.058, 981.063 – 981.066, 981.101 – 981.105, 981.201 – 981.204, 981.210 – 981.215, 981.217, 981.218, and 981.220 – 981.223.

TEXT.

§15.1 Effective Date of Rules and Regulations.

§15.2 Definitions.

§15.3 Licensing of Surplus Lines Agents.

§15.4 Notice to Department for Commencement and Cessation of Employment of Individual Surplus Lines Agents.

§15.5 Sanctions.

§15.6 Conduct of Agent's Business.

§15.7 Eligibility Requirements for Surplus Lines Insurance.

§15.8 Eligibility Requirements of Surplus Lines Insurers.

§15.9 Duty of Reasonable Effort by Surplus Lines Agents to Ascertain Financial Condition and Other Practices of Eligible Surplus Lines Insurers.

§15.10 Surplus Lines Stamping Fee.

§15.11 Uniformity of Reporting Forms.

§15.12 Surplus Lines Insurance Requests for Information, Examination, and Complaints.

§15.13 Correct Execution Required for Filing.

§15.14 Recordkeeping.

§15.15 Policy Number.

§15.16 Contract File.

§15.17 Agency Accounting Records.

§15.18 Financed Transactions.

§15.19 Allocation of Premium.

§15.20 Reporting of Premium Allocation.

§15.21 Minimum Content of Contracts.

§15.22 Furnishing Evidence of Insurance.

§15.23 Policy Forms Filings and Stamping Office Fees.

§15.24 Exemption from Minimum Capital and Surplus Requirement.

§15.25 Purchase of Insurance by Purchasing Groups through Surplus Lines Agents.

REPEAL OF SUBCHAPTER B.

28 TAC §15.101.

STATUTORY AUTHORITY. TDI proposes the repeal of §15.1.101 under Insurance Code §§981.009, 981.153 and 36.001.

Insurance Code §981.009 provides that the Commissioner may adopt rules to implement Insurance Code Chapter 981 or to satisfy requirements under federal law or regulations.

Insurance Code §981.153 provides that the procedures to administer the stamping office are established by a plan of operation approved by the Commissioner.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Repealed §15.101 affects Insurance Code §§981.153, 981.154, and 981.155.

TEXT.

§15.101. Plan of Operation of the Surplus Lines Stamping Office of Texas.

PROPOSED NEW SUBCHAPTER A.

28 TAC §§15.1 - 15.9

STATUTORY AUTHORITY. TDI proposes new §§15.1 – 15.9 under Insurance Code §§981.009, 981.204, and 36.001.

Insurance Code §981.009 provides that the Commissioner may adopt rules to implement Insurance Code Chapter 981 or to satisfy requirements under federal law or regulations.

Insurance Code §981.204 provides that the Commissioner may classify surplus lines agents and issue a surplus lines license to an agent in accordance with a classification created under this Insurance Code §981.204 and reasonable rules of the Commissioner.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Proposed new §§15.1 – 15.9 affect Insurance Code §§981.001 – 981.006, 981.008, 981.051, 981.057, 981.058, 981.063 – 981.066, 981.072, 981.073, 981.075, 981.101 – 981.105, 981.115, 981.116, 981.154, 981.201 – 981.204, 981.210 – 981.215, and 981.217 – 981.223.

TEXT.

SUBCHAPTER A. GENERAL PROVISIONS

§15.1. Effective Date of Rules and Regulations.

(a) The sections in this chapter apply to all transactions and circumstances taking place on or after the effective date of each section if Texas is the home state of the insured.

(b) Texas Department of Insurance rules applicable to licensing, regulation, and supervision of surplus lines agents and surplus lines insurers and transactions in effect before the effective date of the applicable section apply in the adjudication of acts and transactions occurring before the effective date of the section.

§15.2. Definitions.

(a) The definitions in Insurance Code §981.002 and §981.071 apply to this chapter.

(b) The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

(1) Admitted or authorized insurer--An insurer doing the business of insurance in this state, as defined in Insurance Code §101.051, and licensed under the provisions of the Insurance Code.

