

No. 2020-6488

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: 09/30/2020

Subject considered:

Surplus Lines Stamping Office of Texas
Stamping Fee Decrease

General remarks and official action taken:

The subject of this order is the adoption of a decrease in the stamping fee collected by the Surplus Lines Stamping Office of Texas (stamping office). The decrease is from .15% to .075% of gross premium resulting from surplus lines insurance contracts.

Background

On June 25, 2020, the stamping office board of directors (board) submitted to the Commissioner under 28 TAC Section 15.201(e) a recommendation to decrease the stamping fee from .15% to .075% of gross premium resulting from surplus lines insurance contracts. The submission was assigned Petition Number O-0620-05.

Under Section 2(b)(7)(A) of the plan of operation, the stamping office's projected reserves, except for funds for asset replacement, must not exceed two times the average of audited operating expenses for the five-year period immediately preceding the budget year.

Under Section 2(b)(7)(C) of the plan of operation, the board must recommend for adoption by the Commissioner a stamping fee, measured by premium, to be charged on all surplus lines filings submitted to the stamping office. The recommendation must be on the basis of the anticipated volume of surplus lines premium for the upcoming calendar year and include a description of the factors considered and a recommendation to raise the fee, lower the fee, or take no action.

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Under Insurance Code Section 981.154(b)(5) the stamping fee may not exceed three-fourths of 1% of gross premium resulting from surplus lines insurance contracts.

Under 28 Texas Administrative Code Section 15.201(e), if the board recommends changing the stamping fee, the Commissioner will post a notice in the *Texas Register* that a stamping fee change is being considered and allow for a 20-day comment period. After the close of the comment period and review of the comments, the Commissioner will approve or deny the stamping fee by order.

The notice of the recommendation to decrease the stamping fee from .15% to .075% was posted on the Texas Department of Insurance's (TDI) and the stamping office's websites on July 24, 2020, and in the August 7, 2020, issue of the *Texas Register* (45 *Texas Register* 5529). The Commissioner accepted written comments through August 27, 2020. The Commissioner received and considered four comments in preparation of this order.

The following findings of fact and conclusions of law are adopted:

Findings of Fact

1. On June 25, 2020, the stamping office board voted to submit to the Commissioner, as required under 28 Texas Administrative Code Section 15.201(e), a recommendation to decrease the stamping fee from .15% to .075% of gross premium resulting from surplus lines contracts.
2. On June 25, 2020, the board submitted to the Commissioner for consideration the recommendation to decrease the stamping fee. The recommendation included a description of the factors that the board considered in making its recommendation.
3. The stamping office's submission was assigned Petition Number O-0520-04.
4. On July 24, 2020, the recommendation to decrease the stamping fee was posted on TDI's website. The stamping office posted on its website a link to the TDI's notice on the same date.

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5. The recommendation to decrease the stamping fee was published in the August 7, 2020, edition of the *Texas Register* (45 *Texas Register* 5529) as required under 28 Texas Administrative Code Section 15.201(e). TDI requested that interested parties provide written comments by August 27, 2020.
6. TDI received one written comment supporting the recommendation to decrease the stamping fee and three written comments requesting the stamping fee change begin on January 1, 2021.
7. The stamping fee decrease from .15% to .075% will lower the stamping office's projected reserves, excluding funds for asset replacement, to a level not to exceed two times the average audited operating expenses for the five-year period immediately preceding the subject budget year, as required under Section 2(b)(7)(A) of the plan of operation.
8. TDI determines the stamping fee under Insurance Code Section 981.154(b)(5), and the fee may not exceed three-fourths of 1% of gross premium resulting from surplus lines insurance contracts.
9. TDI reviewed and considered the written comments before determining the stamping fee and the effective date of the stamping fee.

Conclusions of Law

1. The Commissioner has jurisdiction under Insurance Code Section 981.154(b)(5), which provides that the stamping fee is determined by TDI in an amount not to exceed three-fourths of 1% of gross premium resulting from surplus lines contracts.
2. If the board submits a recommendation to change the stamping fee, the Commissioner may, after posting notice in the *Texas Register* and providing a 20-day comment period, approve or deny the stamping fee by order under 28 Texas Administrative Code Section 15.201(e).

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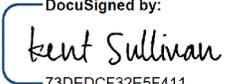
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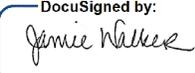
3. The decrease in the stamping fee from .15% to .075%, as recommended by the board, supported by the comments received, and based on Findings of Fact Nos. 7 – 9 of this order, should be approved beginning January 1, 2021.

Order

It is ordered that the stamping fee be decreased to .075% of the gross premium amount of surplus lines insurance contracts beginning January 1, 2021.

By:  DocuSigned by:
Kent C. Sullivan
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Kent C. Sullivan
Commissioner of Insurance

Recommended by:

 DocuSigned by:
Jamie Walker
89789A08C35F43C... _____

Jamie Walker, Deputy Commissioner
Financial Regulatory Division

Reviewed by:

 DocuSigned by:
Moya McKenna
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Moya McKenna, Attorney
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