

SUBCHAPTER A. GENERAL PROVISIONS

§15.1. Effective Date of Rules and Regulations.

(a) These sections apply to all transactions and circumstances taking place on or after the effective date of this subchapter 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 these sections apply in the adjudication of acts and transactions occurring before the effective date of these sections.

§15.2. Definitions.

(a) The definitions in Insurance Code §31.001 and §981.002 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) Agent of record--A Texas-licensed surplus lines agent, whether an individual or an agency, that places a policy with an eligible surplus lines insurer and holds the rights to renew the policy; or the Texas-licensed surplus lines agent, whether

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an individual or an agency, transacting business directly with an unlicensed agent to obtain coverage with an eligible surplus lines insurer. The agent in these situations is the agent of record for the policy placement. In a transaction involving a managing underwriter and another Texas-licensed surplus lines agent, the party responsible for paying premium taxes under Insurance Code §225.006 is the agent of record.

(3) 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.

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

(5) EFS--The stamping office's electronic filing system.

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

(7) Principal place of business--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. If the principal place of business is not located within any state, the state from which the insured's activities within the states are directed, controlled, and coordinated. If the insured's activities within the states are not directed, controlled, and coordinated from a location in any state, then the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated is the principal place of business.

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(8) Principal residence--The state where the insured who is an individual resides for the greatest number of days during a calendar year. If the insured's principal residence is located outside of any state, the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

(9) Properly allocated and apportioned--The division or distribution of premium based on the location of the various exposures afforded coverage under the insurance contract. This distribution of premium must be in accordance with the methods prescribed by the comptroller.

(10) State--Any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, the U.S. Virgin Islands, and American Samoa.

(11) Surplus lines agent--An agent holding a surplus lines license issued by the department under Insurance Code Chapter 981.

(12) Taxable surplus lines premium--For surplus lines taxation purposes, surplus lines premium is taxable as provided in Insurance Code Chapter 225.

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

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

§15.3. Sanctions.

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(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 license(s), under the Insurance Code;

(2) failed to allow the department 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) Notwithstanding subsection (a) of this section, and except when Insurance Code §981.203(a-1) applies to a nonresident surplus lines agent, an agent's surplus

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lines license will be canceled when 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.

(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. The suspension of a surplus lines agent license will continue in effect until all fines, penalties, restitution, delinquent taxes, and delinquent stamping office fees owed by the agent have been paid.

§15.4. Minimum Content of Contracts.

(a) Every 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 person to whom the commissioner will mail service of process in accordance with the Insurance Code;
and

(3) a stamping fee.

§15.5 Forms.

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Applications, reports, and memorandums required under the Insurance Code and by this chapter relating to surplus lines insurance must include all required information. The department may issue optional forms that agents may use.

§15.6. 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 the department or the stamping office unless the documents submitted are correctly completed and signed on forms complying with §15.5 of this title (relating to Forms).

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

(c) A correct surplus lines policy filing submitted to the stamping office by electronic means other than EFS will be deemed filed on the date it is received by the stamping office if the specific electronic means has been preapproved by the department in writing and otherwise complies with all applicable laws.

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

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agreement, a representative of the stamping office may view the requested contract file at the agent's place of business.

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

§15.7. Eligibility Requirements for Surplus Lines Insurance.

(a) The stamping office will 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 will provide a written report to the department documenting:

(1) any surplus lines insurance policy or contract appearing to be ineligible under the Insurance Code unless corrected under (c) of this subsection, and

(2) any policy issued by an ineligible insurer or any major and improper conduct by a surplus lines agent, regardless of whether the agency corrects the violation.

(3) The written report must be provided to the department within 60 days of discovery.

(c) The stamping office must ask the surplus lines agent to correct any administrative or technical errors before providing a written report to the department. If the surplus lines agent fails to correct any administrative or technical errors, the stamping office must promptly provide a written report to the department.

SUBCHAPTER B. SURPLUS LINES AGENTS

§15.100. 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

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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 licensed surplus lines agent that is not an individual, do not require a surplus lines 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

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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 the department 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 (relating to General Provisions Regarding Licensing Fees and License Renewal and Amounts of Fees).