(2) Client--Any person to whom a surplus lines agent sells or attempts to sell a surplus lines insurance policy, or from whom an application for surplus lines insurance is accepted, or to whom advice and counsel on a surplus lines insurance policy is given for the purpose of selling a surplus lines insurance policy.

(3) Commissioner--The Texas Commissioner of Insurance.

(4) Comptroller--The office of the Texas Comptroller of Public Accounts.

(5) Person--An individual or entity as defined by Insurance Code §541.002(2).

(6) Stamping Office--The Surplus Lines Stamping Office of Texas created under Insurance Code Subchapter D, Chapter 981, and operating under a plan of operation as specified by §15.201 of this title. The organization is also commonly referred to as a service office by peer offices throughout the country.

(7) State--Any state, district, commonwealth, territory, and insular possession of the United States and any area subject to the legislative authority of the United States of America.

(8) Surplus lines agent--A person, whether an individual or entity, holding a surplus lines license issued by TDI under Insurance Code Chapter 981.

(9) TDI--Texas Department of Insurance.

(10) Timely filed--A transaction filed with the stamping office that meets the requirements of Insurance Code §981.105(a).

(11) Untimely filed--A transaction filed with the stamping office that does not meet the requirements of Insurance Code §981.105(a).

§15.3. Regulation of Policies.

A surplus lines insurance policy is subject to Texas regulation if the insured's home state is Texas. Under Insurance Code §981.002(5), an insured's home state is the insured's:

(1) principal place of business, which is the location from which the officers of an insured that is not an individual directs, controls, and coordinates the insured's activities; generally, the insured's main headquarters; or

(2) principal residence, which is the state where the insured who is an individual resides for the greatest number of days during a calendar year.

§15.4. Sanctions.

(a) The Commissioner may impose any sanction or remedy in Insurance Code Chapter 82 or any other applicable laws or statutes if the Commissioner determines, after notice and an opportunity for hearing, that the applicant or license holder individually or through any officer, director, or shareholder:

(1) committed any action that would form the basis for sanctioning a general property and casualty agent or a managing general agent, as applicable to the surplus lines agent's other licenses, under the Insurance Code;

(2) failed to allow TDI or the comptroller to examine the surplus lines agent's accounts and records or failed to maintain surplus lines insurance business accounts and records as required by the Insurance Code and this chapter;

(3) failed to make and file all reports when due, as required by the Insurance Code and this chapter;

(4) failed to properly collect and pay required taxes and stamping fees on surplus lines gross premium or failed to submit tax reports as required by law or regulation;

(5) failed to otherwise maintain the qualifications for a surplus lines agent license;
or

(6) is in violation of, or has failed to comply with the Insurance Code, this chapter, or any other applicable laws or regulations of this state.

(b) Except when Insurance Code §981.203(a-1) applies to a nonresident surplus lines agent, an agent's surplus lines license will not be renewed and the surplus lines agent may not act under the surplus lines agent license if the surplus lines agent fails to maintain or renew the surplus lines agent's license as a general property and casualty agent or managing general agent, as appropriate to the license status of the agent.

(c) A surplus lines agent whose license has been revoked or suspended will not have a license issued, renewed, or a suspension lifted until all fines, penalties, delinquent taxes, and delinquent stamping office fees the agent owes have been paid.

§15.5. Minimum Content of Contracts.

(a) Each new or renewal insurance contract, policy, certificate, cover note, or other confirmation of insurance purchased and delivered as surplus lines coverage under the Insurance Code must contain, at a minimum:

(1) the information required by Insurance Code §981.101;

(2) a statement designating the name and address of the individual to whom the Commissioner will mail service of process in accordance with the Insurance Code; and

(3) a stamping fee.

(b) As provided by Insurance Code §981.073(b), Insurance Code §981.101(b) does not apply to a new or renewal insurance contract, policy, certificate, cover note, or other confirmation of insurance purchased and delivered as surplus lines coverage under the Insurance Code 981 if issued by a domestic surplus lines insurer.

