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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2019	.	
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The Committee on Banking and Insurance (Brandes) recommended the following:

1 **Senate Substitute for Amendment (454254) (with title**
2 **amendment)**

3
4 Delete lines 342 - 345
5 and insert:

6 Section 9. Subsection (4) of section 626.914, Florida
7 Statutes, is amended to read:

8 626.914 Definitions.—As used in this Surplus Lines Law, the
9 term:

10 (4) "Diligent effort" means seeking coverage from and



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11 having been rejected by at least three authorized insurers
12 currently writing this type of coverage and documenting these
13 rejections. However, if the residential structure has a dwelling
14 replacement cost of \$700,000 ~~\$1 million~~ or more, the term means
15 seeking coverage from and having been rejected by at least one
16 authorized insurer currently writing this type of coverage and
17 documenting this rejection.

18 Section 10. Paragraph (d) of subsection (3) of section
19 627.062, Florida Statutes, is amended to read:

20 627.062 Rate standards.—

21 (3)

22 (d)1. Personal lines residential property insurance with a
23 dwelling replacement limit of \$700,000 or more which is written
24 or renewed pursuant to s. 627.1711 and the following categories
25 or kinds of insurance and types of commercial lines risks are
26 not subject to paragraph (2) (a) or paragraph (2) (f):

27 a. Excess or umbrella.

28 b. Surety and fidelity.

29 c. Boiler and machinery and leakage and fire extinguishing
30 equipment.

31 d. Errors and omissions.

32 e. Directors and officers, employment practices, fiduciary
33 liability, and management liability.

34 f. Intellectual property and patent infringement liability.

35 g. Advertising injury and Internet liability insurance.

36 h. Property risks rated under a highly protected risks
37 rating plan.

38 i. General liability.

39 j. Nonresidential property, except for collateral



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40 protection insurance as defined in s. 624.6085.

41 k. Nonresidential multiperil.

42 l. Excess property.

43 m. Burglary and theft.

44 n. Travel insurance, if issued as a master group policy
45 with a situs in another state where each certificateholder pays
46 less than \$30 in premium for each covered trip and where the
47 insurer has written less than \$1 million in annual written
48 premiums in the travel insurance product in this state during
49 the most recent calendar year.

50 o. Medical malpractice for a facility that is not a
51 hospital licensed under chapter 395, a nursing home licensed
52 under part II of chapter 400, or an assisted living facility
53 licensed under part I of chapter 429.

54 p. Medical malpractice for a health care practitioner who
55 is not a dentist licensed under chapter 466, a physician
56 licensed under chapter 458, an osteopathic physician licensed
57 under chapter 459, a chiropractic physician licensed under
58 chapter 460, a podiatric physician licensed under chapter 461, a
59 pharmacist licensed under chapter 465, or a pharmacy technician
60 registered under chapter 465.

61 q. Any other commercial lines categories or kinds of
62 insurance or types of commercial lines risks that the office
63 determines should not be subject to paragraph (2) (a) or
64 paragraph (2) (f) because of the existence of a competitive
65 market for such insurance or similarity of such insurance to
66 other categories or kinds of insurance not subject to paragraph
67 (2) (a) or paragraph (2) (f), or to improve the general
68 operational efficiency of the office.



69 2. Insurers or rating organizations shall establish and use
70 rates, rating schedules, or rating manuals to allow the insurer
71 a reasonable rate of return on insurance and risks described in
72 subparagraph 1. which are written in this state.

73 3. An insurer shall notify the office of any changes to
74 rates for insurance and risks described in subparagraph 1.
75 within 30 days after the effective date of the change. The
76 notice must include the name of the insurer, the type or kind of
77 insurance subject to rate change, and the average statewide
78 percentage change in rates. Actuarial data with regard to rates
79 for such risks must be maintained by the insurer for 2 years
80 after the effective date of changes to those rates and are
81 subject to examination by the office. The office may require the
82 insurer to incur the costs associated with an examination. Upon
83 examination, the office, in accordance with generally accepted
84 and reasonable actuarial techniques, shall consider the rate
85 factors in paragraphs (2) (b), (c), and (d) and the standards in
86 paragraph (2) (e) to determine if the rate is excessive,
87 inadequate, or unfairly discriminatory.

