

New Texas Legislation Significantly Expands Industrial Insured Exemption



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House Bill 1559 creates an expanded exemption for entities qualifying as an “industrial insured”. The bill has been signed by the Governor and is effective September 1, 2017.

The bill adds a new definition of “industrial insured” to exempt insureds that qualify from the diligent effort requirement of Section 981.004(a)(1) of the Texas Insurance Code.

To qualify as an industrial insured, the insured must:

- Employ or retain a qualified risk manager; and
- Meet one of the following criteria:
- Have paid more than \$25,000 in commercial property and casualty premiums in the preceding 12 months, or
- Employ at least 25 full-time employees

If the insured satisfies the requirements above, the agent will be exempt from meeting the diligent effort requirements in placing coverage, provided the agent complies with the following:

- Disclose that comparable coverage may be available in the admitted market and that the policy placed in the admitted market may provide greater protection than a surplus lines policy;
- Receive a request in writing from the industrial insured that the agent place the coverage with an eligible surplus lines insurer; and
- Place coverage with an eligible surplus lines insurer with an A.M. Best rating of A- or higher.

Agents are also required to retain evidence the insured qualified as an industrial insured at the time the coverage was placed.

The new law applies only to policies delivered, issued for delivery or renewed on or after January 1, 2018.

For more information, please contact Burnie Burner at 512-480-5100 or bburner@mwlaw.com.