(c) Under Insurance Code §981.076, a domestic surplus license insurer must include with each new or renewal insurance contract, policy, certificate, cover note, or other confirmation of insurance purchased and delivered as surplus lines coverage under the Insurance Code the following statement: "This insurance contract is issued and delivered as surplus line coverage under the Texas Insurance Code. The insurer is not a member of the property and casualty insurance guaranty association created under Insurance Code Chapter 462. Insurance Code Chapter 225 requires payment of a _____ (insert appropriate tax rate) percent tax on gross premium."

§15.6. Forms.

Applications, reports, and memorandums, required under the Insurance Code and by this chapter relating to surplus lines insurance must include all required information.

§15.7. Submission of Applications, Notices, and Correspondence.

(a) All submissions to the Commissioner or TDI required in this chapter must be sent to the appropriate physical, mailing, or electronic address:

- (1) specified on the applicable TDI form being used; or
- (2) listed on the TDI website for a particular submission.

(b) All submissions to the stamping office required in this chapter must be sent by a method acceptable to the stamping office.

§15.8. Correct Execution Required for Filing.

(a) No report required to be filed under the Insurance Code or this chapter relating to surplus lines insurance will be deemed filed with TDI or the stamping office unless the documents submitted are correctly completed and signed on forms complying with §15.6 of this title.

(b) A correct surplus lines policy filing submitted to the stamping office will be deemed correctly executed and filed the day the transaction is posted by the stamping office.

(c) The surplus lines agent responsible for a filing must maintain the subject contract file, as specified in §15.110 of this title, at the agent's place of business in accordance with §15.108 of this title, and must promptly submit the contract file to the stamping office on request. On mutual agreement, a representative of the stamping office may view the requested contract file at the agent's place of business.

(d) Nothing in this section limits TDI's ability to require the agent to submit information or reports as required by the Insurance Code or this chapter.

§15.9. Eligibility Requirements for Surplus Lines Insurance.

(a) The stamping office must evaluate surplus lines insurance policies, contracts, or other evidences of coverage for eligibility and compliance with filing requirements. The stamping office may request additional information from the surplus lines agent responsible for the filing if the information filed is not sufficient to make an evaluation in accordance with this section.

(b) Following its evaluation of filings under this section, the stamping office must provide the following written reports to TDI:

- (1) Within 60 days of discovery, a report documenting any surplus lines insurance policy issued by an insurer that is not an eligible surplus license insurer, any surplus lines insurance

policy and contract that is of a type that is not compliant with the Insurance Code, and any act that requires a license that is performed by an unlicensed person.

(2) Promptly upon discovery, a report documenting any surplus lines insurance policy or contract that has uncorrected administrative or technical errors that the stamping office has asked the surplus lines agent to correct.

PROPOSED NEW SUBCHAPTER B.

28 TAC §§15.101 – 15.115

STATUTORY AUTHORITY. TDI proposes new §§15.101 – 15.115 under Insurance Code §§981.009, 981.204, and 36.001.

Insurance Code §981.009 provides that the Commissioner may adopt rules to implement Insurance Code Chapter 981 or to satisfy requirements under federal law or regulations.

Insurance Code §981.204 provides that the Commissioner may classify surplus lines agents and issue a surplus lines license to an agent in accordance with a classification created under this Insurance Code §981.204 and reasonable rules of the Commissioner.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Proposed new §§15.101 – 15.115 affect Insurance Code §§981.001 – 981.006, 981.008, 981.051, 981.057, 981.058, 981.063 – 981.066, 981.072, 981.073, 981.075, 981.101, 981.104, 981.105, 981.115, 981.116, 981.154, 981.201 – 981.204, 981.210 – 981.215, and 981.217– 981.223.

TEXT.

SUBCHAPTER B. SURPLUS LINES AGENTS

§15.101. Licensing of Surplus Lines Agents.

