

CHAPTER 561

S.B. No. 989

AN ACT

relating to the creation of the Surplus Lines Stamping Office of Texas.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Article 1.14-2, Insurance Code, as amended, is amended by adding Section 6A to read as follows:

*Sec. 6A. SURPLUS LINES STAMPING OFFICE. (a) There is hereby created a nonprofit association to be known as the Surplus Lines Stamping Office of Texas. All surplus lines agents shall as a condition of their holding a license as a surplus lines agent in this state report to and file with the stamping office a copy of each surplus lines insurance contract as provided in the plan of operation adopted under Subsection (d) of this section. The board may accept such filing in lieu of the filings required under Subsections (a) and (c) of Section 6 of this article.*

*(b) The stamping office shall perform its functions under the plan of operation established and approved under Subsection (d) of this section. It shall exercise its powers through a board of directors established under Subdivision (2) of this subsection. The stamping office shall be supervised by the commissioner and is subject to the applicable provisions of this code and the rules of the State Board of Insurance. The stamping office shall conduct the following activities provided in the plan of operation adopted under Subsection (d) of this section: (1) receive, record, and review all surplus lines insurance contracts which surplus lines agents are required to file with the stamping office; (2) provide to the commissioner an evaluation of the eligibility of all surplus lines insurance contracts; (3) prepare monthly reports for the commissioner on surplus lines insurance procured during the preceding month in such form the commissioner may prescribe; prepare and deliver to the commissioner reports of surplus lines business; (4) collect from each surplus lines agent a stamping fee for the costs of operations to be paid by the insured and determined by the State Board of Insurance in an amount not to exceed three-quarters of one percent of gross premium resulting from surplus lines contracts; (5) employ and retain such persons as are necessary to carry out the duties of the stamping office; (6) borrow money as*

necessary to effect the purposes of the stamping office; (7) enter contracts as necessary to effect the purposes of the stamping office; perform such other acts as will facilitate and encourage compliance with the surplus lines law of this state and rules promulgated thereunder; and (8) provide such other services as are incidental or related to the purposes of the stamping office. Nothing in this section shall be construed as giving the stamping office any authority to enforce this article.

(c) The stamping office shall function through a board of directors appointed by the State Board of Insurance. The board of directors of the stamping office shall consist of not less than five nor more than nine persons serving terms established in the plan of operation.

(d) The stamping office shall submit to the State Board of Insurance a plan of operation and any amendments thereto to provide operating procedures for the administration of the stamping office. The plan of operation and any amendments thereto shall become effective upon approval by order of the State Board of Insurance. If the stamping office fails to submit a suitable plan of operation within 180 days following the effective date of this Act or if at any time thereafter the stamping office fails to submit suitable amendments to the plan of operation, the State Board of Insurance shall, after notice and hearing, adopt a plan of operation or amendments to a plan of operation and promulgate such rules as are necessary or advisable to effectuate the provisions of this section. Such rules shall continue in force until modified by the State Board of Insurance or superseded by a plan of operation submitted by the stamping office and approved by the State Board of Insurance. All surplus lines agents shall comply with the plan of operation.

(e) The commissioner shall, at such times as he deems necessary, make or cause to be made an examination of the stamping office. The cost of any such examination shall be paid by the stamping office. During the course of such examination, the directors, officers, agents, and employees of the stamping office may be examined under oath regarding the operation of the stamping office and shall make available all books, records, accounts, documents, and agreements pertaining thereto.

(f) There shall be no liability on the part of and no cause of action of any nature shall arise against the stamping office, its directors, officers, agents, or employees, or the State Board of Insurance, the commissioner of insurance, or employees or representatives of the State Board of Insurance for any action taken or omitted by them in the performance of their powers and duties under this section.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 15, 1987, by the following vote: Yeas 31, Nays 0. Passed the House on May 30, 1987, by a non-record vote.

Approved June 18, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.