(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 the department, 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 §4056.055.

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(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. 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.

§15.101. Submission of Applications, Notices, and Correspondence to the Department.

(a) Surplus lines agents, and persons applying for a surplus lines agent license, submit applications, notices, or correspondence to obtain, renew, or surrender a surplus lines agent license to TDI's Agent and Adjuster Licensing Office.

(b) Surplus lines agents and all others who reasonably suspect that a fraudulent insurance act has been or is about to be committed must submit all notices required under Insurance Code Chapter 701 to TDI's Fraud Unit.

(c) Surplus lines agents submit all other notices or correspondence required by Insurance Code Chapter 981 or under these rules to TDI's Company Licensing and Registration Office.

§15.102. Conduct of Agent's Business.

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(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 (relating to One Agent, One License).

(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 for 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's license. A partnership, corporation, or limited liability company doing business under an assumed name must comply with §19.902 of this title (relating to One Agent, One License).

(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.

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(d) A surplus lines agent must 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 must not file with the stamping office a policy on behalf of an agent that does not hold a Texas license 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. The licensed agent (not the third party) must pay any fees owed 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

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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. In that case, the adjuster must be licensed in the state where the risk is located. The written agreement must be available for review by TDI.

(h) 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.

(i) 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

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as provided in §15.106 of this title (relating to Policy Form Filings and Stamping Office Fees).

§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 the director of the Company Licensing and Registration Office at the department and the stamping office if the agent has reasonable grounds to believe that an insurer that is neither an admitted insurer nor an eligible surplus lines insurer is transacting the business of insurance in this state.

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(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 insured'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 mail 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) Unless the surplus lines agent elects to file electronically and in accordance with subsection (b) of this section, a true and correct copy of each executed surplus lines policy, contract, or other detailed evidence of coverage, including additions, deletions, or cancellations, must be filed by the agent of record 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 promptly filed with the stamping office when available.

(b) To the extent permitted under the Insurance Code and other applicable laws, the surplus lines agent may elect to file the information required under subsection (a) of this section by electronic transmission if TDI has preapproved the electronic method. The stamping office will provide surplus lines agents with a written procedure for optional electronic filing of policies, contracts, and other detailed evidence of coverage.

(c) 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;
- (4) extended coverage exclusions;
- (5) all premium-bearing documents; and

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

(d) The stamping office will compile information from these filings 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 or agency 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.

In addition to those documents required to be filed under §15.301 of this title (relating to Eligibility Requirements of Surplus Lines Insurers) and §15.106 of this title (relating to Policy Forms Filing and Stamping Office Fees), a surplus lines agent may be requested by the stamping office to submit additional information necessary to evaluate the eligibility of surplus lines policies, contracts, or other detailed evidence of coverage. The stamping office will issue a written report if the requested additional information is not timely submitted by the surplus lines agent. 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 of record's place of business. Nothing in this section limits the department's ability to require the surplus lines agent to submit information or reports as required by the Insurance Code and this chapter.

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§15.108. Recordkeeping.

(a) In order to provide for basic uniformity in recordkeeping requirements, and to make it possible for the department 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 policyholders in this state and provide required information to the department.

(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 the department 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 purchasing 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 the location of the property, including ZIP code;
- (3) gross premium charged;
- (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;

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(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; and

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

§15.111. Required Documentation Supporting Exempt Commercial Purchaser Status.

(a) 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.

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(b) TDI may provide forms for the insured to complete documenting qualification as an exempt commercial purchaser that may be used instead of the documents described in subsection (a) of this section.

§15.112. 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.

§15.113. Untimely Filed Policies.

(a) By the 15th day of each month, the stamping office will 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. It is the surplus lines agent's responsibility to personally review the report each month for accuracy.

(b) For any policy listed in the report described in subsection (a) of this section that the agent believes was timely filed, the agent must, by the earlier of 90 days from

the date of the report or February 15 of the year following the year in which the policies were filed, either

(1) correct any errors in the EFS, or

(2) if, and only if, the error cannot be corrected through the EFS, 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) On receipt of notification described in paragraph (2) of this subsection, and by the earlier of either 30 days after receipt or March 1, the stamping office will review and research the notification and then provide TDI with a summary as well as its 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 will 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 for which the agent fails to comply with the requirements of subsection (b) of this section.