(a) Persons performing any of the following surplus lines insurance activities are required to have a surplus lines agent license:

(1) supervising unlicensed staff engaged in activities described in subsection (b) of this section, although unlicensed intermediary supervisors may supervise unlicensed staff engaging in these activities if the ultimate supervisor is licensed;

(2) negotiating, soliciting, effecting, procuring, or binding surplus lines insurance contracts for clients or offering advice, counsel, opinions, or explanations of surplus lines insurance products to agents or clients beyond the scope of underwriting policies or contracts, except for a general lines property and casualty agent making a referral of surplus lines business to a surplus lines agent that then completes the surplus lines transaction; or

(3) receiving any direct commission or variance in compensation based on the volume of surplus lines premiums taken and received from, or as a result of, another person selling, soliciting, binding, effecting, or procuring surplus lines insurance policies, contracts, or coverages, except for a general lines property and casualty agent making a referral of surplus lines business to a surplus lines agent that then completes the surplus lines transaction.

(b) The following activities, if supervised by a surplus lines agent, do not require a surplus lines agent license if the employee does not receive any direct commission from selling, soliciting, binding, effecting, or procuring insurance policies, contracts, or coverages, and the employee's compensation is not varied by the volume of premiums taken and received:

(1) full-time clerical and administrative services, including, but not limited to, the incidental taking of information from clients; receipt of premiums in the office of a licensed agent; or transmitting to clients, as directed by a licensed surplus lines agent, prepared marketing materials or other prepared information and materials including, without limitation, invoices and evidences of coverage;

(2) contacting clients to obtain or confirm information necessary to process an application for surplus lines insurance so long as the contact does not involve any activities for which a license would be required under subsection (a)(2) of this section;

(3) performing the task of underwriting any insurance policy, contract, or coverage, including and without limitation, pricing of the policy or contract; or

(4) contacting clients, insureds, agents, other persons, and insurers to gather and transmit information regarding claims and losses under the policy to the extent the contact does not require a licensed adjuster as set forth under Insurance Code Chapter 4101.

(c) This section must not be construed to prohibit distribution of agency profits to unlicensed persons, including shareholders, partners, and employees.

(d) Before TDI issues a surplus lines agent license, the applicant must submit the following:

- (1) an appropriate, fully completed written application; and
- (2) the fee specified by §19.801 and §19.802 of this title.

(e) Texas-resident applicants, and nonresident applicants who do not hold a surplus lines license in their state of residence or whose state of residence does not license Texas residents on a reciprocal basis as determined by TDI, must meet all licensing requirements set forth in Insurance Code Chapter 981. Nonresident applicants under this section must also comply with Insurance Code §4056.051.

(f) Nonresident applicants who hold a surplus lines agent license in good standing in the agent's state of residence and meet the requirements of Insurance Code §4056.052 must meet all the licensing requirements of Insurance Code Chapter 981 to the extent that the requirements are not waived by the Commissioner under Insurance Code §4056.055.

(g) Notwithstanding any other subsection of this section, nonresident applicants are not required to obtain a general property and casualty agent license if they meet the requirements of Insurance Code §981.203(a-1).

(h) Each surplus lines agent license issued to an agent will be valid for a term as established under Insurance Code §4003.001 and Chapter 19, Subchapter I of this title. The license may be renewed by submitting a renewal application and a nonrefundable license fee as specified by §19.801 and §19.802 of this title.

§15.102. Conduct of Agent's Business.

(a) A surplus lines agent engaging in surplus lines business as an individual surplus lines agent may be licensed only in his or her name. No individual may hold more than one surplus lines agent license. A surplus lines agent engaging in surplus lines business under an assumed name must comply with §19.902 of this title.

(b) An insurance agent doing business as a partnership, corporation, or limited liability company may apply for and obtain a surplus lines license, provided that the agent meets the qualifications and has been issued a license under the Insurance Code as either a general property and casualty agent or a managing general agent. The surplus lines agent license will be issued to a

partnership, corporation, or limited liability company in the name of the agency as indicated on the underlying license issued under the Insurance Code. No partnership, corporation, or limited liability company may receive more than one surplus lines agent license. A partnership, corporation, or limited liability company doing business under an assumed name must comply with §19.902 of this title.

(c) Every act in placing or servicing a surplus lines insurance contract under an assumed name must also clearly disclose the true name of the surplus lines agent acting under the assumed name, or the true name of the individual licensed surplus lines agent representing the surplus lines agency, partnership, corporation, or limited liability company acting under the assumed name.