88 4. A rating organization shall notify the office of any
89 changes to loss cost for insurance and risks described in
90 subparagraph 1. within 30 days after the effective date of the
91 change. The notice must include the name of the rating
92 organization, the type or kind of insurance subject to a loss
93 cost change, loss costs during the immediately preceding year
94 for the type or kind of insurance subject to the loss cost
95 change, and the average statewide percentage change in loss
96 cost. Actuarial data with regard to changes to loss cost for
97 risks not subject to paragraph (2) (a) or paragraph (2) (f) must



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98 be maintained by the rating organization for 2 years after the
99 effective date of the change and are subject to examination by
100 the office. The office may require the rating organization to
101 incur the costs associated with an examination. Upon
102 examination, the office, in accordance with generally accepted
103 and reasonable actuarial techniques, shall consider the rate
104 factors in paragraphs (2) (b)-(d) and the standards in paragraph
105 (2) (e) to determine if the rate is excessive, inadequate, or
106 unfairly discriminatory.

107 Section 11. Section 627.1711, Florida Statutes, is created
108 to read:

109 627.1711 Alternative personal lines residential property
110 insurance rates.—In each calendar year, the sum of personal
111 lines residential property insurance policies issued or renewed
112 by an insurer using rates established under s. 627.062(3) (d)
113 plus personal lines residential property insurance policies
114 issued or renewed using rates established under s. 627.171 may
115 not exceed 5 percent of all personal lines residential insurance
116 policies written or renewed by the insurer.

117 Section 12. Subsection (1) of section 627.4102, Florida
118 Statutes, is amended to read:

119 627.4102 Informational filing of forms.—

120 (1) Property and casualty forms, excluding ~~except~~ workers'
121 compensation and personal lines forms, but including residential
122 property insurance with rates established pursuant to s.

123 627.062(3) (d), are exempt from the approval process required
124 under s. 627.410 if:

125 (a) The form has been electronically submitted to the
126 office in an informational filing made through I-File 30 days



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127 before the delivery or issuance for delivery of the form within
128 this state; and

129 (b) At the time the informational filing is made, a
130 notarized certification is attached to the filing that certifies
131 that each form within the filing is in compliance with all
132 applicable state laws and rules. The certification must be on
133 the insurer's letterhead and signed and dated by the insurer's
134 president, chief executive officer, general counsel, or an
135 employee of the insurer responsible for the filing on behalf of
136 the insurer. The certification must contain the following
137 statement, and no other language: "I, ...(name)..., as
138 ...(title)... of ...(insurer name)..., do hereby certify that
139 this form filing has been thoroughly and diligently reviewed by
140 me and by all appropriate company personnel, as well as company
141 consultants, if applicable, and certify that each form contained
142 within the filing is in compliance with all applicable Florida
143 laws and rules. Should a form be found not to be in compliance
144 with Florida laws and rules, I acknowledge that the Office of
145 Insurance Regulation shall disapprove the form."

146 Section 13. Paragraph (b) of subsection (3) and subsection
147 (4) of section 626.916, Florida Statutes, are amended, and
148 subsection (5) is added to that section, to read:

149 626.916 Eligibility for export.—

150 (3)

151 (b) Except for personal lines insurance covering a
152 residential structure that has a dwelling replacement cost of
153 \$700,000 or more, paragraphs (1) (a)-(d) do not apply to classes
154 of insurance which are subject to s. 627.062(3) (d)1. These
155 classes may be exportable under the following conditions:



156 1. The insurance must be placed only by or through a
157 surplus lines agent licensed in this state;
158 2. The insurer must be made eligible under s. 626.918; and
159 3. The insured must sign a disclosure that substantially
160 provides the following: "You are agreeing to place coverage in
161 the surplus lines market. Superior coverage may be available in
162 the admitted market and at a lesser cost. Persons insured by
163 surplus lines carriers are not protected under the Florida
164 Insurance Guaranty Act with respect to any right of recovery for
165 the obligation of an insolvent unlicensed insurer." If the
166 notice is signed by the insured, the insured is presumed to have
167 been informed and to know that other coverage may be available,
168 and, with respect to the diligent-effort requirement under
169 subsection (1), there is no liability on the part of, and no
170 cause of action arises against, the retail agent presenting the
171 form.

172
173 ===== T I T L E A M E N D M E N T =====

174 And the title is amended as follows:
175 Delete line 42
176 and insert:
177 service organizations; amending s. 626.914, F.S.;
178 revising the definition of the term "diligent effort"
179 as used in the Surplus Lines Law; amending s. 627.062,
180 F.S.; specifying applicable rate standards and
181 requirements for certain personal lines residential
182 property insurance; creating s. 627.1711, F.S.;
183 providing a limitation on certain personal lines
184 residential property insurance policies that may be



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185 written or renewed by an insurer each calendar year;
186 amending s. 627.4102, F.S.; providing an exemption, if
187 certain conditions are met, from a form approval
188 process for certain personal lines residential
189 property insurance forms; amending s. 626.916, F.S.;
190 specifying applicable requirements before certain
191 personal lines residential property insurance may be
192 exported;