

Lone Star Lines

The Quarterly Publication of the Surplus Lines Stamping Office of Texas

81st Texas Legislature Update

by Alex Gonzales, Winstead PC, representing the SLSOT as General Counsel

The 81st Texas Legislature's Regular Session's efforts in insurance legislation will be best remembered for the bill that "almost wasn't" - the Texas Department of Insurance Sunset Legislation. By now, most readers will have at least some background about how the sunset legislation failed to pass in the regular session, and was resurrected in a later three day special session.

First, the legislation, which seemed like a mere formality at the start of the session, was towed back and held in port as the Legislature took on issues perceived as more important. Then the original legislation, SB 1007, stalled out in the Senate as various senators attempted to load on "consumer friendly" amendments. The bill already had some significant increases in TDI's regulatory authority, such as the authority to examine, rather than audit, title agents and title insurer direct operations. Insurers tried to fight back, but no one saw that ship was doomed.

A "safety net" bill was later introduced in the House and was intended to continue state agencies under Sunset review in the event an agency's sunset legislation failed. But, TDI, as well as the Office of Public Insurance Counsel and the Texas Department of Transportation, was excluded from the safety net's list of agencies.

By the time SB 1007 finally emerged from the House Insurance Committee, it stood well behind a controversial "voter ID" bill that would have required proof of identity in order to vote. The House Democrats then engaged in various parliamentary and procedural maneuvers to stall the voter ID bill until House rules precluded its consideration for a vote. The Democrats were successful, but as in many battles,

there were collateral casualties. One of those was TDI's Sunset Legislation.

Last ditch attempts to revive the legislation on the Session's last day by stowing it in a House Resolution failed when the Senate refused to adopt the resolution at the end of the day. By then the House had already adjourned.

Texas sunset statutes require the agencies begin wind down procedures on September 1, 2009, with a dissolution date of September 1, 2010, so the heat was on until the Governor called a special session the first week of July to continue TDI, the Office of Public Insurance Counsel and the Texas Department of Transportation, among other erstwhile doomed agencies.

Also doomed in sinking of TDI's sunset legislation in the regular session were approximately 170 amendments of all flavors from the political buffet, some pro-consumer, some pro-industry, some pro-TDI and some that just plain did not make any sense.

In any event, the 81st Legislature did pass dozens of insurance bills.

Health insurance, with at least 27 bills, easily accounted for a third of the insurance bills passed and sent to the Governor. The vast majority of the health insurance bills relate to mandated coverages, including autism and bariatric surgery, even "amino based elemental formulas," among others. Additionally, several bills increased the state's scrutiny of sales practices for annuities and for Medicare supplement insurance. Others tightened up on agent licensing and education requirements for agents selling such products.

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(Legislation, cont. from page 1) Legislation that would have increased the number of children eligible for the state's CHIP program also fell in the wake of the same storm that doomed TDI's Sunset Legislation.

increases the role and authority of the Texas Title Insurance Guaranty Fund. However, for the most part, the intended restructuring of the Texas title industry ignominiously sank beneath the waves with the Texas Sunset Legislation.

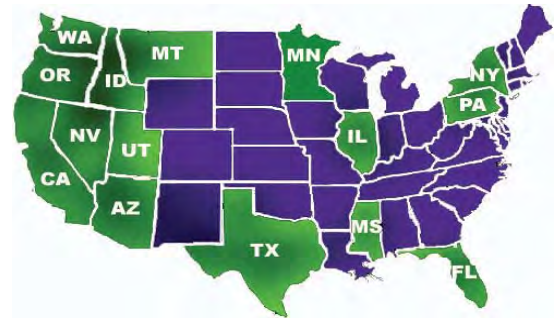
Title insurance, which typically runs quietly under the surface, found itself staring straight into the Legislature's big guns. Several title agent insolvencies in the last two years resulted in HB 4338, which increases TDI's authority to regulate the financial solvency of title agents. The bill also

The title industry also picked up some legislative wins. One notable title insurance bill, HB 2453, applies TDI's administrative statute of limitations to title companies and agents, who previously did not have this basic due process right.