(d) A surplus lines agent may not shift, transfer, delegate, or assign his or her responsibility to a person or persons not licensed as a surplus lines agent. A surplus lines agent may not file with the stamping office a policy for a transaction in which the surplus lines agent did not place the policy.

(e) Notwithstanding subsection (d) of this section, a surplus lines agent may contract with a third party to meet the requirements of Insurance Code §981.105(a) and (b) to file policies with the stamping office, but the agent remains responsible for the timeliness and accuracy of the filings including payment of any fees owed and any penalties assessed for policies that were not timely filed.

(f) A surplus lines agent may exercise underwriting authority on behalf of an eligible surplus lines insurer if the surplus lines agent possesses a current written agreement from each eligible surplus lines insurer granting that authority. The written agreement must set forth the identity of the insurer and the scope of the underwriting authority granted, and must reserve the duty of final underwriting review by the insurer. The underwriting agreement must be available for review by TDI. The underwriting authority granted to a surplus lines agent by the insurer may include the rating and acceptance of risks, binding of coverage, issuance of formal evidence of coverage, and cancellation of coverage.

(g) A surplus lines agent may exercise claims authority on behalf of an eligible surplus lines insurer if the surplus lines agent possesses a current written agreement from the eligible surplus lines insurer granting authority. A Texas-licensed adjuster must perform all claims adjustments unless the policy covers risks in multiple states and the claim is for a loss on a non-Texas risk. The written agreement must be available for review by TDI.

(1) Claims authority delegated to the surplus lines agent by the insurer may include, but is not limited to, the investigation, adjustment, supervision, and payment of claims, including payment from the surplus lines agents' funds, provided the agent is promptly reimbursed by the insurer for the payments.

(2) Partial payments to claimants by the surplus lines agent made under the written agreement do not relieve the surplus lines insurer of any continuing obligations to the insured. Payment of claims may also be made by the surplus lines agent directly from funds of the eligible surplus lines insurer, provided the surplus lines agent possesses a current written agreement that the insurer authorizes the direct payments. This written agreement must be available for review by TDI.

§15.103. Surplus Lines Stamping Fee.

For each surplus lines policy, contract, or other detailed evidence of coverage issued on Texas risks, including additions or deletions to, or cancellations of, the surplus lines agent must submit a stamping fee as approved by TDI. The fees are due and payable as provided in §15.106 of this title.

§15.104. Duty of Reasonable Effort by Surplus Lines Agents to Ascertain Financial Condition and Other Practices of Eligible Surplus Lines Insurers.

(a) Before placing insurance with an eligible surplus lines insurer, a surplus lines agent must make a reasonable inquiry into the financial condition and operating history of the insurer.

(b) During the course of placing coverage with an eligible surplus lines insurer, each surplus lines agent will be under a continuous duty to stay informed of the insurer's solvency and the soundness of its financial strength, and of the insurer's ability to process claims and pay losses expeditiously.

(c) A surplus lines agent must immediately inform TDI and the stamping office if the agent has grounds to reasonably doubt the capacity, competence, stability, claim practices, or business practices of an eligible surplus lines insurer.

(d) A surplus lines agent must immediately inform TDI and the stamping office if the agent has reasonable grounds to believe that an insurer that is not an admitted insurer, an alien insurer

listed with the NAIC's International Insurer Department, or an eligible surplus lines insurer is transacting the business of insurance in this state.

(e) A surplus lines agent may place surplus lines insurance on Texas risks with only an eligible insurer that meets the requirements of the Insurance Code and TDI's rules.

§15.105. Furnishing Evidence of Insurance.

(a) A surplus lines agent must promptly provide the insured or the client's agent with written evidence of insurance containing complete terms, conditions, and exclusions pertaining to the coverage so as to protect all parties against misunderstanding. If temporary confirmation of insurance coverage is required by the insured or is given by the surplus lines agent, that temporary confirmation must be replaced as promptly as possible with a policy or certificate stating the complete terms, conditions, and exclusions of the insurance.

(b) If, after delivery to the insured or the insured's agent of any document evidencing insurance coverage, there is any change as to the identity of the insurers or the portion of the direct risk assumed by the insurer as stated in the previously mentioned original documents, or any other material change as to the insurance coverage, the surplus lines agent must promptly send to the insured or the insured's agent a substitute certificate, cover note, confirmation, or endorsement for the original. All substitute documents must accurately show the current status of the coverage and the responsible insurers.

