

# Lone Star Lines

The Quarterly Publication of the Surplus Lines Stamping Office of Texas



## INSIDE:

Stamping Fee  
Payment  
Requirements  
page 2

Surplus Lines  
Company Filing  
Requirements  
Released  
page 2

SLSOT Policy  
Stratification  
by Premium  
page 3

SLSOT  
Employee of  
the Year  
page 3

Texas SL  
Bond Repealed  
page 3

EFS  
Quick Tips  
page 3

Helpful Hints  
page 3

Premium  
Comparison  
page 4

## PLUS...

Lone Star Lines  
Special Report

## Premium Tax Audits - Early Lessons

Recent tax audits of surplus lines agents by the Texas Comptroller's Office have indicated two common and recurring problems.

**1.) Prepayment of taxes. (Section 225.009, Texas Insurance Code)** Current law requires remittance of a prepayment to the Comptroller whenever an agency accrues \$70,000 in surplus lines premium tax. The prepayment is due on or before the 15th day of the month following the month in which the \$70,000 threshold is reached. Remittance should include all taxes held by the agent as of the end of the month in which the agent has accrued the \$70,000, not just the \$70,000.



Failure to make the prepayment subjects the agent to both penalty and interest. If remitted less than 31 days late, penalty is 5% of taxes due. If remitted 31 or more days late, penalty is 10% of taxes due. Also, all past-due taxes are charged interest beginning sixty-one days after the due date, at a rate set annually by the Comptroller (8.25% for 2006). Since penalty and interest can quickly reach distressing amounts, it is imperative that your agency makes prepayments on a timely basis. Penalty alone on a prepayment remitted more than 30 days late is generally at least \$7,000!

selection can be revised every four years. An agency that fails to make the election is deemed by the Comptroller to be on a written basis.

Audits have found that some agents were paying taxes using the incorrect basis. For instance, some were paying on a premium received basis, but the Comptroller records indicated they should be paying on a premium written basis. Moreover, some agents have been paying taxes based exclusively on the Stamping Office's annual report of premiums processed. **Do not rely solely on Stamping Office data to pay taxes. This is not an appropriate technique for determining your tax liability and may result in significant underpayment of taxes,** particularly if policies are not reported timely to the Stamping Office. Again, any underpayment subjects an agency to possible penalty and interest. Agents should pay taxes based upon premium data from their own accounting systems. The Comptroller's surplus lines premium tax form (Form #25-104) does have reconciling lines to adjust for premium reported or not yet reported to the Stamping Office.

Both of these issues are important points for agents to consider when paying taxes. Refer any premium tax questions to either Gary Johnson (512)463-4068 or Karen Snyder (512)463-4074 at the Comptroller's.

**2.) Tax Base Election. (Title 34, Section 3.822(d), Texas Administrative Code)** An agency must choose the method it will use for reporting and paying taxes – either on a premium written (accrual) or premium received (cash) basis. Agents licensed in 2001 made this initial election on their 2001 tax return. Agents licensed each year after 2001 made their initial election on their first tax report due after being licensed. This



Premium taxes for all 2005 surplus lines business are due to the Texas Comptroller of Public Accounts by March 1, 2006. If you held a surplus lines agent's license at any point during 2005, you are required to file a tax report, even if no tax is due. Tax forms were mailed to each surplus lines agent by the Comptroller's Office at the end of January. If you did not receive a form, please call one of the numbers above.

## STAMPING FEE PAYMENT REQUIREMENTS

In response to numerous questions from agents, the following describes invoicing and payment procedures for stamping fees.

**Invoicing:** The Stamping Office creates a combination invoice/statement each month for stamping fees due from agents based on surplus lines policies processed. Processing closes for the month at 6:30 p.m. on the last day of the month. The following business day the combination invoice/statements are printed and then mailed to agents. The invoice/statement segregates current month activity from prior month's unpaid invoices.

**Electronic Filing System (EFS) users:** Active registered EFS users that have completed testing have invoice/statement and policy detail

available to them on the first day of each month for the month prior.

**Payment terms:** 1. Payments are due by the end of the month following the "processing month" and should not be more than 90 days past due. Example: Invoices based on January's processing are due by the end of February. 2. Payments should be accompanied by a remittance advice or at a minimum the agent name and license number. We require payments based on our invoices; checks received in advance of an invoice or that are unidentified are returned to the surplus lines agent. 3. Payments submitted must be for the full amount of an invoice for a month. Payments for less than the amount of an individual month's billing (short-paid invoices) are not accepted.