(Legislation, cont. on page 3)

U.S. Stamping Office & Service Office Production Statistics

Information obtained from the US stamping offices for the first half of 2009 indicates a decline in surplus lines premium of 9.4% and in filings of 2.9%. However, four states (MS, MT, TX, and UT) reported increases in premium processed compared to the same period last year. Data also reflects the first six months of operation by the newest stamping office in Minnesota and the final six months of the Montana office, which closed its doors July 1. ★



STATE	Rates		Premium (millions)		% Chg	Items		% Chg
	St. Fee	SL Tax	2009	2008		2009	2008	
AZ	0.20%	3.00%	\$205.2	\$249.3	-17.7%	34,055	36,059	-5.6%
CA	0.225%	3.00%	\$2,252.9	\$3,116.8	-27.7%	217,842	232,638	-6.4%
	New stamping fee rate effective January 1, 2009							
FL	0.10%	5.00%	\$2,351.4	\$2,585.8	-9.1%	550,116	586,476	-6.2%
ID	0.25%	1.50%	\$29.2	\$38.9	-24.9%	6,784	7,386	-8.2%
IL	0.10%	3.50%	\$526.5	\$608.4	-13.5%	57,816	51,854	11.5%
MN	0.25%	3.00%	\$114.0	XXX	XXX	11,507	XXX	XXX
	New stamping office operational January 1, 2009							
MS	0.25%	4.00%	\$171.2	\$156.9	9.1%	46,586	40,857	14.0%
MT	1.00%	2.75%	\$34.6	\$24.0	44.2%	7,130	5,412	31.7%
	Stamping office ceased operation effective July 1, 2009							
NV	0.40%	3.50%	\$116.5	\$160.0	-27.2%	13,212	14,686	-10.0%
NY	0.20%	3.60%	\$1,811.3	\$1,841.0	-1.6%	102,059	110,305	-7.5%
	Additional fee of \$25 applies for late/erroneous filing							
OR	\$15.00	2.00%	\$105.1	\$148.5	-29.2%	18,230	19,553	-6.8%
	New flat stamping fee effective June 1, 2009 (no fee on endorsements) Additional 1% tax on "fire" premium							
PA	\$25.00	3.00%	\$453.5	\$504.2	-10.1%	86,231	88,894	-3.0%
	Additional fee of \$25 applies for late filing							
TX	0.06%	4.85%	\$1,770.9	\$1,577.8	12.2%	420,852	426,494	-1.3%
UT	0.15%	4.25%	\$90.6	\$88.2	2.7%	10,023	9,479	5.7%
	New stamping fee rate effective January 1, 2009							
WA	0.25%	2.00%	\$267.1	\$274.0	-2.5%	42,710	43,360	-1.5%
TOTAL			\$10,300.0	\$11,373.8	-9.4%	1,625,153	1,673,453	-2.9%

New York data is gross premium; 2009 net premium = \$891.8 million.

Data for Florida includes \$288.9 million / 6,408 policies in IP insurance.

Data for Texas excludes \$253.3 million in "other state" & \$77.8 million in "tax exempt" premium.

Stamping fee rates are at July 1, 2009.

Items include certain non-premium filings in Illinois, Nevada, & Texas.

Another legislative win, HB 3073, is the clarification of the authority for pass-thru charges for certain services by third parties, including e-filing charges required by county clerks. However, the Governor's office apparently has voiced some questions about the e-filing legislation.

The number of property and casualty insurance bills passed this session was extremely light, but legislation restructuring the Texas Windstorm Insurance Association made up in substance for lack in quantity. The Bermuda Triangle caused by the Voter ID legislation almost deep-sixed this legislation also, but the legislation finally found a home in HB 4409 (relating to emergency preparation and management). The House and the Senate were able to eventually work things out in a 120 page Conference Committee Report. Needless to say, it is going to take quite some time to figure the true and final effect of this legislation.

Workers' compensation was also a quiet substantive area, excepting, of course, that the state's Workers' Compensation Division is tethered to TDI and is facing the same gloomy prospects.