§15.106. Policy Forms Filings and Stamping Office Fees.

(a) The surplus lines agent must file a true and correct copy of each executed surplus lines policy, contract, or other detailed evidence of coverage, including additions, deletions, or cancellations with the stamping office within 60 days of issuance or the effective date, whichever is later. If evidence of coverage other than the policy is initially filed, a copy of the policy must be filed with the stamping office within 60 days after it becomes available.

(b) For purposes of reporting to the stamping office, the term "true and correct copy of a surplus lines insurance policy" as used in this section, includes:

- (1) a declarations page;
- (2) a listing of all participating insurers on the policy;
- (3) all coverage parts and schedules, including limits;

(4) extended coverage exclusions;

(5) all premium-bearing documents;

(6) risk ZIP code location; and

(7) any other parts as may be required by the stamping office to review and record the policy.

(c) The stamping office must compile information from the filings submitted under subsection (b) of this section on a surplus lines agent basis within 10 days after the end of each month. The reports will be provided to the surplus lines agent with a notice of the total stamping fees due. The surplus lines agent must pay the fees to the stamping office by the end of the month in which the surplus lines agent receives the notice.

§15.107. Surplus Lines Insurance Requests for Information, Examination, and Complaints.

(a) In addition to those documents required to be filed under §15.106 and §15.301 of this title, the stamping office may request a surplus lines agent to submit additional information necessary to evaluate the eligibility of surplus lines policies, contracts, or other detailed evidence of coverage.

(b) The stamping office must issue a written report to TDI if the requested additional information is not timely submitted by the surplus lines agent.

(c) The stamping office and the surplus lines agent may mutually agree for a representative of the stamping office to review the requested information at the surplus lines agent's place of business.

(d) Nothing in this section limits TDI's ability to require the surplus lines agent to submit information or reports as required by the Insurance Code and this chapter.

§15.108. Recordkeeping.

(a) In order to provide for basic uniformity in recordkeeping requirements, and to make it possible for TDI to make a complete and accurate examination of the surplus lines agent's records, the following insurance and accounting records must be established and maintained by each surplus lines agent:

(1) a policy register;

(2) a contract file;

(3) general books of account;

(4) a list of all agreements entered into with a managing underwriter under Insurance Code §225.006(c) and copies of the agreements; and

(5) any other insurance and accounting records as are necessary to properly and promptly service Texas policyholders and provide required information to TDI.

(b) The surplus lines agent's records and accounts relating to surplus lines insurance that are required to be kept by the Insurance Code and this chapter are subject to examination by TDI and the comptroller at all times and without notice. These records and accounts must be available for inspection and review by TDI for five years following the expiration or termination of the insurance contract, unless specified otherwise in the Insurance Code.

§15.109. Policy Number.

(a) All surplus lines agents must, immediately on procuring insurance from an eligible surplus lines insurer, record the policy number and the name of the insured. The surplus lines agent must inscribe with the same policy number all records and files maintained by the surplus lines agent that are pertinent to a specific risk.

(b) For agents having authority to issue policies on behalf of an eligible surplus lines insurer, and in the instance of voided or unused policy numbers, the agent must record an explanation in the policy number register.

§15.110. Contract File.

Each surplus lines agent must maintain a contract file containing a complete and true record for each individual surplus lines contract, including a copy of the daily report or other evidence of insurance, including the following items, as applicable:

(1) amount of insurance and perils insured against;

(2) brief general description of the property insured and its location, including ZIP code;

(3) gross premium;

(4) return premium paid, if any;

(5) all premiums charged;

(6) effective date of the contract, and the terms;

(7) name and mailing address of the insured;

(8) name and home office address of the insurer, underwriting syndicate or other risk-bearing entity;

(9) amount collected from the insured;

(10) record of losses or claims filed and payments made;

(11) a true and correct copy of the insurance policy, contract, and other detailed evidences of coverage, as issued to the insured;

(12) all correspondence relating to the specific insurance coverage of that contract file;

(13) support for exempt commercial purchaser status if applicable to insured; and

(14) support for the industrial insured status if applicable to insured.

