

No. **2023-8310**

**Official Order
of the
Texas Commissioner of Insurance**

Date: 10/31/2023

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 .075% to .04% of gross premium resulting from surplus lines insurance contracts.

Background

On April 26, 2023, the stamping office board of directors (board) submitted to the commissioner under 28 Texas Administrative Code Section 15.201(e) a recommendation to decrease the stamping fee from .075% to .04% of gross premium resulting from surplus lines insurance contracts. The submission was assigned Petition Number P-1023-01.

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 based on the anticipated volume of surplus lines premium for the upcoming calendar year and must include a description of the factors considered and a recommendation to either 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 comment period has closed and the comments have been reviewed, the commissioner will approve or deny the stamping fee by order.

The notice of the recommendation to decrease the stamping fee from .075% to .04% was posted on the website of the Texas Department of Insurance (TDI) on September 22, 2023, and published in the September 22, 2023, issue of the *Texas Register* (45 TexReg 5529). The notice was posted on the stamping office's website on September 26, 2023. The commissioner accepted written comments through October 12, 2023. The commissioner received and considered one comment in preparation of this order.

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

Findings of Fact

1. On March 31, 2023, 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 .075% to .04% of gross premium resulting from surplus lines contracts.
2. On April 26, 2023, 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 P-1023-01.
4. On September 22, 2023, the recommendation to decrease the stamping fee was posted on TDI's website. On September 26, 2023, the stamping office posted on its website a link to the notice on TDI's website.

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5. The recommendation to decrease the stamping fee was published in the September 22, 2023, edition of the *Texas Register* (48 TexReg 5580) as required under 28 Texas Administrative Code Section 15.201(e). TDI requested that interested parties provide written comments by October 12, 2023.
6. TDI received one written comment supporting the recommendation to decrease the stamping fee.
7. The stamping fee decrease from .075% to .04% 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 comment 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 will, 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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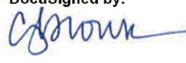
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3. The decrease in the stamping fee from .075% to .04%, as recommended by the board, supported by the comments received, and based on Findings of Fact Nos. 7–9 of this order, should be approved beginning January 1, 2024.

Order

It is ordered that the stamping fee be decreased to .04% of the gross premium amount of surplus lines insurance contracts beginning January 1, 2024.

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

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Jamie Walker, Deputy Commissioner

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Jessica Barta, General Counsel