And finally, TDI also scored a few legislative wins. New TDI powers include the right to deny a company license application without first having to hold a hearing. The applicant, however, may request a hearing to contest the denial. Other bills create an unauthorized insurance guaranty fund, increase capital and surplus requirements for insurers, and increase reserve requirements for credit insurance. Heightened regulation of stipulated premium companies and county mutuals also passed, as did the above mentioned title agent solvency bill. ★

EFS Quick Tips Electronic Policy Filing

- If you are entering an item (policy, endorsement, cancellation, etc.) that has premium allocated to more than one coverage, each coverage code must be entered with the appropriate premium. To add an extra coverage row to the entry screen, simply click the blue Add Cov'g Row button. This can also be done by selecting multiple coverage codes within the coverage code lookup window.
- Please respond to Help Desk inquiries about questionable coverage and class code combinations or usage – if you believe your entry is correct, don't hesitate to let us know.
- EFS entries must be made from the policy, endorsement, cancellation, etc., and not from an invoice, e-mail, or worksheet.
- It is imperative that the employee(s) assigned to EFS entry has an understanding of how to read a policy or endorsement to be able to effectively enter transactions into the EFS.
- EFS users in the live environment have online access to their agency's monthly reports (including invoices). This information is available the first day of each month.
- When submitting policies for the Data Validation process, if the carrier failed to indicate the policy is a renewal, you can attach a note stating "This policy is a Renewal - not New". This will prevent it from being flagged as an error during validation. ★

Helpful Hints Paper Policy Filing



When answering tags, please read the tag carefully. Pertinent information is sometimes omitted because the instructions were not followed, causing the Stamping Office to return items repeatedly. Also, look for instructions such as:
ATTACH THIS TAG TO THE ENDORSEMENT
ATTACH THIS TAG TO THE SUBMISSION
ATTACH THIS TAG TO THE ITEM
RETURN A COPY OF THIS MEMO
RESUBMIT ON A NEW TRANSMITTAL AND VERIFICATION SLIP
YOU MUST FILE A NEW TRANSMITTAL ALONG WITH SUPPORTING DOCUMENTATION



You may receive a tag concerning policy number inconsistencies. 28 TAC 15.15(a) states "The surplus lines agent shall inscribe all records and files...that are pertinent to a specific risk with the same policy number." This means that all endorsements to a policy, whether they are included within the policy or are issued subsequent to the policy or binder must be exactly the same, including prefixes or suffixes. If the policy number is different in any way, you will be asked to make the necessary corrections and resubmit the item on a NEW transmittal. ★

Comparison of SLSOT Premium Processed by Line of Business

Annual Statement Line of Business	Premium through 7/31/2009	Premium through 7/31/2008	Percent Change
1 Fire (including allied lines)	\$558,396,870	\$391,863,251	42.50%
2 Allied lines	\$40,978,440	\$27,828,972	47.25%
3 Farmowners multiple peril	\$557,773	\$604,740	-7.77%
4 Homeowners multiple peril	\$45,321,452	\$42,837,864	5.80%
5 Commercial multiple peril	\$120,348,202	\$103,235,454	16.58%
8 Ocean marine	\$4,848,700	\$2,777,771	74.55%
9 Inland marine	\$44,531,854	\$44,517,820	0.03%
11 Medical malpractice	\$27,832,776	\$28,235,327	-1.43%
12 Earthquake	\$132,392	\$1,279,934	-89.66%
13 Group accident & health	\$57,004,251	\$54,017,243	5.53%
15 All other A&H	\$2,515,574	\$1,864,821	34.90%
17 Other liability	\$860,952,154	\$927,713,757	-7.20%
18 Products liability	\$16,427,180	\$14,852,444	10.60%
19.2 Other private passenger auto liability	\$2,144	\$4,693	-54.31%
19.4 Other commercial auto liability	\$38,383,281	\$54,373,550	-29.41%
21.1 Private passenger auto physical damage	\$1,298,930	\$927,646	40.02%
21.2 Commercial auto physical damage	\$45,046,467	\$32,655,015	37.95%
22 Aircraft (all perils)	\$5,175,100	\$12,096,126	-57.22%
23 Fidelity	\$517,435	\$775,075	-33.24%
24 Surety	\$400,238	\$370,116	8.14%
26 Burglary & theft	\$3,230,949	\$733,477	340.50%
27 Boiler & machinery	(\$277,277)	\$1,493,599	-118.56%
28 Credit	\$199,458,597	\$125,648,394	58.74%
31 Aggregate/other business	\$265,423	\$272,545	-2.61%
TOTAL	\$2,073,348,905	\$1,870,979,634	10.82%

Texas market data reports are updated monthly and available to view and print on our website at www.slsot.org under the link Texas Market Data.



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We invite readers to suggest topics for articles that may be of interest to others.

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