§15.111. Required Documentation Supporting Exempt Commercial Purchaser Status.

Support for exempt commercial purchaser status must include documentation of the following:

(1) a copy of the document described in Insurance Code §981.004(c)(2); and

(2) a signed statement from the insured identifying which provisions of Insurance Code §981.0031(a)(3) and §981.0032(3) are applicable to the insured.

§15.112. Required Documentation Supporting Industrial Insured Status.

Support for industrial insured status must include documentation of the following:

(1) a copy of the document described in Insurance Code §981.004(d)(3); and

(2) a signed statement from the insured identifying which provisions of Insurance Code and §981.0032(3) and §981.0033(2) are applicable to the insured.

§15.113. Agent Accounting Records.

(a) Each surplus lines agent must maintain general accounting records, which must include a general ledger, a general journal, cash records, and other items necessary to reflect the financial solvency of the agent.

(b) The surplus lines agent's general accounting records must show a month-end summary of operations and fiscal- or calendar-year-to-date summary of operations, and must be maintained in accordance with generally accepted accounting principles.

§15.114. Untimely Filed Policies.

(a) On or before the 15th day of each month, the stamping office must either directly provide or make easily obtainable to surplus lines agents a report listing any surplus lines policies the agent filed in the previous month that were untimely filed. The surplus lines agent is responsible for confirming the accuracy of the report.

(b) For any policy listed in the report described in subsection (a) of this section that the surplus lines agent believes was timely filed, the agent must, on or before the earlier of 90 days from the date of the report or February 15 of each year following the year in which the policies were filed, either:

(1) correct any errors in the record using electronic procedures established by the stamping office, or

(2) if the error in the record cannot be corrected using electronic procedures established by the stamping office, the agent must notify the stamping office that the agent believes the policy was timely filed. The notification must identify the filing at issue, describe any special factors or unique circumstances that apply, and provide all necessary documentation to support the agent's position that it was timely filed.

(3) Following receipt of notification described in paragraph (2) of this subsection, on or before the earlier of either 30 days after receipt or March 1, the stamping office must review and research the notification and then provide TDI with a summary as well as the stamping office's opinion as to whether the policy should be considered timely filed. On receiving the summary from the stamping office, TDI will decide by the earlier of either 45 days after receiving the stamping office's analysis or March 15 whether the policy should be considered timely filed and notify the agent and stamping office. If TDI determines that the policy should be considered timely filed, the stamping office must make any necessary changes to its records so that the policy is considered timely filed.

(c) An agent waives the right to later dispute the timeliness for any filing if the agent fails to comply with the requirements of subsection (b) of this section.

(d) Not later than the first business day of April of each year, the stamping office must submit a report to TDI listing all of the surplus lines policies that were not timely filed in the previous calendar year. If TDI decides a policy should be considered timely filed under subsection (b)(3) of this section, the filing will not be included in the annual report. The annual report must be in a format acceptable to the Commissioner, and it must reflect any corrections made by the agent under subsection (b)(1) of this section or determinations made by TDI under subsection (b)(3) of this section.

§15.115. Purchase of Insurance by Purchasing Groups through Surplus Lines Agents.

(a) A purchasing group is any group that:

- (1) has as one of its purposes the purchase of liability insurance on a group basis;
- (2) purchases liability insurance only for its group members and only to cover their similar or related liability exposure;
- (3) is composed of members whose businesses or activities are similar or related with respect to the liability to which members are exposed by virtue of any related, similar, or common business, trade, product, service, premise, or operation; and
- (4) is domiciled in any state.

(b) When a registered purchasing group purchases insurance through a surplus lines agent, the surplus lines agent must submit the filings required under Insurance Code §981.105 and stamping fees directly to the stamping office.

(c) A surplus lines agent must stamp or write the words "Purchasing Group" conspicuously on every policy, contract, or other detailed evidence of coverage issued to a purchasing group or its members through the surplus lines agent.