(d) No later than the first business day of April, the stamping office will prepare a report for TDI listing all of the surplus lines policies that were not timely filed in the

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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 the department under subsection (b)(3) of this section.

§15.114. Unacceptable Reasons for Changing an Untimely Filing to Timely Filing.

A transaction reported by the stamping office as untimely filed will not be considered timely filed unless the circumstance for its untimeliness are beyond the control of the surplus lines agent. Business reasons do not constitute circumstances beyond the control of the surplus lines agent.

§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, either the purchasing group or surplus lines agent, as appropriate, must submit all registration forms, fees, or taxes required by Insurance Code Chapter 225, directly to the comptroller or the stamping office, as applicable.

(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.

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

§15.201. Commissioner Approval.

(a) The plan of operation of the Surplus Lines Stamping Office of Texas (plan of operation) and any amendment to it will become effective on written approval by commissioner order, and will constitute the manner in which the stamping office will

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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 will accept or reject some or all of the proposed amendments.

(2) The commissioner will work with the stamping office to resolve, if possible, any issues identified with the proposed amendments.

(3) If the acceptable amendments propose significant changes to the plan of operation, TDI will provide public notice on its website and in the *Texas Register* that the commissioner is considering amending the plan of operation and will post the proposed amendments on its website for public comment. Instructions on where and when to submit comments will be provided on TDI's website at the time the proposed amendments are posted.

(4) The commissioner will approve amendments to the plan of operation by order.

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

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

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(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.

SUBCHAPTER D. SURPLUS LINES INSURERS

§15.301. Eligibility Requirements of Surplus Lines Insurers.

(a) Surplus lines insurers seeking eligibility 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.

(2) Alien insurers listed with the NAIC's International Insurance 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

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company anticipates writing in Texas. This information may be sent electronically to TDI.

(b) Information received under this section is subject to Government Code §§552.001 - 552.132.

SUBCHAPTER E. SURPLUS LINES PREMIUM TAX

§15.401. Financed Transactions.

(a) Financed transactions include all insurance policies that provide for installment or deferred payments of the premium, and include installment payments, conditional contracts, and premium financed insurance policies.

(b) Premium tax is due on premium, interest, finance charges, and all other consideration charged to the insured for the insurance policy unless the finance charges are billed and stated separately to the insured by written documents.

§15.402. Allocation of Premium.

(a) Unless otherwise properly allocated and reported under a cooperative agreement, reciprocal agreement, or compact entered into by the comptroller under Insurance Code Chapter 229, all taxable surplus lines premium associated with a surplus lines insurance policy is considered Texas premium for reporting and taxation purposes when Texas is the home state of the insured as provided under Insurance Code Chapter 225 and 34 TAC §3.822.

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(b) If taxable surplus lines premium is allocated under a cooperative agreement, reciprocal agreement, or compact entered into by the comptroller under Insurance Code Chapter 229, the method of allocation between Texas and non-Texas exposures must be maintained conspicuously in the records of the agent of record, and the records are subject to inspection by the comptroller, the stamping office, and TDI.

(c) If a surplus lines insurance policy covers risks or exposures that are properly allocated to federal waters, international waters, or locations under the jurisdiction of a foreign government, then the premium associated with these policies or portions of these policies will not be taxable in Texas. The method of allocation between Texas and non-Texas exposures must be maintained conspicuously in the records of the agent of record, and the records are subject to inspection by the comptroller, the stamping office, and TDI.

(d) All premium taxes must be computed under the regulations or instructions of the comptroller.

§15.403. Reporting of Premium Allocation to the Stamping Office.

(a) If a surplus lines insurance policy covers risks or exposures that are properly allocated to federal waters, international waters, or locations under the jurisdiction of a foreign government, then the agent of record must file with the stamping office its allocated premium and other information requested in the proper form and using the instructions available from the stamping office for these purposes.

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(b) Unless 100 percent of the premium is preempted from taxation by federal law or is exempt from tax under Texas law, an agent of record must file with the stamping office its allocation of premium in the manner prescribed by TDI and the stamping office.

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