(4) the contract is to respond to an emergency for which the public exigency does not permit the delay incident to the competitive process;

(5) the contract is for personal or professional services or services for which competitive bidding is precluded by law;

(6) the contract, without regard to form and which may include bonds, notes, loan agreements, or other obligations, is for the purpose of borrowing money or is a part of a transaction relating to the borrowing of money, including:
   (A) a credit support agreement, such as a line or letter of credit or other debt guaranty;
   (B) a bond, note, debt sale or purchase, trustee, paying agent, remarketing agent, indexing agent, or similar agreement;
   (C) an agreement with a securities dealer, broker, or underwriter; and
   (D) any other contract or agreement considered by the board of directors to be appropriate or necessary in support of the authority’s financing activities;

(7) the contract is for work that is performed and paid for by the day as the work progresses;

(8) the contract is for the lease or purchase of an interest in land [or a right of way];

(9) the contract is for the purchase of personal property sold:
   (A) at an auction by a state licensed auctioneer;
   (B) at a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code; or
   (C) by a political subdivision of this state, a state agency, or an entity of the federal government;

(10) the contract is for services performed by blind or severely disabled persons;

(11) the contract is for the purchase of electricity; [or]

(12) the contract is one for an authority project and awarded for alternate project delivery using the procedures under Subchapters E, F, [and] G, and I, Chapter 2267, Government Code, as added by Chapter 1129 (H.B. 628), Acts of the 82nd Legislature, Regular Session, 2011; or

(13) the contract is for fare enforcement officer services under Section 460.1092.

SECTION 8. Subsection (c), Section 460.105, Transportation Code, as added by this Act, applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 9. This Act takes effect September 1, 2013.

Passed the Senate on April 4, 2013: Yeas 31, Nays 0; the Senate concurred in House amendment on May 22, 2013: Yeas 31, Nays 0; passed the House, with amendment, on May 17, 2013: Yeas 131, Nays 3, two present not voting.

Approved June 14, 2013.
Effective September 1, 2013.

CHAPTER 595
S.B. No. 951
AN ACT
relating to surplus lines insurance.

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

SECTION 1. Subsection (c), Section 981.001, Insurance Code, is amended to read as follows:
(c) To regulate and tax surplus lines insurance placed in accordance with this chapter within the meaning and intent of 15 U.S.C. Section 1011 and 15 U.S.C. Chapter 108, this chapter provides an orderly method for each person whose home state is this state for a particular transaction [the residents of this state] to effect insurance with eligible surplus lines insurers through qualified, licensed, and supervised surplus lines agents in this state, if coverage is not available from authorized and regulated insurers engaged in business in this state, under reasonable and practical safeguards.

SECTION 2. Section 981.002, Insurance Code, is amended to read as follows:

Sec. 981.002. DEFINITIONS. In this chapter:

(1) “Affiliate” means, with respect to determining the home state of an insured, and solely for the purpose of determining whether an entity is another entity’s affiliate, a person or entity that controls, is controlled by, or is under common control with the insured.

(2) “Affiliated group” means a group of entities whose members are all affiliated.

(3) “Control” means, with respect to determining the home state of an insured, and solely for the purpose of determining whether an entity is another entity’s affiliate:
   (A) to directly or indirectly, acting through one or more persons, own, control, or hold the power to vote at least 25 percent of any class of voting security of the other entity; or
   (B) to control in any manner the election of the majority of directors or trustees of the other entity.

(4) “Eligible surplus lines insurer” means an insurer that is not an authorized insurer, but that is eligible under Subchapter B, in which surplus lines insurance is placed or may be placed under this chapter.

(5) “Home state” means, with respect to an insured:
   (A) the state in which the insured maintains the insured’s principal residence, if the insured is an individual;
   (B) the state in which the insured maintains the insured’s principal place of business, if the insured is not an individual;
   (C) if 100 percent of the insured risk is located outside of the state in which the insured maintains the insured’s principal residence or principal place of business, as applicable, the state to which the greatest percentage of the insured’s taxable premium for the insurance contract that covers the risk is allocated; or
   (D) for an affiliated group, the home state of the member, as determined under Paragraphs (A)-(C), that has the largest percentage of premium attributed to it under the insurance contract.

(6) “Managing underwriter” means a surplus lines agent or agency that exercises, pursuant to a written agreement with an eligible surplus lines insurer, underwriting authority for the eligible surplus lines insurer and that derives the agent or agency’s business from a surplus lines agent.

(7) “Stamping office” means the Surplus Lines Stamping Office of Texas.

(8) “Surplus lines agent” means an agent licensed under Subchapter E to procure an insurance contract from a surplus lines insurer.