(d) A surplus lines agent may not sell insurance to a purchasing group that is not registered with TDI. Registration may be verified on TDI's website.

PROPOSED NEW SUBCHAPTER C.

28 TAC §15.201.

STATUTORY AUTHORITY. TDI proposes new §15.1.201 under Insurance Code §981.009 and §36.001.

Insurance Code §981.009 provides that the Commissioner may adopt rules to implement Insurance Code Chapter 981 or to satisfy requirements under federal law or regulations.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Proposed §15.201 affects Insurance Code §§981.153, 981.154, and 981.155.

TEXT.

**SUBCHAPTER C. SURPLUS LINES STAMPING OFFICE OF TEXAS PLAN OF
OPERATION**

§15.201. Commissioner Approval.

(a) The stamping office's plan of operation (plan of operation) and any amendment to it become effective on written approval by Commissioner order, and constitute the manner in which the stamping office must operate and discharge its responsibilities in accordance with the Insurance Code and TDI's rules.

(b) The stamping office must submit proposed amendments to the plan of operation to the Commissioner for consideration and approval.

(1) The Commissioner may accept or reject some or all of the proposed amendments.

(2) TDI will provide public notice and an opportunity to comment on some or all of the proposed amendments.

(3) The Commissioner will approve amendments to the plan of operation by Commissioner order.

(c) If the stamping office fails to submit an acceptable amendment to the plan of operation, the Commissioner may amend the plan of operation as set forth in Insurance Code §981.153(c).

(d) The stamping office must post the most current approved plan of operation on its website.

(e) If the stamping office's board of directors recommends changing the stamping fee, the Commissioner will post notice in the *Texas Register* that a stamping fee change is being considered and allow for a 20-day comment period. The notice will specify the current stamping fee and the proposed stamping fee. After the close of the comment period and review of the comments, the Commissioner will either approve or deny changing the stamping fee by order.

PROPOSED NEW SUBCHAPTER D.

28 TAC §15.301.

STATUTORY AUTHORITY. TDI proposes §15.1.301 under Insurance Code §§981.009, 981.153 and 36.001.

Insurance Code §981.009 provides that the Commissioner may adopt rules to implement Insurance Code Chapter 981 or to satisfy requirements under federal law or regulations.

Insurance Code §981.153 provides that the procedures to administer the stamping office are established by a plan of operation approved by the Commissioner.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

CROSS-REFERENCE TO STATUTE. Proposed new §15.301 affects Insurance Code §§981.051, 981.057, 981.058, 981.063, and 981.071 – 981.077.

TEXT.

SUBCHAPTER D. SURPLUS LINES INSURERS

§15.301. Eligibility Requirements of Surplus Lines Insurers.

(a) Surplus lines insurers not designated as a domestic surplus lines insurer by TDI must provide to TDI and to the stamping office information relating to the insurer's eligibility to write surplus lines insurance.

(1) For insurers domiciled in another state, this information must include documents evidencing authorization from the insurer's domiciliary jurisdiction to write the same

kind and class of business that it proposes to write in Texas and documentation that the insurer has capital and surplus required by Insurance Code §981.057. Documentation must include:

(A) insurer information, including the insurer's:

(i) full name;

(ii) physical address for its principal place of business;

(iii) mailing address;

(iv) NAIC number; and

(v) contact individual's name, phone number, and email;

(B) the state in which they are domiciled;

(C) a list of all lines and classifications of insurance business the applicant is authorized to insure or reinsure.

(2) Alien insurers listed with the NAIC's International Insurer Department are not required to submit anything under this section, but are encouraged to provide TDI with a contact person located in the United States, including the person's address and phone number, as well as information regarding the types of insurance the company anticipates writing in Texas. This information may be sent electronically to TDI.

(b) Surplus lines insurers designated as a domestic surplus lines insurer by TDI must provide to the stamping office a copy of the domestic surplus lines insurer certificate issued by TDI and documentation that the insurer has capital and surplus required by Insurance Code §981.057.

CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be within the agency's authority to adopt.

Issued in Austin, Texas, on June 1, 2018.

/s/ Norma Garcia

Norma Garcia, General Counsel
Texas Department of Insurance