We recognize that there can be errors made during processing, either by the Stamping Office or by the surplus lines agent submitting policies for processing. These errors may result in an invoice being more than the expected amount. Please understand that we "close the books" for processing on the last day of the month and cannot go back and modify any posted amounts. Errors discovered after a processing month has been closed are corrected in a subsequent month. The Stamping Office corrects errors we make and errors made by agents are corrected by processing information submitted by the agent. If an agent short-pays an invoice because it is an over-billing due to errors, then correcting information is processed in a subsequent month and the agent pays the full amount of that subsequent invoice, there is a possibility of a double credit.

It is not our practice to report delinquent payments to the Texas Department of Insurance until they are 90 days past due. We recommend that if agents desire, they may withhold payment for some period of time (less than 90 days) to assure themselves that a proper correction is made on a subsequent billing. When the agents are sure they have received the proper credit, then the full amount of the outstanding invoice should be paid. We stress that agents reconcile their

batch edit reports in a timely manner so that errors can be discovered and corrected in the same month.

**Payment Mailing Address:**

Surplus Lines Stamping Office of Texas  
Attn: Accounting  
P.O. Box 160170  
Austin, Texas 78716-0170

**Surplus Lines Premium Tax:** The Stamping Office has no responsibility regarding the surplus lines tax. The Texas Comptroller of Public Accounts regulates the collection of this tax. The contact for questions related to the surplus lines premium tax is: Karen Snyder at (800) 531-5441 ext. 3-4074 or karen.snyder@cpa.state.tx.us.

**Controlling Statutes and Rules:** The Surplus Lines Stamping Office of Texas was created by the 70th Legislature in 1987 to assist the Texas Department of Insurance and perform functions authorized in the Texas Insurance Code (TIC) and Texas Administrative Code (TAC). The Stamping Office was given certain powers and duties, one of which is collection of a stamping fee for the costs of operations of the office. [TIC, Title 6, Chapter 981, Subchapter D, Section 981.154(b)(5)] ■ Texas licensed surplus lines agents must comply with the Stamping Office's plan of operation. [TIC, Title 6, Chapter 981, Subchapter E, Section 981.214] ■ Surplus lines agents are subject to sanctions if they fail to properly collect and pay required taxes and stamping fees ...[TAC Title 28, Chapter 15, Section 15.5(a)(4)] ■ The Stamping Office plan of operation requires surplus lines agents to pay the fees as permitted by law and as required by the Stamping Office. [TAC Title 28, Chapter 15, Section 15.101(e)(4)] ■ Any surplus lines agent who is delinquent in the payment of stamping fees may be reported to the commissioner; provided, however, that any delinquency of more than 90 days shall be reported to the commissioner. [TAC Title 28, Chapter 15, Section 15.101(e)(5)]

**Questions?**

SLSOT Accounting Department  
(800) 449-6394 ext. 227  
Email: info@slsot.org  
Website: www.slsot.org ★

### 2006 Surplus Lines Company Filing Requirements Released

The Texas Department of Insurance (TDI) has released the annual Evidence Filing Requirements Letter for surplus lines insurers for 2006. The Stamping Office distributed the letter in a Bulletin mailed January 13, 2006. These filing requirements are in accordance with the Texas Insurance Code (Code) and related provisions of the Texas Administrative Code (Rules). The Code and Rules require the TDI maintain a "Surplus Lines Insurers List" compiled from the information submitted by insurers that meet the eligibility requirements. The minimum capital and surplus requirement remains at \$15 million. All surplus lines insurers wishing to retain or gain Texas surplus lines eligibility must file complete and legible evidence by the due dates contained in the TDI letter. The first filing deadline for foreign (US) insurers is March 31, 2006. Please note that certain evidence can be transmitted electronically. Refer to the letter for instructions.

Concurrent with our mailing we placed a copy of these requirements on our web site at [www.slsot.org](http://www.slsot.org). ★

## SLSOT POLICY STRATIFICATION BY PREMIUM FOR 2005

Premium Range	No. of Policies	% of Total Policies	Cumulative %
<= \$500	83,828	16.9%	16.9%
\$501 - \$1,000	133,090	26.9%	43.8%
\$1,001 - \$5,000	202,110	40.8%	84.5%
\$5,001 - \$10,000	33,724	6.8%	91.4%
\$10,001 - \$25,000	23,099	4.7%	96.0%
\$25,001 - \$100,000	14,441	2.9%	98.9%
\$100,001 - \$500,000	4,442	0.9%	99.8%
\$500,001 - \$1,000,000	528	0.1%	99.9%
\$1,000,001 - \$5,000,000	323	0.1%	100.0%
> \$5,000,000	32	0.0%	100.0%
<b>Totals:</b>	<b>495,617</b>	<b>100.0%</b>	

SLSOT Employee of the Year



*"My work here at the Stamping Office is both challenging and rewarding. Each day, I look forward to seeing what 'puzzles' come my way. I strive to be known for my problem solving skills."*