(9) “Surplus lines insurance” means insurance coverage:
   (A) for a subject that is resident, located, or to be performed in this state; and
   (B) that may be placed, in accordance with this chapter, with an eligible surplus lines insurer or the insurer’s managing underwriter.

SECTION 3. Section 981.003, Insurance Code, is amended to read as follows:

Sec. 981.003. APPLICABILITY OF CHAPTER. This chapter applies to surplus lines insurance if the home state of the insured is this state;

[(1) of a subject that is resident, located, or to be performed in this state; and
[(2) that is obtained, continued, or renewed through:

1594
(A) negotiations or an application wholly or partly occurring or made within or from within this state, or

(B) premiums wholly or partly remitted directly or indirectly from within this state.

SECTION 4. Subchapter A, Chapter 981, Insurance Code, is amended by adding Sections 981.0031 and 981.0032 to read as follows:

Sec. 981.0031. EXEMPT COMMERCIAL PURCHASER DEFINED. (a) For purposes of this chapter, "exempt commercial purchaser" means a person who purchases commercial insurance and, at the time of placement:

(1) employs or retains a qualified risk manager to negotiate insurance coverage;

(2) has paid aggregate nationwide commercial property and casualty insurance premiums of more than $100,000 in the immediately preceding 12 months; and

(3) meets at least one of the following criteria:

(A) has a net worth of more than $20 million;

(B) generates annual revenue of more than $50 million;

(C) employs more than 500 full-time or full-time equivalent employees per individual insured, or is a member of an affiliated group that employs more than 1,000 employees in aggregate;

(D) is a nonprofit organization or public entity generating annual budgeted expenditures of at least $30 million; or

(E) is a municipality with a population of more than 50,000.

(b) Effective on January 1, 2015, and on every fifth January thereafter, the commissioner shall by order adjust the amounts provided by Subsections (a)(3)(A), (B), and (D) to reflect the percentage change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the United States Department of Labor for the five-year period immediately preceding January 1 of the year of the adjustment.

Sec. 981.0032. QUALIFIED RISK MANAGER DEFINED. For purposes of this chapter, "qualified risk manager" means, with respect to a policyholder of commercial insurance, a person who:

(1) is an employee of, or third-party consultant retained by, a commercial policyholder;

(2) provides skilled services in loss prevention, loss reduction, or risk and insurance coverage analysis and the purchase of insurance; and

(3) satisfies the requirements of one of the following paragraphs:

(A) has:

(i) a bachelor's or higher degree from an accredited college or university in risk management, business administration, finance, economics, or another field determined by a state insurance commissioner or other state regulatory official or entity to demonstrate competence in risk management; and

(ii) either:

(a) at least three years of experience in risk financing, claims administration, loss prevention, risk and insurance analysis, or purchasing of commercial lines of insurance; or

(b) a designation, certification, or license:

(1) as a chartered property casualty underwriter (CPCU), issued by the American Institute for CPCU/Insurance Institute of America;

(2) as an associate in risk management (ARM) issued by the American Institute for CPCU/Insurance Institute of America;

(3) as a Certified Risk Manager (CRM) issued by the National Alliance for Insurance Education and Research;

(4) as a RIMS Fellow (RF) issued by the Global Risk Management Institute; or

1595
Ch. 595, § 4 83rd LEGISLATURE—REGULAR SESSION

(5) that is determined by a state insurance commissioner or other state insurance regulatory official or entity to demonstrate minimum competence in risk management;

(B) has at least seven years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing of commercial lines of insurance and one of the designations, certifications, or licenses described by Paragraph (A)(ii)(b);

(C) has at least 10 years of experience in risk financing, claims administration, loss prevention, risk and insurance coverage analysis, or purchasing commercial lines of insurance; or

(D) has a graduate degree from an accredited college or university in risk management, business administration, finance, economics, or another field determined by a state insurance commissioner or other state regulatory official or entity to demonstrate competence in risk management.

SECTION 5. Section 981.004, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) Subsection (a)(1) does not apply to insurance procured for an exempt commercial purchaser if:

(1) the agent procuring or placing the insurance discloses to the exempt commercial purchaser that:

(A) comparable insurance may be available from the admitted market that is subject to more regulatory oversight than the surplus lines market; and

(B) a policy purchased in the admitted market may provide greater protection than the surplus lines insurance policy; and

(2) after receiving the notice described by Subdivision (1), the exempt commercial purchaser requests in writing that the agent procure the insurance from or place the insurance with an eligible surplus lines insurer.

SECTION 6. Subsection (b), Section 981.057, Insurance Code, is amended to read as follows:

(b) Subsection (a) does not apply to alien surplus lines insurers listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department, National Association of Insurance Commissioners. [If an eligible surplus lines insurer is a psychological...]

SECTION 7. Section 981.058, Insurance Code, is amended to read as follows:

Sec. 981.058. ALIEN INSURERS—TRUST FUND REQUIREMENT. An alien surplus lines insurer must be listed on the Quarterly Listing of Alien Insurers before accepting surplus lines business and must meet the minimum capital and surplus requirements prescribed by Section 981.057, an
maintained by the International Insurers Department, National Association of Insurance Commissioners [provide evidence that:

[(1) the insurer maintains in the United States an irrevocable trust fund in a Federal Reserve System member bank in an amount of at least $5.1 million for the protection of all its policyholders in the United States; and

[(2) the trust fund consists of:

[(A) cash;
[(B) securities;
[(C) letters of credit; or
[(D) investments of substantially the same character and quality as those that are eligible investments for the capital and statutory reserves of an insurer authorized to write similar kinds and classes of insurance in this state].

SECTION 8. Subchapter B, Chapter 981, Insurance Code, is amended by adding Section 981.066 to read as follows:

Sec. 981.066. UNIFORM STANDARDS. To issue surplus lines insurance in this state, an insurer must comply with all applicable nationwide uniform standards adopted by this state in accordance with 15 U.S.C. Section 8204.

SECTION 9. Subsection (a), Section 981.215, Insurance Code, is amended to read as follows:

(a) A surplus lines agent shall maintain a complete record of each surplus lines contract obtained by the agent, including any of the following, if applicable:

(1) a copy of the daily report;
(2) the amount of the insurance and risks insured against;
(3) a brief general description of the property insured and the location of that property;
(4) the gross premium charged;
(5) the return premium paid;
(6) the rate of premium charged on the different items of property;
(7) the contract terms, including the effective date;
(8) the insured's name and post office address;
(9) the insurer's name and home office address;
(10) the amount collected from the insured; [and]
(11) evidence establishing that the insured qualified as an exempt commercial purchaser and that the surplus lines agent complied with the requirements of Section 981.004(c) if a diligent effort to obtain insurance in the admitted market was not made pursuant to Section 981.004(a)(1); and
(12) any other information required by the department.

SECTION 10. The following sections of the Insurance Code are repealed:

(1) Section 981.052;
(2) Section 981.053;
(3) Section 981.055;
(4) Section 981.056;
(5) Section 981.059;
(6) Section 981.060;
(7) Section 981.061; and
(8) Section 981.062.

SECTION 11. (a) Notwithstanding Section 981.058, Insurance Code, as amended by this Act, an alien surplus lines insurer that was an eligible surplus lines insurer under Section 981.058, Insurance Code, as it existed immediately before the effective date of this Act, continues to be an eligible surplus lines insurer.

1597
(b) An alien insurer described by Subsection (a) of this section must comply with the trust fund requirements of Section 981.058, Insurance Code, as that section existed immediately before the effective date of this Act, in addition to the minimum capital and surplus requirements prescribed by Section 981.057, Insurance Code.

SECTION 12. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Passed the Senate on April 11, 2013: Yeas 31, Nays 0; passed the House on May 17, 2013: Yeas 134, Nays 0, two present not voting.

Approved June 14, 2013.

Effective June 14, 2013.

CHAPTER 596
S.B. No. 978
AN ACT
relating to regulation by the Texas Medical Board of local anesthesia and peripheral nerve blocks administered in an outpatient setting.

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

SECTION 1. Section 162.103, Occupations Code, is amended to read as follows:

Sec. 162.103. APPLICABILITY. Rules adopted by the board under this subchapter do not apply to:

(1) an outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used in a total dosage amount that does not exceed 50 percent of the recommended maximum safe dosage per outpatient visit;

(2) a licensed hospital, including an outpatient facility of the hospital that is located separate from the hospital;

(3) a licensed ambulatory surgical center;

(4) a clinic located on land recognized as tribal land by the federal government and maintained or operated by a federally recognized Indian tribe or tribal organization as listed by the United States secretary of the interior under 25 U.S.C. Section 479a-1 or as listed under a successor federal statute or regulation;

(5) a facility maintained or operated by a state or local governmental entity;

(6) a clinic directly maintained or operated by the United States; or

(7) an outpatient setting accredited by:

(A) The [the] Joint Commission [on Accreditation of Healthcare Organizations] relating to ambulatory surgical centers;

(B) the American Association for [the] Accreditation of Ambulatory Surgery Facilities; or

(C) the Accreditation Association for Ambulatory Health Care.

SECTION 2. The change in law made by this Act to Section 162.103, Occupations Code, and rules adopted by the Texas Medical Board under Subchapter C, Chapter 162, Occupations Code, apply only to an outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used on or after the effective date of this Act. An outpatient setting in which only local anesthesia, peripheral nerve blocks, or both are used before the effective date of this Act is governed by the law in effect on the date the local anesthesia, peripheral nerve blocks, or both are used, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.