-- Cheyenne Norment

Cheyenne Norment was selected as SLSOT's Employee of the Year for 2005. Cheyenne's sense of responsibility, her dedication, and her dependability have won her this award on two previous occasions. Cheyenne continues to have a huge impact on the Stamping Office as she leads the EFS Help Desk staff. Cheyenne's excellent customer service and her enthusiasm for her job make her a pleasure to work with. ★

### Texas SL Bond Repealed

In 2005, Texas legislators passed Senate Bill 1564. This law repealed Section 981.206 of the Insurance Code, eliminating the requirement that a surplus lines agent provide proof of financial responsibility to the Texas Department of Insurance. Agents typically met this requirement through a \$50,000 surety bond. Effective January 1, 2006 agents are no longer required to carry that surplus lines bond. Questions regarding the surplus lines agent bond should be directed to the Texas Department of Insurance, Agent License Division (512) 322-3503. ★

## EFS

- Before contacting the EFS Help Desk, please have the following information available to assist us in helping you: your agency name and license number, a brief description of the problem, and have your question ready.
- When entering a cancellation, please be sure to select the correct type of Transaction.
- If you are unsure of the coverage and/or class code to enter, please contact the Help Desk before you post your batch. It is much easier to correct the codes before you post.
- When entering endorsements, please read the entire item. Sometimes necessary information can be buried in the wording.
- Date extension endorsements should be entered as Renewal Policies. ★



### Helpful Hints - paper filing of policies

- When an item is returned to you unprocessed along with a tag telling you the original policy has not been filed, please return both the policy and the returned endorsement or cancellation on a new transmittal.
- Surplus lines policies, binders, or cover notes must contain the wording pertaining to non-participation in the Guaranty Fund. Be sure you insert the applicable tax rate of 4.85% in the wording. Do not include the stamping fee rate.
- We issue a tag if the Complaint Notice is not included with the copy of the policy submitted to our office or if it has been altered in some way. This tag is simply to serve as a reminder to you that the Complaint Notice must be attached to the insured's copy of the policy, binder, or cover note. No response is required. ★



**Lone Star Lines  
Surplus Lines Stamping Office of Texas  
P.O. Box 160170  
Austin, Texas 78716-0170**

**Return Service Requested**

### Comparison of SLSOT Premium Processed by Line of Business

Annual Statement Line of Business	Premium through 12/05	Premium through 12/04	Percent Change
1 Fire (incl. allied lines)	\$673,690,266	\$812,353,065	-17.07%
2 Allied lines	\$24,800,082	\$31,368,582	-20.94%
3 Farmowners multiple peril	\$2,093,540	\$1,958,823	6.88%
4 Homeowners multiple peril	\$109,928,599	\$137,871,198	-20.27%
5 Commercial multiple peril	\$98,796,586	\$81,017,467	21.94%
8 Ocean marine	\$6,505,893	\$11,794,308	-44.84%
9 Inland marine	\$71,741,112	\$72,257,470	-0.71%
11 Medical malpractice	\$74,233,903	\$75,670,282	-1.90%
12 Earthquake	\$21,895	\$3,806	475.34%
13 Group accident & health	\$85,361,020	\$102,633,912	-16.83%
15 All other A&H	\$1,962,121	\$1,381,971	41.98%
17 Other liability	\$1,546,592,147	\$1,626,019,562	-4.88%
18 Products liability	\$30,909,871	\$51,913,164	-40.46%
19.2 Other priv pass auto lia	\$7,000	\$22,097	-68.32%
19.4 Other comm. auto liab	\$134,248,824	\$144,827,308	-7.30%
21.1 Priv pass auto physical	\$1,181,312	\$1,391,511	-15.11%
21.2 Comm auto phys.damage	\$60,261,815	\$70,995,560	-15.12%
22 Aircraft (all perils)	\$8,871,352	\$9,354,431	-5.16%
23 Fidelity	\$3,106,134	\$1,628,655	90.72%
24 Surety	\$3,815,165	\$0	0.00%
26 Burglary & theft	\$2,113,348	\$1,986,892	6.36%
27 Boiler & machinery	\$65,241	\$213,506	-69.44%
28 Credit	\$105,628,950	\$84,666,913	24.76%
31 Aggregate/other business	\$427,724	(\$213,990)	299.88%
<b>TOTAL</b>	<b>\$3,046,363,900</b>	<b>\$3,321,116,493</b>	<b>-8.27%</b>

Note: Due to rounding figures may not total

Updated monthly premium totals can be found on-line at [www.slsot.org/premium.htm](http://www.slsot.org/premium.htm)

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We invite readers to suggest topics for articles that may be of interest to others. Any submissions or inquiries should be sent to the following address:

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You can locate a text copy of this and previous issues of this newsletter on our web site at:  
<http://www.slsot.org/slsotpub.htm>

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